

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.

Monday, January 17, 2011

### Tenue à :

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

le lundi 17 janvier 2011

## APPEARANCES / COMPARUTIONS

Wendy Baker, Q.C. Maia Tsurumi Line Christensen	Associate Commission Counsel Junior Commission Counsel Articled Student
Hugh MacAulay Jonah Spiegelman	Government of Canada
D. Clifton Prowse, Q.C.	Province of British Columbia
No appearance	Pacific Salmon Commission
Chris Buchanan	B.C. Public Service Alliance of Canada Union of Environment Workers B.C. ("BCPSAC")
No appearance	Rio Tinto Alcan Inc. ("RTAI")
Shane Hopkins-Utter	B.C. Salmon Farmers Association ("BCSFA")
No appearance	Seafood Producers Association of B.C. ("SPABC")
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.**

Anila Srivastava	Southern Area E Gillnetters Assn. B.C. Fisheries Survival Coalition ("SGAHC")
Chris Watson	West Coast Trollers Area G Association; United Fishermen and Allied Workers' Union ("TWCTUFA")
Keith Lowes	B.C. Wildlife Federation; B.C. Federation of Drift Fishers ("WFFDF")
No appearance	Maa-nulth Treaty Society; Tsawwassen First Nation; Musqueam First Nation ("MTM")
No appearance	Western Central Coast Salish First Nations: Cowichan Tribes and Chemainus First Nation Hwilitsum First Nation and Penelakut Tribe Te'mexw Treaty Association ("WCCSFN")
Brenda Gaertner Leah Pence	First Nations Coalition: First Nations Fisheries Council; Aboriginal Caucus of the Fraser River; Aboriginal Fisheries Secretariat; Fraser Valley Aboriginal Fisheries Society; Northern Shuswap Tribal Council; Chehalis Indian Band; Secwepemc Fisheries Commission of the Shuswap Nation Tribal Council; Upper Fraser Fisheries Conservation Alliance; Other Douglas Treaty First Nations who applied together (the Snuneymuxw, Tsartlip and Tsawout) Adams Lake Indian Band Carrier Sekani Tribal Council ("FNC")
No appearance	Council of Haida Nation

**APPEARANCES / COMPARUTIONS, cont'd.**

No appearance	Métis Nation British Columbia ("MNBC")
Nicole Schabus	Sto:lo Tribal Council Cheam Indian Band ("STCCIB")
No appearance	Laich-kwil-tach Treaty Society Chief Harold Sewid Aboriginal Aquaculture Association ("LJHAH")
Lisa Fong Benjamin Ralston	Heiltsuk Tribal Council ("HTC")
No appearance	Musgamagw Tsawataineuk Tribal Council ("MTTC")

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Vancouver, B.C. /Vancouver (C.-B.)  
January 17, 2011/le 17 janvier 2011

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

5 MS. BAKER: Good morning, Mr. Commissioner. Today  
6 we're starting the hearings on harvest management.  
7 I have a few housekeeping matters to take care of  
8 before we get started, though.

9 Before Christmas there was hearings on the  
10 Wild Salmon Policy, and members of the Wild Salmon  
11 Policy implementation panel concluded their oral  
12 testimony, but neither Canada nor the Commission  
13 were able to conduct re-examinations due to time  
14 constraints, so it was agreed that those re-  
15 examinations would be completed in writing.

16 Canada provided their re-examination  
17 questions to these witnesses on December 14 and  
18 the witnesses answered their questions in writing  
19 on December 17. Commission counsel then provided  
20 their own re-examination questions to the  
21 witnesses on December 17 and answers were provided  
22 on December 21.

23 All participants have been copied with the  
24 written questions and the written answers. And as  
25 part of the record I'd like to tender those  
26 written documents today as exhibits in the  
27 hearing.

28 The first exhibit I'm proposing is going to  
29 be dated December 16, 2010, and it is the letter  
30 which contains Canada's re-examination questions  
31 for Dr. Kim Hyatt, Dr. Jim Irvine and Mark  
32 Saunders, and those witnesses' answers as well.

33 THE REGISTRAR: That will be marked as Exhibit Number  
34 313.

35  
36 EXHIBIT 313: Canada's re-examination  
37 questions for Dr. Kim Hyatt, Dr. Jim Irvine  
38 and Mark Saunders  
39

40 MS. BAKER: The next exhibit to be marked is a  
41 letter -- well, the next group, there's four  
42 separate letters but I propose that they be marked  
43 as one exhibit, but A, B, C, D, and they would  
44 have four letters all dated December 21. The  
45 first one is from Heather Stalberg. The second  
46 one is Dr. Jim Irvine. The next would be Dr. Kim  
47 Hyatt. And finally, the last one would be Mark



1           Saunders.

2       THE REGISTRAR: Those four documents in sequence will  
3           be marked Exhibit 313 A, 313B, 313C, 313D.

4  
5           EXHIBIT 313A: Answers to Canada's  
6           re-examination questions by Heather Stalberg

7  
8           EXHIBIT 313B: Answers to Canada's  
9           re-examination questions by Dr. Jim Irvine

10  
11          EXHIBIT 313C: Answers to Canada's  
12          re-examination questions by Dr. Kim Hyatt

13  
14          EXHIBIT 313D: Answers to Canada's  
15          re-examination questions by Mark Saunders

16  
17       MS. BAKER: Thank you, Mr. Commissioner. Now, to begin  
18           the Harvest Management hearings, we have a few  
19           documents to mark off the start.

