

Cohen Commission

**Summary of Commissioner’s Recommendations to Privy Council Office Concerning
Participant Funding**

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I. INTRODUCTION

1. On 5 November 2009 the Governor in Council issued an Order in Council setting out the Terms of Reference for the Commission of Inquiry into the Decline of Sockeye Salmon in the Fraser River. I was appointed Commissioner under Part 1 of the *Inquiries Act*, R.S.C. 1985, c. I-11.
2. On 15 April 2010, I released my Ruling on Standing (the "Standing Ruling") in which I made 20 grants of standing, many of them to groups of joint participants. In the Standing Ruling, I noted that many of the applicants for standing had also applied for funding under the Privy Council's Contribution Program. This document describes those funding applications and my recommendations for funding as made to the Privy Council (the "Funding Recommendations").
3. For ease of reference, I have reproduced the summary table of participants granted standing below, with one modification pertaining to the Coalition of Douglas Treaty First Nations, which I discuss later. The Standing Ruling describes each participant and the extent of their interests in the subject matters of the inquiry as I have determined them.

TABLE OF PARTICIPANTS GRANTED STANDING

	Participant or Joint Participants
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	<u>Aquaculture Coalition:</u> Alexandra Morton Raincoast Research Society Pacific Coast Wild Salmon Society
9	<u>Conservation Coalition:</u> Coastal Alliance for Aquaculture Reform Fraser Riverkeeper Society Georgia Strait Alliance Raincoast Conservation Foundation Watershed Watch Salmon Society Mr. Otto Langer David Suzuki Foundation

Participant or Joint Participants	
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	<u>Western Central Coast Salish First Nations:</u> Cowichan Tribes Chemainus First Nation Hwlitsum First Nation Penelakut Tribe Te'mexw Treaty Association
16	<u>First Nations Coalition:</u> 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 Tsaywout)
17	Métis Nation British Columbia
18	Sto:lo Tribal Council Cheam Indian Band
19	Laich-kwil-tach Treaty Society James Walkus and Chief Harold Sewid Aboriginal Aquaculture Association Heiltsuk Tribal Council
20	Musgagmagw Tsawataineuk Tribal Council

4. By clauses vi, ix and x, the Terms of Reference,

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,

...

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.

5. In accordance with the Terms of Reference, I have adopted Rules for Standing and Funding which, as amended, provide in part as follows:

3. The commission's procedures in respect of standing and funding will be conducted in accordance with the Terms and Conditions for the Contribution Program for the Commission of Inquiry into the Decline of Sockeye Salmon in the Fraser River, dated 19 January 2010 (the "Contribution Program Terms").

...

5. The Commissioner may amend these Rules or dispense with their compliance as he deems necessary to ensure that the inquiry is thorough, fair and timely.

...

10. Commission counsel have the primary responsibility for representing the public interest, including the responsibility to ensure that all matters that bear upon the public interest are brought to the Commissioner's attention.

...

18. Where the Commissioner is satisfied on the evidence that a participant would not otherwise be able to participate in the inquiry, the Commissioner may recommend to the Clerk of the Privy Council that a participant receive financial assistance to pay for legal counsel to facilitate participation appropriate to the extent of a participant's interest.

...

20. An application for a funding recommendation must be supported by an affidavit setting out the following:

(a) facts that demonstrate the person seeking funding does not have sufficient financial resources to participate in the work of the commission without financial assistance for legal counsel, and

(b) facts in relation to any other sources of funds received, expected or sought by the person in relation to legal services rendered, or to be rendered, with respect to the inquiry. ...

21. The Commissioner will determine the outcome of applications for funding recommendations on the basis of written applications, unless the Commissioner determines that an oral hearing is necessary. ...

22. Where the Commissioner's funding recommendation is approved by the Clerk of the Privy Council, funding shall be in accordance with terms and conditions approved by the Treasury Board respecting rates of remuneration and reimbursement and the assessment of accounts.

