



First Nations Fisheries Council COMMUNIQUÉ

DECEMBER 2016 ISSUE



FIRST NATIONS FISHERIES COUNCIL MEMBERS:

North Coast: **Arnold Clifton**
Central Coast: **Vacant**
South Vancouver Island: **Dan Claxton**
Lower Mainland: **Vacant**
Upper Fraser: **Thomas Alexis**
Northern Transboundary: **Keith Carlick**
Haida Gwaii: **Vacant**
North Vancouver Island: **John Henderson**
West Coast Vancouver Island: **Hugh Braker**
Fraser Valley: **Ken Malloway**
Mid-Fraser 1: **Tina Donald**
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

MESSAGE FROM THE FNFC EXECUTIVE DIRECTOR

ʔi ʔə ce:p ʔəw ʔəy ʔaí, Si:yém nə Siyeýe?

Are you all well, my esteemed friends (relations),

As usual, it's been a very busy fall for the First Nations fisheries community in BC, with many meetings, events and deadlines crowding our calendars. In years such as this where there are unexpected low salmon returns and declining aquatic species populations throughout the province, we are reminded that the responsibility of First Nations to honor, manage and protect our fish and aquatic resources is more important than ever. We would like to acknowledge and thank the many First Nations communities and organizations who continue to work toward conserving and rebuilding our stocks, and to advance Aboriginal and Treaty Rights.

Annual General Assembly:

On November 8 and 9, 2016 the FNFC held our Annual General Assembly in Kamloops, BC. We would like to thank T'kemlups te Secwepemc and the Secwepemc Fisheries Commission for hosting us in their territory and for helping us with planning our event. This year the Assembly included Tier 1 (First Nations only) and Tier 2 (First Nations and Government) sessions, and was attended by over 120 First Nations and government participants. The theme, *"Our Shared Path: Securing the Future of our Fisheries"*, referred to the reciprocal relationship that First Nations have with our aquatic resources, as well as the management interests and responsibilities we share with DFO and the need to work together to safeguard our fisheries.



Fisheries Act Review:

Another key item on our agenda this fall has been the federal review of environmental legislation. The new Liberal government committed in its mandate letters to revisit current legislation and the amendments passed by the former Conservative government that are inconsistent with case law, constitutional obligations, and the Liberal platform (e.g. Bills C-38, C-45).

The FNFC hosted a series of regional sessions in October on reviewing changes to the *Fisheries Act*, and has been collaborating with regional First Nations organizations and Mandell Pinder LLP to develop a submission to the Parliamentary Standing Committee on Fisheries and Oceans (submitted on November 30). The FNFC also developed a submission on changes to the *Navigation Protection Act*. Timelines for these reviews were extremely tight, and we appreciate the work of our partner organizations throughout the province which helped us to develop robust responses to the legislative review processes. Work on these reviews will carry on into the New Year.

Council Delegate Appointments:

We are also pleased to be moving forward with regional delegate appointments for the FNFC Executive Council. Many regions have gone through nomination processes locally and have submitted their appointments to the FNFC. A few regions are still outstanding and continue to work through their nomination processes. The term for the current FNFC Executive will end at the end of December, and the incoming Council will begin their new three year term in January 2017.

We would like to sincerely thank our current Council for their hard work on behalf of BC First Nations over the last three years. We would also like to extend a welcome to new and returning Council members, who we very much look forward to working with in the upcoming term.

On behalf of our Executive Council and staff, I wish everyone the very best of the season, and some well-deserved rest and relaxation over the holidays. We look forward to working with you all again in the New Year!



hay čx^w qə, O' si:yem,

Jordan Point
FNFC Executive Director



SALMON COORDINATING COMMITTEE

The First Nations Salmon Coordinating Committee (SCC) is a province-wide advisory process consisting of approximately 13 delegates from the various FNFC regions. The committee was formed in 2011 in response to ongoing frustrations expressed by First Nations with DFO's Tier 3 Salmon Integrated Harvest Planning Committee (IHPC) and Integrated Fisheries Management Planning (IFMP) process. There was a commitment from DFO and First Nations to work on a Tier 1 and 2 process for engaging First Nations in the development of salmon IFMPs.

