

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 30, 2010

Tenue à :

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

le mercredi 30 novembre 2010



Errata for the Transcript of Hearings on November 30, 2010

Page	Line	Error	Correction
ii		Brian J. Wallace	Brian J. Wallace, Q.C.
ii		Lara Tessaro is missing her title	Junior Commission Counsel
iv		James Walkus is not a participant	remove from record
35	7-8	salmon, with involvement	salmon, without involvement
39	17	SEA	CEAA
67	4	Murray Hobbs	Mary Hobbs
69	10	Province of aquaculture	Province or aquaculture

APPEARANCES / COMPARUTIONS

Brian J. Wallace	Senior Commission Counsel
Tim Timberg Geneva Grande-McNeill	Government of Canada
D. Clifton Prowse, Q.C.	Province of British Columbia
No appearance	Pacific Salmon Commission
No appearance	B.C. Public Service Alliance of Canada Union of Environment Workers B.C. ("BCPSAC")
Charlene Hiller	Rio Tinto Alcan Inc ("RTAI")
Shane Hopkins-Utter	B.C. Salmon Farmers Association ("B.C.SFA")
No appearance	Seafood Producers Association of B.C. ("SPAB.C.")
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, Q.C.	Southern Area E Gillnetters Assn. B.C. Fisheries Survival Coalition ("SGAHC")
Christopher Harvey, Q.C.	West Coast Trollers Area G Association; United Fishermen and Allied Workers' Union ("TWCTUFA")
Keith Lowes	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; Council of Haida Nation ("FNC")

APPEARANCES / COMPARUTIONS, cont'd.

No appearance	Métis Nation British Columbia ("MNB.C.")
No appearance	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 Counsel ("MTTC")

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1
PANEL NO. 6
Brian Riddell
In chief on qualifications by Mr. Wallace

1 Vancouver, B.C. /Vancouver (C.-B.)
2 November 30, 2010/le 30 novembre
3 2010
4

5 THE REGISTRAR: Order. The hearing is now resumed.

6 MR. WALLACE: Good morning, Commissioner Cohen. Brian
7 Wallace, Commission Counsel, and I have nobody
8 with me today.

9 Before Mr. Timberg continues with his
10 examination, counsel met this morning for a few
11 minutes and an issue was raised qualifying
12 experts. It's a compromise between doing things
13 the old-fashioned civil litigation way and
14 allowing the Commissioner to use whatever evidence
15 you choose to use, which our rules provide. I am
16 suggesting as a compromise that where a witness
17 will be giving or has given evidence relating to a
18 matter of expert opinion, that the *curriculum*
19 *vitae* of that witness simply be filed, and if a
20 participant wishes to question their
21 qualifications or expertise, they can do that, but
22 in the regular substantive cross-examination,
23 rather than setting aside valuable hearing time
24 for an exchange about qualifications. I don't
25 think it should be a big issue, but it then at
26 least has the *curriculum vitae* on the record to
27 assist you in your reliance on the evidence.

28 On consideration of this panel, I think it
29 was only Dr. Riddell who has provided us with
30 scientific evidence in dealing with the genesis of
31 the Policy, and I would tender Dr. Riddell's *c.v.*
32 as the next exhibit.
33

34 EXAMINATION IN CHIEF ON QUALIFICATIONS OF BRIAN RIDDELL
35 BY MR. WALLACE:
36

37 Q Dr. Riddell, you have looked at this *c.v.* It was
38 dated March 19th, 2009. I gather you updated it,
39 but this is substantially correct?

40 A Yes, it is.

41 Q Thank you. I would point out that one thing that
42 that's not on here is that in 2010 you became a --
43 you were appointed by Canada as a Commissioner for
44 the Pacific Salmon Commission, correct?

45 A Yes, I believe it is actually on there.

46 Q Oh, is it on there?

47 A And that it would be the top of the second page.

2
PANEL NO. 6
Cross-exam by Mr. Timberg (CAN)

1 MR. WALLACE: Oh, indeed, 2009. Thank you.
2 THE REGISTRAR: That will be marked as Exhibit 108.
3 MR. WALLACE: Thank you. And I will leave it at that,
4 thank you.
5

6 EXHIBIT 108: *Curriculum vitae* of Dr. Brian
7 Riddell
8

9 MR. TIMBERG: Timberg, T-i-m-b-e-r-g, first name Tim,
10 counsel for Canada. If I could please have
11 Exhibit 97 brought up, please.
12

13 CROSS-EXAMINATION BY MR. TIMBERG, continuing:
14

15 Q Dr. Riddell, I have a few questions that I'd like
16 to follow up on your presentation from yesterday
17 morning, and perhaps we could turn to the third
18 page of the presentation. At the top it says "A
19 Convergence of People and Issues". And, Dr.
20 Riddell, could you perhaps elaborate on the five
21 points that you set out there as to the reasons,
22 or the context for the change that was happening
23 at the time. I don't quite understand what you
24 mean by "Development of Conservation Biology and
25 concern for Biodiversity". Perhaps you could
26 elaborate on that point.

27 DR. RIDDELL: Mr. Commissioner, I can certainly do
28 that. I would refer it to the text that I
29 provided to supplement the presentation. It does
30 have more detail. That's where the 25 bullets
31 were listed, and I condensed it just to five for
32 this slide. The point you're referring to,
33 "Conservation Biology", this was an area of
34 science that literally did begin in 1981 at a
35 conference in California and formalized into a
36 society in 1982. And it really did bring the
37 issue of the value of biodiversity around the
38 world to the forefront, and the impacts of
39 development was having on the world's
40 biodiversity. It certainly did not pertain only
41 to salmon. It was a very broad concern. There
42 were issues going on when I arrived from Eastern
43 Canada to the West that already showed there were
44 concerns about biodiversity issues in salmon
45 management, and that. And so it really did
46 heighten the awareness of some Science Branch
47 staff at any time about the --

1 Q And why is -- why is biodiversity so important?

2 DR. RIDDELL: Well, biodiversity is really the tie
3 between the physical, chemical, environmental
4 conditions with the actual animals, and it's that
5 diversity of -- in salmon, it's that diversity of
6 Pacific salmon that allows them to widely utilize
7 the habitat, it provides both the opportunity for
8 maximizing production throughout all the habitat,
9 as well as provide the genetic diversity required
10 for adaptation through time. That's the
11 adaptability I referred to, to changing
12 conditions.

13 Q All right. And so then you've got as a second
14 point, the "Explosion of genetic research methods
15 and analyses". What are these genetic methods?
16 If you could just provide a brief summary, and
17 perhaps you could tell us when this genetic --
18 these new genetic methods have been developed,
19 like temporally in time.

20 DR. RIDDELL: There are a lot of methods, so I don't
21 know that I can give you a full chronology. I can
22 identify the major changes that occurred that are
23 important to salmon.

24 Q That would be helpful, and that's perhaps as they
25 relate back to the Wild Salmon Policy as to how
26 you are going to use these methods to assist you
27 with the development of the WSP.

28 DR. RIDDELL: Yes. Well, the development of a tool
29 called electrophoresis, it really was developed in
30 medical research for identifying genetic
31 variations, and the -- what are called genetic
32 variance in particular proteins. And what people
33 discovered is that you could use these to identify
34 specific populations, really, down to localized
35 spawning populations of Pacific salmon. There's
36 enough genetic diversity in salmon that you can
37 use the genetic differences between local
38 populations to identify them in mixtures such as
39 an ocean fishery.

40 So there was both the combination of
41 developing the biochemical tools that became
42 available through electrophoresis, and
43 mathematical tools in what was called "mixture
44 analysis", to sample the spawning populations so
45 you have genetic profiles of all of the individual
46 spawning groups. And then you take a random
47 sample in a fishery, as an example, and that is a

1 mixture of many populations. The mixture
2 analysis, which is just a statistical tool, allows
3 you to then come up with a best estimate of what
4 the composition of the catch in that particular
5 fishery and time really was.

6 Q Okay. And when did this tool become available?

7 DR. RIDDELL: Well, in 1982 I started a Genetics
8 Program in Science Branch at the Pacific
9 Biological Station. Our first person we recruited
10 was Dr. Ruth Withler, who had done her Ph.D. in
11 the electrophoresis tools at UBC. And we
12 immediately began applying this in biological
13 studies, looking at the population structure of
14 Pacific salmon and looking at the contribution of
15 populations to specific fisheries.

16 It was not really applied broadly in
17 fisheries until probably the late 1980s, because
18 there was sort of a building of trust in the tool,
19 and how it can be applied, and that the results
20 were accurate, and so on. It's very widely
21 applied now.

22 But we've evolved from using protein analysis
23 with electrophoresis to more of the molecular DNA
24 analysis, which is much, much higher resolution.
25 And it's now widely used in fisheries applications
26 throughout the North Pacific. You can essentially
27 now in a major hatchery, for example, if you
28 sampled all of the adults that contributed to the
29 next generation in a major hatchery, so you're
30 talking about thousands of adults, you could then
31 grab an individual fish and identify its parents
32 just by using molecular DNA analysis. It's
33 exactly the same as DNA fingerprinting type of
34 applications, but just for fish.

35 Q And then just for the assistance of the
36 Commissioner, how does this technology practically
37 get utilized?

38 DR. RIDDELL: The DNA analysis, we have a very, very
39 productive lab at the Pacific Biological Station,
40 now managed by Dr. Terry Beecham and Ruth Withler,
41 and each year they provide real-time analysis for
42 the Northern troll fishery to identify a
43 particular stock of concern, which is the West
44 Coast Vancouver Island chinook stocks. And
45 probably more appropriate to the Commission, is
46 that they do real-time analysis in the summer,
47 meaning a turnover of about 24 hours to 36 hours.

1 They provide information on all of the southern
2 B.C. test fisheries for sockeye salmon. And that
3 information is collected from the test fishing
4 sites, brought to the Biological Station, and
5 returned to the -- in this case to the Pacific
6 Salmon Commission for the Fraser Panel, and used
7 every week in making decisions about opportunities
8 for fishing and the status of specific populations
9 returning.

10 Q So this ties the catch back to the particular
11 conservation units, is that...

12 DR. RIDDELL: Yes.

13 Q Okay.

14 DR. RIDDELL: You can bring it down to right to the
15 specific spawning populations which could be one
16 of several populations within a CU. You can get
17 it down to the particular stream, really.

18 Q And just for my benefit, when -- when did this
19 sort of operationally sort of happen
20 approximately, as a date? I'm not sure exactly
21 when this became operational.

22 DR. RIDDELL: I'm not -- I'm not sure I know the
23 precise date, but it has been used for probably 20
24 years in various forms of electrophoresis,
25 evolving to molecular DNA.

26 Q Okay.

27 DR. RIDDELL: It's been applied for sockeye salmon
28 through the Pacific Salmon Commission, probably
29 back to the late 1980s.

30 Q Okay, thank you. And point 3, I think was clear.
31 Point 4 you spoke about "Major new agreements
32 and Pacific Salmon Treaty". Did you want to
33 briefly -- sorry, Mr. Saunders?

34 MR. SAUNDERS: I wonder if I might make an addition to
35 what Dr. Riddell just spoke to with the genetics.

36 Q Certainly.

37 MR. SAUNDERS: I would say that in the last -- and Dr.
38 Riddell's of course correct that it's been, you
39 know, 20 years that it's been in place, but there
40 have been huge strides probably in the last three
41 to five years in terms of the technology
42 developing in terms of the speed that we can
43 actually process samples. Dr. Riddell pointed out
44 that there are 24-hour turnaround, but we now have
45 robots and technology that allows us to process
46 samples at a much higher rate and a much lower
47 cost. So its practicability in terms of

1 application to in-season management is increasing
2 probably by an order of magnitude in the last
3 years, so making it as a much more -- the
4 potential for its application in fisheries
5 management continues to grow in leaps and bounds.

6 Q Thank you. And perhaps you could describe how the
7 Pacific Salmon Treaty just briefly - I'm cognizant
8 of time - but just how the Pacific Salmon Treaty
9 relates to the WSP development.

10 DR. RIDDELL: Well, the Pacific Salmon Treaty, for
11 those that are not fully involved in what it does,
12 it's like the first comprehensive treaty
13 addressing all salmon populations from about
14 central Oregon through southeast Alaska. Fish
15 don't really respect political boundaries very
16 much, and so a lot of the fish that are caught in
17 southeast Alaska are from Canada, and a lot of the
18 fish that Canada catches on the West Coast of
19 Vancouver Island are from the southern United
20 States, and the two countries really can't fully
21 manage their respective resources without dealing
22 with the other country.

23 Q So just for your assistance, Dr. Riddell, the
24 Commissioner has heard from -- about the Pacific
25 Salmon Commission in previous testimony. I'm just
26 trying to ask for you to draw any linkages.

27 DR. RIDDELL: Okay.

28 Q You can be more -- you can be more detailed in
29 your response as to how it fits with the WSP.

30 DR. RIDDELL: Well, the WSP is relevant to the treaty
31 because the stock units that we're trying to
32 conserve, now the conservation units, and
33 previously just the major stock programs, they
34 need to be identified so that we look at the
35 fisheries that are actually impacting those
36 particular stocks. Under the Pacific Salmon
37 Treaty there are particular limitations imposed on
38 some populations or some groups of fishes that we
39 need to be able to monitor through time. So what
40 really happened with the implementation of the
41 Pacific Salmon Treaty was a requirement for Canada
42 to suddenly become much more stock-specific in its
43 consideration for both stock assessment and annual
44 monitoring.

45 Q And that's the -- now I understand Canada is
46 developing escapement targets as a requirement.
47 Does that fit in with the WSP?

1 DR. RIDDELL: Well, it very definitely fits in with --
2 Canada has always had escapement targets for
3 particular populations of salmon, but we had what
4 we would have called now the target reference
5 points, or in the past it was the optimum
6 escapement value that they were trying to achieve,
7 that on average would maximize production through
8 time. And that the Wild Salmon Policy major
9 change there was that each conservation unit would
10 now have two points for management, which
11 yesterday we called benchmarks.

12 Q Right.

13 DR. RIDDELL: The upper benchmark is typically related
14 to the target reference point of the past, the
15 optimum escapement value. But the lower benchmark
16 is much more precautionary in protecting the
17 downside risk that you do not let a population
18 become too depressed through direct actions of
19 management.

20 Q Okay. Thank you. If we could turn over to pages
21 -- to the page titled "2. The Value of diversity
22 in Pacific salmon". A fairly specific question:
23 You referenced in your examination that in 1939
24 there was a recognition of "stock concept". What
25 was that exactly?

26 DR. RIDDELL: Well, the stock concept -- sorry. Mr.
27 Commissioner, the stock concept really simply
28 recognizes the diversity or the differences
29 between all the various different population of
30 Pacific salmon that people were seeing throughout
31 the West Coast. And "stock" actually comes from
32 the old English agricultural use of a lineage of a
33 particular animal or the stock derivation of that
34 animal, and that, and that then became applied as
35 sort of the common usage or terminology. That's
36 really all that conference did in 1939, because
37 the genetic basis of the stock concept was really
38 not proven for about another 30 years.

39 Q Okay. And over two pages we have the "Three
40 principles emerge from understanding the Stock
41 Concept". The first point being:

42
43 Adaptations that exist today reflect the past
44 ... but evolution is a continuous process.
45 Maintaining ADAPTABILITY in salmon is
46 critical for their future.
47

1 Perhaps you could just as a -- generally how do
2 you maintain the adaptability then, if it's --
3 it's critical for the salmon's future. What --
4 what are the -- why is that so important?

5 DR. RIDDELL: Okay. Mr. Commissioner, the process of
6 adaptability is the critical element of the Wild
7 Salmon Policy, where you have to maintain
8 connectedness between habitats. You need to
9 maintain the habitat diversity because it's the
10 process that allows adaptation to occur. You have
11 to have genetic variation for change to actually
12 continue, and that. If you only focused on
13 adaptation of now, it's really the response of the
14 animal to past pressures that it's lived through,
15 and that.

16 What we are really concerned about in the
17 Wild Salmon Policy is maintaining the ability for
18 the process of adaptability that leads to future
19 adaptation to continue. And that's really why we
20 evolved to the conservation unit, looking at a
21 geographic distribution of the spawning
22 populations. Not just about the total number of
23 animals. A large number of animals could come
24 from a single spawning population. But what we
25 want to ensure is that we have a wide distribution
26 of spawning populations throughout the habitat
27 landscape, and all, to allowing for the ecological
28 processes to continue, and that. So it's the
29 process that leads to adaptation that we really
30 have to protect for the future.

31 Q Thank you. And over the page we've got a chart
32 that you've provided, "Managing Diversity in BC's
33 salmon", and you described the first column with
34 the number 8,171 stocks in BC salmon. But can you
35 elaborate what the second, or the third and fourth
36 columns tell us.

37 DR. RIDDELL: Yes. The middle column really is when
38 you look at how many of the -- what they call
39 "stocks", which are really the combinations of a
40 particular species and a particular stream. Then
41 they looked at the number of those actually have a
42 sufficient track or historical record of data that
43 you could do a credible assessment of. And so
44 they were identifying that approximately 60
45 percent of the populations you could do some level
46 of assessment on.

47 Q Okay.

1 DR. RIDDELL: The third one is in their definition of
2 extinct and threatened and then healthy and so on.
3 They identified 2.1 percent of the 8,171 stocks,
4 as they referred to them, were no longer in
5 existence. And then their next category had, I
6 think the value is 10.2 percent is the number that
7 were threatened at that time.

8 Q Okay.

9 DR. RIDDELL: But these are individual combinations of
10 species and particular streams. They are not the
11 conservation units --

12 Q Okay.

13 DR. RIDDELL: -- and that. And so I use this figure
14 frequently to show people that we definitely have
15 problems in particular stocks of concern we're all
16 aware of, such as Cultus Lake sockeye. But the
17 very vast majority of the -- salmonid diversity in
18 British Columbia still exists, and that, and that
19 we can work from.

20 Q Thank you. And over the page you've provided an
21 illustration, "Hierarchy of biological diversity".
22 And I looked at this, and could you explain for us
23 where you would draw the line of where a
24 conservation unit fits there.

25 DR. RIDDELL: No, I can't.

26 Q Okay.

27 DR. RIDDELL: And that's why it's not there.

28 Q Okay.

29 DR. RIDDELL: And the reason for this is - not to be
30 cheeky about it - but there is another diversity
31 in salmon that there are particular populations
32 that really are demes. They are individual
33 localized populations that are demes and they are
34 conservation units.

35 Q Okay.

36 DR. RIDDELL: The one that's closest to us is the
37 Harrison River white chinook. This is one of the
38 largest chinook populations in Canada, it
39 frequently is the largest, and it is basically a
40 single population with the exception of moving
41 some fish to Chilliwack Hatchery, which is a
42 hatchery-based production we don't include.

43 The majority of the CUs would be including
44 the demes and the populations. So if you were to
45 force a line, you would draw a line across the top
46 of "Populations" to "Biological Races".

47 Q Okay. And so it just depends on each CU as to

1 where the line would be drawn as to the biological
2 complexity, and of -- and you'd have to look at
3 the spatial variability geography of it, and then
4 you have to look at the temporal variability,
5 that's over time as so that they can evolve. Is
6 that a fair summary?

7 DR. RIDDELL: Yes, it is. The temporal variation
8 doesn't really come into the actual definition
9 right now, but the bounds of the CU could change
10 through time.

11 Q Right.

12 DR. RIDDELL: Particularly with global warming and
13 climate change, if it continues.

14 Q Okay. All right, thank you. And then over the
15 page, the next maps that for pink CUs there's only
16 13 in all of the Pacific and Yukon, that's what
17 that says. I'd like to compare that, then, with
18 the fact that the CUs for the sockeye are 230 in
19 the lake and 24 in the river. So that's part of
20 the complexity that you were talking about
21 yesterday, is that the greater number of CUs for
22 the sockeye species?

23 DR. RIDDELL: Yes, it gets to the genetic legacy of the
24 particular species and its distribution through
25 British Columbia. Pink salmon have very, very
26 little genetic differentiation in small geographic
27 scales. You need approximately 500 kilometres
28 along the coast that leads to differentiation that
29 you can start detecting readily. The biggest
30 difference between pink salmon is frequently
31 within one river, but between the odd-year line
32 and the even-year line, because there's no genetic
33 exchange at all between those generations in pink
34 salmon.

35 The point you're making on sockeye salmon is
36 what I emphasized yesterday. There is enough
37 genetic separation which reflects long-term
38 isolation of those populations that commonly each
39 lake is a separate conservation unit that we can
40 -- that we should continue to monitor and protect.

41 Q Okay. So if you could put the next page. This
42 definition, this is the definition of
43 "conservation" from the Wild Salmon Policy, is
44 that not -- that's the same definition?

45 DR. RIDDELL: Yes, that's correct.

46 Q And what is the conservation unit intended to
47 capture?

1 DR. RIDDELL: Well, it's intended to capture everything
2 we were just talking about. It's the genetic
3 diversity between the populations, the
4 connectedness between populations within
5 particular geographic landscapes. Because you do
6 have breaks in climates and geography, the
7 physical environments and you need to have within
8 the conservation unit you want to maintain a
9 distribution of the spawners throughout all the
10 available habitat. That's the connectedness that
11 allows processes to continue in that, and it also
12 provides, call it an insurance, that you can't
13 guarantee that some spawning population wouldn't
14 be extirpated possibly by pure -- a landslide, for
15 example, and that.

16 If you have a healthy conservation unit, with
17 a network of spawning populations healthy around
18 there, that is by far the best sort of management
19 plan to allow re-colonization of that habitat as
20 it is cleaned up and becomes available again.

21 Q Okay. And so then can you just explain, then,
22 what's meant by an "acceptable timeframe" in the
23 definition?

24 DR. RIDDELL: Well, that was incorporated because --
25 and many times we really don't know populations
26 are lost, and if you don't do something actively,
27 then people think, well, it's gone forever, sort
28 of thing. We want to provide bounds -- and salmon
29 will not go across some of the boundaries rapidly,
30 and the greatest example is what I said yesterday
31 about sockeye salmon. When we've tried to
32 physically move populations into barren habitat
33 that's caused for maybe a fishing effect or a dam
34 effect or a landslide, we are unable to re-
35 establish sockeye populations when we move those
36 around. And that's going across these barriers.

37 So really what we're talking about here is we
38 want to recover the population so we don't have a
39 long-term loss of production and the best way to
40 do that is to have these conservations there that
41 will fill it in, as I just referred to in that
42 insurance policy.

43 Q All right. Thank you very much. And over the
44 page you had said about expectations of climate
45 change. You said that the -- so it's almost a
46 definition you provided, that the climate changes
47 when the future does not reflect the past. And

1 could you just elaborate on what you meant by
2 that?

3 DR. RIDDELL: Well, what we're talking about here is
4 the uncertainty of the future. We don't know how
5 extensive climate change will be, or how rapidly
6 it will occur. If the future is not represented
7 by the past, the most obvious example for us is in
8 the application of forecasting. But what we're
9 talking about here is you want to allow for the
10 maximum diversity within the conservation unit,
11 and for that you really want to talk about the
12 numbers of animals throughout, as well as the
13 number of spawning populations throughout the
14 conservation unit. And to allow for the greatest
15 opportunity for some genetic combinations to be
16 present to allow the populations to continue in
17 the future if climate does change. That is the
18 real value of genetic diversity, is to allow for
19 future change and the adaptation of the animals.

20 Q All right. Thank you. And then if you could turn
21 to the column "Number of CUs by species in BC",
22 it's about four slides along, Mr. Registrar. That
23 one there.

24 For the assistance of the Commissioner, could
25 you contrast the sockeye salmon fishery to, say,
26 the halibut fishery as to how -- how that relates
27 to stock concept and this idea of biological
28 complexities. Trying to from a fisheries
29 management perspective, we've got these 435 CUs
30 for the sockeye fishery, and I'd like you to
31 compare that to another fishery, and I'm picking
32 out halibut as an example to help explain the --
33 what's required to manage one as compared to the
34 other.

35 DR. RIDDELL: I understand the question. I'm just
36 trying to think of a clear way to answer it. If
37 we start from the halibut, halibut being a marine
38 species, they do have spawning aggregations or
39 locations, if you want, and there are some genetic
40 differences through large geographic areas of the
41 Pacific -- well, along the western -- the eastern
42 Pacific. But really the genetic differences there
43 are very, very small. The real issue in the
44 halibut fishery is assessing the biomass of fish
45 that are currently available, and comparing that
46 against what they had seen in the past in terms of
47 what they call the virgin biomass or the original

1 biomass. And then they would look at allowable
2 harvest rates, how much can be removed from that
3 to sustain future populations.

4 So you don't really see a great deal of
5 application of the stock concept in the halibut
6 fishery. You do see it more in some other marine
7 fisheries, such as rockfish where you have
8 multiple species, which is a similar concept but
9 really are species-specific differences.

10 What happens in Pacific salmon is that there
11 are very, very few fisheries that don't fish
12 multiple populations or stocks and now what we're
13 talking about are conservation units.

14 So the real value, it still looks like a
15 large number, but when you consider that in the
16 past people have talked about roughly 8,200 so-
17 called stocks that we've referred to in that
18 table, you're now down to a number that's 435,000
19 in this table across all species. And when you
20 get down to sockeye salmon, most of our fisheries
21 still occur in the oceans, and they are on
22 multiple aggregations.

23 The conservation units are not going to
24 change our management process fundamentally. All
25 right. What they are going to do is look at
26 what's the change in accountability of the
27 distribution of the spawners when they get back
28 into fresh water.

29 So now what you need to do is you're looking
30 at the abundance of fish coming through the
31 fishing regions outside. That's where I referred
32 earlier to the test fisheries. The test fisheries
33 look at the relative catch rates that they've seen
34 in the past, and they are then used in formulas to
35 look at what would the projected return biomass be
36 given that harvest, the number of animals caught
37 in a test fishery. You then do the DNA analysis
38 to understand the stock composition, and as the
39 season progresses you build up this trend in the
40 return abundance by conservation unit now.

41 This also has to go through time because
42 there's a run timing curve that occurs. They
43 don't all come in in a day. They come in through
44 most of them over about month of the populations
45 returning to the coast, and that.

46 And so this is the discussion I presume you
47 had previously with the PSC in terms -- because

1 that's their responsibility for Fraser sockeye is
2 monitoring all these test fisheries and the return
3 of the stocks. As they return to the coast, they
4 then go through the Fraser Panel in the
5 discussions for the Panel Region about what
6 allowable harvest would be.

7 So the complication is one of not just
8 looking at biomass, you're now looking at biomass
9 for every single CU.

10 Q All right. And so I'm just trying to help
11 understand, though, the -- so you've described the
12 management of the Fraser River sockeye and I'm
13 just trying to put this -- this particular
14 fisheries management in its context of the other
15 management models that DFO's doing as to help
16 understand the -- what the WSP was -- is intending
17 to do, and how that was different and new at the
18 time, I'm presuming. I'm just trying to put it in
19 its context as to when you were developing the
20 WSP, what you had to learn to make this work.

21 DR. RIDDELL: Well, maybe I should clarify. In
22 developing the WSP we were looking at conserving
23 the genetic diversity throughout the freshwater
24 habitats, protecting the habitats more thoroughly,
25 monitoring the habitat change, because there's
26 very poor long-term monitoring of habitat loss and
27 that, so we wanted to monitor that, we wanted to
28 incorporate the animal in its habitat within its
29 ecosystems and respect the ecosystem values that
30 people refer to, and that. Those are the sort of
31 interlinked three information strategies that
32 we've referred to. That's the major change in the
33 Wild Salmon Policy.

34 The actual in-season management is very
35 little changed, except that your assessment
36 criteria now relate to the conservation units.
37 And that not to a limited number of major stocks.
38 They will still manage the Fraser sockeye in run
39 timing, because that is the natural progression of
40 the animals returning to the coast. They come in
41 in run timing segments. And the assessment will
42 now be done, looking at instead of talking about
43 the stock ID, you might talk about this
44 conservation unit ID, because that's the level
45 that we want to look at these days.

46 Q Okay. All right. Well, thank you. Those are all
47 my questions with respect to your introduction.

1 I'll now do some follow-up questions for the panel
2 with respect to issues that arose yesterday.

3 If I could have Exhibit 8 brought up, which
4 is the Wild Salmon Policy, and if we could turn to
5 page 29.

6 And, Mr. Chamut, yesterday you were
7 describing concerns with respect to the
8 Ministerial discretion, and perhaps you could just
9 explain how the Wild Salmon Policy explains and
10 deals with the issue of the Ministerial discretion
11 under the **Fisheries Act**.