6. Additionally, the Privy Council's Contribution Program Terms provide in part as follows:

Recommendations

11. The Commissioner shall make his recommendations in writing to the Clerk of the Privy Council for review.
12. The Commissioner shall base his recommendations on the degree of participation appropriate to the individual's interest.
13. The Commissioner shall, in making his recommendations to the Clerk of the Privy Council, include the following elements to ensure that such recommendations are in compliance with the terms and conditions of this Program.
 - (a) A confirmation that the individuals have standing;
 - (b) A confirmation that the Commissioner is satisfied that the individual or individuals would not be able to participate appropriately in the work of the Commission without financial assistance for legal counseling;
 - (c) The number of junior and/or senior counsel, the number of hours, and the type of activities authorized;
 - (d) Whether or not disbursement costs and inter-city travel costs will be reimbursed to the legal counsel.

II. THE APPLICATION PROCESS

7. Initially, many applicants for standing also applied for funding. After the Standing Ruling was released on 15 April 2010, commission counsel sought revised funding applications from nearly all the applicants for funding. In some cases, the commission required new applications because the Standing Ruling directed participants to share grants of standing, changing the footing on which the initial funding applications had been made. In other cases, commission counsel suggested, and I agreed, that I required additional information in order to make a recommendation. In many cases the original funding applications and supporting affidavits

failed to provide sufficient detail to permit me to assess the application thoroughly. The revised affidavits and applications were of great assistance to me in considering this matter.

8. In preparing the funding recommendations that follow, I have borne in mind a number of considerations. The numbers of hours I have set out in the recommendations are the product of an assessment by commission staff of the appropriate participation of each participant (or group of joint participants) to the extent of that participant's interest, as that interest is described in the Standing Ruling. I agree with their assessment and have adopted it in making my funding recommendations. In recommending a number of hours for funding, the commission has estimated the number of hearing days for each topic identified in the commission's terms of reference, applied those estimates to the interests identified for participants in the Standing Ruling, and then added a fair amount for preparation time for counsel outside of the hearings. As the commission is currently involved in reviewing documentary production and framing issues for hearings, the numbers necessarily reflect a high degree of estimation. The commission has applied these principles for estimating the number of hours for participants consistently to all the applications.

9. The commission's approach is to look to junior counsel for much of the preparation work, but to increase the proportion of funding for attendance at hearings by senior counsel. I believe the approach taken is a fair and reasonable one for staffing participation in an inquiry of this nature. The commission has allotted 80 per cent of the recommended time for an applicant to preparation (60 per cent to junior counsel and 20 per cent to senior counsel) and 20 per cent of the recommended time to attendance at hearings (7 per cent to junior counsel and 13 per cent to senior counsel). Preparation time has been further subdivided and allotted to different activities, with a further additional amount added uniformly to all recommendations, in order to account for meetings and other occasions at which participants' counsel will be asked to attend.

10. These funding recommendations reflect the overriding premise for a commission of inquiry, set out in our Rules for Standing and Funding, that "commission counsel have the primary responsibility for representing the public interest, including the responsibility to ensure that all matters that bear upon the public interest are brought to the Commissioner's attention." In our hearings, commission counsel are responsible for organizing and leading all the evidence, and are primarily responsible for document review, which in this case is a very large undertaking. Participants will be provided with what commission counsel identify as being key documents and witness materials. Participants may assist in identifying witnesses and evidence, but the primary responsibility lies with commission counsel. While participants will

have access to the documents disclosed to the commission, these funding recommendations do not anticipate that each participant will separately undertake the same degree of document review as commission counsel. The aim is to provide adequate funding for participants to access documents, but in a context where they already have the key documents and intended hearing exhibits identified to them in advance by commission counsel.

