

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.

Wednesday, December 1, 2010

Tenue à :

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

le mercredi 1 décembre 2010



Errata for the Transcript of Hearings on December 1, 2010

Page	Line	Error	Correction
ii		Lara Tessaro is missing her title	Junior Commission Counsel
iv		James Walkus is not a participant	remove from record
iv		Musgagmagw Tsawataineuk Tribal Counsel	Musgamagw Tsawataineuk Tribal Council
83	27, 32	Pearse	Pearce

APPEARANCES / COMPARUTIONS

Brian J. Wallace, Q.C. Lara Tessaro	Senior Commission Counsel
Tim Timberg Geneva Grande-McNeill	Government of Canada
Boris Tyzuk, Q.C. 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.	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. Chris Watson	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 ("MTC")

TABLE OF CONTENTS / TABLE DES MATIERES

	PAGE
PANEL NO. 6 (Continuing):	
BRIAN RIDDELL	
Cross-exam by Mr. Rosenbloom	4
Cross-exam by Mr. Butcher	15/27/40/48/52/59/61
Cross-exam by Mr. Harvey	64
Cross-exam by Ms. Gaertner	108/110
PAT CHAMUT	
Cross-exam by Mr. Rosenbloom	10/38/45/49/57/63
Cross-exam by Mr. Lowes	80
Cross-exam by Ms. Gaertner	91/92/98/102/103/115/116
MARK SAUNDERS	
Cross-exam by Mr. Lowes	87
Cross-exam by Ms. Gaertner	90/92/97/100/103/104/112/116/118
JIM IRVINE	
Cross-exam by Mr. Butcher	26/54/60/62
Cross-exam by Ms. Gaertner	90/109/113

EXHIBITS / PIECES

<u>No.</u>	<u>Description</u>	<u>Page</u>
122	"Spatial Organization of Pacific Salmon: What To Conserve?" (1993), B.E. Riddell	31
123A	Memorandum for the Deputy Minister, Update on First Nations Participation in Wild Salmon Policy Implementation	101
123B	Government of Canada Fisheries and Oceans Transmittal cover sheet to Larry Murray, Deputy Minister, Object: Update on First Nations Participation in Wild Salmon Policy Implementation, dated July 29, 2005	102

EXHIBITS FOR IDENTIFICATION / PIECES POUR L'IDENTIFICATION

Q	Summary of anticipated evidence of Dr. Brian Riddell dated November 19, 2010	4
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1 Vancouver, B.C. /Vancouver (C.-B.)
2 December 1, 2010/le 1 décembre
3 2010
4

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

6 MR. ROSENBLUM: Yes, good morning, Mr. Commissioner.

7 I have approached this cross-examination in
8 part on the belief that the issue of funding the
9 implementation of WSP is a critical matter for
10 this Commission. Appreciating that, I have
11 informed Mr. Wallace just before we commenced this
12 morning that I have a number of questions relating
13 to funding issues and some of them were to be
14 directed to Mr. Saunders and indeed to Dr. Irvine.
15 But as they are returning for the Implementation
16 Panel, it appears from Mr. Wallace's direction
17 that he would prefer that my questioning about
18 funding implementation be postponed until these
19 two gentlemen return on the Implementation Panel.
20 And as a result, I will ask nothing further in
21 respect to that issue with those two gentlemen.

22 However, I also told Mr. Wallace and he
23 appears to accept my direction, that I do have the
24 odd questions for Dr. Riddell on that issue of
25 funding, as Dr. Riddell returns, but he returns in
26 the capacity as a stakeholder on -- with the
27 Stakeholder Panel. And I think that is to Mr.
28 Wallace's satisfaction. So I will proceed
29 accordingly.
30

31 CROSS-EXAMINATION BY MR. ROSENBLUM, continuing:
32

33 Q Dr. Riddell, you provided a will-say document, not
34 only your document of November the 16th, but a
35 document of November the 19th, and I believe, Mr.
36 Wallace, that document has not as yet been filed
37 as an exhibit; is that correct?

38 MR. WALLACE: Indeed, the will-say statement for
39 summary of anticipated evidence of Dr. Riddell for
40 the 19th is with respect to his role as a
41 stakeholder, not his perspective from today. So
42 if the questions relate to that summary of
43 evidence, then the appropriate time to raise it is
44 when Dr. Riddell returns, I think it will be
45 probably Wednesday of next week as a member of the
46 Stakeholder Panel.

47 MR. ROSENBLUM: But this is precisely what I was

1 wanting to get an agreement with Mr. Wallace so we
2 didn't waste the time of the Commission. Yes,
3 indeed, on the November 19th will-say document of
4 Dr. Riddell, he speaks to the funding
5 implementation issue, and he speaks to it, not in
6 the context of a stakeholder with the Salmon
7 Foundation, but speaks to it in the context of
8 when he was Division Manager. And I'll just read
9 one snippet from his statement so that then
10 there's an appreciation of why I'm asking these
11 questions now and not later.

12 MR. WALLACE: If the matter is raised in Dr. Riddell's
13 summary of evidence for the 19th, then that's the
14 appropriate time to raise it when he returns on
15 the Stakeholder Panel.

16 MR. ROSENBLOOM: Well, I don't know why it is when it's
17 evidence that Dr. Riddell's giving in respect to
18 when he was Division Manager and the funding
19 issues when he was Division Manager with DFO.

20 THE COMMISSIONER: I haven't seen that document, I
21 don't believe. Was that the one that came up on
22 the screen yesterday and we replaced it with an
23 earlier document?

24 MR. WALLACE: That's correct.

25 MR. LUNN: Yes, that is correct.

26 THE COMMISSIONER: I tend to agree with you, Mr.
27 Rosenbloom. If there is statements in that
28 document pertaining to his role within the DFO,
29 and with respect to funding matters, then I think
30 it is appropriate for you to ask him now. And if
31 that's the case, I can ask Mr. Wallace to produce
32 the document now. We could have it marked at this
33 point. If it's Mr. Riddell's document, he can
34 identify it, and if there is content there that
35 pertains not to the stakeholder position, but to
36 his position within the DFO, then I think it's
37 appropriate for you to ask those questions.

38 MR. ROSENBLOOM: I'm nappy to be governed accordingly.
39 I wonder if that document, Dr. Riddell's will-say
40 of November 19th, be marked as an exhibit.

41 THE REGISTRAR: Exhibit number 122.

42 MR. WALLACE: We obviously did not have any
43 understanding on this at all. I don't understand
44 how the evidence that Dr. Riddell will give as a
45 stakeholder has anything to do with his position
46 now, and it gets more kind of complicated.
47 Because with respect to Dr. Riddell's appearance

1 here today, he is appearing in his capacity as an
2 ex-DFO employee. He is represented in that
3 capacity by counsel for Canada, and we've had
4 discussions with him in the other capacity quite
5 apart from that. So I'm not sure what prejudice
6 you would suffer, Mr. Rosenbloom, if this matter
7 were raised more efficiently next week.

8 THE COMMISSIONER: I think perhaps, to both of you,
9 what my particular concern would be that if he --
10 if there are matters that Mr. Rosenbloom wants to
11 put to him in his capacity as a former member of
12 the DFO having to do with funding issues, that he
13 is going to be able to address those while the
14 other panel members are here so that follow-up
15 questions might be asked. So, Mr. Rosenbloom,
16 there's two ways we can proceed. If Mr. Wallace
17 is not prepared to enter that exhibit at this
18 point, I wouldn't prevent you from asking
19 questions if you can phrase them as a question,
20 even though perhaps your source for that is the
21 stakeholder statement that he's made and will be
22 entered when he comes back.

23 MR. ROSENBLOOM: And as I put those questions to Dr.
24 Riddell, and incidentally I'm not -- my
25 questioning of Dr. Riddell on this matter isn't
26 extensive. But as I do place evidence before him
27 of what he said in that will-say, surely Dr.
28 Riddell can have the benefit of looking at that
29 document and it can be even marked for
30 identification purposes, if that is of more
31 comfort to my friend. So I will proceed
32 accordingly.

33 THE COMMISSIONER: Mr. Timberg?

34 MR. TIMBERG: Mr. Commissioner, I'm representing Dr.
35 Riddell in his capacity as a DFO employee. We
36 have installed firewalls within our office. I
37 will not be representing Dr. Riddell with respect
38 to his position at the Pacific Salmon Foundation
39 so I've not reviewed that witness summary with Dr.
40 Riddell. If I could perhaps have a moment to
41 review the witness summary and speak to Dr.
42 Riddell before this happens, that would be
43 appreciated.

44 MR. ROSENBLOOM: My questioning, I think, is benign
45 enough that I have no problems with that
46 whatsoever. I'll take it one step further. I
47 will draw to counsel's attention the two

1 paragraphs of Dr. Riddell's will-say of November
2 19th that I do intend to ask a few questions
3 about. So that will speed it up even further.
4 I'm happy to do that.

5 MR. TIMBERG: If I could just have a moment, please.

6 THE COMMISSIONER: All right.

7 MR. TIMBERG: Mr. Commissioner, I have reviewed the
8 questions and I don't think there's anything in
9 there that Dr. Riddell's not familiar with or
10 seems a link to the witness summary for today's
11 panel, so I have no issue.

12 MR. ROSENBLROOM:

13 Q Dr. Riddell, in your November 19th document, and I
14 suppose now I'd like to have it entered as an
15 exhibit, or for identification, if that's
16 preferred.

17 MR. WALLACE: I think it's probably appropriate to mark
18 it for identification at this point. There's more
19 in it than just this paragraph.

20 THE REGISTRAR: Be marked as Q for Identification.

21

22 MARKED Q FOR IDENTIFICATION: Summary of
23 anticipated evidence of Dr. Brian Riddell
24 dated November 19, 2010
25

26

26 MR. ROSENBLROOM:

27 Q And speaking to that to that document, and Mr.
28 Lunn can bring us at the screen to page 3. You
29 say under "Funding and governance of the WSP" and
30 I quote:
31

32

33 As context, he will say that when he was a
34 Division Manager in Science he was dealing
35 with constant budget cuts over time in a
36 situation where DFO's level of salmon stock
37 assessment is already minimally responsible.
38 To make budget cuts at that borderline level
39 had a very significant effect on DFO's
40 ability to gather core data.

41

42 I wonder if you would expand upon your comment as
43 set out there.

44

45 DR. RIDDELL: I certainly can, Mr. Commissioner. I
46 mean, it would be a fairly long response, and I
47 think for a second about the key elements.

48

49 Science Branch and salmon stock assessment is
50 a very large scope of a task, as we saw in my

51

1 introductory talk. We are talking about the
2 entire Province of British Columbia, 8,200
3 different populations that people refer to, and
4 what we have done over time is come to a limited
5 number of what I call core stock assessment
6 programs for chinook and coho, many people
7 recognize them as being indicator populations. Of
8 particular interest to the Commission would be the
9 level of commitment of the Department to Fraser
10 sockeye salmon.

11 Fraser sockeye salmon are seen as the key
12 sort of resource task within the Department and
13 has always been treated as sort of a first level
14 responsibility or priority for funding. Part of
15 this also is tied to the Pacific Salmon Treaty,
16 where we took over responsibility for assessment
17 of Fraser Sockeye and Pink Salmon in 1985.

18 And so relatively small budget cuts cause a
19 significant loss of program delivery in a sense,
20 because you're -- with variation in budgets you're
21 not laying people off continually to cover budget.
22 You have accumulation of staff, and a few percent
23 cut in a total turns into several percent cut in
24 operating funds. And so if you maintain the
25 Fraser sockeye programs, what we were doing is
26 continually reducing other activities around
27 British Columbia in order to sustain a core
28 program that was our top priority in Fraser
29 sockeye.

30 These things even change from year to year,
31 which is the other balancing act, because
32 everybody who knows in Fraser sockeye you have the
33 cyclic dominance phenomena. What that means for
34 core budgets is that you have very different costs
35 in terms of meeting the core level of
36 responsibility.

37 Any sockeye population over 75,000 spawners,
38 or expected to be over 75,000 spawners is required
39 to have a full mark-recapture, or some
40 quantitative measure of monitoring associated with
41 it. And that is a commitment made by the
42 Department and following from the Pacific Salmon
43 Treaty. So this means that in years like 2010
44 where we had very large returns, any single
45 program is extremely expensive to do good mark-
46 recapture, and in this case you would have had to
47 do five or six major mark-recapture programs.

1 To give you a better sense of the cost, this
2 year's program - and Mark probably knows this off
3 the top of his head - it would probably be in the
4 \$2 million to \$2.2 million range to deliver
5 multiple mark-recapture programs like that.

6 In the low cycle, we probably can do
7 reporting for Fraser sockeye in the 800,000 to one
8 million range. Those sorts of differences made a
9 huge effect when you have to pay for large
10 programs. So it was always a balancing act in
11 terms of where you can actually put your funds to
12 get the best information for overall assessment of
13 all species and all areas.

14 I don't know that I can be much more specific
15 in terms of what it was.

16 The total budget has not gone down in the
17 level that you frequently hear people referring
18 to. I hear people saying, "Oh, we've lost 50
19 percent of the total budget." We've never lost
20 anything on that magnitude. Over time the
21 reductions are more in the -- they may be in the
22 10 to 20 percent range in total, but as I said,
23 the impacts of the constant reduction is that you
24 lose your operating funds for conducting the basic
25 programs, and that's where it had a significant
26 effect on collection of data.

27 Q And so, Dr. Riddell, yesterday you heard an
28 exchange that I had with Mr. Saunders regarding
29 what I believed to be the evidence of the Deputy
30 Minister, Claire Dansereau, before this Commission
31 a few weeks ago, where she informed the Commission
32 that the Department was facing further budget
33 cuts, and Mr. Saunders believed it was five
34 percent. My memory was ten percent. But in any
35 event, whatever it was, can you speak from your
36 experience within DFO the significance as a
37 Department faces a five or ten percent cut in the
38 context of the implementation of the WSP.

39 DR. RIDDELL: Well, I mean, I should clearly identify
40 that I've been outside this budgeting process for
41 two years. If I had another five or ten percent
42 reduction in 2009 budgeting, and when I was
43 leaving, it would have meant that you would have
44 had another loss of some programs. A five percent
45 total budget cut is likely to generate at least a
46 ten percent operating budget cut in terms of
47 annual costs, and probably more like ten to 15

1 percent. And so you -- you can't continually take
2 proportionate cuts across all programs. You're
3 driven to the point where you fundamentally have
4 to start dropping activities. And so in stock
5 assessment, that means that you're dropping
6 assessment of some populations and that, in order
7 to meet that budget.

8 Q So there's a competition for funds. And when you
9 were in a position of authority within DFO, the
10 requirement to implement WSP surely put added
11 stresses on what would be your day-to-day
12 programs, would it not?

13 DR. RIDDELL: It did, but it's probably not as direct
14 as you might be thinking, in a sense, because
15 different people were doing different tasks. Much
16 of the stock assessment work is the responsibility
17 of our area offices, managed jointly by the Area
18 Manager, such as Barry Rosenberger for the Fraser,
19 and myself for the Stock Assessment staff and
20 Science Branch within Science Branch. So a number
21 of the people that you've been hearing about for
22 Wild Salmon implementation for Strategy 1 and
23 Strategy 3, are not people that have direct
24 responsibility for annual stock assessment and
25 deliver of escapement programs, monitoring of
26 catch, and that sort of thing.

27 It does put a pressure on it because you
28 can't give them additional funds to hire more
29 people to assist them. Right? But the pressure
30 is not -- if you lose ten percent, you don't lose
31 ten percent capacity to implement Wild Salmon.
32 But you also can't go and find more people to help
33 you increase the fate of implementation of Wild
34 Salmon.

35 Q Well, as Regional Director General, if you second
36 certain individuals from your department to be
37 working exclusive on WSP implementation, isn't
38 that a loss to the other programs within the
39 Department obviously?

40 DR. RIDDELL: Well, it's a loss to a particular
41 activity in the other programs possibly. But, I
42 mean, I'm not talking about anything from the
43 regional budget at the regional Director General
44 level. I'm talking about all the resources within
45 Science Branch. So the regional offices that
46 implement the escapement monitoring programs are
47 jointly managed by the local areas and Science

1 Branch Stock Assessment, and that.

2 The trade-off in this is that if, for
3 example, you wanted to increase the speed of
4 analysis of the big return in 2010, because all of
5 these mark-recaptures take a lot of analysis, it
6 will simply take more time because you can't --
7 you don't have the flexibility of assigning more
8 people to assist in that program. So what
9 normally might be done in two months might take
10 four months to get the final answers this year.
11 So you're always looking at trade-offs in terms of
12 meeting deadlines and what's the first priority.

13 Q But it surely leads to prejudice of other programs
14 within the Department when there is a financial
15 crunch and you have something as significant as
16 WSP for implementation.

17 DR. RIDDELL: Well, but as you've just implied, WSP is
18 a priority for implementation. It seems like it's
19 taken a long period of time, but there have been
20 some of our best people dedicated to working on
21 that file. While I was there, I did not give them
22 any additional assignments. They were protected
23 to continue to work on those issues as a priority,
24 and that. I simply couldn't give them much
25 additional funds to assist them in doing it
26 faster, and that. But they were not impeded in
27 the sense that they weren't given money to travel
28 or to get to meet people, and so on.

29 The direct costs of what you're referring to
30 in terms of budget cuts has effects on the core
31 monitoring of salmon populations on an annual
32 basis.

33 Q Thank you. I want to lead you very, very briefly
34 to one other paragraph or bullet within your will-
35 say. It is at page 4 of the same document, and it
36 is the fourth bullet where you say, and I quote:

37
38 However, he will say that recovering and
39 implementing the WSP would require DFO to
40 make a concerted, cooperative and focused
41 implementation effort. He believes that a
42 concerted implementation effort would require
43 DFO to devote intense funding for at least
44 one year.

45
46 My question to you, based upon your knowledge,
47 having worked in a senior position capacity within

1 DFO, is what do you -- how do you imagine intense
2 funding to be in terms of quantum?

3 DR. RIDDELL: Well, the -- sorry, Mr. Commissioner, the
4 statement was made in the sense that we are at the
5 five-year period, and I think that most people
6 expected we could have made more progress in terms
7 of full implementation by now, and certainly
8 personally I believe that.

9 To really catch up, because we have made
10 significant progress in the information files, the
11 Strategies 1, 2 and 3, that if you really wanted
12 to catch up and get this fully implemented, I said
13 one year as an intense effort to catch up, you
14 probably need to bring in several persons with
15 knowledge of the policy and of salmon. They exist
16 outside government, so that it could be done with
17 contracting. And that's why it could be done in a
18 year and probably would cost a few million
19 dollars. We've had numbers thrown around like \$30
20 million to \$40 million. It would be nothing like
21 that, and that. But several million -- well, not
22 several, I'm implying three to five at the outside
23 would probably allow you to make substantial
24 progress.

25 Something we haven't even talked about is
26 there has been extensive discussion about how you
27 maintain the open and transparent aspect of the
28 principle of the Wild Salmon Policy. One of the
29 notions that we talked about in the initial
30 workplans was an active website where people could
31 go and track what's the state of the development
32 of the conservation unit for their particular
33 areas of concern, and what's the state of the
34 populations, what are the escapement trends.
35 These are things that should be readily done with
36 the technologies we have these days. It really
37 just takes a concerted effort to complete that
38 type of work.

39 Q Thank you very much. My last area of examination
40 is directed at Mr. Chamut, and the testimony that
41 you gave before this inquiry a few days ago on
42 November the 29th. And I'll ask Mr. Lunn to have
43 that transcript up before the Commission.

44 I want to direct your attention to page 72,
45 and this is page 72 of the transcript, as opposed
46 to the electronic. There we go. At line 17 you
47 say in response to examination in chief by Mr.

1 Wallace:

2
3 Well, I would be -- my honest reaction is one
4 of disappointment.

5
6 You're speaking of the slowness of implementation.
7 You say:

8
9 I did anticipate that this was going to be a
10 difficult job to undertake, but I did [not]
11 understand that over the period of five years
12 that I would have expected there would have
13 been more progress made. In particular, we
14 talked about the desirability of trying to do
15 things like pilot projects, or at least
16 testing out some of the approaches...

17
18 Let's stop there for a moment.
19 I appreciate and the Commission appreciates
20 you are no longer with the Commission. You are in
21 retirement. In terms of when you were within DFO
22 and you were piloting this program of
23 implementation, what did you have in mind in terms
24 of -- in terms of the pilot programs. What did
25 you imagine DFO could have done that to the best
26 of your knowledge hasn't been done in respect to
27 pilot programs?

28 MR. CHAMUT: Okay. I want to be very clear. You in
29 your introduction to my -- the question to me, you
30 indicated that at some point that I was piloting
31 implementation, or words to that effect. I want
32 to be clear that at no point did I ever engage in
33 the implementation of the Policy, because it was
34 concluded just as I was leaving. And so the
35 implementation has basically been undertaken by
36 staff of the Department following my departure.

37 Q I appreciate that, and I really should have spoken
38 I guess, to piloting the program leading to the
39 publication of the policy, and that's what I
40 (indiscernible - overlapping speakers).

41 MR. CHAMUT: Right. Okay.

42 Q Thank you.

43 MR. CHAMUT: But in -- the essence of your question is
44 -- is related to pilot projects, and I certainly
45 felt at the time that I was working on the Policy,
46 as we were getting closer to its end, I felt that
47 one of the areas that was very challenging for the

1 Department, and I think challenging for other
2 interests to understand, was Strategy 4. And that
3 one of the best ways to actually help elucidate
4 how it could work and the benefits and problems
5 that have to be overcome, was to actually carry
6 out a pilot project in a specific area. Something
7 small enough that it was -- it was doable,
8 something where there wasn't -- an area where the
9 was a sufficiency of data and informed
10 stakeholders that would be interested in -- in
11 engaging in that kind of activity. And I felt
12 that it would be a good learning experience for
13 both the Department and for those co-operators
14 that need to come together to make it work.

15 And there are areas in the province, as I
16 recall, where integrated watershed planning was --
17 was not just an idea, but it was actually being
18 practised in various forms in some areas. And I
19 thought selecting one of those areas would
20 probably have been a good thing for learning and
21 for testing theories and helping to demonstrate
22 what this strategy is all about. And I think the
23 Skeena might have been a good area. There was
24 some thought maybe about Port Alberni, or areas
25 like that, and I don't ever have -- I didn't have
26 detailed discussions about that, but I do recall
27 having very general discussions about the
28 importance of demonstrating how Strategy 4 would
29 work through a pilot project.

30 Q And I of course will direct questions to the
31 Implementation Panel about whether that was done
32 or not, but to the best of your knowledge, has
33 that ever been initiated by DFO?

34 MR. CHAMUT: I really don't know.

35 Q Thank you. Further on in your testimony you speak
36 of the need to prioritize this WSP initiative within
37 DFO senior management, and right up to the DM
38 level, to the Deputy Minister level. And you
39 speak of working under the Deputy Minister Murray
40 when you were in a senior position in Ottawa. In
41 reading this, and please correct me if my
42 perception is wrong, I get the impression you are
43 disappointed that there isn't a stronger
44 commitment in Ottawa to the implementation of WSP
45 at this time; is that fair to say?

46 MR. CHAMUT: No, I don't think that's fair to say,
47 because I have -- I have not spoken to anyone in

1 Ottawa in six years. I have no idea what the
2 perception is about WSP. You mentioned the Deputy
3 Minister in your -- in your remarks, and I've
4 never met the current Deputy, and I don't -- I
5 know nothing of her, her particular thinking.

6 I think my comments earlier were based on my
7 experience. I had -- I had said that oftentimes
8 Pacific issues took a back seat to some of the
9 issues in the Atlantic, in terms of the focus of
10 the Department. A lot of the attention was
11 focused on some of the big problems that crop up
12 quite regularly in the Atlantic fishery. And the
13 Pacific was always a region that was, in my
14 opinion, well managed, operated a bit more
15 independently, and didn't necessarily get the same
16 degree of attention from Ottawa, which can be both
17 a blessing and a curse.

18 Q And in your testimony on the 29th you spoke of
19 this - these aren't your words - the competition
20 for attention between Atlantic Canada and the
21 Pacific Region, and one got the impression from
22 your testimony that you felt we were at the losing
23 end of that struggle to get Ottawa's attention; is
24 that fair to say?

25 MR. CHAMUT: I think often that's true. I think in
26 general terms the -- the Atlantic Regions, there
27 are four of them, and the -- often the problems
28 that come up are -- are quite difficult and
29 challenging for the Department. So there's
30 inevitably a strong focus on managing and dealing
31 with those Atlantic issues.

32 I don't want to give the impression, though,
33 that Pacific is -- is basically not given any
34 attention. I think that a lot of times Pacific
35 was able to operate more independently. But when
36 there were problems, and in my experience, I mean,
37 I have a number of years experience, both in the
38 Pacific Region and in Ottawa, when there was a
39 serious issue that needed attention, then there
40 was -- the necessary focus was provided to help
41 the region deal with it. But generally speaking,
42 a lot of attention tended to be focused on the
43 Atlantic because of the nature of the problems
44 that crop up so regularly there.

45 Q Do you have any suggestions of how the Western
46 Division of DFO could strategize to receive more
47 acute attention than Ottawa on their issues?

1 MR. CHAMUT: Well, I don't know if I have any specific
2 recommendations to make. I know at times -- going
3 back 20 years, there was actually a decision
4 taken, I think it was over -- well over 20 years
5 ago, to have an Assistant Deputy Minister located
6 in Vancouver to provide a link with Ottawa and a
7 sort of a senior level presence in the Region.
8 And if there was one thing I would recommend, is
9 that you not -- that that not be considered,
10 because it just doesn't work. The reality is that
11 if you have an Assistant Deputy Minister in
12 Vancouver, that person is pretty well divorced
13 from all of the goings on in Ottawa. So you
14 really need to have the person in Ottawa, or the
15 senior -- senior official responsible for
16 activities in the Pacific Region, the individual
17 needs to be located in Ottawa if he or she is to
18 be effective.

19 I think there's -- I think a lot of it has to
20 do with the larger degree of political attention
21 that -- that gets focused on the Atlantic. There
22 is a lot of program staff in Ottawa that does work
23 on Pacific issues. And I know that when there's a
24 Pacific Minister, there's generally a little bit
25 more focus. But I'm not suggesting there be two
26 Ministers. I think that would be -- be just a
27 mistake.

28 I think a lot of it ends up with making sure
29 that the Regional Director General has a clear and
30 quick line of communication with the Deputy, and
31 with all the ADMs. And I think it would be
32 important for the RDG to have -- to be seen
33 frequently in Ottawa. In other words, be a
34 presence there that people know and you can reach
35 out to staff in Ottawa on a regular basis and make
36 sure that your problems are getting the
37 appropriate attention.

38 But in a large department like the Department
39 -- like DFO, there's no easy, quick solution. I
40 think it depends on people working together and
41 being committed to a particular workplan or
42 resolving particular issues. And I think that
43 that's best done through, you know, face-to-face
44 discussions and focused -- focused activities.

45 Q Thank you. My last area of examination with you,
46 Mr. Chamut, relates to evidence you gave again on
47 November the 29th in response to a question in

1 chief by my friend, Mr. Wallace. I lead you to
2 page 76. And at page 76 Mr. Wallace asked a
3 question, and from my review of the transcript,
4 you answered half of it. I'm very interested in
5 you answering the second half of it. Mr. Wallace
6 at line 5 asked, and I quote:

7
8 We've heard, today, that the concepts have
9 been around, you know, prior to the 1990s and
10 were crystallized through the '90s, and here
11 we are in 2010 and it's not implemented. Had
12 their (sic) been a Wild Salmon Policy
13 developed and implemented more quickly, could
14 it have been done more quickly?

15
16 And that part you answered. Then Mr. Wallace
17 asked in the question:

18
19 Could it have had any impact on the decline
20 on Fraser River Sockeye?

21
22 And on that question I don't believe you answered
23 and I'm not faulting you for that, but I am
24 interested in your answer. Had this program, the
25 WSP been implemented within the timeframe that
26 some of you were at least hopeful that it would
27 come into effect, five years, we would have it
28 implemented by now. What effect would that have
29 had, firstly, on the runs of the last two or three
30 years, and secondly, for the runs of 2011 and '12,
31 and so on?