12 MR. CHAMUT: I'm assuming that your question is
13 pertaining directly to the comments that are on
14 page 29 that do assign some discretion to the
15 Minister with respect to conservation of
16 conversation units.

17 Q Exactly.

18 MR. CHAMUT: Okay. In the development of the policy we
19 were fairly -- I mean, we were very clear on the
20 need to ensure that we had a policy that protected
21 the genetic diversity of Pacific salmon. But at
22 the same time we also recognized that it would be
23 probably poor public policy to have some -- to
24 have an instrument like this Policy that would
25 actually completely tie the Minister's hands with
26 respect to protection of some CUs in exceptional
27 circumstances, and I'd like to illustrate that by
28 just a hypothetical example.

29 In some cases it's easy to conceive of a very
30 small conservation unit, let's say for sockeye,
31 for example, and that conservation unit has very
32 low productivity, there's very low abundance, and
33 there could be some sort of catastrophe like a
34 slide or some other event that would essentially
35 doom that population to extinction. And it would
36 undoubtedly in a situation like that there would
37 be an analysis of the problems, what some of the
38 remedies might be and efforts would be made to
39 seek a solution to try and prevent the extirpation
40 of that population. But that analysis may turn
41 out that costs are excessively high, likelihoods
42 of success are extremely low, and in those
43 circumstances the Minister under this policy would
44 be recognized to have discretionary authority to
45 be able to say we are not going to expend a large
46 amount of money and effort to try and prevent that
47 inevitable extirpation of that population.

1 And in those situations -- and this has been
2 a very controversial part of the policy, because a
3 lot of individuals have assumed that this
4 undermines the commitment of the Department to
5 conserve conservation units. And that's not the
6 case. And clearly the Department in putting this
7 particular proposal together indicated that any
8 exercise of that Ministerial discretion would be
9 done in exceptional circumstances. And where such
10 a circumstance would come up, the policy is very
11 clear that it would not -- that a decision would
12 not be taken sort of arbitrarily by -- by a
13 bureaucrat who would decide on his or her own that
14 they were not prepared to continue to take efforts
15 to protect this conservation unit. Rather it
16 would be something that would be part of a public
17 consultation process with due input and
18 consideration from all interests, and a decision
19 would at the end of the day be rendered by the
20 Minister, but it would not be done except in
21 exceptional circumstances, and in my opinion, very
22 rarely.

23 Q Thank you. Dr. Riddell, yesterday you were
24 discussing that there -- that the relationship
25 between conservation units, the lower benchmark
26 and the FSC - Food, Social and Ceremonial -
27 Fisheries, and you commented about that there are
28 decisions where First Nations want to fish below
29 the lower benchmark. Could you elaborate on that
30 statement you made.

31 DR. RIDDELL: Well, the complication comes in here and
32 when you have a bottom line on what a strict
33 conservation amount will be. There is a whole
34 area in the science of conservation biology called
35 minimum viable populations. And for a number of
36 years people tried to estimate these very small
37 populations. And for salmon, many of the
38 estimates come down to few hundred fish would be a
39 minimum viable population.

40 The difficulty with those sorts of analyses
41 are that they very frequently don't take into
42 account sufficient levels of uncertainty in the
43 environment and in our management control. Our
44 ability to recognize a very small population in a
45 large population -- in a large fishery, sorry, is
46 extremely difficult. And so the minimum viable
47 population frequently puts the particular

1 population in a great deal of risk in that.

2 And so the issue for us was that we wanted to
3 define a minimum population size, which is the
4 lower benchmark, including an allowance for
5 uncertainty in the annual returns and in
6 management control. And that is above what would
7 be necessarily the valued estimate if you only
8 looked at the biology of the animal. All right.

9 There are in cases where the conservation
10 limits where some salmon populations have been
11 more like the minimum viable population, very,
12 very small levels, and that, and so if you then
13 got into a debate about what is the actual
14 biological conservation level, it will be below
15 the lower benchmark. Right?

16 And so we really wanted to try to build into
17 a system that respected that there -- if there's
18 very limited opportunities to fish, and there are
19 in some of the Interior First Nations fishing
20 areas, then they need to have food from particular
21 conservation units.

22 Q Right.

23 DR. RIDDELL: If that occurred on a regular basis, it
24 could be a problem. If it occurred just very
25 periodically, then it wouldn't necessarily be, if
26 there is a limited harvest, and that. But the
27 lower benchmark needed to take that sort of a
28 eventuality into account. And that's why one of
29 the reasons we built in the buffer, and that's
30 what really involves the sort of conflict I was
31 referring to.

32 Q All right. Thank you very much. Just for
33 clarity, Mr. Saunders, could you advise the
34 Commissioner who was on the development team and
35 what departments within DFO were part of that.

36 MR. SAUNDERS: Yes, I can. My colleagues can help me
37 out if I'm missing something, someone. But the
38 panel that you see here were all part of the
39 development team for the Wild Salmon Policy. So
40 Jim -- Dr. Jim Irvine and Dr. Riddell from
41 Science. We also had from Fisheries Management,
42 Mr. Sandy Fraser was a Lead Policy Analyst, and
43 from the Habitat, Oceans and Habitat Group, Sue
44 Farlinger was a member. And am I missing anybody?
45 Yes, Andy -- Andrew Thomson represented Fisheries
46 and Aquaculture Management as the lead from
47 Aquaculture. And Carol Cross was also involved

1 from Oceans and Habitat. Yeah, that's the group.

2 Q Thank you.

3 MR. SAUNDERS: Sorry, I should -- Pat Chamut,
4 obviously, as well.

5 Q Dr. Irvine, yesterday you were talking about the
6 need of the Wild Salmon Policy to acknowledge
7 uncertainty, and if you could describe for the
8 assistance of the Commissioner how lessons learned
9 on how to manage risk and uncertainty.

10 DR. IRVINE: Well, certainly a good -- I think you have
11 to understand that in environmental sciences, as I
12 mentioned yesterday, there is always uncertainty.
13 So we really don't -- it's very difficult to
14 predict what's going to happen in the future when
15 it comes to the environment, and it's also
16 extremely difficult to anticipate precisely how
17 the fish are going to respond.

18 Now, one of the ways that we did incorporate
19 uncertainty in the Wild Salmon Policy is, as Dr.
20 Riddell pointed out, in the identification of the
21 lower benchmark. And so that benchmark included
22 the buffer, as Dr. Riddell mentioned, between it
23 and a point at which a conservation unit might be
24 considered at risk of endangerment under the
25 **Species At Risk Act**.

26 But the buffer, or at least the lower
27 benchmark, also included, as I think Dr. Riddell
28 mentioned, any uncertainty as might be reflected
29 in terms of our understanding of management
30 implications on the stock, as well as the actual
31 population size. So that we -- we recognized that
32 there was uncertainty and we wanted to -- it
33 really links into the precautionary approach. And
34 so we were really trying to ensure that the lower
35 benchmark was established in a precautionary way.

36 Q Dr. Irvine, could you explain how the concept of a
37 conservation unit relates to a designatable unit
38 under the **Species At Risk Act**. And I know you've
39 -- I know you have a paper on this. I don't know
40 if you need that, or if you just --

41 DR. IRVINE: Sure.

42 Q -- can describe the relationship between that, the
43 designatable unit in the **Species At Risk Act** and a
44 conservation unit.

45 DR. IRVINE: Sure. And I do have some expertise in
46 this area, having written the first COSEWIC Report
47 on the Pacific Salmon, and I have an article in

1 the peer-reviewed literature dealing specifically
2 with the **Species At Risk Act**, as well as the other
3 article that you've mentioned.

4 It's quite interesting, because there was an
5 overlap in the development of the WSP and the
6 **Species At Risk Act**. So as we described
7 yesterday, the WSP, the first version was released
8 in 2000, the final version was released in 2005.
9 The **Species At Risk Act** went through multiple
10 iterations in the Canadian Parliament and was
11 eventually passed in 2003 and fully ratified in --
12 2002 it was passed, and fully ratified in 2003, or
13 fully implemented in 2003.

14 So that both the **Species at Risk Act** and the
15 Wild Salmon Policy acknowledge the importance of
16 within-species diversity. So that as we've talked
17 about this morning, sockeye salmon, *Oncorhynchus*
18 *nerka*, is a taxonomic species. As Dr. Riddell
19 pointed out, we have over 200 conservation units
20 within that taxonomic species. So in the WSP we
21 use the term "conservation units". In the **Species**
22 **At Risk Act** the term that they use are
23 "designatable units".

24 Now, in developing the Wild Salmon Policy we
25 attempted to align the conservation units as much
26 as practicable with the minimum unit that could be
27 listed under the **Species At Risk Act**. So the
28 definition of a species in the **Species At Risk**
29 **Act**, I don't have it committed to memory, but it
30 doesn't -- it could be a taxonomic species or it
31 could be a geographically or genetically distinct
32 unit or variety within that species. So that
33 there are -- there are similarities. So there was
34 sort of an overlap in terms of the chronology of
35 the development of both the Wild Salmon Policy at
36 the **Species At Risk Act**. We took that into
37 consideration as we were developing the Wild
38 Salmon Policy.

39 So to date, you know, we have identified the
40 conversation units under the Wild Salmon Policy as
41 we've seen yesterday.

42 Under **SARA**, under the **Species At Risk Act**,
43 the designatable units, some of them have been
44 identified, so initially the way it worked is they
45 focused in on key units, such as Cultus sockeye,
46 Sakinaw sockeye, Interior Fraser coho, and
47 Okanagan chinook, and so they keyed in on those

1 specific designatable units. My understanding is
2 they're currently right now attempting to formally
3 identify the designatable units for Pacific
4 salmon, and time will tell how much they overlap
5 with the conservation units.

6 Q Okay. And when you say "they" are working on the
7 designatable unit, who is they?

8 DR. IRVINE: Okay. **Species At Risk Act, SARA**, there's
9 actually three stages. So the first step within
10 **SARA** is the identification of the units, and the
11 second stage is the categorization of the degree
12 of endangerment, whether or not that species is
13 actually at risk of extinction. That component is
14 done -- is carried out by the -- by COSEWIC. So
15 COSEWIC is the Committee on the Status of
16 Endangered Wildlife in Canada. That group is --
17 is not part of the Government of Canada. It's a
18 -- it's an independent body which is at arm's
19 length from the Government of Canada. And there
20 are Fisheries and Oceans scientists that do
21 participate in the process, and are members of the
22 -- of the different working groups or
23 subcommittees within COSEWIC. So the one dealing
24 with salmon is the Anadromous Fish Commission --
25 no, Fish Committee, I think, if I've got the right
26 term? Anyway, there have been several DFO staff
27 that have participated in that process.

28 So I'll just make one other point, is that it
29 -- there's some really interesting analogies
30 between **SARA** and the WSP. And one of the more
31 important ones, I think, is COSEWIC looks at the
32 -- essentially categorizes a unit as to its
33 biological degree, it's -- whether or not it is
34 endangered or not is determined based on
35 scientific data. So it's very analogous to what
36 goes on within Strategy 1 of the Wild Salmon
37 Policy, where what we do is we identify
38 conservation units, we identify benchmarks, we
39 identify whether or not we categorize the status,
40 based on scientific information.

41 So that -- within **SARA** that is -- that
42 function is determined or controlled by COSEWIC.
43 And then it's the recommendations from COSEWIC are
44 presented to the Government of Canada, and it's
45 the Government of Canada that actually has the
46 ability to incorporate social and economic
47 information in determining whether or not a

1 species that was recommended for listing by
2 COSEWIC would in fact be legally listed. And
3 that's in a sense, that's what goes on with
4 Strategy 4 in the Wild Salmon Policy, because
5 that's where the social and economic information
6 come into developing a decision-making process, or
7 a plan for that particular unit.

8 MR. TIMBERG: That's a very helpful parallel. Thank
9 you for sharing that.

10 I'm conscious of the time. Is it appropriate
11 to have a -- or shall we continue for...

12 THE COMMISSIONER: Carry on.

13 MR. TIMBERG: Okay, I'll carry on. Thank you.

14 Q And then if we could have -- we're on the Wild
15 Salmon Policy. If we could turn to page 8, and,
16 Dr. Irvine, yesterday you were brought to a draft
17 of the Wild Salmon Policy back in 2002, and you
18 were asked questions about the three principles.
19 Perhaps you could briefly just take the
20 Commissioner through the four principles that
21 actually were passed.

22 DR. IRVINE: Okay. The -- as I recall, the primary
23 difference between in terms of the principles
24 between the 2002 draft and the 2005 draft, was the
25 second guiding principle, which is to:

26
27 Honour obligations to First Nations.

28
29 And I'm going by memory, but I'm quite sure that
30 that was not incorporated in the early draft. So
31 that specific principle came as a result of our
32 meetings with the First Nations and others.

33 The first principle, the guiding principle:

34
35 Conservation of wild salmon and their
36 habitats is the highest priority.

37
38 That's really the number one principle. And the
39 first, it essentially stems from this New
40 Directions document that I mentioned yesterday.

41 Q Right.

42 DR. IRVINE: So the New Directions document which was
43 released, I believe in 1999, and then there was
44 four significant policies that came out of it,
45 including the Wild Salmon Policy, identified that
46 conservation of wild -- conservation of salmon was
47 the first priority. So that was kind of our --

1 provided the direction to include that -- that
2 principle.

3 As we discussed yesterday, the concept of
4 "Sustainable use", I mean, why are we conserving
5 these salmon? Well, it is in large part so that
6 we will have sustainable use, long-term use. And
7 it was clearly important that -- I think it's very
8 important in any sort of controversial policy that
9 you do it in an open and transparent way. Because
10 you're not going to please everybody, so that it's
11 far better to put everything out on the table as
12 much as practicable, so that -- so that people
13 from all persuasions can see what you're doing.

14 Q And yesterday Commission Counsel stated that there
15 were no benchmarks and that there were no CU -- no
16 work was being done on the status of conservations
17 units being monitored. And I'm wondering, Dr.
18 Irvine, if you could, and perhaps Mark Saunders,
19 if you could both answer this question as to
20 whether in fact there are any benchmarks. What
21 work is being done on benchmarks under Strategy
22 1.2.

23 DR. IRVINE: Sure. I'd love to sort of start and then
24 I'm sure Mark can add to it.

25 First of all, I think with regard to the
26 second half of the question, whether or not we are
27 monitoring status, I mean, we've been monitoring
28 the status of salmon for decades. So it's not as
29 if we had to wait for the Wild Salmon Policy to
30 monitor status. So it is true that we have not
31 formally identified benchmarks for all of the
32 conservation units. However, there has been a
33 paper prepared by Dr. Carrie Holt et al, that
34 basically went through the process by which to
35 identify benchmarks. So that -- that's a peer-
36 reviewed document that has been accepted through
37 the CSAS process, and I think it's in the
38 documents somewhere.

39 So we have -- we've essentially determined
40 the process by which benchmarks will be
41 identified. There was meetings, I think you know,
42 two weeks ago, in Vancouver or in Nanaimo, where
43 there were Fraser sockeye were the topic of
44 conversation, and I think I'll let Mark deal with
45 that, because I wasn't at the meeting. But I
46 don't want to leave the impression that we're not
47 monitoring status. And we've had a very active

1 stock assessment program for a couple of decades
2 where that's exactly what we do.

3 Q Okay.

4 MR. SAUNDERS: Yes, Mr. Commissioner. I don't have
5 much to add to what Dr. Irvine said already. But
6 in fact the Department, as Dr. Riddell's pointed
7 to, the stock concept, for decades we -- certainly
8 a decade, we've been managing and taking into
9 consideration in our Integrated Fisheries
10 Management Plan, stocks of concern. So the stocks
11 that we know are in trouble are -- we're now
12 relating them to CUs, but the managers, as Dr.
13 Irvine pointed out, were not waiting to have
14 formal identification of CUs and benchmarks to
15 know that we need to take management action as
16 required under the Wild Salmon Policy. So in fact
17 we have been assessing and managing and dealing
18 with stocks of concern for quite some -- for a
19 long time.

20 Q Thank you. And Dr. Carrie Holt will be here for
21 the second day panel and she can speak to her
22 work.

23 And with respect to the Implementation Plan,
24 yesterday there was some conversation that the
25 Commission, you said it was semantics, that we do
26 have an implementation plan. And I'd like to take
27 you to a series of documents to have you identify.
28 Mr. Registrar, if we could start with -- I'm at
29 Tab 17, and we'll start with Exhibit Q, or Tab Q.
30 And I'm not sure who's best positioned to speak to
31 this. Mr. Saunders, could you -- have you -- are
32 you familiar with this document?

33 MR. SAUNDERS: Yes, I am.

34 Q And could you describe what it is?

35 A I think yesterday when I referred to semantics,
36 you know, there was a question about where the
37 implementation plan was, and I think we -- this
38 would have been the first cut at an implementation
39 plan that I was involved in, but it subsequently,
40 I think, we -- I don't think we carried on -- we
41 used the "Workplan" phrase to describe more of our
42 work going forward. So this was a first attempt
43 at a results-based management framework, which
44 builds on the Treasury Board of Canada's approach
45 to managing initiatives within the federal
46 government. So it follows a fairly standard
47 framework.

1 And we developed -- took the resources, the
2 million dollars that had been agreed in the
3 announcement that we saw yesterday, and developed
4 a workplan for each of the strategies. And this
5 was -- this was the first sort of plan that was
6 put in place, or that was at least proposed. And
7 subsequently a lot of the material, the frontend
8 material on it was dropped in favour of simply
9 updating the timelines, the diagrams and progress
10 relative to the objectives that were laid out in
11 the six strategies.

12 MR. TIMBERG: Mr. Registrar, could this be marked as --
13 Mr. Commissioner, could this be marked as the next
14 exhibit.

15 THE REGISTRAR: Exhibit 109.

16
17 EXHIBIT 109: Wild Salmon Policy
18 Implementation Workplan, Results-based
19 Management and Accountability Framework
20 Draft, Fisheries and Oceans Canada, September
21 20, 2005, Version 1.0
22

23 MR. TIMBERG:

24 Q And if we could turn then to Tab N in the same
25 binder.

26 MR. LUNN: 17-N?

27 MR. TIMBERG: Yes, 17-N. And this, if you could flip
28 through to page 8 and 9 to show the witnesses.
29 And then there's one, and there's a Gantt chart.

30 Q And Mr. Saunders, have you -- are you familiar
31 with this document?

32 MR. SAUNDERS: Yes, I am.

33 Q And this is the "*Wild Salmon Policy Implementation*
34 *Workplan 07/08*", and if you could just briefly
35 describe what this contains.

36 MR. SAUNDERS: Well, it's difficult for me to without
37 -- just looking at this particular page. I think
38 this was just some of the -- can you maybe back up
39 so I can see what the...

40 Q Perhaps page 5 would be of assistance and the top
41 two paragraphs.

42 MR. SAUNDERS: Right. So there's interest in providing
43 in addition to just the workplan what we're doing
44 with respect, so you can see that we're - Item 1,
45 "Standardized monitoring of wild salmon status" -
46 talking about the amount of money that would be --
47 would have been allocated in 2007 and fiscal year

1 07/08, and the activities that we were undertaking
2 in that year. So "Conservation Units definition",
3 "development of benchmarks and stock assessment
4 frameworks". And then further down on page 8,
5 that would have provided for the -- for our
6 Steering Committee some issues around the
7 implementation, the fact around "Costs" through to
8 "Partnership opportunities".

9 I should say that yesterday we spoke about
10 the difficulties in the development of the policy
11 and on this implementation side and the
12 development of workplans, we've had a lot of very
13 positive engagement and resources being brought
14 forward by NGOs and -- and others to assist in the
15 implementation. So knowing -- there was an
16 interest in knowing some of that context with
17 respect to that workplan.

18 MR. TIMBERG: Okay. And, Mr. Commissioner, if this
19 could be marked as the next exhibit.

20 THE REGISTRAR: Exhibit 110.

21
22 EXHIBIT 110: *Wild Salmon Policy*
23 Implementation Workplan, FY 07/08, dated
24 August 13, 2007
25

26 MR. TIMBERG: I have three more of the same documents
27 for each year, which I would like you briefly to
28 identify. If we could turn to in the same Exhibit
29 17, Tab J, and this is the 2008/2009 -- I
30 understand this is the 2008/2009 Workplan, and at
31 page -- there's also a Gantt chart in here.

32 Q Mr. Saunders, are you familiar with this document?
33 If you could perhaps, Mr. Registrar, take him
34 through a couple of the --

35 MR. SAUNDERS: I am not familiar with this document. I
36 was -- I returned to the Department in February of
37 -- I was on assignment with the Pacific Salmon
38 Foundation through to January of -- I came back in
39 February of 2009.

40 Q Okay. That's fine, then. And I'll leave this for
41 now. Perhaps we'll have plenty of time to talk
42 about this during the implementation stage
43 tomorrow.

44 Perhaps just for the assistance of the
45 Commissioner you can just briefly outline now an
46 overview of the steps that -- the organizational
47 steps that DFO took with respect to

1 implementation.

2 MR. SAUNDERS: With respect to implementation?

3 Q Yes, just to let us know, to clarify, so there's
4 no uncertainty with respect to this issue.

5 MR. SAUNDERS: Yes, Mr. Commissioner. As that first
6 document in 2005, I think we followed a very
7 similar process in subsequent years. The six
8 strategies really are the implementation plan,
9 subject to details. What we knew when we built
10 it, the Wild Salmon Policy, that it would be very
11 difficult to, even in that first year of
12 implementation, to fully develop the timeline and
13 the costs, and what it would really take to
14 complete the Policy in its fullness. And you
15 know, knowing that the full implementation was
16 probably between five and ten years out, we did
17 lay out each year, we revisited -- we developed an
18 annual workplan and revisited with our Steering
19 Committee on, I would say on average, probably
20 every six months, we, as that last deck was an
21 update to our Operations Committee, which was
22 formalized as the Steering Committee for the Wild
23 Salmon Policy and other initiatives that needed to
24 be connected in terms of the Change Agenda for the
25 -- for the Department of Fisheries in the Pacific
26 Region.

27 So we routinely came back to understand where
28 -- to allow senior management to understand where
29 we were, and to understand the workplan and the
30 resources that we were putting towards it. I
31 think fair to say that the million dollars has
32 continued, for the most part, to even the present,
33 in terms of making resources available within the
34 Department, and continue to work on it. And that
35 Workplan Results Framework was applied and -- was
36 ongoing and applied annually.

37 MR. TIMBERG: Thank you. Mr. Commissioner, I would
38 like to just now take the -- each of the panel
39 members through their will-say statement, and then
40 I will have concluded my examination.

41 Q Perhaps I'll start with Dr. Irvine. And if you
42 could pull up your will-say statement, it's
43 Exhibit 103. And, Dr. Irvine, is there -- I'll
44 just take you through each section. Are there any
45 comments that you would like to add to your
46 witness summary with respect to "The development
47 of the Wild Salmon Policy"?

1 DR. IRVINE: I actually think we've covered this
2 adequately this morning and yesterday.

3 Q Okay. And with respect to the second section,
4 "Science-based biological benchmarks versus
5 management reference points".

6 DR. IRVINE: Yes. And we did cover this somewhat
7 yesterday. I mean, I might just reiterate that --
8 that we in Strategy 1, we used the term
9 "benchmark" rather than "reference point" simply
10 because reference points are often associated with
11 societal values. And by using the term
12 "benchmarks" in Strategy 1, we were not precluding
13 the use of the terms "target reference points" and
14 "limit reference points" in Strategy 4. But it's
15 important to understand that Strategy 1 is about
16 the biological status of the resource and not --
17 is not directly linked to changes -- necessarily
18 to changes in fisheries management.

19 Q Okay. And I note that your witness summary covers
20 -- you'll be here tomorrow on the day 2 panel, so
21 at the end of page 2, I won't -- I'll presume that
22 that will be the line for your -- your testimony
23 for tomorrow.

24 DR. IRVINE: That's what I've been assuming, too.

25 Q Okay.

26 DR. IRVINE: Thank you.

27 Q And, Mr. Saunders, if you could perhaps pull up
28 Exhibit 101, Mr. Registrar. My understanding is
29 that perhaps page 1 to 5 are -- is your testimony
30 with respect to "Development" and then page 6 it
31 deals with the "Implementation Team". Do you have
32 any comments that you would like to add with
33 respect to your witness summary?

34 MR. SAUNDERS: Mr. Commissioner, I am satisfied --
35 nothing I would like to add specifically on my
36 summary of evidence statements, but in the context
37 of sort of some of my knowledge and understanding
38 of the development of the Wild Salmon Policy and
39 some of the discussion that we've had here, I
40 would appreciate an opportunity to add a statement
41 around sort of the process of Science, as the Wild
42 Salmon Policy -- Science, as it informs
43 Management, how it's changed as it's
44 transformational in the context of the Wild Salmon
45 Policy, if I might.

46 Q Yes, please do.

47 MR. SAUNDERS: I wonder if we could bring up the Wild

1 Salmon Policy, and I forget the page that has the
2 picture of the -- not the house, the
3 Red/Amber/Green benchmarks, Figure 3.

4 Q It's page 17, I think. Yes, page 17.

5 MR. SAUNDERS: Yeah, I think a lot of the discussion,
6 Mr. Commissioner, has been around the importance
7 -- the difference between benchmarks and some of
8 the limit reference points, and whether or not we
9 provide enough prescription in going forward. And
10 Dr. Irvine and Dr. Riddell have talked a lot about
11 the need to consider social and economic, and
12 where that takes -- how and where that takes
13 place. And I think the Wild Salmon Policy, and
14 unless you sort of -- I think it's difficult to
15 understand that it may be the subtlety of the
16 difference that the Wild Salmon Policy is putting
17 forward.

18 But I think if you look at that -- and Dr.
19 Riddell has spoken to the lower benchmark, the
20 fact that it has to consider uncertainty, it's got
21 a buffer built in there. But really from a
22 management perspective, there is no limit
23 reference point in there that says if the status
24 of a conservation unit hits a particular level in
25 there, like the Red, something is going to happen.
26 We're going to stop fishing. We're going to take
27 some action. The only action that's prescribed in
28 the Wild Salmon Policy at that lower benchmark is
29 to say that we will develop a plan to move us out
30 of that Red Zone. And as Mr. Chamut has pointed
31 out, that in extreme circumstances you could in
32 fact decide not to take any -- any action.

33 So I think part of the success of the Policy
34 and the continued sort of recognition of it, is
35 that the Minister, as well as all of the interests
36 that have an interest in salmon, need to have a
37 say in how -- where you actually set a target
38 reference point, and that goes beyond assessment
39 of its status, so you can arrive at any point in
40 that continuum.

41 And I think Dr. Riddell was pointing out
42 that, you know, that when asked whether or not
43 what changes to fisheries management were taking
44 place with respect to the number of CUs that we
45 were seeing, and he correctly pointed out that we
46 will still continue to manage groups of run-timing
47 groups in mixed stock fisheries, but the Wild

1 Salmon Policy would have us -- have the Department
2 being accountable within that management scheme
3 for the -- for each of the CUS that it's
4 responsible for. So how do you do that? How do
5 you bring groups together in a way that's going to
6 meet both social, economic and conservation
7 objectives.

8 And I'd like to flip forward to Appendix 2,
9 which is what's proposed as a five-point planning
10 procedure under the Wild Salmon Policy. It's on
11 page 45. This is something that's been test-
12 driven on an initiative known as the Fraser
13 Sockeye Spawning Initiative, that's taken place
14 over the last five to eight years.

15 MR. WALLACE: Excuse me. Mr. Commissioner.

16 MR. SAUNDERS: Yes.

17 MR. WALLACE: This strikes me as getting well into the
18 issue of Strategy 4 and the relationship to
19 current management, which I think would be more
20 efficiently dealt with at the second go-round with
21 the Wild Salmon Policy after Harvest Management
22 has been heard.

23 MR. TIMBERG: Well, it's my position for this panel as
24 the Development Panel, and so there has been a
25 silo created of Strategies 1, 2, 3 and 6, and
26 we're not to talk about 4 and 5, but for this
27 panel to explain how they developed the Policy, I
28 think there should be some latitude to allow them
29 to explain the whole package, because you can't
30 really cut it up so easily.

31 MR. WALLACE: I agree with that, Mr. Commissioner, and
32 I had been conscious of the line between putting
33 the whole process into context and getting into
34 this particular step, which I see Appendix 2 is
35 doing. So I think that this crosses the line.