11. Similarly, these funding recommendations reflect the fact that it is unnecessary for all participants' counsel to attend all of the commission's hearing days. While participants are welcome to attend or have their counsel attend any of the hearings at their own cost, I am only recommending funding for attendance of counsel on those hearing days where the participant's interest, as set out in the Standing Ruling, is directly engaged. Transcripts of the hearings will be made available to participants as soon as possible after each hearing day, removing any need for counsel to conduct a "watching brief" of hearings, and permitting an efficient means of monitoring the proceedings.

III. FUNDING RECOMMENDATIONS

12. The interests of all the following participants and joint participants are such that their appropriate participation in the inquiry requires the assistance of counsel. Based on the evidence of each participant or group of joint participants described below in this section, I am satisfied that they would not be able to participate appropriately in the inquiry without financial assistance.

13. Further, for each participant or group of joint participants described below, I recommend that necessary disbursement costs and intercity travel costs be reimbursed to legal counsel in accordance with guidelines set out by the Contribution Program. I have estimated travel costs for participants whom I understand to have counsel from outside Vancouver (where the hearings will be held), based on counsel's attendance for those portions of the hearings in which their clients have a direct interest. I have also recommended a sum for travel costs to enable all counsel to travel to meet their clients in person, where and when it is necessary to do so. I am advised that the specific figures for disbursement and travel costs will be communicated to participants as they arrange funding under the Contribution Program.

14. The Contribution Program envisions that a successful applicant for standing may be recommended for up to 10 hours' time for legal fees involved in bringing its standing application. This 10-hour figure may be varied in exceptional circumstances. I am satisfied that there *are*

exceptional circumstances arising for those applicants who applied separately, through separate counsel, but who have now joined in a single grant of standing. These applicants have put in considerable effort — preparing their initial applications; attending a hearing devoted to ascertaining which applicants might join together; and then providing additional applications and affidavits in response to requests from commission counsel to re-apply for funding in light of the Standing Ruling and the general concern that many of the original affidavits lacked sufficient detail to justify a funding recommendation. These are unusual circumstances that, in my view, make it appropriate that 10 hours of legal funding be recommended for *each* successful application for standing, where counsel was used to prepare the applications, irrespective of whether some of those applications have resulted in shared grants of standing. This approach, reflected in my recommendations below, results in some standing groups receiving more than 10 hours for standing applications.

15. Finally, in some cases participants have reported that they have a limited ability to contribute to the non-legal costs of their participation in the inquiry. In the case of the applicants listed below, I am prepared to treat any such amounts as contributions in-kind, given that the hearing process may require much work beyond that performed by legal counsel. In all cases, participants have an ongoing duty to advise the commission of any change in their ability to defray legal costs. If a participant's fundraising achieves greater success than anticipated, or their financial position changes, I expect that participant to advise the commission of this fact, at which point I may consider the import.

16. As a final preliminary remark, I have not provided the content of the detailed affidavit evidence received by the commission, in the discussion that follows. I have identified the affiant but said no more. I have taken this approach because of the confidentiality attaching to the financial information of the applicants. I have, however, summarized this confidential information in making my recommendations to the Privy Council.

PACIFIC SALMON COMMISSION

17. The Pacific Salmon Commission ("PSC") has standing before the commission based on its substantial and direct interest in the policies and practices of the Department of Fisheries and Oceans Canada (the "DFO") with respect to Fraser River sockeye. The PSC provided an affidavit sworn by its Executive Secretary Don Kowal.

18. I recommend that the PSC receive funding for one senior and one junior counsel for the number of hours indicated below, which reflects the extent of its interest as I have determined it.

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Preparation for hearings	59	175
Attendance at hearings	127	68
Interviews	29	88
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	25
Preparation of submissions	29	88
Review of materials	78	234
Application for standing	10	n/a
Release of interim report	5	n/a
Release of final report	5	n/a
TOTAL:	367	678

ALEXANDRA MORTON, RAINCOAST RESEARCH SOCIETY, AND PACIFIC COAST WILD SALMON SOCIETY

19. Alexandra Morton, Raincoast Research Society and Pacific Coast Wild Salmon Society collectively share a grant of standing before the commission based on their substantial and direct interest in whether aquaculture is a cause for the decline of Fraser River Sockeye, and the policies and practices of the DFO insofar as they relate to aquaculture. Alexandra Morton provided an affidavit in support of this application.

