

Appendix 12

**COHEN COMMISSION OF INQUIRY
INTO THE DECLINE OF SOCKEYE SALMON IN THE FRASER RIVER**

**- DISCUSSION PAPER -
ISSUES THAT THE COMMISSION INTENDS TO INVESTIGATE**

June 3, 2010

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A. ESTABLISHMENT OF THE COMMISSION

In November 2009 the Governor General in Council issued an Order in Council establishing this Commission of Inquiry (the “commission”), and appointing BC Supreme Court Justice Bruce Cohen as sole Commissioner (the “Commissioner”), under Part 1 of the *Inquiries Act*¹, to inquire into the decline of sockeye salmon in the Fraser River.

The same Order in Council set the commission’s Terms of Reference² that, in brief, direct the Commissioner:

- A. To conduct the Inquiry without seeking to find fault on the part of any individual, community or organization, and with the overall aim of respecting conservation of the sockeye salmon stock and encouraging broad cooperation among stakeholders;

- B. To consider the policies and practices of the Department of Fisheries and Oceans (the “Department”)³ with respect to the sockeye salmon fishery in the Fraser River – including the Department’s scientific advice, its fisheries policies and programs, its risk management strategies, its allocation of Departmental resources and its fisheries management practices and procedures, including monitoring, counting of stocks, forecasting and enforcement;

- C. To investigate and make independent findings of fact regarding:
 - i. the causes for the decline of Fraser River sockeye salmon including, but not limited to, the impact of environmental changes along the Fraser River, marine environmental conditions, aquaculture, predators, diseases, water temperature and other factors that may have affected the ability of sockeye salmon to reach traditional spawning grounds or reach the ocean, and
 - ii. the current state of Fraser River sockeye salmon stocks and the long term projections for those stocks; and

- D. To develop recommendations for improving the future sustainability of the sockeye salmon fishery in the Fraser River including, as required, any changes to the policies, practices and procedures of the Department in relation to the management of the Fraser River sockeye salmon fishery. . . .

¹ R.S. 1985, c. I-11.

² The complete Terms of Reference are included as Appendix 1.

³ In this Discussion Paper, the acronym “DFO” will be used to denote the Department of Fisheries and Oceans.

The Terms of Reference also authorize the Commissioner to grant, to any person who satisfies him that they have a substantial and direct interest in the subject matter of the Commission, an opportunity for appropriate participation in it.

Formal involvement in the commission's public hearings is restricted to participants. Participants are entitled to be self-represented or represented by counsel at the public hearings; to propose witnesses to be called by Commission counsel; to review documents disclosed by DFO and other participants; and to make oral and written submissions. They may also be involved in evidentiary hearings by examining or cross-examining witnesses. Participants are expected to identify to the commission documents in their possession relevant to the subject matter of the commission and, if requested to do so, provide copies to the commission.

The commission received 50 applications for standing. In a written Ruling dated April 14, 2010,⁴ the Commissioner made 20 single grants of standing for participation in the commission, and set out his reasons for doing so. Many of these grants of standing are shared among applicants who originally applied for standing individually. The complete list of participants granted standing is set out in Appendix 2.

The Commissioner has made recommendations to the Clerk of the Privy Council that funding be provided, in accordance with terms and conditions approved by the Treasury Board, to ensure the appropriate participation of some of those granted standing at the commission. At the time of writing, the Clerk of the Privy Council had not announced funding decisions.

B. THE DECLINE OF FRASER RIVER SOCKEYE SALMON

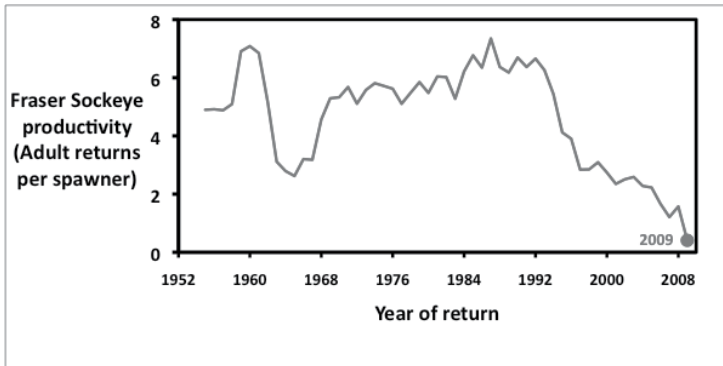
According to the preamble to the Terms of Reference, "the decline in sockeye salmon stocks in the Fraser River in British Columbia has necessitated the closure of the fishery for a third consecutive year, despite favourable pre-season estimates of the number of sockeye salmon expected to return to the Fraser River". This decline "has been attributed to the interplay of a

