

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.

Thursday, December 9, 2010

Tenue à :

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

le jeudi 9 décembre 2010



Errata for the Transcript of Hearings on December 9, 2010

Page	Line	Error	Correction
ii		Lara Tessaro's title is incorrect	Junior Commission Counsel
iv		James Walkus is not a participant	remove from record
iv		counsel did not attend hearing	remove: Lisa Fong Krista Robertson
iv		Musgagmagw Tsawataineuk Tribal Counsel	Musgamagw Tsawataineuk Tribal Council
1	43	his	is

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Tim Timberg Geneva Grande-McNeill	Government of Canada
D. Clifton Prowse, Q.C.	Province of British Columbia
No appearance	Pacific Salmon Commission
No appearance	B.C. Public Service Alliance of Canada Union of Environment Workers B.C. ("BCPSAC")
No appearance	Rio Tinto Alcan Inc. ("RTAI")
Alan Blair Shane Hopkins-Utter	B.C. Salmon Farmers Association ("B.C.SFA") Seafood Producers Association of B.C. ("SPAB.C.")
No appearance	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.

No appearance	Southern Area E Gillnetters Assn. B.C. Fisheries Survival Coalition ("SGAHC")
No appearance	West Coast Trollers Area G Association; United Fishermen and Allied Workers' Union ("TWCTUFA")
Brad Caldwell	B.C. Wildlife Federation; B.C. Federation of Drift Fishers ("WFFDF")
No appearance	Maa-nulth Treaty Society; Tsawwassen First Nation; Musqueam First Nation ("MTM")
No appearance	Western Central Coast Salish First Nations: Cowichan Tribes and Chemainus First Nation Hwlitsum First Nation and Penelakut Tribe Te'mexw Treaty Association ("WCCSFN")
No appearance	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)
No appearance	Adams Lake Indian Band
No appearance	Carrier Sekani Tribal Council ("FNC")
No appearance	Council of Haida Nation

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")
Lisa Fong	Heiltsuk Tribal Council ("HTC")
Krista Robertson	Musgagmagw Tsawataineuk Tribal Counsel ("MTTC")

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Vancouver, B.C. /Vancouver (C.-B.)
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1
2
3
4 THE REGISTRAR: The hearing is now resumed.

5 MR. WALLACE: Good morning, Commission Cohen. For the
6 record, Brian Wallace, Commission counsel, and
7 with me is Lara Tessaro.

8 THE REGISTRAR: May I remind the witnesses that they
9 were affirmed on November 1st and their
10 affirmation is still in effect? Thank you.

11 MR. WALLACE: Mr. Commissioner, before we begin the
12 examination of the panel of the current and the
13 past regional director general, just a number of
14 housekeeping matters. First of all, dealing with
15 yesterday's exhibits, if I may just put on the
16 record that -- slight change in the exhibit
17 numbers, a tweaking of the exhibit numbers, if you
18 like, that were put in, in cross-examination to
19 the WSP Implementation panel yesterday. And these
20 are all documents from Canada's list of documents.
21 And I'll refer to them by their tab number rather
22 than their ringtail ID because the tab numbers are
23 much shorter. So the tab number 1 was previously
24 marked as Exhibit 219 and should be marked as 219-
25 A. Tab number 2 will become Exhibit 219. Tab
26 number 3, which was previously marked Exhibit 220,
27 becomes Exhibit 220-A. And tab number 4,
28 previously marked Exhibit 221, becomes Exhibit
29 220-B. Tab number 5 will be Exhibit 220. Tab
30 number 10 becomes Exhibit 221. Tab 11 becomes
31 Exhibit 221-A. Tab 6 becomes 221-B. Tab 8
32 becomes 221-C. Tab 7 becomes Exhibit 221-D. And
33 tab 9 becomes Exhibit 221-E. These were all put
34 yesterday to the witnesses in cross-examination
35 but they weren't marked because it was getting too
36 complicated.

37 For the record, Exhibit 173, I think I
38 identified on the record yesterday that the
39 attachment was identical to Exhibit 167 and that
40 is incorrect. The attachment is an October 1,
41 2010, revision of the media lines of June 22,
42 2010. And it's the original June 22 version of
43 the media lines, which his 167. So the attachment
44 is not identical.

45 Last week, we circulated exhibits that we
46 wished to mark by consent and we have not heard
47 any objection and have the fresh consent of Canada

1 for this. I'm going to take you to those but I
2 think first -- and that's for this panel. Before
3 I take you to those exhibits, may we mark, please,
4 Mr. Sprout's *curriculum vitae* as the next exhibit?
5 THE REGISTRAR: Exhibit Number 226.

6
7 EXHIBIT 226: *Curriculum Vitae* of Paul Sprout

8
9 MR. WALLACE: And Ms. Farlinger's *curriculum vitae*
10 following.

11 THE REGISTRAR: As 227.

12
13 EXHIBIT 227: *Curriculum Vitae* of Sue
14 Farlinger

15
16 MR. WALLACE: Then to go through the exhibits that we
17 wish to have marked by consent, Mr. Commissioner,
18 I'll just give you a brief description of each of
19 the documents. The first is document 33 on the
20 Commission's list of documents. This is an April
21 10, 2006, email between DFO officials in national
22 headquarters. The email discusses a letter being
23 drafted for Minister Loyola Hearn's signature and
24 refers to a comment attributed to someone in the
25 minister's office that the Wild Salmon Policy is
26 viewed as "an indifferent document produced under
27 political duress". The purpose of tendering this
28 document is to put them to the current and former
29 RDG's for their reaction to that view. Document
30 10 -- oh, mark that as the next exhibit, thank
31 you.

32 THE REGISTRAR: Exhibit 228.

33
34 EXHIBIT 228: Email dated April 10, 2006,
35 between DFO officials in national
36 headquarters referring to the comment that
37 the Wild Salmon Policy is "an indifferent
38 document produced under political duress"

39
40 MR. WALLACE: The next exhibit I would ask to be marked
41 is document 10 in the Commission's list, and that
42 is a November 25, 2004, email between regional
43 directors to which Ms. Farlinger is copied
44 regarding start-up funding for the Wild Salmon
45 Policy in the 2005/2006 fiscal year. The purpose
46 in tendering the email is to provide some
47 information for the record about the timing of

1 discussions between regional directors on the
2 seeking of funding for WSP from Ottawa and the
3 difference in the regional director's views on the
4 need for that funding. Can that be marked,
5 please?

6 THE REGISTRAR: Number 229.

7
8 EXHIBIT 229: Email dated November 25, 2004,
9 between regional directors regarding start-up
10 funding for the Wild Salmon Policy in the
11 2005/2006 fiscal year

12
13 MR. WALLACE: The next document, 11, on the
14 Commission's list, a November 26, 2004, email
15 between regional directors, again, copying Ms.
16 Farlinger, that is part of the same chain of
17 emails as the last exhibit and marked for the same
18 purpose. If that could be marked as the next
19 exhibit?

20 THE REGISTRAR: As that's tied together, would you like
21 that to be marked as 229-A?

22 MR. WALLACE: Let's just mark it separately.

23 THE REGISTRAR: Exhibit Number 230.

24
25 EXHIBIT 230: Email dated November 26, 2004,
26 between regional directors and relates to
27 Exhibit 229

28
29 MR. WALLACE: The next document that I would ask to be
30 marked an exhibit is document 62 from the
31 Commission's list. These are the WSP team meeting
32 minutes of September 14, 2009.

33 MR. LUNN: Mr. Wallace --

34 MR. WALLACE: That was already been -- sorry, that's
35 already been marked as Exhibit 187. We will be
36 referring to that. Thank you. The purpose of
37 that is it shows that the WSP team was briefed in
38 September on an operations committee meeting of
39 June 25th, 2009, where the Strategy 6 independent
40 five-year review was discussed by regional
41 directors.

42 The next document I'd refer to is document
43 71, a letter dated January 27th, 2010, from Mr.
44 Sprout to Dr. Paul LeBlanc of the Pacific
45 Fisheries Resources Conservation Council regarding
46 the WSP and the five-year review. This is
47 tendered for the purpose of showing that, as RDG

1 Mr. Sprout had conversations with the PFRCC in
2 early 2009, regarding the five-year review.
3 THE REGISTRAR: Exhibit Number 231.

4
5 EXHIBIT 231: Letter dated January 27th,
6 2010, from Mr. Sprout to Dr. Paul LeBlanc of
7 the Pacific Fisheries Resources Conservation
8 Council regarding the WSP and the five-year
9 review

10
11 MR. WALLACE: The next document on the list is the
12 PFRCC Advisory, which is dated January 2010,
13 attached to the letter referred to above, the
14 previous document to Paul Sprout.

15 THE REGISTRAR: 232.

16
17 EXHIBIT 232: PFRCC Advisory, dated January
18 2010, attached to Exhibit 231

19
20 MR. WALLACE: And this will be put to the -- to Mr.
21 Sprout and Ms. Farlinger to seek whether -- to
22 determine whether they agree with the advice
23 received from the PFRCC and whether any follow-up
24 steps were taken with respect to having PFRCC do
25 the Strategy 6 five-year review.

26 The next document is again from the
27 Commission's list. It's document 83. The final
28 revised record of decisions of the Operations
29 Committee meeting of June 17, 2010. As noted in
30 her summary, Ms. Farlinger will be asked about
31 this record. We'll also be tendering the draft
32 record and briefing materials, which are further
33 down our list.

34 THE REGISTRAR: Exhibit 233.

35
36 EXHIBIT 233: Final revised record of
37 decisions of the Operations Committee meeting
38 of June 17, 2010

39
40 MR. WALLACE: The purpose is to examine regional
41 management's most recent deliberations and
42 briefings regarding Wild Salmon Policy governance,
43 independent review and funding.

44 The next document I'd asked to be marked, Mr.
45 Commissioner, is document 58, an email dated July
46 3, 2009, from Ms. Farlinger containing an update
47 for the minister's of DFO's MSC Action Plan.

1 THE REGISTRAR: 234.

2
3 EXHIBIT 234: Email dated July 3, 2009, from
4 Ms. Farlinger containing an update for the
5 minister's of DFO's MSC Action Plan
6

7 MR. WALLACE: And document 59 is an email dated August
8 5, 2009, between Ms. Farlinger and Mr. Sprout
9 regarding the MSC Certification and containing an
10 email from Grand Chief Kelly regarding
11 consultation issues.

12 THE REGISTRAR: 235.

13
14 EXHIBIT 235: Email dated August 5, 2009,
15 between Ms. Farlinger and Mr. Sprout
16 regarding the MSC Certification and
17 containing an email from Grand Chief Kelly
18 regarding consultation issues
19

20 MR. WALLACE: Document 57 from the Commission's list
21 are the minutes of the Operations Committee
22 meeting of January the 8th, 2009. There are many
23 -- while many Operations Committee meeting minutes
24 address WSP and have been marked as exhibits
25 through the implementation panel, for the purpose
26 of ensuring a full record of the regional
27 management's awareness and directions and
28 involvement on WSP Implementation, these
29 particular minutes will be marked -- were not
30 marked at the implementation panel as none of
31 those witnesses were in attendance.

32 THE REGISTRAR: 236.

33
34 EXHIBIT 236: Minutes of the Operations
35 Committee meeting of January 8, 2009
36

37 MR. WALLACE: I would just note another exhibit that's
38 already been marked, document 56 on our list,
39 which is Exhibit 192, which is a presentation that
40 was made to the Operations Committee on January
41 2009 and we rely on it for the same purpose as the
42 previous document.

43 Document 3 from the Commission's list, a
44 document provided by the Commission to
45 participants on November 13, 2010. It is the
46 December 15, 2009, minutes of the WSP team
47 meeting. The RDG's may be asked for their

1 knowledge of the matters discussed by their staff
2 in this meeting, including the use of Aboriginal
3 traditional knowledge in WSP implementation.
4 Could that be marked, please?

5 THE REGISTRAR: 237.

6

7 EXHIBIT 237: December 15, 2009, minutes of
8 the WSP team meeting

9

10 MR. WALLACE: Document 17-B from Canada's list of
11 documents, this is the June 17, 2010, draft record
12 of decisions of the Operations Committee and
13 includes the briefing materials presented to the
14 committee, the report on the Wild Salmon Policy
15 Implementation in 2009/2010 and the proposed WSP
16 work plan for 2010/2011.

17 THE REGISTRAR: 238.

18

19 EXHIBIT 238: June 17, 2010, draft record of
20 decisions of the Operations Committee and
21 includes the briefing materials presented to
22 the committee, the report on the Wild Salmon
23 Policy Implementation in 2009/2010 and the
24 proposed WSP work plan for 2010/2011

25

26 MR. WALLACE: The purpose of this document, Mr.
27 Commissioner, is to examine Ms. Farlinger's
28 awareness of the most recent information presented
29 to the Operations Committee on WSP work planning
30 and budgeting. Also, the draft record of decision
31 is noted in Ms. Farlinger's summary.

32 Document 74 on Canada's list of documents is
33 the next document. This is the Strategic
34 Directions Committee Action Log for 2010. The
35 Strategic Directions Committee does not take
36 minutes, we're told. This document shows
37 discussions by regional management of the Strategy
38 6 review on May 6, 2010, and appears to be the
39 closest thing to a record of that meeting. If
40 that could be marked as the next exhibit, please?

41 THE REGISTRAR: Exhibit 239.

42

43 EXHIBIT 239: Strategic Directions Committee
44 Action Log for 2010

45

46 MR. WALLACE: I would note that document 73 on Canada's
47 list of documents has already been marked as

1 Exhibit 201. And just for context, this document
2 is the presentation by Lisa Wilson, the WSP
3 coordinator, to the Strategic Directions Committee
4 on that same date, May 6, 2010, including
5 information on the Strategy 6 review.

6 The next document is at document 17 but it's
7 one of the sub-tabs. It's the record of decisions
8 of the Operations Committee on June 25, 2009. The
9 document on the screen appears to be that
10 document. This is tendered to ensure a full
11 record of the RDG's deliberations and involvement
12 in WSP Implementation over the past five years.
13 This particular record was not marked to the
14 implementation panel because none of the witnesses
15 were at that meeting, although Mr. Sprout was. If
16 that could be marked as the next exhibit, please?

17 THE REGISTRAR: Exhibit 240.

18
19 EXHIBIT 240: Record of decisions of the
20 Operations Committee on June 25, 2009
21

22 MR. WALLACE: The next document is document 68 on
23 Canada's list. This is -- appears to be -- it's a
24 draft, unsigned, undated discussion paper for the
25 Operations Committee regarding the five-year
26 review under Strategy 6. It does not appear that
27 it was ever presented to the Operations Committee
28 and Ms. Farlinger will be asked about that. It
29 does not appear with so-called WSP Implementation
30 binder, the document 17, and it's sub-tabs. We'll
31 be asking the RDG's whether they received the note
32 outside the Operations Committee. If that could
33 be marked as the next exhibit, please?

34 THE REGISTRAR: Number 241.

35
36 EXHIBIT 241: Draft, unsigned, undated
37 discussion paper for the Operations Committee
38 regarding the five-year review under Strategy
39 6
40

41 MR. WALLACE: Document 70 from Canada's list is a
42 summary of the PFRCC report, which I referred to
43 earlier. The purpose of tendering this document
44 is to have a record of DFO's staff advice on that
45 report with respect to the five-year review. If
46 that could be marked, please?

47 THE REGISTRAR: Number 242.

1 EXHIBIT 242: Summary of the PFRCC report
2

3 MR. WALLACE: And next is document 79 from the
4 Government of Canada's list. It's a draft
5 interview questions given to a select group of
6 senior and middle managers in the course of DFO's
7 internal five-year review work. We wish to
8 confirm with Ms. Farlinger if these interviews --
9 if these interview questions were asked, of whom
10 and whether responses have been received and
11 assessed. Next exhibit, please?

12 THE REGISTRAR: Number 243.
13

14 EXHIBIT 243: Draft interview questions given
15 to a select group of senior and middle
16 managers in the course of DFO's internal
17 five-year review work
18

19 MR. WALLACE: Mr. Lunn, just because your day wouldn't
20 be complete if I didn't surprise you, if we could
21 have Exhibit P for Identification, please? I
22 wonder, Ms. Farlinger, this is a document
23 including DFO meeting notes, which -- it's a
24 document of a meeting that occurred in 2005. And
25 this document was marked by one of the
26 participants earlier in the hearing but nobody
27 could identify it. And you were at the meeting
28 and I'm wondering if you can just have a brief
29 look at that document and tell me -- authenticate
30 it as, in fact, reflecting the notes of a meeting
31 of March 11th, 2005, of the Pacific Fisheries and
32 Aquaculture Committee Working Group. This may --
33 Ms. Farlinger, if you'd like to have a look at
34 that over the break, that would perhaps be better.

35 MS. FARLINGER: Sure.

36 MR. WALLACE: I apologize for -- this was housekeeping
37 and it came up on a sticky as opposed -- so I'm
38 sorry I didn't forewarn you about that.

39 MS. FARLINGER: I'll certainly do that.

40 MR. WALLACE: Thank you. All right. If I could just
41 remind the witnesses that there's a button on your
42 microphone that you can turn on at appropriate
43 times.

44 MR. TIMBERG: I apologize. Mr. Commissioner, for the
45 assistance of the witnesses, I have prepared a
46 hard copy of the exhibits that Mr. Wallace has
47 just tendered and I thought I could provide it to

1 them so they could flip through them.

2 THE COMMISSIONER: Thank you.

3 MR. WALLACE: Mr. Commissioner, we will canvass seven
4 areas in this examination. Both Mr. Sprout and
5 Ms. Farlinger have provided summaries, which we
6 should mark as the next exhibits.

7 THE REGISTRAR: 244.

8 MR. WALLACE: Well, perhaps before we do that, let me
9 ask each of the witnesses whether they have
10 reviewed and accept those summaries. Mr. Sprout?

11 MR. SPROUT: You're talking about my witness summary?

12 MR. WALLACE: Yes.

13 MR. SPROUT: Well, I'd like to clarify my summary
14 before -- but I will agree that the statements in
15 my summary reflect my views but I would like to
16 clarify how this statement was prepared and I'd
17 like to underscore that this statement, in my
18 view, is incomplete. So I was asked a series of
19 questions by the Commission that were posed by the
20 Commission. I responded to those questions. And
21 with -- and then in a couple of instances, I
22 indicated that I thought we needed to make changes
23 and I added those comments in addition to the
24 response to the questions. So this summary
25 reflects my response to your questions, as opposed
26 to my view of the Wild Salmon Policy or my view of
27 how the Wild Salmon Policy fits in a broader
28 context.

29 I am of the view that you need to look at the
30 Wild Salmon Policy much more comprehensively, to
31 look at the strategic question of whether the Wild
32 Salmon Policy can address sustainability of Fraser
33 River sockeye. This is not captured in this
34 statement. That being said, I believe that my
35 response to the questions that were posed and the
36 way they're documented here reflect my views
37 notwithstanding the fact that I have a much
38 broader perspective on the Wild Salmon Policy and
39 its role. So with that clarification, I accept
40 this statement.

41 MR. WALLACE: Thank you. And undoubtedly, you will
42 have an opportunity, Mr. Sprout, in the course of
43 these examinations to express those views. May
44 Mr. Sprout's summary of evidence be marked as the
45 next exhibit, please?

46 THE REGISTRAR: Marked as 244.

47 MR. WALLACE: Thank you.

1 EXHIBIT 244: Summary of Evidence of Paul
2 Sprout
3

4 MR. WALLACE: Ms. Farlinger, you've had an opportunity
5 review the summary of anticipated evidence? And
6 do you accept that as being correct?

7 MS. FARLINGER: Before accepting it, I'd like to
8 provide some clarifications. And I think in some
9 ways I'd just reflect a similar view to the
10 comments that Mr. Sprout just made. These were
11 answers to very directed questions and, in fact,
12 there was certainly more material in that
13 discussion and other things that really are
14 relevant to how this statement is understood and I
15 hope the clarifications I can provide will help
16 with that.

17 MR. WALLACE: Thank you.

18 THE REGISTRAR: Do you wish that marked?

19 MR. WALLACE: Yes, please.

20 THE REGISTRAR: 245.
21

22 EXHIBIT 245: Summary of Evidence of Sue
23 Farlinger
24

25 MR. WALLACE: Just by way of broad outline, Mr.
26 Commissioner, as I mentioned there will be seven
27 areas that I hope to cover here this morning. The
28 first is the accountability and responsibilities
29 of the regional director general for Wild Salmon
30 Policy Implementation. Second, how the WSP
31 Implementation is funded at DFO. The
32 implementation planning in the fall of 2005 and,
33 specifically, the requirement in the policy for an
34 implementation plan. Fourth, the RDG's decision
35 to defer Strategy 6, the Independent Review
36 Evaluation of the WSP Implementation. Fifth, the
37 relationship between WSP Implementation and Marine
38 Stewardship Council certification, particularly
39 with respect to timelines. Sixth, DFO's success
40 in engaging the Province of B.C. and WSP
41 Implementation. And finally, the RDG's thoughts
42 on changes that DFO might make to ensure timely
43 and comprehensive implementation of the policy.

44 MS. FARLINGER: Excuse me. I'm sorry. I perhaps
45 misspoke. I had the intention of making some
46 clarifications before we move forward.

47 MR. WALLACE: Oh, I'm sorry, Ms. Farlinger. I didn't

1 intend --

2 MS. FARLINGER: I apologize.

3 MR. WALLACE: I didn't intend to cut you off. Please.

4 MS. FARLINGER: Okay. Thank you very much. In section
5 1, bullet 3, this refers to a presentation that
6 Dr. Richards and I made at national headquarters
7 to discuss the Wild Salmon Policy. And the
8 clarification there really was to inform and
9 engage senior managers at NHQ. This was a
10 challenge, of course, because although the high-
11 level concepts were certainly known and had been
12 spoken about in the department, the definitions
13 and detail that we contemplated in the Wild Salmon
14 Policy hadn't been previously codified. So that's
15 really just a clarification on the fact --

16 MR. WALLACE: Ms. --

17 MS. FARLINGER: -- that these concepts had been
18 codified before. It was really the detail and the
19 kind of definition in this that required the
20 communication at the policy level with national
21 headquarters.

22 MR. WALLACE: Ms. Farlinger, can you identify where in
23 your summary you are -- what you're addressing?

24 MS. FARLINGER: Yes, I'm in bullet 3 in the first
25 section. It's called "Involvement in the
26 Development of the Wild Salmon Policy".

27 MR. WALLACE: Thank you.

28 MS. FARLINGER: I beg your pardon. Okay. In bullet 4,
29 it speaks to linking habitat to fish management.
30 And there were -- there was also some background
31 that I had provided when we discussed this but I
32 think it is important to understand that this was
33 an opportunity to engage stakeholders in a new
34 way. Our traditional consultations with
35 stakeholders were largely operational and
36 consulting on a policy really took us out into a
37 broader consultation context. So in that
38 instance, we were talking to a far broader set of
39 stakeholders, including the environmental
40 community, as well as the stewardship community,
41 as well as the traditional harvest communities.
42 And so this was not only an opportunity to link
43 habitat to fishery management but it was also an
44 opportunity to broaden the stakeholders relevant
45 to those activities -- broaden the consultation to
46 those stakeholders.

47 The next clarification is in bullet 6 and it

1 has to do with Mr. Chamut. It -- I think it says
2 in the -- in the statement he had not always been
3 convinced of the merit of a detailed WSP. And I
4 would clarify that to say that he simply had to be
5 convinced that what we would put into the policy
6 was practical. And once again, this definition of
7 biodiversity in this case through the definition
8 of conservation units actually put the development
9 of the policy in a practical context.

10 So if we move on to section 2, the third
11 bullet in section 2 under "Recollection of
12 Implementation Planning", although I was not
13 present for and did not participate in the
14 development of the implementation plan that's been
15 discussed in September 2009, I was certainly aware
16 that the policy committed to one. And after the
17 fact, I have reviewed the work plans for
18 implementation under that plan since my return to
19 DFO in April of 2008. So just a clarification
20 there.