32 MR. CHAMUT: I think it would be very difficult for me
33 to answer that question. There's so many factors
34 involved, and you'd need to go back and look at --
35 you'd need to do some more detailed modelling, I
36 would think, about looking at escapements, and
37 looking at expected production and the like. And
38 it would be -- I think it would be inappropriate,
39 and in fact I don't even know if I could venture a
40 reliable answer or a credible answer on whether or
41 not returns would have been more, or less.
42 There's all sorts of issues associated with salmon
43 production in the ocean, in-river mortality, there
44 were disease outbreaks in the '90s, and things of
45 that nature, I don't think are going to be
46 affected directly by the Wild Salmon Policy.

47 There might have been some instances where

15

PANEL NO. 6

Cross-exam by Mr. Rosenbloom (GILLFSC)

Cross-exam by Mr. Butcher (SGAHC)

1 escapement might have been -- might have been
2 enhanced in small populations, and I think that
3 would be a positive thing, but if you're looking
4 at dramatic shifts in terms of the number of
5 salmon coming back, I don't -- I don't think there
6 would have been. But as I say, a credible answer
7 is one that would probably take some qualified
8 scientists a fair bit of time to look at and
9 they'd have to make a number of assumptions, which
10 I'm just jot able to do at this point.

11 MR. ROSENBLOOM: I fully appreciate your answer and I
12 thank the panel for responding to my questions.
13 Thank you.

14 MR. WALLACE: Southern Area E Gillnetters Association,
15 B.C. Fisheries Survival Coalition.

16

17 CROSS-EXAMINATION BY MR. BUTCHER:

18

19 Q Mr. Lunn, if we could please have Exhibit 108.
20 Dr. Riddell, this is your resume. And if you
21 can just --

22 THE REGISTRAR: Name please, David.

23 MR. BUTCHER: Sorry, it's David Butcher.

24 Q Your background academically is in studying the
25 fish genetics?

26 DR. RIDDELL: Yes, ecology and population genetics.

27 Q And your Ph.D. was in -- was involved a study on
28 the genetics of Atlantic salmon?

29 DR. RIDDELL: Yes.

30 Q How much of your time -- when did you join the
31 Department, first of all?

32 DR. RIDDELL: September 1979.

33 Q Was that immediately after getting your Ph.D.?

34 DR. RIDDELL: Yes, it was. Yes.

35 Q And how much of your time since then has been
36 spent in population genetics?

37 DR. RIDDELL: Well, not as much as I anticipated when I
38 came in 1979. The early period was probably half
39 my time spent on science. We initiated, as it
40 says, we initiated the Salmon Genetics Program in
41 Science in 1982 and I established that program,
42 and that. And that program I was actively
43 involved with for a number of years, and that.
44 But when I came out, I took a job working in what
45 was at that time called International Salmonid,
46 and it was called that because it supported the
47 development of the Pacific Salmon Treaty.

- 1 Q And what I'm most interested in is whether you'll
2 accept that you bring to this work a preference, a
3 perspective that prioritizes genetic diversity.
- 4 DR. RIDDELL: Mr. Commissioner, I think I acknowledged
5 that in my very first presentation in terms of my
6 background and what led me up to concerns about
7 the value of biodiversity within Pacific salmon.
8 But I also would emphasize that diversity is not
9 separated from production dynamics and stock
10 assessment. Because as I tried to establish in
11 the beginning, if you don't fully use the
12 environment by maintaining diversity of salmon,
13 genetic, and throughout different populations,
14 then you're not using the full dynamic of the
15 population to produce fish.
- 16 Q No, and with respect, I don't think that as a
17 general concept is in dispute anywhere. But I do
18 want to ask you some questions, see if we can put
19 some of this biodiversity issue into context. All
20 of the sockeye salmon runs in British Columbia
21 have developed in the post-Pleistocene Epoch,
22 correct?
- 23 DR. RIDDELL: Yes.
- 24 Q It's within the last 10,000 years, and perhaps in
25 a much shorter period.
- 26 DR. RIDDELL: Shorter and longer, because of course
27 some of it did develop in different isolated areas
28 that were the glacial refugia. But the diversity
29 we see today is mostly generated since the last
30 epoch.
- 31 Q And obviously at times after the glaciers melted
32 away from the areas particularly in the north.
- 33 DR. RIDDELL: Yes.
- 34 Q And it's during that fairly short period of time
35 that this genetic diversity has been developed?
- 36 DR. RIDDELL: Well, depends what you think by "short",
37 I guess. It's definitely within the last 10,000
38 years is when the ice has retreated through B.C.
- 39 Q And you'll accept that that diversity now can be
40 described as "rich", or even as "staggering".
- 41 DR. RIDDELL: Those are both I think a bit subjective,
42 I guess. But it's certainly a rich diversity when
43 you look at the diversity that you have in salmon
44 generally. It's much greater than a number of
45 other fish species.
- 46 Q Well, the word "rich" I chose because it came from
47 a paper that you had written.

1 DR. RIDDELL: Mm-hmm.

2 Q That is in the material that has been provided.
3 And the word "staggering" comes from a paper
4 written by Dr. Carl Walters. If that's Dr.
5 Walters' description, I take you'd accept it?

6 DR. RIDDELL: Not necessarily, no.

7 Q Do you accept that Dr. Walters is a leading
8 fisheries scientist in this province?

9 DR. RIDDELL: He's a leading fisheries scientist, in
10 analysis, probably one of the world leaders, but
11 not in genetics.

12 Q And you've worked with him --

13 DR. RIDDELL: That's correct.

14 Q -- quite a bit over the years.

15 DR. RIDDELL: Extensively.

16 Q Published papers with him.

17 DR. RIDDELL: Yes.

18 Q You hold him in very high regard?

19 DR. RIDDELL: Yes, I do.

20 Q If we could please have Exhibit 97. And, Mr.
21 Lunn, about four slides in is the -- is a table
22 prepared by Dr. Riddell. No, keep going. That
23 one, thank you.

24 I'm interested in the bottom line, obviously.
25 This is a reference to a -- or this table
26 references an earlier paper written by a man
27 called Pat Slaney, and others, correct?

28 DR. RIDDELL: Yes, it does. It comes from a paper that
29 was -- they were solicited by the American
30 Fisheries Society and there were three papers
31 written in a series. This was Pat Slaney and
32 three other authors involved in summarizing the
33 diversity of salmon in British Columbia and the
34 Yukon.

35 Q Now, he's using that phrase "stocks" to define the
36 diverse groups of sockeye.

37 DR. RIDDELL: Yes.

38 Q And you take the position that that is no longer
39 the best measure.

40 DR. RIDDELL: That is not an appropriate measure.

41 Q How many conservation units do we now have of
42 those previously described 917 stocks?

43 DR. RIDDELL: Sockeye salmon is -- currently I think
44 the number is 230 lake-based populations and
45 another 24 river-based populations. So you'd be
46 looking at 254 sockeye of the 917 referred to in
47 this table. That's also in the presentation in

1 the second-last page of...

2 Q Now, why is it that Mr. Slaney or Dr. Slaney could
3 only determine the status for 60 percent of the
4 stocks? Is that because of a lack of data?

5 DR. RIDDELL: Well, as you see, it's not uncommon from
6 the other species. They're all in a similar
7 range, and it does speak to the widespread
8 geographic range of salmon throughout British
9 Columbia. And where they define adequate trend or
10 sufficient data, is that you had a consistent time
11 series of information over about 25 or 30 years
12 that you could look at the distribution and trend
13 of data.

14 It does come to what information the
15 Department has been able to accumulate through
16 time, and there have been periods where there has
17 been reductions in that, particularly through the
18 early 1990s, there was a loss of some diversity --
19 or some data, and that. That probably has dropped
20 the number for some. But it basically gets to
21 your fundamental point that you can't monitor
22 every single population where you're looking at
23 every species in each stream throughout British
24 Columbia. They don't get visited every single
25 year.

26 Q No. So if we looked at it the other way, we don't
27 have enough -- or Slaney didn't in 1996 have
28 enough data to assess 40 percent of the stocks in
29 the province.

30 DR. RIDDELL: The way he defined "stocks", yes.

31 Q That lack of data was a recurring theme or problem
32 in the papers that led to the development of the
33 Wild Salmon Policy.

34 DR. RIDDELL: Well, Mr. Commissioner, it is a concern.
35 But I also want to point out that you do not need
36 to visit every stream every year in order to be
37 able to monitor the trend and distribution of
38 salmon. Within the conservation units, the Wild
39 Salmon Policy acknowledges that we would have
40 three levels of annual evaluation that we -- well
41 the Wild Salmon Policy recommended that the
42 Department implement.

43 You did have what we called the indicator
44 populations, which were the most intensively and
45 most costly assessment programs where you really
46 can explain what is happening on an annual basis.
47 There is then the intensive monitoring programs,

1 where we would monitor a subset of populations on
2 an annual basis, using a repeated survey design
3 that was developed for the particular population.
4 And then you have what we called extensive
5 surveys, which really were largely visual. They
6 could be over-flights. And what you're really
7 looking for is the broad distribution and use of
8 habitat by salmon within each CU.

9 Q Let's turn to that third column, the "%
10 Extinctions of Known 'Stocks'". Slaney's
11 identified 20 known stocks that have become
12 extinct. Do you know what period he was
13 referencing there?

14 DR. RIDDELL: Pretty well for the 1900s. Some of the
15 populations were known to have existed, but we
16 actually had no modern data for. But because they
17 were known to have existed in the record, they
18 would have been counted as a population. But it
19 was all in the 1900s.

20 Q And where were those populations? Were they all
21 in south-western B.C.?

22 DR. RIDDELL: Well, Mr. Commissioner, I'd have to
23 really check to be certain, but the vast majority
24 would certainly have been in south-western B.C.
25 For sockeye salmon, the number gets to be -- of
26 CUs gets to be quite large. For example, I said
27 there's 230 lake-based, plus another 24. If you
28 use the 230, that's just under -- well, it's about
29 a quarter of the 917. In the maps, in Holtby and
30 Ciruna, you would see that many of these lakes are
31 small lakes scattered through central and northern
32 British Columbia, through the islands, and that.
33 The information base on those is more limited, and
34 that. But that's where we end up having large
35 numbers of CUs because each of those is
36 genetically identifiable.

37 Q And as Mr. Rosenbloom attempted to ask you
38 yesterday, those small CUs have very little
39 contribution to overall abundance.

40 DR. RIDDELL: Well, there's a continuous range. It's
41 very small, then, yes, they can only produce so
42 many fish, and that. But you -- it's not a matter
43 that you only harvest large fish, the large
44 populations, of course. So you may have some that
45 only produce a few thousand fish, you have others
46 that produce tens of thousands, hundreds of
47 thousands, and then millions. The ones producing

1 millions are a very small portion of this.
2 Q And but again the point was I was trying to
3 establish was that those small CUs in the north
4 that you've just been talking about involve lakes
5 with very small carrying capacities, small
6 populations now, that can never be large
7 populations?

8 DR. RIDDELL: The lakes that support those small
9 populations are just fundamentally small. Some
10 are as productive as other large, some are less
11 productive. But they're fundamentally small and
12 the spawning area is limited. That's why the
13 populations are limited in their potential
14 production capacity.

15 I should point out, though, that the
16 fundamental premise of the Wild Salmon Policy is
17 that these small populations have other values,
18 and this is the reason why they were sustained. A
19 very interesting point is if you look at maps of
20 salmon distribution through the Central Coast,
21 you'll find that many of the maps have small
22 houses on them. Those small houses represent
23 family fishing sites for First Nations, and almost
24 every lake has a family associated with harvest.
25 So there are different values for different
26 groups. But in terms of your question about
27 potential production, then, yes, some lakes will
28 always be very small.

29 Q Now, is it true that some lakes have also known to
30 be re-colonized in the last 80 years by sockeye
31 salmon?

32 DR. RIDDELL: Well actually, re-colonized is very, very
33 limited. Where we've tried to do direct re-
34 colonization, and this really, I suppose, also
35 gets to what you feel is a measure of success of
36 re-colonization. The most common, I suppose,
37 system where we've tried to re-colonize for major
38 production is the Upper Adams River, north of the
39 late run Adams that we just had the phenomenal run
40 to. And there have been many efforts to restore
41 production into the Upper Adams that has a
42 spawning capacity of about two million spawners.
43 There are now sockeye salmon returning to that
44 lake system in very small numbers, but nothing
45 near the capacity of the spawning area.

46 So for sockeye salmon, this is why I made the
47 point in the presentation here that the importance

1 of sustaining sockeye CUs is that from evidence of
2 genetics, they're different, and from evidence of
3 transplanting fish around there's not many
4 examples of successful transplants where we can
5 restore production for sockeye salmon. You can
6 for the other species more readily; not for
7 sockeye.

8 Q Now, you mentioned the Upper Adams then. The
9 sockeye run on that lake collapsed because of a
10 dam built on it.

11 DR. RIDDELL: Yes, 1908.

12 Q Have some of the other extinctions that you have
13 -- or that Slaney's recorded also occurred on the
14 rivers where dams have been built?

15 DR. RIDDELL: Yes, there are a few of them noted in the
16 actual paper.

17 Q And do they make up the vast majority of those
18 extinctions?

19 DR. RIDDELL: I don't know if I can answer that
20 directly. But they -- they are the ones that
21 people commonly are aware of, the Alouette, the
22 Coquitlam, the Upper Adams, there are some well-
23 known ones. Whether it be the majority, I don't
24 honestly know if I can say that without looking.

25 Q I do want to now go, if I might, to a paper that
26 you have written called the "Spatial Organization
27 of Pacific Salmon: What to Conserve?"

28 Now, Mr. Lunn, that is document number 4 on
29 Canada's list of November the 19th.

30 And this paper, Dr. Riddell, begins with the
31 sentence that I made reference to earlier about
32 you using the word "rich". It begins with this
33 sentence:

34
35 The rich biological diversity in salmonids
36 has been recognized for centuries and has
37 been a central premise in managing salmon
38 fisheries in this century.

39
40 That now would be the last century, correct? I
41 take it those are words that you would still
42 adopt.

43 DR. RIDDELL: Yes, I have no problem with them. Yes.

44 Q This paper, as I understand, a note in your will-
45 say, might be considered to be a precursor to the
46 Wild Salmon Policy discussions.

47 DR. RIDDELL: Well, again, in the additional material I

1 provided, it certainly -- personally it was where
2 I start from, but it's one of several things that
3 initiated the Wild Salmon Policy.

4 Q And towards the bottom of page 25, sorry, page 23,
5 you note this about two-thirds of -- in the bottom
6 paragraph you were talking about a series of
7 studies that are being undertaken in the United
8 States to assess stocks, correct?

9 DR. RIDDELL: Yes, I think.

10 Q And then you said this:

11
12 In Canada, a comparable inventory of Pacific
13 salmon has not been prepared.

14
15 And then you go on to say:

16
17 In...British Columbia...one-third of the
18 spawning populations known since the...1950s
19 have been lost --

20
21 Sorry:

22
23 In south-western British Columbia...one-third
24 of the spawning populations since the...1950s
25 have now been lost or decreased to such low
26 numbers that spawners are not consistently
27 monitored.

28
29 Those are the south-western populations that
30 figure in the extinctions in your charts, aren't
31 they?

32 DR. RIDDELL: Well, it's, Mr. Commissioner, a couple of
33 points. As I've said earlier, the Slaney paper
34 that we've already identified, I said was part of
35 three solicited by the American Fisheries Society.
36 That request followed directly from the paper that
37 I'm referring to here, the Nehlsen et al in 1991.
38 All right. That was the first one to try and go
39 through in looking at the diversity and loss of
40 diversity in southern -- southern U.S. areas, and
41 that. Whether you could equate the same
42 populations that you're referring to here in my
43 figure 1, will be included in the Slaney paper,
44 for certain, and that.

45 Whether they were actually called extinct or
46 not would depend on the particular population. I
47 used a measure of whether there was no fish

1 observed with a visit, or in some of our data
2 systems where people no longer feel that there's
3 enough fish to go and actually try to monitor.
4 They simply put "N/As" or other codes in. I
5 assumed that those were essentially extinct to in
6 terms of looking at the trend in the populations.
7 Whether they were the same ones that Slaney
8 counted, I'd have to see directly. Quite
9 honestly, I've never done that direct comparison,
10 but I don't think they would actually be very
11 different.

12 Q On page 27, you've asked a question that also gets
13 asked repeatedly in the materials leading up to
14 the Wild Salomon Policy. You make this point
15 under the heading number 3: "What Is It We are
16 Preserving?" And you make the point:

17
18 Conserving biological diversity will involve
19 trade-offs with other management objectives
20 and will incur costs. It is appropriate then
21 to briefly consider the values of conserving
22 this diversity, particularly since the
23 necessity for maintaining diversity will
24 continue to be questioned.

25
26 And then you make reference to a paper by a fellow
27 called Dr. Larkin, Dr. Peter Larkin, and now
28 deceased, correct?

29 DR. RIDDELL: That's correct.

30 Q And he, too, was a leading fisheries biologist at
31 UBC.

32 DR. RIDDELL: Yes, he was, for sure.

33 Q And he had a different perspective, and you've
34 quoted from him a paper that he wrote saying:

35
36 Insofar as genetics is concerned, we should
37 not become too hysterical about population
38 declines to low levels.

39
40 Correct?

41 DR. RIDDELL: No, I'm sorry, what are you actually
42 referring to?

43 Q Under the heading "What Is It We Are Preserving?"

44 DR. RIDDELL: Yes. Yeah.

45 Q You've made reference to Dr. Larkin's position
46 that "we should not become too hysterical".

47 DR. RIDDELL: Oh, I see what you've -- I'm sorry.

1 Q And that's "about population declines to low
2 levels".

3 DR. RIDDELL: Yes.

4 Q And you go on to say that in your view his views
5 should be rejected.

6 DR. RIDDELL: This is also something that we talked
7 about a bit with Mr. Rosenbloom's questions
8 yesterday, in the sense that there is an area in
9 conservation biology called minimum viable
10 population sizes. Before a lot of people started
11 looking at population dynamics of salmon, the --
12 there is animal genetics that if a population
13 becomes very small for a limited period of time,
14 then you don't lose a great deal of diversity just
15 by the size of the population. However, if the
16 population remains small, you will lose genetic
17 diversity every generation. And so there's a
18 cumulative effect that is known to occur, and
19 that. And so it's true in the sense that a
20 temporary reduction to a small population size
21 will not be a major threat to loss of diversity,
22 but a reduction to a small population size over a
23 number of generations will definitely accumulate
24 to a significant loss of neutral diversity.

25 Q And I understand that, but one of the things that
26 we have in the history of sockeye production in
27 this province is some remarkable recoveries from
28 very low population levels, correct?

29 DR. RIDDELL: Yes. And I have said that in other works
30 that I believe fundamentally that genetic
31 diversity of salmon is not largely intact, but
32 certainly largely in existence throughout most of
33 its range. There is a limited number of
34 extinctions. But just because a population is
35 small doesn't doom it to a genetic loss. It can
36 recover. They have a significant resilience. And
37 that's why I think we can restore a lot of salmon
38 production.

39 Q And a classic example of that would be the
40 Horsefly population, that was down to fish in --
41 returning fish in less than 100 fish in very poor
42 years, around in the mid-1940s.

43 DR. RIDDELL: Well it -- it was actually reduced in
44 abundance much earlier than that because of a
45 logging dam again, and that population was almost
46 extirpated again, and recovered from a very small
47 population. That occurred over about 30 or 40

1 years, though, and puts it into then the timeframe
2 that you're talking about.
3 Q You'll agree that the runs came down to as low as
4 hundreds of animals?
5 DR. RIDDELL: Well, the reason I'm hesitating to agree
6 with that statement is I don't believe that there
7 actually records over the period of about 1910 to
8 about 1940, in terms of what they were. But we do
9 know that when the dam was there that the
10 population was driven down to very small numbers.
11 So it did recover from a very, very -- what we
12 would call a significant bottleneck, and that.
13 MR. BUTCHER: And we actually do have the data, and I
14 just wanted to go here to make the point. Mr.
15 Lunn, I'm looking for the -- this document.
16 MR. LUNN: I think it's Exhibit 75.
17 MR. BUTCHER: Exhibit 75. And if we can please go to
18 page 383.
19 Q You'll see there under the heading "Quesnel"
20 Horsefly returns in the 1930s of from anywhere
21 from zero to 918 fish. Do you see that?
22 DR. RIDDELL: Yes, I do.
23 Q And if we go -- and you'd have to follow the --
24 really the years of that -- follow from 1949 all
25 the way through to 1985, which is on page 397.
26 You see by 1985 that run, over a 40-year period,
27 had recovered to having more than a million fish.
28 That is perhaps a classic example of the
29 resilience of the sockeye?
30 DR. RIDDELL: Yes, I would think so.
31 Q And a very good example of the ability of
32 fisheries managers to rekindle a population that
33 was in dire straits long before the Wild Salmon
34 Policy came into effect.
35 DR. RIDDELL: Well, without doing the assessment, I
36 don't think you can conclude that, because I don't
37 know that it was management. It could easily have
38 been environmental conditions. Harvest rates were
39 very high. But you can see that in the final page
40 that we came to that you did have a return in '81
41 of 661,000. So if we track back through, and I'm
42 sure that if you've talked to Carl Walters, you'll
43 have seen some of this. There is a classic
44 recovery of this population where very, very
45 strong production of one year and then three off
46 years, and that. But there's no question that the
47 population is a good example of the resilience and

1 productive capacity of our Fraser Lakes.
2 Q And I'm bouncing around here a bit, but I'm
3 wondering if we could now go to Exhibit 117,
4 please. Dr. Riddell and Dr. Irvine, did either of
5 you have a role in writing this report?
6 DR. RIDDELL: That's actually an interesting question,
7 Mr. Commissioner, because I don't recall
8 contributing to this report, and it may be just be
9 memory. But I actually do not have a recollection
10 of preparing this Policy document, and that.
11 Q Dr. Irvine?
12 DR. IRVINE: Yeah, I, too, am surprised by the date of
13 this document, because the -- the version that I
14 remember was the one that was publicly released in
15 I think it was March of 2000, so this must have
16 been a draft of the first draft. And I'm sure
17 there were drafts of the first draft and this must
18 have been one of them.
19 Q And who --
20 DR. RIDDELL: Could I please add something to that?
21 Q Sure.
22 DR. RIDDELL: I mean, I think the other thing that I
23 should point out here is that in the spring of
24 1999, this was the renegotiation, the second major
25 negotiation of the Pacific Salmon Treaty, of which
26 I was very tightly involved with for about three
27 months and did nothing but that, and it was
28 exactly over this period. So it may be why I have
29 no recollection, but I really do not believe I
30 contributed to this document.
31 Q Did either of you contribute to the next one in
32 the series, I think it's March or May 2000. Dr.
33 Irvine, I see you nodding.
34 DR. IRVINE: Yes, I did contribute. Dr. Skip McKinnell
35 was sort of -- he had the pen at that stage of the
36 development, as I recall.
37 Q Sorry, and his name was Dr....?
38 DR. IRVINE: Skip McKinnell.
39 Q There are some things in this paper that I want to
40 draw your attention to. If perhaps we can first
41 go to page 11. There is in this draft and it
42 appears I think in the next draft, as well, this
43 comment at the bottom of page 11, "A recent
44 publication". This is at the very bottom of page
45 11:
46
47 A recent publication summarizes the current

1 views:

2
3 There is no "correct" answer to the
4 question of precisely how much
5 biological diversity and population
6 structure should be maintained or can be
7 lost to provide a long-term future for
8 salmon. Scientific estimates, including
9 uncertainties associated with them, are
10 only part of the argument. Society must
11 decide what degree of biological
12 security would be desirable and
13 affordable if it could be achieved,
14 i.e., the desired probability of
15 survival or extinction of natural
16 populations, over what time and what
17 area, and at what cost. Nonetheless,
18 biological diversity and the structure
19 of salmon populations are being lost at
20 a substantial rate, and this loss
21 threatens the sustainability of
22 naturally reproducing...populations in
23 the Pacific Northwest.

24
25 Do you accept, Dr. Riddell, that first comment,
26 that:

27
28 There is no "correct" answer to the question
29 of precisely how much biological diversity
30 and population...should be maintained or can
31 be lost to provide a long-term future for
32 salmon.

33
34 DR. RIDDELL: Well, Mr. Commissioner, I point out that
35 what you're referring to here is extracted from
36 the book *Upstream*, which was the product of a U.S.
37 National Science Council Panel that I worked on
38 for a few years, and that. And this would have
39 been from the Committee's consensus document,
40 which was the final book.

41 I do agree with the statement generally,
42 because it comes down to really a value judgment
43 in terms of whether you need every single of the
44 so-called stocks you referred to before when we
45 looked at the stream by species. And really what
46 we have to sustain is what we've come to in the
47 Wild Salmon Policy, which is the conservation

1 units, and that. Because you really can't
2 determine the value of an individual stream and
3 species. You really have to look at the sort of
4 broader, the natural network or the natural
5 structure of the Pacific salmon, which we tried to
6 define more appropriately within the conservation
7 unit.

8 Q And do you agree with the second statement in
9 there, that this is really a question, the
10 question of the degree of biological security is a
11 question for society, rather than a purely
12 scientific question?

13 DR. RIDDELL: Well, I would have a more biological
14 perspective on it, as you tried to point in the
15 very beginning. But I think that even the Wild
16 Salmon Policy acknowledges this generally, because
17 that's why we included Strategy 4 in the final
18 version, and that. There are choices to be made
19 in how much of the diversity will be sustained at
20 what cost.

21 The difficulty I have with the -- what people
22 refer to as trade-offs there, is we don't know how
23 the environment is going to change through time,
24 and that, and so we don't know which are the
25 really important populations to sustain. You're
26 really driven to the difficult decision to sustain
27 as much as you possibly can, and that. But then
28 you do need to reflect that under Strategy 4,
29 there will be trade-offs that may have to be made
30 in terms of how much of the diversity you can
31 sustain.

32 Q If we could have Exhibit 8 for a moment, the Wild
33 Salmon Policy, and go to page 9. I'm going to
34 suggest that that concept of uncertainty was
35 carried forward from that first document right
36 into the final Policy. At the bottom of page 9
37 under the heading "Objective 1", in the second
38 sentence, this is written:

39
40 While maintaining diversity is broadly
41 accepted as essential for the health of wild
42 salmon, the significant scientific and policy
43 issue is how much diversity? The genetic
44 diversity of a species includes every
45 individual fish. Preserving maximum genetic
46 diversity would eliminate human harvesting of
47 salmon and prohibit human activities that

1 might harm salmon habitat. Conversely, to
2 maintain a taxonomic species, such as sockeye
3 salmon, but ignore within-species population
4 structure would reduce diversity and
5 contravene the intent of the UN Convention on
6 Biological Diversity, **SARA** and the intent of
7 this policy.
8

9 And then it goes on to say:

10 DFO intends to maintain diversity through the
11 protection of "Conservation Units".
12
13

14 The question I have from that, Dr. Riddell, is
15 it's apparent that despite seven or eight years of
16 development in the Policy, there was no expression
17 of a quantification of how much diversity is
18 required; is that correct?

19 DR. RIDDELL: Yes, I think you're correct in that
20 interpretation. I would point out, though, that
21 you've referred to my 1993 paper and I asked the
22 exact same question in my first principle. And I
23 say basically in the absence of other information,
24 you conserve everything you possibly can, and
25 that. Now, that's obviously the biological
26 perspective. I think it's in face of a great deal
27 of uncertainty, that's the best thing that you
28 could advise in terms of sustaining salmon
29 production and for evolution and for whatever use
30 there could be.

31 When you come down to a national policy like
32 this, then you clearly have to recognize that
33 there is different opinions, and Mr. Chamut spoke
34 to these things. We had many discussions in the
35 development of the Policy about that, and that,
36 and that's why the Policy reflects that here.
37 It's not possible to give a particular value on
38 how much diversity you need until you had much,
39 much greater understanding of how the diversity is
40 sustained in the various populations.

41 MR. BUTCHER: Now, you've mentioned your paper again,
42 and that was document 4 on Canada's list of the
43 19th of November.

44 MR. LUNN: I'll just pull it back up.

45 MR. BUTCHER: And if I can take you to page 33, under
46 the heading -- yes, if you can go back, Mr. Lunn.

47 MR. LUNN: It's page 33?

1 MR. BUTCHER: Page 33, but it's 33 of the paper, not of
2 -- and if we can go to the top of that page.
3 Q Under the heading "What to Conserve?" you wrote
4 this:

5
6 The rhetorical response is simple:
7 "Everything". In practice though, the
8 response seems to have been "as much as is
9 practical".