36 MR. TIMBERG: I'd ask that the witness be permitted to
37 just describe how this Appendix 2 fits into the
38 development of the WSP pack.

39 THE COMMISSIONER: Very well. Perhaps before we do
40 that, this might be an appropriate time to take a
41 break.

42 MR. TIMBERG: Thank you.

43 THE REGISTRAR: The hearing will now recess for 15
44 minutes.

45
46 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)
47 (PROCEEDINGS RECONVENED)

1 CROSS-EXAMINATION BY MR. TIMBERG, continuing:
2

3 Q Mr. Saunders, if you could briefly describe, then,
4 Appendix 2 and how that fits within the overall
5 framework of the WSP.

6 MR. SAUNDERS: Yes, Mr. Commissioner. I think Appendix
7 2 is, as I was saying, I think is a critical point
8 in sort of changing the process around determining
9 long-term objectives for both biological, social
10 and economic, and lays out a way to go forward in
11 doing that.

12 In fact, in developing this, I had some
13 interaction with the Commissioner of the
14 Environment and her office around just how this
15 was being done elsewhere. There were no examples
16 that they could provide me at that time, despite a
17 requirement under sustainable development, how to
18 do it. So I think this was a -- but it was a
19 critical part of the policy we recognized in terms
20 of how do you bring people together to set joint
21 objectives in the absence of including
22 prescriptive mechanisms within the actual policy,
23 which we did not want to do. We needed a process
24 to make that happen.

25 I think later, under the implementation,
26 we'll talk about how that's progressed. But right
27 now, I think it's important just to understand
28 that this is a real change in the way Science and
29 management would have operated. And even up to
30 this point, the process within Science is to have
31 Science produce a paper that describes the status
32 and tries to encompass all the requirements to go
33 forward in the context of forecasting, et cetera,
34 and then it would go into a separate forum to
35 allow -- and some hard line being drawn in the
36 sand around conservation, and then it going
37 forward into another forum where managers and
38 resource users would try to come to grounds on an
39 objective.

40 This is a fundamental -- and I think we
41 talked about some of the tension in the
42 development of the policy, and that, when this
43 group, my colleagues, came together in 2003 and
44 '04. There was a lot of tension that Science was
45 -- wanted to be involved in setting those hard and
46 fast lines in the sand, and we evolved to the
47 point around the benchmarks and another way of

1 doing business. I spoke to Collaboration
2 yesterday, and I believe that this five-step
3 process that we put into the policy is about how
4 do you decide where to put that line on your red,
5 amber, green, when it's time to set a target for
6 escapement or other management actions.

7 The heart of it is coming -- really is about
8 an interest-based process that brings people
9 together. Step 1 is about identifying the
10 priorities, so we're all in agreed (sic) about the
11 state of the conservation units and what the
12 priorities are. It doesn't necessarily have to be
13 a conservation unit that's in trouble. It could
14 be a conservation unit that's in the green.
15 That's very important that we need to have a plan
16 and solid objectives and understand those
17 objectives jointly.

18 If you could just maybe flip down and expose
19 step 2 and 3?

20 MR. TIMBERG: All right, Mr. Registrar, if -- yes,
21 thank you.

22 MR. SAUNDERS: Step -- maybe -- so Step 2 would be
23 around identifying resource management options.
24 So if something is in the red zone, what are our
25 options around habitat, around fisheries
26 management? What levers could we potentially
27 pull?

28 Then Step 3 is around identifying performance
29 indicators, so when we're going to evaluate those
30 management options, what are the -- what are the
31 social and economic considerations that we need to
32 think about: socially around First Nations and
33 ceremonial or economic fisheries. What are the
34 needs of the recreational sector? What are the
35 needs of the general public in those areas? Get
36 those all on the table. Develop some indicators.

37 Step 4 is then to use those indicators and
38 assess the various options that we've got. So if
39 we're going to maintain -- set a limit to try and
40 escape enough fish to keep it in the -- it could
41 be even in the yellow or in the upper red. What
42 are the implications? We move around in that
43 space to try to find, as we talk about under
44 sustainable development, a net positive result in
45 all three accounts, ecological, social and
46 economic. And then we come together to select the
47 preferred alternative.

1 I think that's a really fundamental way that
2 we would move forward in developing plans for
3 habitat, for CU's, and any -- anything related
4 around the resource management related to meeting
5 the objectives of the Wild Salmon Policy, a
6 fundamental change.

7 Q Okay. Thank you very much. Mr. Saunders, is
8 there any other comment that you would care to add
9 to your witness summary?

10 MR. SAUNDERS: No.

11 Q Okay. Thank you. Mr. Chamut?

12 MR. CHAMUT: No, I had ample opportunity yesterday to
13 clarify any issues that I wished to, and I'm quite
14 happy with the statement as it is written.

15 Q Thank you. Dr. Riddell?

16 DR. RIDDELL: No, I have nothing further to add to my
17 witness statement.

18 MR. TIMBERG: Thank you very much. Those are all my
19 questions.

20 MR. WALLACE: Thank you, Mr. Commissioner. I have the
21 Province of British Columbia next on the list.

22 MR. PROWSE: Yes. D.C. Prowse, Mr. Commissioner, for
23 the Province of British Columbia.

24

25 CROSS-EXAMINATION BY MR. PROWSE:

26

27 Q I think many of the interesting aspects of this
28 will be dealt with by the -- when we get to the
29 question and implementation. But I note that Dr.
30 Riddell is not going to be part of that panel.

31 So, Dr. Riddell, I wanted to ask you to turn
32 to your statement at -- which is Exhibit 99, and
33 particularly on the second page. So it's the last
34 bullet under the heading "WSP Development from
35 2001 to 2005." I don't think this was covered in
36 your earlier evidence. So the last bullet starts
37 by saying that the DFO engage the province on WSP
38 development to a limited extent, and then
39 continues:

40

41 He recalls that DFO gave the province two
42 advance briefings, but did not invite its
43 direct involvement at that drafting stage.

44

45 So, first of all, those two sentences are accurate
46 to your knowledge?

47

1 (WATER SPILL)

2
3 MR. LUNN: While you're taking care of that, Mr.
4 Prowse, I'm not sure where you are in the
5 document.

6 MR. PROWSE: I'm sorry, it's the second page of -- just
7 above the "Challenges of WSP Development", so just
8 above the bottom of the page.

9 MR. LUNN: On the witness summary?

10 MR. PROWSE: Yes. Exhibit 99.

11 MR. LUNN: (Indiscernible - not at microphone).

12 DR. RIDDELL: Sorry, do you need me to wait, or can I
13 reply to your question, or...?

14 MR. LUNN: If the witness is able to do it without the
15 document in front of him, I'd...

16 MR. PROWSE:

17 Q Yes. So in your November 16th statement, I read
18 you a couple of statements. Are those accurate?

19 DR. RIDDELL: To my recollection, yes, they are.

20 Q All right. It then goes on to say that you will
21 say that:

22
23 In your view, the province did not need to be
24 directly involved with drafting the WSP.

25
26 Is that accurate?

27 DR. RIDDELL: In my opinion it was, yes, because of the
28 difference in the species, largely. The policy
29 explicitly states it does not address the
30 steelhead or cutthroat trout.

31 Q Right. And so with respect to Fraser River
32 sockeye, your view was that the province did not
33 need to be directly involved with respect to those
34 aspects of the WSP; is that correct?

35 DR. RIDDELL: Well, Mr. Commissioner, the Wild Salmon
36 Policy is generic. It is not specific to Fraser
37 sockeye alone, and that level of discussion did
38 not occur in the writing and the development of
39 the policy.

40 Q And I'm trying to get at why not, from your point
41 of view. So why did you think that it wasn't
42 necessary to get the province involved with
43 respect to Fraser River sockeye, for example?

44 DR. RIDDELL: Well, it wasn't -- I'm sorry, Mr.
45 Commissioner, it was not that we didn't feel that
46 there was a need to involve the province, and we
47 certainly were not talking specifically about

1 Fraser sockeye salmon when we're writing the
2 general policy.

3 The important involvement of the province is
4 in the implementation of the policy, particularly
5 under Strategies 2 and 3. Many of the databases
6 for habitat change, for example, are managed by
7 the Province of British Columbia. There were
8 talks amongst technical experts about what data
9 was available with the province and whether they
10 could be involved -- if the policy was
11 implemented, would they participate in the
12 development of joint databases, for example, and
13 there are memorandums of understanding between the
14 federal government and provincial government on
15 data management and data exchange.

16 So there were mechanisms to involve them in
17 the implementation already. The comment I was
18 making here really was in the sense of we were
19 looking at a long-term policy for the federal
20 responsibilities to protect the genetic diversity
21 of the Pacific salmon.

22 Q All right. And so the -- when it came -- and your
23 statement goes on to say that the province's
24 participation is needed in implementation, and
25 you've just stated that with respect to Strategies
26 2 and 3, why you felt that, and you referred
27 particularly to databases and some technical
28 discussions about accessing that kind of
29 information for those two strategies.

30 DR. RIDDELL: Yes.

31 Q You also refer to Strategy 4 and why, in your
32 view, was the province -- did you see a need for
33 the province -- for involvement in Strategy 4?

34 DR. RIDDELL: Thank you for introducing that question,
35 because I think that's really an important point.
36 Strategy 4, looking at it in the broader sense is
37 really about ecosystem-based management and
38 developing harvesting plans within that context.
39 Many of the elements of ecosystem-based management
40 are outside the purview of the Department of
41 Fisheries and Oceans. But we have to have the
42 habitat issues and the **Fisheries Act** when many of
43 them are reactionary or they seem to react after
44 the effect.

45 Strategy 4 is to provide opportunity for
46 long-term planning, and it would include issues of
47 water management and land development and

1 utilization there for flood control and this sort
2 of thing. Many of the things that pertain to
3 water management and land development are under
4 the responsibility of the provincial government,
5 and that, and so would be impossible to really
6 talk about long-term watershed conservation plans
7 and particularly involving salmon, with
8 involvement of the province and the municipal
9 governments, First Nations and other community
10 groups.

11 Q But in terms of the drafting process up to the
12 year 2005, in your view, the province and -- the
13 province did not need to be involved in the
14 drafting process. In your view, those
15 responsibilities would be dealt with after 2005 in
16 the implementation status; is that correct?

17 DR. RIDDELL: Correct, in the implementation. But, as
18 I did say, there were a couple of meetings and
19 they were arranged at the Regional Director
20 General level, sort of senior government/senior
21 government. And then there would be briefings on
22 the reason that we developed the policy in
23 particular ways, and there was dialogue back and
24 forth.

25 I don't really even recall any real requests
26 from the provincial government to directly be
27 involved in writing, and furthermore, they seldom
28 participated in the multi-stakeholder
29 consultations, and that, but the dialogue always
30 was one of involvement during implementation.

31 Q So, from your point of view, they weren't
32 necessary in the drafting process of the Wild
33 Salmon Policy itself?

34 DR. RIDDELL: That's my opinion, yes.

35 MR. PROWSE: Thank you. Those are my questions, Mr.
36 Commissioner.

37 MR. WALLACE: Thank you. Next on my list is the B.C.
38 Salmon Farmers Association.

39 MR. HOPKINS-UTTER: Good morning Mr. Commissioner,
40 panel, Shane Hopkins-Utter, H-o-p-k-i-n-s-hyphen-
41 U-t-t-e-r for the B.C. Salmon Farmers Association.

42 My co-counsel, Alan Blair, suggested that I
43 start out with a joke as he does. Unfortunately I
44 didn't write one in my notes, so you'll forgive me
45 if I just proceed.

46 I wanted to -- I just wanted to start out by
47 having a quick discussion as to some of the points

1 that I hope to raise in my questions, so feel free
2 to jump in. This is largely based on some of the
3 evidence that you've already given yesterday and
4 today. If I signal a particular person, if you
5 have comments, please just let me know.
6

7 CROSS-EXAMINATION BY MR. HOPKINS-UTTER:
8

9 Q My first point, Dr. Irvine, is that the Wild
10 Salmon Policy, as we've acknowledged, refers to
11 the Aquaculture Policy Framework expressly and the
12 mitigation of risks by citing considerations under
13 the CEAA. Would you agree with that?

14 If you'd prefer to go directly to the page, I
15 can --

16 DR. IRVINE: If you could -- page 31?

17 Q Absolutely, absolutely.

18 MR. HOPKINS-UTTER: Mr. Lunn, this Wild Salmon Policy,
19 Exhibit 8. This would be page --

20 MR. LUNN: Thirty-one.

21 MR. HOPKINS-UTTER: -- 31. That's the paper. Yeah,
22 there we are.

23 DR. IRVINE: Yes, there's a section in the policy on
24 each of aquaculture enhancement and, I believe,
25 habitat development.

26 MR. HOPKINS-UTTER:

27 Q Okay.

28 DR. IRVINE: And fisheries management, I believe.

29 Q Of course. And this is a general question to Dr.
30 Irvine and Mr. Chamut. There was mention of
31 interim guidelines, preliminary guidelines for
32 setting of aquaculture operations that had existed
33 at the time that the Wild Salmon Policy was in
34 fact being developed, although I understand from
35 the comments that those were -- were they not
36 further developed? Have they actually been
37 abandoned, or are they still generally there as
38 guidance?

39 DR. IRVINE: No, in 2002, we made some progress in the
40 development of the implementation guidelines for
41 various activities, including aquaculture. But
42 after, I believe, 2003, there was no further
43 development of them so they were incomplete at
44 that stage.

45 Q Thank you. And you'd generally agree the DFO is
46 -- well, shall we say, committed to sustainable
47 development as a sustainable Resources Management

1 Department?

2 DR. IRVINE: Yes. I'm not really a spokesperson for
3 DFO, but certainly for the Wild Salmon Policy,
4 sustainable development is one of the important
5 principles of the policy.

6 Q And, Mr. Chamut, I believe you had made some
7 comments on the Wild Salmon Policy acknowledging
8 that while the conservation is a primary
9 consideration, that decisions are not necessarily
10 made without considering the sustainable use
11 elements of social and economic considerations.
12 Is that a true statement, or generally correct?

13 MR. CHAMUT: Well, I'd like to kind of restate it.

14 Q Of course.

15 MR. CHAMUT: I think what I said in testimony
16 yesterday, the obvious priority within the Wild
17 Salmon Policy is conservation of genetic diversity
18 of wild salmon. But there is a process by which
19 decisions are made. They're not necessarily going
20 to be based just on biological considerations, and
21 there is a process by which social and economic
22 considerations can be made when we're talking
23 about plans to protect or rebuild or conserve a
24 particular CU.

25 But I also went on to say that there's --
26 there's a continuum of concern. If you're dealing
27 with a conservation unit that is at very low
28 abundance and it's in that so-called red zone that
29 was discussed this morning by Dr. Irvine, then the
30 primary considerations that will be made about
31 what to do with that CU will most often be
32 biological.

33 As you move up into greater degrees of
34 abundance and the much less risk that -- or much
35 less threats to the well-being of the conservation
36 unit, then increasingly biological -- sorry,
37 social and economic considerations will be an
38 important part of whatever decision is taken. So
39 there is this continuum.

40 The intent of the policy that biological
41 factors are going to be the primary considerations
42 when the stock is at risk, with the one exception
43 which I talked about this morning: The exception
44 of circumstance where there may be some sort of
45 extenuating circumstances where it will make it
46 extraordinarily difficult to be able to conserve a
47 conservation unit, or if it's -- if efforts to

1 conserve it are going to fail or be excessively
2 costly. That's then a matter that would be
3 considered for a decision by the Minister after
4 consultation in a full and open process that
5 looked at the issue of the biological status, the
6 costs and consequences of the decision.

7 So it would be done in an open and
8 transparent manner. But I think it's really
9 important that when the stock or the conservation
10 unit is at low levels, the policy clearly
11 indicates that biological factors are going to be
12 the primary consideration in decisions.

13 MR. HOPKINS-UTTER: Thank you. And, Mr. Lunn, if you
14 can take us to page 16, middle left of the page.
15 This is Principle 3 of the Wild Salmon Policy. If
16 you could just enlarge the second paragraph under
17 that?

18 Q So, Mr. Chamut, your comments then would fit in
19 that -- fit into this particular principle that,
20 in fact, conservation is the number one goal, but
21 decisions cannot be -- I'm reading now:

22
23 Conservation decisions cannot be based solely
24 on biological information.
25

26 So at that point, as you say, as we move up the
27 scale away from red at that point, the sustainable
28 development and sustainable use, then, becomes a
29 greater consideration in the decision-making?

30 MR. CHAMUT: I think that's correct, yes.

31 Q Would you agree with me that the Wild Salmon
32 Policy, as well as the Aquaculture Policy
33 Framework generally recognized that pressures of
34 human activity put on natural resources, including
35 pressures on wild stocks for food purposes, those
36 run counter to conservation in the strict sense of
37 non-use?

38 To rephrase it, then, would you agree that
39 both of those policies, Wild Salmon Policy and the
40 Aquaculture Policy Framework do in fact recognize
41 human pressures on natural resources such as wild
42 salmon?

43 MR. CHAMUT: I'm not absolutely sure that this will
44 answer your question, but, I mean, clearly the
45 Wild Salmon Policy is in place to provide policy
46 guidance as to how the Department will approach
47 the conservation and management of wild Pacific

1 salmon.

2 The Aquaculture Policy Framework, which I
3 have not looked at since I had the good fortune to
4 be retired five years, as I recall it talks about
5 aquaculture as a sustainable human activity. It
6 recognizes that there can be adverse consequences
7 to habitat and to wild resources, and that it
8 needs -- it needs to be managed properly so that
9 things like siting of a farm does not adversely
10 affect important habitat, or there's -- making
11 sure that there's disease control.

12 So -- and a variety of other things that are
13 recognized as potential threats to wild salmon.
14 But the Aquaculture Policy Framework essentially
15 assumes that aquaculture can be a sustainable and
16 good industry provided that it operates in accord
17 with requirements of SEA (phonetic) and the
18 habitat policy of the Department of Fisheries and
19 Oceans, and probably other bits of legislation
20 too.

21 Q I'll be taking you through these in some detail in
22 just a few minutes so, don't worry, I'll make sure
23 that we cover those off in greater detail.

24 I will put to you, and maybe you can agree or
25 disagree or just feel free to say that you don't
26 remember. As I say, I'll be coming back to this,
27 but you are familiar with the Aquaculture Policy
28 Framework. Do you recall, to the best of your
29 knowledge, the discussion around aquaculture being
30 a sustainable -- a sustainable industry -- was
31 primarily with respect to its food production,
32 that -- and the --

33 MR. WALLACE: Mr. Commissioner, I'm unsure how an
34 investigation of the Aquaculture Policy Framework
35 relates to the Wild Salmon Policy.

36 MR. HOPKINS-UTTER: Mr. Commissioner, at this point
37 maybe I should get directly into my examination of
38 the documents and I will, in fact, develop this.
39 I should say -- I should have prefaced the fact
40 that all of this is to say what was the knowledge
41 of the Department of Fisheries and Oceans? What
42 were the policies in place? What were the
43 guidelines? What was the regulatory framework
44 that existed at the time that the Wild Salmon
45 Policy was in fact being developed?

46 So the fact that the Aquaculture Policy
47 Framework existed as of 2002 or 2003 would be

1 germane to the fact that it was referred to
2 expressly in Wild Salmon Policy.

3 THE COMMISSIONER: It might be helpful if you got to
4 your specific questions rather than just these
5 general questions that seem to be eliciting some
6 confusion.

7 MR. HOPKINS-UTTER: Absolutely. I apologize.

8 Mr. Lunn, if you could take us to the bottom
9 left of page 10.

10 Q The Wild Salmon Policy identifies a number of
11 pressures on wild salmon such as habitat
12 pressures, including human use of land and water
13 for:

14 ...non-fishery uses, such as urban
15 development, forestry, agriculture, and other
16 industries.

17
18
19 And it notes:

20 Habitat pressures will continue to grow as
21 human populations increase and, with them,
22 demands for space, food, and livelihood.

23
24
25 I think we've gone onto the right part of the
26 page. If you could just focus on the right part
27 of the page, Mr. Lunn?

28 MR. SAUNDERS: I think page 10 in the -- isn't -- yeah.

29 MR. HOPKINS-UTTER: Oh, the electronic page. I
30 apologize.

31 MR. LUNN: Oh, sorry, I thought you were referring to
32 the electronic version. So we're on page 10
33 (indiscernible - not at microphone).

34 MR. HOPKINS-UTTER: Paper version page 3, electronic
35 version, page 10. If you just focus generally on
36 the bottom of the page.

37 MR. LUNN: That's where we were before.

38 MR. HOPKINS-UTTER: Yes. Oh, sorry, the right bottom
39 paragraph there

40 Habitat pressures will continue to grow as
41 human populations increase and, with them,
42 demands for space, food and livelihood.

43
44
45 Furthermore, if you look at page 37, the
46 electronic page 37 in the middle of the page, this
47 is on "Enhancement of Wild Salmon Policy." Over-

1 exploitation is actually only mentioned once in
2 the Wild Salmon Policy in relation to the
3 potential adverse effects on enhancement on wild
4 salmon.

5 Would you agree, then, that the Wild Salmon
6 Policy perhaps implicitly recognizes the risk of
7 over-exploitation in terms of its goal for
8 conserving wild stocks? Is that -- is that an
9 unstated risk that the Wild Salmon Policy is --

10 MR. CHAMUT: Well, I would -- I would have to answer by
11 saying I hope not. I hope it's explicit. I mean,
12 one of the challenges that the Department has in
13 managing the fishery is setting appropriate
14 regulations on harvest and making sure that
15 harvest of the -- of the wild stock does not
16 exceed its acceptable levels.

17 I would assume that the document is explicit
18 about the need to properly regulate harvesting so
19 as to meet escapement objectives or other targets
20 that are set. I mean, that's -- clearly
21 unregulated fishing can have very adverse effects
22 on the wild stocks.

23 Q And, Mr. Chamut, yesterday you mentioned the
24 relationship between conservation and sustainable
25 use, and this is something that has come up quite
26 a lot.

27 MR. HOPKINS-UTTER: Mr. Lunn, at page 15 in the blue
28 bar on the left. The WSP specifically
29 distinguishes between these two principles. It
30 reads:

31
32 Conservation is the protection, maintenance,
33 and rehabilitation of genetic diversity,
34 species, and ecosystems to sustain
35 biodiversity and the continuance of
36 evolutionary and natural production
37 processes.

38
39 And noting:

40
41 ...the primacy of conservation overuse.

42
43 It then reads:

44
45 Sustainable Use is the use of biological
46 resources in a way and at a rate that does
47 not lead to their long term decline, thereby

1 maintaining the potential for future
2 generations to meet their needs and
3 aspirations. As a resource management
4 agency, DFO is committed to the sustainable
5 use of wild salmon resources.
6

7 Now, at this point, I'll turn the question
8 over to Dr. Irvine as this was noted in your
9 Exhibit 96, the paper that we saw yesterday. The
10 Principle 3, which I've already made mention to,
11 that decisions can really be made on conservation
12 without considering the sustainable aspects, do
13 you have anything to add on that particular
14 distinction between conservation and sustainable
15 use that Mr. Chamut has not already elaborated on?

16 DR. IRVINE: Well, not really, except that without
17 conservation, you can't have sustainable use. So
18 you need to conserve the resource so that you can
19 use it in the future.

20 MR. HOPKINS-UTTER: Mr. Lunn, at page 38, electronic
21 page 38 of the Wild Salmon Policy, paragraph 2.
22

23 The Department's role, as the lead federal
24 agency for aquaculture, is to manage
25 aquaculture so that it is environmentally
26 sustainable, socially responsible, and
27 economically viable. In 2002 the Department
28 released the Aquaculture Policy Framework
29 (APF)22 to guide the Department's actions
30 with respect to aquaculture. The first
31 principle of the APF directs the Department
32 to support aquaculture development in a
33 manner consistent with its commitments to
34 ecosystem-based and integrated management, as
35 set out in Departmental legislation,
36 regulations and policies. This principle
37 reflects the Department's mandate for the
38 conservation of marine resources.
39

40 Q Do I understand, then, that the Wild Salmon Policy
41 actually recognizes the Aquaculture Policy
42 Framework's first principle is conservation?

43 MR. CHAMUT: I wonder if there is a way to rephrase
44 that particular question. It's not -- it's not
45 clear to me. I think that it probably needs some
46 -- maybe some additional massaging because it's
47 just, unfortunately, going right over my head,

1 which is probably not that difficult, but I'm
2 sorry, I can't offer an answer at this point.

3 MR. WALLACE: Again, Mr. Commissioner, I see that there
4 is a section in the Wild Salmon Policy where
5 aquaculture is referred to and the reference is
6 made to the Framework. But these questions seem
7 to be going to the Department's recognition of
8 matters under the Framework, rather than any
9 development of the Wild Salmon Policy, and I -- we
10 have limited time and we will be dealing with
11 aquaculture in a discrete period dedicated to
12 that. I'm not sure this is an effective use of
13 time.

14 MR. HOPKINS-UTTER: Mr. Commissioner -- thank you, Mr.
15 Wallace for that feedback. I would say, however,
16 that this panel has already identified the
17 relatively late addition of aquaculture to the
18 Wild Salmon Policy. I believe that -- it's my
19 understanding that it was added late or at the
20 suggestion of feedback in the process of
21 developing the Wild Salmon Policy.

22 Furthermore, the explicit reference to the
23 Aquaculture Policy Framework and one of the
24 guiding principles in the Aquaculture Policy
25 Framework does in fact inform the development of
26 the salmon policy as it pertains to aquaculture.

27 We have this entire page dedicated to what
28 the aquaculture position is of the Department,
29 including the Aquaculture Policy Framework as well
30 as a separate blue bar a few pages later,
31 specifically referring to aquaculture. So the
32 reason that we're -- the reason that I'm asking
33 these questions are in fact to get to the point
34 where the Aquaculture Policy Framework, if you'll
35 permit me to bring that up in this hearing,
36 actually shows that conservation is one of the
37 primary considerations of the Aquaculture Policy
38 Framework, and this is in fact consistent with the
39 development of the Wild Salmon Policy, which is
40 why it's explicitly referred to in this document.

41 THE COMMISSIONER: I think now I'm in Mr. Chamut's
42 camp. I'm not sure I understand what you just
43 said. But to the extent that the Aquaculture
44 Framework that you're discussing goes to the issue
45 of the process for the evolution of the Wild
46 Salmon Policy, I think any questions you have in
47 that arena would be very appropriate. It's not

1 clear to me whether you're asking about the
2 Aquaculture Policy Framework, or you're asking
3 about how that framework, during the course of the
4 evolution of the policy, found its way into the
5 policy and what the considerations were for doing
6 that.

7 So if you could be bit more clear and
8 specific in your questions relating to the
9 process, I think that would be helpful.

10 MR. HOPKINS-UTTER: Thank you.

11 MR. CHAMUT: I hope I'm not out of order here, but I
12 would like to respond to something that you did
13 discuss in your last -- in your most recent
14 comments that I think does need clarification.

15 You'd indicated that the page that you'd
16 referred to on aquaculture which, in my document,
17 as the hard copy, is page 31.

18 MR. HOPKINS-UTTER:

19 Q Yes.

20 MR. CHAMUT: It's a stand-alone discussion about
21 aquaculture, and you made the comment that it was
22 a late addition to the policy. That's what I
23 really wanted to address. It is not a late
24 addition to the policy. It's not something that
25 came in at the last minute.

26 If you go back to the very first drafts of
27 the Wild Salmon Policy in 2000 and 2002, there was
28 always discussion about aquaculture. In the
29 document that was released for public consultation
30 in December of 2004, there was -- there was
31 discussion of aquaculture in that document at that
32 time, not in a prescriptive way, but along the
33 lines of what you see on that page dealing with
34 aquaculture and the policy that was finally
35 adopted.

36 There was a lot of discussion about
37 aquaculture and how to deal with it during the
38 genesis of the policy during 2004. The Department
39 did have a lot of comments about aquaculture, and
40 we tried to reflect in the policy some of the
41 issues associated with aquaculture, some of the
42 concerns, and the way that they're being addressed
43 in a general way. That's where the reference to
44 the aboriginal -- the Aquaculture Policy Framework
45 comes in, because it does make reference to
46 adherence to SEA guidelines and habitat
47 guidelines, stuff of that nature.

1 But it really, as I said yesterday, the
2 drafting team concluded in probably early 2003 or
3 in 2003 in the spring, that there would not be any
4 prescriptive treatment of aquaculture along the
5 lines of what had initially been anticipated. The
6 rationale for that was that aquaculture was a
7 human activity that could affect habitat along
8 with a whole host of others that I mentioned
9 yesterday like mining and forestry and road
10 building and municipal development and fishing and
11 all the rest of those things.

