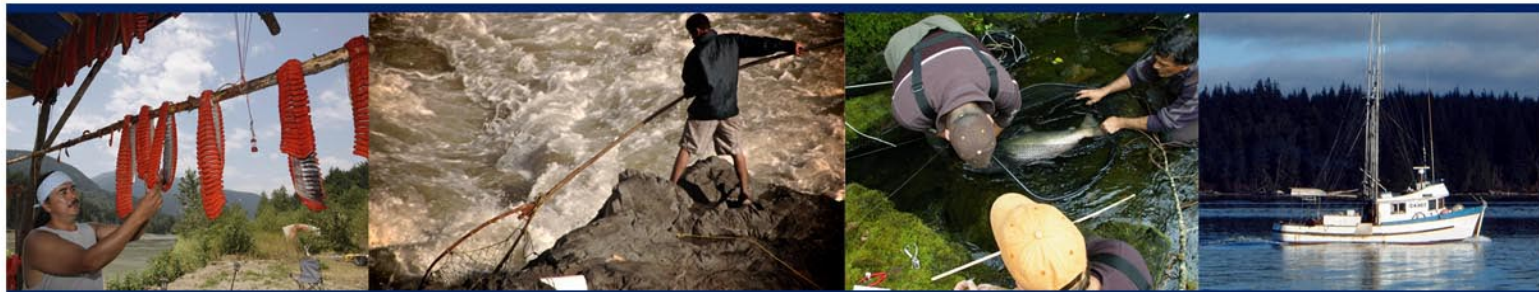




First Nations Fisheries Council COMMUNIQUÉ

JUNE 2017 ISSUE



FIRST NATIONS FISHERIES COUNCIL MEMBERS:

North Coast: **Arnold Clifton**
Central Coast: **Megan Moody**
South Vancouver Island: **Larry George**
Lower Mainland: **In progress**
Upper Fraser: **Thomas Alexis**
Northern Transboundary: **Cheri Frocklage**
Haida Gwaii: **Robert Bennett**
North Vancouver Island: **John Henderson**
West Coast Vancouver Island: **Hugh Braker**
Fraser Valley: **Ken Malloway**
Mid-Fraser 1: **Murray Ross**
Mid-Fraser 2: **Tracy Wimbush**
Upper Skeena: **Stu Barnes**
Transboundary Columbia: **Howie Wright**

Contact Us:

First Nations Fisheries Council of BC
320-1200 West 73rd Ave.
Vancouver, BC V6P 6G5

Phone: 778-379-6470

Fax: 778-379-6469

Email: info@fnfisheriescouncil.ca
Website: www.fnfisheriescouncil.ca

LEGISLATIVE REVIEW - FISHERIES ACT

In June 2016, the federal government announced it would be undertaking a review of the following environmental and regulatory processes: *Fisheries Act*, the *Navigation Protection Act*, the *Canadian Environmental Assessment Act*, and the National Energy Board process. These review processes are currently underway, and the FNFC, in collaboration with regional First Nations fisheries organizations in BC, submitted responses to the *Fisheries Act* and *Navigation Protection Act* processes.

The previous federal government under the leadership of the Conservative Party of Canada made changes to the *Fisheries Act* through two Omnibus Bills (Bills C-38 and C-45) which passed through Parliament and received Royal Assent in 2012. Prime Minister Trudeau mandated the Minister of Fisheries, Oceans and the Canadian Coast Guard to “review the previous government’s changes to the *Fisheries Act*, restore lost protections and incorporate modern safeguards”. The Minister asked the Parliamentary Standing Committee on Fisheries and Oceans (FOPO) to undertake the review of the *Fisheries Act*.

(continued below)



Scope of the Fisheries Act Review:

The review of legislative changes to the *Fisheries Act* was to focus on:

1. the scope of application of the *Fisheries Act*, and specifically the **serious harm to fish prohibition**;
2. how the prohibition is implemented to protect fish and fish habitat;
3. the **definition of serious harm to fish**, and the definitions of **commercial, recreational, and Aboriginal fisheries**;
4. the use of **regulatory authorities** under the *Fisheries Act*, and other related provisions of the Act; and
5. the **capacity** of Fisheries and Oceans Canada to deliver on fish and fish habitat protection through project review, monitoring, and enforcement.