After submitting 5 years of consolidated comments from First Nations on the draft salmon IFMPs, the committee expressed concerns about the efficacy of participating in DFO's IFMP development process. As a result, the SCC re-examined its purpose and adopted a new approach that is focused on providing strategic advice to First Nations and DFO on province-wide Pacific salmon initiatives. The SCC recently met to approve its Tier 2 Terms of Reference that reflects this updated approach. This document was drafted by a Tier 2 sub-committee consisting of SCC and DFO representatives, and was approved by the SCC and DFO in September 2016.

The SCC's priorities for 2016-17 include:

- **Continued development of a Tier 1 First Nations technical process in the Skeena Watershed:** The Skeena First Nations Technical Committee approved its Tier 1 Terms of Reference on January 29, 2016, and will be engaging in Tier 1 and 2 conversations regarding anticipated low Skeena sockeye returns in 2017 and options to mitigate potential impacts on FSC fisheries.
- **Updating the Commercial Salmon Allocation Framework (CSAF):** Earlier this year, the SCC coordinated proposals for specific First Nations pilot fisheries for 2016 to test the use of different gear types, areas, and management approaches meant to improve flexibility in commercial salmon fisheries. A few opportunities for First Nations pilot fisheries occurred in 2016 as a result of this work. The SCC will continue Tier 1, 2 and 3 discussions to review the performance of these fisheries, coordinate proposals for potential pilot fisheries for 2017, and continue conversations on the development of a collaborative Tier 3 process.
- **Wild Salmon Policy (WSP) implementation:** Driven by Minister LeBlanc's commitment to act on Cohen recommendations, DFO is beginning to engage First Nations and others on WSP implementation. The SCC has had an initial discussion with DFO on First Nations involvement in DFO's development of an implementation plan. Additionally, DFO is hosting regional workshops to consult broadly on updating and implementing the WSP. However, DFO has not assigned any additional funding/resources to this implementation phase; FNFC has heard concerns from the SCC and BC First Nations that DFO's proposal to update the policy will actually result in weakening it.
- **Maintain communication linkages between First Nations organizations working on salmon management and planning:** The SCC is working to improve communication, collaboration, and the development of cohesive and coherent messaging to DFO on shared First Nations priorities.

The SCC has clearly communicated to DFO that it is not a decision-making body for any First Nation or group of First Nations, and that consultation with the SCC does not satisfy the requirement for bilateral consultation between DFO and any First Nation. The SCC and the FNFC will continue to communicate on the progress and outcomes of the committee's activities through FNFC communication channels such as meetings with Charter organizations, monthly calls, communiqués, e-mails, etc. For more information contact Wanli Ou at wanli@fnfisheriescouncil.ca.



PACIFIC SALMON TREATY RENEWAL

Supported by the FNFC, the Pacific Salmon Commission (PSC) First Nations Caucus consists of First Nations participants who have been appointed by Canada to participate in the PSC process at the Commissioner, panel, and technical committee levels. The FNFC and First Nations Caucus have recently finalized an updated Memorandum of Understanding that recognizes the FNFC's role as secretariat to the Caucus. This enhanced support will be especially helpful for the effective engagement of First Nations in the PST renewal process.

Five Pacific Salmon Treaty (PST) chapters are set to expire at the end of 2018: 1) Transboundary Rivers, 2) Northern BC and Southeastern Alaska, 3) Chinook Salmon, 4) Coho Salmon, and 5) Southern BC/Washington Chum Salmon. Both Canada and the US plan to conclude 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 will be led by the Panel chairs, who will work with their respective panels and technical committees to identify key issues and products needed to support bilateral negotiations. Canada's chinook negotiating team will be led by the Canadian Commission Co-Chair, Sue Farlinger, and supported by technical advisors from the Chinook Technical Committee, as well as a Chinook Advisory Group.

The FNFC and the First Nations Caucus Executive Committee requested additional AAROM funds this year to assist Caucus members on PST renewal, which was provided by DFO along with additional funding for a First Nations Advisor. The Advisor will provide necessary expertise to help the First Nations Commissioners keep track of issues and provide strategic recommendations.

DFO is conducting regional consultation sessions (coupled with consultations on the Wild Salmon Policy) about the current status of PST renewal and anticipated issues for Canada. They will be seeking input on First Nations interests into the negotiations of the five expiring chapters at these sessions. FNFC has prepared briefing materials to support BC First Nations in these discussions. Additionally, FNFC staff and First Nations Caucus members will attend these sessions to support BC First Nations in these discussions.