21 In section 3, "Accountability Forum Funding
22 of the Wild Salmon Policy Implementation". In
23 particular, bullet 6 and 7 talking about why the
24 Fisheries and Aquaculture Management Directorate
25 had been assigned to lead on Strategy 4. I would
26 -- it says I will explain that and so I'm sure I
27 will have an opportunity to do that. But I also
28 had put not only time directing this activity but
29 I had put personal time into the guidance for the
30 development of pilots for Strategy 4, working with
31 area staff, helping to set up or clarify
32 objectives and attending meetings to provide
33 senior management participation when -- when it
34 was required.

35 MR. WALLACE: Ms. Farlinger, if you wish to add
36 anything more about that, those efforts, perhaps
37 this would be a convenient time to respond to that
38 offer of an explanation.

39 MS. FARLINGER: Okay. Certainly in terms of why it is
40 that Fisheries and Aquaculture Management
41 Directorate would be engaged in Strategy 4. It is
42 because the decisions made by Fisheries and
43 Aquaculture Management have much to do with
44 bringing together the factors in the first three
45 sectors of the policy to make trade-offs,
46 decisions, bring in economic and social impacts in
47 terms of the recommendations that the Strategy 4

1 process would then provide to the minister. This
2 is fundamentally the everyday work of Fisheries
3 and Aquaculture Management. And in the context of
4 taking this forward into what is envisioned in
5 Strategy 4 and the Wild Salmon Policy, it is these
6 relationships and consultations that we're trying
7 to -- the current ones that we're trying to
8 broaden. And so really, I guess, I would say that
9 FAM would be involved simply because consultation
10 is largely our business.

11 In terms of my personal contribution, I had
12 had significant experience with multi-sector
13 consultation in the past. I was aware of the
14 successes that we were able to bring forward in
15 terms of changes that we were not able to bring
16 forward on a bilateral basis with individual
17 either harvest groups or interest groups. And
18 quite frankly, it was clearly the way of the
19 future in terms of all our consultative processes,
20 that having individual groups complain about each
21 other to the department is not nearly as
22 functional as having everyone together in a room
23 to deal with their interests in a more explicit
24 way.

25 In bullet 13 on that section 3, my
26 clarification is merely that I could explain my
27 understanding of the differences between a policy
28 and program including possible budget and
29 governance implications.

30 In section 4, the "Implementation of
31 Strategies 1 to 3 to date", bullets 4 and 5, there
32 is a remark that funding is required for change.
33 And I would like to clarify that I understand that
34 change does take the injection of new resources.
35 That can be in our system, whether it's through
36 reallocation or reassignment. But that the
37 funding is not the main challenge in developing
38 and implementing the public policy; it's one of
39 several. I think you've heard something about the
40 science challenges over the last few days. But
41 also, the impact, real or perceived, at every
42 stage of the development and implementation of
43 this policy on people.

44 Just as background to that, I would say we
45 wouldn't need a Wild Salmon Policy or a fishery
46 manager regime if people didn't harvest fish or if
47 people didn't develop fish habitat. And the

1 reason we need to do these things and the
2 challenges in implementing it are very much
3 related to the impacts on people.

4 I'll just go on to the section, "Decision to
5 Defer the Independent Five-Year Review", under
6 Strategy 6. In bullet 2, I would just like to
7 clarify that rather than -- rather than deferring
8 the five-year review, we have not abandoned the
9 review but we have simply put processes in place
10 to ensure the necessary work is done in
11 preparation for the review.

12 And in bullet 8, I will say that although we
13 have made decisions and they're recorded in the
14 decision documents that you've entered into
15 evidence today and we have seen before. There was
16 no explicit decision to defer the review. It is
17 simply a process of how it was discussed, how it
18 was brought forward and what it is we needed to do
19 to put it into place. It is truly the case that
20 we did miss the deadline and we were all aware of
21 that. We have simply been taking the time in the
22 meantime since June 2010 and in the discussions
23 before that with PFRCC in trying to come to an
24 evaluation framework that would be adequate so
25 that we can proceed with a review.

26 In bullet 10, just a clarification. I will
27 say that the draft decision record was incorrect
28 and was edited and I will point out that when we
29 are documenting a broad discussion and any
30 decision that resulted, it is not -- it is not out
31 of the ordinary for a clarification of the
32 decision to be made when we are editing the final
33 record of decision to take forward.

34 And in -- sorry here -- bullet 13, we did --
35 at that meeting and after asked the WSP
36 Implementation to consider how to evaluate the
37 implementation that has occurred at the
38 operational level. And there has been significant
39 implementation at the operational level. And part
40 of the material that you introduced today in those
41 questions are intended to get at that so that when
42 the independent review is done, that material will
43 be available for evaluation.

44 Bullet 15. I did not state that the
45 evaluation approach or criteria would not be
46 decided independently but simply that we needed
47 how to ensure that the operational implementation

1 was part of the evaluation.

2 Bullet 23. The clarification here is that
3 the commitment to do an independent review has not
4 changed and that the delay is a result of several
5 factors, including the need for an evaluation
6 framework, which we had hoped would come from the
7 work of the PFRCC. We had also sought further
8 advice from our internal audit group and also to
9 understand the operational implementation.

10 And the bullet where I am asked about my
11 emails. So I am just having a little trouble with
12 number here. I'm asked to bring emails around the
13 performance review.

14 MR. TIMBERG: Mr. Commissioner, for the assistance of
15 the record, perhaps it would be a benefit if Mr.
16 Wallace could direct Ms. Farlinger to the
17 documents so we know where her comments relate to.
18 I think later that will prove of assistance to us.

19 MR. ROSENBLOOM: Also, what would be of assistance is
20 that as the witness refers to each paragraph, she
21 reads a few words of that paragraph.

22 MS. FARLINGER: Okay.

23 MR. ROSENBLOOM: You're speaking to numbered
24 paragraphs. At least in my copy and I think
25 everybody else's, the paragraphs aren't numbered.
26 And as a result when you say paragraph 23, one is
27 scanning to try to figure out which paragraph
28 you're speaking to. So I think it would be
29 appreciated if you give a number so we have a
30 sense where it is on the page. But if you read
31 the first four or five words of that paragraph, it
32 would be of assistance. Thank you.

33 MS. FARLINGER: Thank you.

34 MR. WALLACE: I'm sorry. Mr. Timberg, your suggestion
35 is that the document that Ms. Farlinger is
36 referring to by exhibit number, I take it?

37 MR. TIMBERG: Well, Ms. Farlinger is making
38 clarifications to her testimony with respect to
39 Exhibit 245, her witness summary. And I would
40 expect on cross-examination she may be asked
41 questions about her witness summary. And it would
42 just be of assistance, as Mr. Rosenbloom has
43 commented, if, while she's giving her evidence,
44 she could just mark -- and you could assist her in
45 marking clearly which bullet she's clarifying so
46 that we all have --

47 MR. WALLACE: So you and Mr. Rosenbloom are on the same

1 page and it's quite right we're dealing with
2 bullets, as opposed to numbers, and so perhaps we
3 could go back, Ms. Farlinger. What was the last
4 bullet you're referring to? You can direct us to
5 it.

6 MS. FARLINGER: Okay. Let me see here. It starts --
7 it is in the section called "Implementation of WSP
8 Strategies 1 to 3". I count it to be number 16.
9 And it starts:

10
11 She will say whether she or regional
12 management have decided, at this time, to
13 pursue an internal review or an independent
14 review.
15

16 MR. WALLACE: All right. Mr. Lunn, you have that on
17 the page. Perhaps you could just highlight that
18 bullet. It's the third to the last one on that
19 that's now showing. Ms. Farlinger, that appears
20 to be under the decision to defer, is it?

21 MS. FARLINGER: It's under a section --

22 MR. WALLACE: Under the "Decision to Defer the
23 Independent Five-Year Review".

24 MS. FARLINGER: Right. My apologies. I'm as confused
25 as you are.

26 MR. WALLACE: The highlighted paragraph. Thank you,
27 Mr. Lunn.

28 MS. FARLINGER: Okay.

29 MR. WALLACE: Yes, can you take us through that again,
30 please?

31 MS. FARLINGER: Okay. The clarification there is that
32 the commitment to do an independent review has not
33 changed and that the delay has been a result of
34 several factors including the need for an
35 evaluation framework, which we had hoped for from
36 several sources. First, from the PFRCC review.
37 Secondly, from our inquiries to our departmental
38 audit and evaluation function. And also, as I
39 mentioned before, to understand the operational
40 components of implementation.

41 The last bullet in that section says I may
42 bring to the hearing copies of any emails sent or
43 received --

44 MR. WALLACE: Yes.

45 MS. FARLINGER: -- documenting DFO's discussion. I
46 have asked my assistant to review my emails with
47 regard to this content about the five-year review.

1 Counsel have also reviewed the documents submitted
2 to the Commission. No emails have been found and
3 I remember no emails other than the one, which I
4 have provided to the Commission, received by me
5 November 9th. And I believe you entered it this
6 morning, which was the email from Lisa Wilson
7 documenting the history of the implementation of
8 Strategy 6.

9 MR. WALLACE: Indeed, Ms. Farlinger, that document has
10 not been entered as an exhibit. Mr. Lunn, this is
11 a document which was provided by Canada and -- it
12 has a number?

13 MR. TIMBERG: For the clarification of the record,
14 Canada will be entering this in our examination.
15 And it's under Tab 67 of Canada's list of
16 documents.

17 MR. WALLACE: I suggest we can simply mark it now, Mr.
18 Timberg.

19 MR. TIMBERG: Okay.

20 MR. WALLACE: That's not it.

21 THE REGISTRAR: Do you wish that marked now?

22 MR. WALLACE: Let's find it first.

23 MR. LUNN: That's what I have under Tab 67. Do you
24 have any other guidance?

25 MR. TIMBERG: Sorry, I missed what you pulled up under
26 Tab 67.

27 MR. WALLACE: No, that was a letter to the Commission.
28 Or an email to the Commission.

29 MS. FARLINGER: The email that I provided was an email
30 to myself from Lisa Wilson on November the 9th of
31 this year.

32 MR. LUNN: I believe this is the document that we're
33 talking about. The header at the top is a
34 forward --

35 MR. WALLACE: Can you scroll down?

36 MR. LUNN: We can remove that header; is that correct?

37 MR. WALLACE: No, it's not that document.

38 MR. LUNN: Do you have a hard copy?

39 MR. WALLACE: If we can identify then the email from
40 Lisa Wilson to Ms. Farlinger dated November 9th,
41 2010, which will be scanned, if we don't already
42 have it electronically. Thank you, Ms. Farlinger.
43 This is -- I think you're saying this is the only
44 email that you have on the --

45 MS. FARLINGER: That's correct.

46 MR. WALLACE: -- on the issue of the deferral of the
47 review?

1 MS. FARLINGER: That's correct.
2 THE REGISTRAR: Wish that to be marked?
3 MR. WALLACE: Yes, please.
4 THE REGISTRAR: Exhibit 245.
5 THE COMMISSIONER: 245 is the summary of Farlinger.
6 MR. WALLACE: No, I think we have a -- yes, we have a
7 245 already.
8 THE REGISTRAR: Oh, I'm sorry. 246.

9
10 EXHIBIT 246: Email dated November 9, 2010,
11 from Lisa Wilson to Sue Farlinger
12

13 MR. WALLACE: Yes, please proceed.
14 MS. FARLINGER: Thank you. In the section called
15 "Involvement in the Marine Stewardship Council
16 Certification Process", in the second bullet, the
17 -- it reads:

18
19 She will say that the reasons for the delay
20 included a lack of clear process by the
21 evaluators.
22

23 Is that --

24 MR. WALLACE: We're not -- indeed we are not.
25 MS. FARLINGER: And --
26 MR. WALLACE: Which bullet number or --
27 MS. FARLINGER: It is bullet number 2.
28 MR. WALLACE: Thank you.
29 MR. LUNN: I'm sorry. I'm still catching up with all
30 of the apologies.
31 MR. WALLACE: Thank you.
32 MS. FARLINGER: And the last phrase in that sentence
33 is:

34
35 Concern heard by DFO that the WSP was not
36 being implemented.
37

38 And it's simply a clarification. We were talking
39 at that point about the Marine Stewardship Council
40 certification delays. And the original concerns
41 that we heard from the Council were focused on the
42 fact that the WSP had not been completed or
43 documented.

44 In bullet 3, I will say that the fishing
45 industry is the author of the certification. I'd
46 just like to make a clarification concerning the
47 role of industry, which is the instigator and

1 holder of the certification, rather than the
2 author. It is a third party -- third party
3 certifying body which is the author. And that
4 industry supports the conditions, as set out in
5 the Marine Stewardship Council certification for
6 sockeye, particularly for Fraser sockeye, but the
7 other three sockeye aggregations, too.

8 And in bullet 4, I will explain that DFO
9 prepared an Action Plan, which sets out how DFO is
10 going to meet the industry's conditions. DFO
11 prepared an Action Plan, which sets out how DFO
12 commits to meet the eco certification conditions.
13 So these, once again, are not set by the industry;
14 they're set by the third party certification body.

15 MR. WALLACE: Thank you.

16 MS. FARLINGER: And I have only one more clarification.
17 In section 7, there is a comment that I wrote some
18 and not all of the Power Point I brought to our
19 interview. I would just say that, as noted
20 previously, we work in a large organization and
21 there's several levels of input to a document. I
22 did provide direction about how that document
23 would be constructed and then I did edit the
24 document myself to ensure it reflected my
25 understanding and experience.

26 And that's the summary, thanks.

27 MR. WALLACE: Thank you very much, Ms. Farlinger. I
28 wonder if I could just start with the exchange of
29 emails relating to the comments attributed to
30 Minister Loyola Hearn's office that the WSP is
31 viewed as an indifferent document produced under
32 political duress. And that was attributed to that
33 office in early -- or sorry, 2006. Mr. Sprout, is
34 that a reflection you've heard before?

35 MR. SPROUT: No. No, I haven't heard that. I'm not
36 aware that Minister Hearn made any comments that
37 would suggest that he wasn't supportive of the
38 policy. Nor the previous minister for that
39 purpose. So this -- this is, I guess, a surprise
40 or news to me.

41 MR. WALLACE: Ms. Farlinger, was this an expression you
42 have heard with respect to the WSP?

43 MS. FARLINGER: No, I have not heard this.

44 MR. WALLACE: That is document -- the exhibit number of
45 that document is 228. If I may then start with
46 the first topic I have here, which is the issue of
47 the regional director general's accountability for

1 WSP Implementation.
2

3 EXAMINATION IN CHIEF BY MR. WALLACE:
4

5 Q Mr. Sprout, you returned to B.C. as the RDG in
6 2005, is that correct, and you were -- you were
7 there when the Wild Salmon Policy was finalized in
8 June?

9 MR. SPROUT: I could help you out in that, if you'd
10 like. I returned to the region from Ottawa in
11 late 2003 where I assumed responsibilities of the
12 associate RDG position. And then for the next
13 roughly eight months I was on French training and
14 I was back and forth. And I assumed the RDG
15 acting position in the late 2004 and I became --
16 it became my substantive position or my full-time
17 position, I believe, in April of 2005.

18 Q Thank you. So you were there at the time the Wild
19 Salmon Policy was adopted?

20 MR. SPROUT: Yes, I was there in the latter part of I
21 think the second or third attempt to develop the
22 Wild Salmon Policy and when it was adopted and
23 announced.

24 Q Thank you. And in your summary of evidence, you
25 say that the accountability for the Wild Salmon
26 Policy Implementation lies with the regional
27 director general; is that your view?

28 MR. SPROUT: All of the DFO programs in the pacific
29 region ultimately roll up to the RDG
30 accountability. So the Wild Salmon Policy,
31 science, Fisheries management, corporate, all of
32 the programs ultimately will be accountable to the
33 RDG. The RDG obviously is supported by directors,
34 who are accountable for their individual branches.
35 But the ultimate accountability for implementation
36 rests with the RDG, not with just WSP, or Wild
37 Salmon Policy, but all other programs that the
38 pacific region is required to implement.

39 Q Did you, as RDG, have any specific obligations
40 with respect to the implementation?

41 MR. SPROUT: My role -- I would describe the RDG's role
42 as trying to provide strategic direction to those
43 that would have more operational responsibility.
44 And so strategic direction is things like trying
45 to reconcile challenges, conflicts, grappling with
46 budget, assigning responsibilities where it's not
47 -- where the responsibilities are diffuse, where,

1 for example, a number of the strategies are
2 assigned to branches. But frankly to deliver the
3 strategy, you need the branches to be working
4 together cohesively. So I'm operating at -- I've
5 used this metaphor before -- at probably the
6 30,000-foot level in terms of trying to provide
7 the strategic direction. Others who immediately
8 report to me are operating at a somewhat lower
9 distance to the ground and others still are
10 operating closer to the ground in terms of
11 implementation. So that's the way we would have
12 -- that's the way that was being managed.

13 Q Was anybody reporting to you, who had an overall
14 accountability for that policy --

15 MR. SPROUT: No.

16 Q -- implementation?

17 MR. SPROUT: No, the -- we had an implementation team
18 established as part of the immediate action to
19 implement the Wild Salmon Policy when it was
20 adopted in 2005. Mark Saunders was the initial
21 lead on that. Subsequently that changed. That
22 was his overall responsibility. He, in turn,
23 reported to a director of policy. The director of
24 policy reported to me, along with a director of
25 science and fisheries management and so forth.
26 And I dealt with both the coordinator, in this
27 case Mark Saunders, but more broadly the directors
28 of the various programs to put into effect the
29 implementation of the policy.

30 Q So in effect all of the directors of all of the
31 branches had responsibility for implementing this
32 policy; is that correct?

33 MR. SPROUT: Yes, and I could expand slightly on that.
34 It may well be that you're going to come to this
35 so if I'm going into detail that you're going to
36 cover, just advise me of it. But just to make it
37 clear, particularly to the Commissioner, when the
38 policy was adopted in 2005, then the department
39 had to obviously create an implementation plan,
40 and I'll speak to that in detail later, but as
41 well, we had to make process changes so that we
42 could assign responsibilities, make people
43 accountable for delivering on various strategies
44 or tasks or actions, and then we needed to also
45 create a mechanism so that senior management in
46 the region would be engaged in the implementation
47 of the plan.

1 So that mechanism was the Strategic
2 Directions Committee and the Operations Committee.
3 Those -- both of those committees were created not
4 just to implement the Wild Salmon Policy, they had
5 other aspects as well, but what they were created
6 to do was to provide a senior management forum
7 that did not exist before to consider aspects of
8 implementation of the Wild Salmon Policy. And
9 depending on whether there were operational
10 aspects, they would go to the Operations
11 Committee. Or if they were more strategic
12 aspects, typically more long-term, they would go
13 to the Strategic Directions Committee or the SDC.

14 So these processes were put into effect to
15 respond to the implementation plan. These
16 processes comprised the senior executive in the
17 region. So the senior executive is the RDG, the
18 associate RDG, the regional directors of habitat,
19 science, fisheries management, corporate and area
20 directors, as appropriate. And then, as
21 necessary, the various implementers, the
22 coordinators of the WSP, would report to these
23 bodies. So report out at the Operations Committee
24 or report out at the SDC, Strategic Directions
25 Committee, for updates, progress reports, issues
26 related to implementation, which then get debated
27 in the Operations Committee or the SDC and then --
28 and then a decision taken, or, alternatively,
29 views collected and then taken to other potential
30 committees, particularly, the Regional Management
31 Committee.

32 And just to pause briefly on that. Now, the
33 Regional Management Committee is the committee
34 that comprises all of the regional executives.
35 The other two committees I spoke of would not
36 necessarily have all of the regional executives.
37 The other two committees tend to be a little bit
38 more nimble. There's a number of the executive on
39 there but not all of them, whereas in the RMC, the
40 Regional Management Executive, we have all the
41 area directors there, all the regional directors,
42 the associate, the RDG and so on. And that is the
43 decision process in the region.

44 Q Mr. Sprout, this -- may I just put it this way?
45 You have a structure that involves all of your
46 senior management, you have a coordinator who is
47 more junior involved with Wild Salmon Policy but

1 there's no single person other than the RDG in the
2 30,000 foot level to which you referred, who has
3 the accountability and responsibility for the
4 implementation of the Wild Salmon Policy; is that
5 correct?

6 MR. SPROUT: No, that's not correct. You need to look
7 at accountability differently than the way you're
8 describing it. In an institution like the
9 department, but in my view, any institution,
10 accountability will rest throughout the various
11 layers based on the individual responsibilities.
12 So it is true in the pacific region, ultimately,
13 all the programs roll up to the RDG. So I, when I
14 was the RDG, would be accountable at the level
15 that I would operate at for all of the programs.
16 But in the case of the WSP, and for that matter
17 any policies or programs the department is
18 implementing in the pacific region, you're also
19 going to have accountabilities at different
20 levels. And it's logical that you would. The RDG
21 isn't going to operationalize the Wild Salmon
22 Policy. Other people are going to do that. So
23 they're going to be accountable for that. But if
24 you're looking for the most senior accountability,
25 that would be me or Sue. So I just want to make
26 sure that clarification is clear.

27 I also want to again underscore that this is
28 usual practice in institutions, in large
29 organizations, that that accountability is defined
30 the way I've just described it.

31 Q But my point is that the -- you described your
32 oversight strategic -- oversight as RDG but my
33 point is there's no single director, for example,
34 who is responsible for the implementation of the
35 Wild Salmon Policy. Rather, each director from
36 each sector and each area director has specific
37 accountability and responsibility and then it's --
38 it's rather diffuse, is it not?

39 MR. SPROUT: Yes, you're right about -- I want to come
40 back to the word "diffuse". But you're correct
41 about each of the directors has a responsibility
42 and accountability for their aspect of the Wild
43 Salmon Policy with an understanding that many of
44 the strategies, in fact, cut across the branches
45 and the directors' responsibilities and
46 accountabilities. Now, on the issue of "diffuse",
47 could you just clarify what you mean by that?

1 Q Well, I think we're going back over old ground.
2 There's no one person who has the responsibility,
3 below the RDG, for the implementation of the
4 policy?

5 MR. SPROUT: Yes, on that I agree.

6 Q Thank you. Now, Ms. Farlinger, has there been any
7 change in the way the organizational structure
8 with respect to the governance of the
9 implementation of the Wild Salmon Policy in your
10 tenure?

11 MS. FARLINGER: No, it's still the structure that Mr.
12 Sprout just described.

13 Q Is there anyone nationally with responsibility for
14 the Wild Salmon Policy, Mr. Sprout?

15 MR. SPROUT: No, it again would be distributed across
16 the various sectors. In this case, ADM with
17 science. In my former days, it was ADM of
18 Fisheries Management. That's now been changed.
19 ADM of Policy and so forth. ADM of Corporate, et
20 cetera. So those individuals or sectors would
21 have some involvement relative to their areas of
22 responsibility or accountability.

23 MS. FARLINGER: Mr. Wallace, I should just clarify.

24 Q Yes.

25 MS. FARLINGER: The changes in the organization that
26 the deputy minister described when she was here in
27 the first week has required that all of us in each
28 of the regions look at our committees and evaluate
29 them in terms of how they connect to the changes
30 that the deputy described when she was here. And
31 that is very focused, as she talked about on
32 operational integration. So we do expect to make
33 some adjustments to those committees. But in
34 answer to your question directly, they function at
35 this moment, as Mr. Sprout has described.

36 Q Thank you. If I might just move on to funding.
37 The Wild Salmon Policy itself speaks about using
38 existing resources. I'm just wondering if we can
39 talk a little bit about that. Was it always your
40 understanding, Mr. Sprout, that this was a
41 condition that the Wild Salmon Policy would be
42 implemented with no new money?