10
11 The pure biologist's response is we must conserve
12 everything, but the broader response in the
13 Department is that there has to be some balancing.
14 Is that a fair comment?

15 DR. RIDDELL: I'm sorry, excuse me, Mr. Commissioner.
16 It's a fair comment and it's not exactly what was
17 intended with this statement, because really what
18 I'm talking about here is that in the sense of
19 having limited knowledge about how biological
20 diversity would change in the future, then we
21 should conserve "everything". That's obviously a
22 lofty goal. And the reference then to "as much as
23 is practical" really gets back to another issue
24 that I've identified, where when we -- when I
25 joined the Department, there clearly was a major
26 focus on the major production populations, very
27 little on smaller populations to the extent that
28 the Department even at one point struck this
29 notion of a stock write-off policy, at the same
30 time as the international community was evolving
31 into the conservation biology school, and that.

32 So there clearly is wide range of opinion on
33 this. What I'm referring to as "as much as is
34 practical" is that at the harvest rates that were
35 being conducted in the past, then you were putting
36 smaller, less productive populations at risk, and
37 that, and so there had to be some better balance
38 than was existing at the time.

39 MR. BUTCHER: This would probably be the right time to
40 mark that document as an exhibit.

41 MR. WALLACE: Would it also perhaps be the right time
42 to take a break?

43 MR. BUTCHER: Certainly.

44 MR. WALLACE: May I suggest, Mr. Commissioner, we'll
45 take the morning break.

46 THE REGISTRAR: Do you wish to mark that document
47 first?

1 MR. WALLACE: Yes, please.
2 THE REGISTRAR: Exhibit number 122.
3 THE COMMISSIONER: Sorry, one hundred and...?
4 THE REGISTRAR: Twenty-two.
5 THE COMMISSIONER: Thank you.
6

7 EXHIBIT 122: "Spatial Organization of
8 Pacific Salmon: What To Conserve?" (1993),
9 B.E. Riddell

10
11 THE REGISTRAR: The hearing will now recess for 15
12 minutes.
13

14 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)
15 (PROCEEDINGS RECONVENED)
16

17 THE REGISTRAR: Order. The hearing is now resumed.
18

19 CROSS-EXAMINATION BY MR. BUTCHER, continuing:
20

21 Q Dr. Riddell, before the break, I was asking you
22 some questions about the fact that protecting
23 biodiversity can come with a socioeconomic cost.
24 And I want to now turn to some situations where
25 protecting biodiversity can perhaps come with a
26 biological cost. And I've pulled up Exhibit 117
27 again, and if we can please have enlarged the
28 paragraph under the heading, "Review of Factors
29 Affecting Conservation of Wild Salmon."
30

31 There's one sentence here that I want to
32 begin this questioning on, Dr. Riddell, maybe two.

32 THE COMMISSIONER: I'm sorry, which document are you
33 on? I apologize?

34 MR. BUTCHER: Sorry?

35 THE COURT: I'm sorry, which document are we on, Mr.
36 Butcher?

37 MR. BUTCHER: 117.

38 THE COURT: Ah, thank you.

39 MR. BUTCHER: Exhibit 117, page 6:
40

41 It is generally considered that *within reason*
42 harvests can be sustained without harming the
43 potential for future harvests. This has been
44 reinforced by a common theory about salmon
45 productivity. There can be too many spawners
46 and that reducing the number of spawners may
47 be good for both the salmon and the fishers.

1 Do you see that, Dr. Riddell?

2 DR. RIDDELL: Yes.

3 Q That is the theory that might popularly be known
4 as over-escapement, isn't it?

5 DR. RIDDELL: No, that's a very common statement about
6 stock recruitment, very generally, that the
7 maximum rate of productivity is sustained at very
8 low stock size. The concept of over-spawning
9 really speaks to catastrophic loss of populations
10 at very high numbers of spawners. The idea that
11 there's a reduced rate of productivity as the
12 number of spawners returns to a particular
13 spawning region is actually just part of the basic
14 stock recruitment theory.

15 Q Okay. So I -- you're telling me I've mixed up two
16 ends of the same concept, is that what you're
17 saying?

18 DR. RIDDELL: The two extremes, basically, yes, that's
19 correct.

20 Q And we've heard already from other witnesses of
21 studies that have shown that productivity can
22 decrease if the number of spawners increases too
23 significantly. That, I take it, you accept?

24 DR. RIDDELL: That is part of the theory, yes.

25 Q And I'm going to suggest to you a number of points
26 here, for a moment. Firstly, that most of the
27 sockeye smolts are -- in this province, are
28 produced in a few large lakes; is that correct?

29 DR. RIDDELL: Yes, I think we've -- yeah.

30 Q And there is clear evidence of an upper carrying
31 capacity for smolt production in the large lakes,
32 such as the Quesnel, Chilko and Shuswap?

33 DR. RIDDELL: Yes, becoming clearer at the higher
34 levels, yes.

35 Q And there is an overall negative relationship
36 between productivity and spawner abundance?

37 DR. RIDDELL: Yes, that's part of the theory, as we've
38 said.

39 Q Would you go -- well, can you tell us what density
40 dependence is?

41 MR. WALLACE: Mr. Commissioner, I -- it's hard, often,
42 to find the line between wild salmon policy and
43 harvest management, but the detail that Mr.
44 Butcher is going into at this point, it would be
45 far better, in my view, presented to that panel
46 than this one. I'm -- with the other counsel and
47 other witnesses, I -- it may well be that Dr.

1 Riddell will be part of that panel, but I would
2 suggest that this is better put to a harvest
3 management panel.

4 MR. BUTCHER: Mr. Wallace always seems to object about
5 three questions from the end of a particular
6 subject. I have two points in response. I
7 understand why my friend has divided this hearing
8 into boxes, because that's the only way we can
9 possibly manage this amount of material, but the
10 reality is these aren't watertight compartments of
11 information, they flow one from the other, or one
12 into the other.

13 The second point I want to make is we, as
14 funded counsel, are being told by Commission
15 counsel that we must be economic in our
16 attendances at the hearing. And speaking for
17 myself, it's perhaps important that some of these
18 issues get covered as quickly as possible because
19 that makes it more efficient and it may prevent us
20 from having to be here on other occasions when the
21 same subjects arise. So it's -- I would like --
22 I'm objecting to the objection on those two
23 grounds.

24 MR. WALLACE: Well, Mr. Commissioner, with respect, it
25 seems to me that covering the ground now does not
26 obviate the need to cover it when the right people
27 are here to deal with the matter in a logical way
28 so I don't think there's any efficiency in having
29 this matter proceed.

30 THE COMMISSIONER: Mr. Butcher, I certainly understand
31 Commission counsel's attempt to respect that
32 economic attendance concern that you raise,
33 however, in this particular circumstance, I
34 believe that your questions now flow from those
35 earlier questions you asked about this exhibit and
36 some of the other related exhibits. And at least
37 for my purposes, I think I would find it helpful
38 if you would continue with your line of
39 questioning.

40 MR. BUTCHER: Thank you. And actually, to be fair,
41 they flow from Canada's questions about why is
42 biodiversity important. Sorry, I've forgotten
43 where I was.

44 THE COURT: You were talking about density and
45 dependence.

46 MR. BUTCHER: I've moved on.

47 THE COURT: You were talking about density and

1 dependence.

2 MR. BUTCHER:

3 Q I have a question about density dependence and I
4 thought that first, I should ask you what you
5 understand it to mean.

6 DR. RIDDELL: Well, density dependence is simply
7 referring to that as the population grows to large
8 numbers, that it does not have the same rate of
9 production and it can -- because it may fully
10 utilize the environment, it may fully utilize the
11 available food sources, and so the return for a
12 spawner, in the salmon sense, declines as the
13 abundance returning increases.

14 Q And I understand it also means that that decline
15 can be over several years. So it doesn't just
16 affect the spawning generation, but subsequent
17 generations, as well?

18 DR. RIDDELL: Well, Mr. Commissioner, I think that I'd
19 have to say the evidence is still out on that. I
20 understand Carl Walters is doing some research
21 currently on intergenerational effects and Fraser
22 sockeye so it probably does have some basis in his
23 analysis. I simply have not reviewed that new
24 analysis to know enough to indicate that. What
25 you're really referring to is for many periods
26 we've looked at, what are the biological causes of
27 cyclic dominance in Fraser sockeye, and that has
28 been a perplexing problem for many, many years. I
29 understand Carl's analysis is now indicating
30 multi-generational effects. So I simply haven't
31 seen it to really support it clearly.

32 Q And that does lead me into the next question as to
33 whether or not you're able to say from your own
34 knowledge that some of the survival declines, say
35 up to the period 2003, can be explained by
36 density-dependent effects? Are you able to
37 comment on that one way or the other? Sorry, that
38 should be density-dependent effects that are
39 related to increases in spawner abundance.

40 DR. RIDDELL: Mr. Commissioner, I don't know that I
41 would conclude that yet because as we see evidence
42 now where you sum all Fraser escapement and all
43 Fraser returns and you have a very almost linear
44 decline in productivity so this is the return of
45 progeny for the number of spawners in the previous
46 generation, that is very perplexing in the sense
47 that you don't have these over-spawning events

1 that you're referring to, or these very high
2 spawning events every year in every population and
3 so why is there such a strong coherence between
4 all of the populations now when you sum them
5 together? I know from talking with Carl, that
6 this is a question in his mind, as well, and that.
7 So I understand the concern in terms of would it
8 contribute to -- is the increasing spawning
9 causing this long-term decline in productivity?
10 It definitely would contribute to a decline in
11 productivity per stock per brood year. What is
12 uncertain in my mind is whether or not it really
13 accounts for the full trend that we're seeing in
14 the total number of Fraser sockeye.

15 Q So have I got this right, that you're accepting
16 that this may be a legitimate explanation, but you
17 just don't have enough information, yourself, yet,
18 or there may not, to your knowledge, be enough
19 research done yet on that subject?

20 DR. RIDDELL: Basically. I have not seen an analysis
21 of all of the sockeye combined in a single return
22 event. Because the fundamental difference we're
23 talking about here is that if you had talked about
24 Quesnel, or you talked about Adams Lake run, or
25 you talk about Chilko Lake, and you look at the
26 population dynamics of those, they do not show as
27 strong a signal of the rate of decline since the
28 mid-1990s. They do have decline. Chilko has one
29 of the strongest. But when you put all of the
30 populations together, which are coming from all
31 different lakes, why do we see such a strong
32 decline across all of the populations? That, to
33 me, still needs further explanation in terms of
34 why that strong decline over that period of --
35 that long period.

36 Q But again, you'd accept that if this was an area
37 that Dr. Walters was working on, his opinion is
38 one that this Commission should listen to
39 carefully?

40 DR. RIDDELL: Yeah, no question.

41 Q If I can go back, please, to Exhibit 117, which is
42 up on the screen now, and go, please, to page 11,
43 I think. It's not page 11, I think it's page 8.
44 Sorry. It's page 10.

45 This is a -- under the heading, "Lack of
46 Information," in this very first report, it says:
47

1 There are several major areas where a lack of
2 information threatens the conservation of
3 wild salmon. In the face of uncertainty,
4 decisions that affect wild populations need
5 to be made very cautiously such that errors
6 will not compromise the achievement of
7 conservation objectives.
8

9 Two questions, really, for anybody on the panel.
10 What is it, what information was missing that is
11 referred to here and why is it that the
12 Department, to this period of time, allowed that
13 information or database to subside?

14 DR. RIDDELL: Well, Mr. Commissioner, maybe I can
15 start? It's difficult to comment on what people
16 were talking about here in terms of lack of
17 information, since we weren't the authors. My
18 previous comments related to the annual monitoring
19 of spawning escapements, which is largely the
20 critical information you need for looking at
21 conservation because this is the spawning base for
22 the next generation.

23 Q And it's that critical information that ultimately
24 became Strategy 1 in the WSP?

25 DR. RIDDELL: Related to it, yes. I mean, you do need
26 to look at total production and including catch.
27 You can't define productivity by only looking at
28 escapement.

29 Q Well, maybe Strategies 1, 2, and 3 --

30 DR. RIDDELL: Yes.

31 Q -- in the WSP, then? That --

32 DR. RIDDELL: 1, 2 and 3 relate to all production, not
33 just productivity or escapement.

34 Q Now -- okay. What reductions were there in
35 information and data gathering and collection by
36 the Department in the period before 1999? What
37 material had been lost over time?

38 DR. RIDDELL: Well, Mr. Commissioner, if I complete
39 what I was saying earlier -- excuse me -- what we
40 were losing through time is information on the
41 very localized spawning populations. Again, so if
42 you want diversity of information, let me just
43 give you a couple of examples, that through the
44 '90s, and this should be reinforced by persons
45 with Fisheries Management background, we used to
46 have something in the Department called fisheries
47 guardians. These were local vessels of people

1 that did work in local areas for many, many years
2 and really knew the environments. As money became
3 tighter and tighter, through time, the number of
4 guardians was reduced and so you lost that sort of
5 local tie with the local environment, and that,
6 and the fishery officers of the area, their task
7 is split between data information collection and
8 enforcement. There was a period where they
9 prioritized enforcement and reduced the amount of
10 time that was spent on collecting data. That
11 tended to actually vary quite a bit by area of the
12 province. But I think, really, what you're
13 talking about here is very population-specific
14 information limits your knowledge about the
15 diversity and the biological diversity that is
16 expressed in salmon.

17 So number one is the limited number of
18 populations that you saw every year, and then when
19 did they return, what's the variation in the run
20 timing and the productivity? Those are the
21 critical factors and for resource management.

22 Q So going back to the language that you used
23 earlier this morning, you were receiving, still
24 receiving good information about what were called
25 the indicator streams, but you'd started losing
26 the information about those streams that had been
27 historically the subject of intensive or extensive
28 data collection?

29 DR. RIDDELL: Yes, that's a good analogy to it, and
30 that -- where the populations were large, where
31 the environment is very good for visual
32 observation and you could get back repeatedly,
33 then you tend to have more repeatable data on an
34 annual basis, and that. And so you tended, almost
35 by *de facto*, to start developing indicator
36 populations that were important to go back to
37 every year, and then as resources and even things
38 like weather, annually, varied, you were able to
39 check the other populations for the quality of
40 habitat and the distribution of the spawners, and
41 the numbers of fish.

42 Q Now, you're saying, Dr. Riddell, that it is those
43 smaller diverse populations that are particularly
44 important to biodiversity, correct?

45 DR. RIDDELL: Yes, actually, a lot of the small
46 populations are the diversity.

47 Q And yet, you're also now telling us that it is

1 precisely those important populations that we were
2 losing all information about in the 1980s and
3 1990s?

4 DR. RIDDELL: Mr. Commissioner, ergo the Wild Salmon
5 Policy. This is the genesis, if you want, of why
6 we've come to this and why we've restructured
7 salmon, to avoid the notion that a single species,
8 single stream is a stock. It is not a stock. It
9 doesn't have a genetic future if it was isolated
10 by itself. The real genetic structure of salmon
11 are these networks of populations across multiple
12 streams, right, and they can be assessed in
13 different ways, the way I described to you, right?
14 So it was exactly what you have just led to that
15 really made us determine to implement the Wild
16 Salmon Policy so that you can monitor and sustain
17 diversity.

18 Q Now, you as a Department, are the guardian of this
19 resource, or a guardian of this resource and, yet,
20 you, as a Department, have allowed the information
21 of -- on the resource to fall below levels that
22 allow you to manage it accurately; is that fair?

23 DR. RIDDELL: No, that's not fair. There are two
24 documents that I wrote when I was with PFRCC that
25 go through a very detailed history of the number
26 of surveys done by stream throughout British
27 Columbia, and they do not get to an irresponsible
28 level, but I have personally written things,
29 within the Department, identifying that the
30 decline is getting to what I called minimally
31 responsible at the time. So yes, you have
32 sufficient monitoring going on, depending on the
33 question you ask, but you do not have it at very
34 fine spatial scales.

35 Q And Mr. Chamut, I ask you this only because you
36 are the most senior person involved. Why was that
37 allowed to happen?

38 MR. CHAMUT: We're talking here a period of '80s and
39 '90s; is that correct?

40 Q Yes.

41 MR. CHAMUT: During that period, there was a variety of
42 initiatives taken in government to restrict
43 spending. Certainly, in the mid -- in the early
44 '90s, there was a very strong push by government
45 to reduce deficits and the Department of Fisheries
46 and Oceans, along with every other federal
47 department, was asked to find ways to reduce

1 expenditures and contribute to this deficit
2 reduction initiative. And the Pacific Region, as
3 every other region, was expected to provide
4 funding surplus monies, or monies that were of low
5 -- dedicated to low-priority projects that would
6 result in a deficit reduction. And the job of the
7 Region and of managers was to try and find -- try
8 to maintain the high-priority projects and find
9 areas where reductions could be achieved without
10 necessarily adversely affecting the mandate.

11 And so over that time, there were reductions
12 and I think it's been fairly clear that many parts
13 of the Department did have reductions that did
14 affect their capacity to deliver programs, but I
15 think throughout, what was always foremost in the
16 mind of managers was to try and protect those
17 programs that were most important to the delivery
18 of the mandate. And I think, to a large extent,
19 that was done. Yes, programs were reduced, the
20 funding was reduced, but the effort was made to
21 try and direct those cuts to the lowest-priority
22 programs in order to maintain those programs that
23 were most important to our mandate.

24 Q So I think what you might be saying in another way
25 is that the local managers responded to the
26 national cuts as best you could?

27 MR. CHAMUT: Well, it's not a matter of saying, "No,
28 I'm not going to contribute to a reduction that
29 has been directed by government." That's part of
30 the job of the public service. And I think what a
31 public servant has to do is to provide realistic
32 proposals for how budgets can be reduced and
33 savings achieved while still maintaining the core
34 programs. That was always the job of the managers
35 and I think, over the course of the years, that
36 job was done reasonably well in all regions. And
37 as Brian has said, Dr. Riddell has said, yes,
38 there were reductions to stock assessment
39 programs, but it was done in a judicious manner so
40 as to ensure that the basic requirements of the
41 programs were still being met. But in the
42 Fisheries business, you could double the budget
43 and still need more if you wanted to deal -- if
44 you wanted to satisfy each and every individual
45 requirement that comes up. What, I think, is
46 important is to maintain a program that provides
47 you with the ability to meet your responsibilities

1 and I think that, in fact, has been done.

2 Q But would it be correct to say that a fishery
3 guardian monitoring program would be quite cheap,
4 a lower-cost item?

5 MR. CHAMUT: I'm sorry, your question, I didn't hear
6 it.

7 Q That a fishery guardian monitoring program would
8 not be a high-budget item?

9 MR. CHAMUT: There were reductions to fishery guardians
10 and alternative ways of collecting the information
11 were developed.

12 Q Sorry, Dr. Riddell, you want to add to that?

13 DR. RIDDELL: Let me just add that the Fishery Guardian
14 Program, in total, did not disappear. The
15 discussion was in terms of some areas, are there
16 alternative ways for less funds to collect data
17 that would suffice for the management of the
18 resource in that area? So Central Coast
19 maintained a guardian program in some areas, but
20 in other areas, we had fishery officers that knew
21 the system extremely well, and they took over
22 those responsibilities. West Coast of Vancouver
23 Island required guardian vessels, but maybe it
24 didn't maintain all of the -- if there were five
25 before, maybe you had three. So it was not as
26 simple as saying that there's no more guardian
27 vessel, it was a matter of how do we collect the
28 data required for the most efficient method?

29 Q Now -- but obviously, there were deficiencies in
30 the data, you're not retracting from that at all?

31 DR. RIDDELL: I'm not retracting from that. I've said
32 that before.

33 Q Now, I've asked you about questions relating to
34 the period before this document was written. Was
35 there any improvement in the data collection
36 between the writing of that document in 1999 and
37 the very recent report, the 194-page report that
38 was issued in draft form about 10 days ago, or is
39 that the first significant effort to improve data
40 collection since 1999?

41 MR. WALLACE: This panel doesn't have that report. It
42 will be tabled, with respect, in the
43 implementation panel. One of its authors will be
44 here then.

45 THE COURT: I'm sorry, Mr. Wallace, I didn't hear, it
46 will be tabled when?

47 MR. WALLACE: It will be tabled with the next panel and

1 one of the authors will be called at that time.

2 THE COMMISSIONER: Thank you.

3 MR. BUTCHER:

4 Q All right. I'll tell you this. Sorry, Dr.
5 Riddell, you've got an answer to my question, I
6 think?

7 DR. RIDDELL: Well, I don't need to refer to the
8 document that you're discussing so should I answer
9 the question is, I guess, my question.

10 Q Please.

11 DR. RIDDELL: There is a yes/no answer, unfortunately.
12 Following the 1999 agreement with the Pacific
13 Salmon Treaty, there were additional resources,
14 \$11 million, specifically to implement new
15 elements of the treaty. Those new elements of the
16 treaty were largely outside the Fraser, and they
17 did significantly improve some of the assessments
18 for a period of years.

19 The no element was that in the next round of
20 government reductions, there were reductions to
21 the amount of money that could go there again. So
22 we've had a period of growth and a period of
23 reduction again.

24 My comment about not being in the Fraser
25 River is that the 1999 treaty did not address the
26 Fraser River agreement and the limitation of use
27 of the funds was outside of the Fraser. But the
28 Fraser program, as I said earlier, has always been
29 the first priority for Fraser sockeye in terms of
30 collection of core stock assessment data. There
31 are limitations to it in the sense, for example,
32 juvenile programs that Dr. Walters is now
33 commenting on. There were decisions, probably 15
34 years ago, that there's limited use of those
35 juvenile data because of the way they were
36 collected and so for efficiencies, we put that one
37 in to adult monitoring.

38 So it's not to say that the Fraser has a
39 comprehensive system that can't be improved, it
40 can be improved, but it's always been the first
41 priority for allocation and stock assessment in
42 science management.

43 Q So what you're telling us is that the situation is
44 much worse elsewhere?

45 DR. RIDDELL: It's poorer than in the Fraser River for
46 Fraser sockeye.

47 Q I want to move on to a slightly different subject,

1 but still in this document, Exhibit 117, page 14.
2 The bottom header says this:

3
4 Wild Salmon Principle Three: Minimum Wild
5 Salmon Abundance Levels will be Established
6 for Populations within each Conservation Unit
7 to Avoid Extirpation of Local Populations.
8

9 Is this the first time that the phrase,
10 "Conservation Unit" was used?

11 DR. RIDDELL: Mr. Commissioner, the term, "Conversation
12 Unit" comes from a number of science papers. It
13 was first used by our staff by Drs. Wood and
14 Holtby in the Skeena in a paper in 1998 so it's
15 application here would probably have followed from
16 that scientific paper.

17 Q So the first time that the concept was expressed
18 with respect to the Fraser in a formal way?

19 DR. RIDDELL: No, this paper does not refer to the
20 Fraser only, this is the policy paper that you had
21 identified previously.

22 Q The first time that it applied in a formal way
23 that would have applied to the Fraser, as well as
24 every other stream?

25 DR. RIDDELL: Yes.

26 Q When were the conservation units finally drawn up?
27 When were they finally identified?

28 DR. RIDDELL: Mr. Commissioner, I think that's a matter
29 of record in the Holtby and Ciruna paper that's
30 been submitted to Commission, and that was
31 published -- that was approved in 2007 for all
32 populations throughout British Columbia.

33 Q Why did it take eight years to identify the basic
34 unit of management?

35 DR. RIDDELL: Well, I think it's not correct to equate
36 it to eight years in the sense that we didn't know
37 that there was going to be acceptance of the
38 concept of the conservation unit until the
39 approval of the policy in 2005. Why it took about
40 -- it took about three years of actual work to
41 identify the final ones and that came to, as I
42 presented in this slide show, you start in two
43 steps. The first step required to have certain
44 map-based information available to you from -- one
45 from the Province, and then the second one from
46 the Wild Salmon Centre. Both of those were
47 developed after 2005 and so they had to be

1 finalized before we could use them, and then we
2 had to do quite a bit of work with the Yukon
3 Government to develop the maps for the Yukon, and
4 that. So Dr. Holtby had been working on the
5 methodologies, collecting the data required to use
6 the method, had been collecting a large database
7 for application of step 2, when it gets down to
8 the specific sockeye populations. Then we put it
9 out for two rounds of extensive reviews by our own
10 regional staff, by First Nations that were working
11 in particular areas, and I think it was commonly
12 available on the website, for anyone to comment on
13 them. So it was a matter of having the
14 methodology developed, actually completing the
15 methodology, and then actually having two rounds
16 of reviews to see whether or not the method made
17 sense. We had to do a verification of the actual
18 analysis.

19 So it was actually a fairly intensive three-
20 year effort to do it, but in terms of the long
21 term that you're pointing out, while we had talked
22 about the concept, it is different from a number
23 of other organizations, how they organize
24 populations and so it did take some discussion and
25 we did not know if it was going to be approved
26 until the document was approved in June 2005.

27 Q So although the concept is identified, no work is
28 done on the issue for six years?

29 DR. RIDDELL: Well, I wouldn't say no work because
30 there was frequent discussion about the concept
31 and why we wanted to find a new terminology.

32 Q No work on practically identifying what that
33 meant?

34 DR. RIDDELL: I think to try and state where you're
35 going would be that there was no work on actually
36 completing the assessment or the estimation of
37 where the lines are.

38 Q Identifying the conservation units?

39 DR. RIDDELL: Identifying those in real geography. All
40 right. The theory and how you would do it was
41 discussed extensively. All right. But that's
42 quite different than actually having all the
43 information collated and being able to conduct
44 that analysis, and then to verify that people
45 accept that this is a good representation of the
46 geographic variation in salmon.

47 Q Now, during this period, 1999 to 2005, the returns

1 are collapsing?

2 DR. RIDDELL: The returns are not collapsing.

3 Q Sorry, the returns are declining significantly?

4 DR. RIDDELL: Well, the reason I showed the figure in
5 my slideshow is that the production of salmon is
6 not proportionate to the reduction that was
7 occurring in the commercial catch. The commercial
8 catch was actually being significantly limited to
9 ensure that we sustain spawning escapements and
10 that it's not -- you can't look at the trend in
11 the catch and equate that directly to the total
12 production, and that. But there's no question
13 that the commercial catch was declining through
14 time.

15 Those numbers are also very dependent on what
16 year you look at because, of course, Fraser pink
17 salmon, for example, are only every two years, and
18 that's why they were average, but I think if your
19 statement is that the catch was declining over
20 that time, that's true, but it was not related to
21 conservation units in any sense.

22 Q No, I'm not suggesting it is, but I'm suggesting
23 there was some urgency to getting this work done
24 and nothing was being done, other than to discuss
25 it on a philosophical level; is that fair?

26 DR. RIDDELL: No, that's not even really relevant in
27 the sense that the -- as I've said, the stock
28 assessment work that was being done, as you
29 pointed out, there are very few stocks that have
30 the vast majority of the production, and that, and
31 those assessments were done on an annual basis
32 every year through that time period, and that.
33 And so what we were seeing is that we were
34 certainly monitoring the populations and finding
35 that reduced productivity, that we had to take
36 some actions.

37 There were stocks in that period, such as the
38 Cultus Lake issue that came up, and Sakinaw, those
39 particular populations, of course, that was
40 through COSEWIC and then the **SARA** considerations,
41 they were limiting Fisheries Management
42 opportunities to harvest certain returns, and
43 that, but the development of the conservation
44 units was certainly not impeding any element of
45 Fisheries Management.

46 Q But this was the proposed new management unit,
47 correct?

1 DR. RIDDELL: It was the proposed management unit from
2 Science.

3 Q Was there any doubt that it was going to become
4 part of a Government of Canada policy?

5 DR. RIDDELL: Yes.

6 Q How long did that doubt continue for?

7 DR. RIDDELL: Until June 2005. And actually, I
8 suppose, when you get down to how you define them,
9 it may have -- the actual definition of the units,
10 the uncertainty there probably continued for a
11 couple more years, until the methodology was truly
12 verified.

13 Q Now, I want to turn to a different subject and
14 that is why it took so long to get this Wild
15 Salmon Policy developed. We've heard already that
16 it was -- that there were a number of tensions
17 between the different branches in the Department.
18 Was that the main cause of the six-year delay?

19 DR. RIDDELL: Well, Mr. Commissioner, I don't think I
20 can really respond to that because much of that
21 tension, as you're describing, was occurring when
22 I was actually not involved so I don't think I'm
23 appropriate to comment on that.