20. I recommend that these applicants receive funding for one senior and one junior counsel for the number of hours indicated below, which reflects the extent of their interest as I have determined it.

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Preparation for hearings	23	70
Attendance at hearings	51	27
Interviews	12	35
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	25
Preparation of submissions	12	35
Review of materials	31	94
Application for standing	10	n/a

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Release of interim report	5	n/a
Release of final report	5	n/a
TOTAL:	174	286

CONSERVATION COALITION

21. Members of the Conservation Coalition (comprised of the Coastal Alliance for Aquaculture Reform, the Fraser Riverkeeper Society, the Georgia Strait Alliance, the Raincoast Conservation Foundation, the Watershed Watch Salmon Society, Mr. Otto Langer and the David Suzuki Foundation) collectively share a grant of standing before the commission based on their substantial and direct interest in the policies and practices of the DFO with respect to Fraser River sockeye and the causes for the decline of Fraser River sockeye.

22. Each of the Conservation Coalition’s members presented affidavit evidence concerning their financial situation. I received sworn affidavits from: Jay Ritchlin, director of marine and freshwater conservation program for the David Suzuki Foundation; Catherine Stewart, coordinator for the Coastal Alliance for Aquaculture Reform; Lauren Hornor, executive director of the Fraser Riverkeeper Society; Stan Prosboszcz, fisheries biologist for the Watershed Watch Salmon Society; Michele MacDuffee, biologist and wild salmon campaigner for the Raincoast Conservation Foundation; Christianne Wilhelmson, executive director of the Georgia Strait Alliance; and Otto Langer on his own behalf.

23. I recommend that these applicants receive funding for one senior and one junior counsel for preparation for the number of hours indicated below, which reflects the extent of their interest as I have determined it.

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Preparation for hearings	90	270
Attendance at hearings	195	105
Interviews	45	135
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	25
Preparation of submissions	45	135
Review of materials	120	360

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Application for standing	10	n/a
Release of interim report	5	n/a
Release of final report	5	n/a
TOTAL:	540	1030

**AREA D SALMON GILLNET ASSOCIATION AND AREA B HARVEST COMMITTEE
(SEINERS)**

24. The Area D Salmon Gillnet Association and Area B Harvest Committee collectively share a grant of standing before the commission based on their substantial and direct interest in investigating aquaculture as a cause of sockeye decline, and the policies and practices of the DFO, in particular fisheries policies and programs, allocation of departmental resources, and fisheries management practices and procedures including monitoring, counting of stocks, forecasting and enforcement. I received affidavits from Ryan McEachern, treasurer of the Area D Salmon Gillnet Association, and from Chris Ashton, executive director of the Area B Harvest Committee..

25. I recommend that these applicants receive funding for one senior and one junior counsel for preparation for the number of hours indicated below, which reflects the extent of their interest as I have determined it.

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Preparation for hearings	55	164
Attendance at hearings	119	65
Interviews	27	82
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	25
Preparation of submissions	27	82
Review of materials	74	220
Application for standing	10	n/a
Release of interim report	5	n/a
Release of final report	5	n/a
TOTAL:	347	638

SOUTHERN AREA E GILLNETTERS ASSOCIATION AND THE B.C. FISHERIES SURVIVAL COALITION

26. The Southern Area E Gillnetters Association and the B.C. Fisheries Survival Coalition collectively share a single grant of standing before the commission. This standing group's substantial and direct interest is in the policies and practices of the DFO, in particular fisheries policies and programs, allocation of departmental resources, and fisheries management practices and procedures including monitoring, counting of stocks, forecasting and enforcement. I received an affidavit from Philip Eidsvik, a director of both applicant organizations.

27. I recommend that this funding group receive funding for one senior and one junior counsel for the number of hours indicated below, which reflects the extent of its interest as I have determined it.