12 But aquaculture is here, it's a flag that
13 this is something that the Department is aware of,
14 that there are issues associated with it, but
15 they're being addressed in certain ways. And
16 that's all that this is. I'd be really rocked --
17 and I don't think any one of the witnesses here
18 would be in a position to speak either
19 knowledgeably or in an informed way about the
20 Aquaculture Policy Framework.

21 In my case, I remember it, but I would
22 certainly not want to ask or answer detailed
23 questions on it because it's really become a fond
24 memory rather than anything that sort of stuck
25 with me.

26 Q Thank you. Judging from your comment, then, would
27 you say that those two policies were generally in
28 development simultaneously, and due to the delays
29 in finalizing the Wild Salmon Policy, it's likely
30 that the Aquaculture Policy Framework just
31 happened to be the one that was finalized earlier?
32 Would that be a fair statement? I see Dr. Riddell
33 shaking his head.

34 MR. CHAMUT: None of the other panellists I think would
35 have been involved in the Aquaculture Policy
36 Framework. But I was peripherally involved 'cause
37 at the time that it was -- it was being
38 considered, I was the Assistant Deputy Minister in
39 Ottawa for Fisheries Management, so I was involved
40 in some of the work, or at least looking at some
41 of the earliest draft.

42 So the answer to your question is that the
43 APF and the Wild Salmon Policy did overlap in
44 terms of time. Wild Salmon Policy starting around
45 2000. I don't know when the APF started. Wild
46 Salmon Policy concluded in 2005, and I would guess
47 by the fact that we're referring to it here, it

1 was concluded in, what, 2003? That's just a
2 guess. It might be 2004.

3 So there was overlap, but I don't think that
4 there was an awful lot of detailed consideration
5 of them in any sort of parallel sense.

6 Q I'll move on, in that case, sir.

7 MR. HOPKINS-UTTER: Just at page 22 of the Wild Salmon
8 Policy, then, Mr. Lunn, third paragraph.

9 Q This is on the precautionary approach adopted by
10 the Wild Salmon Policy. It expressly refers to
11 the document, a framework for the application of
12 precaution in science-based decision-making about
13 risk - which I believe is our Exhibit number 51 -
14 as the guiding document on the precautionary
15 approach and I'll quote here.

16
17 It identifies important considerations for
18 management, acknowledgment of uncertainty and
19 information and future impacts on the need
20 for decision-making in the absence of full
21 information.

22

23 And that it:

24

25 ...implies a reversal in the burden of proof
26 and the need for longer term outlooks in
27 conservation of resources.

28

29 You were talking about longer term, Dr.
30 Riddell, and I was just wondering in the context
31 of the Wild Salmon Policy, generally does this
32 mean the re-evaluation and consultative mechanisms
33 that are described in that framework for the
34 application precaution?

35 DR. RIDDELL: I'm sorry, I'm not sure I understand the
36 direct question. The precautionary approach was
37 included because Canada had made stipulations to
38 apply it in resource management, and we recognized
39 that we did not have all the information required,
40 and we've talked about different examples of that.

41 So what we're really talking about here is
42 that the reversal of burden of proof, as you are
43 saying, is that it should not always be on the
44 Government of Canada to have the definitive proof
45 to stop something, but that the developer, on the
46 other hand, should have evidence that they can
47 proceed with a sustainable program and that they

1 provide evidence that it won't have long-term harm
2 to other natural resources, and that.

3 So it was included here because uncertainty
4 is very real in all aspects of salmon management,
5 and the precautionary principle is the natural way
6 that people were developing how to control the
7 impact of that uncertainty.

8 Q So then the long-term monitoring and involvement
9 of stakeholders in performing research, is that
10 more or less what the Wild Salmon Policy is
11 getting at, the involvement of stakeholders in
12 that particular type of resource -- research?

13 DR. RIDDELL: Mr. Commissioner, the Wild Salmon Policy
14 doesn't commit to anything like that, but that is
15 certainly an example of the way that you can
16 control, for long-term uncertainty, improved
17 monitoring. There's actually a very important
18 feedback, and that, that if you have very poor
19 information, you are going to increase your level
20 of uncertainty, and under risk management, then
21 you're going to increasingly have effects on
22 development because you're going to limit
23 development even more, limit fishing, and that.

24 If you have very good data where you're doing
25 long-term monitoring, then you can reduce your
26 degree of uncertainty, and then under a risk
27 management assessment, it would reduce the impact
28 on users or developers.

29 MR. HOPKINS-UTTER: Just a few final questions, then,
30 Mr. Commissioner.

31 Mr. Lunn, could you please take us to Exhibit
32 51, the "Framework for the Application Precaution
33 in Science-Based Decision-Making about Risk",
34 dated 2003 at page 9 under "Section 4.2", the
35 second bullet. I'll refer this question
36 specifically to Dr. Irvine.

37 Q It says here at the second bullet:

38
39 While societal values and public willingness
40 to accept risk are key in determining the
41 level of protection, in all cases sound
42 scientific evidence is a fundamental
43 prerequisite to applying the precautionary
44 approach.

45
46 Yesterday you were saying that societal
47 values and public willingness to accept risk

1 generally change quickly. Would you agree that
2 this is one of the primary reasons why sound
3 scientific information is needed?

4 DR. IRVINE: Yeah, I don't think I said that societal
5 values and opinions would change quickly, but they
6 can in fact change.

7 So would you repeat the question? Sorry.
8 Q Would the -- would the need for credible and --
9 credible scientific evidence basically be -- I'll
10 see if I can reframe it.

11 Does this document require sound scientific
12 evidence to proceed with decisions because of the
13 potential for changing societal values as a means
14 of introducing some certainty in making decisions
15 about risk?

16 DR. IRVINE: No. Strategy 1 deals with the scientific
17 uncertainty as to the -- uncertainty as to sort of
18 the -- our understanding of the status of a
19 particular conservation unit as well as to
20 uncertainty associated with the management
21 implications, or different management
22 implications.

23 The social and societal values, public
24 willingness to accept risk, that's all about the
25 identification of target reference points and
26 limit reference points. And so it's -- you're
27 getting into Strategy 4 which is where that
28 information is incorporated.

29 Q Would you agree --

30 MR. HOPKINS-UTTER: If we turn to page 12, Mr. Lunn,
31 the last two bullets.

32 Q Generally does this document -- we'll read here:

33
34 Domestic or international obligations may
35 require some precautionary measures be deemed
36 explicitly provisional and subject to re-
37 evaluation; they may include obligations
38 requiring mechanisms for ongoing monitoring
39 reporting.

40
41 The last bullet:

42
43 Regardless of whether there is a formal
44 obligation, follow-up scientific activity
45 (e.g. further research and monitoring) should
46 be promoted as it can help reduce uncertainty
47 and allow improved decisions as the science

1 evolves

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DR. IRVINE: Well, I don't see any disagreement between the -- what's covered in these two bullets and the Wild Salmon Policy. I mean, the first one just seems to be saying that, you know, decisions are sometimes provisional and we certainly need to collect new data, new information and re-evaluate things.

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...follow-up scientific activity should be promoted as it helps to reduce uncertainty and allows improve decision-making.

So I don't see any disagreement between what's in these two bullets and the intent of the policy.

Q Thank you. And one final question.

MR. HOPKINS-UTTER: Mr. Lunn, document 18, if you please. Sorry, BCSFA document 18, our document 18, yes.

Q Mr. Saunders, I'm going to ask if you recognize this document.

MR. SAUNDERS: Yes, I do.

MR. HOPKINS-UTTER: And if Mr. Lunn can scroll to the bottom of the page.

Q Is that your name at the bottom left-hand corner?

MR. SAUNDERS: Yes, it is.

Q Can you briefly describe what this document is?

MR. SAUNDERS: This is a strategic assessment, and it's a requirement of any policy that, any national policy, that it go through assessment, and this was -- this was that for the Wild Salmon Policy.

MR. HOPKINS-UTTER: Mr. Commissioner, I'd like to have this marked as an exhibit, if you please.

THE REGISTRAR: Exhibit 111.

EXHIBIT 111: DFO Strategic Environmental Assessment

MR. HOPKINS-UTTER: Mr. Lunn, if you could please take us to page 3 of this document.

1 Q At the very top, under "Description and
2 Rationale", there's a list of numbers there. At
3 the bottom of that paragraph under "Description
4 and Rationale", the last sentence reads:

5
6 DFO specified three targeted activities in
7 support of this goal.

8
9 Being the goal of sustainable programs.

10
11 And the WSP addresses all three.

12
13 Mr. Saunders, can you read number (1) from that
14 list for me, please?

15 MR. SAUNDERS:

16
17 Developing policies, frameworks, regulations
18 and responses to ensure the integration and
19 sustainability of fisheries and aquaculture.

20
21 Q Thank you. So would you agree at this point that
22 the Wild Salmon Policy, as well as the Aquaculture
23 Policy Framework -- I'm sorry, I'm going to catch
24 myself -- the Wild Salmon Policy and the policies
25 of the DFO regarding aquaculture were generally
26 geared towards that type of sustainability? The
27 "developing policies, frameworks, regulations"
28 would have likely included the Aquaculture Policy
29 Framework? Is that possible?

30 MR. SAUNDERS: I'm trying to understand what is being
31 communicated in the three bullets. If I've got it
32 correct that they're -- and I haven't looked at
33 this document for some time. Those are goals for
34 the Department in the Pacific Region in general,
35 not just related to the Wild Salmon Policy, so the
36 linkage of aquaculture and fisheries there, I'm --
37 I'm not sure that they're being linked
38 necessarily.

39 Q Okay.

40 MR. SAUNDERS: Yeah. The strategic SD Action Plan
41 isn't -- while we're required to produce this to
42 SEA, the SD Action Plan is much broader. Every
43 government department has to provide how it's to
44 respond to -- develop an action plan, so these
45 were bullets that are -- this isn't specifically
46 about the implementation of the Wild Salmon
47 Policy, the three goals that you're seeing there.

1 Q Okay. But would you agree that the WSP, in fact,
2 addressed these bullets, the first one being the
3 integration and sustainability and fisheries -- of
4 fisheries and aquaculture?

5 That's okay. I'll retract the question. I
6 would like to clarify just one of the last points
7 that you raised. You weren't sure about why
8 fisheries and aquaculture was in fact put together
9 in this particular document.

10 MR. HOPKINS-UTTER: Mr. Lunn, if you could look at
11 BCSFA document 1. This is a document dated 2005,
12 DFO 2005-2010, "Strategic Plan: Our Waters, Our
13 Future," final draft.

14 Q Does anyone on the panel recognize this document?

15 MR. SAUNDERS: Yes.

16 MR. HOPKINS-UTTER: And, Mr. Lunn, at page 8, second-
17 to-last bullet.

18 MR. LUNN: That's page 8.

19 MR. HOPKINS-UTTER: Electronic 8? I'm sorry, did I say
20 bullet? I mean paragraph [as read].

21
22 Beginning to reflect the revised departmental
23 outcomes, DFO implemented a number of
24 organizational changes. The Department
25 merged its fisheries and aquaculture programs
26 to strengthen the linkages between the
27 management of wild and farmed fisheries.

28
29 Q Does that -- Mr. Saunders, does that bring back to
30 your recollection as to why those fisheries and
31 aquaculture were merged in your strategic
32 assessment?

33 MR. SAUNDERS: No, I wouldn't have made that
34 connection. I mean, what we were doing at the
35 time is we were demonstrating in that document
36 that there was no harm -- you know, it's a risk
37 management -- with the policy, and typically that
38 goes for other things, not just policies, capital
39 items. So if I'm going to build a building, I
40 need to get that approval and I've got to
41 demonstrate that I've managed the -- sort of the
42 environmental impacts.

43 So really, that -- my understanding of the
44 intent was that was to show that there was no --
45 there was no damage to -- environmental damage to
46 result -- or that we had planned for as a result
47 of the policy.

1 So I don't recall explicitly considering the
2 connection between aquaculture and the policy in
3 the development of that document.

4 MR. HOPKINS-UTTER: Very last question, then. Mr.
5 Lunn, page 13, last paragraph. This is a
6 paragraph on sustainable development. The
7 document says [as read]:

8
9 The Government of Canada --

10
11 This is the second sentence, sorry.

12
13 The Government of Canada states that
14 development is essential to satisfy human
15 needs and improve the quality of human life,
16 but must be based on the efficient and
17 environmentally responsible use of all
18 society's scarce resources: natural, human
19 and economic.

20
21 Would anyone on the panel care to care to agree or
22 disagree with that statement generally?

23 MR. TIMBERG: Mr. Commissioner, I'm just questioning
24 whether it's fair to ask them to agree or disagree
25 with a document that speaks for itself. I'm not
26 sure of the benefit of asking the four panel
27 members this question.

28 MR. HOPKINS-UTTER: I'll retract the question. Can I
29 have this marked as an exhibit, if you please?

30 THE REGISTRAR: Exhibit number 112.

31
32 EXHIBIT 112: Document entitled "2005-2010
33 Strategic Plan, Our Waters, Our Future"

34
35 MR. HOPKINS-UTTER: Thank you, Mr. Commissioner, those
36 are my questions.

37 MR. WALLACE: Thank you. The next on the list, I have
38 the Aquaculture Coalition.

39 MS. GLOWACKI: Lisa Glowacki for the Aquaculture
40 Coalition. I, as well, want to canvass the
41 development of the position that the Department
42 ultimately took in the Wild Salmon Policy related
43 to aquaculture. I gather from the evidence, both
44 in your witness statements and what you've given
45 on the panel, that there was considerable
46 discussion and an evolution over time of how
47 aquaculture would be dealt with.

1 I have a few questions just relating to how
2 you arrived at the final position.
3

4 CROSS-EXAMINATION BY MS. GLOWACKI:
5

6 Q Dr. Riddell, I think the first question would best
7 be addressed to you. It's about the first draft
8 of the Wild Salmon Policy which is Exhibit 78, if
9 that could be called up, please.

10 Before we get into this, as a general
11 statement, when I look at the documents about the
12 shift in thinking in the Department over time
13 about aquaculture goes from specifically
14 identifying aquaculture as one of the few factors
15 that impacts wild salmon, and the conservation of
16 wild salmon, and thus, it being something that
17 should be subject to the application of the
18 policy. That's the starting point.

19 By the time we get to the final version,
20 which is Exhibit 8, aquaculture is not identified
21 as a factor -- not highlighted as a factor and
22 specifically affects the conservation of wild
23 salmon, but is characterized as one of many human
24 activities that could potentially affect wild
25 salmon, and is no longer subject, specifically to
26 the application of the policy, but there's a
27 commitment to regulate it in keeping with the
28 policy.

29 Is that a fair statement from your
30 perspective, Dr. Riddell?

31 DR. RIDDELL: Well, Mr. Commissioner, I think that the
32 answer is sort of a yes and no. I agree your
33 description of the change from 2000 to 2005,
34 where, in 2000 we started with, I think, four
35 specific impacts, and yesterday you spent a
36 significant amount of time talking about
37 operational guidelines that would have been
38 written about those particular four.

39 As we worked internally, and as we talked
40 with many groups external, it became very clear
41 that it's dangerous to identify a few groups or a
42 few impacts, that there are many potential human
43 developments and impacts that can affect wild
44 salmon.

45 Wild Salmon Policy is an overriding
46 management framework that is equally addressed to
47 all impacts. So the only point I would disagree

1 with you on is that the development in aquaculture
2 on our west coast is absolutely included under the
3 Wild Salmon Policy. It is only, if you want,
4 relegated to the box-type presentation. I point
5 out that that's equivalent to one of government's
6 major programs in the salmon enhancement. So it's
7 not to belittle our concern in any sense. But
8 it's to put it in the perspective that it's really
9 not just a matter of three or four major impacts
10 that the policy pertains to. The policy pertains
11 to all human activities that can affect wild
12 salmon conservation.

13 Q All right. Okay. I shouldn't -- I'm not certain
14 that I was suggesting it was belittling, but that
15 it be -- no longer became a focus. You were
16 saying there was the four factors at the
17 beginning. Perhaps we'll just go to this first
18 draft, look at those factors, and then we can
19 better see where we go from there.

20 So could we please go to page 11? And, Dr.
21 Riddell, you spoke to this document yesterday so
22 I'm proceeding on the basis that you're familiar
23 with it.

24 DR. RIDDELL: Yes, I'm sure we all are.

25 Q Yeah, okay. So the heading there, "Factors
26 Affecting the Conservation of Wild Salmon." In
27 the introductory paragraphs, it says [as read]:

28
29 The productivity and long-term viability of
30 wild Pacific salmon in Canada are affected by
31 many factors.

32
33 It continues on and says:

34
35 Some are under human control and others not.

36
37 I don't want to spend much time on here, but if
38 can just flip through, we'll see the different
39 factors. So there's environmental uncertainty,
40 habitat -- habitat, just to pause for a second,
41 habitat becomes one of the subject that will be --
42 there was planned to be an operational guideline,
43 correct, Dr. Irvine?

44 DR. RIDDELL: There was a plan to have an operational
45 guideline. It became a major strategy --

46 A Right.

47 DR. RIDDELL: -- in a sense, so there was --

1 Q Okay.

2 DR. RIDDELL: -- substantial concern about the
3 inability of the Department to protect habitat
4 over a long period of time and from many
5 pressures. It became heightened in the final
6 policy.

7 Q Right. So it was originally an operational
8 guideline and, as stated in the final version, as
9 a major strategy. Okay.

10 The next page, please? So the next factor
11 that's identified is fisheries, and again, there
12 was going to be an operational guideline for that,
13 and that's clearly stated in the Wild Salmon
14 Policy as a major focus, correct?

15 The next page, please? Here is salmon
16 cultivation, and within here in that first
17 paragraph, you'll see there's both salmon
18 enhancement and salmon aquaculture. The risks
19 identified with both of those, and the effect on
20 wild salmon are discussed on this page and the
21 following page. If you scroll down a bit more,
22 you'll see there's two paragraphs there.

23 Now, both salmon enhancement and aquaculture
24 were going to be subject to operational guidelines
25 as well, right?

26 DR. RIDDELL: Yes.

27 Q Yes, okay. And the operational guidelines were
28 intended to ensure that each of those major
29 factors that could affect wild salmon were managed
30 in a way that was in keeping with the goals of the
31 Wild Salmon Policy, and I believe, Dr. Irvine, you
32 would agree to that, given your testimony
33 yesterday?

34 DR. IRVINE: Yes, that's true.

35 THE COMMISSIONER: Counsel, I note the time. Would
36 this be a convenient place to adjourn?

37 MS. GLOWACKI: Sure.

38 THE COMMISSIONER: Thank you.

39 THE REGISTRAR: The hearing is now adjourned until 2:00
40 p.m.

41

42 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

43 (PROCEEDINGS RECONVENED)

44

45 THE REGISTRAR: Order. The hearing is now resumed.

46 MR. WALLACE: Good afternoon, Mr. Commissioner. If I
47 might just interrupt for a moment, a couple of

1 housekeeping matters. As discussed this morning
2 with participants before we commenced the hearing,
3 I've asked people to be a bit flexible with time,
4 so I hope that people won't be inconvenienced if
5 we sit beyond the four o'clock this afternoon.

6 The other matter I'd like to deal with is
7 Exhibit 99 which was incorrectly marked yesterday
8 and the summary of anticipated evidence of Dr.
9 Riddell in another capacity was marked as opposed
10 to the one relating to his evidence and which we
11 addressed yesterday. So I think everybody was on
12 the same page. It was just that the exhibit is
13 incorrectly marked, so just for the record,
14 Exhibit 99 is the summary of anticipated evidence
15 of Dr. Brian Riddell with the date 16 November
16 2010. Thank you.

17 MS. GLOWACKI: Lisa Glowacki for the Aquaculture
18 Coalition.
19

20 CROSS-EXAMINATION BY MS. GLOWACKI, continuing:
21

22 Q Mr. Chamut, yesterday you were discussing the
23 broader decision to take -- to remove the
24 operational guidelines as a part of the policy
25 based on a decision that prescription wasn't
26 really -- wasn't the right way to go for the
27 policy, that it would be a broader framework of
28 principles. But I wanted to just confirm with you
29 that the decision to not go ahead with the
30 aquaculture operational guideline was on a
31 different basis perhaps. It happened before the
32 other operational guidelines were done away with
33 and perhaps for a different reason; is that your
34 understanding?

35 MR. CHAMUT: No, it's not. To be honest, I don't
36 recall that there was a sequence of decisions.
37 When I came out to the region in 2004, just at the
38 beginning, I spent the first amount of my time
39 just getting acquainted with some of the
40 literature and talking to some of the staff around
41 the Pacific Region and the decision that was taken
42 to -- not to go with operational guidelines --
43 I'll try to move over. That decision was one that
44 was taken sometime in the Spring after I had had a
45 chance to get together and work with the group for
46 a little bit, but I simply can't recall exactly
47 when that decision was taken.

1 And similarly, the same applies with
2 aquaculture. It wasn't as if we decided to do
3 away with operational guidelines and then, quote,
4 do away with aquaculture. I think there was --
5 you know, there was a decision that was taken that
6 it would be unproductive to try and develop these
7 sorts of decision rules and in my opinion, as I
8 said repeatedly yesterday, quite inappropriate and
9 I think the approach that was taken with the
10 policy is the right one.

11 With respect to aquaculture, the issue of not
12 having guidelines on aquaculture was really a
13 matter of saying okay, what is the logic of
14 including something specifically on aquaculture
15 which, as I said yesterday and I think Dr. Riddell
16 repeated today, it's one of many activities, human
17 activities, that can adversely affect wild salmon.
18 And so just from a logic point of view, it seemed
19 to us as a group that it made -- it made sense to
20 -- not to have anything prescriptive about
21 aquaculture but, as I say, I don't remember that
22 there was a -- any sort of a sequencing. I think
23 they all kind of, at least in my recollection,
24 they all kind of come together. But the key thing
25 for me on the aquaculture was the logic of why
26 would you single it out and not pay any attention
27 to things like mining or forestry or road
28 development or culverts and municipal development
29 and a host of a hundred other things that could
30 equally have some consequence for habitat or for
31 wild salmon.

32 Q Dr. Irvine, do you recall that the aquaculture
33 operational guideline was the first to be done
34 away with?

35 DR. IRVINE: No. My recollection is the same as Pat
36 Chamut's. There were proposed operational
37 guidelines for various activities in the 2002
38 draft and subsequent to that the decision was
39 made, as Pat Chamut has indicated, to exclude the
40 operational guidelines. But aquaculture was not
41 considered out of sequence. It was really whether
42 or not to have operational guidelines, not
43 specifically -- so aquaculture was not treated any
44 differently than any of the other activities.

45 Q I don't want to belabour this point, but could we
46 have document number 5, please?

47 MR. LUNN: From the aquaculture list?

1 MS. GLOWACKI: From my aquaculture list please, yeah.
2 And could we go to page 18?
3 Q So, you will see on the right first this is
4 setting out broadly the policy framework. I
5 should say it's a Wild Salmon Policy Conservation
6 and Management of Wild Pacific Salmon BCI. I
7 don't know what BCI refers to, but are any of you
8 familiar with this document?
9 MR. SAUNDERS: I'm familiar with it, yes.
10 Q Okay.
11 MR. SAUNDERS: I recognize the tacky stripe in the
12 middle there.
13 Q Okay. If we could go to page 18 then. So this is
14 November 5, 2003 and my only point here is on the
15 right side of the page where there was once four
16 operational guidelines, there's now three, and
17 aquaculture is no longer on the list. So to me,
18 it seems that at some point before that
19 aquaculture was dropped and before there was a
20 larger policy decision not to have a prescriptive
21 approach. Would you agree?
22 MR. SAUNDERS: I don't have a recollection of -- I
23 similarly recall things as guidelines in general.
24 Obviously there would have been a process there.
25 The BCI that you see on there refers to B.C.
26 Interior, so this would have been a deck for
27 perhaps a meeting with B.C. Interior staff, I
28 think. So it would have been in the middle of
29 process moving forward, but I don't recall --
30 sorry?
31 DR. IRVINE: I might just make one comment on that, if
32 I might. We quite often use the term
33 "cultivation", which included both enhancement and
34 aquaculture. I'm not sure in this case, but I
35 wonder whether somebody used the word
36 "enhancement" instead of "cultivation". But I --
37 I can't recall.
38 Q Okay. In past versions of the list, there were
39 enhancement and aquaculture separately.
40 MS. GLOWACKI: Could we have this document marked as an
41 exhibit, please?
42 THE REGISTRAR: Exhibit number 113.

43
44 EXHIBIT 113: Wild Salmon Policy,
45 Conservation and Management of Wild Pacific
46 Salmon BCI, November 5, 2003 - Draft - For
47 Discussion Purposes Only

1 MS. GLOWACKI:

2 Q Dr. Riddell and Mr. Chamut, you both emphasize
3 that the thinking was at some point, I think, in
4 2003 or 2004 that there's no reason -- or -- and I
5 think Mr. -- or Dr. Riddell, your words were it
6 would be dangerous to single out aquaculture as an
7 activity and you've both likened it to other
8 activities such as forestry and municipal
9 planning, et cetera, that can affect wild
10 fisheries, but is there not something different
11 about aquaculture? Does it not have a sort of
12 qualitatively different relationship to wild
13 salmon when you have 500,000-plus fish in several
14 hectares on a migration route for several years
15 and they're sharing habitat and food? I'm just
16 trying to understand the thinking of it as just
17 another activity. I'm curious.

18 DR. RIDDELL: Well, I think that it was obviously in a
19 public consultation process there's two sides to
20 most of these questions and many people felt that
21 the spatial signature of the farms was fairly
22 small and you'll recall at the time that this was
23 being developed that a lot of the debate was
24 really just picking up momentum and I think most
25 people did feel that there was no reason to single
26 out aquaculture as a major threat to wild salmon
27 that deserved its own principle or anything else.
28 It was seen as another utilization of the
29 environment that had risk to wild salmon and it
30 needed to be managed under its own appropriate
31 sort of set of guidelines and so on, but that it
32 was no different than the extent of forest impacts
33 on salmon throughout British Columbia in a much,
34 much larger scale and much longer time scales for
35 recovery and so on. Pollutants, we didn't
36 identify contaminants or pollutants and that they
37 have long-lasting impacts and have been in the
38 environment for many, many years. So not to say
39 that people are not concerned about aquaculture in
40 any sense, but you can certainly see that
41 arguments could be made that aquaculture is just
42 another one of the long list of impacts that
43 threaten wild salmon in the future possibly.

44 Q Okay. Was there a decision at some point to
45 remove aquaculture entirely or it was always the
46 intention to have it in there in some way over the
47 course of the discussions or the debate, I think

1 some of you have called it?

2 DR. RIDDELL: Well, I'm -- Mr. Commissioner, I can
3 address it. I don't recall there was ever any
4 discussion of removing it. It was putting it in
5 more of a perspective, I think, is maybe the way
6 to look at it. And it was always part of the
7 drafting and I think all the previous documents.
8 It was identified in the December 2004 and it
9 continued through to the final document.

10 MS. GLOWACKI: Okay. May I have document number 8 on
11 the Aquaculture Coalition's list, please?

12 THE REGISTRAR: Exhibit number 114.

13 MS. GLOWACKI: We haven't identified this.

14 THE REGISTRAR: Oh, I'm sorry.

15 MS. GLOWACKI: Yes. Sorry.

16 THE REGISTRAR: I'm sorry. I thought you asked for...

17 MS. GLOWACKI:

18 Q Mr. Chamut, do you recognize this email as one
19 written by you?

20 MR. CHAMUT: Yes, I do.

21 Q And it is dated April 7th, 2004 and addressed to
22 Susan Farlinger?

23 MR. CHAMUT: Yes, that's correct.

24 Q Okay. I'd like to go through the text of this and
25 I think it adds to -- I'm just trying to get at
26 the development and how we arrived at what the WSP
27 currently looks like for aquaculture. So you
28 start:

29
30 In previous discussion about the content of a
31 policy on wild salmon we have discussed how
32 to handle aquaculture. I have argued that we
33 should not highlight the aquaculture industry
34 as a key "threat" to wild salmon that
35 deserves special attention, and have
36 generally opposed any specific discussion of
37 aquaculture. I recently attended the annual
38 meeting of the BC Aboriginal Fisheries
39 Commission, and my views on how to handle
40 aquaculture in the WSP context have been
41 "shaped" by the experience. It has become
42 clearer that we should not just ignore
43 aquaculture, but need to address the very
44 visceral opposition to it by many First
45 Nations.