20           The first document we would like to mark is  
21           the Policy and Practice Report prepared by the  
22           Commission, which is titled "Overview of Fraser  
23           River Sockeye Salmon Harvest Management." Its  
24           date is November 10, 2010.

25       THE REGISTRAR: Exhibit Number 314.

26       MS. BAKER: Oh, I'm sorry. They are not marked as  
27           exhibits. They're marked as PPR, whatever the  
28           next number is in the PPR.

29       THE REGISTRAR: That will be PPR number 5.

30       MS. BAKER: Sorry, if I said November 10, which I'm  
31           advised I might have done that, it should be  
32           November 9, 2010.

33  
34           PPR-5: Overview of Fraser River Sockeye  
35           Salmon Harvest Management dated November 9,  
36           2010

37  
38       MS. BAKER: And the last documents to be marked right  
39           off the bat are two affidavits which were provided  
40           to all participants before Christmas. These are  
41           two affidavits which contain fairly technical  
42           evidence, one from Michael Folkes, who is an  
43           employee of the Government of Canada, and one from  
44           Catherine Michielsens, M-i-c-h-i-e-l-s-e-n-s, and  
45           she is an employee of the Pacific Salmon  
46           Commission. Both these affidavits were proposed  
47           to be tendered as exhibits, and all participants

1           were asked if they required these persons to come  
2           and testify. I received no responses to that, so  
3           I ask that these affidavits be tendered for use in  
4           the hearings.

5           The first one is affidavit number 1 of  
6           Michael Folkes, F-o-l-k-e-s, sworn December 14,  
7           2010.

8   THE REGISTRAR: Exhibit or PPR?

9   MS. BAKER: This would be an exhibit.

10 THE REGISTRAR: That will be Exhibit Number 314.

11  
12           EXHIBIT 314: Affidavit of Michael Folkes,  
13           sworn December 14, 2010

14  
15   MS. BAKER: And the next is the affidavit of Catherine  
16           Michielsens, sworn December 15, 2010.

17   THE REGISTRAR: Exhibit Number 315.

18  
19           EXHIBIT 315: Affidavit of Catherine  
20           Michielsens sworn December 15, 2010

21  
22   MS. BAKER: Thank you. And the last housekeeping  
23           matter is we had planned this morning to start  
24           with a panel of two witnesses from the Department  
25           of Fisheries and Oceans, Mr. Jeff Grout and Mr.  
26           Barry Rosenberger. We still hope to end the day  
27           with that panel of witnesses, but unfortunately  
28           this morning Mr. Rosenberger was unable to fly out  
29           of Kamloops last night, also unable to get out  
30           this morning. I guess they have a fog problem in  
31           Kamloops, so he's driving down this morning. So  
32           I'm not sure what time he'll get here, but when he  
33           arrives, we'll add him to the panel. So what I've  
34           asked Mr. Grout to do -- we can start with Mr.  
35           Grout. In fact, many of the first line-up of  
36           questions are directed to his evidence in any  
37           event. But where there is a question which he  
38           thinks Mr. Rosenberger has something to add on,  
39           I've asked him just to flag that for us and we'll  
40           come back to that when Mr. Rosenberger shows up.

41           So I'd like to begin, then, with Mr. Grout,  
42           if he can be sworn.

43   THE REGISTRAR: I understand you wish to be affirmed.

44  
45           JEFFREY ALEXANDER GROUT,  
46           affirmed.  
47

4  
PANEL NO. 12  
In chief by Ms. Baker

1 THE REGISTRAR: Would you state your full name, please.

2 A Jeffrey Alexander Grout.

3 THE REGISTRAR: Thank you. Counsel.

4

5 EXAMINATION IN CHIEF BY MS. BAKER:

6

7 Q First I'd to just review your qualifications. And  
8 the c.v. for Mr. Grout is available in Ringtail.  
9 It is CAN185399.

10 Mr. Grout, this is the c.v. you've provided  
11 for yourself?

12 A That's correct.

13 MS. BAKER: Can we please have that marked as the next  
14 exhibit.

15 THE REGISTRAR: Exhibit number 316.

16

17 EXHIBIT 316: *Curriculum vitae* of Jeffrey  
18 Grout

19

20 MS. BAKER: Thank you.

21 Q Mr. Grout, you have a bachelor of science in  
22 biology, specializing in animal biology?

23 A Yes.

24 Q And a master of natural resource management?

25 A Yes.

26 Q Thank you. Your current position is Regional  
27 Resource Manager-Salmon with the Department of  
28 Fisheries and Oceans?

29 A Yes.

30 Q Mr. Grout, you were a member of the Fraser River  
31 Panel Technical Committee from 2001 to 2007?

32 A Yes, I was.

33 Q And you've been the Regional Resource Manager of  
34 the Salmon Team for B.C., Transboundary and Yukon  
35 since June 2007?

36 A That's correct.

37 Q And as part of your role, you're involved in  
38 developing the Integrated Fisheries Management  
39 plans for the South Coast?