43 MR. SPROUT: Well, the policy actually says that. I
44 can go to the pages and quote it but you obviously
45 must have it -- you must be aware of that.

46 Q Indeed.

47 MR. SPROUT: So the -- and I can -- the policy actually

1 says it a few times in the policy. Now, that
2 being said, the department -- the region, the
3 department, the minister of the day and
4 subsequently were able to provide some level of
5 incremental monies on top of the existing budget.
6 And those monies, over time, decreased in amount.
7 But there was an increment provided on top of the
8 existing budget.

9 I would like to go on but I'm not going to go
10 on in detail but I'll make this point but I may
11 expand on it later, that as I noted in my witness
12 statement, despite the fact that the money that
13 was provided was modest but did decline, the
14 department does have a large budget and often the
15 solutions to things are not extra money. I did
16 not regard the extra money as always a panacea but
17 I can elaborate in that if -- as required at a
18 later point.

19 Q We've heard about the initial funding cobbled
20 together, I think, was the expression that Mr.
21 Chamut used, to -- as start-up funds for the Wild
22 Salmon Policy. Were these national funds or were
23 these all from reallocation of funds to the
24 pacific region?

25 MR. SPROUT: It's both the same thing. You may recall
26 the discussion we had earlier when the deputy was
27 here where we discussed how the budget process
28 works in the Department of Fisheries and Oceans.
29 So the budget flows from the Departmental
30 Management Committee through the assistant deputy
31 ministers to the regions and the branches. So in
32 the case of 2005, money was provided by national
33 headquarters to the region on top of its existing
34 budget to help put into effect the implementation.
35 And that is the approach that's been -- that
36 continues to be the case.

37 Q So we'll get to the Wild Salmon Policy funding and
38 look at the Ops Committee record on this in the
39 presentation. But those funds that are described
40 there, then they are all new money to the pacific
41 region from national headquarters; is that
42 correct?

43 MR. SPROUT: If you're speaking to the amount of
44 roughly one million 2005, and then subsequent
45 amounts in subsequent years, six, seven, eight,
46 nine and ten, where those amounts did decline,
47 those are incremental amounts on top of the

1 regions, so-called A Base budget, the regular
2 budget. So those are incremental.
3 MR. WALLACE: Could we look at Exhibit 238, please, Mr.
4 Lunn?
5 MR. LUNN: I think you picked the one exhibit that I
6 didn't have prepared. That was the one I wasn't
7 able to bring up earlier.
8 MR. WALLACE: All right.
9 MR. LUNN: 17-B, correct?
10 MR. WALLACE: Correct.
11 MR. LUNN: I think -- is that it? Okay.
12 MR. WALLACE: Now, Mr. Lunn, if you could just take us
13 to page 8 of that?
14 MR. LUNN: Is that your paper page 8? You see, there's
15 two numbering systems.
16 MR. WALLACE: That is -- that is the -- that is it on
17 page 8, yes, on the document, if you could go back
18 down to where you were. This is the document --
19 this is the page I was looking for.
20 Q Mr. Sprout, you were talking about the funding
21 over the years so I just thought I'd identify
22 this, which was part of a deck provided to the Ops
23 Committee in June of this year. But is that your
24 recollection of the funding that's been provided
25 to the implementation of the Wild Salmon Policy?
26 MR. SPROUT: I can't remember the specific numbers
27 other than the first one in 2005 when the policy
28 got announced. That budget year, my recollection
29 is that the region received roughly a million
30 dollars. My recollection is, is that over the
31 period of time that amount was reduced and -- but
32 I can't speak to the specific numbers.
33 Q Okay. And your evidence is that all of this money
34 was additional money to the pacific region?
35 MR. SPROUT: It was on -- it was on top of our -- what
36 we describe as our "A Base Budget". So that's --
37 that's the budget that you -- that gets provided
38 year-over-year. That budget can change. That
39 budget can go down but nevertheless, on top of
40 that budget, we would receive an increment
41 associated with WSP, numbers of at least a million
42 in the first year. I can't speak to the specific
43 numbers subsequently other than the fact that my
44 recollection is that they declined.
45 MR. WALLACE: Thank you. Mr. Lunn, if we can go back
46 to the beginning of this -- the exhibit?
47 Q Ms. Farlinger, am I correct that you were in the

1 chair at this time?

2 MS. FARLINGER: Yes.

3 Q And can you just briefly describe the purpose of
4 this -- of the presentation and then the record of
5 decision, which reflects it?

6 MS. FARLINGER: Really, just the issue or the reason
7 for the presentation is set out there under
8 "Issue" to -- as was part of the Operations
9 Committee Agenda, provide an update of WSP
10 Implementation, look at the next steps for
11 2010/'11, including the draft work plan, and to
12 seek direction on -- on the approach to WSP
13 Implementation. And what was agreed at that
14 meeting, and I should say this is a draft and the
15 final next steps are different than -- in
16 particular in the matter of bullet 2 simply
17 because that was a thread of the conversation, as
18 opposed to a decision about how we would move
19 forward.

20 Q Can you just explain that change, which you
21 mentioned earlier just briefly? You didn't
22 accept, I take it, the description that the WSP is
23 not a program so it's not possible to attribute
24 resources towards implementation?

25 MS. FARLINGER: No, this was -- we had a fairly wide-
26 ranging discussion, which, as I think I mentioned,
27 we had started in the Strategic Directions
28 Committee in May. And we were looking for the way
29 forward in terms of how we would do Strategy 6,
30 which was the evaluation. And there had been a
31 number of comments along the way. This is a
32 recording taken by our admin assistant at the
33 meeting and really doesn't reflect the discussion
34 or where we had intended to go. One of the -- I
35 suppose in the first phrase, "WSP is not a
36 program." That was certainly one of the responses
37 we had had when we had asked for advice and
38 support from the department's Audit and Evaluation
39 Branch in terms of building an evaluation
40 framework for the Wild Salmon Policy. And they
41 had responded to us that they evaluated and
42 audited programs rather than policies so one might
43 assume there's a little bit of picking up of one
44 phrase and attaching it to another here. What we
45 had talked about here and arrived at -- and the
46 final minutes, I believe, signed off are
47 available.

1 Q They are also an exhibit.

2 MS. FARLINGER: Yeah. Was essentially that we needed
3 to move forward with Strategy 6 by finding out how
4 we could attribute resources towards the
5 operational side of implementation, as well as the
6 special WSP projects that you see in the work
7 plan.

8 MR. WALLACE: Thank you. Mr. Commissioner, it's 20
9 after 11:00. Would this be a convenient time to
10 break?

11 THE COMMISSIONER: It would be but I may be the only
12 person in the room who doesn't understand the
13 difference between a policy and a program. Maybe
14 this would be a good opportunity for the witness
15 to explain that.

16 MR. WALLACE: Thank you.

17 Q Please.

18 MS. FARLINGER: Thank you. In the context of Fisheries
19 and Oceans and the organization we work in, a
20 program generally has the attributes that there
21 will be specific deliverables, there will be a
22 budget attributed to those deliverables and there
23 will be timelines associated with those. And I
24 would say, for example, if we were to look at the
25 habitat program, there are a certain number of
26 funds provided for salaries and wages, a certain
27 number of funds provided for operating and then
28 there are a set of deliverables set out each year
29 about what that program is expected to deliver.
30 And at the end of the year, there is a report back
31 to Parliament, rolled up at the national level
32 granted, the department performance report in
33 which that is reported.

34 A policy, on the other hand, is directional
35 and may or may not have funds associated with
36 implementing it. And if we are to look at the
37 culture in our department and policies, we look at
38 the habitat policy in 1986, we look at the Wild
39 Salmon Policy, we look at the Oceans Policy, for
40 example. All of those things are directional, are
41 intended to be -- to move the general operations
42 in the department of compliance with that policy.
43 So in a sense, they are more directional. The
44 programs are operational and are funded and given
45 people and salaries. I don't know if that's
46 helpful.

47 THE COMMISSIONER: Ms. Farlinger, would the Wild Salmon

1 Policy ever be treated as a program or called a
2 program?

3 MS. FARLINGER: I think the Wild Salmon Policy is a
4 policy, has been treated as a policy and it is
5 intended to affect how all the programs related to
6 wild salmon in the pacific region are implemented.
7 So there is an enormous program component but it
8 is changing the direction of operational programs.
9 That's its intention.

10 THE COMMISSIONER: Thank you.

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 will now resume.

18 MR. WALLACE: Thank you.

19
20 EXAMINATION IN CHIEF BY MR. WALLACE, continuing:

21
22 Q Ms. Farlinger, just to follow up on the
23 Commissioner's question from before the break, if
24 the Wild Salmon Policy were a program, then it
25 would have a budget, correct?

26 MS. FARLINGER: Yes, if it were a program, it would
27 have a budget. And further to that question that
28 the Commissioner asked, I thought about it over
29 the break, and you may recall I talked earlier,
30 when we were talking about my witness statement,
31 that although money is certainly an aspect of
32 this, although resources are certainly an aspect
33 of this, the thing about a policy is it is
34 intended to change behaviour, and it is not only
35 the behaviour of how we operate our programs and
36 regulations inside the Department, but it's also
37 intended to change the behaviour of people who use
38 the resource or people who do development on
39 habitat, anyone who is affected by that
40 regulation.

41 And so when I spoke earlier about the fact
42 that this -- the implementation of this policy has
43 impacts on people, it is Strategy 4 where those
44 impacts are really brought home and that's where
45 the nub of it is, where the hard work is. We need
46 the science and the science takes time, as I think
47 you heard over the last couple of weeks. It also

1 takes resources and it also ends up with
2 uncertainty. So any decision that the Department
3 makes about what's the size of a conservation
4 unit, or how important is the habitat in that
5 conservation unit, or what kind of harvest can be
6 allowed, and what kind of development can be
7 allowed involves trade-offs that are well outside
8 the purview of the regulation under the
9 Department.

10 So for example, Development in British
11 Columbia is not managed by the Department of
12 Fisheries and Oceans. And in this policy, we are
13 looking at changing behaviour as it pertains to
14 our sphere of control and also to our sphere of
15 influence. And the -- our sphere of control
16 really is limited to what we regulate and how we
17 do our programs. But because we have a
18 relationship with the Province, we have a
19 relationship with First Nations, we have a
20 relationship with other interests and
21 stakeholders, we can hope to use that policy to
22 change behaviour. And so it really depends a lot
23 on bringing people along, on making sure we have a
24 sufficient science basis to convince people that,
25 in fact, this is something that is implementable
26 and depends as much on the people and their
27 ability to change sort of the public ethic around
28 this and people's behaviour, as it does money and
29 programming. So I'll leave it there without --
30 just to save you, but

31 MR. SPROUT: Could I add to this?

32 Q Briefly.

33 MR. SPROUT: Mr. Commissioner, I think, in answer to
34 your question, could you create a program of the
35 Wild Salmon Policy, I think the answer is yes, we
36 could. But I think the next question is should
37 we. Would that be helpful? And in my view, I
38 have two observations about this that I think
39 would suggest that I don't think it would be
40 helpful. In fact, it might be counterproductive.

41 The first is that for the Wild Salmon Policy
42 to be successful, we have to integrate
43 departmental activities that aren't just Science,
44 but also Fisheries Management, policy, corporate,
45 and so forth. You have to think of the Wild
46 Salmon Policy being implemented across a range of
47 functions and activities. And if you created a

1 program of the Wild Salmon Policy, unless you
2 actually put all of the Department's resources
3 into that program, you would basically be
4 recreating the Department of Fisheries and Oceans
5 again.

6 So creating a program of the Wild Salmon
7 Policy won't necessarily get at the change that
8 you're trying to realize. You could try to secure
9 more incremental resources and have them committed
10 and try to protect them. So you could say, "The
11 Wild Salmon Policy is not fully implemented. Part
12 of why it's not fully implemented is that the
13 resources aren't adequate, therefore, let's fix an
14 amount and protect it against other budget
15 reductions or activities that might occur over
16 time." In my view, that would be a more pragmatic
17 way and a more reasonable way of actually
18 realizing the Wild Salmon Policy with the existing
19 staff. Because at the end of the day, Mr.
20 Commissioner, for the Wild Salmon Policy to be
21 effective, at least in terms of the Department, in
22 my opinion, you need to have this culturally
23 embedded in the Department, in the Region. It
24 can't just be one person doing it, or one group
25 doing it, it has to be all the assets, all of the
26 functions working together.

27 The second observation I have is that to
28 realize some of the aspirations of the Wild Salmon
29 Policy, they're beyond the Wild Salmon Policy. I
30 want to give you a couple of examples. The
31 Pacific Salmon Treaty. The Pacific Salmon Treaty
32 is not part of the Wild Salmon Policy, but if
33 you're talking about Fraser River sockeye
34 management, we have to have the support and the
35 collaboration of the United States. The United
36 States accesses Canadian Fraser sockeye in U.S.
37 waters. To assure proper management of Canadian
38 Fraser River sockeye, we need a treaty, we need a
39 collaborative arrangement, and that has to involve
40 the United States. So how do you then consider
41 that if you create a program of the Wild Salmon
42 Policy? It's very difficult.

43 So in my view, if the question that you're --
44 the reason you ask that question is how can we
45 better ensure that we do -- we implement fully the
46 policy, I would be more focussed on protecting
47 resources assigned to the policy implementation

1 given all the budget challenges that our
2 Department faces, and all other federal
3 departments are facing and will face into the
4 future.

5 Q Mr. Sprout, you are talking about some of the
6 difficulties and challenges and the implications
7 of the Wild Salmon Policy, but if you focus on
8 Strategies 1, 2, and 3, which is to get the
9 information in order, one of the frustrations
10 we've heard about is the lack of funding, the lack
11 of direction and we've heard a lot about the fact
12 that it could be implemented, that part of it
13 could be implemented more quickly and more
14 certainly with more resources and more direction.
15 So if that -- if just that part of the Wild Salmon
16 Policy, getting the information in order,
17 determining CU's and setting benchmarks, doing the
18 assessments and monitoring, that, I suggest, could
19 be a program, and if it were a program, then it
20 would have a budget, correct?

21 MR. SPROUT: I agree with part of what you're saying.
22 I think the dilemma here is for someone sitting in
23 the organization, what -- you see, just to step
24 back, to make the Wild Salmon Policy be as
25 effective as possible, you have to bring together
26 Fisheries Management, Habitat, Science. So even
27 in the first three strategies, all of these groups
28 need to be working cooperatively and
29 collaboratively to realize the ambitions of those
30 first three strategies.

31 If you create a program of the Wild Salmon
32 Policy for those first three strategies, then the
33 institutional experience is you create a silo. So
34 you create one group that does the Wild Salmon
35 Policy Strategies 1 to 3, and all the other groups
36 that are not part of it, are not associated with
37 that.

38 What I'm saying is based on my experience in
39 large organizations is that you're trying to break
40 the silos down, not create them so I come back to
41 what I'm saying, what I've said earlier to the
42 Commissioner. My view is to advance those
43 elements that I think have been slowed down by
44 lack of resources, you could potentially create a
45 funding envelope that would be protected from the
46 normal budget pressures that departments, all
47 departments face. And then that funding envelope

1 is allocated, and then there's a accountability
2 across the functional roles to delivery consistent
3 with that increment.

4 In my opinion, that approach would be better
5 than creating a program of the Wild Salmon Policy.
6 So I'm not disputing the need for more funds, and
7 my witness statement spoke to that. What I am
8 disagreeing with you on is creating a separate
9 silo, husbanding or putting into that group all of
10 those that would be involved in Strategies 1 to 3,
11 and then thinking that everyone outside of that is
12 not relevant for 1 to 3. In my view, that is a
13 misread of the Wild Salmon Policy and realizing
14 its aspirations.

15 Q So is this -- are you saying, then, that it
16 wouldn't be helpful to have a director responsible
17 for this policy?

18 MR. SPROUT: No, but that's not what you are saying.
19 Let me come back. If what you're saying --

20 Q If it were a program, there would be a director,
21 correct?

22 MR. SPROUT: No. Okay, so then I'm disagreeing with
23 you.

24 Q Okay.

25 MR. SPROUT: All right. So I'm going to come back.

26 What I'm saying is that we need somebody to
27 coordinate the Wild Salmon Policy. Why? Well,
28 because the Wild Salmon Policy, the strategies
29 affect not just Science, not just Fisheries
30 Management, not just Policy, not just Corporate,
31 not just Enforcement, they affect all of them.

32 To realize the aspirations of the Wild Salmon
33 Policy in the Department of Fisheries and Oceans,
34 and I'm arguing that we need to go beyond that,
35 and I'll speak to that later, you need to have all
36 of these groups culturally working together, all
37 of them. If you were to create a subset, a new
38 organization of the Wild Salmon Policy, then what
39 I would worry that you'd be doing is creating a
40 silo, a group unto itself separate from the other
41 groups when, in fact, to realize the Wild Salmon
42 Policy, you need all of them. And I argue that to
43 realize even Strategies 1, 2, and 3, you need to
44 have all of these groups working together. So I
45 agree that some dedicated funding that is
46 protected against typical or normal budget
47 pressures and that there would be a coordinator

1 working with the various directors and others to
2 realize the aspirations of the Wild Salmon Policy,
3 in my opinion, would be superior to what I think
4 you've just raised.

5 MS. FARLINGER: Could I just make a comment here? I
6 think that the Wild Salmon Policy, having all the
7 data and information to fill in all the gaps for
8 all the conservation units is fundamentally
9 something that almost irrespective of how much
10 money you throw at it, although money, I agree
11 with Mr. Sprout, can be useful, is something
12 that's going to take time and it's going to shift
13 over time. And I think you heard some of the
14 difficulties in terms of defining conservation
15 units and how the Science continues to evolve and
16 change and how there are many challenges to data
17 that, quite frankly, you could throw a lot of
18 money at and still not get all the data for each
19 of the conservation units for each of the species.

20 But the idea is that we continue to do that,
21 we continue to move in that direction. And the
22 parallel is on the operational side. And this is
23 why we talked about this so much in terms of the
24 evaluation, Strategy 6, is really what are we
25 doing on the ground as we go through annual
26 fishery planning, as we go through annual planning
27 for a habitat, what is it that is changing there?
28 And you'll see that we do I think what I would
29 call where we don't have limit reference points,
30 we use proxies, we use escapement targets, we use,
31 essentially --

32 Q Ms. Farlinger?

33 MS. FARLINGER: -- the sort of things that are in there
34 so it's broader than just developing those, and I
35 think putting money won't do the whole thing.

36 Q Let me come back to funding.

37 MS. FARLINGER: Yeah.

38 Q We have the June 17 operation committee meeting
39 minutes, and if you go to page 2 of that document,
40 this is a presentation made to the Ops Committee
41 by Lisa Wilson, correct?

42 MS. FARLINGER: That's right.

43 Q And the purpose of that is to update, as you said,
44 on the 2009/2010 Wild Salmon Policy
45 Implementation?

46 MS. FARLINGER: Right.

47 Q And to -- and that work plan, I think, is attached

1 there, if you go to page 24. Page 24. And this
2 was a reporting on the -- what is the progress
3 made for that fiscal year on the implementation?
4 MS. FARLINGER: Yes.
5 Q And then it also includes the draft work plan for
6 2010 and 11?
7 MS. FARLINGER: That's right.
8 Q Which is at page 14. I don't think we need to go
9 to that. Now, you recall having discussed this
10 plan at the Ops Committee in --
11 MS. FARLINGER: Yes.
12 Q -- June of 2010? And can you accept this
13 explanation from Ms. Wilson as to what has
14 happened and what the proposals are for 2010 and
15 '11?
16 MS. FARLINGER: If you're asking me if this describes
17 work we've done -- completed and work we were
18 proposed to do --
19 Q Yes.
20 MS. FARLINGER: -- were proposing to do, yes.
21 Q Yes, thank you.
22 MR. WALLACE: Now, if we can go, then, to page 8, Mr.
23 Lunn, please?
24 Q And on the top slide, I put this earlier to Mr.
25 Sprout, that reflects the -- no, it's the wrong
26 page.
27 MR. WALLACE: Can we go -- yes, on this page, which is
28 page 7 on the PDF. Oh, I see, "8 of 32," at the
29 bottom.
30 Q That slide sets out the funding for 2009/2010?
31 You'll agree that was \$527,000?
32 MS. FARLINGER: Yes.
33 Q And for the next slide below that, on the same
34 page, there was a commitment for the following
35 year. What was the funding amount for that?
36 MS. FARLINGER: The -- I don't know the funding amount
37 for that. I think it was in the order of four to
38 \$500,000, but I don't know what the title (sic)
39 was, or what the total was.
40 Q And is that what was approved for funding for
41 2010/2011?
42 MS. FARLINGER: I don't have the number right here to
43 know what was approved, but I could certainly get
44 it.
45 MR. WALLACE: Can you go to the next page, please, Mr.
46 Lunn? And this was the slide I put to Mr. Sprout.
47 Q Is that accurate to your recollection?

1 MS. FARLINGER: In the same way. I recall that the
2 1.1 million was provided with the -- an
3 announcement of the policy, and I know that this
4 has declined over time. And I can certainly see
5 that the proposed budget was in the range of that
6 set-down for 2010/11.

7 Q Yes. In the bullets at the bottom of that slide,
8 the first one is:

9
10 WSP does not follow an activity-based
11 accounting system.

12
13 Can you explain that, please?

14 A Yes. The -- I think when the -- to go back to the
15 -- once again, the description of how the
16 Department does its work, the Deputy talked about
17 the program activity architecture, and that
18 programs and the budgets for the programs flow out
19 of that program activity architecture and that the
20 funding that ultimately is contributed towards the
21 implementation of the Wild Salmon Policy is a
22 portion of those budgets that come out of the one
23 -- or two of the three outcomes for the
24 Department. One is healthy and productive aquatic
25 ecosystems, and the other is sustainable fisheries
26 and aquaculture. And so the -- to say that the
27 Wild Salmon Policy doesn't follow an activity-
28 based accounting system means that it is not
29 solely in any one of those things, but at the
30 implementation level in the Region, and that is
31 where these activities are implemented. We take
32 funding from individual programs and bring it
33 together.

34 So the activity-based accounting system goes
35 up through those specific program channels and it
36 is pieces of those funding that come together for
37 this.

38 Q The next bullet is -- it says, "Originally, DFO
39 committed to re-profiling \$1.1 million annually to
40 implement the Wild Salmon Policy. That's the re-
41 allocation of funds within the Department, that
42 we've discussed earlier?"

43 MS. FARLINGER: In my view, this bullet is not correct.

44 Q Okay.

45 MS. FARLINGER: Yeah.

46 Q How would you restate it?

47 MS. FARLINGER: As I understood it, the policy states

1 that we would use funds within the Department, and
2 then the allocation of the \$1.1 million was made
3 in that first year with the declining values, as
4 we've talked about. Additional funding, that is.

5 Q So you disagree with the \$1.1 million annually?

6 MS. FARLINGER: I do. If this is true, and I don't
7 believe it is, I was certainly not aware of it.

8 Q Okay. Mr. Sprout?

9 MR. SPROUT: Regretfully, it's not true. We received a
10 million or so in 2005, but there was no commitment
11 beyond that. The fact that we continue to get
12 money, I think, is very positive, but there was no
13 long commitment, that I'm aware of, of incremental
14 funding for the WSP.

15 Q Ms. Farlinger, the last bullet is that:

16
17 As we move to full implementation, the direct
18 costs will decline.

19
20 Is that your view?

21 MS. FARLINGER: I think that's really a statement that
22 I was trying to get to earlier, that as we
23 operationalize this, it becomes more and more a
24 part of our everyday work and programs, as opposed
25 to something new and different.

26 Q In the Implementation Panel that we had over the
27 last few days, we heard a great deal about the
28 costs of assessments and monitoring, and I've put
29 it to you that the perception left from that was
30 that that may well be wishful thinking, that the
31 costs will decline. Will you agree with that?