46
47 And you go on:

1 I intend to find a place to include a brief
2 discussion on aquaculture by describing the
3 existing policy (ie that aquaculture is a
4 sustainable industry that if properly sited
5 and regulated will not have adverse
6 effects...)

7
8 So I'm not sure if you have any comments on it.
9 To me that looks like you, at least, thought that
10 you shouldn't discuss aquaculture at all, but then
11 changed your mind in light of the First Nations
12 comments.

13 MR. CHAMUT: Well, I don't think you can necessarily
14 infer that I -- that I didn't want to see the word
15 "aquaculture" appear in the policy. I mean, if
16 you go back, you'll see that in fact it did occur.
17 I was very much opposed to having aquaculture
18 flagged as we discussed because it's really --
19 it's one of many potential threats to wild salmon.
20 I don't think you can read into this -- I mean,
21 the difficulty in these emails are oftentimes
22 drafted very quickly and, you know, in looking at
23 them in hindsight you can maybe draw some
24 inferences that I don't think are necessarily
25 correct. I didn't mean to say that we would never
26 discuss aquaculture, but I did intend to say it's
27 been my position that we would not provide any
28 particular emphasis on aquaculture as a key
29 threat.

30 The meeting that was referenced here was one
31 that I attended in I think it was North Vancouver
32 and it was the annual B.C. Aboriginal Fisheries
33 Commission, and I was quite taken by the amount of
34 animosity that was expressed by First Nation
35 representatives to aquaculture and I though based
36 on that that we needed to have some additional
37 focus on aquaculture, just essentially discussing
38 aquaculture and how the department views
39 aquaculture and how it, in fact, regulates
40 aquaculture. I didn't want it to be something
41 that was ignored. I wanted to be able to say
42 here's the issue and here's how the department
43 views it and here, in fact, is how it's handling
44 it.

45 So, I mean, as I say, it was a fairly quick
46 email and one that intended -- I was intending to
47 try and get some additional information so that we

1 could, in fact, provide some sort of a brief
2 discussion about aquaculture from the context of
3 departmental policy that was emerging and the
4 regulation of that sector by the department, just
5 to provide some reference to that to deal with
6 some of the concerns being expressed by First
7 Nations.

8 Q Would you agree with me that this April 2004 was
9 the beginning of, I guess, a drafting process
10 dedicated to the aquaculture section? Do you
11 recall that?

12 MR. CHAMUT: It was -- once it was flagged, I did get
13 some -- I believe I got some information from Sue
14 Farlinger which I used to draft some of the
15 statements that appear -- actually appeared in the
16 2004 December version of the policy and I think
17 some of it survived into the final version. And
18 it's part of that so-called boxed item that I
19 think it appeared on page 31 of the final version
20 of this -- of the policy. So it discussed the
21 general approach. It referred to the aboriginal
22 -- aquaculture policy framework and it talked
23 about CEA and departmental regulations and siting
24 reviews and the like.

25 Q Thanks. What was Sue Farlinger's position at this
26 time, do you recall?

27 MR. CHAMUT: I believe at the time she was the director
28 of a group, was it called Habitat and Aquaculture
29 or -- Oceans and Habitat Management, and I believe
30 that part of her responsibility included the
31 aquaculture file, but I -- I could be wrong on
32 that recollection, but that was presumably, I
33 mean, I'm reasonably sure that was why I wrote to
34 her.

35 Q Okay. Now, I just wanted to go to the second-last
36 full line:

37
38 Finally, you owe me one for representing the
39 interests of the aquaculture sector in your
40 regrettable absence from the BCAFC meeting.
41 I can assure you that is a debt not easily
42 repaid!

43
44 I gather they gave you a hard time but do you
45 recall what it meant to represent the interests of
46 the aquaculture sector at that meeting?

47 MR. CHAMUT: It meant specifically that as a -- I was

1 the senior departmental representative at that
2 meeting. There was a lot of concerns and
3 criticisms that were directed at the aquaculture
4 industry and indeed at the department. I was
5 probably about the only one there that was -- that
6 was in any way familiar with what was going on in
7 -- with respect to the aquaculture policy
8 framework and so I simply explained what -- how
9 the aquaculture was regulated and tried to provide
10 some response to First Nations that were making a
11 number of claims about aquaculture and how it was
12 adversely affecting them. I didn't in any way, if
13 you're suggesting that I defended the aquaculture
14 industry by touting its value and economic
15 contribution, I simply was there as a departmental
16 representative explaining how aquaculture is
17 managed and regulated and responding to some of
18 their specific concerns that were being expressed
19 and that's all that that means.

20 Q And their concerns were that aquaculture was a
21 threat to the wild salmon, or...?

22 MR. CHAMUT: No, actually, most of it as I recall, and
23 I -- again, this goes back five years, but I
24 recall there being a number of concerns about
25 contaminated shellfish beds, which is of
26 particular importance to many First Nations
27 because of the importance of shellfish for their
28 own food needs. There were concerns about habitat
29 degradation in the area of farms and I wouldn't be
30 surprised that there were concerns about
31 interactions with salmon, but that -- I don't
32 recall anything particularly focused on salmon.
33 The one memory that I do have is the large amount
34 of concern that they expressed about shellfish
35 beds. That, to me, is the one that I do recall.
36 But --

37 Q Mm-hmm.

38 MR. CHAMUT: -- if you check the minutes of the meeting
39 you may -- I mean, you'll find probably there's a
40 broad range of concerns but that's the one that
41 particularly stuck with me six years later.

42 Q Okay. I think I took from the fact that you were
43 affected enough by their visceral reaction to
44 aquaculture in the context that you would need to
45 address it in the WSP, that there would be some
46 concerns regarding its effect on wild salmon,
47 but...

1 MR. CHAMUT: Well, I knew that First Nations would be
2 looking for something like -- like at least a
3 recognition of aquaculture and I felt it would be
4 very prudent in the policy to include some of the
5 statements that we did.

6 MS. GLOWACKI: Okay. Thank you. Could you put -- oh,
7 can we mark that as an exhibit first, please?

8 THE REGISTRAR: Exhibit 114.
9

10 EXHIBIT 114: Email from Pat Chamut to Susan
11 Farlinger dated April 7, 2004 Subject:
12 Sustainable Aquaculture
13

14 MS. GLOWACKI: Mr. Lunn, could you put up document
15 number 26 from the aquaculture list, please?

16 Q Mr. Chamut, again this is an email from you
17 directed to Susan Farlinger and it's dated April
18 20th, 2004; can you identify that as your email?

19 MR. CHAMUT: Yes, that's mine.

20 Q I don't want to spend very much time here, but I
21 just want, if you could agree with me that this is
22 the first draft of what would become the
23 aquaculture section in the WSP. I can read
24 through it if you like, but --

25 MR. CHAMUT: Oh, don't -- please don't do that.

26 Q Okay.

27 MR. CHAMUT: No, I -- I drafted something based on some
28 information that I had received, I think, from
29 Sue, and what I was doing was trying to put
30 something together that would be included in the
31 Wild Salmon Policy and it was -- obviously it went
32 through a number of iterations but something of
33 that nature did appear in the policy that was
34 released in December of 2004.

35 Q Okay. Thanks. And so you agree this is the first
36 draft?

37 MR. CHAMUT: Yeah.

38 Q Just the first sentence which is directed to Mark
39 Saunders.
40

41 We have spoken about the need to have a
42 reference to aquaculture development in the
43 WSP and the general consensus seems to be
44 that it be best be placed...
45

46 Et cetera, et cetera.
47

1 I have drafted something that I hope will be
2 useful in deciding what we need to say about
3 aquaculture and where to stick it.
4

5 From that I take it it's the first draft, right?
6 Mr. Chamut? Mr. Chamut, do you agree?

7 MR. CHAMUT: Oh, I'm sorry.

8 Q That's okay.

9 MR. CHAMUT: I thought it was directed at Mark
10 Saunders.

11 Q No, I'm sorry.

12 MR. CHAMUT: Yeah, no that is the first draft, yeah.

13 Q Okay. Thank you. And, Mr. Chamut, you refer to a
14 drafting process that happened over -- there was
15 many iterations over the course of a year. I just
16 wanted to go to one or possibly two more moments
17 in that drafting process. And I think I will
18 direct my question to Dr. Riddell.

19 Earlier in your examination by Clifton Prowse
20 for the province, you said that -- I'm not putting
21 words in your mouth but this is generally that in
22 the drafting of the policy, the province wasn't
23 involved --

24 MS. GLOWACKI: Pardon me. I've just -- can we mark
25 that last email as an exhibit, please?

26 THE REGISTRAR: One hundred and fifteen.

27 MS. GLOWACKI: Thank you.
28

29 EXHIBIT 115: Email from Pat Chamut to Mark
30 Saunders and Susan Farlinger dated April 20,
31 2004, Subject: Aquaculture Development
32

33 MS. GLOWACKI:

34 Q Okay. Back to my question, that the province
35 wasn't involved in the drafting, but I just wanted
36 to be clear that at least in relation to
37 aquaculture, the perspective of the province was
38 taken into consideration; would you agree with
39 that? Dr. Riddell?

40 DR. RIDDELL: Well, Mr. Commissioner, I'm not sure I
41 would because we were drafting it, as I explained
42 earlier, really from a higher level, that we were
43 looking at what is required to successfully
44 sustain wild Pacific salmon in the future under
45 all sort of human-induced pressures. And that --
46 definitely the province was at that time directly
47 involved in the siting and the management and so

1 on, but there was -- since we were really
2 including aquaculture as we've discussed was one
3 of the pressures, we didn't get into a great deal
4 of the detail of the management of aquaculture as
5 one use of the natural environment.

6 Q Do you or any of the panel members recall the
7 province's position about the treatment of
8 aquaculture being to minimize the treatment?

9 DR. RIDDELL: Just for clarification, do you mean
10 minimize the treatment in the Wild Salmon Policy?

11 Q In the Wild Salmon Policy, yes.

12 DR. RIDDELL: No, I have no personal recollection of
13 them ever seeking a -- I wasn't part of such a
14 discussion if it ever occurred.

15 MS. GLOWACKI: Mr. Lunn, could you put document number
16 16 from my list up, please?

17 Q These are meeting notes from the Pacific Fisheries
18 and Aquaculture Committee working group meeting of
19 March 11th, 2005. I put these up recognizing that
20 none of the panel members were in attendance here,
21 but I would just like to -- so I'm not going to
22 ask you to -- well, first I should ask, are any of
23 you familiar with these meeting minutes?

24
25 (NO AUDIBLE RESPONSE)

26
27 MS. GLOWACKI: Okay. Could I go to point number 3,
28 update on Wild Salmon Policy, please, including
29 the decisions part. Thanks.

30 Q You've seen the last bullet above "Decision". It
31 says:

32
33 B.C. expressed concerns about stakeholder
34 references to the B.C. Wild Steelhead Policy
35 and the effects of aquaculture on wild salmon
36 habitat and it felt that the metric used by
37 the B.C. Auditor General would be more
38 appropriate.

39
40 And then in the decision part it says:

41
42 DFO will request Wild Salmon Policy drafters
43 provide a more balanced reference to habitat
44 impacts, so it does not focus on just
45 aquaculture.

46
47 And that's in relation to the Wild Salmon Policy.

1 So am I to understand that none of you were aware
2 of that?

3 MR. CHAMUT: I certainly don't recall getting any
4 direction or advice from Murray Hobbs (phonetic)
5 about how to deal with aquaculture.

6 Q Nor Sue -- pardon me.

7 MR. CHAMUT: I'm sorry?

8 Q Sue Farlinger was also at this meeting, so I'm
9 just wondering if she may have communicated that?

10 MR. CHAMUT: I don't specifically recall. But I would
11 make one comment. This -- this was dated, you
12 said, May -- March --

13 UNIDENTIFIED VOICE: 7th, 2005.

14 MR. CHAMUT: 2005?

15 MS. GLOWACKI:

16 Q March 11th, yes.

17 MR. CHAMUT: Okay. I just want to be clear. It's --
18 it would not be -- it was not a surprise, or at
19 least not -- it's not something we were unaware of
20 that B.C. was obviously interested in aquaculture
21 and what the Wild Salmon Policy might say or do
22 about aquaculture, because elsewhere I recall
23 having in the lead-up to the -- well, actually in
24 the lead-up to the release of the Wild Salmon
25 Policy that was out on December 17th, 2004 there
26 were meetings that were held with various groups
27 to brief them on the Wild Salmon Policy and I met
28 with representatives of B.C. before the December
29 17th release and went through the Wild Salmon
30 Policy with them and at that point they did take a
31 look at a couple of particular issues. The
32 representatives were mostly concerned about
33 aquaculture, as I recall, and steelhead. And
34 they, I think, were generally satisfied with the
35 December 17th draft in terms of how both those
36 issues were handled.

37 So it was not -- I mean, the fact that B.C.
38 had an interest in aquaculture was not a big
39 surprise, and this reference here is not the first
40 time that that issue would have been -- would have
41 been raised.

42 MS. GLOWACKI: Thank you. May I have that document
43 marked as an exhibit, Mr. Commissioner? It hasn't
44 been identified specifically so I'm not sure how
45 to proceed here. My alternative suggestion would
46 be to mark it as an exhibit for identification and
47 when Sue Farlinger is on the panel to have her

1 identify it.

2 MR. HOPKINS-UTTER: If I may, Mr. Commissioner, I would
3 have to object to it being identified as an
4 exhibit at this point and I believe it can be put
5 to Sue Farlinger as the panellists have said they
6 have no recollection of this and were not present
7 at the meeting.

8 THE COMMISSIONER: Yes, thank you. I think it is
9 appropriate to mark it for identification
10 purposes. It'll be given the next letter.

11 THE REGISTRAR: P for the next exhibit.

12 THE COMMISSIONER: Thank you.

13
14 EXHIBIT P FOR IDENTIFICATION: Meeting notes
15 from the Pacific Fisheries and Aquaculture
16 Committee working group meeting of March
17 11th, 2005
18

19 MS. GLOWACKI: Mr. Lunn, could you put document number
20 17 on the screen, please?

21 Q So this is shortly after the meeting, it's March
22 21st, 2005. By me saying it's shortly after, I
23 don't mean -- I don't suggest that it is a direct
24 result of that meeting, but it's an email from Dr.
25 Riddell to various people, including Sue
26 Farlinger, Pat Chamut, Andrew Thompson, Mark
27 Saunders.

28 Dr. Riddell, can you identify this email as
29 written by you?

30 DR. RIDDELL: Yes, I can.

31 Q Okay. So I gather at this point when the email
32 was written -- we're getting fairly close to the
33 finalization of the aquaculture statement and the
34 Wild Policy -- Wild Salmon Policy generally, but
35 there's still some ongoing discussion about what
36 to -- the wording, so here you say -- there's talk
37 of a meeting and you say:

38
39 Unfortunate that Andy will be away but we
40 will need to address in early April when Jim
41 is back also. I think that our initial
42 approach to aquaculture is the correct
43 handling, but with some details added. I
44 still believe that we do not want to profile
45 (target) aquaculture as it is just another
46 source of risk to the natural populations. I
47 think what people may have wanted is...

1 And you list the three elements that you think
2 should be in the Wild Salmon Policy, a statement
3 that conservation is first; a regulatory
4 framework; and an explanation of aquaculture with
5 CU's.

6 And it's the next line that I just wanted to
7 go to:
8

9 Any thing (sic) more would likely not be well
10 received by the Province of aquaculture
11 industry.
12

13 And so I guess here I just want to ask again
14 whether the position of the province influenced
15 how DFO drafted this statement. To me, when I
16 read that, it suggests that it was in your mind.

17 DR. RIDDELL: Well, I'm trying to recall if this was
18 written after the first full consultation. Yes.
19 Yes, so now between what you just pointed out
20 previously and this, we would have had our first
21 full multi-stakeholder consultation which was two
22 days of very fulsome discussions and a day before
23 with First Nations about the current draft and
24 getting a sentiment back in terms of what the
25 balance of the overall document was and whether we
26 had the wording correctly stated. As I say, I
27 have no recollection of ever being directed within
28 the department about the weight that we were
29 putting from the province on aquaculture, so this
30 would reflect my personal statement at the time.

31 Now, saying that though, you should recognize
32 that I returned to the government in April 2004
33 and because of the debate that was in the
34 Broughton Archipelago at the time, I maintained
35 responsibility for the effect of aquaculture on
36 wild salmon within my division, which was Pacific
37 salmon and freshwater habitats. The intention of
38 doing that is to protect wild salmon against the
39 perceived threats that people were talking about
40 in terms related to open sea-pen aquaculture.
41 Right? So there's not any surprise to me that we
42 were aware of the sort of balance we were trying
43 to deal with in accomplishing the completion of
44 the policy and that. And as I say, we were trying
45 to treat all parties fairly at this point in a
46 national policy document.

47 Q Yesterday, Mr. Chamut, you discussed some

1 outstanding concerns or ongoing concerns
2 throughout the development of the Wild Salmon
3 Policy and I believe you agreed that aquaculture
4 was one concern that was expressed throughout the
5 period of the development of the policy and it
6 remained an outstanding concern when the salmon
7 policy was passed or adopted rather; is that --
8 would you agree with that summary?

9 MR. CHAMUT: Well, I don't think I can -- I don't think
10 that it would be appropriate for me to agree fully
11 because I'm -- you're implying that there was a
12 large amount of internal dissatisfaction after the
13 policy was concluded and I don't think that is the
14 case. Aquaculture -- like, there's a number of
15 issues in the Wild Salmon Policy that did bounce
16 around, went back and forth through the course of
17 the development of that policy. As you've
18 highlighted, there were -- you know, there were
19 differing considerations, there were different
20 efforts to try and put together something that we
21 felt would be an appropriate approach to
22 aquaculture that would, you know, be consistent
23 with what the department was doing and also would
24 be consistent with what we were trying to do
25 within the Wild Salmon Policy.

26 And so if you -- I would agree that we did
27 go, you know, back and forth and around the issue
28 in various ways to try and put together something
29 that we felt was the most appropriate balanced and
30 responsible statement that we could put in about
31 aquaculture and that was probably crystallized,
32 oh, probably more -- quite near the end of the
33 whole development process, and resulted in the
34 statements that are currently in the policy now.
35 But I don't think anyone sort of at the end of it
36 went away feeling that we'd -- that we'd somehow
37 made a grievous error. I think everyone was
38 generally satisfied that we'd done a good and
39 reasonable approach to dealing with that issue.

40 Q When you say everyone, you mean everyone in the
41 department or...?

42 MR. CHAMUT: I certainly would mean everyone in the
43 department. I don't mean to imply that -- there
44 may have been other -- in fact, there were other
45 groups that felt that a more prescriptive
46 approach, where aquaculture would have been
47 treated far differently, there were groups that

1 certainly expressed that and I shouldn't imply
2 that that wasn't the case, but within the
3 department, as we went through the process of
4 finalizing the document and the extensive reviews
5 that we took both within the region and through
6 the Departmental Management Committee and
7 headquarters in Ottawa, there were fine-tunings
8 and tweaks and, you know, right up to the -- right
9 up to the end of the -- of the finalization of the
10 policy and I think at the end of it, I think
11 everyone within the department was quite
12 satisfied.

13 MS. GLOWACKI: Could I please mark the last email -
14 again, I was remiss - as the next exhibit? And
15 that was the March 21st, 2005 email?

16 THE REGISTRAR: One hundred and sixteen.

17
18 EXHIBIT 116: Email from Brian Riddell to
19 Andrew Thomson and others dated March 21,
20 2005 Re: WSP Meeting Locations Confirmed
21

22 MS. GLOWACKI: And then finally can you call up Exhibit
23 94, please, Mr. Lunn?

24 Q And this is a memo for the minister. Yesterday, I
25 believe Mr. Saunders you said that you had a hand
26 in drafting this? Do you recall that?

27 MR. SAUNDERS: I'm not -- can you scroll down a little
28 further? I -- given the timing on it, I would say
29 -- yeah, if you can just keep going down to the
30 bottom. Yeah, I... I may have had -- contributed
31 to it, but I don't know that it was -- that I was
32 the lead author or sole author on it.

33 Q Okay. Do you recognize this document?

34 MR. SAUNDERS: Can you go back up to the top again,
35 please?

36 Q My understanding is really the memo to the
37 minister right before the Wild Salmon Policy was
38 adopted and the department is recommending to the
39 minister that it is in final form and ought to be
40 adopted.

41 MR. SAUNDERS: Honestly, I don't recognize --

42 THE COMMISSIONER: Mr. Timberg?

43 MR. SAUNDERS: -- that as my writing.

44 MR. TIMBERG: I'm just wondering if the -- I note that
45 the document has a number of other attachments
46 that go further on. Perhaps the witness could be
47 provided the opportunity to review that.

1 MS. GLOWACKI: Well, I just -- okay. In the interests
2 of time, I don't think that we need to go through
3 -- this has already been entered as an exhibit and
4 I just want to go to a statement on the first
5 page.

6 MR. TIMBERG: In the interests of fairness to the
7 witness, though, I suggest that he should be
8 entitled to see the entire document.

9 MS. GLOWACKI: Can we go to the sentence that I want to
10 go to and then if he doesn't think it's fair to
11 see the whole document then he can go further in?
12 It's a relatively simple point.

13 Q You'll see the second bullet, it says:

14
15 Following the consultations in April, three
16 concerns regarding the policy had not been
17 addressed. First, many participants were
18 critical of the approach to the regulation of
19 aquaculture, and advocated more rigorous
20 controls be imposed.

21
22 And we don't need to read the rest of that. And
23 then the next bullet:

24
25 The Department has been asked to consider
26 additional consultation with the ENGO's.
27 Further consultation is not advisable.

28
29 And then the final paragraph or bullet is:

30
31 It is recommended that the Wild Salmon Policy
32 be adopted...

33
34 So my only point that I am interested in the
35 opinion of the panel or the agreement of the panel
36 is that aquaculture and the desire for more
37 rigorous control of it was an outstanding issue at
38 the time the Wild Salmon Policy was passed.

39 Mr. Saunders, would you agree?

40 MR. SAUNDERS: I don't -- I don't recognize this as my
41 writing. I don't think this would have been
42 something that would have gone up from my level.
43 My recollection is that there was -- was mainly
44 around the prescriptive piece. I don't in
45 particular remember a statement around
46 aquaculture.

47 Q So none of the panellists recall that -- whether

1 aquaculture was an outstanding concern? Yes, Mr.
2 Chamut?

3 MR. CHAMUT: What you've got here is a memo that went
4 to the minister. There's another one that
5 preceded this, that as I recall there was -- it
6 basically did most of the same as what's here.
7 And at the time, the department was providing
8 advice to the minister on Wild Salmon Policy. We
9 had recently concluded the last bits of our
10 consultation which I think occurred in -- at the
11 end of April and this memo essentially summarizes
12 where we ended up at the end of those
13 consultations and it summarizes in the summary
14 box, it does indicate that it confirms to the
15 minister that there was not unanimous approval or
16 agreement about all of the details of the Wild
17 Salmon Policy and it indicates that there were
18 probably three main areas where people were going
19 to express concern: one was about aquaculture -
20 that did come up in our consultations; secondly,
21 particularly the environmental groups thought a
22 policy that was more prescriptive, and they didn't
23 like some of the provisions that provided some
24 discretion to the minister; and thirdly, a number
25 of groups were concerned about whether the
26 department had the appropriate resources for
27 implementation. So that's summarized there.

28 The -- I think the important thing is that
29 the -- what we had done was gone through a process
30 and although our objective would have -- it would
31 have been desirable to have unanimous consent, it
32 proved to be elusive and we felt that if we were
33 to make any changes in the policy at that point,
34 in case -- in the case that you're particularly
35 interested in with respect to, for example,
36 aquaculture, then we would have been in
37 essentially a zero sum game where we might have
38 accommodated some concerns but we would have
39 raised a whole host of others. And in the
40 judgment of the department and on the advice that
41 was provided to the minister, we felt that the
42 policy that was put forward had the support of a
43 large number of groups. Some groups were
44 concerned and opposed to parts of it, but we felt
45 on balance if we started to either engage in more
46 consultation or we tried to find ways to
47 accommodate the outstanding concerns, that the

1 whole thing was going to unravel. So that's
2 basically what this memo is about.

3 Q Okay. Thank you. I just have one final question
4 then. So we end up with a department being
5 satisfied and I understand that you are each still
6 satisfied with the approach adopted for the
7 treatment of aquaculture and that is, if I could
8 summarize, to describe it as akin to other human
9 activities that may pose a risk to wild salmon,
10 and to highlight the department's efforts at
11 regulating aquaculture and to assure the public
12 that aquaculture would be regulated, in keeping
13 with the goals of the Wild Salmon Policy; is that
14 a fair summary, Dr. -- yes, Dr. Riddell?

15 DR. RIDDELL: Yes, I think that's a fair summary. I
16 might point out that we've talked a lot about
17 guidelines and operational advice. I mean,
18 there's nothing in the Wild Salmon Policy that
19 prohibits the department from writing more
20 specific guidelines on any one of these particular
21 topics we're talking about and that, and I think
22 that's what's evolved since this time.

23 Q Right.

24 DR. RIDDELL: But within the broad policy.

25 Q Okay. So the regulatory part of it, you'd agree
26 with me that at the time of the Wild Salmon Policy
27 being passed, there was no federal aquaculture
28 regulations, correct?

29 MR. CHAMUT: I may be misspeaking. I'm going back a
30 number of years. I believe there were regulations
31 in place dealing with aquaculture, but my
32 hesitation is just I'm really finding that my
33 memory is failing on me, and I -- but I would be
34 quite reluctant to say there were no regulations.
35 I know that the department did regulate
36 aquaculture in terms of siting and a variety of
37 other things that were in place, and I think they
38 had fish health regulations that would have been
39 in place at that time, so there were -- there were
40 regulatory mechanisms in place that the department
41 had, but I'd be hard-pressed to tell you exactly
42 what they were.

43 Q All right. So there's nothing on page 31 of
44 Exhibit 8 that refers to a regulation specifically
45 directed at aquaculture, maybe that's more
46 tangible. Are you aware that the federal
47 government is currently in the process of

1 developing aquaculture regulations for the
2 province now?

3 MR. CHAMUT: No. I've been retired for six years and
4 one of the things that I cheerfully left behind
5 was concern about the regulation of aquaculture
6 and the status of government efforts to do that.

7 Q Okay.

8 MR. CHAMUT: Thank you.

9 Q Has any other panellist?

10 MS. GLOWACKI: I assure you, Mr. Wallace, I am at the
11 very end of my questioning.

12 MR. WALLACE: Okay.

13 MS. GLOWACKI: I'm trying to get --

14 MR. WALLACE: Well, the question relates to what's
15 going on now with respect to the regulations of
16 aquaculture. I don't see how that affects the
17 development of the Wild Salmon Policy up to 2005.

18 MS. GLOWACKI: Only that Mr. Chamut wasn't clear
19 whether there was, in fact, aquaculture
20 regulations at the time the policy was passed.
21 But that's okay.

22 Q My understanding, and it's highlighted here, the
23 one section that's highlighted is Section 35 of
24 the **Fisheries Act** as the regulatory tool of the
25 department. Perhaps we could call up Exhibit 8,
26 page 31, please. In the fourth paragraph:

27
28 All fish farm sites must undergo a review for
29 potential habitat effects...

30
31 And I only highlighted that because it appears to
32 be the actual piece of federal legislation that's
33 -- Fisheries, DFO legislation, that is referred to
34 in here and I --

35 MR. WALLACE: Mr. Commissioner, I'm not sure what Ms.
36 Glowacki is seeking here, but if it's an
37 interpretation of the statute, I think that would
38 be an inappropriate question. The Act and the
39 state of regulations is what it is.

40 MS. GLOWACKI: I guess my line of questioning for the
41 panel here is that these are the people who
42 drafted this section and part of it was they
43 decided to describe it as another activity and one
44 which was regulated by the department and just
45 decided just to describe how, in fact, the
46 department does regulate aquaculture, and so I
47 wanted their understanding of the effectiveness or

1 the completeness of federal regulation. But I
2 believe that we can get into that on another day,
3 so I will leave my questioning there. Thank you.