40 A Yes. That's one of the plans I assist in  
41 developing.

42 Q And you're also involved in the Integrated Harvest  
43 Planning Committee? You chair that committee?

44 A Yes, I'm currently chairing that committee.

45 Q And you chair the Salmon Working Group as well?

46 A That's correct.

47 Q Can you describe what -- the Salmon Team, you're

- 1 the regional resource manager of the Salmon Team  
2 in fisheries management. Can you explain what the  
3 Salmon Team is?
- 4 A The Salmon Team is an internal DFO group that  
5 contains members from the Salmon Team in  
6 Vancouver. It also includes members from resource  
7 management in each of the areas as well as stock  
8 assessment staff. It includes science staff,  
9 enforcement representatives. It's got  
10 representation from our treaties group and --  
11 there maybe a couple of individuals I've missed,  
12 but they're laid out in the terms of reference  
13 that we've got for the group.
- 14 Q What you just described, is that the Salmon  
15 Working Group or the Salmon Team?
- 16 A That was the Salmon Working Group.
- 17 Q Okay. And what's the Salmon Team?
- 18 A The Salmon Team refers to the group at regional  
19 headquarters in fisheries management in Vancouver.  
20 It includes the Salmon Team lead, myself, the  
21 salmon officer, and the recreational coordinator  
22 also currently reports to the Salmon Team lead.
- 23 Q So now I just want to move to -- what I'm going to  
24 do with you today is try and go through the  
25 planning process for fisheries in B.C., so we'll  
26 start with the pre-season planning process and  
27 hopefully move into in-season management. Well, I  
28 don't know if we'll get there today but we'll get  
29 started anyway.
- 30 So I want to just start with the pre-season,  
31 as it's described. Is it fair to say that for  
32 Fraser River sockeye, the pre-season period begins  
33 with the November review, but really the bulk of  
34 the planning happens within January through to the  
35 beginning of June?
- 36 A I think that's fair to say. The planning process  
37 is quite fluid through the year and there isn't  
38 one fixed date when we would say we've moved from  
39 one element of the process to the next. In the  
40 fall we're still completing our post-season  
41 reviews as well, but it's fair to say with the  
42 outlook document, we're also looking forward to  
43 the next season as well.
- 44 Q Okay. And what we call in-season begins with the  
45 first fisheries openings in June-ish and goes  
46 through till around October?
- 47 A That's correct.

1 Q And then as we said, post-season ends when the  
2 fisheries end and overlaps a little bit with some  
3 of the pre-season in the fall, but it kind of goes  
4 into January probably?

5 A That's correct.

6 Q And when is the IFMP, the Integrated Fisheries  
7 Management Plan, when is that created?

8 A It's a document that is created as a result of our  
9 consultation processes in the spring. We release  
10 two drafts leading up to the final plan. The  
11 first draft we typically release in March with a  
12 subsequent draft towards the end of April, with a  
13 final IFMP, we try to get that released by the end  
14 of June or very early in July.

15 Q Okay. And just for the Commissioner's benefit, if  
16 we can just look at what the final IFMP looks at.  
17 We're going to come back to this in more detail,  
18 but just so that the Commissioner knows what it  
19 is. If you can turn to -- I think in the binder  
20 we've given you it's tab 8, but the document is  
21 CAN005186. This is the Integrated Fisheries  
22 Management Plan for southern B.C. for 2009.

23 A Yes.

24 Q And it's hard to see when you're looking at it on  
25 the screen, Mr. Commissioner, but this is a  
26 document that is several hundred pages thick. Is  
27 that right?

28 A That's correct.

29 Q So I'm not going to take you any more to that  
30 document right now. We'll come back to it later.

31 MS. BAKER: I think actually before we leave it, I will  
32 mark this document as an exhibit but we will come  
33 back to it later. So would that be --

34 THE REGISTRAR: Exhibit Number 317.

35

36 EXHIBIT 317: Pacific Region Integrated  
37 Fisheries Management Plan, Salmon, Southern  
38 B.C., June 1, 2009 to May 31, 2010  
39

40 MS. BAKER:

41 Q All right. So what is the intention of this IFMP  
42 in season? How is the final IFMP used in season?

43 A The IFMP itself is laid out in a number of  
44 sections and it's meant to provide a guide for the  
45 in-season process. And to do that, we lay out the  
46 general context and the policies that are going to  
47 guide our fisheries in the coming year. We lay

1 out specific management objectives that we're  
2 trying to achieve for a number of things,  
3 including managing stocks of concern, objectives  
4 for the major fishery groups -- First Nations,  
5 recreational and commercial. We also have  
6 enforcement objectives included there and  
7 enhancement as well, international objectives  
8 under the Pacific Salmon Treaty. It also includes  
9 a section that outlines the decision guidelines  
10 and the specific management measures that we would  
11 be considering for the use in the coming in-season  
12 period. And then more detail on each of the  
13 fishing plans for First Nations, recreational and  
14 commercial harvesters in separate sections.

15 Q In terms of the decisions that are made pre-season  
16 for Fraser River sockeye, can you identify what  
17 pre-season decisions are made?