Through a public engagement process, the Standing Committee on Fisheries and Oceans has heard from First Nations, industry, fishers, NGOs, academia, etc. with respect to the 2012 changes to the Act. Indigenous groups were invited to provide their perspectives on the *Fisheries Act* changes to the Standing Committee by November 30, 2016 or directly to the Minister of Fisheries, Oceans and the Canadian Coast Guard by January 31, 2017. Indigenous organizations could also request to appear before the Standing Committee to provide their views. Throughout the review process, the Standing Committee heard from 50 witnesses; only 4 of those were Indigenous organizations, including Brenda Gaertner who represented the FNFC. The Standing Committee received 229 written submissions from Indigenous groups, academics, industry associations, conservation organizations and governments; the highest proportion of written submissions were from Indigenous groups (77) and conservation organizations (61).

Standing Committee Report:

The Standing Committee made 32 recommendations which can be broadly categorized as follows:

- Reinstating the prohibition against the harmful alteration or disruption or the destruction of fish habitat (HADD provision) and further recommendations to DFO regarding the protection and conservation of fish habitat, including adding directions for the restoration and recovery of fish habitat and stocks and considering cumulative effects of projects.
- Improved communications with “fisheries stakeholders” (presumably including Indigenous groups) and transparency in DFO decision making.
- That DFO reinstate the Habitat Protection Branch and make investments in hiring staff, improved monitoring and enforcement, database systems and research in ecosystem science.

However, the Standing Committee was silent on issues raised by First Nations and other Indigenous groups related to Indigenous rights, co-management or the definitions of “commercial, recreational and Aboriginal fisheries”. We are urging the Minister to address the concerns raised by First Nations and to modernize the Act in a manner that recognizes and respects Aboriginal and Treaty Rights within the meaning of section 35(1) of the *Constitution Act*, 1982 and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). These concerns must be properly addressed to meet the mandate of the review of the *Fisheries Act*, and most importantly, for the Honour of the Crown to be upheld.



Anticipated Process to Amend the Fisheries Act:

The Government of Canada tabled its response to the FOPO report on June 21, 2017. DFO has signalled that they will be proceeding to amend the *Fisheries Act* over the next year, and may develop a legislative proposal for consultation and engagement over the summer of 2017 (timelines have not yet been confirmed). The proposal is expected to outline and scope amendments to sections of the Act and the consultations on the proposal will inform the drafting of the Bill. DFO has indicated that they will engage in consultations with First Nations during this phase of legislative review process, but it is still to be determined how the consultations will proceed. There is likely to be funding available to support First Nations participation in the consultation and engagement process, but again, this is still to be confirmed.

It is anticipated that DFO will be working to table a Bill to amend the *Fisheries Act* in the winter of 2017/2018 and following the legislative process, the Bill could be passed and come into force as early as 2018 (timelines have not yet been confirmed).

Regional Sessions – July 2017:

The FNFC is working with DFO to host 4 regional sessions to discuss the review of changes to the *Fisheries Act*.

July 5, 2017 – Terrace, BC

July 6, 2017 – Nanaimo, BC

July 10, 2017 – Vancouver, BC

July 11, 2017 – Prince George, BC

The objectives for these sessions are as follows:

1. DFO will communicate what it heard from Indigenous organizations and communities in previous engagement sessions, present the Government's response to the Standing Committee report, explain the parliamentary process and timelines and explore concepts for policy and program changes.
2. Provide an opportunity to review and understand the direction the Government is taking on the review of the changes to the *Fisheries Act*
3. Engage in discussion on proposed legislative, policy, and program changes that may inform First Nations' written submission to the Government.

Registration is required to attend. Details and registration information has been shared via the Tier 1 FNFC email list. If you do not have this information and you wish to register, please contact us at info@fnfisheriescouncil.ca.



WILD SALMON POLICY (WSP) IMPLEMENTATION

Driven by the announcement by DFO Minister Dominic LeBlanc's commitment to act on the Cohen recommendations and produce a WSP implementation plan by 2018, DFO began to engage First Nations and stakeholders on Wild Salmon Policy implementation in fall 2016.

In November 2016, the Salmon Coordinating Committee (SCC) met with DFO on the 2005 policy and to discuss the SCC's potential involvement in the development of an implementation plan. The Department also hosted five regional sessions over November and December 2016 to consult with First Nations and others on updating and implementing the WSP. Feedback was provided at the SCC meeting and regional consultations regarding gaps in DFO's implementation of the WSP and how First Nations would like to participate in the development of the implementation plan.

On February 7 and 8, 2017 the SCC and DFO participated in a Tier 1 & 2 workshop that solicited priorities and key issues from participants related to two main pillars of the policy – *Assessment Work* and *Integrated Planning and Program Delivery* – to inform the development of a draft implementation plan. Outcomes of this workshop included priorities that workshop participants recommended to be addressed in the updated WSP implementation plan.