⁴ Available at <http://www.cohenCommission.ca/en/pdf/StandingRuling.pdf>. See also two Rulings on Applications to Vary Standing, dated May 10 and 11, 2010.

wide range of factors, including environmental changes along the Fraser River, marine environmental conditions and fisheries management”.

Declines in sockeye salmon can be expressed in terms of abundance, productivity and diversity. A recent Think Tank of Scientists from Simon Fraser University and the Pacific Fisheries Resource Conservation Council described this decline by comparing the number of adult recruits to the number of spawning adults four years previously. Graph 1, taken from the Think Tank’s report, shows this measure of productivity (adult returns per spawner) between the 1950s and 2009.⁵ If the number of progeny is less than the parental numbers, this suggests that the stock is in decline. Since the early 1990s, there has been a steady and profound decline, and now the ratio of returning progeny per spawner is well below the replacement level.

Graph 1: Fraser River sockeye salmon adult returns per spawner, 1950s-2009



⁵ See “Adapting to Change: Managing Fraser sockeye in the face of declining productivity and increasing uncertainty,” Think Tank of Scientists from Simon Fraser University and the Pacific Fisheries Resource Conservation Council, December 9, 2009 – <http://www.fish.bc.ca/scientific-think-tank-analyzes-declining-fraser-river-sockeye-returns>

C. THE COMMISSION'S PROCESSES

In carrying out its mandate, the commission plans to engage in a variety of activities, including the following:

1. Opening hearings

Beginning on June 15, 2010, the commission plans to hold several days of hearings at the Federal Court, 801 – 701 West Georgia Street, Vancouver, B.C. These hearings will provide participants with an opportunity to make submissions on the issues on which the commission should focus, such as:

- Whether there are issues, other than those in this discussion paper, that the commission ought to investigate, and
- The relative priority of the issues that the commission ought to investigate.

2. Interim report

The Commissioner is directed to submit an interim report, simultaneously in both official languages, to the Governor General in Council on or before August 1, 2010, setting out his preliminary views on, and assessment of, any previous examinations, investigations or reports that he considers relevant to the commission, and the Government's responses to those examinations, investigations, and reports.

3. Evidentiary hearings

Beginning in September 2010, the commission plans to conduct evidentiary hearings regarding the issues that the commission is mandated to investigate. The commission plans to conduct most of these hearings at the Federal Court in Vancouver. A tentative schedule for September 2010 is set out in Appendix 3.

These hearings will be conducted in accordance with the commission's *Rules for Practice and Procedure* that is posted on the commission's website: www.cohencommission.ca.

The commission may adopt a variety of formats, depending on the issue under consideration, including the following:

- an individual witness, including an expert, may testify under oath or on affirmation, and then be subject to cross-examination; or
- a group of witnesses, including experts, may give evidence as members of a panel.

4. Public forums

The commission plans to conduct public forums in several coastal and Fraser River communities for the purpose of hearing from members of the public on the issues the Commissioner is mandated to consider. The commission plans to summarize presentations made at these public forums, and to post them on the commission’s website.

5. Site visits

The Commissioner plans to visit various sites that are important to some aspect of the Fraser River sockeye salmon fishery, and to video record site visits, if possible.

6. Final report

The commission’s Terms of Reference specify the matters that are to be included in the commission’s final report or reports. In addition to making independent findings of fact regarding the causes for the decline of Fraser River sockeye salmon, the Commissioner is directed in paragraph a.i.D.,

to develop recommendations for improving the future sustainability of the sockeye salmon fishery in the Fraser River including, as required, any changes to the policies, practices and procedures of the Department in relation to the management of the Fraser River sockeye salmon fishery. . .