18 A In putting the plan together for Fraser River  
19 sockeye, we have a number of pieces of information  
20 that go into putting the plan together. In  
21 particular, the department develops an escapement  
22 plan for Fraser sockeye which lays out the number  
23 of fish that we're wanting to reach the spawning  
24 grounds in each of four major management units.  
25 These are also referred to as harvest rules. We  
26 provide forecast information, information on  
27 potential adjustments to the escapements, called  
28 management adjustments, that would help us in  
29 achieving those objectives. And we also provide  
30 other information on run timing as well as  
31 numerous other pieces of information that guides  
32 allocation, for example.

33 Q And the outcomes of some of those decision-making  
34 pre season show up in the IFMP document?

35 A That's correct.

36 Q And I take it as the IFMP is being developed in  
37 the pre-season period, Fisheries and Oceans is  
38 obtaining data and information from a number of  
39 different sources?

40 A Yes. The IFMP itself is the product of a broad  
41 suite of consultations that the department  
42 undertakes with a number of established advisory  
43 processes as well as a number of meetings with  
44 First Nations and others, and input from the  
45 public.

46 Q And is there technical information provided by  
47 Science that assists in the planning process?

- 1 A Yes. One of the primary -- well, we have Science  
2 input into the development of the salmon outlook.  
3 Science advice is also provided in developing the  
4 salmon forecast for Fraser sockeye. We've also  
5 had Science assistance on the technical work  
6 around developing the escapement plan for Fraser  
7 River sockeye as well.
- 8 Q Is that the Fraser River Sockeye Spawning  
9 Initiative, FRSSI?
- 10 A Yes, that's correct.
- 11 Q We'll come to that in some detail. Does the  
12 Fraser River Panel, part of the Salmon Commission,  
13 provide any pre-season fishing plans as part of  
14 the process?
- 15 A The department works quite closely with the Fraser  
16 River Panel, and Barry would have been best placed  
17 to speak to all of the details on this question,  
18 so maybe it would be worth coming back to him.  
19 But Canada is supplying the escapement plan as  
20 part of the management of Fraser River sockeye and  
21 we're also providing the forecast information. We  
22 would be working with the Fraser River Panel on  
23 developing pre-season management adjustments that  
24 would be considered in the development or  
25 implementation of the escapement plan. And they'd  
26 also provide information on run timing overlaps  
27 between the different management groups and  
28 stocks.
- 29 Q Are allocation objectives considered in the  
30 planning process?
- 31 A Yes. The PSC, Pacific Salmon Commission, and the  
32 Fraser Panel uses this information in the  
33 development of pre-season planning models. These  
34 models are detailed. They make use of the inputs  
35 and data from the escapement plan forecast and  
36 other information to come up with some scenarios  
37 for potential fisheries in season, and allocation  
38 objectives are one of the considerations around  
39 how those plans are developed.
- 40 Q Thank you. And we'll get into discussion of some  
41 of those technical data that are used in the  
42 planning process in a bit. You mentioned some of  
43 the stakeholders that the department consults  
44 with. Can you identify what are the bodies that  
45 the department consults with during the planning  
46 process?
- 47 A Okay. At the broad, regional level we work with

1 the Integrated Harvest Planning Committee, which  
2 contains representatives or members from First  
3 Nations, the Commercial Salmon Advisory Board, and  
4 the Sport Fishing Advisory Board and the Marine  
5 Conservation Caucus. We've got an ex officio  
6 representative from the province there as well, as  
7 well as a number of observers. We also work with  
8 the Commercial Salmon Advisory Board, which has  
9 representatives from each of the eight area  
10 harvest committees, and representatives from  
11 United Fishermen and Allied Workers Union,  
12 processors. There's an ex officio provincial role  
13 there. We also work with the Sport Fishing  
14 Advisory Board, which broadly represents both the  
15 primary level users, the sport fishery, that are  
16 not deriving income from participation in the  
17 fishery as well as secondary organizations that  
18 have income derived from fishing.

19 Q Which would be fishing guides or lodges, that sort  
20 of thing?

21 A Yes, that's correct. As well as some of the  
22 supporting industries. The Marine Conservation  
23 Caucus is another group that we work with, which  
24 is an umbrella group with -- I believe it's nine  
25 ENGO's represented. And then we have a number of  
26 other processes with First Nations and -- well,  
27 with First Nations throughout the areas. In  
28 addition we have area advisory committees with the  
29 sport fishing advisory committees that we meet  
30 with and the area harvest committees and the  
31 commercial group.

32 Q Okay. We'll go into each of those in a little bit  
33 of detail, so let me just start by identifying a  
34 schedule that you've prepared that sets out the  
35 consultation schedule for the season. And the  
36 reference for that is CAN003387, and it's, I  
37 think, at tab 3 if you want to see a paper copy.

38 So is this a document that you're involved in  
39 the preparation of?

40 A Yes. The Salmon Team, and in particular our  
41 salmon officer, keeps a running -- well, we try  
42 and lay out ahead of the season, typically in  
43 August, for the coming year, when we expect some  
44 of the meetings are going to be and we'd work  
45 closely with some of the chairs with these  
46 meetings to try and set them up so that they're  
47 not substantially overlapping with each other.



1 Q All right.

2 A And so we try and then we provide this to our  
3 First Nations and other groups to give them a  
4 heads-up of the meeting schedule they can expect  
5 for the coming year.