The FNFC will provide a summary of the input gathered at these sessions and strategize with the First Nations Caucus on how to advance these priorities and concerns at the domestic and international levels. Given the significance of these international negotiations, the FNFC also encourages First Nations to contact DFO directly to request bilateral meetings on the renewal of the PST if they wish to do so.

The First Nations Caucus has expressed concern to DFO that Canada does not appear to have a clear strategy for negotiations, or it has not been clearly communicated with First Nations. In contrast, the US (Alaska in particular) has employed clear strategies and tactics to ensure the protection of their interests, which are in direct opposition to the interests of First Nations and Canada. Overall, Canada has concerns about the potential impacts of US fisheries on stocks of concern as well as Canada's total allocation. Canada has legal domestic obligations to First Nations to ensure that the US minimizes its impacts on Canadian stocks of concern and potential impacts to First Nations' Aboriginal fisheries including access and allocations of S. 35(1) fisheries.



FIRST NATIONS FOOD, SOCIAL AND CEREMONIAL NEEDS NOT MET

The FNFC has heard consistently that many First Nations in BC are not meeting their Food, Social, and Ceremonial (FSC) needs. Current barriers include low fish stocks, insufficient allocations, restrictions on fishing times and locations, and high costs of fishing, among others. As a result, First Nations experience significant impacts to food security, forced shifts in targeted species or fishing location, increased costs associated with travel for access, as well as a loss of culture and knowledge associated with fish and fishing in First Nations communities.

According to the Supreme Court of Canada and the 1990 *Sparrow* case, First Nations' rights to fish for Food, Social, and Ceremonial (FSC) purposes take precedence, after conservation, over all other uses of the resource. DFO must be able to legally demonstrate that their process of allocating the resource reflects this Aboriginal priority right. However, BC First Nations have expressed concerns about DFO's decision-making process regarding First Nations allocations and access to FSC fisheries. DFO employs its "Regional Access and Allocation Framework" (RAAF) to make decisions about annual FSC access and allocation requests from individual First Nations. While the department has shared a list of factors it considers when making decisions under the RAAF, the actual decision-making process remains unclear. A common perception is that DFO is not managing the resource to ensure the FSC priority is upheld, and that First Nations bear the brunt of conservation.

Many First Nations and First Nations fisheries organizations have worked among themselves and/or with DFO in an attempt to address ongoing challenges in meeting FSC needs. Although the outcomes of these efforts vary across regions, overall not much progress has been achieved to fully address the widespread FSC access and allocation issues.

Due to the lack of progress on addressing challenges and barriers to FSC access and allocations and the significance of this issue to BC First Nations, the FNFC has been coordinating with First Nations regional organizations to address the challenges they face in ensuring their FSC access and allocations. We coordinated with the Fraser River Aboriginal Fisheries Secretariat (FRAFS) to convene a one-day Tier 1 workshop in March 2016 to identify potential strategies that could be used to advance First Nations FSC interests at different scales. Participants also considered factors such as the degree of collaboration, cost and impact, implementation steps, time frame, deliverables, and potential measures of success/failure.

The FNFC has developed a briefing note that has been circulated to First Nations through our Tier 1 email list. Work continues on this priority issue and we will provide further updates as things progress. For more information, please contact Wanli Ou at wanli@fnfisheriescouncil.ca or 778-379-6470 (ext. 29).

.....

FNFC UPDATE CONFERENCE CALLS (TIER 1)

The FNFC hosts First Nations fisheries update teleconferences on the second Wednesday morning of every month from 10:30am to 12:00pm. 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 Tier 1 email list.

The next FNFC monthly call will be held on Wednesday, December 14, 2016



WATER FOR FISH INITIATIVE

NEW! Systematic Review: Indigenous-led Freshwater Planning and Governance Initiatives in BC:

This fall, the Water for Fish team completed a year-long research initiative on freshwater planning and governance initiatives led by First Nations in BC with our project partner the Centre for Indigenous Environmental Resources (www.yourcier.org). The purpose of the research was to identify capacity gaps and contribute to shaping the future of freshwater planning and a new watershed governance regime in the province. The results point to a widespread lack of capacity (financial, human and technical) for most First Nations to engage in water/watershed governance, planning and management. The research also found that with enough capacity, the majority of survey respondents would have a strong interest in engaging in water/watershed planning in their territories. The final report is available on the FNFC website at http://www.fnfisheriescouncil.ca/wp-content/uploads/2015/09/BC-Systematic-Review-Project-Report_Sept-15-2016.pdf.