24 Q And I should have stepped back because others have
25 asked about a tension between Science and Fishery
26 Management, but I think you, Dr. Chamut, in your
27 evidence summary, have also identified a tension
28 between Canada and the Region, or headquarters and
29 the Region; is that fair?

30 MR. CHAMUT: No, I wouldn't put it quite that way. The
31 -- I've -- we've described the process, and maybe
32 I can go through it again just to be clear, but
33 the Region had identified the need for a Wild
34 Salmon Policy, and I think there was general
35 acceptance that that would be a good thing to do,
36 given the changes that were occurring in the
37 fishery.

38 There were various efforts made to try and
39 craft a Wild Salmon Policy. The first one I saw
40 was in -- I think, was in 2000. That came into
41 headquarters as every policy of this sort of
42 significance would do, it comes into headquarters
43 for a review to allow each sector and each sector
44 head to have a look at it and see what the
45 implications might be for his or her program.

46 The document came in in 2000, it was
47 reviewed, and it wasn't so much that there was

1 animosity or tension between headquarters and the
2 Region, I think there was unanimity of view that a
3 policy was desirable, but the policy that came in
4 in the first instance was judged to be, as I
5 recall, unclear, and the consequences for what it
6 meant for Fisheries Management --

7 Q If I could just stop you there for a moment. In
8 your -- the Summary of Anticipated Evidence, we
9 have it written this way:

10
11 He --

12
13 That is you:

14
15 -- will say that in that first review, the
16 WSP did not pass muster. Senior management
17 all agreed the draft WSP was not sufficiently
18 developed --

19
20 MR. CHAMUT: Yeah.

21 Q
22 -- that it was poorly described, and not
23 clearly written. In particular, the draft
24 WSP discussed CU as the unit that DFO was
25 going to conserve without defining CSU's
26 (sic) or discussing the number of --

27
28 Sorry:

29
30 -- CU's, or discussing the number of CU's.
31 The concept of CU's, as originally described,
32 had unclear implications for fishing
33 activities, harvest management, and
34 departmental programming. This first review
35 was not a rejection, but a request for more
36 work.

37
38 MR. CHAMUT: Well, I would like to say you took the
39 words right out of my mouth. Before you
40 interrupted, that was about what I was going to
41 say. It was not -- I mean, this process
42 oftentimes followed this particular cycle.
43 There'd be -- a proposal would come in from the
44 Region, it would be reviewed, there'd be
45 questions, comments, and often it would go back.
46 Most often, it would go back to the Region with a
47 request for, "Clarify this, let me understand this

1 a little bit better," or some people might say, "I
2 disagree with this, that, or another element," and
3 the Region would then take it and take those
4 comments under advisement and would, in fact,
5 craft another document that would be subjected
6 again to a similar review once the required
7 changes had been made.

8 Q But tell me if I'm getting this right. You're
9 sending it back to the Region to say, "We don't
10 like this because you haven't defined conservation
11 units, or discussed the number of conservation
12 units," but they can't do that because they don't
13 have the resources to do the work; is that fair?

14 MR. CHAMUT: No, I don't think that's fair at all. I
15 mean, I know that it took time to get the number
16 of conservation units defined, but at that time,
17 there was a general understanding of how many
18 there were likely to be, and for me, as -- in my
19 capacity at that time, the main issue was trying
20 to understand what the consequences would be for
21 Fisheries Management. And in sending it back, the
22 expectation was that Science and Fish Management
23 and policy perspectives in the Region would be
24 brought together and some of these questions would
25 be clarified so that we could, in fact, properly
26 assess what the implications of this new policy
27 would be for a variety of different concerns. So
28 that was the process and I don't think that it's
29 fair to say that we were basically sending it back
30 without the Region having the capacity to be able
31 to provide the information that was being
32 requested.

33 Q So are you saying you weren't expecting them to be
34 able to define the conservation units at this
35 point, because that's not what your statement
36 seems to suggest.

37 MR. CHAMUT: I think what we -- what I certainly wanted
38 was a better understanding of how the -- what the
39 consequences would be for resource management and,
40 yes, it was -- in the initial drafts, it was a
41 very unclear concept. It didn't provide any
42 clarify with respect to how big these things would
43 be, how small they might be, and we needed
44 additional information to be able to make a
45 judgment about that.

46 Q Now, how many --

47 MR. CHAMUT: And if you look -- well, go ahead.

1 Q Sorry.

2 DR. RIDDELL: Are you finished?

3 MR. CHAMUT: Yeah, go ahead.

4 DR. RIDDELL: Mr. Commissioner, I won't comment on the
5 monetary, but I think one other thing that we
6 should identify that did take some time to
7 discuss, and this is really part of why I
8 suggested putting the chronology together, is keep
9 in mind, also, **SARA** was coming about at the time.
10 There was a concern about biodiversity generally,
11 and that, and we spent quite a bit of time talking
12 with people in Ottawa about why you need to
13 conserve biological diversity. I mean, there's
14 lots of examples where people would say, "Well,
15 why would you need a Cultus Lake sockeye? I mean,
16 that's just one of 230, why do you care," and
17 that. So there was an educational process. It
18 was a fundamental change. I mean, Pat, yesterday,
19 referred to it as transformational. There's no
20 question for people outside understanding salmon,
21 this policy was transformational and the concept
22 of conservation units, as opposed to what you
23 referred to as stocks in the Slaney paper, that
24 individual streams, and that. And so their
25 concept was, "Well, how could you possibly need
26 all that diversity?" And this is a -- it's a
27 problem that people struggled with in the United
28 States, under the ESA, and it's a problem that we
29 had to educate people to when we were starting to
30 talk about a completely different type of policy
31 for Pacific Salmon.

32 Q So is that biologists in Ottawa you're having to
33 -- you're having this debate with, or is it
34 fishery managers, or is it people who've got
35 backgrounds in pharmacy?

36 DR. RIDDELL: Well, I don't know all their backgrounds
37 so I don't think I can answer that, but it's a
38 wide variation of people, but all with positions
39 of authority that we needed to educate to why we
40 were presenting a new policy.

41 Q Do you know that it was biologists that that --
42 the group of Ottawa sceptics included biologists?

43 DR. RIDDELL: Well, I only know a few biologists that
44 were involved. I don't know the background of the
45 others so I really can't comment.

46 Q But some of the people who were sceptical were
47 biologists?

1 DR. RIDDELL: Some were, yes.

2 Q How -- Mr. Chamut, how many times did the policy
3 bounce backwards and forwards between the Region
4 and Ottawa?

5 MR. CHAMUT: Four times. Once in 2000, when the first
6 draft came up. The second time was, I believe, in
7 2002. The third time was in about November of
8 2004, and then a final time in -- I believe it was
9 April. I could be proven wrong, but it was just
10 probably within a month of it being approved by
11 the Minister in 2005.

12 Q And what changes were there either in the policy
13 or in Ottawa that caused the policy to be finally
14 approved?

15 MR. CHAMUT: Well, if you go and look at the final
16 policy and compare it to some of the early drafts,
17 you'll see that it changed quite dramatically. It
18 was -- it added a number of different elements.
19 It was written in a manner that was clear. It
20 provided -- obviously, it was a commitment to
21 conserve genetic diversity, was one of the
22 fundamental commitments that was made in the
23 policy, but added to it were -- was the
24 understanding that the notion of sustainable use
25 was also an important consideration to make, and
26 it included a process by which some of those
27 determinations could be made where social and
28 economic considerations could be brought in to
29 issues such as harvest management, enhancement,
30 and a variety of other things associated with
31 resource management.

32 So it was, in my opinion, a wholesale change,
33 something that more properly reflected the broad
34 mandate of the Department, and it did obviously
35 have an awful lot more support because I think it
36 was clearer and one could start to appreciate how
37 it would be implemented based on the presentations
38 that were made, and based on the document, itself.

39 Q And that's what I'm trying to get to is what were
40 the factors that made it now acceptable?

41 MR. CHAMUT: Well, I think if you look at -- I, really,
42 am not in a position where I can go through each
43 and every change, but I think the important thing
44 was that it provided a much broader appreciation
45 of the -- that reflected the broader mandate, the
46 mandate of the Department. I think the early
47 drafts that came up focussed on -- more on the

1 Science perspective without necessarily including
2 some of the issues associated with socio-economic
3 considerations and how that might be introduced
4 into the policy while still maintaining its
5 fundamental focus on preserving genetic diversity.
6 Because all the time that this was going on, life
7 wasn't standing still, there were a variety of
8 other things that had happened. And Brian had
9 mentioned the **Species at Risk** legislation and the
10 -- I think that, in particular, was -- certainly
11 heightened the importance of the Department
12 adopting a policy on wild salmon and a policy
13 that, more importantly, would protect genetic
14 diversity because it became quite clear that in
15 the event that we ignored some of these smaller
16 populations of sockeye that were in decline, it
17 became very clear that those populations would, at
18 some point, become considered under the **Species at**
19 **Risk** legislation and that does introduce a whole
20 bunch of additional complications to resource
21 management that would have quite considerable
22 effects on departmental programming, but I think,
23 more importantly, could have had quite important
24 implications for harvest management, as well.

25 So there was no question that the basic goal
26 of protecting genetic diversity was one that did
27 need to be embraced and did need to be the
28 cornerstone of the policy. And a lot of the work
29 that went on from 2003 through to the finalization
30 of the policy was how to actually build a policy
31 that contained that fundamental cornerstone, but
32 at the same time, allowed some consideration of
33 socio-economic considerations. And I think the
34 policy that you've got before you is what we were
35 -- what we had put together and it was one that
36 found favour within the broad department, but more
37 importantly, was one that was approved by the
38 Minister, which was -- and adopted in 2005.

39 Q So out of all of that answer, I think I heard two
40 specific points. One was a desire to avoid **SARA**
41 intervention, if I can use that word; is that
42 fair?

43 MR. CHAMUT: I'm not -- your context of your question
44 is a little puzzling. You're -- I mean, I had
45 suggested that one of the factors that had become
46 quite important was the **Species at Risk**
47 legislation and it was one consideration, and it

1 did reinforce the importance of the protection of
2 genetic diversity, which has been discussed here
3 quite extensively this morning.

4 Q And if you can go back to the Wild Salmon Policy,
5 please, Exhibit 8, page 14, Objective 3, and the
6 very first paragraph. Here -- and I'm asking if
7 this is the other change that allowed it to be
8 accepted by Ottawa, because you started telling us
9 about the socio-economic factors. And here the
10 policy says:

11
12 The conservation of wild salmon and their
13 habitat is the highest priority in this
14 policy. However, a policy that failed to
15 consider the values that harvesting of
16 Pacific salmon provide to people would be
17 incomplete. While everyone supports
18 conservation, many people depend on salmon
19 for their social and economic needs and
20 insist on a balanced policy that provides for
21 sustainable use of wild salmon.
22

23 Is that an expression of the need to recognize
24 what you described as the broad mandate of the
25 Department?

26 MR. CHAMUT: I think that's part of it. The
27 recognition that we do have a responsibility for
28 resource management and that there needs to be an
29 opportunity for consideration of social and
30 economic values to go into resource management
31 decisions and Strategy 4 was the way in which that
32 would be achieved. And I think that concept plus
33 the fourth strategy was one that I think found
34 favour in Ottawa because it did embrace the
35 broader mandate of the Department.

36 Q And did Ottawa sense that that balance was not
37 there in the earlier drafts?

38 MR. CHAMUT: You're using the term, "Ottawa" as it
39 being some sort of a monolith, and I think what
40 I'd have to say is there were -- as one of the
41 members around the Policy Committee, I was
42 probably the one that was most concerned about how
43 the initial drafts would be implemented and how it
44 would impact on resource management because that
45 was my basic overall responsibility. So I had a
46 number of questions that I directed back to the
47 Region.

1 The were other questions that came in from
2 various people, but I really can't remember
3 exactly what they were and so when you -- when I
4 talk about -- when you talk about Ottawa, I think
5 I'd like to prefer -- talk about something that I
6 do know about and that is what I said, rather than
7 what the broad monolith might have directed.

8 Q Well, rather than referring to a city in the
9 frozen north, we'll refer maybe to the Policy
10 Committee of the Department of Fisheries and
11 Oceans, would that be a better phrase?

12 MR. CHAMUT: That's fair. I mean, you've -- I think
13 the Policy Committee would speak -- would have a
14 record. It would speak with -- it would provide
15 direction back to the Region, and that direction
16 was pretty much as you read out of my witness
17 statement.

18 Q I actually jumped ahead a bit in the chronology,
19 Dr. Riddell. Yesterday, you were taken to a
20 number of documents that talked about the
21 conflicts or the tensions that arose between
22 Science and Fisheries Management in the Region,
23 and I would like to just try to get a better sense
24 of what they were and who the protagonists were on
25 either side.

26 DR. RIDDELL: Well, let me speak just very broadly
27 about this because you're talking about lots and
28 lots of different people, and lots and lots of
29 different meetings, and that. I mean, I think the
30 fundamental change that -- and Pat has referred to
31 this, number one, it is a change and we are
32 talking about, in the minds of Fisheries managers,
33 we were adding a new dimension that they had to
34 account for, in which case it was diversity, that
35 they no longer would be held accountable on the
36 management of a single large population and its
37 production, they were looking at the total
38 production and the diversity of the fish
39 throughout a CU.

40 There was an uncertainty in their mind about
41 how they were going to do that. How were they
42 going to manage with these conservation units that
43 had not yet been defined? So I mean, I think you
44 can see from in the early 2000s, if you're
45 responsible for implementing what turned out to be
46 Strategy 5, if you, annually, are responsible for
47 managing a fishery, then change is something that

1 challenges you to think about, "What's it going to
2 do to me? How am I going to be able to explain
3 this to user groups? How am I going to implement
4 this in an in-season management process."

5 So I don't know that anyone fundamentally
6 disagreed with the direction of the policy. They
7 definitely had concerns about how it would be
8 implemented and instead of being focussed only on
9 the large production stocks, they were now going
10 to be accountable for diversity within the
11 conservation units and all of the conservation
12 units, in total, and that. Not really all that
13 different, in Fraser sockeye, from the way that
14 they had seen management for a number of years,
15 for a long period of time, but new terminology,
16 new expectation, new uncertainty.

17 Q And who were those fishery managers?

18 DR. RIDDELL: Well, they probably changed through time.

19 I mean, I'd have to think a bit. I mean,
20 currently -- the current manager is Barry --

21 Q No, I'm interested in that period of time, when
22 there was tension between Science and Fishery
23 Management because, at the moment, we're only
24 hearing from the Science side of this debate. So
25 who were the people involved on the Fishery
26 Management side of it?

27 MR. SAUNDERS: I don't have a strong recollection, I'd
28 have to think about it a bit more, but in terms of
29 the -- at the time of the policy development,
30 Sandy Fraser was the lead on the team from -- and
31 brought forward and took back sentiments with
32 Fisheries management, and I -- beyond that, I have
33 difficulty recollecting who would have been the
34 actual managers.

35 Q Mr. Riddell and Mr. Chamut, I see you conferring.
36 Are you able to identify these people now?

37 DR. RIDDELL: We're just trying to recall who were the
38 actual managers directly in the Fraser. I mean,
39 the people that came to mind, Sandy Fraser's name
40 was brought up, in Fish Management and Policy,
41 Steven Wright was in Policy and had effect on
42 Fisheries Management, but the people actually
43 doing the assessments, some of those people have
44 simply changed. Who was the director for Lower
45 Fraser is what I was trying to think about.
46 Francis Dickson (phonetic), in the late '90s.
47 There has probably been, literally, four or five

1 managers in the Lower Fraser, is what I'm
2 struggling with.

3 Q Mr. Commissioner, I've got about 10 or 15 minutes
4 more. I see it's 12:30. Perhaps the panel could
5 confer, maybe with counsel, over the lunch break,
6 and provide us with some answers to that question.

7 THE COMMISSIONER: All right. Then we'll adjourn until
8 two o'clock, Mr. Wallace.

9 THE REGISTRAR: The hearing is now adjourned until 2:00
10 p.m.

11
12 (PROCEEDINGS ADJOURNED FOR NOON RECESS)
13 (PROCEEDINGS RECONVENED)
14

15 THE REGISTRAR: The hearing is now resumed.

16 MR. BUTCHER: It's David Butcher continuing.

17 Mr. Commissioner, I've asked Mr. Lunn to put
18 up Exhibit 85, as one of the many documents put to
19 the panel yesterday, to illustrate the tension
20 that was being documented by the managers. Mr.
21 Lunn, if you can just maybe highlight that a bit,
22 yes.
23

24 CROSS-EXAMINATION BY MR. BUTCHER, continuing:
25

26 Q Now, I've asked that to be brought up just to see
27 if it would assist you in answering the question
28 that I posed before lunch. Who are the people on
29 the fishery management side that are on the other
30 side of this tension? Do you have answers to that
31 now? Dr. Irvine?

32 DR. IRVINE: Yeah, maybe I could speak to that, at
33 least initially, as I have had the most continuous
34 involvement in the WSP throughout its development,
35 and I essentially had the pan between about 2000
36 and 2002, somewhere in there, 2003.

37 As Brian and Pat indicated earlier, there's
38 been a large number of people that have been
39 involved in this process from the fishery
40 management perspective. Admittedly, there has
41 been tension, and we can talk about that. But
42 there's also a lot of education, so a lot of the
43 tensions that were felt by certain individuals was
44 relieved somewhat with knowledge.

45 But if you really wanted to know names, the
46 two names that I would provide would be Steven
47 Wright and Sandy Fraser. Now, both of these

1 individuals represented Fisheries Management
2 during a critical period. Now, Sandy was actually
3 a member of the writing team and contributed a
4 good portion of the strategy for text and really
5 was responsible for being the go-between between
6 the writing team and Fisheries Management.

7 But Steven Wright was also involved during
8 the critical phase and was perhaps not in full
9 agreement with those of us in Science, or in less
10 agreement. So there was a bit of a tension going
11 on there.

12 Q And would Wayne Saito be another name that should
13 be added to those two?

14 DR. IRVINE: Well, I'm trying to remember when Wayne
15 left the Department. You know, Wayne was
16 involved, but he went, I believe, to the private
17 sector and then to the province. I'm just not
18 sure of what -- you know, when he left Fisheries
19 and Oceans.

20 Q And what happened to the other two gentlemen you
21 mentioned?

22 DR. IRVINE: Well, Sandy Fraser was retired from
23 Fisheries and Oceans probably in 2006, 2005 or
24 '06, '07, yeah, so he retired not long after the
25 policy was finished. Steven Wright, as far as I
26 know, is still within DFO.

27 Q I want to turn for a moment, now, to the policy,
28 and just to confirm that the Strategies 1, 2 and 3
29 are really fact or data-finding exercises; is that
30 fair?

31 DR. IRVINE: Well, I would say that they're
32 information-gathering processes as well as
33 methods, yes.

34 Q And I presume -- and we're going to hear more
35 about this, but as we understand it at this point,
36 there has not been the expected progress in that
37 information-gathering process.

38 DR. IRVINE: Expected by whom?

39 Q By the Department, by Mr. Chamut, for example.

40 MR. WALLACE: Dr. Irvine will be here on the
41 implementation panel.

42 MR. BUTCHER:

43 Q I'll just ask that question of Mr. Chamut. You'd
44 expected more progress. You've already told us
45 that.

46 MR. CHAMUT: I've said in my witness statement that I
47 would have expected more progress, but I also have

1 to -- said, and I think I said this yesterday,
2 that I have not had any sort of detailed briefing
3 or understanding of exactly what the Department
4 has done or has not done.
5 But, from what I have gathered, I was -- I
6 would say I expected that there would have been
7 more progress made on implementation by this time.
8 Q And what is envisaged is that ultimately all of
9 that information, when gathered, would be utilized
10 in Strategy 5 for the annual program delivery. I
11 see, Dr. Irvine, you're nodding your head.
12 DR. IRVINE: Well, the Strategies 1, 2 and 3 are the
13 information-gathering processes, right, and
14 they're gathering the non-social and economic
15 information. So they're put together with social
16 and economic information in Strategy 4, which is
17 where the detailed plans are developed. Strategy
18 4 is more about the annual operating programs.
19 Q Now --
20 DR. IRVINE: No, I'm sorry, I have that confused.
21 Strategy --
22 Q Strategy 5 is the annual program delivery which
23 includes the harvesting plan.
24 DR. IRVINE: That's right, Strategy 5, yes. Strategy 4
25 is the integrated planning process.
26 Q Now, you've generally given evidence that this
27 document does not provide operational guidance,
28 does not provide direction or directives to the
29 Department. Have I understood that correctly?
30 DR. IRVINE: No. It certainly provides operational
31 guidance. It does not provide detailed
32 operational guidelines.
33 Q One place, though, where a very specific guideline
34 is found is on page 29 where --
35 MR. BUTCHER: This is Exhibit 8, Mr. Lunn, page 29.
36 Q -- where you have set up this process for
37 ministerial rejection of plans, and if I can read
38 it --
39 MR. WALLACE: Mr. Commissioner, this is Strategy 4, and
40 it is the subject, after we have harvest
41 management, of the next session on Wild Salmon
42 Policy.
43 MR. BUTCHER: All right.
44 Q I'll ask this question: Maybe I'll direct it to
45 Mr. Chamut because you've already commented on
46 this. Why was the bar for ministerial
47 intervention set so high, that is, exceptional

1 circumstances where recommended management actions
2 are assessed to be ineffective, or the social and
3 economic costs will be extreme.

4 When so much of the information required had
5 not been gathered at the time of the report, and
6 in fact still hasn't been gathered, why was that
7 test put in there?

8 MR. CHAMUT: Well, I guess --

9 Q Because -- and frankly, I'm getting the sense that
10 when this policy was written, that test was put
11 in, in an informational vacuum. So that's the
12 question that I want to ask.

13 MR. CHAMUT: Well, I can only say that I fundamentally
14 disagree with that assertion. The nature -- have
15 you read the policy? The nature of this policy,
16 the specific requirement is that we're setting out
17 to protect genetic diversity. That's the highest
18 priority. We acknowledge that in the process we
19 will also be looking at socio-economic
20 considerations.

21 But fundamentally, what we're trying to do is
22 we're establishing a conservation unit as the
23 basic unit that we are going to protect,
24 rehabilitate where required, and maintain.

25 Q But they're all unknown.

26 MR. CHAMUT: But there are going to be circumstances
27 where we know that a conservation unit is going to
28 be virtually impossible to rehabilitate or to
29 maintain without going to very large economic and
30 social costs.

31 Q But again, with respect --

32 MR. CHAMUT: Just -- but you're -- can I just continue,
33 please?

34 Q Well, I'm going to suggest for a moment --

35 MR. WALLACE: Sorry, Mr. Butcher, please let the
36 witness complete his answer.

37 MR. BUTCHER: Certainly.

38 Q Sorry, carry on, Mr. Chamut. And I have read the
39 policy, thank you.

40 MR. CHAMUT: Okay. The policy -- we needed to be clear
41 that we were not necessarily -- that the policy
42 did not oblige the Minister in every circumstance
43 to protect or maintain a conservation unit where
44 it was determined that to do so was going to be
45 very costly or, in the alternative, was unlikely
46 to be successful. Because it would be very poor
47 public policy to have something that committed the

1 Minister to protect the genetic diversity of each
2 and every CU when we knew there would be, there
3 could be and likely will be situations where it's
4 just not feasible to do it.

5 We didn't want to create a policy where the
6 expectations were so excessively high that the
7 Minister would be -- essentially his hands would
8 be tied, or her hands would be tied, and we wanted
9 to be clear that there would be some situations
10 where we would not be able to protect a particular
11 conservation unit. But we wanted it to be clear
12 that it would likely be in exceptional
13 circumstances, and that the process of doing so
14 would involve a detailed study by the Department,
15 consultation with various interests,
16 recommendations to the Minister and a sign-off by
17 the Minister. That's in exceptional
18 circumstances, dealing with a CU that is not
19 likely to be able to be preserved.

20 But the other point I want to make is that
21 this is not the only point at which a Minister
22 will have a decision-making capacity. Every year
23 annual plans are put up. They are called
24 integrated Fisheries Management plans, and the
25 Minister signs off on all of those. So decisions
26 that will be included in those plans will include
27 things like harvest rates, escapement goals and
28 target -- not target reference points, but there
29 will be benchmarks there that he will approve as
30 part of the annual planning process. That may not
31 be spelled out in the policy, but it's very much
32 the approach that is taken on a regular basis by
33 the Department. So the Minister still has a role
34 to play in approving all of those things.

35 Q I'll put this slightly differently. Might it not
36 have been more prudent to carry out all of the
37 research in Strategies 1, 2, 3 and 4, and then
38 write the policy? Have you done it all completely
39 backwards, in other words?

40 MR. CHAMUT: Well, my answer to that would be no. I
41 think that having --

42 Q That might be because you're the author of the
43 policy, but carry on.

44 MR. CHAMUT: I think it was really important for the
45 Department to have a policy in place that started
46 to answer some of the basic questions that have
47 been around this business, this industry and the

1 whole fishery for many, many years, and that is:
2 What are we trying to conserve, and how are we
3 trying to do it?

4 I think, as I've explained, and I think other
5 members of the panel have indicated, it was -- we
6 were looking at a number of demands that had been
7 made for the Department to have a policy. We had
8 evidence led yesterday about the Commissioner for
9 Sustainable Development and the Auditor General,
10 and those were important considerations in getting
11 a policy done.

12 I think the imminent implication of the
13 species-at-risk legislation was another incentive
14 that I'd mentioned earlier. And the Department
15 was expected to have a Wild Salmon Policy, and I
16 think the timing was right to do it. If we had
17 waited till we had every ounce of information that
18 could have been gathered, we still would not have
19 a policy and I think that would be to the
20 detriment of our management program and, indeed,
21 to the resource.

22 That's my opinion.

23 Q But if you've been getting the information back in
24 1999, you'd have had it all by 2005, wouldn't you?

25 MR. CHAMUT: No. I don't --

26 Q If you'd spent the money conducting Strategies 1,
27 2, 3 and 4 from the outset, wouldn't we have then
28 been in a much better position to write a more
29 informed policy? I see Dr. Riddell might want to
30 answer that question, or one before.

31 DR. RIDDELL: Well, probably a piece of each. Mr.
32 Commissioner, I think -- and it's nice to look
33 back and, yes, maybe if we'd had more information,
34 maybe we could have done it more quickly, but --
35 and there are a couple of other points in terms of
36 doing it backwards.

37 There were a number of pressures that were
38 going to affect fisheries if the Department didn't
39 take a more forward agenda and try to get in
40 advance of things like SARA. If COSEWIC had
41 proceeded with listings of populations, and if
42 they had been listed under SARA, right -- and
43 that's a big "if" because it has gone to Ottawa
44 and the Minister -- particular council, I forget
45 the name of it -- actually did not accept it.

46 But what if a number of those had been listed
47 under SARA? They would have had immediate

1 restrictive developments on fishing and
2 development in a number of things. A number of
3 the decisions that have been taken really were
4 conditioned by the development of the Wild Salmon
5 Policy, a number of which related to MSC. I don't
6 think you would have seen MSC certification for
7 the Canadian fisheries if we did not have the Wild
8 Salmon Policy as a forward-looking management
9 framework and agenda.

10 So maybe things could have happened
11 differently; that's certainly true. But I do not
12 think it was inappropriate to proceed with the
13 policy, because it did address a number of the
14 challenges the Department was being faced with and
15 a number of pressures that were definitely
16 threatening fisheries, and that.

17 Q Would you agree now, with hindsight, that it would
18 have been better to do the informational gathering
19 and then write the policy?

20 DR. RIDDELL: Well, I suppose you'd have to say yes,
21 but I don't really understand too much -- what we
22 -- you see, you're implying we were doing nothing
23 in terms of enhancing the conservation units. I
24 think we simply have to look at a number of things
25 that are evident, such as the COSEWIC assessment
26 of B.C. interior Coho. There was extensive work
27 done before the Wild Salmon Policy there, and it
28 really used the application of the idea of
29 conservation units.

30 I wouldn't say that it was as evident with
31 Sakinaw Coho and Cultus Lake Coho because, as
32 we've said numerous times, sockeye become lake-
33 specific. So the stock versus CU is a very much
34 more direct relationship with sockeye.

35 But there are a number of analyses that show
36 the Department was clearly proceeding in the
37 manner of conservation units before the Wild
38 Salmon Policy was there. It just wasn't phrased
39 as a conservation unit.

