

First Nations Fisheries Council

December 2011 Communiqué



FIRST NATIONS
FISHERIES COUNCIL

FIRST NATIONS FISHERIES COUNCIL 2011 FALL ASSEMBLY

The First Nations Fisheries Council and staff would like to thank all of the volunteers, presenters, and participants who attended the 2011 Fall Assembly in Penticton, BC on November 7th to 9th. Thank you also to the planning committee volunteers, and to the Penticton Indian Band and the Okanagan Nation for welcoming us into your territory.

The Assembly was attended by well over 100 First Nations and DFO participants throughout BC and beyond. The theme, *Finding a Common Voice for Fisheries Governance and Leadership*, produced a number of valuable and interesting presentations on the topic of First Nations management aspirations and governance. The Assembly meeting kit, presentations, and summary report are now available for download on our website at www.fnfisheriescouncil.ca.

COHEN COMMISSION

Background:

On November 5, 2009, the Governor in Council set out the Terms of Reference for the Cohen Commission, formally named the *Commission of Inquiry into the Decline of Sockeye Salmon in the Fraser River*. The Honourable Bruce Cohen, a justice of the Supreme Court of British Columbia, was appointed to oversee the Inquiry.

The main evidentiary hearings of the Cohen Inquiry began on October 25, 2010 and closed on September 28, 2011, with over 125 days of evidence, 173 witnesses, and 1,993 filed exhibits. Final written submissions, including Replies, were filed by the Participants in October and November, 2011. Final oral submissions were made from November 4 to November 10, 2011. The Commissioner intends to re-open the evidentiary hearings in December for two days, and will be completing his final report by June 30, 2012. For a more detailed review of the evidence we refer you to the FNC's Final and Reply Submissions filed with the Commission. All of transcripts, exhibits and written submissions are available on the Commission's website at www.cohencommission.ca.

Causes of the poor return in 2009 and the longer-term decline in Fraser River Sockeye Salmon (FRSS):

During the Inquiry, the Commissioner heard a large amount of evidence from experts (First Nations, scientists, and managers) both from within DFO and from other agencies, on the current state of FRSS, the causes of the poor return of FRSS in 2009, and the causes for the longer term decline. From the First Nations Coalition perspective, the evidence heard at the Inquiry supports the following:

- It is reasonable to conclude that the cause of the poor 2009 returns was most likely cumulative or multiple stressors in the marine environment, including overlapping stressors of marine conditions during smolt out-migration (poor food supply in the Strait of Georgia, harmful algae blooms and severe water runoff into Queen Charlotte Sound/Strait), and climate change, predation and contaminants (river, estuary and mouth);

- Shifts in oceanic conditions and cumulative or multiple stressors in the marine and fresh water environments are contributing to the longer-term decline. FRSS are being exposed to continued and multiple cumulative impacts all along their migratory route;
- Most fisheries scientists and managers view climate change as a potentially serious factor driving current and future sustainability of FRSS. One of the consequences of climate change is increasing variability and the potential synergistic effects on predation, contaminants, harmful algae blooms, ocean conditions and disease affecting FRSS. Given the steadily increasing en-route mortality and pre-spawn mortality, the cumulative impacts of disease, contaminants and climate change must be considered serious; and
- Understanding the contributing factors of decline in FRSS is challenging because of numerous data gaps and limitations. Gaps exist not only in baseline data (limited time series and spatial coverage for many factors), but also in fundamental scientific understandings of various conditions and their relation to salmon populations. In particular, the precise role of contaminants, fish farms and competition for food in the open ocean has not yet been properly assessed or researched by science.

Next Steps:

The Inquiry is currently scheduled to re-open the evidentiary hearings on December 15-16, 2011 to address the recent reports of the Infectious Salmon Anemia (“ISA”) virus in wild salmon stocks. The Commissioner must produce his final report by June 30, 2012, which will provide recommendations for how DFO, and participants, can work together to conserve and manage FRSS. Please see the FNFC website for more information on Cohen and a Briefing Note which outlines the recommendations forwarded by the First Nations Coalition.

