

Commission of Inquiry into the Decline of
Sockeye Salmon in the Fraser River



Commission d'enquête sur le déclin des
populations de saumon rouge du fleuve Fraser

Public Hearings

Audience publique

Commissioner

L'Honorable juge /
The Honourable Justice
Bruce Cohen

Commissaire

Held at:

Room 801
Federal Courthouse
701 West Georgia Street
Vancouver, B.C.

Tuesday, November 16, 2010

Tenue à :

Salle 801
Cour fédérale
701, rue West Georgia
Vancouver (C.-B.)

le mercredi 16 novembre 2010



Errata for the Transcript of Hearings on November 16, 2010

Page	Line	Error	Correction
ii		Brian Wallace, Q.C.	Senior Commission Counsel
ii		Lara Tessaro's title is incorrect	Junior Commission Counsel
ii,iii		did not attend	remove: Mitch Taylor, Q.C. Charlene Hiller Keith Lowes
iv		James Walkus is not a participant	remove name from record
iv		Musgagmagw Tsawataineuk Tribal Counsel	Musgamagw Tsawataineuk Tribal Council

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APPEARANCES / COMPARUTIONS

Brian Wallace, Q.C. Lara Tessaro	Commission Counsel Associate Commission Counsel
Mitch Taylor Tim Timberg Geneva Grande-McNeill	Government of Canada
Clifton Prowse, Q.C. Tara Callan	Province of British Columbia
No Appearance	Pacific Salmon Commission
Chris Buchanan	B.C. Public Service Alliance of Canada Union of Environment Workers B.C. ("BCPSAC")
Charlene Hiller	Rio Tinto Alcan Inc ("RTAI").
Alan Blair Shane Hopkins-Utter	B.C. Salmon Farmers Association ("BCSFA")
No Appearance	Seafood Producers Association of B.C. ("SPABC")
Lisa Glowacki	Aquaculture Coalition: Alexandra Morton; Raincoast Research Society; Pacific Coast Wild Salmon Society ("AQUA")
Tim Leadem, Q.C. Judah Harrison	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 ("CONSERV")
Don Rosenbloom	Area D Salmon Gillnet Association; Area B Harvest Committee (Seine) ("GILLFSC")

APPEARANCES / COMPARUTIONS, cont'd.

David Butcher	Southern Area E Gillnetters Assn. B.C. Fisheries Survival Coalition ("SGAHC")
Christopher Harvey, Q.C. Chris Watson	West Coast Trollers Area G Association; United Fishermen and Allied Workers' Union ("TWCTUFA")
Keith Lowes Brad Caldwell	B.C. Wildlife Federation; B.C. Federation of Drift Fishers ("WFFDF")
No Appearance	Maa-nulth Treaty Society; Tsawwassen First Nation; Musqueam First Nation ("MTM")
No Appearance	Western Central Coast Salish First Nations: Cowichan Tribes and Chemainus First Nation Hwlitsum First Nation and Penelakut Tribe Te'mexw Treaty Association ("WCCSFN")
Brenda Gaertner Leah Pence	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; Other Douglas Treaty First Nations who applied together (the Snuneymuxw, Tsartlip and Tsawout)
	Adams Lake Indian Band Carrier Sekani Tribal Council ("FNC")
	Council of Haida Nation
No Appearance	Métis Nation British Columbia ("MNBC")

APPEARANCES / COMPARUTIONS, cont'd.

Tim Dickson	Sto:lo Tribal Council Cheam Indian Band ("STCCIB")
No Appearance	Laich-kwil-tach Treaty Society James Walkus and Chief Harold Sewid Aboriginal Aquaculture Association ("LJHAH")
No Appearance	Heiltsuk Tribal Council ("HTC")
No Appearance	Musgagmagw Tsawataineuk Tribal Council ("MTC")

Vancouver, B.C. /Vancouver (C.-B.)
November 16, 2010/
le 16 novembre 2010

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5 THE REGISTRAR: The hearing is now resumed.

6 MR. WALLACE: Good morning, Commissioner Cohen. Brian
7 Wallace, commission counsel, and Lara Tessaro is
8 with me.

9 Mr. Commissioner, before the hearing
10 commenced this morning, we had a meeting of
11 participants' counsel and it became very clear
12 that people feel very unprepared to proceed at
13 this point given the volume of material and the
14 timing that has occurred. We're all working hard.
15 No one is throwing rocks at anyone for delay here.
16 It's just a very large job.

17 As a result, I would propose, Mr.
18 Commissioner, that we not proceed this morning as
19 planned with the Wild Salmon Policy panel. And I
20 would like to say at this point that I would
21 apologize for having brought our four witnesses
22 here for that purpose this morning. I've spoken
23 to them and they are willing to accommodate what
24 I'm about to suggest to you.