In making his independent findings of fact and developing his recommendations, the Commissioner will give careful consideration to all the testimony given and other evidence tendered during the evidentiary hearings, submissions made by members of the public, and closing written and oral submissions made by participants.

7. Public involvement

There are a variety of ways in which interested members of the public can stay informed about the work of the commission, including:

- attending the hearings and public forums, and
- reading the transcripts or summaries of these proceedings, and the scientific reports, that will be posted on the commission’s website.

Members of the public are also invited to express their views on issues related to the commission’s mandate, by making a public submission on the commission’s website – <http://www.cohenCommission.ca/en/submissions/SubmissionForm.php>.

D. MANAGEMENT OF FRASER RIVER SOCKEYE SALMON

Paragraph a.i.B. of the Terms of Reference specifically directs the commission to inquire into DFO’s management of the Fraser River sockeye salmon fishery,

to consider the policies and practices of the Department of Fisheries and Oceans (the “Department”) with respect to the sockeye salmon fishery in the Fraser River – including the Department’s scientific advice, its fisheries policies and programs, its risk management strategies, its allocation of Departmental resources and its fisheries management practices and procedures, including monitoring, counting of stocks, forecasting and enforcement

In response to this direction, the commission intends to consider the following:

1. DFO’s organizational structure

- National and regional leadership;
- Funding, budgeting and allocation of departmental resources;⁶
- DFO’s relationship with:
 - Province of British Columbia, First Nations, Pacific Salmon Commission, scientific researchers, stakeholders (including fishers and environmental non-governmental organizations); and

⁶ This issue may also be the subject of a technical paper prepared for the Commission by an external researcher.

- Other federal departments and agencies, including Indian and Northern Affairs, Foreign Affairs, Environment Canada, Transport Canada, and Canadian Environmental Assessment Agency;
- Information management and data management; and
- DFO's management approach, including its policy framework, research initiatives and scientific advice, risk management (including scientific uncertainty and the precautionary approach), and permitting.

2. Harvesting

- Fishing sectors – allocations, locations, methods, and regulations including licensing and levels of the harvest, for the Aboriginal, commercial, and recreational fishing sectors.
- Harvest management tools, including:
 - Pre-season planning, including forecasting (including run size estimates and diversion rates) and sustainability plans (including escapement targets and total allowable catch);
 - In-season management, including the roles of DFO and the Pacific Salmon Commission, and an examination of the counting of stocks (including test fisheries, hydroacoustics, and visual counts), data analysis and response (including the Management Adjustment Model), closures (for all runs or runs with mixed stocks), and gear types/impacts;
 - Post-season review, including assessing the fishery and escapement; and
- Harvest-related enforcement, including consideration of catch monitoring, illegal fishing and/or under-reporting, enforcement measures (including officer presence, hotlines, penalties, and prosecution), and gear types, whether occurring in in-river, coastal or high seas areas.

3. Conservation

- Habitat enhancement and restoration, including fishways, spawning grounds and channels, lake enrichment, and hatcheries;

- Protecting salmon and salmon biodiversity, including consideration of the Wild Salmon Policy, conservation units, mixed stock protections and the *Species At Risk Act*⁷;
- Conserving habitat and ecosystems, both freshwater and marine, including consideration of the *Oceans Act*⁸; and
- Habitat-related enforcement, including action taken under two provisions of the *Fisheries Act*⁹:
 - Section 35 – destruction of fish habitat (including application of DFO’s Habitat Policy); and
 - Section 36 – deposit of deleterious substances.

E. FISH BIOLOGY AND ECOSYSTEM ISSUES

Paragraph a.i.C. of the Terms of Reference specifically directs the commission to investigate and make independent findings of fact regarding:

- I. the causes for the decline of Fraser River sockeye salmon including, but not limited to, the impact of environmental changes along the Fraser River, marine environmental conditions, aquaculture, predators, diseases, water temperature and other factors that may have affected the ability of sockeye salmon to reach traditional spawning grounds or reach the ocean; and
- II. the current state of Fraser River sockeye salmon stocks and the long term projections for those stocks. . . .