6 Q All right. And this schedule that you see before  
7 you is September '09 to June 2010. So this covers  
8 the 2009 fishing season; is that fair?

9 A That's correct. And typically we'll make some  
10 updates to this schedule as we go through the  
11 season. It's meant to identify the broad,  
12 regional meetings that are occurring. It  
13 certainly doesn't reflect a large number of our  
14 bilateral meetings that occur with First Nations  
15 in the areas. Various other advisory committees  
16 that are at the sub-regional level would not be  
17 listed in here.

18 MS. BAKER: Could I have that marked, please, as the  
19 next exhibit.

20 THE REGISTRAR: Exhibit Number 318.

21  
22 EXHIBIT 318: Tentative Salmon Advisory  
23 Schedule, September 2009-June 2010  
24

25 MS. BAKER:

26 Q Now, as I go through the documents with you today  
27 to explain and go through the planning process,  
28 we're using 2009 as an example year. If there's  
29 been changes between 2009 and 2010, we'll try and  
30 identify those just to see where things have  
31 progressed. But for the most part we're using  
32 this 2009 year as a sample to see how a year  
33 unfolds.

34 A Okay.

35 Q So just looking at this schedule, if you look in  
36 the November period, that identifies some of the  
37 post-season review meetings and then it moves over  
38 to January where you begin -- sorry, post-season  
39 continues into January. And then finally the pre-  
40 season planning begins around the March period and  
41 carries on down through the June?

42 A That's correct. As I pointed out earlier, there  
43 is a substantial amount of overlap in the post-  
44 season and pre-season period. Typically at the  
45 post-season review we'll be hearing from our  
46 clients about issues that they'd like to see  
47 addressed in the coming year. So even as early as

1 the November meetings we're starting to get a  
2 sense of what some of the main issues are that  
3 we're going to need to address in the pre-season  
4 planning for the coming year.

5 Q All right. So let's go through some of the bodies  
6 that you just identified. First of all, starting  
7 with the Commercial Salmon Advisory Board or the  
8 CSAB, who meets with the CSAB from Department of  
9 Fisheries and Oceans?

10 A I've been chairing the CSAB meetings that occur in  
11 the south and deal with Fraser River sockeye on  
12 behalf of the department. Typically the salmon  
13 officer would also participate in those meetings  
14 as well as the key DFO managers for each of the  
15 commercial harvest areas in the south. So this  
16 committee in the southern part of B.C. would also  
17 have members from each of the area harvest  
18 committees for those fisheries, so we have the  
19 Area B seine fleet in the south. We have two  
20 gillnet fleets, the Area D gillnets, which is  
21 primarily in the Johnstone Straits area. The Area  
22 E gillnet, which is Fraser River primarily, in  
23 Area 29 off the mouth. And then two troll fleets:  
24 the Area H troll, which is in primarily the inside  
25 waters of Johnstone Strait and Georgia Strait, and  
26 then Area G troll, which is on the west coast of  
27 Vancouver Island. We also have representatives  
28 from the United Fishermen and Allied Workers  
29 Union, processors and an ex officio member from  
30 the Province.

31 Q That's all part of the CSAB?

32 A That's correct. So the membership of the  
33 committee is actually laid out in the terms of  
34 reference for that committee.

35 Q And how often does the department meet with the  
36 CSAB pre season?

37 A It can vary from year to year, the meetings that  
38 we have with this group. We usually do a post-  
39 season review meeting in January to review the  
40 southern B.C. fisheries, including Fraser sockeye.  
41 The next meeting after that is typically in April,  
42 where we go over the commercial salmon harvest  
43 sharing arrangements with the group and negotiate  
44 the allocations for the different gear types. So  
45 those are the primary meetings in developing the  
46 IFMP.

47 Q And then also, of course, the different IHPC full

1 meetings, which would be the November issues  
2 outlook meeting and then a South Coast IHPC  
3 meeting in January and then the two meetings where  
4 you review the IFMP?  
5 A Right. So the Integrated Harvest Planning  
6 Committee typically meets four times a year. It  
7 meets as a full committee in November, March and  
8 May. That includes the northern members as well.  
9 The January meeting is the post-season review and  
10 that meeting's just with the southern committee,  
11 and the northern committee has its own meeting in  
12 December in the north.  
13 Q Okay. Does the department have any role in  
14 determining who will be represented on the CSAB,  
15 which groups are represented in that process?  
16 A Again, for the IHPC we've laid out or developed a  
17 terms of reference for that committee and it  
18 specifies the membership from each of the  
19 different components of the groups. We have four  
20 members specified for First Nations, three for the  
21 Sport Fishing Advisory Board, two for the Marine  
22 Conservation Caucus. This is just for the  
23 southern --  
24 Q No, I was asking about the --  
25 A -- committee --  
26 Q -- CSAB.  
27 A Oh, sorry.  
28 Q Does the department have any role in setting who  
29 are the representatives on the CSAB?  
30 A The Commercial Salmon Advisory Board also has as  
31 part of its terms of reference area harvest  
32 committees representing each of the eight  
33 commercial gear types. So for an example, the  
34 Area E gillnets would have an area harvest  
35 committee representing the Fraser River gillnet  
36 fleet. And we have harvest committee elections  
37 and they elect representatives to their harvest  
38 committee, and from there they would determine who  
39 their representatives were going to be on the  
40 Commercial Salmon Advisory Board. So the  
41 department has a role in setting out the terms of  
42 reference with the group but they take control of  
43 identifying their members.  
44 Q The CSAB members control who's going to be --  
45 A That's right.  
46 Q -- who's going to be sitting on the board, okay.  
47 In your view, or the department's view, does the