4 MR. WALLACE: Thank you, Ms. Glowacki. The next
5 participant on the list is the Conservation
6 Coalition.

7 MR. LEADEM: Leadem, initial T., appearing on behalf of
8 the Conservation Coalition.

9

10 CROSS-EXAMINATION BY MR. LEADEM:

11

12 Q I want to begin by addressing an issue about the
13 internal tension that existed within the
14 department around the process that led up to the
15 development and eventual promulgation of this
16 policy. And I want to do that by examining what
17 you each had to say about that in your précis of
18 evidence.

19

I'll start with you, Dr. Riddell. Exhibit
20 99, please? And page 2 of that, if we have the
21 right one now, the second bullet down under WSP
22 development from 2001 to 2005:

23

24 He can generally describe DFO's efforts to
25 develop operational guidelines to support the
26 draft WSP. He will say that fisheries
27 managers were very hesitant and concerned
28 with implementing the WSP without operational
29 guidelines.

30

31 Was that your recall of the discussion that you
32 were privy to at the time, Dr. Riddell?

33 DR. RIDDELL: With the qualification that that section
34 is referring to the time when I was away and
35 outside most of the main discussion, the
36 developing of the policy, and the only sort of
37 access I had to that was a couple of the public
38 meetings, a couple of the meetings with ENGO's and
39 my knowledge of it was a tension within the
40 department between science and fisheries
41 management, which I think other panel members
42 referred to yesterday.

43

44 Q Yes.

45 DR. RIDDELL: And it had to do really with the policy
46 being a very broad consideration at a pretty high
47 level, when you're an in-season manager. And so
people were concerned about what it meant when you

1 actually applied it in-season in managing
2 fisheries and that. And there was a tension
3 internally in a sense of managers not wanting to
4 buy into something they didn't really fully
5 understand how they would implement.

6 Q Right. They wanted to know what the bottom line
7 was in terms of how the fishery would be operated
8 from year to year; is that fair to say?

9 DR. RIDDELL: That's fair to say, yes.

10 Q Mr. Saunders, you characterized this tension this
11 way, if I can ask you to turn to Exhibit 101 which
12 is the précis of your evidence and the fourth
13 bullet down under the heading "Development of the
14 Wild Salmon Policy Development Team", you say:

15
16 In particular, he will say that there was
17 tension between Science staff, who wanted a
18 more prescriptive policy, and FAM who wanted
19 a management framework that was practicable
20 and flexible with the ability to consider
21 social and economic factors in setting
22 management objectives.

23
24 FAM stands for Fisheries Aquaculture Management,
25 does it not?

26 MR. SAUNDERS: That's correct, yes.

27 Q And does that accord with your understanding of
28 the tension that existed at the time?

29 MR. SAUNDERS: Yes, that correctly reflects the tension
30 when I arrived, at least in my opinion, in April
31 of 2003.

32 Q Yeah. And you go on to say in your précis that:

33
34 ...some Science staff saw the role of Science
35 as identifying conservation limits to harvest
36 activities and the role of FAM as
37 implementing those limits, without
38 integration between the sectors.

39
40 And that was the tension between the fisheries
41 aquaculture management and the science team at the
42 time, was it not?

43 MR. SAUNDERS: Yes. That's how I characterized it,
44 yes.

45 Q And finally, Dr. Irvine, if we can turn to Exhibit
46 103 and the second page the seventh bullet down
47 beginning with the sentence:

1 He will say that, as of 2002, WSP development
2 was led jointly by Policy and Science
3 branches within DFO. He will say that FAM
4 subsequently expressed concern that
5 operational guidelines would formalize
6 decision-making rules.
7

8 And then:
9

10 ...in 2003 and 2004, the direction shifted
11 focus towards avoiding an overly prescriptive
12 approach to those activities.
13

14 That accords with your information and knowledge
15 at the time, does it not?

16 DR. IRVINE: Yes, it does, although perhaps I could
17 elaborate a little bit. As I indicated yesterday,
18 it was at about this time that the overall
19 direction of the policy shifted away from one that
20 was strictly Science Branch to involving Policy
21 Branch that took over the lead or at least shared
22 the lead within Science Branch. It was also at
23 about this time that we really recognized
24 internally at least those of us within science
25 that -- of the importance of non-scientific
26 factors in the decision-making process. And so it
27 would be -- you could develop operational
28 guidelines from a scientific perspective, but as
29 soon as you have to incorporate social and
30 economic concerns, then it becomes a far more
31 complicated issue to deal with, and that, as we
32 discussed yesterday, is basically why we -- or
33 part of the reason why we shifted away from this
34 prescriptive approach with operational guidelines.

35 Q I fully appreciate that's what you came to and
36 that was -- you put that into a publication,
37 Exhibit 96 in these proceedings, I believe, but I
38 suggest to you that if science had its way with
39 respect to the WSP we would be having more
40 prescriptions involved, so that we would actually
41 approach it from a biological perspective; is that
42 fair to say?

43 DR. IRVINE: Well, science is quite a big term. You
44 know, it's like law, you know, there's quite a
45 range of opinion within scientists, as there are
46 within lawyers, I would imagine, on a variety of
47 issues. But it's really the separation of, as I

1 said yesterday, natural science and social
2 science. If one is strictly concerned about the
3 biological issues pertaining to the status and the
4 survival of populations, it's relatively easy to
5 do.

6 However, Fisheries and Oceans Canada is more
7 than science. We have to manage the resource, we
8 have to incorporate all these other concerns in
9 the management of the resource. So I don't think
10 you can say that science would do it one way, you
11 know. I think that it's -- if you look at it
12 strictly from a conservation biology perspective,
13 you would come up with one set of conclusions, but
14 our job is more than that.

15 Q And I suppose it comes down to this, that in a
16 very real sense this tension contributed to some
17 of the delay in terms of getting this policy out
18 the door; isn't that right, trying to work through
19 the process internally?

20 DR. IRVINE: Well, certainly that's true, and I think
21 the end result was a far more powerful policy.

22 Q But it also strikes me that what gave way in this
23 case is that the scientists who originated the
24 policy, who originally said we should have
25 prescriptive measures taken in order to conserve
26 the salmon, gave way to the management sector
27 which said well, wait a minute, we've got to
28 consider socioeconomic details. And that's what
29 interests me, how do you resolve that type of
30 internal conflict?

31 DR. RIDDELL: Mr. Commissioner, maybe I can comment
32 that I don't think it's accurate to -- you're
33 probably referring to Science Branch, not so much
34 as science.

35 Q That's correct. Yes, and the scientists.

36 DR. RIDDELL: And the scientists in the Stock
37 Assessment Branch with the Salmon Division, but
38 those people are also experts in sustainable use
39 and that, so the first mandate, and this came up
40 earlier today, that you can't have sustainable use
41 without sustained resources, and conservation
42 comes first in terms of having a healthy natural
43 resource base.

44 That's the fundamental -- that's the
45 fundamental goal of the Wild Salmon Policy, so
46 that you have a healthy resource base upon which
47 that you can have multiple uses, not just fishing,

1 but fishing, of course, is one of the prime
2 assignments of the stock assessment program, as
3 well. We are, in stock assessment, required to do
4 the evaluations of the status of the resource and
5 to make recommendations to management about the
6 sustainable rate of use that could be applied in a
7 particular year and that.

8 So I don't think it's fair to say that
9 scientists were all simply conservation only. It
10 is about establishing a conservation policy that
11 will sustain the natural resources, in this case
12 the Pacific salmon, and at the same time to do
13 assessments to advise managers on appropriate
14 rates of harvest and to look at how you would make
15 judgments because not all populations, or in our
16 case CU's will be at the same status all the time.

17 And the worst case scenario now we have some
18 that are very depressed, like Sakinaw sockeye and
19 Cultus Lake sockeye. We have others that are very
20 abundant. So how do you limit the harvest rates
21 so that you can sustain the depressed populations
22 and still have some level of harvest? All of that
23 requires science and evaluation. But it's not
24 true that we are completely removed and only
25 concerned about conservation.

26 Q No. I appreciate that, Dr. Riddell. But I want
27 to come back to the focus of my question, which is
28 more on process than it is on substance. And if
29 you have internal debate in different sectors of
30 the department, how do you go about resolving
31 that? Do you have some mechanism? Do you have
32 some mechanism such as mediation or some
33 arbitration mechanism where you can actually knock
34 heads and come to some resolution prior to just
35 stretching this out for years until you actually
36 satisfy the debate by relentlessly going over and
37 over it again? Mr. Saunders?

38 MR. SAUNDERS: Yeah, I think I spoke to it earlier in
39 some fashion, but I think the resolution to the
40 tension comes into collaboration. I think -- it's
41 been stated here, I mean, fundamentally when --
42 what I saw the tension was that the scientists
43 felt they had -- if they were in charge, that it
44 would be they that would set the conservation
45 limits but, in fact, science -- scientists provide
46 - and that's where I spoke earlier about the range
47 where we eventually landed on benchmark, science

1 -- the Science Branch provides advice and, in
2 fact, it's not our purview to make those -- make
3 those decisions.

4 So we had to work through that process and
5 the mechanism for us to come to understand that, I
6 think, was fairly unique in that, as I think Dr.
7 Irvine pointed out, that when the policy was being
8 developed in 2002, it was largely a science effort
9 that was being brought to the table and then
10 commented on by other sectors. As you moved into
11 the later stages, Policy Branch led it,
12 recognizing that Policy Branch covered more -- was
13 more than -- was representing all of the sectors.
14 But then we put an interdisciplinary team or a
15 multi-sectoral team to work on it and I would say,
16 and as I've said in my evidence, I think Pat
17 Chamut was a big part of being able to put in
18 place a process.

19 And without hesitation I know that we knew
20 that Pat carried a very big stick when he came
21 from the minister's office, but he never had to
22 wield it because he took the effort and the time
23 to understand the interests that were around the
24 table. What was science really trying to say
25 about biodiversity? What did fisheries management
26 need to incorporate or need to do their job? And
27 I think in listening and -- we went back to the
28 drawing board many times on Pat's request saying
29 this isn't working. And we would go back and so
30 it was really a true collaboration across sectors.
31 I don't think many -- most policies to this point
32 would have been national policies would have been
33 a policy of habitat, a policy of science, a policy
34 of fisheries management. This, I'd say, was one of
35 the rare policies that was cross-cutting across
36 all of those sectors and Pat was -- and this group
37 was -- took the time and was able to work through
38 in collaborative fashion to get something as
39 collaboration would demand that we're all happy
40 with in terms of consensus. Nobody went away
41 saying this isn't going to work for me.

42 Q No. I fully appreciate that --

43 MR. SAUNDERS: Yeah.

44 Q -- that commentary, Mr. Saunders, and I think the
45 point I'm just trying to drive home to you and to
46 see if I can get some agreement from the panel is
47 that this process was inordinately long in terms

1 of trying to work through the process and I was
2 wondering if there's some other way that you can
3 approach it. I mean, yes, you did bring in Mr.
4 Chamut and eventually you got the policy in place,
5 but you were five years or plus five years in the
6 making. So I'm wondering if there's another
7 process that you can conceive of and I suggested
8 some facilitation process with either a mediator
9 or an arbitrator that would help you reach that
10 consensus in a much more direct fashion. Mr. --
11 or Dr. Irvine seems to be nodding his head. Maybe
12 I've found some reception on the panel.

13 DR. IRVINE: Well, no, it's not a bad idea. And
14 really, the paper that I described yesterday tried
15 to identify other ways that the process could be
16 sped up. And -- but you have to recognize this
17 was a very -- I don't know, evolutionary period
18 within Fisheries and Oceans, but also within what
19 was going on internationally in terms of
20 conservation biology and fisheries management. So
21 there was a lot that was being learned. We were
22 -- you know, the **Species at Risk Act** was being
23 finalized, the Wild Salmon Policy, there's all
24 sorts of issues going on in the Pacific Northwest
25 of the United States, so this was not a simple
26 thing, a simple nut to crack, so, you know, I
27 appreciate your suggestion about a facilitated
28 meetings.

29 Now, in fact, that's what the multi-
30 stakeholder sessions were. So at those two
31 sessions, you know, there was -- I think the 2nd
32 or 3rd of March 2005 and 29th and 30th of April
33 2005, those were professionally facilitated, so we
34 brought in facilitators. We had break-out groups.
35 We documented everything and I think certainly
36 having the professional facilitation at that stage
37 assisted us with making the final changes and
38 coming up with a policy that satisfied most of the
39 participants.

40 Q Mr. Chamut, you had a comment?

41 MR. CHAMUT: Yeah. I would like to just comment on the
42 notion of mediation. You're dealing with the
43 Department of Fisheries and Oceans with a number
44 of different sectors, each sector different
45 responsibilities, lots of competition for
46 resources and a whole bunch of other things that
47 sometimes make the department appear -- the

1 expression was that it operates in stovepipes.
2 And there's two places in the organization where
3 those stovepipes get kind of brought together.
4 And one is at the level of the regional director
5 general within a region and the second is at the
6 level of the deputy minister.

7 So I've never heard -- and I don't think it
8 would be within a hierarchy like a government
9 department. The idea of mediating between two
10 sectors, I don't think would ever be considered.
11 Sometimes people might get a facilitator in to see
12 whether or not they can bridge some of the
13 differences, but in my experience you're going to
14 -- if you have these sorts of disconnects or
15 conflict between sectors, it's going to get
16 resolved at one of those two levels that I
17 mentioned. I mean, the RDG's role is to deal with
18 the operations within the region and where there
19 are differences of opinion, to reconcile those, to
20 knock heads, to put in -- you know, basically give
21 direction as to how people should be operating
22 together. And I think that would be, in most
23 cases, the preferred means by which these sorts of
24 differences would be reconciled.

25 Where they're not reconciled, you've got a
26 deputy minister in Ottawa who oftentimes could be
27 called upon to reconcile these sorts of
28 differences, and that's the other area or the
29 other place in which that can occur. And it's
30 generally much preferred that it be done at the
31 regional level.

32 I think in the case of Wild Salmon Policy, it
33 seemed to me from where I was sitting that there
34 was, and it was obvious that there was disconnects
35 between fish management and science and I
36 personally think that there probably needed to be
37 more direction and maybe more focus from the level
38 of the regional director general at the time that
39 this was kind of getting into difficulty.

40 Q You described very much a top-down hierarchical
41 approach which is what government tends to be, but
42 the problem that I'm going to put to you is that
43 within the confines of the Department of Fisheries
44 and Oceans, and this is a theme that I'm
45 developing through other testimony, you've got a
46 lot of competing mandates. And how you address
47 those competing mandates and how you address those

1 situations is not an easy task. So ultimately
2 you're going to have to address it from the top
3 down because that's how you've structured
4 yourself. But if you thought in terms of
5 structuring yourself differently or else
6 dissecting away some of those competing mandates
7 so you didn't have those internal strifes, you
8 might be able to get your job done a lot more
9 better.

10 MR. CHAMUT: Well, you could certainly -- you could
11 dice and slice things in various ways, but there
12 are -- in any large organization, I don't care
13 whether it's government or whether it's business,
14 you're going to have oftentimes these sorts of
15 internal conflicts and the department, like any
16 other organization, has mechanisms to deal with
17 them. When we talked, and I think some of the
18 material that's been before the commission has
19 talked about something called the Policy
20 Committee, both in the region and in headquarters.
21 And the Policy Committee in the region is there to
22 try and identify areas where there may be
23 disagreement and to reconcile and bring people
24 together.

25 And the same holds true in Ottawa. Yes,
26 there are differing points of view, different
27 mandates and there are mechanisms though to bring
28 those together. That's oftentimes what a large
29 part of what Ottawa ends up doing. And I think,
30 you know, in this case I think the model that we
31 were able to follow was we did not -- the deputy
32 did not intervene in saying do this this way. The
33 deputy clearly indicated that this was important
34 and he, I think he felt that putting myself into
35 this particular mix may be serving as a bit of a
36 mediator to try and identify where the differences
37 were and try to find a way to bridge them and come
38 up with a policy that was going to be consistent
39 with our responsibilities and meet our objectives
40 with respect to wild salmon management.

41 Q I saw very much that your role was as a
42 facilitator in this, Mr. Chamut, so to that sense,
43 perhaps you are in agreement with me, that
44 sometimes facilitation and mediation can affect
45 some resolutions to ongoing disputes.

46 MR. LEADEM: Mr. Commissioner, I note the time and I
47 was wondering if we could take a break.

1 THE REGISTRAR: Hearing will now recess for 15 minutes.

2
3 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)
4 (PROCEEDINGS RECONVENED)
5

6 MR. LEADEM: Leadem, initial T., for the record, Mr.
7 Commissioner.

8 Mr. Lunn, can you pull up document number 8
9 from the Commission counsel's list of documents of
10 potential exhibits, please? It's Canada 023452.
11

12 CROSS-EXAMINATION BY MR. LEADEM, continuing:
13

14 Q Dr. Irvine, I'm going to ask you about this
15 because, of the panel members, you seem to have
16 the most longevity with respect to working on this
17 policy. Do you recognize this document? We can
18 go to some of the pages if it would assist you.

19 DR. IRVINE: I think I do. I should point out that Dr.
20 Riddell was involved in this stage. I have the
21 record for continuity rather than longevity.

22 Q Well, I'm not going to quibble who's older amongst
23 you because I learned long ago not to engage in
24 those kinds of debates.

25 Dr. Riddell, do you recognize this as well,
26 this document? It seems to be a policy committee
27 draft of the Wild Salmon Policy, and from my way
28 of looking at this from a historical perspective,
29 it seems to be one of the earlier ones that
30 contains a lot of the early -- early thinking
31 about this Wild Salmon Policy.

32 DR. RIDDELL: Well, by the date, I agree with you, but
33 I have to admit I don't believe I have seen this,
34 or I simply have forgotten this. It predates the
35 first release in March 2000, so I think you're
36 correct.

37 Q Well, my questions to you are going to be
38 predicated on some of the contents of the
39 document, and I want to begin by examining, at the
40 base of page 14 of that document. You should see
41 at the bottom, "Wild Salmon, Principle 3, Minimum
42 wild salmon abundance levels will be established."

43 There's a reference there to the
44 precautionary approach and, in the language of the
45 precautionary approach, the minimum abundance
46 level is a limit reference point, LRP, defined as
47 the minimum abundance that must be maintained to

1 ensure conservation.

2 So is it your understanding that that limited
3 reference point, and target reference points, are
4 all derivations from the precautionary principle?
5 Dr. Irvine or Dr. Riddell?

6 DR. RIDDELL: Are the terminologies derivations from
7 the precautionary principle?

8 Q Yes.

9 DR. RIDDELL: Is that the question? No, I don't
10 believe so, but I believe that they evolved
11 shortly after the development of the precaution
12 principle and the precautionary approaches, and
13 they were steps to implement the precautionary
14 procedure in actual management scenarios.

15 Q Right. So they were prescriptive in nature as
16 opposed to flexible; is that correct? Do I have
17 that right?

18 DR. RIDDELL: They would be specific management targets
19 in that sense, and so it's possible for them to
20 change if the productivity of the population or
21 the particular stock of interest changed. But
22 typically, they would be considered fixed in a
23 certain time period.

24 Q And if I could ask you now to, in that same
25 document, go to page 16 at the -- this is under
26 the heading "Wild Salmon Principle 6".

27
28 Conservation of wild salmon populations will
29 take precedence over other production
30 objectives involving cultivated salmon.

31
32 The second full paragraph under that heading, the
33 one beginning:

34
35 The greatest increases in world salmon
36 harvest have come from aquaculture.

37
38 And then it follows through and discusses some
39 report produced by the Environmental Assessment
40 Office of British Columbia which concluded that:

41
42 There is no reason to expect that Atlantic
43 salmon are having a significant effect on
44 Pacific salmon at current levels of
45 abundance.

46
47 Then it goes on to say:

1 Should this situation change, the convention
2 on biological diversity advises that
3 introductions of alien species that threaten
4 ecosystems, habitats or species should be
5 controlled or eradicated.
6

7 So my understanding is, is that Canada is a
8 signatory to the convention on biological
9 diversity. Is that right, to your knowledge?

10 DR. RIDDELL: That is correct.

11 Q And so as a signatory, then, if there is a threat
12 posed to the ecosystem, to species in the
13 ecosystem through the introduction of alien
14 species, that convention would call for the
15 control or eradication of the alien species
16 introduced; is that not correct?

17 DR. RIDDELL: Yes. To my knowledge, I think that would
18 be correct.

19 Q Right. And so that -- that's a biological
20 principle, not just a principle that is one that
21 you would recognize from the convention on
22 biological diversity, is it not? That's an aspect
23 of conservation biology.

24 DR. RIDDELL: Mr. Commissioner, I think that's actually
25 correct. There is a large symposia that would
26 have been in -- it was in the 1990s, I can't
27 remember the exact date, but the outcome of that
28 is a very strong statement that invasive exotic
29 species, the outcome of the -- or the effect of
30 that in natural ecosystems are highly
31 unpredictable and almost always negative, in that
32 they have significant impacts.

33 Q Right.

34 DR. RIDDELL: And that's across many taxa.

35 Q So if we look at the situation that engender the
36 early formulation of the principles that gave rise
37 to the Wild Salmon Policy, we see at its very
38 genesis this concept that if you have an alien --
39 introduction of an alien species, you may have to
40 control it in order to save the ecosystem.

41 I'm thinking specifically, in this context,
42 it's aquaculture and the introduction of the
43 species is the Atlantic salmon in Pacific waters;
44 isn't that right?

45 DR. RIDDELL: Well, in the particular example you're
46 talking about, yes, there are not -- there are no
47 other non-endemic salmon on the west coast in

1 current time. There were, way back in the '20s,
2 introduction of Atlantic salmon and brown trout to
3 the Cowichan River, for example, but in recent
4 years the only importation of an exotic salmon is
5 the Atlantic salmon for aquaculture.

6 Q So according, then, to the convention, if there
7 should be some linkage between a threat to the
8 ecosystem posed by the introduction of an alien
9 species, then the principles of conservation
10 biology would call for the eradication of that
11 particular species; is that not correct?

12 A Well, I don't think it's quite that simple because
13 it says "control or eradication", right?

14 Q Yes.

15 A So, I mean, we have to recognize that the element
16 of control is still there. I think that if you
17 look at the history of the escapes from salmon
18 farms, for example, it has been reduced majorly
19 through time. There were very large escapes in
20 the 1990s and that, so I think right now your
21 argument would not be as simple as eradication,
22 but it would have to assess control.

23 MR. WALLACE: Mr. Commissioner, I appreciate that this
24 line of questioning comes from an early draft
25 apparently of the Wild Salmon Policy, but we seem
26 to be getting -- drifting away from the Wild
27 Salmon Policy and into aquaculture issues which --

28 MR. LEADEM: I was actually just moving from this
29 topic, Mr. Wallace.

30 MR. WALLACE: I was too slow.

31 MR. LEADEM: Even as you rose. I got the answer that I
32 was looking for. Thank you, Mr. Commissioner.

33 If I could have Exhibit number 87, please?

34 Oh, sorry, I'm wondering if I could mark that as
35 an exhibit, Mr. Commissioner.

36 THE REGISTRAR: Exhibit 117.

37

38 EXHIBIT 117: Fisheries and Oceans Canada
39 Policy Committee Draft, Wild Salmon Policy:
40 A New Direction, Draft for discussion
41 purposes only, dated 17/05/99
42

43 MR. LEADEM: If I could ask now Mr. Lunn to pull up
44 Exhibit 87. It should be -- and if you can just
45 scroll down.

46 Q I know they were going through this quite quickly,
47 gentlemen, but I'm going to ask you if any of you

1 recognize this document? It appears to have been
2 signed by the Associate Regional -- or the
3 Assistant Regional Director at the time, Mr.
4 Macgillivray. Do either -- or does anyone on the
5 panel recognize that document? It's a response to
6 the Auditor General's reports.

7 DR. RIDDELL: Mr. Commissioner, I can say that I am not
8 aware of that document, but I was out of the
9 Department at that time in 2003.

10 MR. CHAMUT: Similarly, I don't believe I've ever seen
11 the document. I certainly don't recall it.

12 Q All right. I'll reserve that for Mr. Sprout,
13 then, who probably will have some information to
14 share with me on that topic.

15 The thrust of the report -- and maybe I can
16 ask you this as general question, is that the
17 Auditor General's expressing some discomfort at
18 the WSP not being implemented within a certain
19 time frame and is questioning the Department as to
20 when they may -- when he might expect or she might
21 expect the report to be prepared and finalized.

22 Was the Auditor General's material a driver
23 for the implementation -- or, sorry, for the
24 passage of the Wild Salmon Policy? In other
25 words, did it drive it through to some conclusion?

26 MR. CHAMUT: I can offer an opinion on that. It was
27 one of the -- there was a number of groups that
28 were calling for Wild Salmon Policy. So obviously
29 it was -- it was one of the factors. But I would
30 certainly not say it was the driver. I think that
31 the Deputy Minister in particular was very keen on
32 making sure that the Wild Salmon Policy was
33 finalized. I think a lot of the pressure was
34 because of the importance that he attached to it,
35 and of course I'm sure that his impression of
36 priority was generated by reports such as the
37 Auditor General.

38 I think there was also comments from the
39 Commissioner on Environment who also had similarly
40 had called for the policy to be finalized. So
41 there was a variety of these sorts of things that
42 were coming into play around that time.

43 Q Was there also a factor that the MSC process was
44 percolating along and that it was recognized
45 generally with the Department that the passage of
46 the Wild Salmon Policy would assist the MSC
47 certification process. Was that also a factor in

1 terms of moving the policy along?

2 MR. CHAMUT: Do you have a particular time frame? I
3 don't particularly recall the MSC certification
4 being anything that came into -- as a motivator
5 from the time that preceded the time I was here,
6 and even after the time when I arrived, I can't
7 remember MSC certification being one of the things
8 that lit a fire under us.

9 I think it was one of the events that was --
10 I think we were all generally aware of, but I
11 don't recall it being an important driver of
12 getting the policy completed.

13 Q Dr. Riddell?

14 DR. RIDDELL: Well, I would agree with Pat's comment.
15 I might add that I think if you look back at the
16 timing of when MSC certification for sockeye --
17 and I think we talked about this yesterday -- it
18 did take about nine years. But if you're going
19 back to 2003, 2005, it was in the very early going
20 of the certification. It took quite a bit of time
21 to get the early documents out. I don't believe
22 it even really had to review by the time that we
23 had the Wild Salmon Policy.

24 I think actually, if you looked at the
25 chronology, you may find that the Wild Salmon
26 Policy contributed to the review under MSC because
27 it allowed them to define conditions that would
28 allow certification if you met the conditions over
29 the next five-year term. So maybe it's actually
30 the reverse of it. But I don't think that the
31 chronology, as such, that it was a major driver
32 for us.

33 Q All right. So, in other words, you're saying the
34 converse is true, that the Wild Salmon Policy
35 assisted the MSC certification process. So it was
36 more of a -- more of a driver for the MSC process
37 than the MSC process was a driver for the WSP.
38 Mr. Saunders?

39 MR. SAUNDERS: I would say there was a synergy between
40 the two. I don't think one drove the other, but I
41 think it was recognition that they were both
42 complementary, they were both heading to the same
43 place, that MSC certification would assist, you
44 know, in the implementation of the Wild Salmon
45 Policy and vice versa.

46 Q I was wondering if we could now turn to a letter
47 that is in the coalition -- conservation

1 coalition's documents. It's a letter of May 1st
2 to Mr. Saunders from Mr. Langer. This would be
3 item 2. This is addressed -- actually it's
4 addressed to Dr. Saunders. I don't know whether
5 that would be the same -- is that yourself, Mr.
6 Saunders, in all probability?

7 MR. SAUNDERS: That's me, but I'm not a doctor.

8 Q Do you recall receiving this?

9 MR. SAUNDERS: Yes, I do.

10 Q And this was written at a time when there had been
11 ongoing discussions with environmental groups
12 concerning the various drafts of the Wild Salmon
13 Policy; is that right?

14 MR. SAUNDERS: That's correct.

15 MR. LEADEM: Could we have this marked as the next
16 exhibit, please.

17 THE REGISTRAR: Exhibit 118.

18
19 EXHIBIT 118: Letter dated May 1, 2005, to
20 Dr. M. Saunders, from Otto E. Langer, David
21 Suzuki Foundation, Re: Critique of the April
22 22, 2005 Draft Wild Salmon Policy
23

24 MR. LEADEM:

25 Q Next to the last page of that document under the
26 heading "Conclusions", the author says:

27
28 We will be much more comfortable with the WSP
29 policy when it clearly indicates that DFO
30 will close fisheries or take other drastic
31 actions as necessary for the sake of
32 conversation.
33

34 That's what I believe you people have been calling
35 the "prescriptive approach"; is that right?

36 MR. SAUNDERS: No, I wouldn't say that.

37 Q All right. How would -- well, in terms of closing
38 the fishery, is it -- will DFO actually ever close
39 the fishery to protect a conservation unit?

