

First Nations Fisheries Council

February 2012 Communiqué



FIRST NATIONS
FISHERIES COUNCIL

MESSAGE FROM THE FNFC EXECUTIVE DIRECTOR

Greetings everyone,

It has been a busy two months since our last bi-monthly update. The Council work began in the New Year confirming the new Council appointments and their terms as set out in the Constitution and Bylaws. We would like to formally introduce the First Nations Fisheries Council for the 2012/2013 term. They are, starting from the North:

- John Ward, Yukon and Northern Transboundary Region
- Robert Davis, Haida Region
- Don Roberts, North Coast / Lower Skeena Region
- Stu Barnes, Upper Skeena Region
- Thomas Alexis, Upper Fraser Region
- Hank Adams, Mid Fraser NE region
- Vacant, Mid Fraser SW Region
- Howie Wright, Columbia Transboundary Region
- Ken Malloway, Lower Fraser/Fraser Valley Region
- Richard Sparrow, Lower Fraser/Lower Mainland-Coastal Region
- Al Claxton, Vancouver Island Southern Region
- John Henderson, Vancouver Island Northern Region
- Cliff Atleo, Vancouver Island West Coast Region
- Megan Moody, Central Coast Region

Here is snapshot of the current issues we're working on at the First Nations Fisheries Council (FNFC) from the perspective of the Executive Director. We hope that these bi-monthly updates will help to keep BC First Nations informed about the initiatives and activities of our organization. We rely on you at the local level to work with your FNFC delegate to bring forward the broad issues from your areas. Here are some of the initiatives we at the FNFC are working on.

Strategic Planning:

The FNFC continues to build on the strategic objective and direction of the FN Leadership Council Task Force recommendations to enter into formal MOUs for a cohesive voice for First Nations. This has been laid out earlier in our communiqués and in Tier 1 meetings. The FNFC has

been working with a number of you, including participation in numerous Tier 1 and Tier 2 sessions, to gather information and feedback for the purposes of building out the 3 year strategic plan for the FNFC, and to develop a broadly supported approach to working effectively together at a Regional/Provincial scale. The need for First Nations to build effective structures among themselves will assist in addressing some of the local issues that frustrate progress.

Institute on Governance:

The FNFC recognizes that First Nations desire a greater role in determining their destiny in terms of fishery focused self-governing mechanisms that are more consistent with case law, Sparrow, and the Constitution. These have been articulated in *Our Place at the Table*, the *Fisheries Action Plan*, and many other publications. These aspirations are only the start, however, and there is a need to take stock and do a frank assessment among ourselves, and ask the following;

- Where are we now in terms of collective capacity? Where do we want to go? We will need a very specific answer here.
- How would we make difficult management decisions among ourselves if we were in a position of authority?
- Are we structured across the province to effectively engage among 203 First Nations?
- Where is the destination? How far down the joint management road do we wish to go? Science/compliance/fishery monitoring? How will these activities be resourced?

The FNFC has engaged in introductory discussions with Miles Richardson, the western contact for the Institute on Governance (IOG) to help map out this discussion and a way to bring people together to inform this process, and most importantly how to financially resource the institute to participate with the FNFC. This is a governance discussion, and we may reach out to other funders to support this activity. We have recently moved forward on this and have retained the IOG to begin preliminary work on role definition and governance frameworks. A survey and interview questions with leaders and operational folks is currently underway as the first phase of this activity.

Relationship Accord update:

The FNFC's priority focus for the first quarter of this business cycle was to more clearly define the relationship between and among First Nations organizations to ensure a more cohesive, coordinated, and effective voice on policy level matters on behalf of First Nations. We invited the First Nations Leadership Council to our strategic planning session in May, and agreed to formally develop a Relationship Accord. This Accord is consistent with the All Chiefs Task Group acceptance of the terms of reference, which call for Memoranda of Understanding between the partnering organizations and councils in order to build more constructive and effective interactions between the BCAFN, UBCIC, and FN Summit. The FNFC staff and the Leadership Council's operations staff have completed this Accord, and we ratified this at the Annual General Assembly by formally signing the Declaration.

As a complementary component to this process, local and watershed level First Nations participants on our bi-weekly update conference calls have also expressed a need to work more cohesively and effectively with one another. The FNFC will be following up on a process for relationship building with these local, regional and watershed level groups. At our Fisheries

Council meeting on July 13, 2011 the Council reviewed and confirmed the direction for building structures and partnerships from the local and community level up to the provincial and national level. This will mostly be facilitated through existing watershed-based mechanisms that many of you currently work with. Further to this, the Council has identified the need to have some local meetings in the North Island, Central Coast, and North Coast Skeena to assist in supporting the FNFC delegate process. We have been meeting with the Nations at the local level to assist in articulating the message and developing clarity in the structure and process among all First Nations in the Province. A list of the meetings and locations is identified below. In order to develop a long-term successful First Nations process to become more efficient and effective, we need you to engage in the development of these discussions! We are currently negotiating the funding for these sessions with DFO under the Commitment to Action accord.