At the workshop, the SCC expressed concerns over the lack of funding for the drafting phase and that DFO's timeline for developing a draft implementation plan by the summer would not facilitate meaningful engagement. The FNFC and SCC followed up with a letter to the RDG on March 1, 2017 and indicated that while the SCC was interested in collaboration, that DFO should not rush the drafting process, as more time would be needed to ensure a fulsome and respectful process for First Nations involvement; the letter also expressed the need for the process, timelines, and deliverables be jointly agreed to.

On April 28, the SCC and DFO met to discuss next steps, given the lessons learned from collaborative processes such as the Commercial Salmon Allocation Framework and the Chinook Strategic Partnership Initiative. DFO indicated that they would move forward on drafting a WSP implementation plan, and although the committee expressed concerns about DFO's proposed timelines for having a draft plan by the summer, participants indicated that they were still interested in collaboration.

DFO has established a working group of participants with 1 or 2 delegates from the SCC, the Pacific Salmon Foundation, the Province of BC, the Yukon Salmon Sub-committee, DFO, and a technical writer to help with developing the draft plan. The SCC recommended having several (7) delegates from various regions throughout the province participate on this multi-partner working group, and have them report back to the larger group and gather SCC input throughout the process.

Over a series of working group meetings held on in May and June 2017, and upon direction provided by the FNFC's executive council, SCC delegates to this working group repeated strong concerns to DFO about the ability of First Nations to participate and provide input in a meaningful way given the tight timelines proposed by the Department. DFO was quick to respond to these repeated concerns by offering Tier 1 sessions during planned regional consultations in the fall, and by offering more engagement with the full SCC and the WSP implementation plan multi-partner working group over the rest of 2017 and spring of 2018 to incorporate the feedback received from



consultations. The SCC is working on a draft work plan with rough timelines, and working to align this WSP work with the FNFC's Commitment to Action with DFO. They are also working to plan more meetings this summer for further engagement on the WSP with the full SCC.

The FNFC and the SCC have repeated in their communications to DFO that the SCC is not a decision-making body for any First Nation or group of First Nations, and that DFO consultation with the SCC cannot satisfy the requirement for bilateral consultation between DFO and any First Nation.

The SCC and the FNFC will continue to communicate the progress and outcomes of the committee's activities through existing FNFC communication channels, such as meetings with Charter organizations, monthly calls, communiqués, and e-mails.

PSC FIRST NATIONS CAUCUS / PST RENEWAL 2016-18

The 1985 Pacific Salmon Treaty (PST) commits Canada and the US to work together on the research, conservation, and management of Pacific salmon. Five PST chapters are set to expire at the end of 2018: Transboundary Rivers, Northern BC and Southeastern Alaska, Chinook salmon, Coho salmon, and Southern BC/Washington Chum salmon. Both US and Canada aim to complete negotiations by December 2017 to allow one year for domestic ratification. Negotiations and consultations for the Transboundary Rivers, Northern BC/Southeastern Alaska, Coho, and Southern BC/WA Chum chapters have been led by the Panel chairs, who have been working with their respective panels and technical committees to identify key issues and products needed to support bilateral negotiations.

Supported by the FNFC, the Pacific Salmon Commission's (PSC) First Nations Caucus consists of First Nations participants who have been appointed by Canada to participate in the Pacific Salmon Commission process at the Commissioner, panel, and technical committee levels. First Nations Caucus members are integral to the process as the Caucus includes the First Nations Commissioners, and panel and technical committee members.

Canada's chinook negotiating team will be led by Sue Farlinger, alternate Canadian Commissioner. This team has been supported by technical advisors from the Chinook Technical Committee, as well as a Chinook Working Group, consisting of panel members with a strong interest and background in Chinook.

In late 2016, DFO conducted regional consultation sessions across the province about the status of Chapter negotiations, anticipated issues for Canada, and sought input on First Nations interests into the negotiations of the five Chapters. The FNFC prepared briefing materials to support BC First Nations in these discussions, and appropriate First Nations Caucus members attended all these sessions to support BC First Nations in their discussions. In early February, FNFC sent a letter to DFO's Regional Director General providing feedback on the consultation sessions, highlighted some key issues First Nations raised during the sessions, and reminded DFO that follow-up from these sessions will be necessary, including bilateral consultations where requested or required.