Upcoming Water for Fish events:

WEBINAR: “Water Wednesday” teleconference and webinar on Wednesday, December 7 at 10AM PT:

Getting Ready for Groundwater Referrals under BC’s new Water Sustainability Act

With resource guest Dr. Gilles Wendling of GW Solutions (www.gwsolutions.ca)

Register here: <https://attendee.gotowebinar.com/register/5620921523491217668>

WEBINAR: Blue Dialogue Series: Indigenous-led Freshwater Planning and Governance Initiatives in BC

Hosted with the POLIS Water Sustainability Project (www.poliswaterproject.org)

Mid-January (Date TBD)

Contact Genevieve@fnfisheriescouncil.ca for more information.

WORKSHOP: Environmental Flows Technical and Strategic Workshop

February 7 & 8, 2016 in Vancouver

Contact julia@fnfisheriescouncil.ca for more information.

Staff Update:

Susi Porter-Bopp joined the FNFC at the beginning of September, and is working full-time in the role of Water for Fish Project Manager. She can be reached at susi@fnfisheriescouncil.ca.

Julia Ko returned from maternity at the end of September and is working with FNFC’s Water for Fish project on a part-time basis. She can be reached at julia@fnfisheriescouncil.ca.



AQUACULTURE COORDINATING COMMITTEE

The FNFC-supported Aquaculture Coordinating Committee (ACC) is a technical table consisting of delegates from the FNFC geographic regions that aims to increase First Nations' involvement in the policy and management of the aquaculture industry. The ACC met most recently in Penticton on October 19, 2016 to discuss First Nations interests related to the management of freshwater/inland aquaculture. In addition to regional DFO aquaculture staff, representatives of the relevant Provincial ministries also attended this meeting. Specific topics included:

- Existing consultation processes for Salmonid Enhancement Program hatcheries;
- The role of the Introductions and Transfers Committee;
- The federal/provincial harmonized application review process;
- Consultation regarding lake stocking and brood stock collection;
- Policy and management gaps for First Nations applications for enhancement activities.

DFO staff have committed to working with the ACC to identify and address the policy and management gaps related to First Nations interests in freshwater/land-based aquaculture and we expect work on this topic to continue into the New Year. The Province has also agreed to continue to engage with the ACC regarding aquaculture, something the committee has called for previously.

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

.....

POTENTIAL LISTING OF EULACHON UNDER THE SPECIES AT RISK ACT (SARA)

Since 2011, the FNFC has worked closely with First Nations in BC to facilitate information sharing and to support the capacity of BC First Nations to effectively participate in the SARA process associated with the potential listing of three designatable units (DUs) of eulachon – Fraser DU (Endangered), Central Coast DU (Endangered), and Nass-Skeena DU (Special Concern). Throughout this time period and as information became available, the FNFC facilitated numerous Tier 1 and 2 meetings, workshops and teleconferences to identify issues of common concern and chart a path forward through the SARA process.

DFO has now concluded consultations on all three eulachon DUs, and the FNFC submitted a letter to DFO on the November 30th deadline to provide input regarding the potential SARA listing of eulachon. The content of the letter reflects much of what the FNFC has heard from working closely with BC First Nations, especially in the Central Coast and Lower Fraser regions, since 2011 on the potential SARA listing of these three eulachon DUs.

In early 2017, DFO will make a listing recommendation to the Minister of Environment who will then make a decision on whether eulachon will be listed for protection under SARA.

For more information on the FNFC's work on eulachon, contact Deana Machin at deana@fnfisheriescouncil.ca.



ECONOMIC FISHERIES – BUSINESS DEVELOPMENT TEAM

In 2015, the First Nations Fisheries Council retained the services of the Business Development Team (BDT) to provide confidential support to First Nations Commercial Fishing Enterprises (CFEs), as part of DFO's PICFI Enterprise Development Refresh program.

Since March 2016, the BDT has worked with all 25 CFEs to prepare and submit funding applications to DFO under two funding sources: 1) \$9.375 million under the Business Development Source (BDS) for expansion of existing CFE harvest related activities; and, 2) \$2.5 million under the Pacific Commercial Fisheries Diversification Initiative (PCFDI) for CFE diversification opportunities, funded through the Strategic Partnerships Initiative (SPI).

Since the last communique, CFEs have successfully secured funding under both the BDS and PCFDI envelopes. The BDT is confident that all 25 CFEs will receive BDS funding to expand harvest related activities, including; access acquisition (licenses and quota), vessel and gear purchases/upgrades, and harvest related logistics/distribution. Most CFEs are now focused on utilizing funds and completing transactions before March 31st 2017, to provide valuable access and equipment to harvesters in their communities.