- 1 Commercial Salmon Advisory Board adequately  
2 represent the interests of the commercial fishing  
3 industry in the planning process?
- 4 A We've got a broadly representative process. Every  
5 licence-holder in the commercial fleet has an  
6 opportunity to elect members to their area harvest  
7 committees, and the committees' elections are  
8 actually every year where they re-elect half of  
9 the committee for a two-year term. So there's  
10 frequent opportunities to elect new members to the  
11 committee potentially. And one of the items in  
12 the terms of reference for the Commercial Salmon  
13 Advisory Board is adequate representation. And I  
14 think it's fair to say that for the commercial  
15 salmon fleets, there's good representation and  
16 perspective from both the area harvest  
17 committees -- or all of the area harvest  
18 committees as well as the processors and the  
19 union. That's not to say they're all going to  
20 agree on issues that may arise at that committee,  
21 though.
- 22 Q Now, one thing I was going to ask Mr. Rosenberger  
23 about -- since he's not here I haven't yet, but  
24 maybe I can just ask you. What is the Fraser  
25 River Integrated Management Team, FRIMT as it's  
26 called?
- 27 A It's a departmental body that includes  
28 representatives from the department's areas and  
29 regional offices that are directly involved in the  
30 management of Fraser River sockeye. There's a  
31 terms of reference for that committee as well that  
32 lays out the people that are involved in that  
33 committee.
- 34 Q Okay. And is that committee involved in either  
35 receiving information from the consultation  
36 process you've described or directly involved in  
37 that consultation process?
- 38 A Yes. The FRIMT committee primarily interacts with  
39 the Fraser River Panel and the Canadian caucus  
40 representatives there. The Canadian caucus would  
41 be the Canadian members of the Fraser River Panel.  
42 So they would meet with the Integrated Management  
43 Team to discuss issues jointly specifically  
44 related to the management of Fraser River sockeye  
45 and pink salmon.
- 46 Q And the consultation that we just talked about for  
47 the Commercial Salmon Advisory Board, in

1 particular the commercial fishing interests, is  
2 there a relationship between that consultation and  
3 what happens on FRIMT? Does that information get  
4 through the FRIMT?

5 A There's overlap in some of the members on the  
6 committees, and certainly on the department side,  
7 I'm aware of what's happening with FRIMT either  
8 through speaking directly with Mr. Rosenberger or  
9 on occasion I'm also attending those meetings as  
10 well. But we're communicating the issues  
11 internally within the department, and there's also  
12 opportunity for the commercial representatives and  
13 others on the Integrated Management Team to  
14 communicate back to their sector organizations as  
15 well.

16 Q I'd like to move to the Sports Fishing Advisory  
17 Board and go through some of the same questions.  
18 Does the department meet with the Sport Fishing  
19 Advisory Board?

20 A Yes, it does.

21 Q And how often does it meet pre-season?

22 A At the Sport Fishing Advisory Board level, in the  
23 pre-season period -- again, the Sport Fishing  
24 Advisory Board is divided into a north and south  
25 subcommittee, and then there's what's called the  
26 main board, where the north and south groups come  
27 together. We've got -- in the pre-season process  
28 the main board will meet in January typically for  
29 a post-season review and pre-season planning.  
30 Typically in the south we'll have a south coast  
31 advisory board meeting in the late March/April  
32 timeframe - typically it depends when Easter falls  
33 when that meeting occurs - to go over the IFMP  
34 planning and review of the first draft. And then  
35 the final meeting of the year for the SFAB in  
36 terms of developing the IFMP occurs in April in  
37 the main board meeting.

38 Q And in addition to those individual consultations,  
39 they're part of the IHPC process as well?

40 A Representatives from the SFAB participate in the  
41 IHPC process as well. I should also point out  
42 that there's also sport fishing advisory  
43 committees at the sub-regional level and our  
44 departmental staff are meeting with those groups  
45 as well. And motions that are put forward by  
46 those groups would be brought forward to their  
47 respective north and south coast committees, and

1 then from there to the main board.

2 Q Who's represented on the SFAB, the Sports Fishing  
3 Advisory Board?

4 A Devona Adams is our recreational coordinator that  
5 is primarily responsible for that committee, and I  
6 understand she'll be testifying later. But in a  
7 broad sense, the committee's intended to have  
8 majority representation for primary level users as  
9 the resource. So these are fishing interests that  
10 are not deriving income or a substantial part of  
11 their income from the resource. And the terms of  
12 reference lays out a number of positions for those  
13 individuals. We've got typically -- or in the  
14 terms of reference, I believe, it's seven  
15 representatives in the north plus a chair and then  
16 seven in the south plus a chair. There's also  
17 representatives from the Pacific Salmon Commission  
18 process and the various -- Fraser Panel, for  
19 example, would be one spot where there's a  
20 representative there. There's also ex officio  
21 representation from the province. And then for  
22 the secondary level representation, there's a list  
23 of organizations that supply representatives to  
24 the SFAB and these are groups that derive income  
25 from the sport fishery. So the B.C. Wildlife  
26 Federation would be there with a fresh water and  
27 salt water representative, the Sport Fishing  
28 Institute, marine trades, lodge and campgrounds,  
29 and a number of other organizations would -- the  
30 Federation of Drift and Fly Fishers also have  
31 representatives as well.