Saul Milne is also working with the watershed-based groups to develop a Charter among First Nations that sets out principles to agree upon as common objectives. We are referring to it as the HIYU Charter (which means "working together"). To support this, we have begun a number of direct community engagement meetings to articulate the direction and framework for developing a cohesive voice. These sessions included 3 geographic regions on Vancouver Island (Gold River, Nanaimo, and Port Hardy), the North Coast/Lower Skeena, the Mid Fraser, the Fraser valley, and the Lower Mainland. There are further meetings planned for the Upper Fraser, the Okanagan, and (still to be confirmed) the Secwepemc, the Lower Mid Fraser, and Haida Regions, where expressions of interest have been extended for FNFC meetings.

Cohen Inquiry:

The FNFC has continued to work with the First Nations Coalition and its legal team from Mandell Pinder to compile final submissions for recommendations to the Commissioner. The submission was a comprehensive body of work amounting to 256 pages, and made a total of 101 recommendations. The FNFC again wishes to express extreme gratitude to the legal team of Mandell Pinder for the work done on behalf of First Nations. The recommendations from this inquiry are expected in the summer of 2012.

Joint Management Process:

The Integrated Fisheries Planning process, which includes the development of IFMPs (Integrated Fisheries Management Plans), occurs through the Integrated Harvest Planning Committees (IHPC). First Nations have identified a number of concerns with the IHPC and IFMP processes, including First Nations representation at the IHPC, the process of appointing First Nations delegates, and how input and advice from First Nations on the development of IFMPs is considered by DFO. Perhaps the most explicit concern is the development of decision rules that may impact or infringe on Section 35-1 fisheries, as a Tier 3 process is not the appropriate forum for decisions that could affect First Nations rights.

The FNFC met with members of the DFO Regional Salmon Team to articulate these concerns, and laid out an approach to remedy these issues. DFO is supporting the need for a process that reflects the needs and aspirations of First Nations, and they are open to adjusting the IHPC delegate process and possibly restructuring the engagement format. This led to the FNFC's IHPC workshop on October 24-25 in Vancouver, with close to 80 First Nations participants from across BC. The First Nations agreed to follow up the workshop with some sessions to work on a parallel

course with the Salmon IHPC/IFMP development. In November, a First Nations Interim Salmon Harvest Interim Coordinating Committee (FN_ISH ICC) was struck with delegates from the 14 FNFC geographic regions being identified. The work is focusing on developing a clearer path forward for effective First Nations participation in the IFMP engagement.

Working Group Sunset:

Further to this discussion, the FNFC has been reviewing the Commitment to Action (C2A) working group activities, and included in this portfolio will be the need to identify efficiencies in the activities of the 4 working groups. This may involve a restructuring of the working group activities to better align with the Strategic plan of the Fisheries Council, and evolving into dialogue forums to elicit broader perspectives on the following:

- FSC and Co-Management topics such as IHPC/IFMP, Southern Chinook Management Framework, and other related topics.
- The implementation of the federal aquaculture program and NASAPI, as well as the renewal or potential sunset of the PICFI program, have emerged as priorities that must be considered and resourced as business lines that have to be rationalized with other emerging priorities.

Case Law Implementation:

First Nations have expressed extreme dissatisfaction with the poorly considered interpretation of Supreme Court of Canada decisions, and the lack of implementation or consideration to DFO program envelopes. This will be a focus of work planning moving forward. The Fisheries Council held a legal workshop at Musqueam in January 2012, and heard from experts and leaders on this topic (see more detailed summary of the legal workshop below).

Other pressing items that we are working on include:

- Coordinating a response to the Commercial fisheries Modernization rollout - part of DFO's Sustainable Fisheries Framework initiative (meeting on February 24th in Richmond);
- Coordinating a Fishery Guardian focus group with the intent to push the agenda forward for Career path development (update below);
- NAFF 2 - coordinating the agenda and hosting of the National Aboriginal Fisheries Forum to be held in BC (proposed for Campbell River in the Fall of 2012);
- Aquaculture engagement initiative – this appears to be a significantly complex and growing body of work for the next few years.

Although complex and time consuming, this challenging work is rewarding to us and we hope to see you at our meetings as they come to your areas.