1. Fish biology and ecosystem issues research projects

In addition to the management issues discussed earlier, the commission will also investigate the fish biology and ecosystem issues that may be relevant to the recent sockeye salmon decline and the future sustainability of Fraser River sockeye salmon. The commission will contract out, to recognized experts, research projects on a wide range of fish biology and ecosystem issues, as summarized below. The proposed research is limited to secondary investigations based on existing studies and data. The issues to be examined may change, based on input received from participants and the commission’s Scientific Advisory Panel (discussed later). The scientific reports will be provided to participants and posted on the commission’s website.

⁷ S.C. 2002, c. 29

⁸ S.C. 1996, c. 31.

⁹ R.C. 1985, c. F-14.

- **Water pollution**– Contaminants originating from pulp mills, sewage treatment plants, and non-point sources are present in the Fraser River in measurable concentrations. These contaminants can act synergistically to impact fry, smolts or adults, and environmental variables (e.g., temperature) can modify their toxicity. *The commission intends to prepare an inventory of such aquatic contaminants in the Fraser River in relation to the distribution of sockeye CUs, and to compare toxicology data to Fraser River water quality conditions.*
- **Salmon farms** – *The commission intends to examine whether there is a linkage between salmon farm operations and Fraser River sockeye survival, including reductions of sockeye smolt survival from sea lice exposure, impacts of farm wastes on seabed and ocean habitat quality, effects of Atlantic salmon escapes on Fraser River sockeye, as well as any potential for the spreading of disease. Other salmon species will be considered insofar as they inform the analysis of Fraser River sockeye. The commission also intends to evaluate several salmon farm management methods for mitigating risks to Fraser River sockeye, including the use of closed containment marine and land-based systems, scheduling of net pen harvesting to reduce contact with sea lice, manipulation of maturation schedules, optimizing densities, reduction of farm production, re-locating farms, and the use of pesticides such as SLICE to control sea lice.*
- **Logging** – A predominant industrial activity in the Fraser River watershed, logging can influence watershed dynamics and fish habitat through sediment deposition in channels, channel instability, the destabilization of stream banks, and changes in water flow, temperature, and quality. As well, the mountain pine beetle infestation (and consequential road building and stream crossing activities associated with salvage logging) impacts on fish habitats via changes to water flows and temperatures – infested forests have higher water tables, faster snow melt, higher spring floods, more flash flooding, and erosion.¹⁰ *The commission plans to summarize the logging history of the Fraser River watershed, and to evaluate the exposure of sockeye CUs to logging impacts in relation to spawning, incubation, rearing and migratory habitats. Additionally, the effects of Fraser Estuary log storage on juvenile and adult sockeye habitats will be evaluated.*

¹⁰ Pacific Fisheries Resource Conservation Council. 2008. Mountain Pine Beetle: salmon are suffering too. www.fish.bc.ca

- **Hydro** – There are numerous independent power projects (IPPs) in the Fraser watershed located adjacent to salmon habitats, and others are proposed. *The commission intends to identify and map the distribution of current and proposed IPPs in relation to Fraser River sockeye CUs, and to determine Fraser River sockeye habitat management implications. The commission plans to assess the status of Stuart, Stellako and Nadina CUs that are exposed to the Kemano Hydroelectric Project impacts, and to also evaluate the effectiveness of managing reservoir flows for temperature control.*
- **Urbanization and agricultural activities** – Population centres along the Fraser River, from Prince George to Greater Vancouver, sit adjacent to mainstem or tributary habitats. They collectively generate impacts such as changes in hydrology, sewage inputs, toxic contaminants from motor vehicles and industrial discharges, as well as damage to habitat (e.g., gravel mining and dredging in the Lower Fraser River below Hope, and residential and port development). In addition, agricultural activities (e.g., pesticide and fertilizer runoff, and extraction of groundwater), and unmanaged cattle grazing (e.g., riparian habitat degradation, and reduction in canopy shading) may impact fish habitat. *The commission intends to examine whether migrating Fraser sockeye smolts and adults are vulnerable to these effects.*
- **Climate change effects (freshwater and marine)** – Climate change, whether from human activity or natural causes, may be affecting Fraser River sockeye. In freshwater habitats, river water temperatures have increased, hydrology effects are becoming evident, and winters are becoming warmer,¹¹ which may lead to reduced snow packs, earlier spring freshet and reduced summer flows. In the marine environment, there are conflicting predictions about whether climate change will lead to an increase or decrease in Pacific salmon production¹² – one scenario proposes that sockeye marine habitats would diminish and move northwards in response to warming. *The commission plans to evaluate evidence for present and future climate change effects on Fraser River sockeye in freshwater and marine habitats, including water temperature, flow, salinity, currents, fish behaviour, distribution, and productivity.*