32 Q And does the department have any role in  
33 determining who will be represented by the SFAB?

34 A The department can have a role in determining the  
35 representation there. Typically we're looking to  
36 see that the representation is balanced. And to a  
37 large extent the committee manages that, but the  
38 department has been involved in setting up the  
39 terms of reference for the committee.

40 Q And in your view, or the department's view, does  
41 this board, Sports Fishing Advisory Board,  
42 adequately represent the interests of the sports  
43 fishers?

44 A Again, Devona might be able to provide you some  
45 more specific feedback on specific issues there,  
46 but it's a long-standing committee that's been  
47 around since the 1960s. It's intended to be

- 1 broadly representative of the recreational fishing  
2 interests, and I think the committees have largely  
3 been successful at doing that.
- 4 Q And does the department conduct meetings with any  
5 sport fisher groups other than through the SFAB  
6 itself?
- 7 A It may be that we do have some meetings that are  
8 set up in the various areas. I couldn't speak  
9 specifically to what those might be, though.
- 10 Q Okay. And I'm moving to the Marine Conservation  
11 Coalition. Who's represented on that organization  
12 or that body? I'm not sure if it's a society of  
13 itself, but that coalition?
- 14 A This is an umbrella group that was put together to  
15 represent environmental non-governmental  
16 organizations. In the terms of reference that's  
17 listed on the department's consultation  
18 secretariat we've got nine or ten groups covered  
19 there. The David Suzuki Foundation would be an  
20 example, Canadian Parks and Wilderness Committee,  
21 Watershed Watch, Raincoast Conservation, and a  
22 number of other groups that I'm not going to be  
23 able to name off the top of my head. But they're  
24 listed on essentially a terms of reference for the  
25 group.
- 26 Q And did the department have a role in deciding  
27 which groups would be part of that coalition?
- 28 A This group largely came together independently as  
29 a way to try and represent environmental non-  
30 governmental, or ENGO, interests -- environmental  
31 non-governmental organization interests in the  
32 various planning processes that the department  
33 has, but it was pulled together independently and  
34 it's got an executive steering committee.
- 35 Q And how long has it been part of the planning  
36 process?
- 37 A I believe the committee dates back to 2003.
- 38 Q And when does DFO meet with the Marine  
39 Conservation Coalition?
- 40 A The Marine Conservation Caucus participates in our  
41 Integrated Harvest Planning Committee meetings and  
42 has representatives there. They also participate  
43 at the Fraser River Panel as an observer and we --  
44 in the pre-season planning process, we  
45 typically -- or we've made efforts to set up a  
46 meeting to go over specific concerns and issues  
47 that the MCC may have in the spring planning

1 process as well.

2 Q Is that before or after the first draft IFMP?

3 A My recollection in recent years is that the  
4 meeting has occurred after the first draft of the  
5 IFMP is released.

6 Q And, in your view, does the Marine Conservation  
7 Coalition adequately represent the interests of  
8 the conservation community?

9 MR. GROUT: At the IHPC level, I think it is doing a  
10 good job of representing the interests. I haven't  
11 personally had complaints from groups that felt  
12 they aren't being fairly represented or the -- or  
13 the MCC was not doing a good job representing  
14 them.

15 Q Okay. Does --

16 MR. GROUT: So I don't have any evidence to suggest  
17 that that's not the case.

18 Q Does the Department conduct meetings with  
19 different conservation groups in addition to the  
20 MCC?

21 MR. GROUT: I'm not specifically involved in -- I have  
22 not been specifically involved in those meetings,  
23 but they may have occurred from time to time.

24 Q Now, the consultation with First Nation groups, is  
25 that an area that is better suited to Barry  
26 Rosenberger answering those questions, or do you  
27 want to go through some of the overview of that?

28 MR. GROUT: That might be a good topic to do when Barry  
29 comes as well, 'cause I know he's got a number of  
30 good points that he can probably add.

31 Q Okay. Other than the groups -- I know we haven't  
32 discussed the First Nations consultation process  
33 yet, but other than the First Nations consultation  
34 process which Mr. Rosenberger will speak to, the  
35 Commercial Salmon Advisory Board and the other  
36 meetings that you've described, Sports Fishing  
37 Advisory Board and other meetings you've described  
38 and the Marine Conservation Coalition, is there  
39 other opportunities for input? Do you receive  
40 consultation or information from others within the  
41 Department or external?

42 MR. GROUT: Yes. In terms of developing the Integrated  
43 Fishery Management Plans each year, we do provide  
44 opportunities for input directly from the public.  
45 We have had input and advice from researchers or  
46 organizations that have done research in the past.  
47 The Pacific Fisheries Resources Conservation



1 Council is an example of a group where we've had  
2 input from. So there's a number of other ways the  
3 Department can get advice on developing the  
4 management plans each year.