AQUACULTURE

The First Nations Fisheries Council hosted a Tier 1 Aquaculture Workshop on November 2, 2011 in Nanaimo, B.C. A resolution was developed from the discussions of these meetings, which was subsequently tabled at the November UBCIC and FN Summit meetings and will be tabled at the upcoming December National AFN meeting. Please visit the FNFC website for links to download the DRAFT notes from the November 2 session and copies of the resolution. As well, click the following link for a copy of the PowerPoint and memo prepared by Mandell Pinder detailing the aquaculture discussions that occurred through the Cohen Commission earlier this year:

<http://fnfisheriescouncil.ca/index.php/component/content/article/1292-november-2-aquaculture-session>

FIRST NATIONS SALMON HARVEST PLANNING

On October 24 & 25, 2011 the First Nations Fisheries Council and Fisheries and Oceans Canada convened a *Tier 2 Integrated Harvest Planning Committee & Integrated Fisheries Management Plan Workshop*. The Workshop was open to all BC First Nations, First Nation Fisheries Organizations, and Fisheries and Oceans Canada, and was attended by over 75 people over the two days. The October workshop summary and copies of PowerPoint presentations are available for download on the FNFC website at www.fnfisheriescouncil.ca

At the October 24th & 25th IHPC and IFMP Workshop, First Nation workshop participants reached a consensus recommendation that in the short term, First Nations should focus on the development of salmon management planning at the Tier 1 (among First Nations) and Tier 2 (between first Nations and DFO) levels rather than engaging solely through DFO’s Tier 3 multi-sector process.

In support of this recommendation, Don Hall, Nuu-chah-nulth *Uu-a-thluk* Fisheries Program Manager, took the initiative to coordinate a Tier 1 First Nations Salmon Harvest Planning meeting. On November 23 & 24, 2011, First Nation fisheries managers from various regions of the province convened in a Tier 1

Salmon Harvest Planning meeting to present 2011 post-season fisheries information and to provide preliminary outlook and conservation concerns for 2012 salmon fisheries, discuss next steps in developing an Integrated First Nations Fisheries Plan for 2012, and to scope the development of a First Nations Salmon Harvest Planning Committee.

Over the course of the two days, First Nations from the various regions of the province consistently identified several key themes:

- Conservation concerns and food fishery shortfalls have been identified by all First Nations
- First Nations require improvements and opportunities for economic access
- Implementation of Salmon Management Plans requires that consultations regarding in-season management decisions needs to be transparent, timely and flexible
- To address conservation and harvest concerns related to Chinook stocks, First Nations require significant improvements to stock assessment data and information and for transparency in management and harvest planning (conservation and priority access)
- First Nations need to be meaningfully involved in the management of fisheries, which can be achieved through the development and implementation of Joint Management arrangements
- First Nations require secure and long-term resourcing for all aspects of fisheries management
- Salmon Management Plans need to consider restoration, protection, and enhancement strategies and opportunities

By the conclusion of the meeting, First Nations volunteered to participate in an *interim* Tier 1 First Nation harvest planning committee that could work together to draft an Integrated First Nations Salmon Management Plan for 2012. Meeting participants have asked the First Nations Fisheries Council to coordinate the interim coordinating committee and to take the lead in facilitating the design and ratification of Tier 1, 2 and 3 integrated salmon management processes over the longer term. If able to secure adequate resources for the remainder of this fiscal year, the FNFC would be able to: (a) coordinate an *interim* Coordinating Committee that could work together to draft an Integrated First Nations Salmon Management Plan for 2012, and (b) facilitate the development of a structure and process for an on-going First Nations Salmon Management Coordinating committee.

For more information please contact Jordan Point at 604-279-2900 or jordan@fnfisheriescouncil.ca

LEGAL WORKSHOP

The First Nations Fisheries Council (FNFC) will be hosting a one-day Fisheries Legal Workshop on **Friday, January 20th, 2011 at the Musqueam Cultural Pavilion**. This workshop is being held as a result of requests received by FNFC to convene a session to discuss recent fisheries court cases, the current status of fisheries law as it pertains to First Nations in BC, and to harness our collective capacity by sharing lessons, best practices, and ideas on defining the future of First Nations in relation to fisheries legal matters.

This workshop is open to all First Nations representatives and First Nations fisheries program staff. An agenda for the session will be distributed through the FNFC email distribution list shortly after our office holiday closure.

REGISTRATION for this workshop is required. You can register for the session online at <http://www.createsurvey.com/s/Pzhmum>. If you require more information about the Legal Workshop, please contact Alex Gagne at 778-279-2900 or alex@fnfisheriescouncil.ca.

PLEASE NOTE: Participants will be responsible for arranging and funding their own travel and accommodations. Coffee, snacks and catered lunch will be provided, but unfortunately the FNFC will be unable to provide travel assistance funding for this workshop.

HALIBUT

Background / Context

Following the federal election in May 2011 Fisheries Minister Ashfield assigned Parliamentary Secretary Randy Kamp to review the allocation of Pacific halibut, and provide recommendations on long-term options for the 2012 season. Mr. Kamp was due to complete his review and provide these options to Minister Ashfield in mid-November. The current halibut allocation policy was put in place by Fisheries Minister Thibault in 2003, and set recreational shares at 12% and commercial shares at 88% (after DFO estimates of First Nation's food, social and ceremonial amounts are deducted).