As of December 1, 14 PCFDI/SPI applications were submitted for diversification projects; a significant increase over the number of applications submitted in fiscal year 2015/16. The increase in the number of projects highlights the importance of diversification to CFEs, and their intention to be actively involved in all aspects of value-added and supply chain opportunities in the sector. Horizontal (e.g. aquaculture) and vertical integration (e.g. processing, distribution and logistics, and marketing/branding) is critical to increase First Nations participation and long-term sustainability in a very competitive industry. Many PCFDI/SPI projects also include extensive training and employment opportunity for community members, thereby increasing the flow of benefits to CFE communities.

On November 15th and 16th, A-Tlegay Fisheries hosted the annual CFE Business Development Forum in Campbell River, BC. CFEs from across the province attended this important opportunity to network, share experiences, and learn from each other. CFEs presented on their successes, and the challenges they face with access to licenses and quota, access to capital, and ageing fleet, and loss of experienced fishers from the industry over time.

The BDT continues to work with CFEs on implementation of approved projects and work on initiatives for CFEs to expand their businesses operations and capacity. Significant efforts are also underway to seek long-term renewal and expansion of PICFI, and many CFEs have contacted DFO Minister LeBlanc, as well as Members of Parliament to seek support. All three First Nations Leadership organizations also provided letters of support for the renewal and expansion of PICFI.

For more information please contact Neil Philcox at neil@gb-cap.com.

Keep up with the FNFC on Social Media!

LIKE us on FACEBOOK at www.facebook.com/fnfcbc • FOLLOW us on TWITTER at www.twitter.com/fnfish



LEGISLATIVE REVIEWS OF THE FISHERIES ACT AND NAVIGATION PROTECTION ACT

Fisheries Act Review:

The Minister of Fisheries and Oceans has a mandate to restore lost protections in the *Fisheries Act* and incorporate modern safeguards. The Standing Committee is currently conducting a review and will submit a report to Parliament on February 28, 2017. The report will be publicly available, and the Government of Canada will have 120 days to respond to the report. Subsequent to the Government's response, DFO will consider the report and recommendations and may develop proposals to address what was heard. Indigenous groups will be consulted on proposals for changes to the Act.

The FNFC has worked with several regional First Nations fisheries organizations to develop a comprehensive submission for the ongoing review of the 2012 changes to the *Fisheries Act*. The submission was developed after a series of regional information sessions held in November in Nanaimo, Merritt, Terrace, Prince George, and Richmond. It also builds on previous legal analysis conducted regarding the 2012 changes. The document has been shared widely with BC First Nations and is available directly from the FNFC or any of the collaborating organizations. BC First Nations who have not already made a submission regarding the *Fisheries Act* may wish to support the FNFC's submission, or to adopt portions of it for their own purposes.

The deadline for submissions to the parliamentary committee that is reviewing the 2012 changes was **November 30, 2016**. The FNFC and many other organizations expressed strong concerns about the timelines for this review process, particularly due to delays in decisions about funding to participate in the review and a lack of information to support the review. In response, DFO has indicated that First Nations may make submissions regarding the *Fisheries Act* review directly to the Minister until **January 31, 2017**.

For more information about the FNFC's work regarding the *Fisheries Act* review, please contact Deana Machin (deana@fnfisheriescouncil.ca) or Alex Etchell (alex@fnfisheriescouncil.ca).

Navigation Protection Act Review:

FNFC retained JFK Law Corp to prepare a legal analysis of changes and recommendations to the *Navigation Protection Act* (formerly the *Navigable Waters Protection Act*) as part of FNFC's submission to the federal review process. The FNFC's submission focuses on how the 2012 changes to the Act work to severely limit the necessary procedures to identify and address the impacts of development in waterways on First Nations and that allow First Nations to participate in decision-making. Our thirteen recommendations include recognizing reconciliation as an object of the Act, restoring lost protections, and incorporating modern safeguards, including establishing mechanisms for First Nations co-governance over navigable waters.

The deadline for submissions to the Standing Committee on Transport, Infrastructure, and Communities on Review of Changes to the *Navigation Protection Act* is **Wednesday, December 7, 2016**. The Minister of Transport and the Department will continue to hear views until **January 30, 2017**.