¹¹ Morrison, J., M.C. Quick and M.G.G. Foreman. 2002. Climate Change in the Fraser River Watershed: flow and temperature projections. *Journal of Hydrology* 263: 230-244.

¹² Beamish, R.J. (Ed.) 2008. Impacts of Climate and Climate Change on the Key Species in the Fisheries in the North Pacific. PICES Sci. Rep. No. 35, 217 pp.

- **Diseases and parasites** – When adult sockeye enter the Lower Fraser River, they are especially susceptible to the *Parvicapsula minibicornis* parasite, which can sometimes cause fatal kidney failure. The unusually early freshwater migration by late-run sockeye can also lead to high levels of pre-spawning mortality in certain years. In addition, sockeye smolts can be infected with *Parvicapsula*¹³ in the Strait of Georgia. *The commission plans to engage a veterinary scientist to examine the impacts of this and 30 other parasites, and approximately 10 diseases, on Fraser River sockeye salmon in both freshwater and marine environments.*
- **Predators** – Fraser River sockeye (alevins, fry, smolts, sub-adults and adults) are vulnerable to fish and mammalian predators. Marine mammal predators congregate in near-shore zones adjacent to the Fraser River, high densities of seals and sea lions are present in the Strait of Georgia, and resident killer whales are salmon feeders although they tend to feed preferentially on Chinook salmon. Other potential marine predators include Humboldt squid. In fresh water, DFO is currently removing northern pikeminnow predators from Cultus Lake, as part of the sockeye recovery program. *The commission intends to investigate the impacts of fish and marine mammal predators on Fraser sockeye populations, to evaluate the role of predation in the decline of sockeye numbers.*
- **Non-retention fisheries** – All three sectors of the Fraser River fishery intercept sockeye during closed periods, while targeting other species. These fish, which must be released, can be stressed, injured or mortally wounded, thereby affecting sockeye populations during low abundance periods. Aboriginal dip net fishers targeting Chinook salmon, recreational anglers targeting Chinook, and commercial fishers targeting pink salmon can intercept sockeye when sockeye are scarce. *The commission intends to investigate the consequences of non-retention fisheries on sockeye physiology, survival and abundance.*
- **Cumulative impacts** – Although the research issues discussed above will consider impacts in isolation from each other, the reality is that Fraser River sockeye experience a suite of impacts both simultaneously and sequentially, which can interact to amplify the effects of individual stressors. *The commission intends to evaluate these cumulative impacts to determine their role in Fraser River sockeye declines.*

¹³ St-Hilaire, S., M. Boichuk, D. Barnes, M. Higgins, R. Devlin, R. Withler, J. Khattra, S. Jones and D. Kieser. 2002. Epizootiology of *Parvicapsula minibicornis* in Fraser River sockeye salmon, *Oncorhynchus nerka* (Walbaum). *Journal of Fish Diseases* 25, 107-120.