40 MR. SAUNDERS: Well, DFO has already closed fisheries
41 even before the implementation of the Wild Salmon
42 Policy to protect what were called or identified
43 as stocks of concern. So, yeah, no question.
44 Fisheries will be closed to conserve conservation
45 units at some point.

46 MR. LEADEM: Could we have Exhibit 94, please?

47 Q This is the document that you just recently saw,

1 and my understanding is that roughly around the
2 time at the end of May 2005, the draft of the Wild
3 Salmon Policy was sent to the Minister for
4 approval for promulgation as a policy. And that,
5 for various reasons, that time frame got extended
6 until June. Does that accord with your knowledge
7 as well, gentlemen?

8 MR. CHAMUT: Yes, that's correct.

9 Q All right. And essentially, the Minister did not
10 sign off on this because he was responding to some
11 concerns raised by a group called the Marine
12 Conservation Caucus, and the ten points they had
13 raised concerning some deficiencies that were
14 alleged to be within the confines of the WSP; is
15 that right?

16 MR. CHAMUT: That's correct. My recollection was the
17 Marine Conservation Caucus had circulated those
18 ten points to members of the B.C. caucus. And I
19 think the Department first became aware of those
20 concerns in about the second week of May. The
21 Department provided a response to the Minister and
22 I think that response basically reacted to the ten
23 points that had been raised and was forwarded to
24 the Minister prior to this particular memo that
25 you have up in front of us dated May 27th.

26 MR. LEADEM: Right. If I could ask -- Canada 033249,
27 please. It's within the coalition conservation
28 documents. I'm just trying to find the number
29 here, Mr. Lunn. I believe it's 15.

30 Q There's an email from you, Mr. Chamut, to a Julie
31 Norris. Did you write this?

32 MR. CHAMUT: Sorry, my mike was not on, so I'll repeat
33 it. Yes, I did.

34 Q And with respect to the last word in your email,
35 just so I have it clear who that refers to, you're
36 referring to the members of the Marine
37 Conservation Caucus?

38 MR. CHAMUT: That's correct, and if I can just amplify
39 that, the first point I'd make is that that
40 obviously reflects -- it's a good example of not
41 striking the "send" button on your computer when
42 you're frustrated and more than a little upset.
43 'Cause I think at this point, I had just seen the
44 ten points and I was quite disappointed and
45 frustrated that those points would have been
46 raised in the way that they did -- in the way that
47 they were at that particular time. I was

1 particularly unhappy with the way that had been
2 done. That is obviously reflected in the comment
3 that you see before you.

4 Q Now, you were concerned from the Minister's
5 perspective. The Minister basically said that he
6 would like to see more funding for implementation
7 as part of the roll-out for the policy and the
8 eventual promulgation of the policy. Isn't that
9 fair to say?

10 MR. CHAMUT: I can't answer that, sir. I really don't
11 know. I don't recall the Minister making his
12 approval condition on new funding. I simply just
13 don't remember that.

14 Q All right. Perhaps maybe to assist your memory,
15 we could go to Tab 16, or item 16 from the
16 implementation documents, Canada 129031.
17 There is a -- the heading is an email from
18 Ms. Farlinger to Carol Cross, but if -- there's an
19 included message and it's from you, Mr. Chamut.
20 I'll just allow you to read it through.

21 MR. CHAMUT: Okay, that does refresh, but I certainly
22 didn't recall that.

23 Q Right.

24 MR. CHAMUT: And I'm not sure, in reading it, that the
25 Minister said, "I'm not going to approve this
26 unless there's more money." I think what this
27 says is that if we can get more money, it will
28 help overcome some of the reservations the
29 Minister had because of some of the controversy
30 around the policy, where there was still groups
31 that were concerned about its -- about its content
32 and about implementation.

33 Q Right.

34 MR. CHAMUT: Because if you go back to one of the
35 documents you put up just before this, I
36 summarized I think there were three main points
37 that were people that were offside: concerns
38 about aquaculture, concerns about a non-
39 prescriptive approach, and thirdly, does the
40 Department have the money necessary to implement.
41 It was my view, and the way I'm reading this,
42 is that based on concerns about implementation, if
43 we were able to provide some money that would go
44 along with the pronouncement of the policy, then I
45 was reasonably confident that some of the groups
46 that were expressing reservations would in fact
47 come on side.

1 Q And perhaps just as a follow-up to that, if I
2 could show you document 18 from the implementation
3 documents from -- that Commission counsel have
4 provided. Once again, there's now an email chain,
5 and the second one in that chain is from you to
6 Ms. Farlinger, Mr. Chamut.
7 I'll just give you -- it's rather lengthy.
8 I'll give you a chance to review it, and just --
9 I'm going to ask you to confirm that that in fact
10 is an email that you sent.
11 MR. CHAMUT: Yeah, that would be my memo or email.
12 MR. LEADEM: Mr. Commissioner, I neglected to have the
13 previous email, the one dated June 1, 2005,
14 entered as an exhibit. I'd ask that it be entered
15 as the next exhibit in these proceedings.
16 THE COMMISSIONER: I'm sorry, counsel, I --
17 THE REGISTRAR: Exhibit 119.
18 THE COMMISSIONER: I apologize, I had in my notes two
19 emails prior to this one, but perhaps my notes are
20 incorrect. The one that you're referring to, is
21 that your document 15?
22 MR. LEADEM: Yes, I believe I neglected to have that
23 tendered as an exhibit as well as the next two
24 emails in sequence.
25 THE COMMISSIONER: Oh, I see.
26 MR. LEADEM: I'm backing up on myself and I'm
27 forgetting to enter these -- or tender these as
28 exhibits.
29 THE COMMISSIONER: No, that's fine.
30 MR. LEADEM: So perhaps we can just go back and clarify
31 the record now.
32 THE COMMISSIONER: All right.
33 MR. LEADEM: So the email of May 13th, 2005, will be
34 the next exhibit followed by the email of June 1,
35 2005, followed by the email of June 3, 2005. So
36 if they can all be then accorded exhibits numbers,
37 please.
38 MR. LUNN: I'm sorry, I'm just having trouble following
39 you here. The email of May 13th?
40 MR. LEADEM: Yes. The one that was part of the
41 coalition conservation. I think that was document
42 15, Mr. Lunn, of the coalition documents.
43 THE REGISTRAR: May 13th will be marked as Exhibit 119.
44 MR. LEADEM: I think it was document 16, Mr. Lunn, I'm
45 not sure. Should be June 1st.
46 THE REGISTRAR: The June 1st document will be marked as
47 120.

1 MR. LEADEM: It's document 18, perhaps. Thank you. My
2 apologies, Mr. Commissioner. I was getting too
3 far ahead of myself.
4

5 EXHIBIT 119: Email dated May 13, 2005, from
6 Julie Norris to Pat Chamut, Subject: Re: Wild
7 Salmon Policy
8

9 EXHIBIT 120: Email dated June 1, 2005, from
10 Susan Farlinger to Carol Cross, Subject: Fw:
11 The Funding of the WSP
12

13 THE REGISTRAR: The June 3rd document will be marked as
14 121.
15

16 EXHIBIT 121: Email dated June 3, 2005, from
17 Susan Farlinger to Pat Chamut, Subject:
18 Announcement of Wild Sockeye Policy
19

20 MR. TIMBERG: Mr. Commissioner, if I could just clarify
21 a point, while we're here. These documents are
22 coming from the Commission's list of documents for
23 the implementation day, which is to commence
24 tomorrow, and so these are not -- these documents
25 are not on Mr. Leadem's list of documents that he
26 was going to be posing to this panel, today. So I
27 am remiss, I did not provide these documents to
28 my panel members to prepare them; I've only
29 provided them with advance notice of the documents
30 that the participants gave notice of.

31 So I apologize to Mr. Chamut, but he has been
32 provided with the documents that Mr. Leadem said
33 he would be putting to him, and right now Mr.
34 Leadem is putting to the witnesses e-mails from
35 2005, that he's never had a chance to review
36 before. So perhaps it just poses a problem with
37 respect to the rules as with respect to fair
38 notice for participants for witnesses as to the
39 documents that will be put to them.

40 MR. LEADEM: And I do apologize, Mr. Commissioner. If
41 there were something controversial about it, if it
42 were something that the witness would truly be
43 surprised by, I would have given them the
44 opportunity. I failed to realize that Mr. Chamut
45 would not be back for the implementation panel,
46 and these documents were actually put in the

1 implementation documents, so I only came across
2 them late in the day, and I afforded the witness
3 an opportunity to review those documents here, and
4 I apologize for not allowing that to transpire
5 before now.

6 THE COMMISSIONER: Well, I think, Mr. Timberg, the way
7 to solve this, if the witness would like more time
8 to review the document and you would like time to
9 consider the document, we can stand down to do
10 that, if there's some issue around that. Mr.
11 Leadem has explained what's going on here, and you
12 have, I think, fairly raised your concern. I
13 think I now have to leave it in the hands of the
14 witness, who may have some concern, not having
15 seen it before, or yourself, and that's fair. But
16 I think, at the moment, I wouldn't stop Mr. Leadem
17 from asking questions, given that the witness, Mr.
18 Chamut, is not part of the implementation panel.

19 MR. TIMBERG: Yes, I'm in agreement with that approach.
20 I just wanted the Commissioner and the witnesses
21 to be clear as to what documents have been
22 provided to them and what they have not seen yet
23 and that they're being shown documents from six
24 years ago that they had not seen yet.

25 MR. LEADEM: And certainly Mr. Timberg can raise this
26 on re-examination. I'm simply wanting this to
27 form part of the record in front of you, Mr.
28 Commissioner. I'm not going to question Mr.
29 Chamut as to his recollection of the events, save
30 and except for the fact that it did trigger his
31 memory with respect to some of the chasing after
32 the implementation funds.

33 Q Did it not, Mr. Chamut?

34 MR. CHAMUT: Yeah, it did. I have to apologize, I'm
35 continually amazed at how much one forgets over a
36 period of time, because I -- when I first saw the
37 press release announcing the 1.1 million, which
38 came earlier in the day, I was wondering, "Where
39 did that come from?" which is, I guess, indicative
40 of how much I've forgotten, so I apologize for
41 that. But I do, having seen the memos, I can
42 affirm that I did -- obviously I was the author.
43 I was involved in trying to cobble money together
44 from various sources, and I think the money that
45 we were able to pull together was basically from
46 existing pots of money within the department, and
47 they were -- they would have, in fact, been what

1 was announced by the minister in June.

2 So I'm sorry for my lack of recollection, but
3 I'd be reluctant to suggest that we break to spend
4 more time to study it. I think we should just
5 simply proceed.

6 MR. LEADEM: All right. And, actually, those are my
7 questions. I simply wanted to tender those into
8 evidence, Mr. Commissioner.

9 MR. WALLACE: Thank you, Mr. Leadem. This takes us to
10 Mr. Rosenbloom for the Area D Salmon Gillnet
11 Association and Area B Harvest Committee.

12 MR. ROSENBLOOM: Thank you. Gentlemen, my name is Don
13 Rosenbloom. I appear on behalf of Area D Gillnet,
14 Area B Seiner. I have a number of questions for
15 you.
16

17 CROSS-EXAMINATION BY MR. ROSENBLOOM:
18

19 Q Firstly, there has been discussion today and
20 yesterday and, indeed, in the précis of evidence
21 that has been provided by each of you in respect
22 to the tension, as it was described today,
23 internally within DFO between science, the
24 scientists, and within the managers in respect to
25 this issue of prescriptive approach or not in the
26 application or implementation of the WSP.

27 We have heard evidence, given by you, Mr.
28 Saunders, yesterday, and today for that matter, as
29 to what you understand to be the resolution to
30 that, what I'll call, internal debate. What I
31 want to ask you, to ensure that it is clear on the
32 record and the commissioner understands this, is
33 that your comments, given in particular today
34 wherein you say the prescriptive approach was
35 really rejected or abandoned - let me put it that
36 way - and that the approach that will be taken by
37 DFO is an approach that appreciates the
38 socioeconomic issues, the societal issues, and
39 that there will be discretion that will have to be
40 applied, on occasion, in respect to the
41 implementation of the program.

42 My question is: What we heard from you
43 today, Mr. Saunders, is that the consensus within
44 DFO as you proceed forward from this point
45 onwards? In other words, not simply your personal
46 opinion, but can we rely on your comments as being
47 DFO's position as we move or proceed forward?

1 MR. SAUNDERS: I don't know that my words -- to the
2 letter for, you know, could be used to describe
3 the DFO position, but the words that I've used,
4 and I think the words that Mr. Chamut and others
5 have used to describe how the department will move
6 forward are reflected in the Wild Salmon Policy,
7 and so I don't know how to answer you other than
8 that those are still my personal -- my personal
9 interpretation of what's in the policy.

10 Q Okay. But can I assume that there is not an
11 ongoing tension or debate within DFO in respect to
12 that very critical question?

13 MR. SAUNDERS: I don't know -- I mean, I think within
14 the department there's still -- we're still in the
15 process of implementation, so how that process
16 that I described today about collaboration and
17 consideration of social and economic, the actual
18 on the ground reality of how those -- that process
19 is realized is still a subject -- I don't -- I
20 wouldn't use the word "debate", but just a subject
21 of -- it's in a process -- it's in process, a
22 process of development. And so I think the
23 overall intent that I've described, absolutely,
24 but actually how it material -- what it looks like
25 on the ground, I can't describe it.

26 Q But I know Dr. -- Mr. Chamut wants to speak, but
27 just before going to Mr. Chamut, what I'm trying
28 to establish is, is there a continuing discourse
29 over that very issue, what we called earlier today
30 the tension, or is it a matter that, from your
31 perspective, has been resolved?

32 MR. WALLACE: Mr. Commissioner, this line of
33 questioning seems to be more appropriate to put to
34 the implementation panel, of which Mr. Saunders
35 and Dr. Irvine will be a part. And also I would
36 remind participants that the current regional
37 director general, Ms. Farlinger, and her
38 predecessor, Mr. Sprout, are also scheduled to
39 speak to this topic.

40 MR. ROSENBLOOM: Well, in fairness to my friend, Mr.
41 Wallace, this matter has come up with this panel,
42 it has been discussed with this panel, and there
43 are members of this panel that will not be part of
44 the subsequent panels that are struck in respect
45 of this issue. So I have trouble understanding
46 why there would be a restriction of asking this
47 question when there's been testimony already in

1 respect to this question. My question is very
2 simple: I simply want to know, for the record,
3 whether the issue that was the subject of tension,
4 as we described it earlier today, is, indeed,
5 resolved in the minds of the current managers
6 within DFO; in other words, the two of you that
7 are present today?

8 In fairness, I do know that Mr. Chamut does
9 want to make comment. Why don't you go ahead,
10 first, sir?

11 MR. CHAMUT: Thank you, sir. With all respect to my
12 colleagues here, I think it's a very difficult
13 question that you're asking them to answer. And I
14 think it's an inappropriate question to this
15 group. It really -- the panel is here and will be
16 quite delighted and able to answer questions about
17 the policy and the process that we went through in
18 developing it, and can explain the policy, but
19 you're basically asking a question that would be
20 most appropriately addressed by senior managers,
21 and I think you're putting people here on the spot
22 to speak on behalf of issues that really are not
23 their purview.

24 Q Are there comments from you, Mr. Saunders, about
25 it, or do you agree with what Mr. Chamut just
26 said?

27 MR. TIMBERG: If I could just speak for a moment? I
28 support the position of the Commission counsel
29 that this is a matter that is more appropriately
30 addressed to the RDG panel that's coming up in two
31 days.

32 THE COMMISSIONER: Well, let me see, I think Mr.
33 Rosenbloom should be allowed to ask the question.
34 If the witnesses feel that there is somebody else
35 within the DFO that's more appropriate to answer
36 it, they can say so, but I think he's entitled to
37 ask the question.

38 MR. ROSENBLUM:

39 Q Your response, Mr. Saunders?

40 MR. SAUNDERS: Yes, in my current position I spend some
41 time on the -- I'm a member of the implementation
42 team. I haven't been privy to or involved in
43 discussions around the Wild Salmon Policy at the
44 table -- at the operations committee table where
45 tensions like that would be realized and
46 discussed. To my -- I don't have enough
47 experienced in the last year and a half with what

1 -- and, in fact, beyond that, to know exactly what
2 the state of play is with that tension among
3 sectors right now.

4 Q And can one assume that the question I'm raising
5 should be directed to Ms. Farlinger?

6 MR. SAUNDERS: I think that would be appropriate.

7 Q And when you testified earlier today of your
8 perception of where things stood right now in
9 terms of the approach for future implementation
10 and the trade-offs, the economic issues, social
11 issues and so on, one assumes that you founded
12 your comments upon what was your understanding, or
13 is your understanding of DFO positions at this
14 point in time; is that fair to say?

15 MR. SAUNDERS: It was founded on my experience to date
16 within DFO, yes.

17 Q Yes. And I'm intrigued by an exchange of e-mails
18 between Mr. Chamut - and I will be directing this
19 to Mr. Chamut - and Dr. Riddell, and it's an
20 e-mail in particular of November the 15th, 2004,
21 and it is document number 1 in our list, and I
22 believe Mr. Lunn will have it before you in a
23 moment.

24 Dealing with this very controversy -- if I
25 can put it as controversy over how -- what
26 direction DFO should take in interpreting future
27 implementation of the Wild Salmon stock -- Wild
28 Salmon Policy, and I want to read from Mr.
29 Chamut's reply to Dr. Riddell, and you'll see that
30 just under, "Brian", Subject: Concern for final
31 versions", and I'm going to be asking you, Mr.
32 Chamut, after I read this out into the record,
33 whether you still subscribe to this, and I then
34 will be asking Mr. Saunders whether you subscribe
35 to what was Mr. Chamut's perspective back in 2004.

36 Mr. Chamut said, at that time:

37

38 Brian: I am not surprised that this issue is
39 arising as it is the most contentious and
40 controversial choice that we have to confront
41 with this policy. I am also not surprised
42 that there are concerns that we have not got
43 it right. If all we had to do was conserve
44 the resource, our job would be easy. We
45 would eliminate the fishery or restrict it in
46 such a rigorous way that risks would be
47 virtually eliminated. Our job is not that

1 easy. We also have a responsibility to
2 provide access to a valuable public resource
3 that provides income and economic opportunity
4 for individuals and communities. These two
5 obligations are often in conflict and finding
6 the right balance between the two is the
7 policy issue that we have to confront in the
8 WSP.
9

10 Mr. Chamut goes on:
11

12 The policy says that we are going to conserve
13 conservation units, but acknowledges that
14 some populations within a CU may disappear.
15 I think most, but not all, would accept that
16 as a reasonable trade-off, given that
17 restoration of the population from straying
18 within the CU is likely. The situation where
19 we have a CU that consists of a single
20 population presents a different policy
21 challenge. Should the policy affirm that
22 every CU will be maintained in every
23 situation? It is my view that it would be
24 poor public policy for the government to
25 commit to maintaining every CU in every
26 situation. I can foresee that there will be
27 situations where there is a small population
28 of sockeye which qualifies as a CU. The
29 feasibility of rebuilding is very low. The
30 cost of doing so are excessively costly. In
31 my view, it is quite appropriate for
32 governments to make a choice to forego the
33 usual range of measures to rebuild that
34 stock, and I think, as well, that we need to
35 be honest about that intent in our policy. I
36 know that this notion is going to elicit
37 opposition, but my recommendation is that it
38 needs to be reflected in the policy.
39

40 Now, let me stop there for moment. Mr.
41 Chamut, do you still adopt your viewpoint as
42 expressed back in 2004?

43 MR. CHAMUT: Well, if you go into the policy, you will
44 see that there is, in fact, provision made, and
45 I've discussed it on two or three occasions at
46 this hearing, that there is provision for the
47 minister to exercise some discretion with a CU in

1 particularly extenuating circumstances, I think is
2 what the policy talks about.

3 This basically is described in my e-mail,
4 that we have a CU, which is a single population,
5 and I think generally we're probably talking about
6 sockeye. It's in a situation where it's at low
7 abundance, it's unlikely to rebuild, even in
8 situations where you might close a fishery down.
9 The likelihood that you could take measures to
10 effectively close it to be rebuilt, the measures
11 are expensive, unlikely to be successful, and in
12 those situations I think it make sense to provide
13 the minister with the responsibility to decide
14 whether or not that conservation unit will be
15 preserved.

16 This is included in the policy. But let me
17 be really, really clear: it's not something where
18 the minister is going to just arbitrarily decide
19 to cast off CU's as they get into a red zone. The
20 purpose of the policy is to rebuild them. But we
21 do simply recognize that there are situations
22 where it would be an unsuccessful attempt, it
23 would be extremely expensive, and I think it makes
24 sense to be clear that in these situations the
25 minister may exercise that discretion, because it
26 is a fundamental issue, and as I say, I think it's
27 just a part of prudent public policy to have that
28 provision in there and to be explicit about it.
29 And that has been included in the policy, and I
30 think it is an important part of it.

31 Q Indeed, it is a fundamental issue. And my
32 question to you was: Do you, firstly, do you
33 still adopt this viewpoint as expressed in this
34 e-mail?

35 MR. CHAMUT: Yeah, I do, but again, the e-mail doesn't
36 necessarily cover everything. I just want to be
37 really clear that this is not something that would
38 be done in a cavalier manner; it would be
39 extremely rare and it would be something that
40 would be in only very extenuating circumstances.

41 Q That is very clear, from your evidence. My next
42 question is: Do you believe that the viewpoint,
43 as expressed in this e-mail, is reflected in the
44 Wild Salmon Policy document?

45 MR. CHAMUT: Yes.

46 Q Thank you. You go on and say, in this very
47 document in the next paragraph, three lines down,

1 including a statement like point 9 in the
2 snapshot, "It is my intention" -- excuse me, it
3 starts:

4
5 It is my intention to be clear that there
6 could be circumstances where we would assess
7 costs and biological feasibility and choose
8 not to maintain or rebuild a CU.
9

10 Again, that's consistent with what you are
11 saying today; is it not?

12 MR. CHAMUT: Yes, it is.

13 Q And consistent with, as you interpreted, the WSP?

14 MR. CHAMUT: Yes.

15 Q Thank you. Now, turning to Mr. Saunders, having
16 heard what I have just read out of this e-mail of
17 Mr. Chamut, is this also very consistent with the
18 evidence that you have been giving in these
19 proceedings of your viewpoint of where DFO is
20 moving in terms of direction with the
21 implementation?

22 MR. SAUNDERS: Mr. Commissioner, I would hesitate to
23 say that I adopt verbatim what is in Mr. Chamut's
24 e-mail, but in the testimony that we just heard, I
25 mean, I would agree that the -- what I believe to
26 be the intent of that e-mail, Mr. Chamut has
27 pointed out is in the document, and I would stand
28 by what is in the document in terms of this
29 situation of letting -- of not maintaining or
30 restoring a conservation unit in extreme
31 circumstances. I would add that I believe that
32 that is a fundamental part of what I spoke to
33 earlier in the day about having a process where
34 social and economic -- the full -- when we set
35 objectives, biological, social, economic, that the
36 full array of possible options need to be on the
37 table for those around the table to make a
38 decision based on it.

39 Q I'm glad you raised that, because in your
40 testimony today, I believe, you spoke of the
41 processes that you imagined would transpire if the
42 matter went to the minister for review. And if I
43 heard your evidence correctly, you spoke of a
44 consultative process that would take place in
45 advance of a ministerial direction or order based
46 upon WSP; is that correct? Have I heard you
47 correctly?

1 MR. SAUNDERS: Yes.

2 Q Is that consultative process documented in the
3 WSP, or is it something that you take for granted
4 would take place?

5 MR. SAUNDERS: I don't recall if it's explicit in the
6 WSP.

7 Q All right. Assuming for a moment that it isn't in
8 the WSP, can I have reason to believe you have
9 some confidence that that would be the *modus*
10 *operandi* if, indeed, the matter was moving towards
11 the minister's office?

12 MR. SAUNDERS: I think in almost all of our decision-
13 making, that we are all, you know, there's an
14 extensive consultative process around any
15 decisions relating to resource management, so I,
16 yes, I would believe there would be a consultative
17 process.

18 Q And Mr. Chamut wants to say something.

19 MR. CHAMUT: Yeah, I would. This is fairly clearly
20 expressed in the policy. There's a statement on
21 page 29 that does reflect that in certain
22 circumstances the minister retains this particular
23 discretion. But I would also - as you scurry for
24 page 29 - let me just direct you to the first page
25 of the policy. It's called "The Wild Salmon
26 Policy - a Snapshot". It's on the back page of
27 the cover. Oh, you don't have it.

28 If you go to a hard copy, it's called the
29 snapshot, and look at item number -- the next --
30 the penultimate bullet.

31 Q Yes.

32 MR. CHAMUT: It talks about this particular issue:

33
34 The policy aims to maintain CU's but
35 recognizes there will be exceptional
36 circumstances where it is not feasible or
37 reasonable to fully address all risks.

38
39 And then it goes down and talks about the
40 discretion of the minister of Fisheries and
41 Oceans, and the last sentence says:

42
43 Such a decision will be made openly and
44 transparently.

45
46 And I think you can take from that that it
47 will involve consultation and the minister will be

1 making sure that it's not done with the stroke of
2 a pen, it'll be done in an open, transparent
3 manner, and I would have no hesitation in saying
4 that there will be consultation.

5 Q Can I assume, in the same theme, that in the event
6 that a matter doesn't go the minister but that
7 there is a, what I'll call, radical decision made
8 by DFO, for example, to close a fishery because of
9 reaching certain benchmark -- below certain
10 benchmark thresholds, that there would also be a
11 consultative process in advance of that decision
12 being made by DFO managers?

13 MR. CHAMUT: In the situation that you're referring to,
14 there would be, as a first step, there would be
15 what's called an integrated fisheries management
16 plan that would be developed. As part of that
17 plan, it would outline simply the department's
18 proposals or intent to manage a particular fishery
19 and a particular CU, and the process for
20 developing an IFMP is very, very consultative.
21 And as part of that, if there was a decision being
22 made -- oh, sorry, if there was a proposal being
23 made to close a fishery, it would be the basis of
24 consultation with a whole host of interested
25 groups, First Nations, recreational fishers, other
26 interested parties, commercial fishermen, and that
27 would be part of the integrated fisheries
28 management plan, which is always sent to the
29 minister for approval, and the minister has the
30 responsibility for approving all of those plans.

31 So it would be done -- it would not be done
32 by a local manager based on, you know, something
33 that was seen as a whim, if I'm reading your -- if
34 I'm interpreting your question correctly; it would
35 be part of an IFMP, lots of consultation, final
36 decision by the minister.

37 Q Well, I may be the only one in this room that
38 missed that. I didn't appreciate that when
39 decisions were made under WSP that all matters
40 would go to the minister for decision-making, and
41 I obviously learn that from your evidence, now,
42 and in the process of getting ministerial review
43 and decision there would be consultation in all
44 respects, in all cases, correct?

45 MR. CHAMUT: Yes, sir. And if you have been involved
46 with the commercial fisherman, I think you'll know
47 that consultation with the department is one of

1 the activities that keeps them very, very busy
2 during the winter, spring, fall and summer, and
3 there's virtually no time for fishing these days,
4 so --

5 Q Right.

6 MR. CHAMUT: -- there is a lot of consultation.

7 Q Believe me, I've heard that complaint from my
8 clients, how time consuming that is. But I am, of
9 course, speaking totally in the context of
10 implementation of the WSP, as I raise these
11 questions with you, I think you'll appreciate
12 that.

13 For Dr. Riddell, in your précis of evidence,
14 Exhibit 99, I believe, at page 3, you say, and
15 I'll just summarize it, and please, if you don't
16 recognize what I'm speaking of, I'm happy to lead
17 you right to that document, but you say that if
18 the WSP is not a policy to protect biodiversity at
19 all costs, but a practical policy to ensure
20 biodiversity, then my question to you is this:
21 Then why does the science backup for this not
22 include explicit analysis of the trade-off
23 relationships between use, rate - in other words,
24 harvest - and expected biodiversity loss, instead
25 of just specifying a set of benchmarks or targets
26 for conservation units? Do you understand my
27 question?