32 MS. FARLINGER: To go back to the point that the Policy
33 is intended to be directional, I think it, you
34 know, will take a long time. And I just made a
35 comment a few minutes ago about gathering all the
36 data and doing all the monitoring, and you will
37 see that that includes both departmental budgets
38 and working with partners, including those
39 partners like First Nations that we fund directly,
40 and partners that bring other sources of funds to
41 the table. So I think it is still a principle and
42 objective that as we move to full implementation,
43 we will be using a departmental operational budget
44 to put the Wild Salmon Policy into place. I agree
45 that we're a ways away from that.

46 Q So it's not the implementation or assessment and
47 monitoring and these more operational constructs

1 aren't going to be more expensive, it's just that
2 the money will be found in different ways, is that
3 -- either from operational budgets within DFO, or
4 from partners? Is that a paraphrase?

5 MS. FARLINGER: I think that's a fair generalization.

6 MR. SPROUT: Mr. Wallace, could I speak to this point
7 briefly?

8 Q Briefly.

9 MR. SPROUT: I think it's very important that the
10 Department pursue more alliance building and
11 partnership. There are other resources available,
12 there are other organizations that are very
13 interested in pursuing elements of the WSP. I'm
14 going to speak to that in some detail later on in
15 this examination, but I really want to emphasize
16 that the Department can do much more by working
17 with other organizations.

18 MR. WALLACE: Can we go to page 10, Mr. Lunn, please?

19 Q The first line:

20

21 WSP implementation challenges.

22

23 And there are four bullets there. If we can go to
24 "Resources," first. Ms. Farlinger, do you agree
25 that these are the resource challenges?

26 MS. FARLINGER: I certainly agree with the first two
27 statements. I think the third one, "Has limited
28 influence in budgeting and priority-setting
29 exercises," taken nationally, is -- could be
30 debated, but as the Region implements whatever the
31 Resource Management, whatever the Science,
32 whatever the Habitat budget is that is provided,
33 in accordance with the regional priorities of
34 which the Wild Salmon Policy clearly is one, we
35 probably need to talk a bit about how the national
36 and regional budgeting priority-setting exercises
37 actually take place, but in general, yes.

38 Q Perhaps you must just explain what it is -- how
39 you disagree with bullet 3, or if you can explain
40 that issue?

41 MS. FARLINGER: I could certainly try. When we work
42 with National Headquarters to determine a budget
43 for our programs, whether it's in Fisheries and
44 Aquaculture Management, Habitat, Science, and
45 others, we bring Regional priorities to the table.
46 So the Regional Director of Science, for example,
47 when she works with her colleagues, her national

1 colleagues and regional directors across the
2 country to implement the -- or put the plan
3 together for the Science budget, she brings a set
4 of Regional priorities which include work on the
5 Wild Salmon Policy. So while the national -- the
6 national part of the organization is responsible
7 for providing the budget, but in the Region, we
8 are responsible for assigning priorities. So it's
9 really just a -- it's almost a bit of semantics,
10 but, really, we apply Regional priorities to
11 whatever budget we have from national programs.

12 Q Thank you. So part of the job of the Director of
13 Science and Director of OHEB, or whoever, is to
14 fight for a budget that's based on a Regional
15 priority that may have limited influence
16 nationally; is that the issue?

17 A I think that needs to be considered in terms of
18 all the national priorities, yeah.

19 MR. SPROUT: Could I just add to that?

20 Q Yes, please.

21 MR. SPROUT: I think the RDG has a role to encourage
22 his or her colleagues at the national level to
23 fund the pressures that he or she sees in the
24 Pacific Region and WSP is one of those funding
25 pressures. I suspect, if you had some national
26 ADM's here, that they probably would -- they might
27 take issue with this statement. They would
28 probably say, in practice, there has been new
29 monies provided to WSP, notwithstanding that
30 they've been reduced over time. That suggests
31 that there has been some success in getting new
32 resources.

33 The other thing you should be aware of, and
34 just to describe how the process works at the
35 Departmental Management Committee, when I was
36 participating in that, all of the Regional
37 Director Generals across Canada in the Department,
38 and the ADM's will sit with the Deputy Minister
39 and all of the Regional Director Generals, and all
40 of the Assistant Deputy Ministers have funding
41 pressures, and those funding pressures,
42 cumulatively, far exceed the budget of the
43 Department of Fisheries and Oceans. And I suspect
44 every Regional Director General in Canada, in the
45 Department of Fisheries and Oceans, and, I'm
46 guessing, every ADM, would also feel that their
47 priorities didn't get the influence that they

1 would like.

2 So in institutions like ours, we don't have
3 enough money to address all of the priorities all
4 of us would like, and -- but having said that, I
5 think one of the roles of the RDG is to try to
6 lobby as well as he or she can to influence that
7 priority-setting exercise, and I think our -- I
8 suspect Sue Farlinger's national colleagues would
9 argue that the Region has been successful in
10 getting some resources given that everybody has a
11 perspective that their priorities aren't being
12 met.

13 Q Mr. Sprout, when you were RDG, did you ever have
14 your staff do a costing exercise of the
15 implementation -- complete implementation of the
16 Wild Salmon Policy?

17 MR. SPROUT: No, as I said in my witness statement, the
18 policy is quite clear, the policy will be
19 implemented with no new resources. So I'm not
20 aware that the Region submitted a costing proposal
21 other than what was developed in 2005, which did
22 actually lead to the 1.1 million because the
23 policy is clear and the direction was clear at the
24 time that there were no new resources going to be
25 provided to that. But I'd like to go on. Another
26 question would be --

27 Q But the question was --

28 MR. SPROUT: Did I, as an RDG, subsequently, at the
29 Departmental Management Committee, identify this
30 as a funding pressure? I did. In fact, you can
31 see it in the 2010/11 business plan, where the
32 region lays out pressures, one of which was WSP
33 implementation, but that's my response.

34 Q My question was did you ever seek to cost it out?
35 To identify it as a pressure, yes, but did you
36 have anybody work out what the actual costs were
37 going to be?

38 MR. SPROUT: The -- the -- as I said, the only costing
39 I'm aware of is that in 2005, prior to the
40 announcement of then-Minister Regan on the policy,
41 itself, the policy director, Mary Hobbs, costed
42 out what we would request and ultimately, we were
43 able to get that, plus a little bit more. I think
44 the costing was around 700,000, as I recollect.
45 The actual amount that we received was over
46 1,000,000. That was in 2005. I'm not aware that
47 we did any other costing beyond that, given the

1 direction the policy, itself, speaks to that we're
2 supposed to implement it with existing resources.
3 MS. FARLINGER: Could I comment? I think we do,
4 annually, a costing exercise in terms of the table
5 we just looked at, and that is here's how far we
6 are on defining conservation units, what is the
7 next step in the work, we define that next step
8 and we define what that costs. So not full
9 implementation of the Wild Salmon Policy. I'm not
10 sure it would have been possible or, in fact, is
11 possible yet, simply because, as you've heard, the
12 work is evolving as we're going along. And so
13 it's quite difficult to do that, I think.
14 Q Are you aware, Mr. Sprout, of the work that
15 Heather Stalberg did with respect to costing
16 Strategy 2?
17 MR. SPROUT: No, I'm not.
18 Q If I may just go back for a moment to the slide,
19 the other three WSP implementation challenges
20 we've dealt with, the bullets relating to funding,
21 would you agree with the other three challenges
22 identified, stakeholder expectations, data
23 deficiency and lack of integration, and the issue
24 of integrating priority area CU's not being
25 resolved, the WSP implementation not sector driven
26 or sector specific? I think we've talked about
27 that. And the implementation of new methodologies
28 requires significant area engagement. Do you
29 agree with those challenges identified, Mr.
30 Sprout?
31 MR. SPROUT: I'd have to -- I agree that priority area
32 CU's were not resolved. I mean, I take it that's
33 the status at that time. Implementation of new
34 methodologies require significant area engagement,
35 I certainly agree with that. I'd just like to
36 explore what was meant by WSP implementation since
37 I wasn't at the June meeting, and Ms. Farlinger
38 may wish to speak to that. We've already had a
39 discussion that the WSP, from my perspective, to
40 be effectively implemented, has to be culturally
41 embedded in the Department and it has to be across
42 all of the branches, or the sectors, with a
43 coordinator. And so I'm not quite sure what was
44 being contemplated in this. It's not, like I say,
45 if it's this particular challenge -- or challenge
46 recognizes an alternative so I'm not positive
47 about that second bullet. I wasn't part of that

1 discussion. I'd need a bit more context.

2 Q Thanks. Ms. Farlinger, would you agree with those
3 challenges?

4 MS. FARLINGER: I was at this meeting and I do have to
5 say that sector-driven or sector-specific, I just
6 really don't understand what the underlying issue
7 was there, and so I'm not sure I understand the
8 second challenge, but -- or under integration,
9 but, yes, in general, the integration, the
10 priority areas, although I'm not sure CU's will
11 ever be completely resolved and the implementation
12 requiring area engagement is certainly true. And
13 in fact, there are many area staff engaged in
14 implementing these methodologies, for example, in
15 Barkley Sound, in the Skeena River.

16 Q Thank you. If I can move on, then, to my next
17 topic on the issue of implementation planning in
18 2005 and the issue of an implementation plan,
19 we've heard quite a lot about this. One is just
20 mentioned as being required under the policy, and
21 we've heard the -- no one has ever seen something
22 called an implementation plan, as far as I know,
23 Mr. Sprout. Do you agree that no such document
24 was ever produced?

25 MR. SPROUT: No, I wouldn't. I'd like to go into some
26 detail on this.

27 Q Well, if -- have we -- let me see if I can avoid
28 too much detail. I want to differentiate, if
29 you're willing, to between the implementation work
30 plans, which are, as I understand it, annual
31 affairs, and then an implementation plan designed
32 for the entire implementation. Are you aware of
33 the latter?

34 MR. SPROUT: I am.

35 Q Thank you. Please explain it.

36 MR. SPROUT: I'm going to explain the whole thing. I
37 think you just have to bear with me. Okay. So
38 the Policy gets announced in June of 2005. Then
39 in August of 2005, the Regional Management
40 Committee agrees to what it describes as a
41 Strategic Implementation Plan.

42 That Implementation Plan, Strategic
43 Implementation lays out the broad strategies,
44 starts to -- identifies a coordinating
45 implementation team, develops -- identifies a
46 preliminary budget and starts to lay out a time
47 line.

1 This is followed, in September, with a work
2 plan. The work plan starts to drop into more
3 detail. I really would like to complete this
4 because I think you need to look at this as a
5 whole to be able to follow my explanation. So the
6 work plan, in September now, starts to drop into
7 more detail. It starts to identify tasks,
8 responsibilities, timelines and further ascribes
9 budget.

10 And then finally, or additionally, there is
11 something called a results based management
12 accountability framework, and that accountability
13 framework further drops down into additional
14 detail designed to elaborate on the
15 responsibilities, tasks, budget in the form of
16 individual proposals.

17 Now, that collection of the strategic work
18 plan, the work plans, themselves, the results-
19 based accountability management framework is the
20 Implementation Plan.

21 And I would like to -- I can elaborate
22 further, but I think I'll stop and maybe take a
23 question and then maybe I could go on and
24 elaborate.

25 Q That's kind of you. The first document you
26 referred to was the Strategic -- can you refer to
27 it again, please?

28 MR. SPROUT: The strategic work plan. The strategic
29 work plan, August 2005. It was actually called
30 Implementation Strategy, WSP Implementation
31 Strategy.

32 Q Is that Exhibit 170? No. Is this the
33 presentation to the Regional Management Committee,
34 in August?

35 MR. SPROUT: It is.

36 Q So that's Exhibit 170? Is this the document, on
37 your screen?

38 MR. SPROUT: It is.

39 Q And that -- if you go to page 4 -- so this is the
40 -- so this was the genesis of the Implementation
41 Plan, in your view?

42 MR. SPROUT: Yes, it's the beginning of the collection
43 of documents that I'm describing as the
44 Implementation Plan.

45 Q Okay. And the third bullet on page 4, on
46 "Implementation," says:
47

1 It is recognized that full implementation
2 will take time, in the order of five years.

3
4 And that has not been achieved, has it?

5 MR. SPROUT: No, it has not.

6 Q Then the -- on the next slide, the Implementation
7 Strategy sets out three phases, and that was what
8 was intended by the phased approach, was it, three
9 phases, scoping, interim and final?

10 MR. SPROUT: At that time, yes.

11 Q And the -- under the -- under "Scoping."

12 MR. WALLACE: I'm sorry, can you blow that up a little
13 bit, please? Thank you very much.

14 Q The first item under, "Scoping," is:

15
16 Completion of a detailed Implementation Plan,
17 including the establishment of a committee,
18 assignment of resources, determining
19 timelines and consultation, all to be done
20 between June of 2005 and December of 2005.

21
22 Did that occur?

23 MR. SPROUT: Yes, it did.

24 Q Can you direct me to the detailed Implementation
25 Plan that includes those four things?

26 MR. SPROUT: Then we'd have to go on to the other
27 documents I spoke of.

28 Q Okay.

29 MR. SPROUT: So if we can go to the WSP Implementation
30 Work Plan in September of 2005.

31 Q Just give us a moment.

32 MR. TIMBERG: I think that's Exhibit 135.

33 MR. WALLACE: Thank you, Mr. Timberg. 135? Thank you.
34 This may be hard, Mr. Lunn, I don't -- can we get
35 the slide there so we can compare the work plan to
36 the -- this is page 5 of the work plan. Page 5.

37 Q That document at page 5 appears to have the same
38 basic structure as the box I -- we were just
39 looking at in Exhibit 170; is that correct?

40 MR. SPROUT: Yes, it does.

41 Q And that identifies, under "Scoping:"

42
43 The completion of a detailed Implementation
44 Plan.

45
46 Correct? So it's really just repeating the
47 strategy, is it not?

1 MR. SPROUT: And you have to continue on in the
2 document.

3 Q Okay. Before we do that, I notice that one thing
4 that's changed is that the timing has slipped by
5 three months, correct?

6 MR. SPROUT: From the previous document.

7 Q Yes.

8 MR. SPROUT: Yes.

9 Q Not the final, the final still has 2010, but the
10 scoping phase seems have dropped by three months.
11 Okay. Now, carrying on, if we go to page -- I'm
12 going to go to page 8. If you think there's
13 something on a page I'm not going to, please let
14 me know.

15 MR. WALLACE: And maybe if you could scroll slowly, Mr.
16 Lunn. Oh, you have the hard copy?

17 Q I would take you to page 8 next.

18 MR. SPROUT: Well, I would prefer to go through each
19 page, if that's the way that we're going to do
20 this.

21 Q All right. That's -- yes, if that's what you need
22 to make the explanation, please do so.

23 MR. SPROUT: So let's go through the -- okay, so now we
24 have an implementation structure. Okay. So that
25 is indicating the role of the RDG formation, the
26 involvement of the Regional Directors.

27 And by the way, this structure got refined
28 over time. I've spoken about the development of
29 the Operations Committee subsequently. And you
30 have identification of the Implementation Team and
31 the notation with respect to the Project Team
32 leaders.

33 Go to the next slide. This is essentially
34 indicating the budget that's been allocated and
35 how it's provisionally broken down by the three
36 main programs, Science, Fisheries Management and
37 Habitat. Again, I'm -- this -- it's important for
38 you to -- it's important to appreciate that
39 implementation plans need to describe the
40 objectives, the actions, the deliverables, the
41 budget and the timeline, and the responsibilities.
42 And so what you're seeing now on this particular
43 page is the beginning to apportion the initial
44 allocation of the budget amongst the three main
45 programs.

46 Can you go to the next slide? Now this is
47 starting to describe the strategies and the

1 apportionment of the budget at least for the next
2 two years. So you can see the four main
3 strategies, the first four main strategies,
4 allocated resources for the two fiscal years,
5 including the first year that the policy had been
6 announced. Go to the next slide.

7 Q Just a moment. Looking at page -- I don't see the
8 page number on the Work Plan Summary on the
9 document on the left which is, I think, 136.

10 MR. LUNN: We're at Exhibit 135, page 8.

11 MR. WALLACE: 135, thanks, page 8.

12 Q Detailed Work Plans provided in RMAF Appendixes.
13 Can you explain that, please?

14 MR. SPROUT: Yes, and I've already spoken to that.
15 That's the Results-based Management Accountability
16 Framework, which I'll come to in a moment.

17 Q Okay.

18 MR. SPROUT: So I'll go to the next page. Okay. So
19 now this is starting to identify tasks. So we're
20 expanding again on the approach which already is
21 identified in a portion of the budget by the
22 sectors or the programs. Now it's taking a look
23 at the main tasks, some of the main tasks
24 associated with the administration of the WSP.
25 And you can see those tasks are identified in the
26 left-hand column, and they are various. Release
27 of the policy, implementation -- coordination of
28 the implementation, development, and so forth,
29 with assigned budgets to those. Can you go to the
30 next slide?

31 Now, this is starting to break the tasks down
32 more specifically. So you see, in the left-hand
33 column, these are the actions underneath the six
34 strategies. So I'll just pause here to explain
35 that. There are six strategies in the Wild Salmon
36 Policy, there are 17 actions. Some of the
37 strategies have one or two actions, some of the
38 strategies have up to four. Beside each of the
39 actions are the tasks. So you need to look at the
40 tasks as further elaboration of what the actions
41 were intended to do. You can also see that
42 budgets are assigned to the delivery of those
43 tasks. So this is -- this slide looks at Action
44 Step 1. Can we go to the next slide, please?

45 That's Action Step 2, the same demarcation
46 and division of tasks, actions, tasks and budget.

47 Three, next slide, please. Action -- item

1 number 3. Next slide, please. 4, next slide.

2 Now, so now what the RMEC is doing, the
3 Regional Management Executive Committee is doing
4 is, "Okay, we're debating this plan. We're
5 discussing it." So again, I just want to -- I
6 want to describe the scenario. You're sitting
7 around a table. All of the Regional Directors and
8 Area Directors who ultimately are going to have a
9 responsibility for implementing the plan, and my
10 argument is is you want to have all of those
11 people present because they have that
12 accountability for the -- for putting into
13 operation the plan, are sitting around and
14 debating and discussing this particular plan.

15 The following slide, please? Now, we're
16 setting up what is a results-based management
17 accountability framework, and that document isn't
18 in this package, I believe. I think that's a
19 separate document. So I'd like to go to that
20 document. I'm not sure what exhibit it is.

21 MR. LUNN: What is the title?

22 MR. SPROUT: Wild Salmon Policy Implementation Work
23 Plan, Results-based Management and Accountability
24 Framework.

25 MR. LUNN: It's 109. Is that right? Is that correct?

26 MR. SPROUT: Now, can I go through this document?

27 Could you go to the first page, please?

28 THE COMMISSIONER: Mr. Wallace, I notice the time. I'm
29 not sure how long the witness will take on this.

30 I'm content to have him complete this document, if
31 that's helpful, but I don't know how long it's
32 going to take.

33 MR. WALLACE: I think we should continue on this point
34 for the next few minutes.

35 THE COMMISSIONER: All right. And then take a break?

36 MR. WALLACE: Before we break. Thanks.

37 Q Mr. Sprout, was the proposal accepted, the
38 proposal that you've been taking us to, work plan,
39 accepted by the Regional Management Committee?

40 MR. SPROUT: That is my recollection.

41 Q Okay. So then please carry on.

42 MR. SPROUT: Okay. So now we have something called a
43 Results-based Management and Accountability
44 Framework, and I want to go to the first page, on
45 the introduction. And I'd like to pause at the
46 third paragraph that begins:

1 The RMAF provides a roadmap to manage this
2 complexity for DFO manager and staff and the
3 many groups that we directly involved.

4
5 So -- and then this paragraph goes on to explain
6 the benefits of an RMAF:

7
8 Logical design that ties resources and
9 activities to expected results. Clear roles
10 and responsibilities for the partners
11 involved. A basis for improving performance.
12 Demonstrated accountability. Timely
13 information available to managers and
14 partners.

15
16 Then the rest of the document elaborates on
17 exactly these components. And if you go through
18 the document -- and I'm not proposing to do that
19 unless requested because there's a great deal of
20 detail here, you can see that systematically, the
21 strategic plan first identified in August in the
22 RMC, the Implementation Work Plan identified in
23 September, and then the RMAF elaborate and expand
24 on the details around the implementation. And so
25 I will not go through this document unless
26 requested, but the point is is you should look at
27 the Implementation Plan as a cascading set of
28 documents getting more and more detailed.

29 Now, what these three documents do is the
30 following, they identify actions, budgets,
31 responsibilities, timelines. They clarify
32 objectives, assign tasks, identify deadlines and
33 chart progress. What I have just described is an
34 implementation plan. If you Google
35 "implementation plan," what you will determine is
36 that the elements of an implementation plan
37 contain exactly what I've just described. So let
38 me go over them again. You need to have actions.
39 You need to have tasks. You need to have a
40 budget. You need to have responsibilities. You
41 need to have a time line.

42 I'm arguing that the three documents you have
43 in front of us meet all of that test. Further,
44 and because you asked this question earlier, so
45 what did we then do about these three documents?
46 Well, we started consultations in the fall of 2005
47 in multi forums with First Nations and non-natives

1 about the implementation of the policy.
2 Q Mr. Sprout, we'll get to that. Let me -- first of
3 all, the document I have at 110 is marked "draft."
4 Was it ever a finalized document?
5 MR. SPROUT: I can't speak to the final, all I have
6 here is the draft, as well, but my understanding
7 is is this was the document that was submitted by
8 the Department to meet the RMAF.
9 Q Okay.
10 THE COMMISSIONER: Mr. Wallace, you said "110," and I
11 believe that it was 109 that was recognized as
12 this document. Are you talking about a different
13 document? The one that's on the screen is 109.
14 MR. WALLACE: 109, thank you. 109. Thank you.
15 THE COMMISSIONER: Is there a 110 that you're referring
16 the witness to?
17 MR. WALLACE: No. It -- I had the number wrong, it was
18 109.
19 THE COMMISSIONER: It is 109?
20 MR. WALLACE: Thank you. Yes. Mr. Lunn, could you go
21 to --
22 THE COMMISSIONER: Do you not wish to take the lunch
23 break, Mr. Wallace? Mr. Sprout's very persuasive,
24 but lunch --
25 MR. WALLACE: One question. I have one question.
26 THE COMMISSIONER: -- is persuasive, too.
27 MR. WALLACE: May I just -- I think we can finish this
28 document with one more question.
29 THE COMMISSIONER: All right.
30 MR. WALLACE:
31 Q If I could take you to page 20 of that document,
32 this is under the "Proposal Details," it's -- the
33 heading is described on page 19 as "Proposal
34 Details," and it says, "For fiscal year
35 2005/2006," at the top of page 20, "Development of
36 the WSP Implementation Plan," as being one of the
37 items in the framework you're looking at, and it
38 has a drafting of an implementation plan,
39 reviewing the Work Plan and discussing the
40 Implementation Plan, and the drafting of an
41 implementation plan in early October. Clearly,
42 that's contemplating something different than what
43 you just described; is that fair?
44 MR. SPROUT: Yes, and I think that is the confusion.
45 And I know you raised this in the first interview
46 you had with me, and I attempted to clarify that
47 at that time. That statement, in my view, doesn't

1 properly capture what I already described as the
2 Implementation Plan. The fact is by the time we
3 got to the RMAF, that -- the accumulation of the
4 documents that I've spoken to is the
5 Implementation Plan and, therefore, that is the
6 perspective that I attempted to pass on to you in
7 the interviews, but nevertheless, in explaining
8 the three documents, I've tried to emphasize what
9 an implementation plan is. And I want to do it
10 again because --

11 Q Okay. No, I --

12 MR. SPROUT: -- I'm struck by -- but I am struck by
13 your questions because it suggests to me that
14 there may be a misunderstanding of what an
15 implementation plan is. And again, I just want to
16 repeat, objectives, tasks, actions, deliverables,
17 responsibilities and budget. That's what these
18 documents provide.