2. Background

To provide context for the assessment of potential causes for the decline discussed above, the commission intends to examine the following:

- **Status of Fraser River sockeye Conservation Units** – Canada’s Wild Salmon Policy defines Conservation Units (CUs) as discrete populations of wild salmon that are isolated genetically and geographically from other populations.¹⁴ *The commission intends to evaluate the status of all 36 sockeye CUs in the Fraser River watershed. Once the CUs have been assessed, the research will investigate factors influencing their status.*
- **Freshwater ecology** – The quality and amount of freshwater habitats and migration corridors for Fraser River sockeye, both as juveniles and as adults, have a profound influence on production. *The commission intends to compile and analyze existing information on freshwater ecology, including habitat quantity and quality; impacts and causes for premature migration of adult (Late Run) sockeye from marine areas into freshwater; extent of en-route mortality and pre-spawning mortality; freshwater predation impacts on sockeye smolts and adults; and impacts of diseases on sockeye smolts and adults in the freshwater environment.*
- **Marine ecology** – Much of the inter-annual survival variation in Fraser River sockeye may be associated with marine environmental conditions. One recent analysis¹⁵ concluded that reduced productivity in 2009 occurred after the juvenile fish began their migration toward the sea in 2007, that is, their freshwater outmigration, their migration through the Strait of Georgia and Johnstone Strait, and during their marine life history spent along the continental shelf and within the North Pacific. *The commission’s research, stratified by habitat type (coastal marine and offshore marine), will set out basic life history information, and intends to examine matters such as migration routes; North Pacific Ocean regime shifts and inter-annual variability; effects of ocean productivity variations; the Johnstone Strait diversion rate; marine predation; and impacts of diseases on sockeye smolts and adults in the marine environment.*
- **Production dynamics** – Sockeye CUs have different dynamics, both within and between watersheds. Many Fraser River sockeye populations show characteristic four-year cycles

¹⁴ <http://www.pac.dfo-mpo.gc.ca/publications/pdfs/wsp-eng.pdf>

¹⁵ <http://www.fish.bc.ca/scientific-think-tank-analyzes-declining-fraser-river-sockeye-returns>

(and alternate dominant, sub-dominant and two off-cycle years) with several orders-of-magnitude differences in abundance between years.¹⁶ *The commission intends to address questions such as the following:*

- *Is the reduction in Fraser River sockeye productivity unique to the Fraser River, or is it occurring more broadly across the geographical range of the species?*
- *How does the rate of decline in Fraser River sockeye productivity compare with other populations?*
- *Are there stock differences in productivity decreases within Fraser River sockeye?*
- *Can shifts in the timing of cyclic dominance patterns present as run failures?*
- *How do density-dependent survival effects influence production?*

3. Scientific Advisory Panel

To assist the commission in identifying and examining fish biology and ecosystem issues that may be relevant to the decline of Fraser River sockeye salmon stocks, and in peer-reviewing the contracted researchers' scientific reports, the commission has created a Scientific Advisory Panel, consisting of the following six members:

- **Dr. Carl Walters**, a professor at the University of British Columbia's Fisheries Centre;
- **Dr. Brian Riddell**, the C.E.O. and President of the Pacific Salmon Foundation;
- **Dr. Paul LeBlond**, an ocean scientist and professor emeritus in physics and oceanography at the University of British Columbia;
- **Dr. John Reynolds**, a professor at Simon Fraser University, where he holds the Tom Buell B.C. Leadership Chair in Salmon Conservation and Management;
- **Dr. Patricia Gallagher**, Director of Continuing Studies in Science, Director of the Centre for Coastal Studies, and Adjunct Professor in Biosciences at Simon Fraser University; and
- **Dr. Thomas Quinn**, a professor at the University of Washington in the School of Aquatic and Fishery Sciences.

¹⁶ Ricker, W.E. 1997. Cycles of abundance among Fraser River sockeye salmon (*Oncorhynchus nerka*). Can. J. Fish. Aquat. Sci. 54: 950-968.

Appendix 1. Commission of Inquiry's Terms of Reference

Terms of Reference for the Commission of Inquiry into the Decline of Sockeye Salmon in the Fraser River

Whereas the decline in sockeye salmon stocks in the Fraser River in British Columbia has necessitated the closure of the fishery for a third consecutive year, despite favourable pre-season estimates of the number of sockeye salmon expected to return to the Fraser River;

Whereas that decline has been attributed to the interplay of a wide range of factors, including environmental changes along the Fraser River, marine environmental conditions and fisheries management;

Whereas the Government of Canada wishes to take all feasible steps to identify the reasons for the decline and the long term prospects for Fraser River sockeye salmon stocks and to determine whether changes need to be made to fisheries management policies, practices and procedures – including establishing a commission of inquiry to investigate the matter;

