

Clerk of the Privy Council and
Secretary to the Cabinet



Greffier du Conseil privé et
Secrétaire du Cabinet

Ottawa, Canada
K1A 0A3

August 27, 2010

The Honourable Bruce Cohen
Commissioner
Commission of Inquiry into the Decline
of Sockeye Salmon in the Fraser River
Suite 2800, PO Box 11530
650 West Georgia Street
Vancouver, British Columbia
V6B 4N7

Dear Commissioner Cohen:

I write in response to your letter of August 17, 2010 (as corrected by way of an email dated August 19, 2010 by Ms. Stooshnov, Director of Finance and Administration) in which you request changes to the participant funding arrangements under the Contribution Program for the Cohen Commission in respect of two standing groups.

In the first case, the Musgagmagw Tsawataineuk Tribal Council (MTTC) wishes to use two junior counsel rather than one senior and one junior counsel. In the second case, you varied the standing of members of a participant group (Laich-kwil-tach Treaty Society (LKTS), Aboriginal Aquaculture Association (AAA) and Chief Harold Sewid, and Heiltsuk Tribal Council (Heiltsuk)), creating a new participant (Heiltsuk) and triggering the need to divide the funding approved for the original participant group.

I note that the proposed funding reallocation would not increase the total amount of funding to be provided. Accordingly, I am pleased to inform you that your request for changes to the participant funding arrangements is granted.

I trust that this is satisfactory and I wish you well in your continuing work.

Sincerely yours,

Wayne G. Wouters


Canada 



August 17, 2010

Via Email

Mr. Wayne G. Wouters
Clerk of the Privy Council and Secretary to the Cabinet
Privy Council Office
Office of the Clerk of the Privy Council and Secretary to the Cabinet
Langevin Block, 80 Wellington Street
Ottawa, Ontario K1A 0A3

Dear Mr. Wouters:

**Re: Changes to Participant Funding Arrangements under Contribution Program
for Cohen Commission**

On 12 May 2010 (as amended 19 May 2010), I recommended that certain standing groups be granted funding for legal fees in order to participate in the inquiry. On 9 June 2010, you advised that the Government of Canada had granted funding as I had recommended, in accordance with the terms and conditions of the Treasury Board Contribution Program, to a maximum limit of \$3,423,200.

When I made my previous funding recommendations to you, in most cases I recommended funding, as has occurred generally in other federal commissions of inquiry, on the basis that each group would employ the services of one senior and one junior lawyer. I then allocated hours between the senior and junior counsel.

It is now necessary to modify my funding recommendations in respect of two groups as set out below. In one case, a participant group wishes to use two "junior" counsel rather than one senior and one junior counsel. In the other case, I varied the standing of members of a participant group (effectively creating a new participant), and this triggered the need to divide the funding approved for the original participant group.

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I emphasize that the funding reallocation set out below does not increase the total amount of funding to be provided to these group. Indeed, in one case the funding cost is reduced.

Musgagmagw Tsawataineuk Tribal Council ("MTTC")

I previously recommended that the MTTC receive funding for one senior and one junior counsel, with 154 hours for senior counsel and 246 for junior counsel. The MTTC now advises me that it does not have a senior and junior counsel; it has two junior lawyers, close in years of call. The MTTC requests an hour allocation between its two counsel that reflects the work-sharing anticipated over the course of the inquiry. The MTTC's proposal would decrease the cost to the contribution program, as no senior counsel would work on this file.

I agree that the MTTC's hours for legal funding should be revised according to the chart below, which allocates the same total number of lawyer hours, but as between two junior lawyers. I have instructed my staff to prepare contribution and retainer agreements on this basis.

Activity	Hours for Junior Counsel #1	Hours for Junior Counsel #2
Preparation for hearings	51	28
Attendance at hearings	43	23
Interviews	26	14
Meetings and other occasions arranged or deemed necessary by the Commissioner	32	18
Preparation of submissions	26	14
Review of materials	68	37
Application for standing	10	n/a
Release of interim report	5	n/a
Release of final report	5	n/a
TOTAL:	266	134

Laich-kwil-tach Treaty Society ("LKTS"), Aboriginal Aquaculture Association ("AAA") and Chief Harold Sewid, and Heiltsuk Tribal Council ("Heiltsuk")

In my Standing Ruling of 15 April 2010, I granted the LKTS, AAA, Chief Sewid and Heiltsuk joint participant status. At a later date, I granted the Heiltsuk separate standing with respect to issues related to aquaculture. In a more recent ruling (Ruling on Application to Vary Standing Brought by Laich-kwill-tach Treaty Society and Heiltsuk Tribal Council), which I signed 17 August 2010 but have not yet communicated to the Participants, I concluded with regret that the Heiltsuk should be granted separate participant status for the inquiry. I have appended the ruling to this letter. In the ruling I also divide the funding, which was approved by the Privy Council Office, amongst the two newly constituted participant groups: (1) the LKTS, AAA and Chief Sewid; and (2) the Heiltsuk. For ease of reference, I set out the new funding allocation below.

In my view, it is appropriate that each of the two newly constituted participant groups receive a share of the funding allotted to the original group. However, no additional funding will be recommended for either of these participants as a result of the original group's dissolution.

In my original funding recommendation, I recommended 421 senior-counsel hours and 749 junior-counsel hours to the standing group as a whole, as well as an additional 195 counsel hours so that the Heiltsuk could participate separately on the topic of aquaculture (see my Funding Recommendations Summary, released 9 June 2010, at para. 51: www.cohencommission.ca/en/Rulings.php).

I have determined that it is appropriate to divide the hours that were approved for the original participant group to reflect that the majority of the joint participants remain in one participant group, but that the Heiltsuk now form a distinct participant group. Accordingly, I have instructed my staff to allocate 2/3 of the hours approved for the original participant group to the new participant group comprised of the LKTS, AAA and Chief Sewid, and 1/3 of the hours approved for the original participant group to the Heiltsuk as set out in the tables below. The combined total hours is the same as the hours previously allocated for the original participant group. I similarly have determined that the funding for disbursements and travel costs should be divided in the same manner (i.e., a 2/3 and 1/3 split). In other words, the funding cost is the same despite the dissolution of the original participant group. I have instructed my staff to prepare contribution and retainer agreements on this basis.

(1) LKTS, AAA and Chief Sewid

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Preparation for hearings	38	144
Attendance at hearings	108	56
Interviews	18	72
Meetings and other occasions arranged or deemed necessary by the Commissioner	50	50
Preparation of submissions	20	72
Review of materials	50	192
Application for standing	20	n/a
Release of interim report	10	n/a
Release of final report	10	n/a
TOTAL:	324	586

(2) Heiltsuk Tribal Council

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Preparation for hearings	19	72
Attendance at hearings	54	28
Interviews	9	36
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	25
Preparation of submissions	10	36
Review of materials	25	96
Application for standing	10	n/a
Release of interim report	5	n/a
Release of final report	5	n/a

Activity	Hours for Senior Counsel	Hours for Junior Counsel
TOTAL:	162	293

I trust that the PCO will approve payments based on these modifications to the funding allocation. I have attached revised "Recipient Funding Checklists" for the groups involved.

As noted above, the LKTS, AAA, Chief Sewid and the Heiltsuk are waiting to be advised of the ruling on their application to vary their standing and the division of their previously approved funding. I look forward to hearing from you as soon as possible on these modifications to my funding recommendation, so that I may communicate any change in funding status to the participants involved.

Sincerely yours,



Bruce Cohen
Commissioner

Enclosures