During the PSC's 32nd annual meeting in February, the First Nations Caucus met to formulate shared interests and positions for each of the five PST Chapters under negotiation. These interests and positions were discussed at a Tier 2 meeting with the lead Canadian Commissioner and other senior DFO staff. Following that session, the FNFC



and PSC First Nations Caucus members hosted a Tier 1 conference call on March 20, 2017 to update interested BC First Nations on the progress of Treaty Chapter negotiations and shared interests and positions of the First Nations Caucus. To date, only the Transboundary Chapter negotiations have been completed and recommended to the Commission, while other Chapters are still undergoing bilateral negotiations.

Given the significance of these international negotiations, First Nations are highly encouraged to contact DFO directly to request bilateral meetings on the renewal of the PST as they see fit.

The PSC's First Nations Caucus consists of:

PSC Commissioners – Murray Ned, Brian Assu

Advisor to the First Nations PSC Commissioners – Russ Jones

Southern Panel – Dr. Don Hall, Mike Baird, Gord Sterritt (Chair of FN Caucus)

Fraser River Panel – Ken Malloway, Marcel Shepert, Tony Roberts Jr

Northern Panel – Stu Barnes, Harry Nyce Sr

Transboundary River Panel – Linaya Workman, Cheri Frocklage, Keith Carlick (Richard Erhardt alt.), Kerry Carlick (obs.)

Chinook Technical Committee – Dr. Teresa Ryan, Elinor McGrath, Sabrina Crowley

Chum Technical Committee – Kim Charlie

Coho Technical Committee – Pete Nicklin, Roger Dunlop

Transboundary River Technical Committee – Richard Erhardt

Northern Boundary Technical Committee – Allen Gottesfeld

Fraser River Technical Committee – Mike Staley, Kelsey Campbell

AQUACULTURE

First Nations in BC have diverse interests, perspectives and priorities with respect to the management of aquaculture and, as self-determining Nations, share a responsibility to manage resources in a manner that respects the interdependence they have with one another. As such, the First Nations Fisheries Council (FNFC) established the Aquaculture Coordinating Committee (ACC) as a technical table with members from the FNFC regions. The ACC aims to identify common interests and to increase First Nations involvement in the policy and management of the aquaculture industry.

The ACC has identified meeting objectives throughout the fiscal year with a focus on strategic agendas. The ACC continues to improve on a robust communication strategy between First Nations, development of strategies for First Nations engagement that will advance First Nations common interests in the management of aquaculture.

On March 21, 2017 the Department of Fisheries and Oceans released a final version of the Integrated Geoduck Management Framework. Through a collaborative process with the ACC and First Nations the FNFC identified critical elements within the framework and formal response was sent to Minister Dominic LeBlanc, May 9th, 2017.



The Commissioner of Environment and Sustainable Development performance audit of Salmon Aquaculture is expected to be tabled in Parliament in the spring of 2018. The Audit is examining DFO's and the CFIA's oversight of marine net-pen salmon aquaculture relating to their mandates to protect wild fish. The audit team completed a tour of the lower mainland June 8-13, 2017. FNFC was unable to present in person, although a high-level briefing note was provided for the audit process.

Working with members of the ACC, the FNFC has recently completed a publication on First Nations and aquaculture in BC called "**Cultivating Change to Preserve Tradition.**" A PDF version of the document is available on the FNFC website at the link below. Please review and provide your comments to richard@fnfisheriescouncil.ca.

<http://www.fnfisheriescouncil.ca/wp-content/uploads/2015/09/Cultivating-Change-Brochure.pdf>

Please contact Richard Sparrow (richard@fnfisheriescouncil.ca) for more information about the ACC's work.

WATER FOR FISH

UBCIC Resolution for WSA Consultation Process

FNFC put forward a resolution to UBCIC seeking Chiefs' support to develop a consultation process with the province on the Water Sustainability Act and the development of its remaining regulations. The resolution will be examined at June 28-29 UBCIC meeting. FNFC will update further as things progress.

First Nations and Drought Management in BC

FNFC's *Water for Fish* freshwater initiative hosted its monthly Water Wednesday webinar on May 17th on drought management in BC. Charles Hunter, Director of the FLNRO First Nations Branch, presented on the current drought situation and forecast in BC, the impacts of drought and actions that First Nation communities can take to plan, prepare and respond to drought. Charles also shared many online resources where First Nations can get more information on drought conditions and management in BC. Tracy Wimbush, Department Manager with the [Nicola Watershed Stewardship and Fisheries Authority](#) (part of the Nicola Tribal Association), then provided a summary of local initiatives working on drought in the Nicola region. These include the Nicola Steering Planning Committee with the Fraser Basin Council and Nicola Watershed Community Round Table.