And whereas the Government of Canada has committed to full cooperation with an inquiry;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Prime Minister, hereby

- a. directs that a Commission do issue under Part I of the *Inquiries Act* and under the Great Seal of Canada appointing the Honourable Bruce Cohen as Commissioner to conduct an inquiry into the decline of sockeye salmon in the Fraser River (the “Inquiry”), which Commission shall
 - i. direct the Commissioner
 - A. to conduct the Inquiry without seeking to find fault on the part of any individual, community or organization, and with the overall aim of respecting conservation of the sockeye salmon stock and encouraging broad cooperation among stakeholders,
 - B. to consider the policies and practices of the Department of Fisheries and Oceans (the “Department”) with respect to the sockeye salmon fishery in the Fraser River – including the Department’s scientific advice, its fisheries policies and programs, its risk management strategies, its allocation of Departmental resources and its fisheries management practices and procedures, including monitoring, counting of stocks, forecasting and enforcement,
 - C. to investigate and make independent findings of fact regarding
 - I. the causes for the decline of Fraser River sockeye salmon including, but not limited to, the impact of environmental changes along the Fraser River, marine environmental conditions, aquaculture, predators, diseases, water temperature and other

- factors that may have affected the ability of sockeye salmon to reach traditional spawning grounds or reach the ocean, and
- II. the current state of Fraser River sockeye salmon stocks and the long term projections for those stocks, and
- D. to develop recommendations for improving the future sustainability of the sockeye salmon fishery in the Fraser River including, as required, any changes to the policies, practices and procedures of the Department in relation to the management of the Fraser River sockeye salmon fishery,
- ii. direct the Commissioner to conduct the Inquiry under the name of the Commission of Inquiry into the Decline of Sockeye Salmon in the Fraser River,
 - iii. authorize the Commissioner to consider findings, as he considers appropriate, of previous examinations, investigations or reports that may have been conducted that he deems relevant to the Inquiry and to give them any weight, including accepting them as conclusive,
 - iv. direct the Commissioner to supplement those previous examinations, investigations or reports with his own investigation and to consider the Government's response to previous recommendations,
 - v. authorize the Commissioner to rent any space and facilities that may be required for the purposes of the Inquiry, in accordance with Treasury Board policies,
 - vi. authorize the Commissioner to adopt any procedures and methods that he may consider expedient for the proper conduct of the Inquiry, to sit at any times and in any places in Canada that he decides and to conduct consultations in relation to the Inquiry as he sees fit,
 - vii. authorize the Commissioner to engage the services of any staff, experts and other persons referred to in section 11 of the *Inquiries Act* at rates of remuneration and reimbursement as approved by the Treasury Board,
 - viii. despite subparagraphs (v) and (vi), direct the Commissioner not to conduct any hearings during the periods beginning on February 12, 2010 and ending on February 28, 2010, and beginning on March 12, 2010 and ending on March 21, 2010, to minimize the costs of the Inquiry and the inconvenience to witnesses during the Vancouver 2010 Olympic and Paralympic Winter Games,
 - ix. authorize the Commissioner to grant, to any person who satisfies him that they have a substantial and direct interest in the subject matter of the Inquiry, an opportunity for appropriate participation in it,
 - x. authorize the Commissioner to recommend to the Clerk of the Privy Council that funding be provided, in accordance with terms and conditions approved by the Treasury Board, to ensure the appropriate participation of any person granted standing at the Inquiry under subparagraph (ix), to the extent of the person's interest, if the Commissioner is of the view that the person would not otherwise be able to participate in the Inquiry,
 - xi. direct the Commissioner to use the automated documents management program specified by the Attorney General of Canada and to consult with records management officials within the Privy Council Office on the use of standards and systems that are specifically designed for the purpose of managing records,