- The policy was supposed to be temporary as both parties developed a mechanism for transfer of shares from the commercial to the recreational sector.
- The current process had allowed the recreational sector to sell shares to the commercial sector in some years and buy quota in other years.
- The policy also allowed for the recreational allocation to be adjusted if better information on catch during the baseline years indicated that recreational catch was higher.
- A mechanism for transfer of shares has not been developed. DFO has contracted two separate mediation processes to help the parties reach agreement, but neither process produced a solution that both the recreational and commercial sectors would agree to.
- The recreational portion of the halibut allocation has exceeded 12% in recent years, in part due to increasing recreational harvest and in part due to decreasing halibut TAC.
- Faced with fishing closures and other management measures to curtail the recreational fishery in 2010 and 2011, the recreational industry mounted a media and lobby campaign to permanently increase the recreational share of the halibut allocation. The vocal campaign led to the appointment of Mr. Kamp by then Minister Shea, since continued by Minister Ashfield.

Obligation to Consult:

Up until October 2011 Mr. Kamp had not met with First Nations to consult on any potential impacts or infringements. At the request of First Nations, the First Nations Fisheries Council (FNFC), in a letter in late September, highlighted the need for bilateral consultations with First Nations on halibut allocation and suggesting the need for a Tier 2 process. In late September the Council identified this as a priority for further engagement and assigned the Economic Access Work Group (EAWG) to provide a further briefing. This resulted in a teleconference and a meeting with Mr. Kamp on October 17th and November 6th, respectively. These were attended by *Cliff Atleo* and *Russ Jones* for the FNFC and *Chief Dan Smith* for the First Nation Summit. The Council further reviewed this issue at a meeting on November 29th and supports the following approach:

Key aspects of a long term allocation policy:

- Need for DFO to consult directly with First Nations (the rights holders) on a bilateral basis
- Lack of consideration to date of the potential impacts of policy changes on FSC access and future economic transfers to First Nations

Objectives for a long term halibut allocation policy:

- Continues to promote an abundance based approach.
- Requires all groups to stay within their allocations.
- Provides incentives for the recreational sector to stay within their allocation.
- Recognizes and accommodates increasing FSC requirements and assertions of the priority of First Nations rights to fish, and sell fish. This requires Tier 1 and 2 discussions with First Nations.

Extended Review Period:

- Propose extending the review period and continuing with the current policy to the end of 2012. This will give one year to develop the long term allocation policy that will recognize and account

for future and existing FSC needs of First Nations and expected increases in First Nations economic fisheries access over time.

- A Tier 1 process involving all First Nations and a Tier 2 process involving First Nations and DFO is recommended to start in January 2012. This would be followed by Tier 3 discussions involving the commercial and recreational sectors in late spring or early fall 2012.

Outcomes proposed over the long term are:

- 1) separate, capped allocations for lodge and charter operators from the regular recreational fishery;
- 2) mandatory catch reporting and monitoring of the commercial recreational sector;
- 3) management of the total recreational sector to a fixed allocation based on abundance;
- 4) no sale of quota between commercial and recreational sector; any underages by the recreational sector being made available to other sectors.

First Nations that have issues or concerns with changes to the halibut allocation policy should write directly to Minister Ashfield as soon as possible. We recommend that you:

1. Include some or all of the points that have been raised by FNFC, and
2. Emphasize the need for DFO to engage bilaterally with First Nations both on an individual basis and jointly through a Tier 2 process beginning in January 2012.

REGIONAL FISHERIES ORGANIZATIONS CONFERENCE CALLS

The First Nations Fisheries Council hosts Wednesday morning update conference calls for First Nations fisheries organizations on a bi-weekly basis. These calls are Tier 1, and are open to all First Nations and First Nations fisheries program staff.

The last bi-weekly call of 2011 was held on November 30, but we will resume our regular schedule of bi-weekly calls on January 11, 2012.

PLEASE NOTE that the time slot for bi-weekly calls will change in the New Year. Calls were previously held from 9:00am to 10:30am, but will now be held from **10:30am to 12:00 noon effective January 11.**

Dial-in information and agendas are distributed prior to each conference call via our email listserve. Summaries of past conference calls are available on the Fisheries Council website at: www.fnfisheriescouncil.ca/index.php/mission-a-work-of-council/working-groups/regional-first-nations-fisheries-organizations

Please note that these summaries are internal to First Nations, and a username and password are required to view them. To get your username and password for our website, or to add your email to our listserve, please contact us at info@fnfisheriescouncil.ca.

CONTACT US

For more information about the First Nations Fisheries Council, please visit our website at www.fnfisheriescouncil.ca. For general inquiries contact us via email at info@fnfisheriescouncil.ca.

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