40 Q That answer leads into my next question. You've
41 told us several times that this policy is
42 transformational, but I'm going to suggest that it
43 was just a codification of changes that DFO'd been
44 making over the past 15 to 20 years, including
45 dealing with things such as weak stock management
46 and bycatch issues. Do you agree with that?

47 DR. IRVINE: It's certainly true that the WSP was an

1 important step in the evolution of modern
2 fisheries management. I agree with my colleagues
3 it was transformational, but it wasn't the
4 beginning and nor is it the end.

5 You know, we had a lot of discussion this
6 morning about, you know, how much diversity should
7 we protect, and I think with the Wild Salmon
8 Policy is it makes a real significant
9 contribution, is it defines how much diversity in
10 terms of the conservation unit. And so this --
11 you know, when you talk about diversity, you're
12 talking about within-species diversity. So
13 Brian's seminal paper really was talking about how
14 much diversity should we protect. The Wild Salmon
15 Policy identifies that, and this wasn't done
16 outside -- you know, this was done within the
17 policy. So it identifies the conservation unit as
18 that basic unit to protect.

19 There's still a lot of disagreement about how
20 much diversity within a conservation unit, but to
21 imply that this work would have been done outside
22 or independent of the Wild Salmon Policy I think
23 is a mistake.

24 Q Are any of you, any four of you, prepared to
25 accept the notion that the Wild Salmon Policy was,
26 in large part, a codification of changes that DFO
27 had been making over the previous 15 to 20 years?
28 Dr. Riddell?

29 DR. RIDDELL: I won't accept on whole, but I think you
30 are correct that it was a codification of the
31 aspect of stock-specific management, and the best
32 case of that is probably the large ocean troll
33 fisheries which, for many years, was not really
34 considered to -- we all knew it had mixed-stock
35 consequences. It was not managed on the basis of
36 specific stocks and harvest grades. So it is a
37 codification of a change that was occurring, and I
38 think I noted this in my introductory talk about
39 the change through 1980s -- or '80s and '90s.

40 But I think where the transformational notion
41 comes in is it did identify the unit that we will
42 use. It went away from single populations. It is
43 the first time that you would have a single policy
44 and management framework that integrates the fish,
45 the habitat and the ecosystems. It's the first
46 that commits us to what we wanted to be, a
47 transparent regional-based governance where you

1 incorporate ecosystem-based management really in
2 management. I'm sorry, I didn't say that well.
3 Where you apply ecosystem-based management in the
4 development of long-term management plans.

5 This is where communities should have had
6 input into if you have populations or CU's of
7 mixed status, the Wild Salmon Policy does not
8 require you to manage all fisheries to achieve a
9 particular goal for the weakest stock. It says
10 develop a management plan across those units,
11 taking into account the socioeconomic effects as
12 long as you can recover the weaker conservation
13 units through time, so it's not continue that risk
14 of loss.

15 So there actually is quite a bit of
16 flexibility when you look at the package as a
17 whole. That is what's transformational, is that
18 we're trying to give very specific management
19 framework for a future-looking document, how to
20 conserve Pacific salmon for future use and
21 evolution.

22 Q And what I was trying to suggest to you in the
23 question was that that had been going on within
24 DFO for many years and, in fact, was undertaken by
25 the IPFSC for 30 or 40 years before that. That's
26 why I was taking issue with this transformational
27 concept.

28 DR. RIDDELL: Well, I wouldn't agree that it had been
29 going on.

30 Q Now, we've heard that the -- at one point \$1
31 million was directed to the WSP when it was first
32 introduced, and that that wasn't actually new
33 money at all. It was money that was diverted from
34 other sources within the Department.

35 Has anybody calculated how much it cost
36 during the six years to draft the WSP, either in
37 dollars or in person-years?

38 DR. SAUNDERS: I'm not aware of any such calculation.

39 Q Would it be far more than the \$1.1 million that
40 was allocated to actually put it into effect?

41 DR. IRVINE: Perhaps, but these are difficult questions
42 to answer because our salaries are not really
43 included even in that \$1.1 million, so it's --
44 that's kind of new money for operating expenses.
45 Because there's a lot more than the Wild Salmon
46 Policy within Fisheries and Oceans Canada,
47 obviously, so it's quite difficult to sort of say,

1 well, how much of your time is spent on WSP versus
2 something else, so -- it's an interesting
3 question. I don't know.

4 Q So is your answer to the Commission and to the
5 people of Canada at large, we've no idea how much
6 money we spent developing these 50 pages in six or
7 seven years?

8 DR. IRVINE: No, I don't think that's the answer at
9 all. I just --

10 Q Well, can you give us an answer?

11 DR. IRVINE: We don't -- I haven't actually thought
12 about that very much. I'm sure that a person
13 could develop and estimate, but I don't think we
14 could do it this afternoon.

15 Q Mr. Chamut or Dr. Riddell, do you have -- can you
16 shed any light on that question?

17 MR. CHAMUT: I can't add anything to what Dr. Irvine
18 has said. Obviously there was a number of people
19 involved, and if you added up all their salaries
20 plus some travel costs, that would basically be
21 the bulk of the expenditure. And over five or six
22 years, it's quite conceivable that it could amount
23 to \$1 million in total, but no one has done that
24 calculation. That's not to say it couldn't be
25 done, but we didn't particularly see the need to
26 do that as part of the normal budgetary process.

27 Q Any concept of the number of person hours
28 involved? And they're all very senior people
29 hours as well, aren't they? They're all senior
30 managers, senior biologist hours. Firstly, is
31 that correct, that it's senior people involved in
32 the process?

33 MR. CHAMUT: I'm not sure what you mean by senior. I
34 mean, there were people like you see sitting in
35 front of you here. There were people I would
36 generally term as middle-management, by and large.

37 Q And would you agree it's hundreds of hours of
38 their time?

39 MR. CHAMUT: Undoubtedly, yes.

40 Q Would you agree it's thousands of hours?

41 MR. CHAMUT: I'd say probably.

42 MR. BUTCHER: Thank you. Those are my questions.

43 MR. WALLACE: Thank you. Mr. Commissioner, the next
44 participant on the list is the West Coast Trollers
45 Area G Association, United Fisherman and Allied
46 Workers' Union.

47 MR. HARVEY: Yes. Thank you. It's Chris Harvey. I'm

1 over here on this side because I represent the
2 West Coast Trollers, way off in left field.

3
4 CROSS-EXAMINATION BY MR. HARVEY:

5
6 Q Dr. Riddell, you mentioned Dr. Walters once or
7 twice in your testimony and it sounded to me like
8 he's highly regarded in the scientific community;
9 is that fair to say?

10 DR. RIDDELL: Yes, he certainly is.

11 Q Yes. But do I understand from your answers that
12 your training is more focused on genetics, your
13 training and experience, work experience?

14 DR. RIDDELL: Thank you for that clarification,
15 actually, because my training is population
16 genetics which has quite a bit of statistics and
17 analysis, and when I took over my job in September
18 of '79, as I said, I continued to work in
19 genetics, but I was also asked to set up the
20 salmon production and analysis program where I
21 worked much more extensively in stock assessment
22 analysis and modelling.

23 Q I see. Has Dr. Walters worked more in the field
24 of fish population dynamics?

25 DR. RIDDELL: Dr. Walters is a world-renowned leader in
26 fish population dynamics.

27 Q I see. Thank you. Now, to clarify precisely what
28 is meant by the conversation units -- because I
29 gather this is the major contribution of the Wild
30 Salmon Policy. It identified the conservation
31 units as the unit to be protected. Is that a fair
32 generalization?

33 DR. RIDDELL: The definition of the units; the
34 establishment of two benchmarks, not one; the
35 requirement for an assessment framework per
36 conservation unit and the integration of habitat
37 and ecosystems and then into the framework. It is
38 a full package. The conservation units is
39 probably the one that, I would say, is most
40 innovative in application and development.

41 Q Yes. All right. And that unit is intended to
42 represent what would be irreplaceable, genetically
43 irreplaceable -- no, I'm sorry. A unit, a stock
44 that would be irreplaceable if that genetic basis
45 for it were lost; is that the correct way to put
46 it?

47 DR. RIDDELL: Yes. One of the slides that I used had

1 the definition, and basically it's a genetic
2 lineage that would -- if it was lost, it was
3 irreplaceable, and that.

4 Q Yes.

5 DR. RIDDELL: Now, the genetic aspect of lineage is
6 emphasized because in species other than sockeye
7 salmon, you could probably get other lineages of
8 Chinook or Coho or pink or chum to go in and
9 restore production from a habitat, but it would
10 not be the same genetic material, and that, so you
11 could restore production but not the genetic
12 diversity, yes.

13 Q And with sockeye, you can't even restore
14 production because the genetic material in the
15 sockeye is developed for a specific lake system;
16 is that correct?

17 MR. RIDDELL: That definitely is most of the evidence.
18 We just heard an example of where one stock was
19 very depressed and it has managed to recover, it
20 recovered, as far as we know, from the same
21 genetic material, and that.

22 Q Yes.

23 DR. RIDDELL: Where we have lost the material, we have
24 been unsuccessful in transferring other sockeye
25 populations into them, and that, and so, yes,
26 that's the serious concern that if you lose a
27 sockeye CU, you not only lose the genetic
28 material, but you're going to lose some level of
29 production as well.

30 Q Yes. But the level of concern is not the same
31 within the CU; is that correct? Because within
32 the CU, if you -- and I think that comes back to
33 that Quesnel or Horsefly example. Within the CU,
34 the stock can be restored.

35 DR. RIDDELL: Yes, and that's one of the fundamental
36 changes from getting away from a single stream by
37 species, that what you're doing in terms of
38 defining a spatial unit as a conservation unit is
39 you're allowing for multiple populations in there
40 to -- if you want to act as an insurance policy.
41 If you lost the animal spawning in a particular
42 stream, then similar genetic material from around
43 it would allow it to recover and restore
44 production.

45 Q Yes. And I think you said, if I got your evidence
46 right, that there have been examples where the
47 genetic material in a specific stream has been

1 lost, but there have not been examples where the
2 genetic material in respect of a complete CU has
3 been lost; is that correct?

4 DR. RIDDELL: If you're referring to sockeye salmon
5 again, yes, that's correct.

6 Q Yes, yeah. So -- yes. So when you were
7 emphasizing adaptability as the important reason
8 for maintaining genetic diversity, am I right in
9 thinking you were speaking more generally because
10 you cannot apply that to sockeye? In other words,
11 they're not adaptable inter-CU, from one CU to
12 another?

13 DR. RIDDELL: Yes, that's partially correct. The
14 adaptability implies a process where you have
15 multiple populations that can mix and recover from
16 themselves, but it's an issue of having a wide
17 distribution of the salmon within their
18 conservation units so that they can adapt through
19 time.

20 But when you get to sockeye salmon, the
21 critical element is that you tend to have
22 relatively -- unless there's a very big CU, you
23 tend to have a limited number of spawning sites
24 where the genetic diversity actually starts from.
25 It actually starts from individual pairs of
26 salmon, obviously, and that. And so the loss with
27 sockeye salmon is much more -- much greater impact
28 in the sense that you can't replace it with
29 animals that are likely to provide you production.

30 Q Yes. That's if you lose the genetic basis for the
31 whole CU.

32 DR. RIDDELL: Yes.

33 Q Yeah. So when the Wild Policy -- Wild Salmon
34 Policy is drafted, you would -- you would have
35 wanted that distinction to be made clear, would
36 you not, the distinction between protecting the
37 biodiversity of a CU as opposed to protecting the
38 diversity within a CU with respect to a particular
39 stream, for example, within the CU.

40 DR. RIDDELL: Well, not quite. No, you need both
41 levels of diversity. You need both elements of
42 the distribution of the animals, because the
43 biological diversity consists of both what we call
44 intra-specific or inter-CU, 'cause there'll be
45 multiple spawning populations. That's a level of
46 diversity. It has less genetic difference within
47 it than between CU's. But across the whole

1 province or a larger geographic landscape,
2 multiple CU's provide even more genetic diversity.
3 But in terms of the insurance policy, if you
4 want, that I talked about, the real importance of
5 that is that it can restore production within a
6 CU --

7 Q Yes.

8 DR. RIDDELL: -- more quickly than between.

9 Q Yes. So the adaptability value is -- the
10 insurance policy value is more important within
11 the CU.

12 DR. RIDDELL: Yes.

13 Q Yes, all right. I don't think that's made clear
14 in the wording of the Wild Salmon Policy, is it,
15 that distinction?

16 DR. RIDDELL: I'd have to check various pieces, to be
17 honest, about that. That was definitely part of
18 the assessment framework that you'll be hearing
19 about in implementation. It's equally important
20 that we look at production and distribution of
21 fish between spawning sites.

22 Q Yes. No, I don't want to get into implementation,
23 but I'm looking at it from the point of view of a
24 document that someone has to be able read and
25 apply in accordance with its intent.

26 MR. HARVEY: I wonder if, Mr. Lunn, we could have the
27 policy which is Exhibit 8, page 3. So the top
28 left-hand paragraph on page 3 recounts, more or
29 less in a historic way:

30
31 Concern for diversity in Pacific salmon
32 emerged as a significant issue during the
33 1990s, along with Canada's support for the
34 1992 UN Convention on Biological Diversity.

35
36 Then it goes on to say:

37
38 ...southwestern BC, one-third of the spawning
39 locations (a species in a stream) known since
40 the 1950s had been lost or diminished...

41
42 And the final sentence in that paragraph says
43 that:

44
45 These declines in diversity are one impetus
46 for a new management approach for wild
47 salmon.

1
2 But there's -- it doesn't say anywhere here that
3 we haven't lost an entire CU, nor does it make any
4 statement that we were not at risk of losing an
5 entire CU through the century or so of mixed-stock
6 fishing that had occurred prior to this. Would
7 you agree with that comment?

8 DR. RIDDELL: Well, I'd say, again, that it doesn't
9 reference CU's, because it was something that was
10 in development and it's not something that people
11 were -- really understood in the jargon at that
12 time. We did point out that even in the Slaney
13 paper that there were a number of populations of
14 sockeye that had gone extinct. Many of those,
15 though, as we said, were related to developmental
16 things such as dams, and that, but do we have CU's
17 that would have gone extinct in this number? Yes,
18 there would have been a few, but they are the ones
19 that we talked about earlier for sockeye, probably
20 in the Lower Mainland and in the Fraser.

21 Q Yes. I thought you said there hadn't been an
22 entire CU that had gone extinct.

23 DR. RIDDELL: You have to consider the lake-specific
24 populations of sockeye would almost certainly have
25 been CU's, and that, so we talk about Coquitlam,
26 Alouette -- what was the other one? Oh, and then
27 we had the Upper Adams River we referred to.

28 Q Yes.

29 DR. RIDDELL: Upper Adams being a dam effect, however.

30 Q Yes. Well, the Alouette and Coquitlam were also
31 habitat-related issues, were they not?

32 DR. RIDDELL: Yes, they were, yes.

33 Q All right. Well, let me ask you this, and I think
34 you've covered it. The context in which the Wild
35 Salmon Policy was developed is that, as you've
36 said, we've had a commercial fishery since the
37 late 1800s. Now, you used the terminology "non-
38 commercial" -- sorry, "non-Native commercial
39 fishery", but you didn't mean to exclude our --
40 the Native commercial fishermen from the concept
41 of the commercial fishery, did you?

42 DR. RIDDELL: No.

43 Q I mean there's -- it would be historically
44 inaccurate to speak of our commercial fishery as
45 being non-Native, correct?

46 DR. RIDDELL: Yes. There's always this, I suppose, a
47 nuance of words in the sense that they talk about

- 1 commercial fisheries. It doesn't go both ways.
2 Of course, if we say that, then other people don't
3 think you're including the First Nation fisheries.
4 So we tend to try to refer to them specifically.
- 5 Q Yes. But historically, they're -- and to this
6 day, commercial fishermen may be Native or non-
7 Native or from any other origin fishing under the
8 same rules. Isn't that as you understand it?
- 9 DR. RIDDELL: Well, I mean, they are -- there are some
10 elements of commercial fishing, but they are not
11 fishing all under the same rules, no. I mean, we
12 do have food, social, ceremonial fisheries.
- 13 Q Oh, yeah, I'm sorry. I'm sorry. I was
14 restricting my questions to the commercial
15 fishery.
- 16 MR. RIDDELL: Oh. Yes.
- 17 Q Yeah. And the commercial fishery --
- 18 MR. WALLACE: Mr. Commissioner, I'm not sure that this
19 is the right panel to have this discussion with.
20 I'm not sure how it relates --
- 21 MR. HARVEY: All right.
- 22 MR. WALLACE: -- to Wild Salmon Policy.
- 23 MR. HARVEY: Well, I wanted to give Dr. Riddell the
24 opportunity to correct the impression that there
25 was such a thing as a non-Native commercial
26 fishery as he had mentioned it. So I think we've
27 done that.
- 28 Q As the -- now, as the -- again, continuing in the
29 context for the Wild Salmon Policy, you describe
30 the growing awareness of the importance of
31 biodiversity starting -- well, one of the things
32 you mentioned, I think, was 1978, University of
33 California conference on conservation biology.
34 There were a number of things through the '80s and
35 early '90s that raised the profile of biological
36 diversity; is that correct?
- 37 DR. RIDDELL: Yes, and around the world and not just
38 salmon, by any means.
- 39 Q Yes. And whether the Wild Salmon Policy is a
40 codification or not - and you've explained that, I
41 won't go over that again - it is part of an
42 evolution that developed from the awareness of the
43 importance of protecting biodiversity. Is that
44 fair to say?
- 45 DR. RIDDELL: Yes, I hope that would be the message of
46 my introductory talk.
- 47 Q Yes. Yes. Now, you were asked a few moments

1 ago, by Mr. Butcher, the line of questions as to
2 whether it was a codification or not. Correct me
3 if I'm wrong, but I got the impression that what
4 the Wild Salmon Policy did, as you explained it,
5 was that it allowed for a greater flexibility in
6 the way it has adopted conservation units as the
7 genetic or diverse -- biodiversity basis for
8 fisheries management. Is that -- would that be a
9 fair interpretation?

10 DR. RIDDELL: Well, I mean, each species is different,
11 as we've discussed. So the flexibility exists
12 outside of sockeye because they tend to have
13 broader geographic areas with multiple
14 populations. There are some Chinook populations
15 that one population is one CU, so there's no
16 additional flexibility there. They're one and the
17 same.

18 I think the example I gave on Monday was the
19 Harrison white Chinook.

20 Q Yes.

21 DR. RIDDELL: But, in general, your statement is true
22 outside of sockeye.

23 Q All right. No, but I'm -- I want to restrict it
24 to sockeye, because I think -- you made a comment
25 - and I haven't got the exact words - about with
26 respect to weak stock management. There was --
27 there was quite an attention and controversy about
28 the move to what some people called weak stock
29 management. Do you follow me? That's -- that's
30 management that focuses on a particular weak
31 stock. Is that a fair description of what we're
32 talking about?

33 DR. RIDDELL: Well, it is, but weak stock is a commonly
34 misused terminology. Is a weak stock a very small
35 stock, or is a weak stock a relatively large but
36 unproductive stock? It could be either. They
37 actually have very different sort of consequences
38 in fishing, and that.

39 So commonly people talk about weak stocks
40 being very small, right? But a weak stock that's
41 very small can actually be very productive and
42 have good recovery potential. I believe that's
43 why many small stocks along the central coast
44 exist today, and that.

45 Q Yes.

46 DR. RIDDELL: So, as I say, it really depends on what
47 you refer to as being weak.

- 1 Q Well, I'm trying to determine what it is that was
2 changed, if anything, in the Wild Salmon Policy
3 with respect to protecting biodiversity, and you
4 have explained that in adopting the conservation
5 units, one has kind of boundaries for the
6 biodiversity that you're protecting in that there
7 needn't be such a focus on biodiversity within the
8 CU, but what is significant and important is to
9 maintain the CU and avoid extirpation of the
10 entire CU.
- 11 DR. RIDDELL: Yes, but it's not just the CU's. As I
12 tried to just say before, it's -- also in the
13 policy is you have the two benchmarks. So for the
14 first time, we have a management goal or, if you
15 want, a biological goal that is at the lower value
16 as well.
- 17 Q Yes.
- 18 DR. RIDDELL: So when does the population start to
19 become threatened? So a significant -- that was
20 actually a point that was asked earlier. One of
21 the big disagreements with Ottawa, as the "Big
22 Brother" term was used, it had to do with how the
23 policy was integrating precaution. The point we
24 had to get across is that the two benchmarks,
25 instead of having just a single benchmark, was the
26 really significant change in implementing
27 precaution under the Wild Salmon Policy.
28 So it's the CU and it's benchmarks for
29 management.
- 30 Q All right. At any rate, the process in -- in the
31 context for the development of the policy included
32 the initiatives started in 1987, I think, referred
33 to as the rebuilding strategy; is that correct?
34 There was a rebuilding strategy adopted in about
35 1987 which reduced the commercial harvest for the
36 purpose of rebuilding the stocks. Maybe Mr.
37 Chamut would be better able to answer that.
- 38 DR. RIDDELL: Well, I'm sorry, we were just trying to
39 clarify. In 1987, are you talking about the
40 rebuilding strategy for Fraser sockeye, or are you
41 talking generically for salmon in B.C.?
- 42 Q I think -- no, this is a -- this is Fraser River
43 sockeye, 1987, rebuilding strategy. I think I'm
44 correct in that.
- 45 DR. RIDDELL: Yes, there was a science review -- well,
46 I think science and management review at that time
47 looking at the question about cyclic dominance and

1 whether you needed to sustain cyclic dominance in
2 management which had always been a very strong
3 belief of the IPFSC, and that.

4 And that group then looked at how you would
5 actually develop a management plan that would
6 probe for larger escapements and look at the
7 effect of that biologically in the systems and
8 whether or not you could have a long-term gain in
9 production from Fraser sockeye by changing how we
10 managed them in terms of the escapement goals.

11 Q Yes, yes.

12 DR. RIDDELL: So that was the objective of the '87
13 program.

14 MR. HARVEY: All right. And you showed a -- there was
15 a graph. I think it's in Exhibit 98, Mr. Lunn, if
16 we could have that. Exhibit 98.

17 MR. LUNN: Oh, the PowerPoint presentation?

18 MR. HARVEY: Well, the graph's in both. It could be
19 the PowerPoint presentation if we have that. I
20 think it's about the third page of the PowerPoint
21 presentation. Yes, there we are.

22 Q Now, that graph shows dramatically what happened
23 around about the '88 to '92 time period, does it
24 not? Or, I guess, actually starting more like the
25 mid-'80s, of increased escapement.

26 DR. RIDDELL: Yes, that's right. I included that to
27 show that within this time period, the 1980s to
28 '90s, we actually went from the highest landings
29 in the commercial sector to the lowest.

30 Q Yes.

31 DR. RIDDELL: And at the same time, we also had in the
32 early '90s, we had the highest production of B.C.
33 salmon in escapement and fishing.

34 Q Yes. Well, I mean, those two lines don't show
35 total production, I don't think, do they? They
36 seem to me they, the way I've interpreted it, show
37 escapement and they show harvest.

38 DR. RIDDELL: That's right. The two lines are
39 escapement, spawners and catch.

40 Q Yes.

41 DR. RIDDELL: The combination would be a measure of
42 production, but because of the interception of
43 U.S. and Canadian fish, if you look at Canadian
44 production, it's actually much more complicated to
45 do. That's why I just use a simple trend
46 analysis.

47 Q Yes. Well, I'm not concerned with harvest so much

1 here. But the escapement levels, they seem to
2 have been more or less consistent under the old
3 Salmon Commission from about 1960 through to 1980
4 at a certain level, 0.08. What is that meant to
5 indicate?

6 DR. RIDDELL: That's why I gave the text in the written
7 material, that these are smooth trends because --

8 Q Oh, yes.

9 DR. RIDDELL: -- the best estimate for commercial
10 landings is total weight. The escapements are
11 done in fish, and so you really look at the long-
12 term values and average them, and then show the
13 trend over time.

14 Q All right.

15 DR. RIDDELL: They are an index of the relative change
16 over time, and that.

17 Q Is it correct to interpret this that the
18 escapement roughly doubled from the early '80s to
19 the early '90s?

20 DR. RIDDELL: Yes, it is true to look at the escapement
21 there, but I should clarify we're not looking at
22 just Fraser sockeye. This is all B.C. salmon, all
23 right? So this is pink and chum and Skeena
24 sockeye and Fraser sockeye, everything combined,
25 Chinook and Coho as well.

26 Q But we'd have a similar graph, would we not, for
27 Fraser sockeye showing dramatically increased
28 escapement levels?

29 DR. RIDDELL: You would find a similar trend in that
30 period 'cause we had very strong marine
31 production.

32 Q Yes. But also cutting back on commercial fishing.

33 DR. RIDDELL: Yes, you would see some response there,
34 and that was part of the initial plan.

35 Q Yes. And am I right in thinking that -- well,
36 this would have been a hugely increased biomass of
37 material on the -- of fish material on the
38 spawning grounds in the Fraser River. Am I
39 correct in that?

40 MR. WALLACE: Mr. Commissioner, I appreciate that this
41 graph was produced by this witness as part of the
42 presentation on the Wild Salmon Policy, but I
43 think that Mr. Harvey is straying well beyond its
44 application for that purpose now, and is well into
45 harvest management.

46 MR. HARVEY: Well, the purpose of the question is to
47 develop a question relating to the drafting and

1 the context for the Wild Salmon Policy, because
2 I'll be asking in a minute what provisions there
3 are in the policy for escapement levels and what
4 information was available with respect to
5 escapement levels.

6 But I first want to be sure that, as this
7 graph was introduced earlier, that we understand
8 what it is. That's the purpose of the question as
9 to whether there was, in this period that forms
10 the context for drafting the Wild Salmon Policy, a
11 dramatically increased biomass placed on the
12 spawning grounds.

13 Is that a permissible question, Mr.
14 Commissioner?

15 THE COMMISSIONER: It is, Mr. Harvey.

16 MR. HARVEY: Yes, thank you.

17 Q Can you answer that, Dr. Riddell?

18 DR. RIDDELL: Well, I mean, there were -- as the plot
19 shows there, there were definitely increases in
20 the number of fish put on the spawning grounds.
21 At the same time, the harvest rates through the
22 early '90s were sustained as being quite high,
23 right, so now -- I forget the exact adjective we
24 used about how much it increased, and that, but
25 that would easily be seen in any of the historical
26 data plots we could provide.

27 Q Yeah. There was a question earlier, and I think
28 it was directed to Dr. Irvine, with respect to the
29 bears and eagles and other creatures in the
30 ecosystem depending on the biomass of salmon. The
31 import of the answer, as I understood it, was that
32 there's very little known about the interaction of
33 fish carcasses and fish fry, et cetera, on the
34 complete ecosystem. Is that a fair
35 generalization?

36 DR. IRVINE: No, that isn't what I meant to imply.
37 What I really meant is that it's an area of active
38 research.

39 Q All right.

40 DR. IRVINE: So there's lots more to learn. But I
41 would like to point out that the New Directions
42 Policy that was released in 1998 was really the
43 stimulus within DFO for the development of the
44 Wild Salmon Policy. So it's -- I mean, there
45 obviously was work going on prior to that, that
46 contributed to the Wild Salmon Policy, but it was
47 really post-1998 that the real emphasis on the

1 development of the policy was initiated.

2 Q Right. Let me ask you, Dr. Irvine, while you're
3 on the subject, are you aware of any research
4 which would indicate -- or indicated in advance
5 what the effect of the increased biomass on the
6 spawning grounds of the sockeye lake systems would
7 be during the time the Wild Salmon Policy was
8 being developed?

9 DR. IRVINE: Well, I mean, this again, this is an
10 active area of research. And the thing one has to
11 remember is that the environment isn't constant.
12 So as Dr. Riddell pointed out, this period of
13 increasing productivity in the 1980s was the
14 result of higher production in the ocean
15 environment.

16 There's, you know, there are these things
17 called regime shifts that you're probably aware of
18 where you have major changes in the ability of the
19 environment to produce salmon in the ocean. So
20 it's not a constant playing field.

21 So certainly in systems like Chilko Lake
22 where people have looked at density-dependent
23 effects in fresh water, there's been a lot of
24 active research on that in there. There's been
25 fertilization experiments, nutrient enrichment.
26 It's a very complicated field.