25 I'm satisfied that participants' counsel
26 require more time to deal with this properly, and
27 indeed, the panel that follows this, Harvest
28 Management, in a couple of weeks, and commission
29 counsel would also benefit from a short delay.

30 Mr. Commissioner, I would ask that the
31 commission adjourn until November 29th to pick up
32 where we are now and to conduct the Wild Salmon
33 Policy hearings during the week of November 29th
34 with a day or two in the following week if
35 required. And that would be four days in the week
36 of November 29th plus the Monday and Tuesday if
37 required; that the Harvest Management topic, which
38 was scheduled for that period, be moved forward
39 into January, commencing tentatively on January
40 17th. This is subject to confirmation of
41 witnesses, as is the Wild Salmon Policy, but we
42 think that that should not be a problem.

43 The one other piece that I suggest, Mr.
44 Commissioner, continue to be in its current spot
45 is the Aboriginal World View panel, which is set
46 for the week of December 13th, and my proposal is
47 that that stay where it is.

48 The other part of the discussion this morning

1 suggested to me that we could benefit from a
2 little more space for preparation in the spring
3 term. That's a more complex scheduling issue and
4 I would propose circulating a new schedule within
5 a week or so which puts in regular breaks in the
6 spring for preparation.

7 Thank you. I'm not sure if any other counsel
8 wish to address this.

9 THE COMMISSIONER: Thank you very much, Mr. Wallace,
10 for those comments. I first want to add to Mr.
11 Wallace's remarks my appreciation to each of the
12 panel members for making themselves available for
13 today and for their willingness to return on
14 November 29th to commence what we had initially
15 planned to commence today.

16 I want to also express my appreciation to Ms.
17 Gaertner and Mr. Butcher, who last week, I think,
18 most likely spoke for many of the participants'
19 counsel in expressing genuinely their concern
20 about preparation time needed for these important
21 topics and for the volume of documents that had to
22 be absorbed by all counsel in order to prepare
23 properly for these hearings, which we all consider
24 to be extremely important.

25 I recognize the hard work that's going on by
26 commission counsel. I see that virtually on a
27 daily basis. But I also see in this hearing room
28 how well prepared counsel are with a lot of
29 pressure to consider a volume of documents and to
30 take their turn as the witnesses appear. We've, I
31 think, done very well through the overview panels.
32 Counsel have done an excellent job of preparation
33 and have been able to ask their questions, and
34 I've benefited greatly from the evidence and from
35 the questions of counsel to the witnesses who have
36 appeared on the panels.

37 But I am very mindful of the time pressures
38 everybody is under. I'm grateful to commission
39 counsel who work so hard to try and keep up with
40 the volume of documents and the distribution of
41 the information to participants' counsel, and I'm
42 very grateful to participants' counsel, who in
43 turn have been willing to work as hard to keep up.
44 It's just obvious on the Wild Salmon Policy piece,
45 from what I've heard in terms of the scheduling
46 issues, that it's necessary to take this break to
47 give everyone an opportunity to be well informed
48 and be prepared to deal with the matter when we

1 return on November 29th. I believe it's for four
2 days, but we can go into the following week if we
3 need an extra day or so.

4 So I regrettably accept the fact that we have
5 to go over because I think it's important
6 obviously to keep this moving forward in the best
7 fashion we can as a commission. But from the
8 beginning I have asked, and you have returned my
9 request, to be collaborative with regard to how
10 these matters proceed. I know that there are a
11 number of issues that were of concern then that
12 probably are of concern now, and we will try our
13 best to address those as we move forward.

14 I think I said last week that I would ask
15 commission counsel to meet with participants'
16 counsel to address the matters that Ms. Gaertner
17 and Mr. Butcher raise, and that has happened, and
18 as a result we now have concluded, through Mr.
19 Wallace's comments, that this matter should go
20 over until the 29th.

21 I am going to ask Mr. Wallace to consider
22 having these meetings from time to time with
23 counsel so that matters that are on the minds of
24 participants' counsel and the participants can be
25 addressed so that I become aware of them and we
26 can try to deal as best we can with those matters
27 in a collaborative fashion.

28 So again, thank you to the members of the
29 panel. I regret that we can't go forward this
30 morning. I believe now, Mr. Wallace, that this
31 would mean an adjournment to 10:00 a.m. on
32 November 29th. Is that correct?

33 MR. WALLACE: Thank you, Mr. Commissioner.

34 MR. COMMISSIONER: Thank you very much to all who came
35 this morning and to the panel members. Thank you.

36 THE REGISTRAR: The hearing is now adjourned until
37 Monday, November 29th, at 10:00 a.m.

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39 (PROCEEDINGS ADJOURNED TO NOVEMBER 29, 2010,
40 AT 10:00 A.M.)
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I HEREBY CERTIFY the foregoing to be a true and accurate transcript of the evidence recorded on a sound recording apparatus, transcribed to the best of my skill and ability, and in accordance with applicable standards.

Patricia Kealy

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