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Preparation for hearings	46	138
Attendance at hearings	100	53
Interviews	23	69
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	25
Preparation of submissions	23	69
Review of materials	61	183
Application for standing	10	n/a
Release of interim report	5	n/a
Release of final report	5	n/a
TOTAL:	298	537

UNITED FISHERMEN AND ALLIED WORKERS' UNION AND WEST COAST TROLLERS AREA G ASSOCIATION

28. The United Fishermen and Allied Workers' Union ("UFAWU-CAW") and West Coast Trollers Area G Association ("Area G Association") collectively share a single grant of standing before the commission. This standing group's substantial and direct interest is in the policies and practices of the DFO, in particular fisheries policies and programs, allocation of departmental resources, and fisheries management practices and procedures including monitoring, counting of stocks, forecasting and enforcement. I received affidavits from UFAWU-CAW president Irvin Figg and from Kathy Scarfo, president of the Area G Association.

29. I recommend that this funding group receive funding for one senior and one junior counsel for the number of hours indicated below, which reflects the extent of its interest as I have determined it.

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Preparation for hearings	41	124
Attendance at hearings	90	48
Interviews	21	62
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	25
Preparation of submissions	21	62
Review of materials	55	166
Application for standing	10	n/a
Release of interim report	5	n/a
Release of final report	5	n/a
TOTAL:	273	487

THE B.C. WILDLIFE FEDERATION AND THE B.C. FEDERATION OF DRIFT FISHERS

30. The B.C. Wildlife Federation (“BCWF”) and the B.C. Federation of Drift Fishers (“BCFDF”) collectively share a single grant of standing before the commission. This standing group’s substantial and direct interest is in environmental changes (including habitat) along the Fraser River, and the policies and practices of the DFO, in particular fisheries policies and programs, and fisheries management practices and procedures including monitoring, counting of stocks, and enforcement. I received affidavits from Patricia MacAhonic, executive director of the BCWF, and from Grant Roadknight, vice president of the BCFDF.

31. I recommend that this funding group receive funding for one senior and one junior counsel for the number of hours indicated below, which reflects the extent of its interest as I have determined it.

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Preparation for hearings	44	130
Attendance at hearings	94	50
Interviews	21	65

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	25
Preparation of submissions	21	65
Review of materials	58	172
Application for standing	10	n/a
Release of interim report	5	n/a
Release of final report	5	n/a
TOTAL:	283	507

MAA-NULTH TREATY SOCIETY

32. The Maa-nulth Treaty Society shares a single grant of standing before the commission with the Tsawwassen First Nation and the Musqueam Indian Band. This standing group's substantial and direct interest is in environmental changes along the Fraser River, and the policies and practices of the DFO with respect to Fraser River Sockeye.

33. The Tsawwassen First Nation and the Musqueam Indian Band have informed me that they are not applying for funding at this time, but that they may seek funding at a later date. However, the Maa-nulth Treaty Society has applied for funding to support its participation as a joint participant within this standing group. I received an affidavit from Daniel Legg, the fiscal negotiator for the First Nations of the Maa-nulth Treaty Society.

34. I recommend that the Maa-nulth Treaty Society receive funding for one senior and one junior counsel. However, to reflect the fact that standing is shared with two other joint participants, I only recommend funding up to one third of the amount I would have recommended for a full grant of standing based on the interests of these joint participants. I recommend funding the Maa-nulth Treaty Society for the number of hours indicated below, which reflects the extent of its interest as I have determined it, and which represents one third of a full funding grant for this standing group.