19 Q Thank you.

20 MR. SPROUT: Thank you.

21 MR. WALLACE: Shall we break for lunch, Mr.
22 Commissioner?

23 THE COMMISSIONER: Very well, thank you.

24 THE REGISTRAR: The hearing is now adjourned until
25 2:00 p.m.

26
27 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

28 (PROCEEDINGS RECONVENED)

29
30 EXAMINATION IN CHIEF BY MR. WALLACE, continuing:

31
32 MR. WALLACE: Mr. Lunn, may I have Exhibit 136, please.

33 Q Mr. Sprout, at the end of the morning we were
34 talking about the three documents which you say
35 comprised the Wild Salmon Implementation Plan.
36 And I asked you whether or not you were aware
37 whether that draft RMAF had been approved by the
38 Regional Management Committee meeting. And you,
39 as I recall, you said your recollection was that
40 it had been. And if I might show you Exhibit 136,
41 which is the Record of Decisions from the
42 September 20th Regional Management Committee
43 meeting, and item 2 is the "Wild Salmon
44 Implementation Workplans (*Discussion*)", and if you
45 could scroll down a bit, under the "Action" it
46 says:
47

1 The workplans were discussed and it was
2 decided that the Strategic Initiative
3 Steering Committee should convene and discuss
4 these workplans in greater detail. If
5 necessary it will return to RMC.
6

7 Do you recall that resolution in September of '05?
8 MR. SPROUT: No. I mean, what I recall is what I said
9 earlier, which is that the Strategic Workplan was
10 supported by the RMC. It may well be that the
11 Committee met subsequently, or some did, to
12 enlarge on some of the detail around it. I can't
13 speak to that. I don't recall it.

14 Q The -- there are documents that in November of
15 that year the Strategic Initiatives Steering
16 Committee met and these are Exhibits 174 -- it's
17 Exhibit 174 and 174A, "B" and "C". And if we
18 could go to 174:

19
20 Attached is the material...

21
22 And then if you go to "A", 174A.

23 MR. LUNN: That actually is "A". I think we've got
24 "A", "B", "C" and "D". I think I know what you're
25 asking about.

26 MR. WALLACE: Oh, okay. All right.

27 Q This appears to be where the RMC directed this,
28 and does this change your view about it having
29 been approved? This is...

30 MR. SPROUT: About it having been approved by the RMC,
31 you mean?

32 Q Well, I'm not --

33 MR. SPROUT: I'm not sure I'm following what you mean.

34 Q By anybody. Where did it go from --

35 MR. SPROUT: Where did --

36 Q We haven't seen --

37 MR. SPROUT: Where did which go? Sorry.

38 Q The RMAF that was --

39 MR. SPROUT: Oh, like I said, it was a draft. I
40 believe that would have come to the meeting of the
41 Operations Committee, or possibly the RMC, or it
42 would have been submitted when finalized and would
43 have been -- would have accompanied -- possibly
44 would have been submitted to Headquarters. I'm
45 not sure about that pathway. I don't know. I
46 don't recall.

47 Q But if it had been approved, there would have been

1 a record of it in either the RMC or the RDG?

2 MR. SPROUT: No, it had -- no, not necessarily. I
3 think the -- again if you look at the RMAF, what
4 it is doing is effectively, as I explained before,
5 building on what had already been agreed to in the
6 RMC, the Strategic Workplan, the Workplan, and
7 then this is even providing more detail. It may
8 well have not come back for approval. Basically,
9 it was already regarded as broadly approved,
10 because the two previous documents that I referred
11 to. I just can't recall what or where that draft
12 eventually -- eventually went. But it wouldn't
13 necessarily be automatic, that it would have had
14 to have come back to the Regional Management
15 Executive Committee.

16 Q Okay. So your view that these three documents
17 together formed the Implementation Plan isn't
18 changed by the fact that the -- if the case is
19 that the only record relating to the RMAF is a
20 draft that was not approved but rather moved on
21 from the September 20th meeting of the RMC.

22 MR. SPROUT: Okay. So I'm going to recast that. As
23 I've said earlier in my remarks, in June the
24 Policy got announced. In August the Department
25 pulled together a Strategic Implementation Plan,
26 that starts to scope out the key elements of an
27 Implementation Plan. The subsequent in September
28 there's a Workplan. Now that's dropping the
29 Strategic Plan into greater detail, assigning
30 budgets, responsibilities, and so forth.

31 The RMAF now is dropping even to further
32 detail. And so what I'm -- I'm arguing is, is
33 that that particular draft, I don't know where
34 that was finalized or what form it went off in --
35 Q Or whether it was?

36 MR. SPROUT: No, I believe that it was. But the point
37 is, is that --

38 Q If it was, there'd be a record of that, correct?

39 MR. SPROUT: I -- I can't speak to that. But what I'm
40 saying is that the implementation plan is largely
41 set by the documents that I've already referred
42 to, and the RMAF is simply expanding, as I've
43 already noted in my remarks before the -- before
44 the lunch break.

45 Q Mr. Lunn, could we just look, for the record, at
46 the other two attachments on this e-mail, that's
47 "C" and "D", I guess. Simply demonstrates that it

1 was before the Committee, correct, Mr. Sprout?
2 MR. SPROUT: The Workplan are you discussing? Which
3 I'm not sure what you're --
4 Q The RMC referred this matter to the New
5 Initiatives Steering Committee meeting. This is
6 the -- this, I gather, is the material from the
7 Steering Committee in November of 2005, and I was
8 looking towards the possibility of an approval of
9 the RMAF, and I'm just asking you whether this
10 assists your recollection of what happened to the
11 -- to management's treatment of it through the
12 fall of 2005.
13 MR. SPROUT: I don't know. I'd have to -- I'd have --
14 I'd want to go back and find out if there's any
15 information around that, maybe talk with some of
16 the staff that would have been present. All I can
17 tell from this is that we were reviewing the
18 Implementation Workplan and discussing funding
19 issues.
20 Q Okay. And the next document, Mr. Lunn. So those
21 are the three documents that were before that
22 committee, and I think we have Mr. Sprout's
23 evidence on that.
24 Ms. Farlinger, you became Director of FAM in
25 B.C. in 2008?
26 MS. FARLINGER: Yes, in April of 2008.
27 Q And when you took on that role, were you brought
28 up to date on the implementation of the Wild
29 Salmon Policy?
30 MS. FARLINGER: I certainly worked with the Head of
31 Salmon Programs, who is taking the lead role on
32 the implementation of Strategy 4 through FAM for
33 the Region, in terms of what had been done, and
34 also in terms of setting the agenda for what
35 needed to be done from there on.
36 Q And in that context, were you referred to the
37 documents that Mr. Sprout has referred to as the
38 Implementation Plan for the Wild Salmon Policy?
39 MS. FARLINGER: I don't recall being specifically
40 referred to them, but it certainly would have been
41 part of the background material that I would have
42 undoubtedly reviewed at some point --
43 Q Yes.
44 MS. FARLINGER: -- doing the Workplans.
45 Q You don't have a specific recollection, though, of
46 them?
47 MS. FARLINGER: No.

1 Q And likewise when you became Regional Director
2 General, in your new capacity did you -- were
3 you --

4 MS. FARLINGER: Go back and look at the documents --

5 Q Yes.

6 MS. FARLINGER: -- from 2005?

7 Q Yes.

8 MS. FARLINGER: I can only say I may have reviewed
9 them. I would probably have been reviewing more
10 current documents.

11 Q Thank you. Do you share Mr. Sprout's
12 understanding that those three documents together
13 form the Implementation Plan contemplated by the
14 Wild Salmon Policy?

15 MS. FARLINGER: That's certainly my understanding, but
16 as I noted, from May 2005, end of May 2005 until
17 2008, I was not in the Department, so certainly
18 don't have the intimate knowledge that he would.

19 Q Thank you. In your summary of evidence, you --
20 what page is it. And if we can go to Ms.
21 Farlinger's summary of evidence, please. This is
22 under -- if you can scroll down to Ms. Farlinger's
23 recollection of WSP implementation planning, 2005.
24 And in the third bullet, you say you do not
25 remember a WSP Implementation Plan as referred to
26 on page 35 of the wild Salmon Policy.

27 MR. TIMBERG: Mr. Commissioner, if counsel could also
28 refer to Ms. Farlinger's correction, or addition
29 that she made to this bullet this morning in
30 asking the question.

31 MR. WALLACE: I don't have access to the transcript and
32 I don't recall precisely what that correction was.

33 MS. FARLINGER: I'm just going to have to look it up
34 here. But the nature of it was I knew that the
35 WSP required an Implementation Plan, and I had not
36 been present at the meetings in August and
37 September of 2005. So I had not been party to
38 creating the Implementation Plan, as opposed to
39 that I didn't know there was one.

40 MR. WALLACE: Thank you.

41 Q In your summary you also make reference to the
42 fact that:

43
44 ...there is continued concern about the pace
45 of Wild Salmon Policy implementation held by
46 environmental non-governmental
47 organizations...

1 Now, in your view, were those concerns valid?

2 MS. FARLINGER: I think that all the concerns of the
3 various stakeholders we deal with are valid and
4 have to be taken seriously. I think that part of
5 the challenge in implementing this policy is there
6 are very different views amongst those
7 stakeholders. And the concern that I have heard
8 certainly in coming back to DFO from the
9 environmental community specifically is that they
10 have been concerned about the pace of
11 implementation.

12 Q You speak of the challenges to WSP in the context
13 of the pace. Do you think those challenges are
14 surmountable, or do you think that the Wild Salmon
15 Policy will be implemented?

16 MS. FARLINGER: I do think that the Wild Salmon Policy
17 will be implemented. I think as we've covered
18 today, there is -- there are a variety of issues
19 around it.

20 One as we've talked about is funding.

21 Another is the fact that the science
22 continues to evolve, and as we see, we're still
23 having discussions today about conservation units,
24 even though we had thought in the initial plan in
25 September of 2005 that we would have defined those
26 units by December. So I think there is that kind
27 of challenge, simply that there is technical work
28 that needs to be done, and some of the reference
29 to data being available, and that sort of thing,
30 also presents a challenge.

31 I think the third piece is, and I mentioned
32 it before, is that there is an impact in terms of
33 implementing the Wild Salmon Policy, and that is
34 why Strategy 4 is so important, and that is why
35 the success that Strategy 4 tables really speak to
36 more than any other strategy, I would say, how
37 quickly the intention of the Wild Salmon Policy
38 can be implemented.

39 So I think it is all those things.

40 And I think the further issue is, is wild
41 salmon is affected by factors that are well beyond
42 the control of the regulatory authority of DFO.
43 There are certainly other jurisdictions that have
44 an impact on it, and there are broader issues,
45 like the issues of climate change and those kinds
46 of things over which, in a domestic sense, we have
47 little or no control as a regulatory agency. So I

1 think all of those things play into the
2 implementation. But -- and I don't think you can
3 talk about the pace of implementation without
4 realistically thinking about all those things.

5 Q What about the doability of the implementation
6 altogether, not just the pace?

7 MS. FARLINGER: I guess I would see the implementation
8 altogether is are the principles of the Policy
9 being adhered to? Are the behaviours that are
10 associated with the regulation and the management
11 of wild salmon changing? Are they having an
12 impact, to the extent that those things can have
13 an impact on the stocks? And so if we go back to
14 the very detailed question of does implementation
15 mean that we have all the information and all the
16 benchmarks for every conservation unit, for
17 habitat, have we developed all the ecosystem
18 indicators? I think that's a slightly different
19 question, and quite honestly I think it will take
20 a very long time to get to that point. But I do
21 think the measure of implementation is how much
22 the principles are affecting the behaviour in
23 terms of management of the resource and the
24 habitat.

25 Q Thank you. I wonder if I might just move on to
26 the fourth topic on my list, which is the decision
27 to defer the independent review under Strategy 6.
28 Mr. Sprout, do you recall when senior management
29 first began to discuss the requirement for the
30 five-year review?

31 MR. SPROUT: Sometime in 2009, I recall.

32 Q And is it correct that in about March of 2009 you
33 approached the PFRCC to give you advice with
34 respect to that review?

35 MR. SPROUT: We did. I think it was more precise than
36 that. I think it was to provide a framework that
37 potentially could be the basis of an evaluation,
38 and it was sometime in 2009. I don't have the
39 document in front me, but I think that's --

40 Q Well, I'll direct you to --

41 MR. SPROUT: I think that would be correct.

42 Q -- Mr. Lunn, Exhibit 231, which I believe is Mr.
43 Sprout's letter. That's right. This is the
44 letter -- oh, that's the letter from the PFRCC to
45 you in 2010. And in it the -- I think it's Dr.
46 LeBlanc refers at the -- initially:

47

1 During our meeting on March 31, 2009, you
2 requested the Pacific Fisheries Resource
3 conservation Counsel (PFRCC) undertake
4 stakeholder consultations in order to produce
5 an evaluative framework that would assist in
6 an independent review...as mandated under
7 Action Step 6.2...
8

9 So is that the first step that you took as
10 Regional Director General towards the meeting this
11 requirement in the Policy?

12 MR. SPROUT: You know, I can't actually recall because
13 it may well have been -- in fact, well, first of
14 all, do you have the letter that I sent to them?
15 I mean, Paul is responding back to me. Is that on
16 -- is that submitted, or not?

17 Q We have not seen that letter.

18 MR. SPROUT: Okay. So this is -- in response to your
19 question whether this would be the first, I'm
20 presuming by this point I've already had some
21 discussions with staff to arrive at the point
22 where we are, I'm writing to the Conservation
23 Council, and they in turn are writing back to me.
24 So I'm assuming that they were already -- that
25 this wouldn't be the first point, in other words,
26 I probably had some discussions prior to this.

27 Q What -- do you recall what happened next? You
28 indicated that this started in early 2009, this
29 takes us to March. The record seems to indicate
30 that by May of 2009 there's been discussions at
31 the Operations Committee, I think. Do you recall
32 that?

33 MR. SPROUT: I do recall discussions, I'm not sure what
34 committee it was, sometime in the late spring of
35 2009.

36 Q Mr. Lunn, if we could go to Exhibit 240. This is
37 the Operations Committee meeting Record of
38 Decisions of June 25th, 2009, and the first item
39 on the agenda is "Wild Salmon Policy Update and
40 Workplan". Would you agree that there is no
41 reference in this meeting, at least under issue 1,
42 to the need to consider the conduct of the five-
43 year review within the next year.

44 MR. SPROUT: You're right, that in this particular
45 meeting there doesn't appear to be a reference to
46 the evaluation.

47 Q Excuse me a moment.

1 And attached to that Record of Decisions are
2 -- is a presentation that was made to that
3 meeting, and if you go to page 6. Scroll through
4 slowly, Mr. Lunn, so we can -- can you go back one
5 slide. There's a reference on the bottom slide on
6 page 5:

7
8 Expectations for Wild Salmon Policy
9 evaluation in 2010.

10
11 So if you look at this as a whole, there doesn't
12 seem to be any allocation dealing with it, but it
13 is recognized in the slide, correct?

14 MR. SPROUT: It is. Maybe I could help on this.

15 Q Please.

16 MR. SPROUT: Are you trying to make the point that we
17 were talking about the -- in 2009 we were
18 contemplating an evaluation in 2010?

19 Q Mr. Sprout, I'm not actually trying to make a
20 point. I'm trying to give you the --

21 MR. SPROUT: Well, I'm trying to understand what
22 your...

23 Q I'm trying to give you the opportunity to explain
24 just how the -- how events unfolded towards 2010
25 and the deadline passing in June of 2010. I'm
26 just trying to get all of that...

27 MR. SPROUT: Okay. Well, then, maybe I'll let you make
28 the point and then I'll come back and deal with it
29 at that point.

30 Q So in the Operations Committee in June of 2009,
31 the record seems to reflect the fact that there
32 was a discussion about the expectations for a
33 review, as suggested by the "Challenges and
34 Opportunities" slide, correct?

35 MR. SPROUT: Yes, it does.

36 Q Yes. There does not appear to be any budget
37 allocation that reflects that, at least not
38 specifically.

39 MR. SPROUT: Not in this slide.

40 Q Or if you look at the budget, is there anything
41 there to suggest that the cost of a review is
42 being considered?

43 MR. SPROUT: Again I don't see anything on this slide.

44 Q Do you remember whether it was discussed? Do you
45 remember the discussion about it?

46 MR. SPROUT: Okay. What I recall is in 2009 I asked
47 the Conservation Council to provide advice and an

1 evaluation framework. We've already noted that.

2 What I recall in 2009 that subsequent to
3 that, there were discussions on the merits of an
4 evaluation in 2010. And what I recall is that
5 concerns were raised by a number of the Regional
6 Directors and Area Directors, in fact all of them,
7 that in order to really appreciate, or the -- to
8 really appreciate and evaluate the WSP, that we
9 really needed to test whether the Policy was
10 embedded in the various programs: Science,
11 Fisheries Management, et cetera. And therefore
12 there was what I would describe as preliminary
13 discussion about the need to look more broadly at
14 an evaluation that would look at the cultural
15 issues around how well the WSP was being
16 implemented on a daily basis by staff.

17 And I recall those conversations in 2009. I
18 don't know whether they were at this meeting, or
19 some other meeting, but that's my recollection. I
20 just can't pin it down to a particular meeting at
21 this -- this point.

22 Q Okay. And that discussion was in the spring of
23 2009?

24 MR. SPROUT: I'm not sure of the timing of when that
25 discussion occurred.

26 Q Was it likely occurred after you made the request
27 to the PFRCC?

28 MR. SPROUT: It could have. I mean, it would be more
29 logical. Because the PFRCC, when they did finally
30 get back to us, which was in, I think, January of
31 2010, after making a March request, what they
32 produced at the end was, you know, it provided --
33 it met some of what we requested, but it fell
34 short of an evaluation framework. And so we would
35 have had discussions subsequent to that in the --
36 again in probably the Strategic Discussions
37 Directions Committee. But again I'm not -- I'd
38 have to -- if there's documentation, it might help
39 my memory.

40 Q I'm trying to sort this out chronologically, and
41 as you can see you have the PFRCC communications,
42 which sort of bookend this in a way: it's, you
43 know, some conversations before and the result
44 after. Let's just going through then, we have the
45 documents from June.

46 The next document I'd refer to, and this may
47 assist you, Mr. Sprout, is Exhibit 187. And this

1 actually arises from a WSP Team Meeting Minutes of
2 September. But it refers to a briefing that
3 relates back to the June meeting, which might
4 assist you. "Amy presented the" -- this is Amy
5 Mar, Mr. Sprout?

6 MR. SPROUT: Where is Amy? I'm looking for that.

7 Q At the very start, the very first --

8 MR. SPROUT: Yes, that should be Amy, Amy Mar, yes.

9 Q Then she was the coordinator at that time?

10 MR. SPROUT: She had taken over from Mark --

11 Q Yes.

12 MR. SPROUT: -- who has been a part of this session.

13 Q Right. So:

14

15 Amy presented the 2009/10 WSP Workplan and
16 Budget to Operations Committee in June.

17

18 And that's what we just looked at.

19

20 Discussion on timing and process for WSP
21 review -- internal or external review,
22 collaboration with ENGO's and other
23 stakeholders.

24

25 Does that refresh your memory of the discussion in
26 June?

27 MR. SPROUT: It -- it doesn't. I don't recall -- I
28 don't recall these meeting minutes, myself. So
29 this is the WSP Team Meeting Minutes.

30 Q I appreciate. This is a report, though, of the
31 June meeting, and I thought it might assist you to
32 recall Amy's recollection of the June meeting and
33 her report on it to this committee.

34 MR. SPROUT: No, I don't -- again I think, as I said, I
35 believe going into this the spring of 2009, that
36 we were contemplating obviously an evaluation in
37 2010. I wrote to the Conservation Council to get
38 their perspective on it and provide their
39 perspective and response to a request for an
40 evaluation framework. The June meeting references
41 the evaluation framework, evaluation as we've
42 already said.

43 Q Yes.

44 MR. SPROUT: But I don't recall much beyond that, that
45 particular discussion in that meeting.

46 Q Under the action items, again, see if this
47 refreshes your memory from Amy's presentation to

1 the WSP Team. On the right-hand column, under
2 Action Items:

3
4 Follow-up discussion on WSP review --
5 discuss options and present to Ops Committee;
6 Amy to do a briefing note for decision on how
7 to conduct the review.
8

9 That reads to me as though she's reporting to the
10 -- this committee what she was asked to do from
11 the Operations committee. Does that sound right
12 to you?

13 MR. SPROUT: No, I can't say that. I mean, I've got to
14 go back to the Operations Committee and the
15 minutes of the Operations Committee, which didn't
16 actually provide that. So it may be post the
17 Operations Committee that some discussions
18 occurred along the lines that triggered this note
19 that Amy has a -- that Amy is going to follow up
20 on. I just -- I just don't recall that -- that
21 linkage.

22 Q So from these documents you can't say what the
23 decisions were on how to proceed with the review.

24 MR. SPROUT: No, I think the review was still under
25 consideration and we -- I'd obviously written to
26 the Conservation Council. The Conservation
27 Council's response didn't come until sometime -- I
28 believe December or January, December of 2009 or
29 January of 2010, and so I think we were waiting or
30 anticipating the evaluation framework from the
31 Council, and so I think all of this is still under
32 development.

33 MR. WALLACE: It would be useful, Mr. Commissioner, I
34 think if we had Mr. Sprout's letter, but that does
35 not seem to have been produced. I'm not sure if
36 Mr. Timberg...

37 MR. TIMBERG: We'll look into that, Mr. Commissioner,
38 and we'll get back.

39 MS. FARLINGER: I may be able to help on the matter of
40 the letter. I think that the request was a
41 discussion between the -- Paul and the members of
42 the Conservation Council on the Workplan, and that
43 was where the request came up to do the work. And
44 when -- we have in fact looked for a formal
45 letter, but we have been unable to find it, and I
46 think it was because it was merely a follow-up
47 from the meeting that you had with the council.

1 MR. SPROUT: Okay. So that's quite possible. So I
2 would have met with the Council, and encouraged
3 them to do a -- to participate in the evaluation,
4 and to provide some sort of a framework to that
5 effect.

6 MR. WALLACE:

7 Q So I suggest that following the June meeting of
8 the review was under consideration, but it doesn't
9 appear as if anything was assigned or anything was
10 happening. You hadn't heard from the PFRCC. Do
11 you have any recollection of what you did to
12 pursue this requirement, and the deadline was
13 getting closer, through the summer and fall of
14 2009?

15 MR. SPROUT: Well, I think again I would note that the
16 request to the PFRCC was initiated in March.
17 There clearly appears to be some discussions, at
18 least at the WSP Team meeting members about
19 reviewing the -- regarding the review. And we
20 were still waiting, I think for the Conservation
21 Council's response, which we received in January,
22 I believe, of 2010. And then we would work from
23 -- from that basis forward.

24 So I think there were -- we'd initiated a
25 request. We were waiting for that result.
26 Clearly there appears to be discussions that are
27 ongoing, at least amongst the -- the WSP Team
28 members, and once we received the results of the
29 Conservation Council's perspective, then I think
30 there were further steps taken.

31 Q Do you recall following up with the PFRCC at all
32 in that nine months between the -- the request and
33 their response?

34 MR. SPROUT: I don't myself, but I can't speak for the
35 Team members and whether there were any liaising
36 going on, for example, with between some of the
37 WSP Team members and the secretariat in the
38 Conservation Council. I'd have to refer it to
39 them to respond to that.

40 Q So from your recollection, Mr. Sprout, the next
41 thing that happened was the January letter and
42 report from the PFRCC, correct?