27 Q Yes. Dr. Riddell, would you like to add something
28 to that?

29 DR. RIDDELL: Well, just to put it in the -- you're
30 going through a time period here, and I think that
31 to address your question, I'd have to say honestly
32 that ecosystem-based management was developing.
33 Ecosystem-based management was not really part --
34 -- you know, it was not front and centre in the
35 discussion the late '80s and early '90s. It was
36 very much sort of a known. It's always been known
37 that marine-drive nutrients are a very important
38 ecological value of salmon.

39 But it was not integrated into resource
40 management of salmon at that time. So if you're
41 speaking to the rebuilding program and the
42 deliberate effort to increase escapements to
43 assess the long-term productivity and production
44 from Fraser sockeye lakes, right, then you did see
45 the significant build-up from management and ocean
46 survival, and that, and then there was a
47 continuation of monitoring, largely in the three

1 major lakes, to look at what the product was, what
2 was the smolt production that was resulting from
3 the increased numbers of spawners that were
4 allocated to the lake.

5 Q Yes.

6 DR. RIDDELL: All right? But you definitely are
7 getting into the harvest management and assessment
8 realm. I mean, that was going on independent of
9 the Wild Salmon Policy development, but that type
10 of fishing pressure continued to have the notion
11 of biodiversity become increasingly higher
12 profile, because there are a number of small lakes
13 through the Fraser where -- that do have First
14 Nations and do have other people's concerns about
15 what was causing the limitation to the number of
16 spawners returning to those specific lakes.

17 As previous cross-examination, I guess,
18 pointed out, you have very few lakes that are by
19 far the majority of production in Fraser sockeye.
20 You have a number of smaller lakes that really are
21 riding along, but they are harvested in those
22 fisheries that are exploiting those large lake
23 productions at the same time.

24 Q Yes. All right. Well, let me put it this way.
25 You accept the concept of a limited carrying
26 capacity in the lakes, do you not?

27 DR. RIDDELL: Yes, there is a limited carrying capacity
28 in any limited environment like that.

29 Q Yes. And this graph shows that the -- well, this
30 graph and the history of the productivity levels
31 shows that there is a time coincidence between the
32 vast spawning numbers on the spawning grounds and
33 the drop in productivity rates of those spawners.

34 I don't have the graph. I was looking for
35 it, but I don't have it. But earlier on in the
36 session, we had a graph that showed productivity
37 rates just dropping off dramatically in the '90s.

38 DR. RIDDELL: Well, Mr. Commissioner, I think your
39 choice of terms is very apropos here that it is a
40 coincidence in that we have monitoring of the
41 smolts in the lake. In two lakes, it's the fall
42 fry; and another lake, it's the smolt. And so we
43 can look at the number of spawners that returned
44 to the spawning grounds, and then we can look at
45 the juveniles that they produce, right?

46 Q Yes.

47 DR. RIDDELL: What you will find is that the carrying

1 capacity you talked about, that there isn't
2 evidence that at the very high levels that the
3 number of juveniles produced crash. They do not.
4 They continue to be produced at fairly substantial
5 numbers, but the rate of production, where you put
6 a very large number of fish on the spawning
7 grounds and you've got a limited number of smolts
8 coming back, then the rate per adult is less.
9 There's no question about that.

10 But the number of smolts leaving the lake
11 have not crashed, and a very interesting question
12 that we have to sort out is at Chilko Lake where
13 we can count the smolts, we have some of the
14 biggest and biggest numbers of smolts leaving now,
15 and yet we're not seeing the return. We continue
16 to see the reduction in total productivity.

17 The inference is that the loss in
18 productivity is occurring either down river or in
19 the marine environment.

20 Q All right. So you're saying it's a coincidence
21 rather than a cause-and-effect relationship?

22 DR. RIDDELL: Yes, I am. Thank you.

23 Q All right. Is anyone doing any work on that, any
24 research work to determine whether - that you're
25 aware of --

26 MR. WALLACE: Mr. Commissioner, this -- I understood
27 this line of questioning was to go to -- had a
28 relationship with the development with the Wild
29 Salmon Policy, and that was five or ten minutes
30 ago, and I haven't heard the connection.

31 MR. HARVEY: Point's well taken.

32 Q What I'm leading up to - and I'll get to it - what
33 -- is there anything in the Wild Salmon Policy
34 that would assist, if it turns out that we've been
35 putting, in recent years, too many fish on the
36 spawning grounds and we've been oversupplying the
37 spawning grounds, leading to weakened -- smaller
38 and weakened smolts, increase in disease, a
39 depletion of the food resources in the lakes, and
40 an increase in the predators feeding on vast
41 numbers of fry? Is there anything in the Wild
42 Salmon Policy which, if that is the cause of a
43 loss of productivity and a decrease, a declining
44 return, if that is the cause of it, is there
45 anything in the Wild Salmon Policy that addresses
46 it?

47 DR. RIDDELL: Yes. The Wild Salmon Policy requires two

1 benchmarks for every conservation unit. If we
2 have the information to demonstrate that you are
3 putting too many fish on the grounds, then there's
4 no question that you can modify the upper
5 benchmark, and that should then be part of the
6 long-term management planning that is part of
7 Strategy 4.

8 Q But those benchmarks are something different than
9 the optimum escapement levels that were utilized
10 by the former Salmon Commission, are they not?

11 DR. RIDDELL: The former Salmon Commission does not
12 determine the escapement goals for Canadian
13 resources. The Department of Fisheries and Oceans
14 sets the escapement goals for Fraser sockeye
15 salmon and has since 1985.

16 Q Yeah, but by "former", I meant prior to 1985.

17 DR. RIDDELL: Okay, yes. And the benchmarks may not be
18 any different at all. That is yet to be
19 determined, and that is the paper that one of you
20 referred to as 194 pages long and was just being
21 reviewed now. I would expect that when that comes
22 through that you will see changes in the upper
23 benchmarks. The author of that will be on your
24 panel tomorrow.

25 Q All right. As the Wild Salmon Policy was
26 developed, was it -- well, no, let's put it this
27 way: During the 1990s when these changes began to
28 take place, were the optimum escapement levels
29 that have been developed over decades by the
30 former Salmon Commission, were they put to one
31 side, and a completely new regime put in place
32 with regard to escapement?

33 DR. RIDDELL: No. The Salmon Commission was involved
34 in every annual review of forecasting and
35 escapement goals that were submitted through PSARC
36 and so the people with that time history and the
37 same set of data that were collected by them and
38 then continued by DFO, all people involved with
39 Fraser sockeye were involved in determining those.

40 Then there was a very extensive discussion --
41 not before the Wild Salmon. It was after 2005 for
42 the looking at the appropriate escapement goals
43 and harvest rates, right?

44 But all the ones -- all people that are
45 involved in the assessment of Fraser sockeye,
46 including the Pacific Salmon Commission staff that
47 you've met, they are involved as well.

1 Q All right. So what you're saying is you continue
2 to make use of the knowledge base that was
3 developed over the decades prior to 1985?

4 DR. RIDDELL: Yes.

5 Q All right. Let me -- we'll now move on to this.
6 This is perhaps a question for Mr. Saunders. The
7 implementation work plan that you referred to, am
8 I right in thinking that that is -- is not really
9 -- sorry.

10 MR. WALLACE: The magic words were "implementation work
11 plan". Mr. Saunders will be addressing that
12 tomorrow.

13 MR. HARVEY: I see. So my question is whether there's
14 been any assessment of the results of the Wild
15 Salmon Policy, and that's going to be dealt with
16 tomorrow or should I ask that now?

17 MR. WALLACE: That strikes me as an implementation
18 question.

19 MR. HARVEY: All right.

20 Q On the question of development of the policy, it
21 was developed at a time when returns of salmon
22 were declining. They've been declining since the
23 early 1990s. That's correct, Dr. Riddell?

24 DR. RIDDELL: Greatest decline since the mid-1990s,
25 really, '93, '94, '95.

26 Q All right. Am I right in thinking that would have
27 been an impetus for the Wild Salmon Policy?

28 DR. RIDDELL: It was certainly a driver because the net
29 result of that is a reduction in the productivity
30 that we're referred to. And so if you're looking
31 at productivity in terms of adult spawners to
32 mature animals that return that could either be
33 harvested or to put on the spawning grounds, if
34 that productivity goes down, then harvest managers
35 have to reduce the exploitation rate to sustain
36 the spawning populations.

37 At the same time, if the productivity is
38 going down and you sustain fishing, then you'll
39 have a greater impact on the smaller populations
40 again. So there is this -- there's no question it
41 was an impetus for it, and that, but fishing at
42 the rates -- when the harvest rates are going
43 down, they were not as big a threat as they had
44 been, say, in the mid '80s when the harvest rates
45 were higher.

46 Q But the record shows, does it not, that it was not
47 fishing that caused the decline in harvest --

1 decline in return rates of salmon, sockeye salmon
2 in the Fraser.

3 DR. RIDDELL: No, I believe you're correct. What we
4 understood is the reduction in productivity is, in
5 many people's assessment, related to marine
6 survival firstly, and now, as there was continued
7 analysis, there seems to be an indication of
8 reduced productivity in maybe intergenerational
9 effects. But the primary effect through the mid-
10 1990s was marine survival or marine productivity,
11 and that.

12 The harvest rates had been correctly adjusted
13 as the runs returned lower -- at lower numbers.
14 And you see a really strong expression of that on
15 your figure here.

16 Q So we're back to whether this graph showing double
17 the escapement is coincidental rather than cause
18 and effect, and that, you say, will be determined
19 by the 194-page report and the research behind
20 that and, I think you said -- is that the subject
21 that Dr. Walters is looking into too, that you
22 mentioned?

23 MR. WALLACE: Dr. Wallace will be appearing on harvest
24 management as, I anticipate, will Dr. Riddell.

25 MR. HARVEY: And that's -- I'm sorry, just so I
26 understand, that's the session starting January
27 17th?

28 MR. WALLACE: That's when harvest management starts.
29 I'm not sure what piece of it they will be
30 involved in, but they'll be here, I anticipate.

31 MR. HARVEY: All right. Well, I'll reserve my
32 questions to that. Thank you, those are my
33 questions.

34 MR. WALLACE: Mr. Lowes. Maybe as a matter of
35 convenience, Mr. Commissioner --

36 MR. LOWES: I'll probably be about 15 minutes, so I'm
37 happy to do it either way. I hope.

38 J.K. Lowes for the B.C. Wildlife Federation
39 and the B.C. Federation of Drift Fishers. In case
40 it hasn't been made clear previously, Mr.
41 Commissioner, that does not refer to driftnets.
42 These -- that federation are anglers like the B.C.
43 Federation.

44
45 CROSS-EXAMINATION BY MR. LOWES:

46
47 Q I want to cover two areas and my questions will be

1 primarily directed, I think, to Mr. Chamut. The
2 first is to try to put the Wild Salmon Policy, as
3 a whole, into a broader context. First of all, a
4 conceptual context, and then secondly, flesh out
5 the historical context. And then I'd like to ask
6 some questions about the role and the design of
7 Strategy 4. Keeping in mind the distinction
8 between implementation and development, in
9 answering my questions, if you could essentially
10 answer them from the perspective of designing the
11 policy.

12 Mr. Chamut, you've mentioned in the course of
13 your evidence a couple of times the word "mandate"
14 and you were mentioning that in reference to the
15 Department of Fisheries and Oceans. Both you and
16 the other witnesses have used the word "resource".
17 Would it be accurate to describe the mandate of
18 the Department as managing as a steward for the
19 public a resource, the fisheries resource?

20 MR. CHAMUT: Yeah, I think that's -- I mean, I'm not
21 sure exactly what words are used these days, but
22 it is management and conservation of the resource.

23 Q Of a public resource.

24 MR. CHAMUT: Of a public resource, yes.

25 Q That captures the essence of it. And would you
26 agree that these words are an accurate description
27 of the resource as you conceive of it [as read]?

28
29 The fisheries resource includes the animals
30 that inhabit the seas, but it also embraces
31 commercial and economic interests, aboriginal
32 rights and interests, and the public interest
33 in sport and recreation.

34
35 Is that an accurate description of what you
36 would...?

37 MR. CHAMUT: Yeah, I think so. I'm just sitting here
38 thinking if there was anything that you didn't
39 mention. I think you've pretty well covered it.

40 Q Yes. Well, it wasn't me, it was Chief Justice
41 McLachlin, actually.

42 Now, conceptually, then, the Wild Salmon
43 Policy as a whole is a part of the carrying out of
44 the -- or it's a design for part of the carrying
45 out of that mandate, of managing that public
46 resource; is that correct?

47 MR. CHAMUT: I see it as a policy that assists the

1 Department in meeting its mandate. It basically
2 describes the objective and how we're going to go
3 about doing it.

4 Q Yes. And I'll get to this in a moment, but in
5 essence, it is a policy directed at creating and
6 ultimately managing, if I might call it,
7 biological environmental inputs into that
8 management process.

9 MR. CHAMUT: I think that's part of it. Biological
10 inputs obviously are a key part of it, but I think
11 the policy also deals with how we interject some
12 of the other interests that obviously need to be
13 taken account of: First Nations, social and
14 economic considerations and the like.

15 Q Yeah, that'll be the thrust of my questions on
16 Strategy 4. That's essentially what that was.

17 Now, having dealt with the conceptual context
18 of the Wild Salmon Policy, I want to go through a
19 little bit of the history of the management of the
20 Pacific salmon, and particularly the Fraser River
21 sockeye fishery during the period when you were an
22 active manager from the mid-'80s to about 2000,
23 and see if that captures some of what's been
24 called the social and economic issues.

25 It's so, isn't it, that in 1985, with the
26 Pacific Salmon Treaty, some of the
27 responsibilities or former responsibilities of the
28 International Pacific Salmon Commission devolved
29 upon DFO?

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

31 Q And that was essentially stock assessment and
32 escapement goals.

33 MR. CHAMUT: Yeah, I mean, in a nutshell, Canada
34 reassumed responsibility for management of the
35 Fraser.

36 Q Right.

37 MR. CHAMUT: As Dr. Riddell has talked about, in
38 conjunction with the Pacific Salmon Commission.

39 Q Absolutely.

40 MR. CHAMUT: Right.

41 Q But it was the Department that assumed the
42 responsibility.

43 MR. CHAMUT: Yes.

44 Q So that was one thing that you had on your plate.
45 I'm not being tricky here, Mr. Chamut.

46 Around 1990, you had to deal with -- and when
47 I say "you", I mean the region -- had to deal with

1 the impacts of the *Sparrow* decision.

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

3 Q Yeah. And that had significant impact, first of
4 all, in how you're going to deal with a
5 prioritized fishery?

6 MR. CHAMUT: Yes, it did.

7 Q And how you're going to deal with a communal
8 right?

9 MR. CHAMUT: Yes, correct.

10 Q And to what extent there ought to be or was to be
11 an economic component to the fishery, the
12 aboriginal fishery?

13 MR. CHAMUT: Yes. That was one of the things that
14 obviously we did work on.

15 Q And there were two branches to that working on it.
16 There was the separated aboriginal fishery, if I
17 could put it that way, the pilot sales fishery; is
18 that right?

19 MR. CHAMUT: Yes, that's one side, and the other was
20 aboriginal participation in the commercial
21 fishery.

22 Q What you might call the integrated part of the
23 strategy.

24 MR. CHAMUT: Yes, that's right.

25 Q And there was also on your plate the whole issue
26 of what you might call industry restructuring
27 following on the Pearce report (phonetic) in 1982?

28 MR. CHAMUT: A lot of that was done just as I was
29 arriving. I think most of the industry's
30 restructuring had probably been completed by the
31 time I arrived in 1985. There was still some
32 elements of Pearce that was carried on, but I
33 think most of it was complete in terms of industry
34 restructuring in '85.

35 Q All right. Well, perhaps I can just shift a
36 little bit, then: the fleet restructuring. I'm
37 referring to the Mifflin plan and the Anderson
38 plan and the buy-backs.

39 MR. CHAMUT: Oh, okay. I was thinking specifically
40 about 1985. But, yes, clearly there was a period
41 of industry restructuring in the early '90s.
42 Fleet reduction, area licensing and things of that
43 nature.

44 MR. LOWES: I see my friend is rising, and really, the
45 -- where I want to go with this, Mr. Commissioner,
46 especially with Mr. Chamut, is how these
47 considerations at this level get plugged into the

- 1 Strategy 4 process, and in what terms they get
2 plugged in, what terms are -- are trends like this
3 described in as the social and economic components
4 of the decisions?
- 5 THE COMMISSIONER: You're talking in terms of the Wild
6 Salmon Policy.
- 7 MR. LOWES: Wild Salmon Policy.
- 8 THE COMMISSIONER: Yes.
- 9 MR. LOWES:
- 10 Q There was also change in the relative importance
11 and demands of the recreational fishery.
- 12 MR. CHAMUT: Yes, that was something else that was
13 growing and evolving over those years.
- 14 Q And also shifting their target, if I can put it
15 that way, away from Chinook and Coho and into
16 sockeye because of Chinook and Coho conservation
17 problems?
- 18 MR. CHAMUT: To some extent, but that was much later.
19 It was more towards the probably mid to late '90s.
- 20 Q All right. And you also experienced some
21 substantial political and public pressure from,
22 you might call it, the environmental movement?
- 23 MR. CHAMUT: Yes, that's right.
- 24 Q And they got some substantial impetus from the
25 Honourable John Fraser around 1994? You remember
26 the "12 hours from disaster" statement?
- 27 MR. CHAMUT: Oh, yes, I do recall, if that's the
28 reference. Yeah, Mr. Fraser did in fact do a
29 report on Fraser sockeye at that time.
- 30 Q Right. And he indicated that in his impression
31 the Johnstone Strait fishery had fished that to
32 within 12 hours of disaster.
- 33 MR. CHAMUT: That was a phrase that he did use, yes.
- 34 Q And you ultimately refuted that?
- 35 MR. CHAMUT: I ultimately reviewed it?
- 36 Q Refuted it.
- 37 MR. CHAMUT: Well, I think it was somewhat of -- a bit
38 of hyperbole.
- 39 Q Yes.
- 40 MR. CHAMUT: But clearly, there was a problem. There
41 was -- we were fishing in a way that probably was
42 not prudent at that time, and I won't go into the
43 background.
- 44 Q No, and I don't want to go into the merits of who
45 was right and who was wrong. It's just that was
46 the atmosphere that you were working in, in the
47 mid to late '90s. There was a substantial amount

1 of flak given to the Department from the
2 environmental movement.

3 MR. CHAMUT: Actually, I think that in my recollection,
4 foggy though it may be, there was a significant
5 amount of flak coming to the Department from
6 virtually every direction.

7 Q Maybe that was the greater point that I was trying
8 to make. You had a lot on your plate. There were
9 a lot of what we've called social and economic
10 factors throughout the '90s that had to be dealt
11 with by the Department; is that correct?

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

13 Q Right. And as I understand it, the Wild Salmon
14 Policy and, in particular Strategy 4, deals with
15 how the conservation and biological and
16 biodiversity issues that we've been discussing are
17 going to be integrated into those kinds of social
18 and economic issues; is that correct?

19 MR. CHAMUT: Yes, that's its purpose.

20 Q Now, I have a difficulty, quite frankly, Mr.
21 Chamut in figuring out whether Strategy 4
22 describes a decision--making process, or whether
23 it describes a process for designing a decision-
24 making process. Do you understand the
25 distinction?

26 MR. CHAMUT: I think I do. Do you want me to respond?

27 Q Yeah, tell me which one it is.

28 MR. CHAMUT: I don't think - and my colleagues actually
29 may want to jump in where I misspeak - but I think
30 in this business, the ultimate decision is
31 inevitably made by the Minister, so everything
32 that is being done will be with the expectation
33 that the Minister -- that it will be provided to
34 the Minister for his or her endorsement or a
35 decision.

36 But I would happen to think that if there is
37 consensus within these regional watershed planning
38 groups as to what to do in terms of a strategic
39 long-term plan for management of a series of
40 conservation units in a geographic area, if
41 consensus is reached, I would think that that
42 would be sufficient reason for the Minister to
43 want to -- very, very rarely, if ever -- to
44 intervene and reject that particular advice.

45 Q Well, yes, and this is -- I guess this is the real
46 question that I have, is that the decision about
47 what to do with a particular conservation unit,

1 which presumably has taken into account as well as
2 the biodiversity and ecological factors that
3 underlie the protection problem, have taken in the
4 social and economic factors, where does that
5 happen and how?

6 I understand that's the question that
7 Strategy 4 is trying to answer, but I quite
8 frankly can't find that answer.

9 MR. CHAMUT: Well, Strategy 4 -- I mean, you're right,
10 that is where that discussion is going to take
11 place, and I think a lot of the considerations
12 that will go in there will be over matters such as
13 looking -- you look at a particular conservation
14 unit. Let's say, for example, it's depressed.
15 It's close to the lower benchmark. Then the
16 discussion will focus on the issues such as how
17 high do we want to rebuild that conservation unit?
18 What are the means by which it will be rebuilt?
19 What is the time scale within which it will be
20 rebuilt? All of these factors have social and
21 economic implications.

22 In fact, you could easily see a situation
23 where you could, in the simplest situation, a CU
24 needs to be rebuilt. The easiest solution, many
25 might think, would be to say "no commercial
26 fishing". But around that table, there will be
27 others who will point out, quite validly, that
28 that will have high social and economic costs, and
29 there are other ways of achieving the objective of
30 rebuilding that through things like habitat
31 mitigation or through possibly some form of
32 enhancement or by phasing it out over a period of
33 time. I think it's those sorts of considerations
34 that will be made in that particular forum. Where
35 there is a consensus reached about the speed of
36 rebuilding, the extent of rebuilding, the means to
37 rebuild, I'm reasonably confident that those, if
38 they're -- if a recommendation does come out, it
39 would be approved by the Minister without
40 question.

41 Q Okay. So I guess the nuts of my question is, is
42 what does that table look like? Where is it in
43 the process and who's sitting there?

44 MR. CHAMUT: Well, I think this is why I said earlier
45 in my testimony that I thought it would be really
46 valuable to have some pilots to demonstrate those
47 sorts of questions. Because I don't think there's

1 a single answer that will apply universally in
2 every geographic area. I think you need to have a
3 variety of groups. The province needs to be
4 there, First Nations very definitely need to be
5 there. There will undoubtedly be local interests,
6 rod and gun clubs, representatives of B.C.
7 Wildlife Federation, commercial fishermen, all of
8 whom need to be around that table providing a
9 perspective on what needs to be done and the best
10 means by which objectives can be achieved.

11 So it's going to be, I think, quite varied in
12 different areas, depending on the interests that
13 are going to be -- that would wish to be consulted
14 about a particular fishery in a particular area,
15 or a conservation unit in a particular area.

16 Q Okay. So my question really is, is the strategy
17 for discussion one about what is the decision
18 about this CU or is it about, as I think you're
19 saying, how do we make decisions? Is it a
20 discussion about how we make decisions about what
21 we do about CU's when we have to make the
22 decisions?

23 So is the Strategy 4 discussion one like the
24 one we're having about what is the decision-making
25 process, or is it in effect the decision-making
26 process itself? That's really my question.

27 MR. SAUNDERS: Mr. Commissioner, I would take the
28 approach that it's both. I mean, the strategies
29 -- the action steps that we're going to be
30 discussing when we get to Strategy 4 acknowledge
31 the fact that there's an -- interim measures that
32 are going to need to be taken in that the process
33 will utilize the existing processes that we have
34 and try to accomplish the intention of Strategy 4
35 within those existing ones, given we don't have an
36 ultimate decision-making process that we
37 envisioned with this.

38 Q All right.

39 MR. SAUNDERS: So I think it is both. We've tried to
40 include, as I spoke to the Appendix 2 in the Wild
41 Salmon Policy several days ago. That was to give
42 us some advice on how we might conduct that
43 business.

44 Q Okay. So to perhaps personalize it, and I'll
45 finish with this question, can my clients expect
46 an invitation under Strategy 4 to a discussion
47 about how we make decisions around CU's once

1 they're defined and inventoried?

2 MR. SAUNDERS: I think that's a fair -- I suggest it
3 might -- would happen, yes.

4 MR. LOWES: Yes. Thank you.

5 MR. WALLACE: Mr. Commissioner, would this be a
6 convenient time to break?

7 THE COMMISSIONER: Thank you.

8 THE REGISTRAR: The hearing will now recess for 15
9 minutes.

10
11 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

12 (PROCEEDINGS RECONVENED)

13
14 MR. WALLACE: Ms. Gaertner.

15 MS. GAERTNER: Commissioner Cohen, Brenda Gaertner, for
16 the First Nations Fisheries Coalition, and with me
17 is Ms. Leah Pence. And for the benefit of the
18 panel, I know that in most fisheries meetings that
19 I've been attending, we often spend our time
20 introducing each other so that we know who we
21 speak from, so I want to let you know who I'm
22 speaking for.

23 I represent the Haida, three of the Douglas
24 Treaty communities, and then from a title and
25 rights perspective, I pick up on the Fraser at
26 Chehalis, and I move from Chehalis up to the
27 Secwepemc, and the Northern Secwepemc to both the
28 Secwepemc and the Shuswap Tribal Council, the
29 Northern Secwepemc Tribal Council in Adams Lake,
30 and then all the Upper Fraser, including the
31 Carrier Sekani. And then I also represent the
32 First Nations Coalition, which is the large
33 provincial organization, and the Fraser River
34 Aboriginal Fishing Secretariat, which is the
35 secretariat on the Fraser River that provides
36 technical support to the watershed, and the Fraser
37 River aboriginal Fisheries Society, which is in
38 the lower Fraser, and is responsible for the catch
39 monitoring in the lower Fraser.

40 So that will give you a little bit of help on
41 who I'm representing. And so far, to date, my
42 instructions really are to participate in this
43 inquiry in a way that facilitates dialogue about
44 where we are, now, in the challenges around
45 fisheries, and what we can help Commissioner Cohen
46 learn so that his recommendations can help all of
47 us move forward.

1 And so my focus, today, will be to have you
2 help develop a little bit of the knowledge that
3 you are working with as you went into the
4 development of the policy, from a First Nations
5 perspective, and my understanding on your panel is
6 that Mark Saunders and Mr. Chamut will be the two
7 that I will ask questions around the process
8 issues and what you did to create dialogue and
9 reach, and then I've got some questions for both
10 Dr. Irvine and Dr. Riddell about some of the
11 substantive issues within the policy and how they
12 apply. I'm not going to use too many documents;
13 I've only got three or four that I'm going to use,
14 and then we'll -- and I have been allotted a whole
15 hour; I hope I'll use less time than that.

16 But I wanted to also mention, and I struggle
17 with this in this inquiry, and so I just wanted to
18 say, I was sitting here over the last two days,
19 listening to the dialogue, of course, as you all
20 were, and I was reminded of many of the fisheries
21 meetings that I've been to, and I think many of
22 you have been in fisheries meetings in the
23 communities, and often there's a lot of long
24 discussions and they take a long time and they're
25 often very positional and sometimes more and more
26 we're getting into interest-based discussions.

27 And then the women stand up at the end and it
28 gets quiet. And I was thinking, today, how hard
29 that must have been all the time for them, and I
30 know that I'm in training, you know, that at the
31 last two days, you know, because in the
32 communities, as many of you know, the discussion
33 will go on for hours and hours and hours, and then
34 something will happen at the end that will push
35 and change the discussions. And I believe this
36 inquiry, Commissioner Cohen, is going to have that
37 effect; we're going to have to sit and listen to
38 each other for a long time, and at the end we're
39 going to get to the meat and grist.

40 And so what I'd like to do with all of you is
41 also use your experience in the development of
42 this policy to help think about the types of
43 recommendations going forward that will be useful
44 to all of us, and I'm going to lead you there from
45 the perspective that I've been trained in.
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CROSS-EXAMINATION BY MS. GAERTNER:

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Q And so I want to start, and Mr. Chamut, I'm going to start with you, and Mr. Saunders, if I may, and I'm going to try and set the stage for what was occurring in 2003, 2004, around the time in which the dialogue got a little bit more active with the First Nations, if I may say so. It's my observation that the earlier drafts that were produced by science were a little bit thin on First Nations issues. In fact, I didn't see them in those first drafts at all, and I think you might share that observation. And it really took the work of getting it onto the ground and into the dialogues that were happening in 2003 and 2004 for those issues to start seeing some space in the actual policy; is that correct?