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Preparation for hearings	22	66
Attendance at hearings	47	26
Interviews	11	33

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Meetings and other occasions arranged or deemed necessary by the Commissioner	8	8
Preparation of submissions	11	33
Review of materials	29	88
Application for standing	10	n/a
Release of interim report	5	n/a
Release of final report	5	n/a
TOTAL:	148	254

COWICHAN TRIBES, CHEMAINUS FIRST NATION, HWLITSUM FIRST NATION, PENELAKUT TRIBE, AND TE'MEXW TREATY ASSOCIATION (COLLECTIVELY THE "WESTERN CENTRAL COAST SALISH")

35. Members of the Western Central Coast Salish collectively share a single grant of standing before the commission. This standing group's substantial and direct interest is in marine environmental conditions, other factors that may have affected the ability of sockeye salmon to reach traditional spawning grounds or reach the ocean, and the policies and practices of the DFO with respect to Fraser River sockeye.

36. In the Standing Ruling, I determined that the Coalition of Douglas Treaty First Nations was part of this participant group. Since the Standing Ruling, however, the Coalition of Douglas Treaty First Nations applied for, and was granted, a move from participation in this group, to participation in another group, the First Nations Coalition, described next.

37. I received affidavits from Ernest Elliot, general manager of Cowichan Tribes ("Cowichan"); Ronda Jordan, the finance manager of the Chemainus First Nation ("Chemainus"); Alan Grove, director of Operations for the Hwlitsum First Nation; and Chief Earl Jack of the Penelakut Tribe.

38. I recommend that this funding group receive funding for one senior and one junior counsel. However, to reflect the fact that standing is shared with one joint participant who has not sought funding (the Te'mexw Treaty Association), I only recommend funding up to four fifths (80 per cent) of the amount I would have recommended for a full grant of standing based on the interests of these joint participants. I recommend funding this standing group for the number of

hours indicated below, which reflects the extent of its interest as I have determined it, and which represents 80 per cent of a full funding grant for this standing group.

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Preparation for hearings	54	165
Attendance at hearings	118	64
Interviews	27	82
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	25
Preparation of submissions	27	82
Review of materials	74	219
Application for standing	40	n/a
Release of interim report	5	n/a
Release of final report	5	n/a
TOTAL:	375	637

FIRST NATIONS FISHERIES COUNCIL, ABORIGINAL CAUCUS OF THE FRASER RIVER ABORIGINAL FISHERIES SECRETARIAT, FRASER VALLEY ABORIGINAL FISHERIES SOCIETY, CHEHALIS INDIAN BAND, SECWEPENC FISHERIES COMMISSION OF THE SHUSWAP NATION TRIBAL COUNCIL, THE NORTHERN SHUSWAP TRIBAL COUNCIL, UPPER FRASER FISHERIES CONSERVATION ALLIANCE, ADAMS LAKE INDIAN BAND, CARRIER SEKANI TRIBAL COUNCIL, COUNCIL OF HAIDA NATION, AND THE COALITION OF DOUGLAS TREATY FIRST NATIONS (COLLECTIVELY THE "FIRST NATIONS COALITION")

39. The members of the First Nations Coalition collectively share a single grant of standing before the commission. This standing group's substantial and direct interest is in the policies and practices of the DFO with respect to Fraser River sockeye, and the causes of decline for Fraser River sockeye. As noted above (at para. 36), the First Nations Coalition now also includes the Coalition of Douglas Treaty First Nations, as a result of their application to move from another participant group to this one.

40. I have received affidavit evidence from the following members of the First Nations Coalition: Brian Toth, executive director of the Upper Fraser Fisheries Conservation Alliance; Brenda McCorquodale, executive director of the First Nations Fisheries Council; Neil Todd of the Fraser River Aboriginal Fisheries Secretariat; Ernie Crey, director of the Fraser Valley

Aboriginal Fisheries Society; Bonnie Leonard, tribal director of the Shuswap Nation Tribal Council; Terry Teegee, vice-tribal chief of the Carrier Sekani Tribal Council; Yvonne Smith, executive director of the Northern Shuswap Tribal Council; William T. Charlie, chief and CEO of the Chehalis Indian Band; Charlie Andrew, councillor of the Adams Lake Indian Band; and Lisa Edwards, senior financial officer of the Council of Haida Nation. From the Coalition of Douglas Treaty First Nations, I have received affidavit evidence from: Chief Douglas White III Kwulasultun of the Snuneymuxw First Nation; Chief Alan Claxton of the Tsawout First Nation; and Chief Ivan Wayne Morris, of the Tsartlip First Nation.