43 MR. SPROUT: My recollection of activities that I was
44 involved in related to the review of the WSP.

45 Q Yes.

46 MR. SPROUT: Yes, correct.

47 MR. WALLACE: Mr. Lunn, if we could have Exhibit 232,

1 please. And perhaps we could -- Exhibit 231 is
2 the letter, perhaps we could go to that first.
3 Q And so that was the next thing that happened, then
4 Exhibit 232, there are four recommendations
5 included at the bottom of page 2. If you can just
6 have a look at that, Mr. Sprout, I'd like to know
7 your views on the validity of those
8 recommendations.

9 MR. SPROUT: Well, I think I would like to look at this
10 in the context of a briefing note that I received
11 subsequent to this. Because again I'd like to
12 explain sort of how the decision-making process
13 works in the Region.

14 So we requested the Council to provide us
15 advice on an evaluation framework in March.
16 Eventually the Council does provide that
17 perspective in January. Then what would normally
18 happen under the circumstances I would -- is that
19 this would be referred to our Policy Group, who
20 would then consult with various members of the
21 Department, who would be knowledgeable, possibly
22 the WSP members themselves of the Implementation
23 Team. And then that would then result in a
24 briefing note being prepared likely. That would
25 come to my attention. And then I would consider
26 that briefing note and then proceed from there.

27 I can tell you in general when I saw the
28 first response initially, I felt it fell short of
29 what it is that we were requesting. I thought
30 that it did provide some interesting ideas about
31 process, but I didn't feel it really provided what
32 I would have considered to be an evaluation
33 framework.

34 Q So we'll get to the briefing note in a moment, but
35 just to look at these four recommendations. The
36 first is:

37
38 That the independent evaluation be conducted
39 in a thorough and inclusive manner that
40 adequately considers all views and
41 perspectives.

42
43 Do you agree with that?

44 MR. SPROUT: Okay. So now you're asking me to look at
45 it from my perspective right now, or my
46 perspective as the RDG at the time that this came
47 in.

1 Q As the RDG.
2 MR. SPROUT: Then I want to go back and say what I said
3 again. What --
4 Q Well, you said it that the --
5 MR. SPROUT: No, the way the -- this is an important
6 consideration to appreciate, because it's
7 important that in implementing the WSP that there
8 be good senior executive consideration of things
9 like, for example, the evaluation of the WSP. And
10 so I would have wanted to have the views of my --
11 of my staff, particularly those that were directly
12 involved and would be knowledgeable in a way that
13 some other -- others of us would be less so. So
14 along with that perspective, I would be prepared
15 to provide my views on this now, but I'm trying to
16 explain what I was going through when I received
17 this --
18 Q Right.
19 MR. SPROUT: -- this particular proposal.
20 Q So when you -- so you're saying that when you
21 received this proposal, you sent it for senior
22 management consideration?
23 MR. SPROUT: I sent it to the Policy Group, who had the
24 coordination role for WSP.
25 Q And did they provide you with a briefing note?
26 MR. SPROUT: My recollection is, is that they did, that
27 there was a subsequent note. I'm -- and then I
28 would have worked with that note, and then
29 responded from that perspective.
30 Q Okay. There has been produced Exhibit 241, and
31 I'll ask you if this is the note you are referring
32 to. And I notice that it's unsigned and undated,
33 and there does not appear to be any record that we
34 have found that shows that it ever went to you or
35 to the Operations Committee. Is this what you
36 recall as the briefing note?
37 MR. SPROUT: No, that's not what I recall. I thought
38 that I had a received a note from then Acting
39 Director of Policy, which would have analyzed the
40 Conservation Council's proposal that we received
41 in January, and I don't believe this note is what
42 I'm referring to.
43 Q Okay. Do you recall receiving this note, this
44 Discussion Paper?
45 MR. SPROUT: Can you scroll back up, please.
46 I don't recall receiving it, but that doesn't
47 mean I didn't receive it. I just don't recall it

1 right now.

2 Q Okay.

3 MS. FARLINGER: I could add something here.

4 Q Yes, please.

5 MS. FARLINGER: It's my understanding that this note
6 did not come forward to Operations Committee or to
7 the RMC.

8 Q Thank you, Ms. Farlinger. What's the basis of
9 that understanding?

10 MS. FARLINGER: I went back to speak to Amy, who was
11 the author, and it was about the time that Amy
12 went on maternity leave, and she said it had not
13 gone up prior to her leaving. And then Lisa
14 Wilson took over the coordination during that time
15 and she had not sent it up.

16 Q Thank you. Mr. Sprout, you have a recollection of
17 a briefing note. How good is that recollection?
18 Do you recall what you were told in that briefing
19 note?

20 MR. SPROUT: I do recall at a fairly high level. I may
21 be able to respond to your questions on -- on that
22 basis, and then we could proceed and see whether
23 that's -- reasonably addresses any questions.

24 Q Sorry, I thought that you were going to provide
25 that recollection.

26 MR. SPROUT: Well, my recollection is that I did
27 receive a briefing note from the Acting Director
28 of Policy after analyzing the Conservation
29 Council's proposal, and that the analysis
30 suggested that the -- notwithstanding some of the,
31 I think, relevant areas that the Council had
32 pointed out, that it fell short of what we would
33 consider to be evaluation framework, and that is
34 my recollection of the note that I received from
35 the Acting Director of Policy.

36 Q And what did you do, having received that advice?

37 MR. SPROUT: I recall writing back to the Council,
38 thanking them for their proposal, indicating that
39 we would be looking at factoring that into any
40 decision we would make on an evaluation of the
41 policy, or words to that effect.

42 Q And referred to speaking notes and, Mr. Lunn, this
43 is document 72 on Canada's list. Do you recall
44 these, Mr. Sprout?

45 MR. SPROUT: I do.

46 MR. WALLACE: Could these be marked as the next
47 exhibit, please, "Meeting with PFRCC - Speaking

1 Points for RDG", March 15, 2010.
2 THE REGISTRAR: Exhibit number 247.

3
4 EXHIBIT 247: Meeting with PFRCC - Speaking
5 Points for RDG, March 15, 2010
6

7 MR. WALLACE:

8 Q So you then, you presented this to the PFRCC. If
9 you can just briefly tell us what the tenor of
10 your remarks were.

11 MR. SPROUT: Okay. I didn't present it to them.
12 Typically in meetings my staff will provide,
13 depending on the nature of the meeting, speaking
14 points. And then what I will do with those
15 speaking points is decide how to organize them, to
16 what extent I'll speak to them, emphasize some
17 versus others. So that's -- that's something that
18 I make a choice about. But nevertheless, these
19 would have been a guide for me. So just as long
20 as that's -- that's clear.

21 Q Right.

22 MR. SPROUT: So what I would have done -- what I do
23 recall doing here, though, is making a couple of
24 points about the Council's operation, and also
25 acknowledging the impending retirement of one of
26 the individuals.

27 You can see toward the bottom of my -- the
28 bottom of the proposed speaking points, I referred
29 to the need for a review, audit and evaluation of
30 the PFRCC, consistent with the approach with all
31 Departmental programs.

32 I take it there's a second -- there's another
33 page to this?

34 Q Yes.

35 MR. SPROUT: Could we go to that page, then.

36 You can see, as well, that in the second
37 bullet I talk a bit about some of the ideas that
38 the PFRCC is wanting to advance, one of them being
39 the Stronghold concept. I indicate my perspective
40 on that.

41 I also in that same subset, I refer to:

42
43 The Department's conservation objectives,
44 specifically the Wild Salmon Policy...
45

46 I'm reading that bullet now, and note it's
47 consistency the council's activities.

1 And then I go on, in the bullet, dark bullet
2 noted as:

3
4 Now, I would like to propose my views on
5 activities that...

6
7 The Council could take under consideration, and
8 then I outline some of those areas that I think
9 the Council -- that we would benefit, the
10 Council's views on. One of them being the
11 implementation of the WSP and the role of the
12 Council in the audit and evaluation:

13
14 ...in the review of the WSP within the
15 framework established by the DFO Audit and
16 Evaluation directorate.

17
18 And so that's a specific proposal that you wanted
19 to discuss; is that correct?

20 Q The -- I'm trying to determine what you did with
21 the advice, and then so you're reporting --
22 MR. SPROUT: Well, I'm not getting any advice. I'm
23 not --

24 Q -- you're reporting, you're going back to the
25 PFRCC and suggesting a role for them in the
26 review, correct?

27 MR. SPROUT: Yes, I am. So I'm meeting with the PFRCC.
28 I, at one -- and now I am encouraging the PFRCC to
29 participate or to get involved in certain
30 projects. One of them is the review of the WSP.

31 Q Right.

32 MR. SPROUT: And that would have then triggered the
33 review proposal that we subsequently would --
34 received.

35 Q Well, this is -- this appears to be March of 2010.
36 MR. SPROUT: Oh, then, maybe what I'm -- can we go back
37 up to the top just to confirm that date?

38 So this is after I've already got -- I've
39 already got their proposal. Can we go back down
40 again, then?

41 Q Is this perhaps the briefing note --

42 MR. SPROUT: Oh, I know what it is. I know what it is.

43 Q Is this perhaps the briefing note --

44 MR. SPROUT: No.

45 Q -- you got?

46 MR. SPROUT: No, I think what this is, is we've
47 obviously got the January proposal, and what's

1 happening is since January we're further
2 considering the review and how we might proceed.
3 So let me set this up now. The chronology is
4 becoming clearer to me.

5 So in March of 2009 I write to the PFRCC,
6 indicate that there's a -- we're contemplating a
7 review in 2010, seek their advice in evaluation
8 framework. They provide advice in January of
9 2010. That advice is my recollection of the
10 briefing note I received, which we don't have here
11 as an exhibit, is that they basically provided
12 advice on process but did not really provide
13 advice on an evaluation framework.

14 And then so subsequently we would have then
15 looked at other possibilities of doing the
16 evaluation, and one of them would have been
17 working with the DFO Audit and Evaluation
18 Directorate in Ottawa and working with their terms
19 of reference for doing the evaluation. And then
20 when I met with the Conservation Council, after
21 their January 2010 proposal, I'm still
22 determining, and encouraging them to participate
23 in whatever evaluation we finally agree to.

24 Q Now --

25 THE COMMISSIONER: Mr. Wallace, I apologize for
26 interrupting. I just -- I'm trying to follow this
27 evidence.

28 MR. WALLACE: Please.

29 THE COMMISSIONER: I'm not sure, is the witness the
30 author of this document?

31 MR. WALLACE: These are speaking notes, as I understand
32 his evidence, that were prepared for him to
33 address the PFRCC.

34 MR. SPROUT: I'm not the author, Mr. Commissioner.
35 Others are, and it's not unusual in meetings that
36 I'm attending that I would have particular points
37 drafted by experts. Could be Fisheries
38 Management, it could be in this case WSP experts,
39 it could be Habitat, and then I utilize these
40 points in my meetings.

41 THE COMMISSIONER: That's what I thought and that's why
42 I asked the question. And it's confusing me just
43 a little bit, and again just bear with me for a
44 moment. Looking at this document, I have to -- I
45 don't have a hardcopy of it, and I'm trying to
46 look at the screen and I'm not sure if this will
47 work or not. On the page that's on your screen,

1 I'm not sure, it starts off:
2

3 In your work plan, you specifically ask for
4 DFO advice...
5

6 Do you see that, witness?

7 MR. SPROUT: Yes, I do.

8 THE COMMISSIONER: And just a little bit lower down, I
9 think it's the fourth, perhaps, the one, two,
10 three, fourth bullet down, it says:
11

12 The Department's conservation objectives for
13 salmon focus on ensuring the sustainability
14 of stocks by focusing on weak stock
15 protection, and are defined through the Wild
16 Salmon policy...
17

18 What's confusing me is the language, because by
19 this time I'm being told by many, many witnesses
20 we're not using the term "stocks" any longer,
21 we're using "CU's". I don't see the reference to
22 "CU's" in this document.

23 MR. SPROUT: That's correct. So I want to make two
24 points. Number one, these are not my notes.
25 Number two, these are prepared by someone else,
26 and the -- and there's a couple of things that's
27 awkward about those -- that line, which I would
28 not have used.

29 So first of all, we are focused on
30 sustainability of salmon populations, or
31 conservation units. That does not mean we're
32 focused on weak stock protection, and we'll have
33 to discuss that more broadly, Commissioner, as we
34 go along. And I would have -- I would have
35 interpreted or taken from this and made remarks
36 that would be more consistent with what you've
37 heard over the last week or two. So I think you
38 would take these remarks under advisement, that I
39 don't literally speak to them. And that I would
40 try to speak to what I understood to be the policy
41 and direction the Department would have at that
42 particular time.

43 MR. WALLACE:

44 Q Mr. Sprout, just following the chronology, then,
45 through the spring of 2010, the -- you recall
46 internal discussion about what to do with the
47 PFRCC report and your views that it was inadequate

1 in some respects. Let me just take you forward to
2 dealing with the impending deadline, which is June
3 or so of 2010. And the next document that relates
4 to that is Exhibit 239.

5 This is the record of the -- were you -- May
6 6th, 2010, Mr. Sprout, had you left by that point?
7 MR. SPROUT: What's the date on this -- did you say,
8 I'm sorry?

9 Q It's May 6th of 2010. If you go to page 5 of this
10 Strategic Directions Committee Log. "May 6th, WSP
11 Work Planning".

12 MR. SPROUT: No, I'm still there on -- at this time in
13 May. I didn't leave until the end of May.

14 Q And if you could -- if you see at the bottom of
15 that lower central box it says:

16
17 It was suggested perhaps the PFRCC --

18
19 Or, sorry, let's go ahead one:

20
21 A comprehensive report, not an evaluation,
22 will be presented to Operations Committee at
23 the end of June.

24
25 And:

26
27 It was suggested perhaps the PFRCC could do
28 the progress --

29
30 - next, go over the page -

31
32 -- report on the WSP initiative as long as we
33 provide a defined TOR's to them.

34
35 Do you recall that discussion?

36 MR. SPROUT: I'm sorry, where is that? Oh, this is the
37 top of the box?

38 Q The top of the next page. Can we straddle the two
39 pages, or is that not possible?

40 THE COMMISSIONER: Does the witness have a hardcopy,
41 Mr. Wallace?

42 MR. WALLACE: Yes, the witness has it in hardcopy. Is
43 it possible to get the bottom of the previous page
44 on there, as well, Mr. Lunn?

45 MR. LUNN: We can try.

46 MR. WALLACE: Ah, just like that. I think the other
47 way. Just a bit further.

1 MR. LUNN: Thank you.

2 MR. WALLACE: The next page. There we are. Perfect.

3 Q So, Mr. Sprout, do you recall this meeting of the
4 -- I forget the name, the Strategic --

5 MR. SPROUT: Strategic Directions Committee.

6 Q Thank you.

7 MR. SPROUT: I do -- I do recall a meeting in May, and

8 I do recall that we were looking, at least

9 initially going into that meeting and having the

10 evaluation, I think, as characterized here. Now,

11 did this emerge from the meeting, or is this prior

12 to the meeting? Is this -- or is this --

13 Q This is, if you scroll to the top, it is described
14 as the Strategic Committee Log, so I'm taking it
15 this is closest we have to minutes of these
16 meetings.

17 MR. SPROUT: You see, what I -- what I recall, is in
18 the -- in, I think it was this committee meeting,
19 in May, that there was a proposal to do the
20 evaluation in May 2010, but that as that proposal
21 was discussed, it became clear to all of the -- or
22 all of the directors were concerned that to
23 evaluate the progress of the WSP, we needed to
24 look at whether the program or the Policy was
25 something that people were putting into effect on
26 a day-by-day basis in their ongoing jobs. And
27 therefore that cultural aspect was argued by, I
28 believe, all of the executive, that that
29 information should be collected prior to an
30 evaluation being done, to really allow for a
31 proper determination about whether the WSP was
32 achieving what it was set out to -- to achieve,
33 which was that it become part of what the
34 Department is and what it does.

35 And I recollect that we discussed that the --
36 the feasibility of collecting that information
37 first before doing the evaluation. I don't recall
38 that we made any decision. But that's my
39 recollection of that meeting.

40 Q Okay, thank you. And, Ms. Farlinger, were you at
41 the meeting in May, the Strategic Directions
42 Committee?

43 MS. FARLINGER: Yes, I was.

44 Q And do you have anything further to add to Mr.
45 Sprout's recollection of that meeting?

46 MS. FARLINGER: No, that was the gist of it. We had a
47 long discussion about how we were going to do this

1 evaluation. We were lacking an evaluation
2 framework from the PFRCC. We had gone internally
3 to our Audit and Evaluation folks, who had
4 fundamentally said that they audited programs, not
5 policies, and offered us contacts with external
6 contacts to set up an evaluation framework. We
7 were talking about how we should set up an
8 evaluation framework, and that is the context in
9 which we said we not only need to evaluate things
10 like, have we defined "conservation units", we
11 also need to evaluate how we have implemented this
12 operationally in order to contribute to
13 fundamentally which would be -- what would be a
14 broad evaluation of progress we've made on the
15 Wild Salmon Policy.

16 Q Yes. And do you recall, Ms. Farlinger, that in
17 June at the Operations Committee it was deferred
18 then, the review was deferred?

19 MS. FARLINGER: I think I spoke to this this morning.
20 Rather than a decision we will defer the review,
21 it was June 2010, we hadn't done it. That was the
22 original date for the performance review. What we
23 did do at that committee was decided what we
24 needed to put into play to ask the Policy folks
25 and the WSP Implementation Team to do in order to
26 prepare us to build that evaluation framework, and
27 for a meeting in the fall. And that meeting is in
28 fact as I understand, sometime next week, at which
29 we expect the WSP Implementation Team to come back
30 with some methodology for evaluating both the
31 operational, as well as the other aspects. And I
32 think in the e-mail that I provided this morning,
33 there are draft elements of that proposal. I have
34 not seen the final that is intended to come to the
35 meeting. But that's what the WSP Team had gone
36 away and done after that meeting.

37 Q All right. And that -- and that proposal is
38 upcoming shortly, is it?

39 MS. FARLINGER: My understanding is it's on our next -
40 I hope I'm getting this right - Operations
41 Committee meeting.

42 Q Do you recall whether that proposal is for an
43 external review, or an internal one?

44 MS. FARLINGER: As I think I said this morning, we had
45 no intention of moving away from an external
46 review, but merely to try and define the
47 evaluation framework. And I think what we've been

1 sort of struggling with over the last hour is we
2 tried to ask for that from the PFRCC. We tried to
3 ask from that -- for that from our audit
4 specialists inside the Department nationally, and
5 failing that, we were preparing the material we
6 thought we would have to take to an external
7 consultant or an external party of some kind in
8 order to do that independent review.

9 Q Okay. And may then just move on to the next
10 topic, with respect to your involvement, Ms.
11 Farlinger, in the Marine Stewardship Council's
12 certification, and that relationship to the Wild
13 Salmon Policy.

14 You are aware, of course, of the references
15 and the way the Action Plan is written to make
16 reference to -- for the Marine Stewardship Council
17 certification is written to pick up parts of the
18 Wild Salmon Policy?

19 MS. FARLINGER: Yes, I'm aware of the Action Plan, and
20 it was specifically aligned with things we were
21 either planning to do, were already in play, or
22 that we needed to do in terms of implementation of
23 the Wild Salmon Policy, that matched the
24 requirements and conditions of the certification.

25 Q And would you agree that if the Wild Salmon Policy
26 is not fully implemented, that this is a barrier
27 to Marine Stewardship Council certification?

28 MS. FARLINGER: I think there's certainly common
29 elements to it. The -- while the Marine
30 Stewardship certification didn't explicitly speak
31 to full implementation of the Wild Salmon Policy,
32 it was very specific in the conditions about the
33 kind of actions that they wanted to see in terms
34 of progress on the Wild Salmon Policy,
35 specifically as it referred to the four sockeye
36 aggregates that the Marine Stewardship
37 certification applies to.

38 Q Were you involved in the approval, or did you
39 approve the final Action Plan that DFO has for MSC
40 certification?

41 MS. FARLINGER: I was certainly involved in it. The
42 Action Plan was developed in what was my -- the
43 branch I was responsible for at the time, which is
44 Fisheries and Aquaculture Management. The Action
45 Plan originally drafted, the first one, was
46 approved by me, and then by Paul Sprout, because
47 he was still the RDG. The Action Plan evolved

1 over the last year until the actual certification,
2 well, to the publishment of the -- the publishing
3 of the certification. And then finally the
4 certification this summer.

5 So when we first drafted that Action Plan, we
6 were involved. Paul Ryall drafted it with Stock
7 Assessment folks, Mark Saunders and his staff, as
8 well various Fishery managers throughout the
9 organization, to ensure that it would be embedded
10 into their Workplan. And then it went through the
11 approval process, which was at the time through
12 the -- my position as Regional Director, and then
13 up to the RDG.

14 Finally, I saw the plan, and while I did not
15 formally sign off on it, I okayed it by the time
16 it was submitted finally.

17 Q Was that approved by the RMC, or the Ops Committee
18 by -- for approval, or...

19 MS. FARLINGER: No.

20 Q So there's no official DFO approval of the Action
21 Plan; is that correct?

22 MS. FARLINGER: Well, we submitted the Action Plan to
23 the certification body, and by signing off, or
24 initialing, or approving that plan for Paul Ryall
25 to send into the certifier, I was saying that we
26 would implement that plan.

27 Q Mr. Lunn, that -- if I could take you to Exhibit
28 159, which is the final Action Plan. Just
29 briefly, could we go to page 4. Condition 5 makes
30 reference to -- I'll just read it:

31
32 Certification is conditional until the
33 Conservation Units have been defined for
34 Fraser sockeye using the methods described in
35 Holtby and Ciruna (2007) and LRP's for each
36 Fraser sockeye conservation unit are defined
37 and peer reviewed.

38
39 And you understand that LRP's, in your view, are
40 the same as benchmarks for the purpose of this
41 certification -- this Action Plan?

42 MS. FARLINGER: I will say in general that's true,
43 although I understand there is a distinction,
44 because one is a trigger for a management action
45 and one is a biological measure. But, yes, in
46 general terms, yes.

47 Q Are you concerned about the ramifications of that

1 confusion, that by developing the non-triggering
2 benchmarks as opposed to the triggering LRP's, as
3 I understand the difference, that will not be seen
4 as meeting the condition?

5 MS. FARLINGER: No. I think the conditions were
6 carefully written to describe what it is that the
7 requirement of the Eco-Certification Group was,
8 and I do think there's -- I do think there
9 probably is some debate about which is which, but
10 nonetheless, I think it's -- I think it's fairly
11 clear.

12 Q And addressing the confusion that the Commissioner
13 mentioned a moment ago, if we could go to
14 Condition 19. Condition 5 speaks of "CU's" and
15 Condition 19, page 5, speaks of "stocks". Are
16 those two consistent?

17 MS. FARLINGER: Well, it's -- I must say, it's an
18 unfortunate use of the word "stocks", because our
19 intention, of course, is to talk about the
20 populations, and I think you've spent some time
21 with folks who know far more about that than I do.
22 And but the intention is to define the LRP's for
23 these conservation units. That is our intention,
24 to do -- as to what we have to do to meet this
25 condition.

26 Q Page 5 -- can you scroll up just a bit, the top of
27 the page:

28
29 To satisfy these conditions DFO will fully
30 implement 'Strategy 1' of our WSP.

31
32 Do you -- what do you consider "fully implemented"
33 means in this context? Does that mean with
34 respect to Fraser River sockeye, that all of the
35 Strategy 1 action steps must be taken for all
36 Fraser River sockeye CU's?

37 MS. FARLINGER: It certainly suggests that. It doesn't
38 suggest it, it says it.

39 Q Further down on that page:

40
41 DFO will provide a progress report on
42 Strategy 1 implementation...