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MR. SAUNDERS: Yes, in terms of seeing some incorporation of First Nations concerns in the policy; is that your question?

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21

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Q Right, directly into the words, yes.

23

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MR. SAUNDERS: Directly into the words, yes, I think when I arrived in 2003, Mr. Commissioner, I think I was involved in some very long meetings with the policy committee of the B.C. Aboriginal Fisheries Commission that was in play at the time, and there was a tremendous amount of concern around the lack of words, but a willingness to work with us on providing those.

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Q And I just want to pick up on a question that was raised earlier, and I found it a little bit challenging, the suggestion that you should have done all the research first -- oh, sorry, Dr. Irvine?

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DR. IRVINE: I was just going to point out that there were a lot of changes also made in last six months; in fact, in the last two or three months where there was specific acknowledgment of First Nations concerns.

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Q Yeah. And we're going to get to some of those for sure, thank you. But I also wanted to pick up the sentiment that was raised earlier, the suggestion, which I think is fair to say that most of my clients would disagree with very strongly, the idea that we should do all the research first before we move into policy development, because

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1 it's my experience, and perhaps those that have
2 been in policy development for a long time, any
3 one of you on this panel might see whether you
4 agree with it, it is rarely in contentious issues
5 or in issues in which we need to effect change,
6 that we're going to wait until all the information
7 is in place but, rather, the public policy needs
8 to be the impetus to help those that are going to
9 be applying it understand the nature of the change
10 and how that might be applied on the ground; is
11 that a fair characterization of one of the goals
12 of public policy?

13 MR. CHAMUT: Yeah, I think so. I mean, in an ideal
14 world it would be nice to be able to craft a
15 policy with everything that all of the information
16 that you need, all the research done, but it's
17 very rare that you would ever have that
18 circumstance, and I think the -- clearly the
19 position that we had taken was that it was
20 important to get a policy in place that laid out a
21 framework so that we could at least begin to start
22 discussions and move forward from that point to
23 develop and finalize the policy.

24 Q Thank you. And the other expression that I've
25 heard a lot, and I think I'm -- I would like to
26 see whether or not any one of you gentlemen would
27 agree with me, or all of you, that a lot of this
28 policy is about managing people, it's not really
29 about managing fish. The policy is intended to
30 figure out how people are going to come together
31 and make decisions about fish and that that type
32 of policy needs to actually be proactive when you
33 want to effect change?

34 MR. CHAMUT: Yeah, I've been involved in managing -- we
35 talk in the department -- I'll start again. We
36 talk, in the department, about managing fish, but
37 the reality is what we're doing is managing human
38 activities around fish, and it is -- I,
39 personally, sometimes prefer dealing with fish,
40 because they're -- inevitably we're dealing with a
41 large amount of conflicting interest, and trying
42 to find a way to bring people together to come to
43 some sort of a decision that represents a
44 consensus and that is in the best interest of that
45 public resource is the real challenge that the
46 department has. So this policy, I think, I'd say
47 it's -- it is obviously about managing people and

1 about managing the interests around fish, but
2 there is an important element there, too, of the
3 first three strategies that do deal with fish, and
4 that's sort of the scientific foundation of it,
5 and a lot of the remaining strategies do deal with
6 how to manage the human dimensions of managing
7 fish.

8 Q Thank you. All right, now, turning specifically
9 to what you knew already and what you learnt
10 during the development around First Nations
11 concerns. I'm going to say it was a pretty open
12 door, talking to most First Nations around an
13 ecosystem holistic approach. This is something
14 that they've been pushing for, for decades, it's
15 something that the ethic of their relationship to
16 fisheries is most comfortable with. And so when
17 we say it's new in science or it's new for "us",
18 it's not really new for First Nations; would you
19 agree with me?

20 MR. SAUNDERS: I don't think I'd be qualified to say
21 whether it would be new to First Nations, but I
22 think I would say, yes, it was new to -- new to
23 the department heading down this road.

24 Q But what I'm going to say is, okay, you won't have
25 to speak on behalf of First Nations, but I want
26 you to speak on what you knew in terms of
27 representing the department in relationship to
28 First Nations. And Mr. Chamut, I'll speak to you
29 directly on this, because we've had these
30 discussions in other places before and I know you
31 know this experience, but First Nations have been,
32 for decades, promoting a broader perspective
33 that's holistic in nature, ecosystem-based using a
34 scientific language; is that correct?

35 MR. CHAMUT: Yes, that's correct. I've been to many of
36 those meetings and certainly heard, very often,
37 the plea for department to take up a broader
38 perspective, because often times we come in with a
39 very narrow perspective dealing with management of
40 a particular fish stock without reference,
41 necessarily, in the view of First Nations to the
42 broader picture that, you know, is something that
43 they see as being particularly important. So yes,
44 I've had a lot of experience and listened to many
45 of those sorts of comments quite often.

46 Q And you'll also agree with me that when the policy
47 work began, and with your work in it, Mr. Chamut,

1 and Mark I want to include you in these
2 discussions - Pat's been asked a lot of questions
3 over the last few days and I think you shared a
4 lot of the on the ground work in terms of working
5 with the First Nations, so I'm not bent on who
6 answers these questions - that in 2002 or 2003 or
7 2004, when you came back to the region, Mr.
8 Chamut, you were all, at the department, quite
9 aware that First Nations had been very much
10 pressing for clarity regarding what the word
11 "conservation" meant and how practically that was
12 going to be applied as it related to the
13 fisheries; you will agree with me?

14 MR. CHAMUT: Absolutely, yeah.

15 Q And there were very strong concerns for a number
16 of reasons, one of which is that ethically that's
17 extremely important in their communities and that
18 that's something that's been communicated over the
19 years; is that correct?

20 MR. CHAMUT: Yes, that's certainly one dimension of it,
21 and I'm sure you'll raise the second one, now.

22 Q And the second - I hate to be predictable - the
23 second very important aspect is that as their
24 rights and their relationships to the fisheries
25 have been confirmed in Canadian courts, the one
26 prior -- or the one restriction, if one were to
27 call it that, or agreement amongst all, is that
28 conservation is higher than their ability to
29 harvest for food, social and ceremonial in their
30 communities; is that correct?

31 MR. CHAMUT: That's correct.

32 Q And as that law became confirmed, there became
33 increasing and more discussions with the
34 department on what conservation meant to the
35 department and how different First Nations often
36 felt about that; is that correct?

37 MR. CHAMUT: Yes, that's correct. And I think I've
38 said in my previous testimony that one of the
39 things that I thought was really important was
40 that this policy does, in fact design -- define,
41 rather, what we mean by "conservation", rather
42 than talking broadly about our responsibility and
43 our mandate being conversation, it's meaningless
44 without actually defining what that -- what it is
45 you're trying to conserve and at what level you're
46 trying to conserve it, because it has all sorts of
47 implications for the department. But more

1 important, as you pointed out, for First Nations,
2 and I think that's one of the things, when I
3 talked about this policy being transformative,
4 it's one of the things that I think is probably
5 one of the most important parts of it.

6 Q And one of the forward thinking parts about it.
7 You had to take a very complex fisheries and state
8 of fisheries and say, "Where do we want to go with
9 conservation? How can we take the scientific
10 information? How can we take the management
11 information? How can we take the different
12 stakeholders and First Nations perspectives and
13 move forward in the context of conservation?" is
14 that correct?

15 MR. CHAMUT: Yes, I think that's correct.

16 Q Now, I also want to perhaps point out something
17 that's somewhat obviously, but I need to do this
18 in order to establish it in the evidence, is it
19 also at the same time and continuing, there is a
20 lack of confidence and there is a somewhat amount
21 of cynicism and distrust between the relationship
22 of First Nations and the Department of Fisheries
23 and Oceans; is that correct?

24 MR. CHAMUT: Yes, regrettably, but I think it is
25 correct, yes.

26 Q And that one of the places that they experience
27 this, and I don't want any of the scientists on
28 this panel to take offence by it individually, is
29 that often science or technical information had
30 been used to justify decisions that they felt
31 infringed their rights and so that they are
32 cautious and careful about the use of science as
33 the only determining factor in making decisions
34 around the management of the fisheries; is that
35 correct?

36 MR. CHAMUT: I don't know if I'm the right person to
37 answer that.

38 Q Mark, could you speak to that? Did you hear in
39 the meetings going on the development of the
40 policy how important it was that in addition to
41 scientific information you needed to take
42 information from the First Nations communities,
43 including technical -- what's sometimes called
44 traditional ecological knowledge, but also other
45 information that they would be carrying in their
46 communities and that they would not be comfortable
47 only relying on DFO scientists; is that correct?

1 MR. SAUNDERS: Yes, yes. Yeah.

2 MS. GAERTNER: Now, could I have Exhibit 83, and I want
3 to go to page 39.

4 Q And Exhibit 83, Mr. Chamut, is your review in
5 2002, and I want to take you to page 39, because I
6 find it a useful summary of some of the key issues
7 that were facing the fisheries here and common
8 themes, and in particular, conservation and what
9 we've just talked about in terms of trying to
10 develop conservation and a common understanding
11 amongst the groups around conservation, that was
12 an important part, and then the Wild Salmon
13 Policy, and I want to go, again, to the last
14 sentence of the Wild Salmon Policy:

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16 First Nations and stakeholders have
17 unanimously called for the finalization...in
18 order to clarify how conservation should be
19 implemented and, by implication, -

20
21 -- and I think that's the most important part --

22
23 - how fisheries should be managed.

24
25 Is that correct?

26 MR. CHAMUT: Yes, it is.

27 Q And you'll agree with me that First Nations are,
28 by and large, not just interested in the theory of
29 conservation, they're going to measure success by
30 how that's going to affect and be real in their
31 own communities and in their territories, and
32 that's often the measurement that they're going to
33 use with DFO on a typical basis?

34 MR. CHAMUT: Yes, that's right. It's what happens
35 around home that's most important to everybody.

36 Q Thank you. And in addition, the species at risk
37 legislation that was going on and the work that
38 many First Nations and concerns that people had
39 around species that were actually coming very
40 close to being extinct, and then I turn, again, to
41 the consultative processes that you mentioned at
42 the last -- as the second to last item and the
43 need to develop more transparent processes and
44 dialogues amongst the parties; is that correct?
45 And that was something that, in 2002, DFO clearly
46 saw as a way forward for better governance; is
47 that correct?

1 MR. CHAMUT: Yes, that's correct. If you look at the
2 New Directions paper, one of the items that I
3 think was included under that general heading was
4 something called, Improved Decision-Making, and I
5 know there was work under way within the region to
6 try and develop a better consultative process that
7 would ensure that all interests are able to sit
8 around the table and feel represented.

9 Q Okay. And we're going to dive into that one a
10 little bit more in this next hour because I think
11 it's one of the challenging places, but we'll get
12 there. And then, finally, I want to take you to
13 the last item that you used as a common theme in
14 the fisheries at that time, and something as
15 challenging as in-season decision-making; is that
16 correct? That's on the next page, sorry.

17 MR. CHAMUT: Okay, I haven't seen the - well, I've seen
18 the next page but -- there we go.

19 Q There you go. Sorry.

20 MR. CHAMUT: Yeah, I'm -- there was a whole host of
21 issues that came up in 2002 associated with
22 decision-making within the timing of the fishery,
23 and that was one of the key points that was made
24 by virtually everybody that had an interest in the
25 development of this report.

26 Q And it's fair to say that in-season management and
27 in-season decision-making is probably the most
28 challenging part about collaborative government
29 decisions, because they are quick and have to be
30 made immediately; is that fair to say?

31 MR. CHAMUT: Yes, that's true. And oftentimes
32 decisions don't necessarily -- or you don't have
33 the benefit of having all the information you need
34 to make the decisions, so it is challenging.

35 Q And that one of the goals of the Wild Salmon
36 Policy was to inform all of those components of
37 fisheries management?

38 MR. CHAMUT: Yeah, I think that's true.

39 Q Now, Mr. Chamut, I'm going to start my next area
40 of questions with you, and then I'm going to ask
41 Mark some specific questions on this. In your
42 will say and in your evidence, you -- and I'm just
43 going to quote it, I don't think you need to see
44 it - that the Wild Salmon Policy was not just a
45 conservation policy, it was expected to make
46 changes in how Pacific salmon fisheries were
47 managed and empower DFO to make those changes.

1 And in particular I'm interested, what kinds of
2 changes would you have expected and would have
3 been discussed with First Nations representatives,
4 as we were developing this policy, that they could
5 look forward to? What kinds of changes were they
6 -- was the incentive?

7 MR. CHAMUT: Well, in making that statement, I mean, I
8 was anticipating, with the Wild Salmon Policy,
9 that it would definitely not be the status quo
10 when it comes to managing the resource on an
11 annual basis, that we would end up with challenges
12 to rebuild weaker - sorry, I shouldn't use that
13 phrase anymore - but to rebuild conservation units
14 that are at low abundance, and that would require
15 changes to the way in which fisheries are
16 conducted, and I thought it would probably mean
17 things like some seasonal closures in certain
18 fisheries. I thought it might mean moving some
19 fisheries from outer areas of the coast into more
20 terminal areas, and particularly finding ways to
21 fish more selectively. Now, with sockeye that's
22 obviously a very difficult thing to do, because
23 all sockeye look the same, so it's not likely that
24 you can have a selective fishery and just catch,
25 say, Adams River sockeye.

26 But there are those sorts of things that I
27 saw as being likely in the future to try and deal
28 with the need to rebuild some of the stocks that
29 were in need of much more care and attention.

30 Q Thank you, Mr. Chamut. And Mr. Saunders, is it
31 fair to say that for some of the First Nations
32 that participated in the dialogues that were
33 occurring in order to finalize the policy, that
34 they anticipated and raised discussions around a
35 decrease in marine fisheries and an increase in
36 terminal fisheries would be one of the likely
37 results of this policy once it was implemented,
38 that they would anticipate seeing changes in
39 management so that the mixed stocks, if I'm going
40 to call them that, that include the low abundance
41 conservation units, would be left to separate out
42 so that we could leave the low abundance
43 conservation units so that they could only be
44 harvested later and in a manner that was more
45 cautionary?

46 MR. SAUNDERS: Honestly, I don't -- I expect that
47 that's true, but I don't -- my recollections are

1 somewhat mixed with -- at the very same time, the
2 PICFI initiative was announced very shortly around
3 the same time, which was dedicated to this notion
4 of shifting effort into more terminal areas. And
5 so how explicitly that was discussed in the Wild
6 Salmon Policy dialogues, I don't -- I can't recall
7 off the top of my head, but I would expect that
8 was the case.

9 Q All right, I'm going to take you, now, to the Wild
10 Salmon Policy, itself, which is Exhibit 8, and I'm
11 going to go to page 14 of the hard copy. One of
12 my observations and knowledge, as a result of
13 discussions with my clients with respect to this
14 -- the evolution of this policy, is that as we
15 went from the more prescriptive and into the more
16 flexible, that there were a number of things that
17 were of extreme importance to them, one of which
18 was ensuring that the Crown's obligations to
19 meaningfully consult with them throughout was
20 clearly understood; would you agree with me on
21 that?

22 MR. SAUNDERS: I would.

23 Q And that that was something they wanted to see
24 right in the policy and not anywhere else? They
25 wanted to ensure that those who were reading the
26 policy, who were working with it on the ground,
27 saw and understood that this policy would require
28 consultation with First Nations on the ground as
29 it was being implemented; is that correct?

30 MR. SAUNDERS: That's correct.

31 Q And that that was one of the comforts that they
32 took when we moved from a less prescriptive and
33 amore general approach?

34 MR. SAUNDERS: I couldn't judge their level of comfort.

35 Q All right. And you'll agree with me that right in
36 the policy, itself, and I'm turning to page 14,
37 and on the second -- on the second column on the
38 right-hand side, beginning with the words "Making
39 the best decisions" and I'm not going to read
40 them, I'd just like you to read those two
41 paragraphs and confirm with me that the goal in
42 these paragraphs is to make it clear that
43 structured processes that establish both the
44 objectives and priorities and allowed for the
45 biological, social and economic consequences would
46 be necessary and that those -- that that was a
47 commitment in this policy?

1 MR. CHAMUT: Yeah, it is very definitely, and I think
2 the particular paragraphs that you've identified
3 here do certainly make it clear that the First
4 Nations are a key part of that process. But I
5 think you'd also want to look elsewhere in the
6 document. I think there are some fairly clear
7 statements in -- with respect to Action Step 4.2
8 as part of Strategy 4 that make it quite clear
9 that the government -- the department has
10 intentions to consult in areas where -- with First
11 Nations who have treaties, as well as to consult
12 with First Nations with respect to the exercise of
13 their Aboriginal rights.

14 So it's not just in the paragraphs you've
15 mentioned; there are other references scattered
16 through, and I know it's very clear in that Action
17 Step 4.2 that First Nations are key -- is --
18 First Nations represent a key group for us to work
19 with in implementing that particular strategy.

20 Q All right. I am going to take you to a couple
21 more examples, but I want to make this
22 distinction, and I don't know if you'll know this
23 or not, but there were two -- I read the policy
24 and my discussions with my clients see them
25 involved in two different types of ways under this
26 policy. One, is as part of those structured
27 dialogues and as a way -- as part of the, shall I
28 say, interest groups that are needing to be
29 represented in part of that, and the other is the
30 provision of information into the decisions in
31 Strategies 1,2, and 3, or throughout it. And
32 those are distinct roles; would you agree with me?

33 MR. CHAMUT: Yes, let me just answer that, and Mark,
34 you can add if you want, because I think this is a
35 really important part of it. One of the things
36 that you've undoubtedly seen, but it's on page 36,
37 that talks about what we need to do, it's sort of
38 a concluding comment, and it talks about
39 requirement for successful policy implementation.
40 It says the department must adopt better
41 partnership with First Nations governments,
42 volunteer stakeholder, et cetera, et cetera,
43 because it's clear that DFO cannot and should not
44 attempt to do it all. And I think the focus here
45 is in ensuring that we are working in a more
46 integrated way with particularly First Nations,
47 but other groups that have information and have

1 management capability, it is essential for this --
2 for that to happen in order for this policy to be
3 implemented effectively, because there is -- in
4 last decade, there has been an enormous growth of
5 capacity in First Nations communities to deal with
6 issues like this. I mean, more than 10 years, but
7 certainly it's become quite pronounced in the last
8 10 or 20 years, and it's important for the
9 department to feed into that and use that
10 information, because without it I don't think that
11 the policy will be able to be implemented nearly
12 as effectively, and that's one of the concluding
13 remarks in this policy that I thought was really
14 important and does reflect, I think, the point
15 that you're making here.

16 Q Thank you. I need to take you to two specific
17 documents. The first one is one that is not yet
18 in as an exhibit. It's document 13 on our
19 November 22nd letter, and it's -- I need to also
20 put in a document with it, it's just the routing
21 sheet, as I understand it. So it wasn't on my
22 list for all of you, but it's just -- I think
23 it'll help Mr. Saunders identify the document. I
24 couldn't figure out who the author of this memo to
25 the deputy minister was until I found the routing
26 sheet. And so if you could also bring forward
27 ringtail 80 -- or Canada 080093. Do you have
28 that?

29 Q Mr. Saunders, do you see that at the bottom of
30 that you'll see that you're the drafting officer
31 of that document, and would that help you confirm
32 that the document 80094 is a document you're
33 familiar with?

34 MR. SAUNDERS: I --

35 MR. WALLACE: Mr. Commissioner, this is squarely within
36 Mr. Saunders' purview as a witness on
37 implementation. I'm not sure if this is just a
38 general question, but we will be -- it's among the
39 documents that we will be entering tomorrow and
40 there are questions relating to it.

41 MS. GAERTNER:

42 Q As I understand, this document was a memo that was
43 placed before the deputy minister before the
44 policy was finalized; is that correct? Have I
45 missed that? Have I read the dates wrong?

46 MR. SAUNDERS: No, I think that -- no I think this is
47 after -- oh. No, I think that's an error. June

1 24, 2004 should read 2005.

2 Q Yes, that's correct.

3 MR. SAUNDERS: Yeah, so this is post-release of the
4 policy --

5 Q Oh, it's one month after the release?

6 MR. SAUNDERS: After the release of the policy.

7 Q All right. So if I may, this is information that
8 was based on the drafting of the policy? You've
9 just passed the policy and information in here
10 would have all been obtained through the
11 experience of drafting the policy; is that
12 correct?

13 MR. SAUNDERS: The --

14 MS. GAERTNER: May I have this document marked as an
15 exhibit, please?

16 THE REGISTRAR: Exhibit number 123.

17

18 EXHIBIT 123A: Memorandum for the Deputy
19 Minister, Update on First Nations
20 Participation in Wild Salmon Policy
21 Implementation
22

22

23 MS. GAERTNER:

24 Q And I would like to take you, Mr. Saunders, to
25 page 2, under the Analysis/DFO Comment, in
26 particular, and I would like you to confirm that
27 the three areas that you absolutely learnt about
28 during the development of the policy, that First
29 Nations wanted to be involved, is the development
30 of the implementation plan, the identification of
31 conservation units and the determination of their
32 status, and the development of the strategic
33 planning process for CU's, which would be the
34 Strategy 4 section; is that correct?

35 MR. SAUNDERS: That's correct.

36 Q Thank you.

37 MR. WALLACE: Just for clarification, Mr. Commissioner,
38 did you intend to mark the cover sheet as part of
39 that --

40 MS. GAERTNER: Sorry.

41 MR. WALLACE: -- exhibit?

42 MS. GAERTNER: I think it would be useful to --

43 MR. WALLACE: I think it would be helpful, as well. So
44 if the exhibit could include the memo and the
45 transmittal slip, please.

46 THE REGISTRAR: The memo will be marked as 123A and the
47 transmittal slip 123B.

1 EXHIBIT 123B: Government of Canada Fisheries
2 and Oceans Transmittal cover sheet to Larry
3 Murray, Deputy Minister, Object: Update on
4 First Nations Participation in Wild Salmon
5 Policy Implementation, dated July 29, 2005
6

7 MS. GAERTNER: And I apologize if this felt more like
8 implementation, but I think it was important for
9 you, Commissioner Cohen, to understand that at the
10 time of the passage of the policy there were three
11 very key areas that the First Nations had already
12 identified as wanting -- that they needed to be
13 involved in.

14 And then I need, now, to take you to Exhibit
15 93, which is the briefing to the minister. Mr.
16 Chamut, you'll be familiar with this briefing,
17 it's been brought to your attention a number of
18 times. And I want to specifically raise what's
19 found again at page 4 of that exhibit.

20 MR. LUNN: Could that be 94?

21 MS. GAERTNER: I have it marked as Exhibit 93. It's
22 the Minister's Briefing, dating May 16/05.

23 MR. LUNN: Okay.

24 MS. GAERTNER: It looks like this.

25 MR. LUNN: Okay, I guess I did have it. Sorry.

26 MS. GAERTNER:

27 Q And at page 4 it was clear that you brought to the
28 attention of the minister this briefing note and
29 the material that went to the minister at the time
30 of passage was that the First Nations role in
31 policy implementation had to be clarified; that's
32 correct?

33 MR. CHAMUT: I'd like to see the context of that --

34 MS. GAERTNER: Oh, I'm sorry.

35 MR. CHAMUT: -- particular --

36 MS. GAERTNER: It's page 4. I didn't check. I'm
37 sorry.

38 MR. LUNN: I apologize.

39 MS. GAERTNER: I wasn't looking at the screen; I was
40 looking at my material.

41 Q It's the very last bullet under number 1.

42 MR. CHAMUT: Yes, that was -- I'm trying to put this in
43 time. This would be after we had the -- we had a
44 forum -- our meeting with First Nations in early
45 April, I believe, and I think that was one of the
46 comments that was strongly expressed at that time.

47 Q And then at page 11 of same document, and this is

1 the more detailed component of it. It was clear
2 -- and again, Mr. Chamut, were you at the meetings
3 with the First Nations at that time, or was it Mr.
4 Saunders that was responsible for that?

5 MR. CHAMUT: I don't believe that I attended those
6 meetings --

7 Q Right.

8 MR. CHAMUT: -- that particular meeting.

9 Q That was my understanding, that Mr. Saunders had
10 that, if I'm right, you were in attendance at
11 those meetings and that was part of your
12 responsibility at that time?

13 MR. SAUNDERS: Yes, it was.

14 Q All right. What I want to stress here is that it
15 was confirmed for the minister and you understood
16 that what -- First Nations needed confirmation is
17 that not only would they be involved in
18 implementation, but that it would be a bottom-up
19 process and that "bottom-up process" for them
20 meant bilateral processes in their communities
21 around conservation units and what conservation
22 units would mean to them in their communities,
23 habitat units and what habitat units would mean in
24 their communities and how decisions would be made
25 about that, would need to leave the provincial
26 forum, if I was to say that, and had to get into
27 the territories; is that correct?

28 MR. SAUNDERS: I think that's a reasonable
29 characterization of it, yes.

30 Q Thank you. And that that was something that was
31 brought to the minister's attention as being
32 something that was important to First Nations in
33 the active implementation of this policy?

34 MR. SAUNDERS: Yes.

35 Q Thank you.

36 MR. CHAMUT: Yeah, I just want to be clear. On this
37 deck, what you took me through, first, was a
38 summary for the minister of some of the concerns
39 that had been raised, and at this meeting I was
40 explaining, "Here are the concerns and here is how
41 we have addressed them," and the page that is
42 particularly up in front of us right now, Item V,
43 The Final Policy, provides the minister with a
44 summary of the specific revisions that have been
45 incorporated in the document that was basically
46 pretty near the final document, subject to any
47 comments the minister might make.

1 Q Okay, so now I'm just going to finish this area of
2 questioning around the process to emphasize some
3 of the things that went well in the process and
4 what we learnt by that process, vis-à-vis First
5 Nations, and how to move forward, because I think
6 this is important for Commissioner Cohen, as he
7 looks at some of the challenges around management.

8 The first one is that, as I understand it, as
9 of 2004 and leading to the conclusion of the
10 passage, it was an iterative process with First
11 Nations. You met with them, you met again with
12 them, you considered their concerns, you brought
13 back materials that actually showed the changes in
14 the policy that reflected their concerns, and that
15 that was a trusting -- or that built trust between
16 you and the First Nations; is that correct?

17 MR. SAUNDERS: Yes. And I would add that at the time
18 DFO, I think, had recognized the need for improved
19 consultative methods and had formed a consultation
20 secretariat within the department, and that was
21 led by Ms. Jay Hartling, who was an absolute
22 leader in terms of -- it takes a -- can take a lot
23 of the credit for the guidance that we received in
24 how to move forward with this.

25 But I would agree completely that the require
26 -- demonstration of a willingness to not just meet
27 but listen and come back and articulate, and we
28 took great pain in the development of this policy
29 - I don't know if "pain" is the right word - we
30 went to great lengths to make sure that we
31 included -- that when we came back we noted for
32 every detail that was requested -- changes that
33 were requested, that we acknowledged their need --
34 or the request and whether or not we had
35 accommodated it or not and our rationale behind
36 that. And I was always very amazed at the
37 willingness of a very large group at these forum
38 meetings to sit through almost punctuation
39 changes, right to that level of detail.

40 But I believe that by the end of the process
41 of two years, that not just First Nations, but
42 also the -- we had evolved into sort of a, I
43 think, a trusting community of practice that
44 spilled over into - we'll talk about this more in
45 implementation - but that trust, that willingness
46 to work, helped in bringing First Nations together
47 with DFO, but also the other interests that were

1 around the table in the development of the policy,
2 so...

3 Q And I'm going to take you just to that point,
4 next, Mr. Saunders, that it's fair to say that
5 you're familiar with the distinctions between Tie
6 1, Tier 2 and Tie 3?

7 MR. SAUNDERS: Yes.

8 Q And it's fair to say that what you put into
9 practice was a Tier 2/Tier 3 example; is that
10 correct, where you brought First Nations together
11 at a Tier 2 level, you dialogued with them, you
12 found out their concerns, you responded to them,
13 and then you moved into dialogue with the broader
14 stakeholders; is that correct?

15 MR. SAUNDERS: That's true, yes.

16 Q And that that was effectively a good way of
17 building trust and collaboration amongst the
18 groups?

19 MR. SAUNDERS: Yes. And, in fact, we made an offer --
20 we always included an offer for Tier 1 -- or,
21 sorry, maybe that's not the correct tier. I
22 always get confused with the starting -- but
23 nation to nation, we always made an offer, but I
24 think there was always, on both sides, there
25 wasn't enough capacity to sort of always meet at
26 that level, so the forums, I think, did a good job
27 at the Tier 2 level in bringing us together.