28 DR. RIDDELL: Well, I think I understand your question,
29 but your question really pertains to a very
30 specific situation that would be taken into
31 account in the management planning for how to
32 manage those resources, and they could be between
33 CU's, they could be between different species of
34 CU's and that, and so within the broad national
35 policy like this, we were trying to specify what
36 would constitute a forward-thinking and
37 precautionary approach to conserving genetic
38 diversity in the long term.

39 Bu the trade-off that you're talking about
40 are more appropriately considered within the
41 specific confines of what the problem really is.
42 It would be a very different outcome depending on
43 how different the status of the conservation units
44 that were involved were, what the differences in
45 their productivities were, what your opportunities
46 for implementing management change were, and that
47 if you were down to a single management group,

1 then you have very limited options in doing
2 anything through fishing. You might have to do
3 something through enhancement or habitat
4 alteration.

5 So, I mean, there is such a combination of
6 possible scenarios in any of these examples that
7 you couldn't really build them in. But it is --
8 what you're saying is clearly what would be done
9 in the development of a management plan.

10 Q Right. So it wouldn't be focused upon by the
11 scientist, but it would be focused upon in the
12 next phase where the managers had to grapple with
13 the issue of reaching benchmark thresholds?

14 DR. RIDDELL: That's correct. The science is
15 describing how you define the spatial units, the
16 conservation units, what are the benchmarks,
17 establishing the assessment framework so that you
18 have the data upon which to do the analysis,
19 looking at the habitat and ecosystem issues, and
20 really what you're referring to is when we start
21 talking about wild salmon, too, I think is the
22 phrase you're using, for Strategy 4, that is where
23 we recognize that for ecosystem-based management
24 and to really incorporate the interests and
25 concerns of a particular community, you must have
26 a more inclusive process. That's the intention
27 of, I think it's, figure 8 in the document, to
28 show that -- Mark actually described it as
29 managing for egg to egg and that.

30 So you have the three information inputs that
31 are largely scientific and that, not just from
32 scientists, for from communities and a science
33 background and, you know, historical data and
34 that, but the actual consideration of all these
35 trade-offs has to be within this particular
36 management framework and the problem at hand.

37 Q And so you would expect the managers to carry out
38 the explicit analysis of the trade-off
39 relationships?

40 DR. RIDDELL: With the advice of science, because we
41 would develop many of the --

42 Q Yes.

43 DR. RIDDELL: -- well, not me anymore, but science
44 would develop many of the models and they would
45 provide advice on what type of models are
46 appropriate for the trade-offs. An expert in that
47 is going to talk to you later, probably, Dr. Carl

1 Walters, on that.

2 Q Thank you.

3 MR. WALLACE: I'm not sure, Mr. Rosenbloom, if you can
4 -- it's hard, sometimes, for me to find the line
5 between the issues of management. Dr. Riddell
6 pointed it out here. I'm not sure if your
7 questions continue to go along the management and
8 the integration of the policy and the management,
9 but that really is the subject matter of the
10 Strategy 4, which we'll deal with later.

11 MR. ROSENBLOOM: Well, I've concluded that question and
12 gotten my answer. I don't believe that I violate
13 Mr. Wallace's concerns in the next series of
14 questions I have. In any event, I see it is 4:30.
15 It may be an appropriate time to adjourn.

16 MR. WALLACE: Mr. Commissioner, I'm concerned about
17 time. I'm not sure how much longer Mr. Rosenbloom
18 intends to go, but I would -- I've asked the
19 participants if they'd be available until 5:00
20 today, and I would --

21 MR. ROSENBLOOM: Oh, 5:00?

22 MR. WALLACE: -- prefer to carry on, if we may?

23 MR. ROSENBLOOM: I'm sorry, I thought it was 4:30. I'm
24 happy to carry on. Thank you.

25 Q Dr. Riddell, let me ask you this: The sockeye
26 fishery that, of course, is the focus of this
27 inquiry, would you agree that that fishery is
28 largely dependent on a relatively small number of
29 large stocks? That's my first question.

30 DR. RIDDELL: The abundance is definitely dependent on
31 a relatively small group of large stocks, yes.

32 Q Secondly, isn't it true that some of the small
33 stocks that are the main concern for sockeye
34 biodiversity loss in the Fraser rear in smaller
35 lakes, like Cultus, that have no potential for
36 ever replacing losses if anything bad should
37 happen to the larger stocks; do you agree with
38 that?

39 DR. RIDDELL: Well, yes and no.

40 MR. WALLACE: Mr. Commissioner, this strikes me very
41 much as harvest management and, subsequently,
42 Strategy 4 series of questions. The questions --
43 we're talking here about the development of the
44 policy, the science that goes into protecting
45 biodiversity, the identification of CU's, the
46 identification of benchmarks in those CU's, and
47 just what the structure is. In my submission, Mr.

1 Rosenbloom's questions are much better directed at
2 later panels and later topics in this inquiry.

3 MR. ROSENBLOOM: Will Mr. Wallace refresh my memory:
4 Is Dr. Riddell present for the harvest management?

5 MR. WALLACE: I don't know the answer to that.

6 MR. ROSENBLOOM: Well, I take the position Dr. Riddell
7 has been testifying about these very matters.

8 Q Maybe, Dr. Riddell, do you know whether you are a
9 prospective panellist for the harvest management
10 panel?

11 DR. RIDDELL: The harvest management panel is
12 immediately after Christmas? Is that that --
13 following? I do not believe that I am on that
14 list, at this time.

15 MR. ROSENBLOOM: Well, that being the case, Mr.
16 Commissioner, and in the context of the evidence
17 we've already heard from Dr. Riddell about
18 biodiversity, I don't quite understand why it's
19 inappropriate to ask this question of him, and
20 appreciating his background and his experience.

21 THE COMMISSIONER: Mr. Rosenbloom, if your questions
22 arise out of testimony that Dr. Riddell has given
23 so far, I think it's appropriate for you to pursue
24 in your cross-examination those answers to those
25 questions. To the extent that it opens up new
26 avenues which have not been testified upon, then I
27 think that's a different matter. So if your
28 questions do flow from testimony we've heard in
29 the proceedings here yesterday and today, I think
30 you're entitled to pursue those.

31 MR. ROSENBLOOM: Well, I don't want to belabour this,
32 and I don't want to take up a lot of time of the
33 Commission, but Dr. Riddell has been testifying
34 about biodiversity, the importance of preserving
35 biodiversity, we've been speaking of SAR's and
36 COSEWIC and so on and so forth. I would have
37 thought that this line of questioning was very
38 relevant to the issue of biodiversity and the
39 nature of the stock of the west coast and whether
40 it is of value to seek protection of all stock
41 within the Pacific sockeye community. SO I would
42 have thought it was very relevant and that we'd
43 been talking about biodiversity for the last two
44 days.

45 THE COMMISSIONER: I don't think I was denying you your
46 opportunity to ask the question, Mr. Rosenbloom.

47 MR. ROSENBLOOM: No.

1 THE COMMISSIONER: So I think you should put your
2 question to Dr. Riddell. I'm sorry, I didn't make
3 a note of the last question you asked. Mr.
4 Wallace got up to object and I didn't make a note
5 of it, but --

6 MR. ROSENBLUM: Right.

7 THE COMMISSIONER: -- if you want to put your question
8 to him again?

9 MR. ROSENBLUM: Yes, I would.

10 THE COMMISSIONER: Thank you.

11 MR. ROSENBLUM: Thank you.

12 Q Dr. Riddell, isn't it true that some of the small
13 stocks that are the main concern for sockeye
14 biodiversity loss in the Fraser rear and smaller
15 lakes, like Cultus, that have no potential for
16 ever replacing losses if something bad should
17 happen to the larger stocks?

18 MR. WALLACE: Mr. Commissioner, the question will be --
19 these questions will be appropriate for other
20 panels. We will be dealing specifically with the
21 Cultus Lake situation. We will be dealing with
22 the application of harvesting plans under Strategy
23 4 and under the harvest management sections. This
24 goes way beyond the development of the policy and,
25 in my submission, this panel is not the place to
26 put those questions. If it's imperative that Dr.
27 Riddell be back, I would listen to why that might
28 be, but the Commission counsel has put together
29 the people they think are the appropriate
30 witnesses for these panels and have invited
31 participants to suggest others for those panels
32 where it would be more appropriate than this one.

33 MR. ROSENBLUM: I'm in your hands, Mr. Commissioner.

34 THE COMMISSIONER: Mr. Rosenbloom, what I would
35 suggest, to get on with it - we're going to lose
36 the next 20 minutes in this debate - is for you to
37 reserve the questions that you had intended to ask
38 on this particular point. I will hear from you if
39 Mr. Wallace and you cannot agree on whether or not
40 Dr. Riddell should be recalled to answer your
41 questions in the context of another panel that's
42 dealing more specifically with the area in which
43 you wish to pursue your questions. So if it's
44 convenient for you, now, to move onto another
45 topic, I would certainly not like to forget this
46 line of questions that you want to pose, but ask
47 you to move on at this stage.

1 MR. ROSENBLOOM: Yes, I will concede to you, Mr.
2 Commissioner. I don't think Dr. Riddell is the
3 only scientist that is coming before this tribunal
4 that is able to answer the question, I just wanted
5 to pick the brains of Dr. Riddell, who is
6 obviously respected in the field and very, very
7 experienced, and that's why I was directing the
8 question to him, especially, when I learn that we
9 may not see him again. But in any event, we will
10 leave it for Mr. Wallace and I to talk out and
11 possibly to recall Dr. Riddell. I'm sure that's
12 great news for you, Dr. Riddell, but we may see
13 you again, after all.

14 Q Yesterday, Mr. Saunders, I believe that you made
15 some comment about the holistic approach to
16 ecologically-based management, and you spoke, in
17 particular, that implementation of the policy
18 requires DFO to consider how many salmon is
19 necessary to support the ecosystem; the bears, the
20 eagles, et cetera - this isn't verbatim - you
21 recall that portion of your evidence?

22 MR. SAUNDERS: Yes, I do.

23 Q I'm a little intrigued by that. Tell me this:
24 How much -- when you say "as much as we understand
25 it", surely this suggests that "we" as a society
26 and "you" as DFO and the scientists, really don't
27 understand much at all when it comes to that issue
28 of feeding the ecological system in terms of bears
29 and eagles, and so on, with salmon carcass?

30 MR. SAUNDERS: I would say that we're in early days in
31 sort of understanding. There's a lot to learn
32 around structure and function of ecosystems.

33 Q And you would agree with me in terms of eagles and
34 bears and so on, there are huge, vast tracks of
35 land in British Columbia where bears and eagles
36 inhabit that aren't anywhere near salmon-rearing
37 streams? Obviously?

38 MR. SAUNDERS: I'm not sure that's obvious.

39 Q Really?

40 MR. SAUNDERS: I would say the larger proportion of the
41 land mass has salmon in streams.

42 Q Yes, where there are streams, but the point I'm
43 also making is that the feeding that does take
44 place is obviously in a window of, whatever, six
45 weeks, seven weeks, annually, obviously?

46 MR. SAUNDERS: I'm uncomfortable with going -- I'm --
47 in my current position, I'm not an active research

1 scientist --

2 Q Right.

3 MR. SAUNDERS: -- in the area of this. There are other
4 panellists, perhaps, and others that are in front
5 of this commission, that can speak to it. I'm not
6 sure where you're going with the question, but...

7 Q I'm sorry, and Dr. Irvine does want to say
8 something. Yes?

9 DR. IRVINE: Well, I'll just make the comment that it
10 isn't, you know, the benefit of nutrients that
11 salmon bring into the watershed are not only
12 utilized in a six-week period. I mean, they
13 contribute to the food chain, and so they really
14 contribute right through an extended period of
15 time.

16 Q Yes.

17 DR. IRVINE: So it's not like they're only feeding on
18 the salmon. They feed on the organisms that feed
19 on the salmon.

20 Q But you do both agree, as you have said already,
21 Mr. Saunders, that we're at an early stage of
22 understanding that dynamic?

23 MR. SAUNDERS: I'm probably not a good person to state
24 how early or how much we know, but it is reality
25 resource management going forward that we need to
26 consider the requirements of ecosystems.

27 Q Dr. Irvine, you state in your précis, which is
28 Exhibit 103, in part you say that you will say at
29 this hearing that you had not seen -- you have not
30 seen any draft operational guidelines through the
31 WSP implementation team or Strategy 1 team.
32 You're familiar with what I'm referring to?

33 DR. IRVINE: Yeah, I'm just trying to find it on the
34 page so I can see it in context.

35 Q Yes, I'm referring to Exhibit 103, page 4, bottom
36 of page 4, the last bullet. The last line of that
37 paragraph, which reads:

38
39 He will say that he has not seen any draft
40 operational guidelines through the WSP
41 Implementation Team or Strategy 1 Team.

42
43 You see that, now, sir?

44 DR. IRVINE: Okay, so what we're talking about, here,
45 is a different set of operational guidelines.

46 Q Yes.

47 DR. IRVINE: The operational guidelines that we've been

1 talking about over the last two days were really
2 the prescriptive measures that were -- that we
3 intended to develop in the early stages of the
4 WSP. There is, within the policy, a mention of --
5 probably an unfortunate use of the words
6 "operational guidelines", so we use that term
7 again, and as I recall, it was basically to
8 determine the process by which that buffer would
9 be specifically identified. So this is the buffer
10 between the CU lower benchmark and the point at
11 which a CU might be considered at risk of
12 extirpation.

13 Q And in respect of that matter, you have not seen
14 the operational guidelines?

15 DR. IRVINE: I have not seen, to my recollection,
16 guidelines through the WSP implementation team, or
17 Strategy 1 team, about the specific delineation of
18 that buffer, that's true.

19 MR. WALLACE: The doctor will be back to speak to this
20 on the implementation of that.

21 MR. ROSENBLOOM: Thank you very much.

22 Q I want to turn, now, to the whole issue of funding
23 and implementation, and without moving directly
24 into implementation, but rather into the mindset
25 of all of you who participated in the development
26 of the WSP, as I read the précis of evidence of
27 the four of you, one common theme, I suggest to
28 you, is that there has been a real squeeze,
29 financially, in respect to implementation or
30 working towards implementation of this program
31 and, in fact, even you, Mr. Chamut, in your
32 evidence this afternoon, spoke of cobbling money
33 together.

34 Now, this is a pretty critical issue for the
35 long-term viability of this policy. Might I first
36 ask you, and maybe to keep order here, I'll direct
37 it, first, to Dr. Riddell, during your
38 participation. What I don't see in my review of
39 documents - and believe me, I'm not suggesting
40 I've seen everything that's in the body of
41 documents that have been provided to us - was
42 there a point in time in the earlier stages of
43 this initiative, where the minister was informed
44 of what you believe you believed - "you", meaning
45 you, collectively with DFO - believed to be the
46 cost of putting this program together and
47 implementing the program?

1 DR. RIDDELL: Well, I think it's probably more
2 appropriate that Pat comment on interaction with
3 ministers, because I was a working scientist
4 advising the west coast, and I seldom spoke
5 directly to him. As an active scientist at the
6 time, though, we did put active work plans
7 together. You saw the memo where there was
8 400,000 from science, 200,000 from habitat, and so
9 on, and at one point that accumulated to 1.1
10 million dollars directed to implementation of the
11 Wild Salmon Policy.

12 What you may not understand in the way it was
13 presented is they were internal funds reallocated
14 to do work specific to the policy implementation,
15 and that, so I really can't speak to information
16 to the minister; I can only speak to what we had
17 to work with. And it was not just money, per se,
18 because we were developing new methodologies, and
19 I would have to honestly say that a couple of us
20 probably underestimated the time it was going to
21 take, particularly for the conservation units. We
22 had to actually do some of the raw map work, for
23 example, which we had not been informed of until
24 we implemented and that, but for the investment we
25 had, I can't really comment any more on whether
26 the minister was made directly aware.

27 Q Yes. To move, then, to Mr. Chamut, then, and
28 yesterday you said, and possibly a little bit in
29 jest, you said, I think, 30, 40 million dollars,
30 and then Mr. Wallace suggested to you that maybe
31 it was facetious, but it sounded to me, from your
32 evidence yesterday, that you are approaching --
33 you believe that this is going to be a very costly
34 initiative to be fully implemented and effectively
35 implemented; is that fair to say?

36 MR. CHAMUT: Well, I think you're putting words in my
37 mouth, to some extent. Can I come back to that
38 point, because I want to deal with what you
39 raised, first?

40 Q By all means.

41 MR. CHAMUT: I think the simple answer to your question
42 is, no, the minister was not advised about
43 implementation costs early on. Like when I was
44 asked to come out here, there was never any
45 discussion about the cost of implementing the Wild
46 Salmon Policy. And, in fact, I recall very
47 specifically that the discussions that I had had

1 with others, the deputy regional, DG, my mandate
2 in coming out here was not to come out and develop
3 a policy that was going to require a large amount
4 of incremental funds, because things are tight.

5 The intent was that we would be developing a
6 policy that would be implemented using existing
7 funds. And in my discussions, you'll see it in
8 the witness statement that you referred to, my
9 understanding is we went through this in talking
10 to the colleagues that are, in fact, are here on
11 this panel, was that there was adequate amount of
12 resources to be able to implement the policy in a
13 phase manner over about a five-year period. And
14 it was understood that it was not going to be done
15 quickly, and it was equally understood that if
16 there was lots of money it would be done much more
17 quickly with additional resources, additional
18 people, that it would obviously speed things up.
19 But the minister was not given any suggestion that
20 it was going to take a large investment of money
21 and, in fact, quite the reverse; it was expected
22 the policy would be implemented with existing
23 funds.

24 Now, I felt quite -- obviously I was
25 surprised to recall the extent of work that I had
26 done to try and develop some support for funding
27 at the last -- at the end of the process, because
28 that was done possibly the day before I retired,
29 and so it was an effort to try and get a hold of
30 colleagues in Ottawa and get them to provide money
31 from their internal budgets, which I was able to
32 do. And it is money that obviously helped
33 implement the policy. To the extent that it has
34 been implemented at this point, that money has
35 been very important. I think if there was more
36 money, we can do more, and if the intent is to try
37 and accelerate the implementation, then I think
38 money would definitely be something that should be
39 considered.

40 I have no idea of how much money would be
41 required, because I've been too long out of the
42 system and I'm really not sure how much is -- has
43 been dedicated, what the staff capability is, and
44 how much more would be required. That would be
45 something that is probably more appropriately
46 answered by the RDG's.

47 Q I appreciate that. But is it fair to say, from

1 your response, that clearly in seeking money or
2 obtaining money from the department you're
3 actually robbing other programs of what otherwise
4 would be their funding?

5 MR. CHAMUT: No, I don't think so. At the time, and
6 this is, again, is very difficult, because my
7 recollection is reasonably fresh, just having seen
8 the memos again this afternoon. But I seem to
9 recall that the money that was -- that I called
10 "cobbled together", there had been some new funds
11 that had been given to the department, and some of
12 those monies had been distributed amongst the
13 sectors, and so that money was not necessarily
14 robbing Peter to pay Paul; it was money that was
15 available, and I just wanted to make sure that it
16 was dedicated to the Pacific region to implement
17 the policy, and there was small amounts --
18 relatively small amounts from each of the sectors
19 that went into it, and I'm reasonably certain that
20 there was a source of money that had come into the
21 department for, I can't remember exactly what the
22 submission was about, but I think that that was
23 the origin of the money.

24 Q I will be corrected by the current panel members
25 -- excuse me, the panel members who are currently
26 working within DFO, but I believe that the deputy
27 minister, Claire Dansereau, in her testimony at
28 this proceeding, indicated that the upcoming
29 fiscal year the department is being directed to
30 draft a budget with a 10 percent reduction in
31 their operating expenses. Firstly, I don't want
32 to mislead the commission about that. Is that the
33 understanding, for example, of you -- either of
34 you that are currently with DFO?

35 MR. SAUNDERS: There's a departmental review that goes
36 across all government departments, is my
37 understanding. I thought the number was five
38 percent, but I could be wrong on that.

39 Q All right. I believe I'll let the record speak
40 for itself whether it was five or 10 percent, but
41 the deputy minister spoke of this reduction. This
42 surely imposes a greater squeeze than ever in
43 terms of implementation of this program; is that
44 fair to say?

45 MR. SAUNDERS: It's not clear where -- I mean, I think,
46 as Mr. Chamut pointed out, that at that time, as
47 it is now, there are extreme pressures, budgetary

- 1 pressures, on all of us, every department, and
2 certainly every sector within DFO. Where we have
3 no understanding and need to, as I understand it,
4 there is no -- there are no -- the only time we
5 will understand where the cuts will be visited and
6 how they will be done will be in the budget when
7 budget is released in February. So we don't know
8 how those -- that five percent will be visited on
9 the department.
- 10 Q But it -- obviously, the implementation of this
11 program imposes an additional financial burden on
12 what are all the multitude of other
13 responsibilities that DFO carries out? No?
- 14 MR. SAUNDERS: Can you say that again, please? Repeat
15 the question?
- 16 Q Yes. Simply that by -- that the implementation of
17 this program, the WSP, is obviously imposing
18 greater stress on the budget of DFO in terms of
19 the multitude of other responsibilities it carries
20 out?
- 21 MR. SAUNDERS: Well, I think, at this point, we're
22 still operating within the resources that Mr.
23 Chamut reported, you know, roughly a million
24 dollars that we are utilizing for the
25 implementation of the policy. And we'll get into
26 this in the implementation, but we learn as we go
27 in terms of the number of conservation units, what
28 it's going to take to assess them, developing
29 business plans to go forward, so I don't know that
30 I would answer -- I wouldn't say an unequivocal
31 yes to your question.
- 32 Q You'll agree that your department needs greater
33 funding to do a full implementation of this
34 program? It's being stalled, in part, by a
35 financial limitation; is that not correct?
- 36 MR. SAUNDERS: No. I would agree with Mr. -- you know,
37 with the points that were made earlier, that it
38 was always agreed that this would be a phased
39 approach, that it could move faster. I think that
40 your suggestion that it is stalled, I wouldn't
41 agree with that.
- 42 Q Dr. Riddell, do you agree with what you just
43 heard? I appreciate you're no longer with the
44 department, but from your perspective?
- 45 DR. RIDDELL: I'm still playing with the department hat
46 on, on this panel, I believe, so...
- 47 MR. WALLACE: Yeah. I invite you to ask that specific

1 question to Dr. Riddell when he comes back with
2 his other hat on, which is --

3 DR. RIDDELL: Now I'm coming back, see.

4 MR. WALLACE: But only on the impression of how it
5 looks from today, from the outside.

6 MR. ROSENBLOOM: I'm happy to direct that question to
7 Dr. Riddell when I see you again, but I do want
8 you to reflect upon the evidence you just heard
9 from Mr. Saunders, whether or not the program is
10 amply funded to this point in time and into the
11 future, all right? I'll be asking you that
12 question.

13 Q Mr. Chamut, yesterday you gave some testimony that
14 I was also intrigued by, and it is found in the
15 transcript, yesterday's transcript - I appreciate
16 obviously you have not seen that, but Mr. Lunn
17 will put it before you on your screen right now -
18 and it relates to your comment, which is really
19 "une passion", that there was an obvious need for
20 funding for the WSP, but you spoke in a passionate
21 way that you felt there was an incredible need
22 within DFO for further funding in what you called
23 ocean research, the marine environment and so on,
24 and at line 31 at page 75 of that transcript,
25 you're speaking generally there of how you feel
26 there's a need for more money for stock assessment
27 in the marine environment. And you spoke of the
28 need for more forecasting to give an accurate
29 picture of the number of fish that are coming
30 back.

31 And if Mr. Wallace is again about to
32 interject, let me make this point before Mr.
33 Wallace makes his point: This is my last
34 opportunity, I believe, to ask you, Mr. Chamut,
35 about this question. You raise a question about a
36 critical for funding for research that relates to
37 the salmon of the Pacific coast, and if I don't
38 ask this question of you now, I don't know when
39 the record will ever be able to provide your
40 opinion in amplification of what you said
41 yesterday. Thank you.

42 MR. WALLACE: Mr. Commissioner, Mr. Chamut is not
43 coming back, as far as we currently plan, that's
44 true, but there will be discussions, again, on
45 ocean research. We have a scientific paper on the
46 subject. Maybe it's quicker to allow the question
47 to be answered.

1 THE COMMISSIONER: I think so, Mr. Wallace. Go ahead,
2 Mr. Rosenbloom, you may proceed with your
3 question.

4 MR. ROSENBLOOM: Thank you. I would ask, Mr. Lunn,
5 enlarge line 31, around line 31.

6 Q You say, in part, Mr. Chamut, at line 31:
7

8 So if there was one thing that I think the
9 commission needs to get some expert focus on
10 is what I would call ocean research. And to
11 really understand what's happening in the
12 ocean, it would give, I think, as much --
13 have as much value to understand that as
14 implementing the Wild Salmon Policy, in my
15 opinion, and I hope that's something that's
16 not going to be -- I'm sure it won't be
17 overlooked, but I really think it's one of
18 the key needs --
19

20 Because this is our only opportunity to
21 elicit information from you, obviously this, in
22 your opinion, is an important initiative that DFO
23 should embark upon, assuming funds are available
24 and, as you put it, you feel it is as important as
25 the implementation of WSP; is that fair to say?

26 MR. CHAMUT: Yeah, I'm not going to repeat what's here,
27 because it's very incoherent, but my main point is
28 that ocean research is something that is very
29 important to enhance our understanding of what
30 happens to salmon, because once they leave the
31 natal rivers they're basically gone for a period
32 of time, and we really have a very poor ability to
33 understand what's happening to them, where they're
34 going and how many of them are actually going to
35 be coming back, and it results in all sorts of
36 surprises.

37 And I do know that the department has lost
38 ship capability and, to some extent, research
39 capability to be able to operate out in the North
40 Pacific for periods of time. And I just -- I
41 really wanted to flag it for the commissioner,
42 it's something I feel very strongly about, and I
43 was very cheered to hear that this would be done
44 with a panel of experts, because I'm not an expert
45 but I've been around the business long enough to
46 know that this is one of the major kind of black
47 holes that needs to be filled, and I know the

1 department is simply incapable of doing the work,
2 now, because of the lack of resources. And I
3 think the lack of adequate vessels, although I did
4 see that some new research vessels are being
5 built. Hopefully, one of them will come to the
6 Pacific. But I just wanted to flag it, because I
7 do think it is important.

8 Q And so did I, by drawing your evidence of
9 yesterday back to the attention of the commission
10 today. It would be a costly initiative, wouldn't
11 it?

12 MR. CHAMUT: Yes, it's not inexpensive to operate large
13 vessels in the North Pacific over a period of
14 time, and I think that's what's required, and it
15 -- but it is -- I think the cost would be worth
16 the -- the investment would give you a good
17 return.

18 Q As equal a return as the implementation of WSP?

19 MR. CHAMUT: I think, yes.

20 MR. ROSENBLOOM: Thank you. I obviously have more
21 questions, but I see it's five o'clock, thank you.

22 MR. WALLACE: Mr. Commissioner, I wonder if we could
23 start again tomorrow morning at 9:30 and
24 anticipate being here until 5:00?

25 THE COMMISSIONER: We can start at 9:45, tomorrow
26 morning, Mr. Wallace, if that's agreeable.

27 MR. WALLACE: Thank you.

28 THE COMMISSIONER: And Mr. Timberg, were you going to
29 add something?

30 MR. TIMBERG: I'll speak to Mr. Wallace about when I
31 should have the witnesses for our second panel
32 available tomorrow.

33 THE COMMISSIONER: All right. Well, I'll let you and
34 Mr. Wallace sort that out. Thank you very much.

35 THE REGISTRAR: The hearing is now adjourned until 9:45
36 tomorrow morning.

37
38 (PROCEEDINGS ADJOURNED TO DECEMBER 1, 2010,
39 AT 9:45 A.M.)
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1 I HEREBY CERTIFY the foregoing to be a
2 true and accurate transcript of the
3 evidence recorded on a sound recording
4 apparatus, transcribed to the best of my
5 skill and ability, and in accordance
6 with applicable standards.
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10 _____
11 Pat Neumann
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13 I HEREBY CERTIFY the foregoing to be a
14 true and accurate transcript of the
15 evidence recorded on a sound recording
16 apparatus, transcribed to the best of my
17 skill and ability, and in accordance
18 with applicable standards.
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23 Diane Rochfort
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26 true and accurate transcript of the
27 evidence recorded on a sound recording
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35 Susan Osborne
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38 true and accurate transcript of the
39 evidence recorded on a sound recording
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41 skill and ability, and in accordance
42 with applicable standards.
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47 Karen Hefferland