43
44 Perhaps it's lower down on the page, Mr. Lunn, is
45 it? There we are. The quote is:

46
47 DFO will provide a progress report on

1 Strategy 1 implementation to the MSC
2 certifying body by late 2010.

3
4 And that's just ahead of the chart or the box
5 there.

6 Has DFO provided a Strategy 1 implementation
7 progress report to the MSC certification body?

8 MS. FARLINGER: I'm not sure whether we have or not,
9 and, quite frankly, in terms of the detail of
10 this, Paul Ryall, who is our principal author and
11 who is principally responsible for providing
12 information back and forth to the certification
13 body, would be the person who could specifically
14 do that.

15 Q And looking at future timelines, if you look at
16 the box just below the last two lines, or box of
17 type, there's a timeline to:

18
19 Define LRP's for each target stock (CU).

20
21 By December 2011. Is that date going to be
22 achieved?

23 MS. FARLINGER:

24
25 Apply criteria and methods of Holt et al...

26
27 Q Yes.

28 MS. FARLINGER:

29
30 ... to specific CUS.

31
32 I suspect that there was a fair amount of
33 discussion, I think, over the last couple of weeks
34 about the methodology, and advances need to be
35 made on that. I think the specific -- we will be
36 able to apply the criteria and methods to specific
37 conservation units. Whether that's to all
38 conservation units or not, I can't speak to it.

39 Q And what about the timeline for the -- for the
40 defining target reference points through May of
41 2012. Is that doable?

42 MS. FARLINGER: Our intention in drafting this Action
43 Plan was to try to be as practical as possible in
44 terms of whether we could meet this. It certainly
45 wouldn't help the certification of the fishery to
46 have us make commitments we couldn't keep. As to
47 whether we have met these timelines right now, I

1 think I'm going to have to go back to Mr. Ryall.

2 Q In your summary of evidence, Ms. Farlinger, you
3 say that these deadlines are supported by
4 industry. Can you recall specifically who in
5 industry supports these deadlines and what the
6 basis of your conclusion on that is?

7 MS. FARLINGER: The -- as I mentioned this morning, it
8 is the industry, the salmon fishery, in this case
9 I believe it was BC Seafood Alliance, that applied
10 for the eco-certification, and so in order for the
11 whole package to be accepted, there are a certain
12 number of things that have to happen. Some of
13 them have to happen within the context of the
14 industry, and some of them have to happen within
15 the context of the management framework. And they
16 were intimately involved in discussing and
17 understanding these Action Plan, this -- the
18 elements of this Action Plan, and were aware of it
19 as we went along.

20 About a month ago we convened a meeting with
21 the eco-certifiers, with our Area and Stock
22 Assessment and Fishery Management staff, who are
23 going through this Action Plan and have the
24 elements of it in their Workplan, and the
25 industry, meaning the representatives of the BC
26 Seafood Alliance, and discussed the Workplan for
27 moving these forward and where various elements of
28 it were. So I would say industry is very familiar
29 and would have objected to elements of this plan
30 and not submitted it if they were not happy with
31 it.

32 Q Is there any industry group that is not
33 supportive?

34 MS. FARLINGER: The only group we have dealt with here
35 is the industry group seeking the certification.
36 So I don't know specifically of anyone who is not
37 supportive of that -- I mean, any industry group
38 who is not supportive of it.

39 MR. WALLACE: Mr. Commissioner, it's 3:20. Shall we
40 take a short break and I wonder if I could ask
41 counsel not to head off to the mall for coffee.
42 It seems to take a long time to get people back.

43 THE COMMISSIONER: All right.

44 THE REGISTRAR: The hearing will now recess for ten
45 minutes.

46
47

(PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

(PROCEEDINGS RECONVENED)

1
2
3 THE REGISTRAR: Order. The hearing is now resumed.

4 MR. WALLACE: Thank you.
5

6 EXAMINATION IN CHIEF BY MR. WALLACE, continuing:
7

8 Q Mr. Sprout, just on the engagement with the
9 Province of British Columbia, you indicated -- or
10 said in your summary that the Province, through
11 Bud Graham, expressed concerns about aspects of
12 the Wild Salmon Policy and its possible
13 implications, especially during early stages of
14 its development.

15 Did you learn those views directly from Mr.
16 Graham?

17 MR. SPROUT: Yes. When you asked me about this
18 particular area and I indicated that Mr. Graham
19 had spoken to me, that he did have concerns,
20 particularly in the early development of the
21 policy, that the policy could have implications in
22 terms of fisheries that maybe very -- that may
23 result in very significant changes in how those
24 fisheries are conducted and potentially in
25 harvest.

26 And again, this was in the early stages of
27 the development of the policy, when I had returned
28 to the region in two thousand -- late 2003/04.

29 Q So his specific concerns were about the impact on
30 harvesting?

31 MR. SPROUT: That is my recollection.

32 Q And do you recall whether he maintained that view
33 or he --

34 MR. SPROUT: I'm not aware, after the policy was
35 adopted, Bud raising any concerns privately with
36 me about the impacts of the policy on harvesting,
37 and what I referred to was the events leading up
38 to the final policy.

39 Q So you haven't had any more dealing -- haven't
40 heard any reservations on, let's start with
41 harvesting impacts, since 2005?

42 MR. SPROUT: Yes, I think that would be fair to say,
43 yes.

44 Q Any other concerns expressed by the province?

45 MR. SPROUT: No. I think that he recognized, like I
46 think all of us, the challenges of implementing
47 the policy, its complexity, the capacity of the

1 department to be able to do that. That won't be a
2 surprise to anyone, I don't think. But I think
3 beyond that, no.

4 Q All right. Ms. Farlinger, have you had any
5 conversations with the province that suggests
6 reservations with respect to the policy?

7 MS. FARLINGER: No. In fact, I believe they've done
8 some analysis on steelhead where they have looked
9 at a framework that's not exactly the Wild Salmon
10 Policy but very similar in terms of implementing
11 that for their management responsibilities for
12 steelhead.

13 MR. WALLACE: Thank you. Can we have page 13 of
14 Exhibit 8, the Wild Salmon Policy? I just want to
15 refresh your memory on the obligations. Page 36.
16 Did I say -- page 36. And it's the second
17 paragraph there.

18 Q

19
20 There is a second requirement for successful
21 policy implementation. The Department must
22 adopt better partnerships with First Nations
23 Governments, volunteers, stakeholders and
24 other levels of Government...

25
26 I just wanted to ask about your -- the province,
27 as a partner, and a concern, Mr. Sprout, that you
28 expressed, that the province has lost its
29 capacity, internally, to partner with DFO on fish
30 habitat conservation, including through the lens
31 of the WSP and integrated watershed planning.

32 Can you just expand on your perception that
33 B.C. has lost its capacity to participate?

34 MR. SPROUT: Yes. It is my perception over time that
35 the province's capacity to participate in some of
36 the initiatives related to WSP, particularly, I
37 think, at the watershed level where I believe they
38 need to take more of a lead role, which I can
39 expand on. It appears to me that their ability to
40 do that kind of work has been diminished over
41 time. That's my perception.

42 I'm also aware, in the Interior of B.C.,
43 where we have significant habitat activities. The
44 ability in the past, there was a lot of sharing of
45 workload between DFO and the province. I'm led to
46 believe that there's less capability on the
47 province's side to share that workload than there

1 has been in the past, and that led to my remarks
2 that you've just noted.

3 Q Does that concern of capacity lead you to worry
4 that the policy cannot be implemented or just that
5 it would be more time -- take longer to do so?

6 MR. SPROUT: Well, I think -- my view is that the WSP
7 policy isn't enough to deal with question of
8 sustainability and future prospects of Fraser
9 River sockeye, and that DFO can't do this alone.
10 And I'm particularly concerned about the issue of
11 water management. And if you believe, as many of
12 us do, that one of the very important threats to
13 Pacific salmon, but Fraser River sockeye in
14 particular, is climate change, and particularly
15 climate change as it affects freshwater, either
16 snow-pack levels are diminishing, water
17 temperatures in the rivers are rising, then this
18 really calls into question how you can plan around
19 the use of water and allocate water simultaneously
20 for human consumption, industrial use, power use,
21 and fish use.

22 The Department of Fisheries and Oceans does
23 not control the use of water. Others do: the
24 province; the regional districts; the
25 municipalities; and so forth. So I do -- I am
26 concerned that in the future, particularly under
27 climate change, that some of the issues that we've
28 observed recently with high water temperatures in
29 the Fraser Rive, with low flows in some of the
30 tributaries, that we really need to think about
31 how we can use water in a way that factors in
32 fish, while simultaneously recognizing that
33 there's obviously human demand. That's one
34 aspect.

35 The second aspect that I'm concerned about is
36 human population growth. I noticed, in the first
37 session I participated in, we talked about the
38 lower Fraser and the challenges around the lower
39 Fraser habitat areas. People want to live in the
40 lower Fraser, they want to develop the land and
41 they want to, in many cases, extract the water.
42 But it's also the case in the Interior B.C.

43 So the issue around human population growth
44 and climate change, particularly as it applies to
45 freshwater, are areas that I just don't believe
46 the Wild Salmon Policy can really get at. Even
47 Strategy 4, which if you look at it carefully,

1 although it's focused on conservation units and
2 habitat, it's really not, in my opinion, going to
3 be able to get at the issue of regulating water.
4 It's also not going to get at the issue of where
5 human population growth should occur and where it
6 should not.

7 So these are troubling to me, and I think,
8 strategically, these are important matters that I
9 believe -- I don't think can be reasonably dealt
10 with under the guise of the Wild Salmon Policy.

11 Q Thank you, Mr. Sprout. On the issue of capacity,
12 to fully implement, you also observed that DFO
13 Oceans Habitat Enhancement, OHEB, lacks the
14 capacity to fully implement the Wild Salmon Policy
15 as it has limited budget and is principally
16 focused on reacting to external challenges.

17 Can you just comment on that lack of capacity
18 and tell me whether you think that -- tell the
19 Commissioner whether you think that's a timing
20 issue or whether it could be fatal to the
21 implementation?

22 MR. SPROUT: I don't think it's fatal to the
23 implementation, but I think we need to go back to
24 an earlier discussion we had, today, on resources.
25 In my view, this is an area where I think a modest
26 increase in resources would be very helpful to
27 better implementing the policy. The habitat
28 group, in my opinion, struggles with the workload
29 that it has. We have extensive land development
30 in this province and that, then, frequently takes
31 place near or affects water, which triggers the
32 habitat policy and, in some cases, more -- better
33 legislation that involves our staff.

34 Our staff are significantly committed, and
35 even under those circumstances there's significant
36 workloads. So to free up staff to target on WSP
37 is really challenging under those circumstances.

38 Now, having said that, I do want to note that
39 progress has been made on Strategy 2, the actions
40 and the tasks in Strategy 2. And this is not
41 self-serving; this is acknowledging exactly what's
42 transpired. Significant work has been done by the
43 department in the face of many competing
44 priorities in the case of habitat. But it's
45 particularly in habitat that I think additional
46 resources would be very helpful in further
47 strengthening the department's response to the WSP

1 implementation, recognizing that significant work
2 has been done, but and additional resources here
3 would be very helpful, in my opinion.

4 Q Thank you, Mr. Sprout. Ms. Farlinger, do you
5 agree with that assessment of Strategy 2 and
6 OHEB's capacity?

7 MS. FARLINGER: I think that there have been challenges
8 in moving forward in the habitat section. I mean,
9 partly it's a sequencing issue around if you
10 haven't defined the conservation units, you know,
11 it's hard to describe the habitat in them. But
12 the development of the indicators has now poised
13 us to move forward. For example, they're using
14 those indicators in the Skeena to go through a
15 habitat review.

16 But there are challenges in that section,
17 specifically around how we engage partners to help
18 us with the monitoring piece, and I think you
19 raised that question, yourself, earlier. Now, we,
20 internally, are looking at a review and renewal of
21 our habitat program because of the fact that the
22 department recognizes the challenges and the
23 workload that are really preventing us from moving
24 forward on some of the more proactive strategies
25 in -- that are outlined originally in the habitat
26 policy that are also in the Wild Salmon Policy.

27 So in general, it is an area in which we are
28 very challenged with workload and resources.

29 Q Mr. Sprout, you've said in your summary that you
30 will agree that for the WSP to be successfully
31 implemented it must be supported by national
32 headquarters, including at the ministerial level,
33 and you will say that it is necessary to ensure
34 that the WSP is part of DFO's organizational
35 culture.

36 Dealing, first, with the national case, can
37 you tell me what engagement you had with the
38 minister during the implementation period of WSP
39 since 2005, on, with respect to it?

40 MR. SPROUT: Well, obviously the minister of the day
41 was involved in the development and --

42 Q Yes.

43 MR. SPROUT: -- and so I won't go into that detail.

44 Q Thank you.

45 MR. SPROUT: On the implementation, depending on the
46 nature of the issue, particularly on the fisheries
47 side, the establishment of exploitation rates for

1 stocks of concern, or CU's of concern, the
2 minister of the day will be involved in
3 potentially making the decision on those
4 populations in establishing those exploitations.
5 And so you will be -- or I would be consulting
6 with the minister through the deputy, working with
7 the deputy and the minister, depending on the
8 nature of that kind of a question, which would be
9 not unusual for a minister to get involved.

10 Beyond that, I would also be liaising with my
11 colleagues in Ottawa, so these are the ADM's of
12 science, of fisheries management, again - I'm
13 using old terms, but nevertheless, their
14 counterparts for Sue Farlinger for today - and
15 advising them of our interest in advancing WSP and
16 trying to convince my colleagues to provide as
17 much support as he can, financially, morally,
18 policy-wise, to help support the implementation of
19 the policy.

20 I would also be working with the deputy
21 minister, flagging the concerns of WSP, as I would
22 the other challenges the Pacific Region has in the
23 DMC. So this would be a normal practice for
24 someone like myself or an RDG to do.

25 Q Ms. Farlinger, have you had engagement at the
26 ministerial level with respect to the
27 implementation of the WSP?

28 MS. FARLINGER: Yes. I think the occasions that Mr.
29 Sprout describes are the ones where, as the
30 regional director of fisheries management, I would
31 have been involved in briefing and providing
32 advice to the minister, either directly or through
33 the RDG and the deputy, both, in fact. And
34 specifically speaking to decisions around harvest
35 rates, around exploitation rates, which have a
36 profound effect on those who are -- those who are
37 engaged in the fishery.

38 Q What about with the status of implementation of
39 Strategies 1, 2, and 3?

40 MS. FARLINGER: I can't say that I have had any
41 specific interactions on that, other than to
42 include in briefings on matters that relate to
43 salmon, whether they're habitat, whether they're
44 resource management, to refer to the principles of
45 the Wild Salmon Policy in terms of supporting
46 decisions that might be made on any particular
47 issue, whether it could be related to a habitat

1 authorization or a major project, for example, on
2 environmental assessment, or whether it's dealing
3 specifically with harvests on -- harvests on
4 salmon -- harvest rates, sorry.

5 Q Mr. Sprout, what about the status of the
6 implementation of Strategies 1, 2, and 3; have you
7 had any -- did you have any engagement with
8 national headquarters and with the minister with
9 respect to that?

10 MR. SPROUT: I don't recall any conversations with the
11 minister on Strategies 1, 2, or 3. I would have
12 had conversations with my colleagues on the
13 aspects of 1, 2, and 3, depending on the issue
14 that was arising at that time. For example, in
15 the conservation units it might be the progress
16 that's being made. The methodology framework,
17 that might be a conversation I might have had with
18 Wendy Watson-Wright when she was a science
19 director.

20 I may have had conversations, or I would have
21 had conversations with David Bevan, when he was
22 the ADM of fisheries management, on how you take
23 into consideration -- ecological considerations as
24 you make fisheries management decisions.

25 And so those are the kinds of conversations I
26 would have had with my colleagues.

27 Q Mr. Sprout, we probably have covered this, but I
28 want to make sure that that is the case. In your
29 summary, you say that you will provide your views
30 on the potential merits of assigning
31 responsibility for Wild Salmon Policy
32 implementation to a new Wild Salmon Policy
33 director, an executive position, with lead
34 responsibility for ensuring the Wild Salmon Policy
35 implementation. Am I correct that your view is
36 that that's not a good idea?

37 MR. SPROUT: No, I don't think that that's entirely
38 correct. I think what I'd like to do, since we've
39 had the conversation today and we've got some of
40 the context out, is come back and answer that. I
41 need to say, though, when this was first presented
42 to me it -- the way it was presented was, "Well,
43 we need a big dog with big teeth to be in charge
44 of the WSP, and that dog goes around and bites all
45 the regional directors and makes them implement
46 WSP."

47 Okay, I -- I rejected that concept. I've

1 been under that kind of a regime before, where you
2 have a top-down driven approach to implementing
3 policy, and it doesn't work. It doesn't take hold
4 culturally, you have significant resistance, and
5 the effects are that it affects the other aspects
6 of the -- your programs, and the result is that
7 you go backward, not forward.

8 Through the discussion that we had at that
9 time, plus the conversation today, what I'm
10 understanding in your question is, if we had --
11 would it be possible -- if we had a more senior
12 person who was working cooperatively with the
13 other regional directors to try to advance as best
14 as possible with the resources the implementation
15 of the WSP, I don't think that's a bad thing to
16 do. I think that that would have merit.

17 The final comment I have, though, is I want
18 to be clear; when we implemented this policy in
19 2005, we were required to implement it with the
20 resources we received. So we did get some new
21 O&M, or operating monies along the lines of we've
22 already talked about. But the region didn't get
23 any new executives. So no new executives were
24 provided to take over the WSP. So you couldn't
25 say, "Well, why not redirect another executive to
26 take over the WSP?"

27 But this is where I need to make this point.
28 The reality is that all of the executives are
29 doing very important work, much of it that
30 ultimately relates to WSP. So for example, I've
31 heard it suggested that the associate RDG should
32 be appointed to the position of the WSP
33 coordinator, with the idea that a more senior
34 person would somehow make it happen.

35 Well, my response to that is, "Okay, then
36 what do you do with filling in the associate RDG
37 position?" because the -- the associate RDG
38 position does human resource, does financial
39 support, does real property, all the things that
40 ultimately relate back to training, getting people
41 in the right spot to do the right job that support
42 the WSP.

43 So what I was concerned about is, yes, a
44 senior person, if available to do that, does have
45 merit. I would agree with that. As long as that
46 person is working with his or her colleagues in a
47 cooperative, collaborate way, trying to do the

1 best under the circumstances, I think that has
2 merit. But I would just remind you that I didn't
3 get any extra EX's, or executives, rather; I had
4 to make do with what I had. And I believe the
5 evaluation is, is how well did the region put into
6 place processes, activities and so forth, given
7 the resources it did. And I'm arguing that it did
8 well under the circumstances.

9 Q Thank you. Ms. Farlinger, would you agree with
10 that, that the senior director with responsibility
11 for WSP would be an advantage?

12 MS. FARLINGER: Well, I think, like Mr. Sprout, when
13 the question was first put to me of and by itself,
14 another director isn't going to make a difference,
15 but certainly someone who can work at a higher
16 level, keeping the regional directors engaged
17 supported in their implementation, I think
18 improving integration always helps.

19 I think the changes that the DM talked about
20 in the first day, are things were very much
21 contemplating improving in the region. You know,
22 people get overwhelmed with work in their own jobs
23 and, you know, sometimes the habitat folks don't
24 talk to the fish management folks, and so anything
25 that can promote that kind of integration I think
26 would be helpful.

27 I also agree that implementing sort of from
28 the top down really -- I mean, a lot of the
29 questions about allocation and what each of the
30 program directors do, whether managing groundfish
31 fisheries, shellfish fisheries, you know, looking
32 at marine habitat, doing ocean planning, all of
33 those things are important things and if it's just
34 going to be somebody that says, "You have to rob
35 Peter to pay Paul," that's going to be a bit of a
36 challenge.

37 Q I have one last question, Mr. Commissioner, for
38 each of the panellists. Ms. Farlinger, will
39 implementing the Wild Salmon Policy enhance the
40 sustainability of Fraser River sockeye?

41 MS. FARLINGER: Well, I think, as we've talked about,
42 it's certainly one of the things that can have a
43 significant effect. But there are broader issues
44 at play here, over which the Department of
45 Fisheries and Oceans and/or their partners have
46 little or no control. And I think we've talked
47 about them in a bit in terms of changing ocean

1 conditions. We've talked about it in terms of
2 development. I mean, all of those are key public
3 policy issues that, at the end of it all, have an
4 impact on salmon. We can certainly improve the
5 way DFO does its work, and that will help the
6 sustainability of Fraser sockeye, and that's what
7 the policy is intended to do, is to take a very
8 large ship and make it change direction so that
9 our objectives are clear to the public and we
10 don't really have to reinvent that policy debate
11 at every operational decision. And quite frankly,
12 that's a huge strengthening to the department, to
13 be able to support Fraser sockeye and other salmon
14 stocks up and down the coast.

15 Q Mr. Sprout?

16 MR. SPROUT: I think it's an important policy, as I
17 described in my witness statement, and I think it
18 is important that it be fully implemented.
19 However, we're not a department of the Wild Salmon
20 Policy. The Wild Salmon Policy, in itself, isn't
21 going to get us where we need to go. I've already
22 mentioned that when it comes to water management
23 we've got to look more broadly than DFO. We have
24 to reflect on how we can bring interests together
25 to talk about the best use of a scarce resource
26 when there's many competing uses.

27 That's not going to be dealt with through the
28 Wild Salmon Policy. We might aspire to that in
29 the Wild Salmon Policy, but the reality is that's
30 going to have to be other arenas.

31 I also would like to make the point that the
32 Wild Salmon Policy doesn't deal with allocation
33 issues, and you need to appreciate that, and I
34 know you haven't had this discussion yet, you're
35 planning to have the harvest discussion later, but
36 the allocation of fish requires that you have to
37 have conservation objectives. Those conservation
38 objectives often have allocated implications: who
39 gets to fish; what the exploitation rate is.
40 Those are very difficult issues, but impinge
41 enormously on the establishment of the
42 conservation objectives.

43 The Wild Salmon Policy gives the impression
44 that they're separate. They're not. What you're
45 going to hear from fishery managers is they're
46 part of the same thing. And my view is the
47 commission needs to think about it along those

1 lines. So you need to think about processes for
2 making decisions around strategic conservation
3 objectives that inform the Wild Salmon Policy.

4 I also believe that we need to build more
5 alliances. We need to build more alliances with
6 third parties. I, as the RDG, work very hard with
7 the Fraser River Basin Council, the Pacific Salmon
8 Foundation, and other bodies, because I believe
9 that these other bodies have potential to advance
10 some of these issues which are very challenging,
11 watershed management being one.

12 And I think the reliance on DFO exclusively
13 through this policy I think is problematic. I
14 think we -- the reality is Pacific salmon are
15 supported by many policies, laws, of which the WSP
16 is just one, and the issues that I think we need
17 to look at are -- go beyond the WSP and, in fact,
18 go beyond the department.

19 So I think I've made that clear, and I could
20 expand later, under cross-examination, as
21 required.

22 MR. WALLACE: Thank you. Mr. Commissioner, those are
23 my questions, which will bring us to Mr. Timberg,
24 I believe.

25 THE COMMISSIONER: Mr. Wallace, just before Mr. Timberg
26 gets on his feet, I just want to, for my own
27 understanding, just follow up with Mr. Sprout and
28 what he just said.

29 Am I correct to think that all of the points
30 you just made, and you've made them during the
31 course of today, would have been as applicable at
32 the time of the birth of the policy, let's say
33 around the year 2000 or 1999, was it ever a
34 consideration to try and create something that was
35 a joint initiative, a policy? I'm not asking you
36 to wear hats as lawyers or as politicians, but
37 with your background and experience in this
38 province and working with all the partners you've
39 mentioned, was that ever a consideration?