41. The First Nations Coalition has suggested that it is an exceptional case given the number of joint participants within the coalition, the breadth of issues upon which the coalition has standing, and the geographic diversity of the coalition members. The First Nations Coalition seeks funding for two senior and two junior lawyers, seeks to have one senior and one junior attend all the hearings, and seeks an additional senior lawyer to be present for up to 50 per cent of the hearings to ensure that, if necessary, members of the coalition can seek separate representation if needed.

42. I agree that exceptional circumstances exist for this group, but I am not prepared to recommend funding to the full extent sought. I am of the view that one senior counsel and two junior counsel would be appropriate for this group. At this time, I am prepared to recommend funding for two counsel, no more, to attend for the First Nations Coalition on hearing days. In summary, I recommend that this standing group receive funding for one senior and two junior counsel for the number of hours indicated below, which reflects the extent of its interest as I have determined it.

Activity	Hours for Senior Counsel	Hours for Junior Counsel #1	Hours for Junior Counsel #2
Preparation for hearings	90	235	235
Attendance at hearings	300	150	150
Interviews	45	118	117
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	13	13
Preparation of submissions	45	117	118
Review of materials	120	280	280
Application for standing	40	n/a	n/a
Release of interim report	5	n/a	n/a

Activity	Hours for Senior Counsel	Hours for Junior Counsel #1	Hours for Junior Counsel #2
Release of final report	5	n/a	n/a
TOTAL:	675	913	913

MÉTIS NATION BRITISH COLUMBIA

43. The Métis Nation British Columbia (“MNBC”) has standing before the commission based on its substantial and direct interest in the sustainability of the sockeye salmon fishery in the Fraser River, and the policies and practices of DFO, in particular allocation of departmental resources, fisheries management practices and procedures, and enforcement. I received an affidavit from Corazon David, chief financial officer of the MNBC.

44. I recommend that the MNBC receive funding for one senior and one junior counsel for preparation for the number of hours indicated below, which reflects the extent of its interest as I have determined it.

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Preparation for hearings	30	89
Attendance at hearings	64	35
Interviews	15	45
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	25
Preparation of submissions	15	45
Review of materials	39	118
Application for standing	10	n/a
Release of interim report	5	n/a
Release of final report	5	n/a
TOTAL:	208	357

STÓ:LO TRIBAL COUNCIL AND CHEAM INDIAN BAND

45. The Stó:lo Tribal Council (“STC”) and Cheam Indian Band (the “Cheam”) collectively share a single grant of standing before the commission. This standing group’s substantial and direct interest is in environmental changes along the Fraser River, and the policies and

practices of the DFO with respect to Fraser River sockeye. I received affidavits from Grand Chief Clarence Pennier of the STC and from June Quipp, councillor of the Cheam.

46. The STC and the Cheam request funding for two co-counsel, both of whom are junior in years of call, and seek an equal division of labour between their two counsel. I recommend that this funding group receive funding for two junior counsel for the number of hours indicated below, which reflects the extent of its interest as I have determined it.

Activity	Hours for Junior Counsel 1	Hours for Junior Counsel 2
Preparation for hearings	133	134
Attendance at hearings	110	109
Interviews	65	65
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	25
Preparation of submissions	65	65
Review of materials	175	175
Application for standing	10	10
Release of interim report	5	n/a
Release of final report	n/a	5
TOTAL:	588	588

LAICH-KWIL-TACH TREATY SOCIETY, CHIEF HAROLD SEWID, ABORIGINAL AQUACULTURE ASSOCIATION, AND HEILTSUK TRIBAL COUNCIL

47. As a result of the Standing Ruling, the Laich-kwil-tach Treaty Society, James Walkus and Chief Harold Sewid, the Aboriginal Aquaculture Association, and the Heiltsuk Tribal Council were to collectively share a single grant of standing before the commission. This standing group's substantial and direct interest is in marine environmental conditions, aquaculture, other factors that may have affected the ability of sockeye salmon to reach traditional spawning grounds or reach the ocean, and the policies and practices of the DFO, in particular allocation of departmental resources, fisheries management practices and procedures, enforcement, counting of stocks, monitoring and forecasting.