- xii. direct the Commissioner, in respect of any portion of the Inquiry conducted in public, to ensure that members of the public can, simultaneously in both official languages, communicate with and obtain services from the Inquiry, including any transcripts of proceedings that have been made available to the public,
 - xiii. direct the Commissioner to follow established security procedures, including the requirements of the *Policy on Government Security*, with respect to persons engaged under section 11 of the *Inquiries Act* and the handling of information at all stages of the Inquiry,
 - xiv. direct the Commissioner to perform his duties without expressing any conclusion or recommendation regarding the civil or criminal liability of any person or organization,
 - xv. direct the Commissioner to submit, on or before August 1, 2010, an interim report, simultaneously in both official languages, to the Governor in Council, setting out the Commissioner's preliminary views on, and assessment of, any previous examinations, investigations or reports that he deemed relevant to the Inquiry and the Government's responses to those examinations, investigations and reports,
 - xvi. direct the Commissioner to submit, on or before May 1, 2011, one or more reports, simultaneously in both official languages, to the Governor in Council, and
 - xvii. direct the Commissioner to deposit the records and papers of the Inquiry with the Clerk of the Privy Council as soon after the conclusion of the Inquiry as is reasonably possible; and
- b. authorizes, pursuant to section 56 of the *Judges Act*, the Honourable Bruce Cohen of Vancouver, British Columbia, a judge of the Supreme Court of British Columbia, to act as Commissioner.

Appendix 2. Participants and joint participants granted standing

1. Government of Canada
2. Province of British Columbia
3. Pacific Salmon Commission
4. B.C. Public Service Alliance of Canada
Union of Environment Workers B.C.
5. Rio Tinto Alcan Inc.
6. B.C. Salmon Farmers Association
7. Seafood Producers Association of B.C.
8. Aquaculture Coalition:
Alexandra Morton
Raincoast Research Society
Pacific Coast Wild Salmon Society
9. Conservation Coalition:
Coastal Alliance for Aquaculture Reform
Fraser Riverkeeper Society
Georgia Strait Alliance
Raincoast Conservation Foundation
Watershed Watch Salmon Society
Mr. Otto Langer
David Suzuki Foundation
10. Area D Salmon Gillnet Association
Area B Harvest Committee (Seine)
11. Southern Area E Gillnetters Association
B.C. Fisheries Survival Coalition
12. West Coast Trollers Area G Association
United Fishermen and Allied Workers' Union
13. B.C. Wildlife Federation
B.C. Federation of Drift Fishers
14. Maa-nulth Treaty Society
Tsawwassen First Nation
Musqueam First Nation

15. Western Central Coast Salish First Nations:
 - Cowichan Tribes
 - Chemainus First Nation
 - Hwlitsum First Nation
 - Penelakut Tribe
 - Te'mexw Treaty Association

16. First Nations Coalition:
 - First Nations Fisheries Council
 - Aboriginal Caucus of the Fraser River Aboriginal Fisheries Secretariat
 - Fraser Valley Aboriginal Fisheries Society
 - Northern Shuswap Tribal Council
 - Chehalis Indian Band
 - Secwepemc Fisheries Commission of the Shuswap Nation Tribal Council
 - Upper Fraser Fisheries Conservation Alliance
 - Adams Lake Indian Band
 - Carrier Sekani Tribal Council
 - Council of Haida Nation
 - Other Douglas Treaty First Nations who applied together (the Snuneymuxw, Tsartlip and Tsawout)

17. Metis Nation British Columbia

18. Sto:lo Tribal Council
 - Cheam Indian Band

19. Laich-kwil-tach Treaty Society
 - Chief Harold Sewid
 - Aboriginal Aquaculture Association
 - Heiltsuk Tribal Council (but may participate by way of separate counsel specifically for evidentiary hearings pertaining to aquaculture)

20. Musgagmagw Tsawataineuk Tribal Council

Appendix 3. Tentative schedule for evidentiary hearings for September 2010

| <u>Date(s)</u> | <u>Issue</u> |
|-----------------------|--|
| September 7, 8 | DFO organizational and management/oversight structure and arrangements |
| September 13, 14 | Pacific Salmon Commission and Pacific Salmon Treaty |
| September 15 – 27 | Wild Salmon Policy and habitat conservation |

Evidentiary hearings are planned to continue through the fall of 2010, excluding October 1 to 19. Schedules for subsequent months will be circulated later.