40 MR. SPROUT: That's a very good question. I didn't
41 participate in the early development, Mr.
42 Commissioner, of the policy. I do believe,
43 though, that logically the more collaboration and
44 buy-in from other agencies, ministries and
45 departments whose regulations affect fish and
46 humans, in terms of development, that the more
47 agreement, that the more likelihood that we'll get

1 solutions that will endure and be helpful to fish.
2 I do believe that the future needs to look at
3 those elements.

4 Now, I would also point out that we may be
5 arriving at a time where there's more receptivity
6 to this concept. I believe that when I trace my
7 own history in the department, that increasingly
8 the Provincial Government and Federal Government,
9 to name the two of us, have increasingly
10 cooperated. So it's not like as if we haven't
11 been cooperating, but I think there's been
12 increasing cooperation, notwithstanding the point
13 I made about the capacity issue.

14 So I think it's a bit like a continuum. I
15 think the timing is getting better and better for
16 this type of thing. I'm not aware, specifically,
17 if this was launched with the province, because
18 the province would argue, I'm sure, if they were
19 here, they would say that, "Pacific salmon is a
20 federal responsibility, you're developing a Wild
21 Salmon Policy for Pacific salmon, which is not our
22 responsibility. We'll," you know, "We'll be an
23 observer or a participant, but it's not our
24 policy."

25 But that being said, I think your question
26 does raise, I think, a fundamental issue that the
27 more that we can cooperate where there is real
28 interest in other - and it's not just the
29 province, Mr. Commissioner - of moving forward
30 proactively together on things like water
31 management, land development, where it occurs,
32 where it doesn't occur, this would increase, I
33 think, the optimism around sustainability of
34 Fraser River sockeye.

35 MR. WALLACE: Mr. Commissioner, I might say you'll hear
36 more about this.

37 THE COMMISSIONER: I suspect so. I'm sorry, Mr.
38 Timberg, I took up a few moments of your time.

39 MR. TIMBERG: For the record, Mr. Timberg, and Ms.
40 Geneva Grande-McNeill, for Canada.

41 There's one matter, Mr. Registrar, before I
42 start, that I understand that Exhibit 121 was
43 entered into evidence and it has personal
44 information of Ms. Farlinger that I'd like to
45 redact, and so I just note that for the record and
46 perhaps next week we'll provide a redacted version
47 of the document.

1 THE COMMISSIONER: I apologize, which exhibit number is
2 it?

3 MR. TIMBERG: 121.

4 THE COMMISSIONER: Thank you.

5 MR. TIMBERG: And Mr. Commissioner, by --

6 MR. WALLACE: Excuse me, Mr. Commissioner, I actually
7 noticed that, too, and I think I -- I meant to
8 raise it. I think it, perhaps, should come off,
9 if it's posted anywhere, it should come off the
10 posting, and just leave it blank until we have a
11 redacted version. Thanks.

12 MR. TIMBERG: Thank you. I have a series of documents
13 that I'd like to have entered into the record by
14 consent, and I'll provide a brief explanation as
15 to their purpose and relevance. And Mr.
16 Registrar, I'm working off of our letter dated
17 December 7th.

18 So the first one is at Tab 17-C, and this is
19 relevant to the communication of the progress of
20 implementation of the Wild Salmon Policy to the
21 public. This is a document that's available on
22 DFO's website and is regularly updated. And the
23 purpose is to demonstrate the transparency in
24 regular process to communicate the status of the
25 implementation of the Wild Salmon Policy with
26 First Nations, stakeholders, and the general
27 public.

28 So if that could be the next exhibit, please.

29 THE REGISTRAR: Exhibit number 248.

30

31 EXHIBIT 248: Department of Fisheries and
32 Oceans, Pacific Region, Wild Salmon Policy
33 Fact Sheet - Update on the Implementation of
34 the Wild Salmon Policy (WSP) 2009
35

36 MR. TIMBERG: And the next one is Tab 17-G. And this
37 is a similar public documentation. The previous
38 tab, Exhibit 248, was in 2009. This one is dated
39 2008, and so these are updated annually, and so
40 it's -- the purpose, again, is just to demonstrate
41 that there's been annual updates on the
42 implementation of the Wild Salmon Policy.

43 THE REGISTRAR: 249.

44

45

46

47

1 EXHIBIT 249: Department of Fisheries and
2 Oceans, Pacific Region, Wild Salmon Policy
3 Fact Sheet - Update on the Implementation of
4 the Wild Salmon Policy (WSP) October 2008
5

6 MR. TIMBERG: And then 17-L, this is, again, a document
7 that's on the DFO website, and it's a document
8 that records the fifth annual fall community
9 dialogue in 2008, which are annual fall meetings.
10 DFO gathers together First Nations, stakeholders
11 and the public, to facilitate sessions, provide --
12 provide an opportunity to raise awareness,
13 exchange information and gather feedback. And
14 there's an attached deck where the -- there was an
15 update in 2008 on the Wild Salmon Policy that was
16 delivered at this fall community dialogue, and
17 that's the third page.

18 THE REGISTRAR: 250.

19
20 EXHIBIT 250: Department of Fisheries and
21 Oceans Canada Community Dialogues Progress
22 Report 2007
23

24 MR. TIMBERG: The next document, 17-R, is a Pacific
25 Region Consultation Plan Wild Salmon Policy, draft
26 June 6, 2008. And this document is an internal
27 document, but this document is updated annually.
28 DFO has an annual consultation plan, and Appendix
29 1 to the document, which is the third or fourth
30 page over, it lists the key stakeholders, one,
31 two, three, four, five, six, seven.

32 MR. WALLACE: This does not appear to be the same
33 document on the screen that Mr. Timberg's
34 referring to.

35 MR. TIMBERG: Oh.

36 MR. LUNN: I wasn't sure about the particular -- the
37 produced document, to be honest.

38 MR. TIMBERG: Oh, I'm sorry, I'm not looking at the
39 screen, I'm looking at my documents. If you could
40 go back to Exhibit 250, to confirm that, please?
41 Yes, that's the same document. Oh, no, that's
42 different, also. That's a different date. I'm
43 not sure what's going on here.

44 MR. LUNN: The titles match your letter. I wonder if
45 your tabbing system is off?

46 MR. TIMBERG: I apologize, Mr. Commissioner. I thought
47 we had this smoothly organized. It appears we

1 don't.

2 THE COMMISSIONER: 248 and 249 are correct?

3 MR. TIMBERG: Yes, 248 and 249 are marked correctly.

4 I'm noting that this document, then, Community
5 Dialogue Progress Report 2007 is under a different
6 tab for myself. So we'll just go through this
7 list here. Okay, I won't go off my binder - it
8 seems to be wrong and we'll just go through the
9 tabs and I'll speak to the documents as they come
10 up.

11 So this one, Community Dialogue Progress
12 Report 2007, just for my record, that is
13 Exhibit...?

14 THE REGISTRAR: 250.

15 MR. TIMBERG: Okay. And so to correct my earlier
16 description of the document, this document,
17 Community Dialogue Progress Report 2007, is --
18 this document is available on the web, DFO's web,
19 and it's -- it records the 2007 Community Dialogue
20 Progress Report, and in this it says that the 2007
21 marks the fourth consecutive year in which the
22 Fisheries and Oceans Canada has engaged
23 stakeholders, First Nations and the public on
24 current topics through dialogue.

25 And the document sets out a series of issues,
26 and at the bottom of the page you can see that
27 there's an update on the implementation of the
28 Wild Salmon Policy that was delivered at this 2007
29 Community Dialogue Progress Report.

30 So the next tab is --

31 THE COMMISSIONER: So which exhibit is that? Is that
32 251?

33 MR. TIMBERG: That's Exhibit two five --

34 THE COMMISSIONER: Zero. 250, thank you.

35 MR. TIMBERG: Yeah. And so the next tab is 17-R. So
36 this document is a further example of Wild Salmon
37 Policy implementation updates on the DFO website.
38 And you'll see here that it's dated April 2009,
39 and it's an implementation update for Strategy 1.
40 It sets out progresses made to date and next
41 steps.

42 THE REGISTRAR: 251.

43

44 EXHIBIT 251: Department of Fisheries and
45 Oceans Canada Wild Salmon Policy Strategy 1
46 Standardized Monitoring of Wild Salmon Status
47

1 MR. TIMBERG: And the next one is 17-X. So again, this
2 is the same kind of document, available on the DFO
3 website, and it's an update of implementation
4 update for Strategy 2, April 2009.

5 THE REGISTRAR: 252.

6
7 EXHIBIT 252: Department of Fisheries and
8 Oceans Canada Wild Salmon Policy Strategy 2
9 Assessment of Habitat Status

10
11 MR. TIMBERG: And then 17-Z is, again, a similar
12 document. This is the implementation update for
13 Strategy 3, April 2009, and is available on the
14 DFO website.

15 THE REGISTRAR: That will be 253.

16
17 EXHIBIT 253: Department of Fisheries and
18 Oceans Canada Wild Salmon Policy Strategy 3
19 Inclusion of Ecosystem Values and Monitoring
20

21 MR. TIMBERG: And then 17-BB. So again, this is the
22 implementation update for Strategy 4, dated April
23 2009, available on the DFO website, updating the
24 action steps progress made to date and next steps.

25 THE REGISTRAR: 254.

26
27 EXHIBIT 254: Department of Fisheries and
28 Oceans Canada Wild Salmon Policy Strategy 4
29 Integrated Strategic Planning
30

31 MR. TIMBERG: This is an operations committee meeting
32 September 23rd, 2008, and for the purpose of the
33 full record, this is the draft record of decision.

34 THE REGISTRAR: Which tab was that?

35 MR. TIMBERG: Oh, I thought --

36 MR. LUNN: Are you referring to BB?

37 MR. TIMBERG: Yes, sorry. I apologize. It must be
38 late in the day. Sorry, the next tab is 51.

39 THE REGISTRAR: 255.

40
41 EXHIBIT 255: Letter from Department of
42 Fisheries and Oceans, Pacific Region, to
43 Participant, dated October 31, 2006, re:
44 Fraser River Sockeye Spawning Initiative/Wild
45 Salmon Policy Pilot
46

47 MR. TIMBERG: And this letter is a letter describing

1 the Fraser River sockeye spawning initiative and
2 its connection with the Wild Salmon Policy. And
3 Ms. Farlinger will be commenting on this
4 connection.

5 And then Tab 52, this letter, dated December
6 8th, 2008, is, again, a letter from Fisheries and
7 Oceans to a Participant, commenting on how the
8 Fraser River sockeye spawning initiative, and is a
9 connection to the Wild Salmon Policy Pilot.

10 THE REGISTRAR: Number 256.

11
12 EXHIBIT 256: Letter from Department of
13 Fisheries and Oceans, Pacific Region, Paul
14 Ryall, to Participant, dated December 8,
15 2008, re: Fraser River Sockeye Spawning
16 Initiative/Wild Salmon Policy Pilot
17

18 MR. TIMBERG: And then Exhibit 69 -- or Tab 69, sorry,
19 Tab 69. And this is the attachment to the Lisa
20 Wilson e-mail that Ms. Farlinger mentioned in her
21 testimony earlier. This is the Pacific Fisheries
22 Resource Conservation Council, a document titled,
23 Developing and Wild Salmon Policy Review
24 Framework.

25 THE REGISTRAR: That will be marked as 257.

26
27 EXHIBIT 257: Pacific Fisheries Resource
28 Conservation Council, Developing and Wild
29 Salmon Policy Review Framework, prepared by
30 Julie Gardner, Dovetail Consulting Group,
31 dated January 2010
32

33 MR. TIMBERG: Then if we could go to Tab 75, and this
34 is a document titled, Public Policy Evaluation:
35 An Introduction, and this also was an attachment
36 to the Lisa Wilson e-mail that Ms. Farlinger
37 received with respect to the Strategy 6 review.

38 THE REGISTRAR: 258.

39
40 EXHIBIT 258: Public Policy Evaluation: An
41 Introduction
42

43 MR. TIMBERG: And then if we can go to Tab 80, and
44 this, Mr. Commissioner, this document was also the
45 final document that was attached to the Lisa
46 Wilson e-mail from the e-mail that Sue Farlinger
47 received.

1 THE REGISTRAR: 259.

2
3 EXHIBIT 259: Fisheries and Oceans Canada
4 Terms of Reference, Wild Salmon Policy
5 Independent Review
6

7 MR. TIMBERG: And then CAN185525

8 MR. LUNN: Is this deviating from our letter?

9 MR. TIMBERG: It is, yeah.

10 MR. LUNN: It would take me a minute to pull it up. I
11 could do that, if you would like to identify it,
12 but you will have to give me a moment --

13 MR. TIMBERG: Okay.

14 MR. LUNN: -- please.

15 MR. TIMBERG: Certainly. And then, Mr. Commissioner, I
16 have a series of policies of DFO that I will be
17 asking the RDG's, Mr. Sprout and Ms. Farlinger, to
18 speak to, to place the Wild Salmon Policy within
19 its context within DFO. I don't intend to speak
20 to them, myself; I intend, rather, to have the
21 RDG's go through each of the policies and provide
22 you with the benefit of their knowledge as to the
23 relationship of a WSP to these other DFO policies,
24 so you can understand that.

25 I can read those in and have them entered as
26 exhibits. That might speed up the process. And
27 then I will then be asking them each to speak to
28 them. Alternatively, I could just leave that,
29 now, and as we go through that we could have them
30 marked during their testimony.

31 THE COMMISSIONER: I'm really in your hands, whatever
32 is convenient for you, Mr. Timberg. If it's
33 convenient for you to mark them as you enter them
34 with the witness, I'm content with that. If you
35 would prefer to enter them all at once, I'm
36 content with that as well.

37 MR. TIMBERG: Okay. I'd like to, then, enter them all
38 at once. I won't provide a brief descriptor; I'll
39 leave that for the witnesses, themselves.

40 THE COMMISSIONER: All right. So just so I understand,
41 this number that you gave Mr. Lunn a moment ago,
42 is that being reserved for the next exhibit
43 number?

44 MR. TIMBERG: I think we can move on and we can come
45 back to that when that's appropriate.

46 MR. LUNN: Would you mind just giving me that number
47 one more time?

1 MR. TIMBERG: Certainly. It's 185525, and that's a CAN
2 number. And it's 81 in the Commission's list of
3 documents.

4 MR. LUNN: Oh, well, I can pull that up easily. I
5 thought this was something different.

6 MR. WALLACE: Mr. Commissioner, this document was not
7 on the list that was provided to participants, so
8 they -- I don't know if anyone has an objection to
9 it, and I haven't considered it. Perhaps it could
10 be put in in the conventional way?

11 MR. TIMBERG: Okay, I'll put that to Ms. Farlinger.
12 So moving back, then, Mr. Lunn, to Tab 86, if
13 this could be -- if the Policy for the Management
14 of Fish Habitat could be the next tab -- or next
15 exhibit?

16 THE REGISTRAR: 260.

17
18 EXHIBIT 260: Department of Fisheries and
19 Oceans Policy for the Management of Fish
20 Habitat, dated October 1986
21

22 MR. TIMBERG: And 87, if the Policy for the Management
23 of Aboriginal Fishing could be the next exhibit?

24 THE REGISTRAR: 261.

25
26 EXHIBIT 261: Fisheries and Oceans Canada
27 Policy for the Management of Aboriginal
28 Fishing, dated August 6, 1993
29

30 MR. TIMBERG: 88, Pacific Salmon Revitalization could
31 be the next exhibit?

32 THE REGISTRAR: 262.

33
34 EXHIBIT 262: Pacific Salmon Revitalization,
35 the Mifflin Plan
36

37 MR. TIMBERG: 90.

38 THE COMMISSIONER: I'm sorry?

39 MR. TIMBERG: 90. Canada's Oceans Strategy.

40 THE REGISTRAR: 263.

41
42 EXHIBIT 263: Government of Canada, Canada's
43 Oceans Strategy, Our Oceans, Our Future
44

45 MR. TIMBERG: And 92, An Allocation Policy for Pacific
46 Salmon.

47 THE REGISTRAR: 264.

1 EXHIBIT 264: Fisheries and Oceans Canada, An
2 Allocation Policy for Pacific Salmon, dated
3 October 1999
4

5 MR. TIMBERG: 93, New Emerging Fisheries Policy.
6 THE REGISTRAR: 265.
7

8 EXHIBIT 265: Fisheries and Oceans Canada,
9 New Emerging Fisheries Policy, dated
10 September 2001
11

12 MR. TIMBERG: 94, A Policy for Selective Fishing in
13 Canada's Pacific Fisheries.
14 THE REGISTRAR: 266.
15

16 EXHIBIT 266: Fisheries and Oceans Canada, A
17 Policy for Selective Fishing in Canada's
18 Pacific Fisheries, dated January 2001
19

20 MR. TIMBERG: Tab 95, A Framework for Improved
21 Decision-Making in the Pacific Salmon Fishery.
22 THE REGISTRAR: 267.
23

24 EXHIBIT 267: Fisheries and Oceans Canada, A
25 Framework for Improved Decision-Making in the
26 Pacific Salmon Fishery, Discussion Paper,
27 dated June 2000
28

29 MR. TIMBERG: And 97, this is the Pacific Region
30 Fishery Monitoring and Reporting Framework.
31 THE REGISTRAR: 268.
32

33 EXHIBIT 268: Pacific Region Fishery
34 Monitoring and Reporting Framework, dated
35 January 2002
36

37 MR. TIMBERG: And 101, A Pacific Fisheries Reform.
38 THE REGISTRAR: 269.
39

40 EXHIBIT 269: Fisheries and Oceans Canada, A
41 Discussion Paper in the Implementation of
42 Pacific Fisheries Reform, dated September
43 2005
44

45 MR. TIMBERG: And Tab 103, Pacific Integrated
46 Commercial Fisheries Initiative.
47 THE REGISTRAR: 270.

1 EXHIBIT 270: Fisheries and Oceans Canada
2 Pacific Integrated Commercial Fisheries
3 Initiative (PICFI), dated July 17, 2007
4

5 MR. TIMBERG: And 107, Policy for Managing the Impacts
6 of Fishing on Sensitive Benthic Areas.

7 THE REGISTRAR: 271.
8

9 EXHIBIT 271: Fisheries and Oceans Canada
10 Policy for Managing the Impacts of Fishing on
11 Sensitive Benthic Areas
12

13 MR. TIMBERG: And 108, Tab 108, Policy on New Fisheries
14 for Forage Species.

15 THE REGISTRAR: 272.
16

17 EXHIBIT 272: Fisheries and Oceans Canada
18 Policy on New Fisheries for Forage Species
19

20 MR. TIMBERG: Then 110, this is Sustainable Fisheries
21 Framework.

22 THE REGISTRAR: 273.
23

24 EXHIBIT 273: Sustainable Fisheries Framework
25 - Fishery Checklist Action Plan, by Jeff
26 Grout, June 20, 2010
27

28 MR. TIMBERG: And then 111, Preparing an Integrated
29 Fisheries Management Plan.

30 THE REGISTRAR: 274.
31

32 EXHIBIT 274: Preparing an Integrated
33 Fisheries Management Plan (IFMP), Guidance
34 Document
35

36 MR. TIMBERG: And 112.

37 MR. LUNN: You know that there's an A and B on 111 in
38 your letter, did you need to introduce that?

39 MR. TIMBERG: Let's look at the document. Do they both
40 come up?

41 MR. LUNN: I have them as two different documents.

42 MR. TIMBERG: Okay, so if we could pull up 112A?

43 MR. LUNN: Sorry, I was referring to 111 as A and B in
44 your notes.

45 MR. TIMBERG: Thank you, Mr. Registrar. If you could
46 pull up, then, 11B?

47 MR. LUNN: Yes, that's the one I pulled up originally

1 as 111.

2 MR. TIMBERG: And what's 111A?

3 MR. LUNN: I see a diversion number difference there.

4 MR. TIMBERG: Yes, so which date is this one?

5 MR. LUNN: This is May 4.

6 MR. TIMBERG: Okay, so one was dated -- the first one
7 is dated November 2008, and this one's dated May
8 2008.

9 THE REGISTRAR: It will be marked 274A.

10

11 EXHIBIT 274A: Preparing an Integrated
12 Fisheries Management Plan (IFMP), Guidance
13 Document and Template

14

15 MR. TIMBERG: Thank you. And then 112 has an A and a B
16 also.

17 MR. LUNN: This is 112A.

18 THE REGISTRAR: A will be marked as 275.

19

20 EXHIBIT 275: E-mail from Marc Clemens, to
21 David Balfour, et al, sent October 17, 2008,
22 Subject: By-catch policy - background - for
23 FCC meeting

24

25 MR. TIMBERG: And so this is --

26 MR. LUNN: That's A.

27 MR. TIMBERG: It doesn't look correct, so let's not
28 mark that one. If we could look at B, please?

29 MR. LUNN: Certainly.

30 MR. TIMBERG: Oh, sorry, I'm being corrected by my
31 associate. Those are the correct documents, and
32 if we can go back and mark them.

33 MR. LUNN: A and B are side by side.

34 MR. TIMBERG: Okay. And so...

35 THE REGISTRAR: Item A is 275, Exhibit number 275, and
36 B will be 275A.

37

38 EXHIBIT 275A: E-mail from Marc Clemens, to
39 David Balfour, et al, sent October 19, 2008,
40 Subject: By-catch policy - background - for
41 FCC meeting

42

43 MR. TIMBERG: Okay, thank you. And then 113, Tab 113.
44 We have three more to go and then we're done.

45 This is Guidelines for Ecological Risk Assessment,
46 if that could be the next exhibit?

47 THE REGISTRAR: 276.

1 EXHIBIT 276: Guidelines for Ecological Risk
2 Assessment, published May 14, 1998
3

4 MR. TIMBERG: And then 115, Policy and Operational
5 Framework for Integrated Management of Estuarine,
6 Coastal and Marine Environments in Canada.

7 THE REGISTRAR: 277.
8

9 EXHIBIT 277: Government of Canada, Canada's
10 Oceans Strategy, Our Oceans, Our Future,
11 Policy and Operational Framework for
12 Integrated Management of Estuarine, Coastal
13 and Marine Environments in Canada
14

15 MR. TIMBERG: And then I think that's actually
16 sufficient. So those are our exhibits.

17 MR. WALLACE: Mr. Commissioner, just to observe that in
18 providing our consent to putting in of these
19 exhibits without them being proved, the Commission
20 did not -- it was with a caveat that if there are
21 issues of relevance they will be raised when they
22 come up in questioning, because the exhibits go
23 for the whole hearing, not just components.

24 MR. TIMBERG: Mr. Commissioner, I note the time. I'm
25 wondering if it's an appropriate time to break?

26 THE COMMISSIONER: Yes, it is.

27 MR. WALLACE: The hearing is now adjourned until Monday
28 at ten o'clock.
29

30 (PROCEEDINGS ADJOURNED TO MONDAY, DECEMBER
31 13, 2010, AT 10:00 A.M.)
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1 I HEREBY CERTIFY the foregoing to be a
2 true and accurate transcript of the
3 evidence recorded on a sound recording
4 apparatus, transcribed to the best of my
5 skill and ability, and in accordance
6 with applicable standards.
7
8
9

10
11 _____
12 Pat Neumann

13 I HEREBY CERTIFY the foregoing to be a
14 true and accurate transcript of the
15 evidence recorded on a sound recording
16 apparatus, transcribed to the best of my
17 skill and ability, and in accordance
18 with applicable standards.
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23 _____
24 Irene Lim

25 I HEREBY CERTIFY the foregoing to be a
26 true and accurate transcript of the
27 evidence recorded on a sound recording
28 apparatus, transcribed to the best of my
29 skill and ability, and in accordance
30 with applicable standards.
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35 _____
36 Karen Acaster

37 I HEREBY CERTIFY the foregoing to be a
38 true and accurate transcript of the
39 evidence recorded on a sound recording
40 apparatus, transcribed to the best of my
41 skill and ability, and in accordance
42 with applicable standards.
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46
47 _____
Karen Hefferland