28 Q And it's accurate to say that First Nations became
29 comfortable developing policy at a Tier 2 level,
30 but that they wanted to ensure that when you
31 implemented that policy we were going back to the
32 bilateral, as I've mentioned earlier; that's
33 correct?

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

35 Q And that also during this new way of doing
36 business - I actually don't think it's a new; I
37 think it was an evolving, but we were learning as
38 we went along - and that by the time this policy
39 came into place, you had a policy that First
40 Nations cared very much about and that you had
41 learnt from a lot of mistakes along the way; is
42 that a fair analysis?

43 MR. SAUNDERS: I think that's absolutely fair, yes.

44 Q All right. And so then another lesson learned
45 through the development of this policy is that it
46 was clear that First Nations were very concerned
47 about the ability to implement this policy and

1 that they were going to measure the success of
2 this policy through the implementation process; is
3 that correct? I'm not going to get into the
4 content of the implementation, I --

5 MR. WALLACE: Sorry, Mr. Commissioner, my concern with
6 the question is slightly different and it's not --
7 and that is you're asking -- Ms. Gaertner is
8 asking the witness to comment on the position or
9 reaction or feelings of someone with whom he is
10 dealing, which I don't think is a fair question to
11 put to the witness.

12 MS. GAERTNER: No, I can be more accurate with my
13 question.

14 Q I think it was very clear First Nations raised
15 very specifically with the Department of Fisheries
16 and Oceans their concerns that this policy was
17 strong -- you know, could be strong and it was
18 great words, but that they wanted to make sure
19 that you could implement it on the ground and that
20 that was how they were going to test it; is that
21 correct?

22 MR. SAUNDERS: Yeah, that's certainly my understanding.
23 That was -- they liked the policy, but I think
24 they obviously were concerned about
25 implementation, and I think their final
26 satisfaction would depend upon the degree to which
27 implementation was achieved.

28 Q And that another lesson learnt in the development
29 of this policy was that collaborative processes
30 take time; they're not fast, are they?

31 MR. SAUNDERS: I think this will -- subject of the
32 implementation and some of the discussion we've
33 had to this point, I would agree completely with
34 that, that a large part of the concern around for
35 delay has not -- has been around the notion that
36 collaboration is built with relationships and does
37 take time, so I think that's a big factor, yes.

38 Q And that it takes human resources, which also
39 means that it takes financial resources for people
40 to adequately participate; is that another lesson
41 learnt?

42 MR. SAUNDERS: I think we knew that, but that is a
43 fact, yes, it does take resources to do that.

44 Q All right. I just want to summarize, so that it's
45 clear, from my understanding, the three areas at
46 the completion of the policy that First Nations
47 were particularly concerned about, was appropriate

1 governance structures and decision-making
2 structures in the implementation, ensuring that
3 the Wild Salmon Policy would honour the
4 obligations of the Crown and not infringe their
5 rights, and that there would be adequate capacity
6 for the implementation. You had reached
7 agreement, they were comfortable with the word -
8 I'm going to use the word "quickly" - trade-offs
9 that occurred in the language, and that these were
10 the three primary concerns at the end of
11 development of the policy; is that correct?

12 MR. CHAMUT: That's my recollection, yeah. I think
13 you've summarized them quite well.

14 MR. SAUNDERS: I wonder if you could give me, again,
15 your first point about governance, what your --

16 Q Well, that appropriate governance structures or
17 decision-making structures would need to be in
18 place for the implementation to be successful.
19 That was one of their first concerns. The second
20 concern would be ensuring that the Wild Salmon
21 Policy would honour the obligations of the Crown
22 and ensure that both, I'm going to say, I can
23 summarize them quickly, the food, social and
24 ceremonial and the obligations to consult were two
25 of the primary, that this Wild Salmon Policy would
26 honour those obligations and not infringe them;
27 and, thirdly, that capacity would be necessary
28 both in human and financial capacities for
29 adequate implementation; is that fair?

30 MR. SAUNDERS: Yes, that's fair.

31 Q Thank you. Now, I want to venture into some of
32 the more details -- than, you gentlemen. I am
33 going to turn my questions, now, to Dr. Riddell
34 and Dr. Irvine, because I want to understand,
35 again - and I'm going to pick up Mr. Lowes'
36 distinction - the structure of the policy, not so
37 much the implementation - I'll leave those
38 questions, as best I can - but how it was
39 understood, perhaps, at the time in which it was
40 developed. And in particular, I'm going to start
41 with the relationship amongst conservation units.
42 And Dr. Riddell, at page 3 of your witness
43 statement - I'm just going to read it to you, and
44 you can take a look at it if you want - but one
45 way to understand the Wild Salmon Policy is that
46 it directs DFO to sustain all conservation units
47 above the lower benchmarks. However, the

1 abundance level need not be the same for different
2 conservation units. "He will," that will be you,
3 will say that DFO is obliged under the Wild Salmon
4 Policy, to prevent a conservation unit from
5 declining below the lower benchmark, including due
6 to finishing, absent a ministerial decision to the
7 contrary.

8 And I want to start by asking you if that
9 type of statement is, in part, informed by the
10 notion that conservation units are quite distinct,
11 depending on which stock we're talking about,
12 depending on where we are, geographically, and
13 also they're -- well, I'm going to stay with
14 geography, that's the one that's most comfortable
15 for me, but there are lots of differences amongst
16 the conservation units and how they're grouped and
17 how they're structured, and that that's something
18 that First Nations have concerns around, given
19 their potential implications to their food, social
20 and ceremonial fisheries; would you agree with me?

21 DR. RIDDELL: Well, I certainly agree that the
22 conservation units can be very different, and
23 that's why we showed the various examples, that
24 you can have very large conservation units, if
25 there's limited genetic diversity, or limited
26 genetic difference between local populations and
27 the ecological zones are fairly large. The
28 example was the pink salmon on the coast, and
29 that. And the other extreme, of course, are the
30 sockeye-specific lakes that we've referred to. So
31 yes, conservation units can be very different.

32 Q And again, I'm not sure which, between the two of
33 you, should be answering these questions, so
34 please, make those decisions amongst yourselves or
35 add to it.

36 You're also familiar or understand that sub
37 populations within a conservation unit and their
38 strength or abundance is critical from a First
39 Nations perspective also, it's not just the
40 conservation units themselves, but there are
41 villages, there are areas that are dependent on
42 sub populations within those conservation units;
43 would you agree with me on that?

44 DR. RIDDELL: Yes, and that is one of the -- well, that
45 is one of the primary reasons why we have the
46 joint obligation of managing for production levels
47 or abundance, and the distribution of fish amongst

1 spawning streams. And the particular example
2 you've just brought up was discussed extensively
3 during the stakeholder dialogues. And in those
4 dialogues we did mention that when you do get to
5 Strategy 4 there is nothing that prohibits the
6 development of additional management direction
7 being given to the department to try and address,
8 you called them sub populations, that's fine --

9 Q Sorry.

10 DR. RIDDELL: -- to provide fish to specific locations
11 in those larger geographic CU's, all right? So
12 you're talking about something that we wanted to
13 have a consistent, reputable way of defining the
14 conservation units, but that in no way limited
15 that you could have additional direction within a
16 CU.

17 Q Thank you. And that --

18 DR. IRVINE: And I might just add to that. That's
19 actually covered fairly clearly on page 16 on the
20 second column, the middle of the second paragraph,
21 there's some reference to that specifically. So
22 it's the printed page 16, so the sentence that
23 begins, "Since the requirements and needs of First
24 Nations and others".

25 Q I'm on page 16 -- oh, sorry, gotcha. Thank you.
26 That's particularly helpful, because you'll see
27 that those concerns and that commitment is made in
28 Action Step 1.1 in the identification of the
29 conservation units; is that correct?

30 And where I'm going to - and maybe I'll just
31 get there and I'll try not to do all the lead-up -
32 I heard in the evidence yesterday, and I wasn't
33 sure I heard this correctly, that conservation
34 units was an information -- the work around Step 1
35 and 2 and 3 was an information-gathering and
36 primarily scientific in nature, and especially
37 with respect to Strategy 1, and I was confused
38 about that. And you would easily understand why
39 some of my clients would be confused about that,
40 because it was our understanding that there was
41 quite a commitment in the development of this
42 strategy that their involvement would begin in
43 Strategy 1 and that they had very strong concerns
44 on how conservation units would be defined and how
45 they would be assessed. And would you agree with
46 me on that?

47 DR. IRVINE: Well, I think certainly we acknowledge the

1 value of ATK or TEK in the identification of
2 conservation units and, as we'll probably discuss
3 tomorrow in the implementation, there were a
4 series of meetings with First Nations, you know,
5 to try to gather some of that information. But I
6 think that sentence that I referred to on page 16
7 is quite important as well, because it's not only
8 the conservation units, it's the sub populations,
9 as you called it, it's the components within a
10 conservation unit that may be of more importance
11 to a particular First Nations . And as Dr.
12 Riddell has pointed out, in some of these species,
13 like, you know, Chum and pink salmon, but also
14 Chinook and, to an extent, Coho salmon, the size
15 of the geographic distribution of fish within
16 freshwater within a conservation unit can extend
17 over multiple watersheds, so often the unit that's
18 of interest to a First Nations group will be a sub
19 component of a conservation unit, but that doesn't
20 make it a conservation unit. So that was where we
21 sometimes had some discussion, you know, simply
22 because a unit is -- or a group of fish is
23 important to a particular First Nations, that does
24 not make it a conservation unit, but it does make
25 it an important component of the population that
26 may need to be managed specifically.

27 Q Dr. Riddell, is there anything you'd like to add
28 to that?

29 DR. RIDDELL: Well, I mean, I'm just thinking in terms
30 of you're implying in the process of the
31 development of the conservation units, and let me
32 just comment that our objective in the -- from the
33 science branch in developing the methodology and
34 using something that's readily available and
35 something that could take into account all levels
36 of knowledge, so you have Step 1, which is largely
37 ecological and that, and really benefits from the
38 work of other groups and that, and then, in Step
39 2, we come down to the diversity of salmon and how
40 they use their habitats on a geographic scale. So
41 our intention was to develop a consistently
42 applied and reputable methodology that everybody
43 understood and approved in the process, and then
44 we put it out to a couple of rounds of
45 consultation -- not consultation, but review,
46 saying, "These are the conservation units in this
47 particular area, this is why." If there was a

1 conservation unit that deviated from the strict
2 application of the method, we explained why, and
3 that, and we got extensive comments back from
4 First Nations groups and from our own area
5 biologists from other user groups, and those were
6 all taken into account in terms of fine-tuning the
7 method, looking at why we didn't capture that
8 diversity, if it's something that we missed, or
9 providing feedback in terms of like Jim is saying,
10 if there's strong evidence, for example, that a
11 conservation unit includes two or three areas
12 where there are clearly First Nations fishing
13 interests, is there a basis for defining them as
14 conservation units and that, and if not, then
15 they're certainly recognized as a management
16 objective within the conservation unit. So they
17 in no way --

18 Q Thank you. SO then it would become part of the
19 benchmark, or the --

20 DR. RIDDELL: That is exactly what happens.

21 Q -- assessments for the benchmarks; is that
22 correct?

23 DR. RIDDELL: That is exactly what happens, because the
24 Interior Coho that Jim worked on is a prime
25 example of this, because it's five geographic
26 areas in the Interior of the Fraser and that, and
27 really what they discovered in their assessments
28 is that as the total number of Coho returning to
29 the Interior Fraser declines, there are particular
30 areas that no longer seem to get as many fish. So
31 it was a very non random return, if you want,
32 right? And so what they did is they developed a
33 methodology to keep the lower benchmark in that
34 terminology quite high and that, and so they
35 raised the bar so that you would get a good
36 distribution of fish everywhere.

37 Q Right.

38 DR. RIDDELL: Now, there's not a lot of Interior
39 fishing of Coho salmon, except for very local
40 streams, but the same methodology would apply
41 everywhere.

42 Q And, in particular, to sockeye?

43 DR. RIDDELL: And sockeye, absolutely.

44 Q Yeah. And as I understand it, the thinking around
45 developing how you're going to assess the
46 benchmarks sort of falls into three general
47 categories. Now, this isn't my expertise, so I'll

1 be careful with this, but abundance is one of
2 them, and the rate of change within a particular
3 CU, whether or not it's reacting well to
4 evolutionary changes, and geographical
5 distribution, and that all three of those are
6 something that First Nations have a direct
7 interest when considering the potential impacts of
8 decisions made under benchmarks; is that correct?

9 DR. RIDDELL: Well, you're now touching on truly the
10 implementation, and you have a younger, better
11 analyst here tomorrow to tell you all about how to
12 do that, and that, but those are the criteria that
13 we looked at, initially, in trying to develop
14 what's the best analytical methods to define that
15 status.

16 And your comment about rate is very
17 important, because you can be faced with something
18 that looks quite stable over time, and suddenly
19 it's changing rapidly, in which case you do not
20 have time to redefine something; you must respond
21 if you want to protect that CU if it's a sockeye.

22 Q And I guess I'm -- I'm going to stop there, so you
23 don't have to worry, I'll try to leave my further
24 questions on that to the implementation panel.
25 But what I'm trying to emphasize, and I want to
26 seek your assistance with, is to help us
27 understand, when you're pressed to move forward
28 and you've got a difficult task of talking and
29 working with a lot of First Nations, and I'm going
30 to suggest that as much as we have abundance in
31 the Fraser River watershed of sockeye or salmon
32 and all the different things we have an abundance
33 of First Nations in this watershed and that that's
34 a challenging task, especially with limited
35 budgets, that these types of tasks shouldn't -- we
36 have to take care to not move too quickly with
37 science when we've made commitments to First
38 Nations to talk to them and to engage them in
39 developing Strategies 1, 2, and 3; would you agree
40 with the importance of that caution and the
41 importance of the tension that's created
42 between needing to produce and wanting to produce
43 and the time that it takes to collaboratively
44 develop that?

45 MR. SAUNDERS: Yes, I agree, you need to take -- it
46 takes time. And I also have -- we've learned, I
47 think, over the course of the policy, that you

1 need to engage not only the First Nations but all
2 of the interests at the outset of the development
3 of any of these pieces and keep them informed and
4 engaged

5 I think, with the First Nations, that while
6 Mr. Chamut is quite right that the capacity has
7 increased quite dramatically over the last five to
8 10 years, there is still a limited technical
9 capacity, but I think we have very effective, you
10 know, organizations across the province to engage
11 technical experts that work on behalf and with
12 First Nations, that I think we've got a very, I
13 think, a fairly -- a very efficient ability to
14 engage First Nations on technical issues. I think
15 the next step around decisions - and we'll get
16 into this later in Strategy 4 and fisheries
17 management, I think - we struggle with the next
18 step around if potential trade-offs and political
19 decisions are required.

20 Q Thank you. I'm going to move fast forward into
21 lessons learnt, or challenges ahead of us, and
22 take a few minutes on that. I was a bit
23 surprised, I guess I'm going to use the word, Dr.
24 Irvine, that you thought it was relative easy, I
25 think is your evidence yesterday, to implement the
26 Wild Salmon Policy at a scientific level. That
27 was your -- that was your -- it's relatively easy
28 to do from a scientific perspective; do you recall
29 that?

30 DR. IRVINE: You might have to put that in context. I
31 suspect I was talking about Strategy 1 rather than
32 WSP implementation.

33 Q You might have.

34 DR. IRVINE: And perhaps it was Action Step 1.1, but
35 I'd prefer to see --

36 Q So what you were actually saying is that
37 developing the science around conservation unit is
38 a relatively easy task, and that applying it to
39 the Fraser in the complexity of the decision-
40 making structures may not be that easy; is that a
41 fairer way of depicting what you might have been
42 saying yesterday?

43 DR. IRVINE: I think what I was trying to say - I'm a
44 little bit lost for when I said that - but I think
45 I was probably trying to say that it's more the
46 incorporation of the non -- the social and
47 economic considerations in developing management

1 recommendations. I think that's where it's really
2 difficult, because it's more -- it's easier to
3 determine whether a population is at biological
4 risk of extinction or whether it's healthy or not
5 healthy, but then actually making difficult
6 decisions on what to do in terms of managing that
7 particular type population, that's where you have
8 to bring in other types of non natural science
9 information, and that's, I think, what I was
10 talking about, and that I would regard as more
11 difficult.

12 Q All right. Could you help me with this, then,
13 because I must say, when I was studying to stand
14 up in front of you and ask questions of you, I was
15 imagining how to divide this policy for the Fraser
16 watershed, and I have all the conservation units
17 for sockeye alone, never mind all the other salmon
18 that go through this watershed, I have the
19 geographical distribution from way out in the --
20 up in the headwaters all the out to the marine and
21 back, which I have no idea whether we've even
22 counted the ecosystems that would be included in
23 that, and then I have all the habitat challenges.
24 So even from a scientific perspective, are you
25 sure you're suggesting that it's relatively easy?

26 DR. IRVINE: No, maybe I've been misquoted or maybe I
27 misspoke. I guess "relative" is a relative term,
28 but...

29 Q I'm not trying to -- the reason why I'm going with
30 this, and I make no judgment about this from a
31 declining budget perspective, for the idea that
32 we're going to take the complexity of the Fraser
33 watershed and the complexity of this plan and
34 implement it with no new money, I find quite
35 amazing. And particularly what I find amazing is
36 it's not only no new money for DFO, there is no
37 new money in the budget for First Nations to
38 engage with DFO on this new policy. You're
39 completely going to be relying on already existing
40 funds, and that was the thinking at the time in
41 which the commitments were made. Do you agree
42 with me that that's a challenging situation?

43 DR. IRVINE: Yes, that's a challenging situation.

44 MR. WALLACE: There was some evidence of
45 implementation, some strategy 4, I'm --

46 MS. GAERTNER: Mr. Wallace, this is not just Strategy
47 4. This is Strategy 1, 2, 3 and 4 in its

1 implementation and what people were thinking at
2 the time. And with all due respect, it's
3 important, because I don't want to set people up
4 for failure. I don't want to set up First Nations
5 for failure and I don't want to set up the people
6 that are working on it for failure.

7 Q Now, I'm going to just finish with what we knew
8 when we completed the policy, and I know we're
9 going to get into this in implementation, so the
10 details of which I will leave, but I'd like you to
11 confirm for me that some of that distrust that
12 First Nations had around DFO's ability to
13 implement this policy, particularly with respect
14 to funding and in particular with the challenges
15 that would be associated in management, was they
16 relied on the commitment for an independent
17 assessment within five years in order to -- and
18 that was part of the changes that occurred near
19 the end of the drafting so that they could ensure
20 that somebody was watching DFO in terms of their
21 ability and their commitment to implement this
22 policy; is that correct?

23 MR. CHAMUT: Yeah, I mean, we talked earlier about the
24 scepticism and that many different groups, not
25 just First Nations, had about the ability of the
26 department to implement, and so the idea of
27 essentially a five-year review was one of the last
28 things that we included, because it was probably
29 one of the most strongly held views that came out
30 of the very last forums that we had just before
31 finalizing the policy. So it's -- I think it's
32 included as a sixth strategy, whereas previous
33 versions had only had the five, so it was added as
34 a -- very late, but a very, very important
35 component to the policy.

36 Q Thank you. And finally, Mr. Chamut, I have a
37 question for -- a series of -- just a few
38 questions for you, and it's an observation about
39 process. Each one of your hardworking team
40 members have commented either in their will say or
41 otherwise about how important it was to have
42 somebody from Ottawa that was tasked to do a
43 difficult job and that that was part of the way
44 that we moved from a policy that was struggling to
45 a completed policy. You'll agree with me, all of
46 you, that that was something that you've commented
47 on and that that was an important part of getting

1 this work done?

2 MR. SAUNDERS: I would agree that having someone with
3 -- in a position of authority was there. I
4 wouldn't use the phrase, "someone from Ottawa" as
5 being important.

6 Q All right. Thank you. That's a great improvement
7 to my question, yeah. I'm curious, because it's
8 often difficult for First Nations to understand
9 the decision-making processes within the
10 department. How was it that you came about to be
11 appointed? Was it because of your interest in
12 this material, or because it was important from
13 Ottawa to make sure it was finished? I'm just
14 curious on how that decision was made.

15 MR. CHAMUT: I think the decision was made for a number
16 of reasons. We've talked earlier, and I don't
17 want to repeat them, but there was a number of
18 reports that all urged the department to get on
19 with getting a Wild Salmon Policy in place, and
20 throughout 2003 it seemed that there was
21 definitely very little progress being made, it was
22 stuck, and the deputy was concerned. And, I mean,
23 I don't need to go into all the details about how
24 things eventually happened, but I had indicated
25 that I was intending to retire, and the deputy
26 said, "Would you like to do one more thing before
27 you retire?" and it was something that I've always
28 had a very strong personal interest in the
29 activities of this region, and Pacific salmon in
30 particular, and I actually -- I did think about
31 it, but I did realize it was a great opportunity
32 for me to end a career on doing something that I
33 thought was important, and so I was -- I came out
34 largely because of the deputy's view that it would
35 -- that he thought that I could come out and try
36 to provide the not so much knowledge or anything
37 other than just a little bit of focused attention,
38 and with my experience and background of working
39 both in the region and Ottawa, I think he felt
40 that I would be a credible person to come out here
41 and provide the assistance to the region to get it
42 done.

43 But the one comment I would like to make is
44 that Mark has talked about me coming out with
45 authority. And the interesting thing, the hardest
46 thing I found when I came out here, was that I had
47 none. Realistically, I came only with my

1 reputation and personal credibility. I had no
2 authority other than, I guess, the ability to pick
3 up the phone and talk to the deputy on occasion,
4 but I didn't have any authority to, you know, to
5 knock heads or beat up people, it was just simply
6 trying to provide the cohesion between people with
7 very good ideas but they just needed a little bit
8 of lubrication to kind of come together. And I
9 think my experience in dealing with policies like
10 this in Ottawa also helped, and I think that was
11 probably the reason why it eventually happened the
12 way it did. But I think I attribute Larry Murray
13 and his willingness to assign me or give me the
14 opportunity to do this as being the key thing.

15 Q All right. I'm going to move you away from the
16 need for authority and ask whether or not you'll
17 agree with me that if you're going to do
18 collaborative government with as many interest
19 groups and First Nations and struggling within the
20 department to reach consensus, that you do
21 actually need people that carry experience and
22 carry commitment and carry sometimes a single
23 portfolio, to make sure that it's something that
24 they can stay focused on and are committed to and
25 keep the team moving; is that fair to say, in
26 modern government, that that's a useful thing to
27 have?

28 MR. CHAMUT: Well, from my experience, I mean, yes, it
29 is. It's -- oftentimes in the department there's
30 a thousand things competing for your attention,
31 and it's really, from my perspective, it was
32 really nice just to have, essentially, the one
33 responsibility and to be able to dedicate all the
34 time and effort to it. And there was a very
35 excellent team of people that provided, you know,
36 a lot of the work, a lot of the ideas, and it was
37 -- but, to me, what was really important was being
38 the focal point and making sure that it, you know,
39 people were doing the work that they agreed to,
40 that we were having regular meetings, and the
41 energy level was kept very high and people were
42 not given the opportunity to be diverted to other
43 activities, and I think if we hadn't done it that
44 way we probably still wouldn't have a Wild Salmon
45 Policy.

46 Q And so, generally speaking, on a number of the
47 matters that Commissioner Cohen is going to have

1 to consider, not only implementation of the Wild
2 Salmon Policy, and we'll get to those issues in
3 addition, but that as he looks at areas that might
4 be difficult to implement or difficult to change,
5 going forward, the kind of model that you've used
6 to develop the Wild Salmon Policy, could be a very
7 useful model, going forward, for fisheries
8 management on this coast; is that correct?

9 MR. CHAMUT: Yeah, I think it is, but I think - and
10 this maybe sounds a little pretentious, and I
11 apologize in advance - but I think it's really
12 important that if someone is assigned to sort of
13 play that role of being the, I won't say mediator,
14 but to be the lead hand in pushing it forward, the
15 choice of that person is really important, because
16 if -- sometimes if it's a person without --
17 someone who's unknown, it may be a harder role to
18 play than if it's someone who has had some
19 experience in working with the department and some
20 sort of credibility going in. I think that's -- I
21 think, to me, that would be an important part of
22 it. These gentlemen may have an entirely
23 different view, but think it sometimes -- I mean,
24 the choice of person is really important, I think,
25 to making sure it's going to work.

26 Q Gentlemen, do you have a different view, or is
27 that something that you can share with them as we
28 finish this discussion?

29 MR. SAUNDERS: I won't take long, but I think there's
30 two components to it. There is the -- within a
31 government department where I think the model
32 works, but then we've got this governance model, I
33 think for Strategy 4, and the level of partnership
34 that's going to be required on all of the
35 strategies that demands a different -- a
36 collaborate model, and I think that's another
37 subject for later discussion, but I think the two
38 are somewhat distinct.

39 Q Well, let me just finish with this, and we will
40 pick this up tomorrow in implementation, but we're
41 moving away from policy development, which
42 requires headquarters' approval, and into
43 implementation, and you've already heard, and
44 we've confirmed that from a First Nations'
45 perspective that implementation is very much on
46 the ground, so I would suggest that what the
47 policy would then benefit from, as it was

- 1 modelled, is teams of people with those skills on
2 the ground; do you agree with me?
- 3 MR. SAUNDERS: Well, I'm not sure what you mean by "on
4 the ground," but, I mean, it's --
- 5 Q In the region and in the areas, if you were going
6 to -- if I was going to use DFO's division. So
7 you're going to need teams of people at the
8 regional level and teams of people in the areas
9 that are actually going to work on looking at the
10 actual conservation units, looking at the habitat,
11 looking at its interactions, but moving into
12 change?
- 13 MR. SAUNDERS: Yes. And again, I think we're getting
14 into the implementation, but I think to a degree -
15 we'll talk about that tomorrow - but we've done
16 that in terms of the development of the
17 conservation units, et cetera, we've initiated
18 those types of arrangements where it is more
19 focused on the area, but there is always going to
20 be that need to understand the relationship
21 between the centre and the sort of external areas
22 and how we manage that, I agree.
- 23 MS. GAERTNER: Just one moment. Those are my
24 questions.
- 25 THE COMMISSIONER: Thank you, Ms. Gaertner.
- 26 MR. WALLACE: Thank you. Mr. Commissioner, it's five
27 to 5:00. Canada has a right of re-examination at
28 this point, and I have a couple of questions.
- 29 THE COMMISSIONER: I don't mind if we finish right at
30 5:00, Mr. Wallace. If we can't finish right at
31 5:00, then we're going to have to make
32 arrangements to do that at another time.
- 33 MR. WALLACE: Well, let's just see what we can do,
34 then.
- 35 MR. TIMBERG: Tim Timberg, T-i-m-b-e-r-g, counsel for
36 Canada. I have -- I've reduced it down to four
37 questions for re-direct.
- 38 THE COMMISSIONER: I don't want to cut you off right at
39 5:00, Mr. Timberg, I know it's important, but
40 we're going to adjourn within about two minutes.
41 If you can do it all in two minutes, I'm content.
42 If not, you're going to have to arrange with Mr.
43 Wallace to do it another time.
- 44 MR. TIMBERG: I see. I don't think I can do it in two
45 minutes, yeah.
- 46 THE COMMISSIONER: All right, then. Then we'll adjourn
47 until ten o'clock tomorrow morning, thank you.

1 THE REGISTRAR: This hearing is now adjourned until
2 10:00 a.m. tomorrow morning.
3 MR. WALLACE: Thank you.
4

5 (PROCEEDINGS ADJOURNED TO DECEMBER 2, 2010 AT
6 10:00 A.M.)
7

8 I HEREBY CERTIFY the foregoing to be a
9 true and accurate transcript of the
10 evidence recorded on a sound recording
11 apparatus, transcribed to the best of my
12 skill and ability, and in accordance
13 with applicable standards.
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19 true and accurate transcript of the
20 evidence recorded on a sound recording
21 apparatus, transcribed to the best of my
22 skill and ability, and in accordance
23 with applicable standards.
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27 Irene Lim

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29 true and accurate transcript of the
30 evidence recorded on a sound recording
31 apparatus, transcribed to the best of my
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39 true and accurate transcript of the
40 evidence recorded on a sound recording
41 apparatus, transcribed to the best of my
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43 with applicable standards.
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47 Karen Hefferland