48. I am now advised that James Walkus has decided not to exercise his joint participant status and is not pursuing an application for funding.

49. I received affidavits from Nancy Henderson, the Laich-Kwil-Tach Treaty Society's administrator; Chief Richard Harry, president and executive director of the Aboriginal Aquaculture Association ("AAA"); and Chief Harold Sewid. I also received an affidavit from Chief Councillor Marilyn Slett, of the Heiltsuk Tribal Council.

50. The Heiltsuk Tribal Council applied to vary my Standing Ruling, and in a separate ruling, I agreed that the Heiltsuk Tribal Council could participate by way of separate counsel specifically for hearings pertaining to aquaculture, but that otherwise they remained part of the same standing group. I have allocated the hours as amongst the various members of this standing group on this basis. As other members of this standing group likewise sought to participate on the issue of aquaculture, their hours reflect this proposed involvement for them as well.

51. I recommend that this funding group receive funding for one senior and one junior counsel for the number of hours indicated below, which reflects the extent of its interest as I have determined it. As described above, I recommend funding for one lawyer to act for the Heiltsuk Tribal Council separately, on the topic of aquaculture.

Activity	Hours for Senior Counsel	Hours for Junior Counsel	Hours for Heiltsuk Tribal Council's separate representation on aquaculture
Preparation for hearings	65	195	36
Attendance at hearings	140	76	30
Interviews	32	97	18
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	25	25
Preparation of submissions	32	97	18
Review of materials	87	259	48
Application for standing	30	n/a	10
Release of interim report	5	n/a	5
Release of final report	5	n/a	5
TOTAL:	421	749	195

MUSGAGMAGW TSAWATAINEUK TRIBAL COUNCIL

52. The Musgagmagw Tsawataineuk Tribal Council (“MTTC”) has standing before the commission based on its substantial and direct interest in aquaculture, and the policies and practices of DFO, in particular fisheries management practices and procedures, and enforcement. I received an affidavit from Carole Perrault, the general manager of the MTTC.

53. I recommend that the MTTC receive funding for one senior and one junior counsel for preparation for the number of hours indicated below, which reflects the extent of its interest as I have determined it.

Activity	Hours for Senior Counsel	Hours for Junior Counsel
Preparation for hearings	20	59
Attendance at hearings	43	23
Interviews	10	30
Meetings and other occasions arranged or deemed necessary by the Commissioner	25	25
Preparation of submissions	10	30
Review of materials	26	79
Application for standing	10	n/a
Release of interim report	5	n/a
Release of final report	5	n/a
TOTAL:	154	246

IV. APPLICANT NOT RECEIVING A FUNDING RECOMMENDATION

SEAFOOD PRODUCERS ASSOCIATION OF B.C.

54. The Seafood Producers Association of B.C. (“SPABC”) has standing before the commission based on its substantial and direct interest in the policies and practices of the DFO, including fisheries policies and programs and fisheries management practices and procedures related to monitoring and enforcement.

55. Christopher Sporer, a self-employed consultant providing services to sectors in the commercial fishing industry in B.C., has, through his company, been retained by the SPABC. Mr. Sporer provided affidavits and testified orally before me. Given the confidentiality attaching

to the information provided to me, I have not described his evidence or my analysis of it in this document.

56. I am not prepared to recommend that the SPABC receive funding for legal counsel. I will communicate directly with the SPABC to provide my reasons for this decision.

9 June 2010



The Honourable Bruce I. Cohen
Commissioner