You can access and download the following materials in this Dropbox folder:

<https://www.dropbox.com/sh/qc96dl2lpmn7pio/AACE8yWSnvBm3uYA3stAn2sva?dl=0>

- Webinar video
- Charles's PowerPoint slides

Legal Roundtable: Current Opportunities to Advance Aboriginal Water Rights in BC

FNFC convened a small group of leading experts in Aboriginal law and water in BC on May 26th to identify current opportunities to advance Aboriginal Rights and Title to freshwater in BC, and how to advance freshwater protection



in BC in the context of Aboriginal Rights and Title. Another purpose of the Roundtable was to inform the strategic direction for the next phase of the *Water for Fish* initiative. One of the key messages was for First Nations to take advantage of the lack of data held by the Province on environmental flow needs and groundwater in particular, i.e. to acquire data and use it to assert and advance rights. FNFC will write a discussion paper based on the Roundtable and will circulate it in Summer 2017.

Please contact Project Coordinator Geneviève Layton-Cartier at Genevieve@fnfisheriescouncil.ca if you have any further questions.

BUSINESS DEVELOPMENT TEAM

The first quarter of the 2017/18 fiscal year has been busy!

The Business Development Team joined all 25 indigenous Commercial Fishing Enterprises (CFEs) and the Department of Fisheries & Oceans (DFO) the first week in May for a tour of CFE program roll-out sessions. During the five sessions across BC (Kamloops, Vancouver, Nanaimo, Campbell River, and Prince Rupert) DFO announced that funding would continue under the Pacific Integrated Commercial Fisheries Initiative (PICFI) program for Capacity-Building, Business Development Source (BDS), and the final year of the Pacific Commercial Fisheries Diversification Initiative (PCFDI). The department also shared that the program will continue to develop and evolve now that it has been 'A-based,' along with the Atlantic Integrated Commercial Fisheries Initiative (AICFI). This means PICFI and AICFI will continue to be supported under federal programming with \$250 million allocated over the next five years, and \$62.2 million annually thereafter for both programs.

The BDT also participated in and presented at the third National Indigenous Fisheries and Aquaculture Forum (NAFFIII) in Membertou, Nova Scotia in May. Approximately 350 delegates attended the event, with representation from 11 CFEs from British Columbia. This was a great turnout considering the distance to travel. The forum addressed many relevant topics, including Seafood Market Overview and Trends, Accessing the US Market, Community-Based Aquaculture Structure and Process, Alternative Business Opportunities, and many more. Neil Philcox, BDT Lead presented on the PICFI program, sharing CFE case studies, and Chelsea Doyle, BDT Career and Capacity Development Coordinator, supported a workshop on Management, Skills Development and Safety with training representatives from Nova Scotia.

The main focus for the BDT in May and June has been to support CFEs in creating strong business cases for Diversification (PCFDI) and Business Development (BDS) projects. The deadline for funding applications for PCFDI is June 30th, 2017 and the BDT and CFEs have been working diligently throughout the month to gather and present the necessary information. There is approximately \$2.5 million available under this envelope for non-harvest related projects including; primary-production related diversification, processing & distribution/logistics diversification, market-access diversification, fisheries-related tourism, and other. The BDT expects that approximately 10 out of 25 CFEs will submit eligible applications for PCFDI.

The deadline for BDS applications is July 31st, 2017. There is \$9.375 million available under BDS - approximately \$375K per CFE - to support expansion of existing harvest-related activities, such as acquiring commercial access, vessels, gear, etc. CFEs have been working closely with their Board of Directors and decision-making bodies to select



the right investment opportunity. The BDT expects that all 25 CFEs will submit an application for BDS funding and will be successful through the review process.

The summer season will be very busy indeed! However, the BDT is looking forward to supporting CFEs through this process and continuing to watch each organization develop in the direction of their choosing; With a guaranteed 5-year outlook, there is sure to be some great development.

FNFC UPDATE CONFERENCE CALLS (TIER 1)

The First Nations Fisheries Council hosts First Nations fisheries teleconferences on the second Monday afternoon of every month from 1:30pm to 3:00pm. The purpose of these calls is for First Nations to raise issues or concerns for discussion, and for the FNFC to provide updates and seek feedback on our priorities and activities. These calls are Tier 1, and are open to all First Nations and First Nations fisheries program staff. Dial-in information and agendas are distributed prior to each conference call via our email list.

The next monthly FNFC update conference call will be held on Monday, July 10, 2017

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