Thanks,
Jordan Point

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LEGAL WORKSHOP

On January 20th 2012, over 50 participants gathered in Musqueam territory for an FNFC Legal Workshop. The workshop was a result of numerous requests from First Nations that a session to discuss recent court cases and the current status of the law was necessary in order for First Nations to share lessons learned, best practices, and to discuss strategies to move forward collectively. The session opened with Jordan Point, Executive Director of the FNFC, providing a brief synopsis on the role of the FNFC and the purpose of the workshop. Next Brenda Gaertner from Mandell Pinder provided a presentation on the current status of the law as it pertains to fisheries, focusing on the difference between inherent and Section 35(1) rights and select Court cases. After the morning break, a panel of presentations occurred on recent court decisions – the Ahousaht et al Decision, the Gladstone Decision and Reconciliation Initiatives, the Lax Kw'alaams Decision, and the current Matsqui Case. For each presentation, the presenters provided a brief overview of the case/decision and some potential lessons learned and best practices. After lunch, the floor was opened for dialogue and questions to all of the presenters of the morning. Following the discussions, Brenda Gaertner provided an update on the Cohen Commission and the recommendations that were put forward from the First Nations Coalition. The day ended with a panel “Envisioning a Future outside the Box – Looking forward”, where we heard a presentation on the protocol between the Ahousaht Ha’wiih and Laich-Kwil-Tach, and a presentation on the Leadership Council’s Consultation and Accommodation Working Group. The session ended with the request from participants that subsequent meetings on this important topic be convened in order to build on the fruitful discussions of the day. Copies of the presentations, and notes, from the sessions are available on the FNFC website.

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GUARDIAN PROGRAM FOCUS GROUP

The First Nations Fisheries Council is hosting a Guardian Program Focus Group on March 28th and 29th in Vancouver. The purpose of the Focus Group will be to provide an opportunity for First Nations and Fisheries and Oceans Canada to engage in thoughtful and pro-active dialogue regarding the future of the Guardian Program. Discussion topics will focus on:

- Discussion on the value-added benefits of the program and how to First Nations and DFO can work together to build and maintain program capacity
- Exploration of career development opportunities for Fisheries Guardians
- Exploration of opportunities for Fisheries Guardians to undertake additional monitoring and reporting as per various fisheries management programs requirements.

If you would like more information, please contact Deana Machin at deana@fnfisheriescouncil.ca or at 778-279-2900 ext 25.

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EULACHON UPDATE

Fisheries and Oceans Canada has now initiated consultations on the proposed listing of Eulachon populations in three Designatable Units: Fraser (Endangered), Central Coast (Endangered) and Nass/Skeena (under re-assessment by COSEWIC). At these meetings, DFO SARA staff will provide an overview of the SARA process for the potential listing of Eulachon, clarify the roles of the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and DFO, and identify further opportunities for engagement and participation in the listing decision process. It is hoped that this overview will assist in understanding the SARA listing process as it relates to Eulachon and provide an opportunity for discussion related to the process.

There was an initial meeting for the Fraser DU in Abbotsford on February 10th, and the next consultation session is scheduled for March 6th in Port McNeil for the Central Coast DU. DFO is also planning for meetings in other locations in the Central Coast and North Coast areas during March and April, so please watch for meeting notices and correspondence on upcoming sessions. If you would like to request a meeting in your community, please contact Heidi Gartner, DFO SARA Biologist, at (604) 666-2792 or email Heidi.Gartner@dfo-mpo.gc.ca

The FNFC has been hosting regular Tier 1 (First Nations only) Eulachon Teleconferences for First Nations to discuss the potential listing, share concerns & ideas, and to share information and prepare for the various DFO SARA consultation sessions that are expected to be on-going through 2012 and into 2013. The next First Nations Eulachon Teleconference is scheduled for Friday March 16th from 11:00 am to 12:00pm. For more information, please check our calendar at www.fnfisheriescouncil.ca or contact Deana Machin at deana@fnfisheriescouncil.ca or 778-279-2900 ext 25.

OUTSTANDING INVOICES AND CLAIMS

The FNFC is currently in the process of wrapping up our finances for the 2011/12 fiscal year. Please ensure that all travel claims and invoices for amounts owing from the First Nations Fisheries Council for the 2011/2012 fiscal year are submitted to the appropriate FNFC staff member or to Karl Dhillon, FNFC Business Manager, by March 31, 2012. All required receipts and/or approvals must be attached for timely reimbursement. Thank you for your cooperation.

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 (10:30-12:00 noon). These calls are Tier 1, and are open to all First Nations and First Nations fisheries program staff.

Next bi-weekly calls:

Wednesday, March 7, 2012 (10:30am-12:00pm)

Wednesday, March 21, 2012 (10:30am-12:00pm)

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.