5 Q And what about internally from managers within  
6 DFO? Is there an avenue to receive input from  
7 area managers and --

8 MR. GROUT: Yes. In terms of the Integrated Fishery  
9 Management Plan itself, for the southern plan we  
10 coordinate the production of that plan across our  
11 three areas in the south. The Department has  
12 south coast, lower Fraser and the B.C. Interior,  
13 and then the region as well.

14 We typically have set it up with a lead  
15 alternating from year to year in one of the areas,  
16 in terms of bringing together the elements in the  
17 Integrated Fishery Management Plan, and we have  
18 subject experts identified for each of the  
19 components of the plan. So it's a case of a  
20 number of our staff, largely represented on the  
21 Fraser River Integrated Management Team that are  
22 pulling together the different sections that go  
23 into developing the plan.

24 Q And we've talked -- we've referenced the  
25 Integrated Harvest Planning Committee a few times  
26 already this morning. But just to identify, what  
27 is that actual body? What's its purpose and where  
28 did it come from?

29 MR. GROUT: The Committee was formed in response to  
30 recommendations - my understanding, anyway -  
31 stemming from the 2002 sockeye fishery review and  
32 also the Institute for Dispute Resolution,  
33 recommendations there. It was put together in --  
34 or I believe the first meeting was in 2004.  
35 Really, the Committee is intended to provide an  
36 opportunity for the different interests to come  
37 together and work on coordination of fishing plans  
38 and identify potential conflicts in areas where  
39 they need to work together across their fisheries  
40 to try and work things out.

41 Q Can you prepare -- or your Department has prepared  
42 a document which sort of outlines this for people  
43 and it's CAN006515, and in your binder there, it  
44 would be Tab 9, and they can see it on the screen  
45 as well. So this just outlines the structure of  
46 the committee, and it also identifies the meeting  
47 schedule and the committees, and also that there's

1           an independent facilitator of the meetings; is  
2           that right?

3       MR. GROUT: That's correct. I wouldn't know -- the  
4           province has also been involved in this committee  
5           as well as an *ex officio* member and that doesn't  
6           appear to be shown here.

7       Q       Right. So there should be a little box after --  
8           on the same line as "DFO Commercial, Rec, First  
9           Nations and Conservation"?

10      MR. GROUT: That's correct.

11      Q       Okay. The first meeting in this planning cycle is  
12           in November; is that -- oh, sorry, yes, we should  
13           mark this Advisory Process document as an exhibit.

14      THE REGISTRAR: Exhibit number 319.

15  
16                   EXHIBIT 319: Salmon Advisory Process  
17                   document

18  
19      MS. BAKER:

20      Q       The first meeting in the planning process -- or at  
21           least the way I'm thinking of it is in November.  
22           Maybe in your mind that's the end of the season,  
23           but what happens in that November meeting with  
24           respect to planning going forward?

25      MR. GROUT: The November meeting at the Harvest  
26           Planning Committee is primarily focused on a  
27           preliminary review of issues from the past season  
28           while they're still fresh in people's minds. It's  
29           too early to get into a detailed post-season  
30           review of the season at that meeting. We also --  
31           I should point out that the Integrated Harvest  
32           Planning Committee has a subcommittee that  
33           develops the agenda for each of these meetings  
34           consisting of representatives from each of the  
35           groups.

36           So while we've got a broad purpose for the  
37           meeting which I'll outline, they can also request  
38           to have specific information on other topics added  
39           to the agenda, at least the Department to  
40           consider.

41           So this meeting in November is primarily an  
42           opportunity to identify issues from the past  
43           season that they'd like to see the Department  
44           provide more information on the post-season review  
45           or follow up on for the coming year, as well as  
46           provide a preliminary salmon outlook for the  
47           potential salmon returns in the coming season.

1 Q Does the Department also look to the participants  
2 for advice on different issues at that meeting?

3 MR. GROUT: Yes, we would.

4 Q And the Salmon Outlook document is CAN 003053 and  
5 it'll be up on your screen in a minute, but if you  
6 want to see a paper version, it's the very first  
7 item in that binder you're looking at.

8 So this is a document that is the Salmon  
9 Stock Outlook. It's dated November 8, 2008, so  
10 this is the document that would be forward-looking  
11 for the 2009 year?

12 MR. GROUT: That's correct.

13 Q Okay. And who prepares this outlook -- and,  
14 sorry, would this document be presented at the  
15 November meeting?

16 MR. GROUT: Yes. We would provide a hard copy of the  
17 -- or a paper copy of this document, as well as a  
18 presentation of the key information that it  
19 contains.

20 MS. BAKER: Okay. Could I have that marked, please, as  
21 the next exhibit?

22 THE REGISTRAR: Exhibit 320.

23  
24 EXHIBIT 320: 2009 Salmon Stock Outlook dated  
25 November 8, 2008  
26

27 MS. BAKER:

28 Q And who prepares that Salmon Outlook document?

29 MR. GROUT: This document is put together by our core  
30 Science staff and as well as Area Stock Assessment  
31 staff.

32 Q And how is that -- or what's the purpose of this  
33 document? It's -- it's fairly long and fairly  
34 detailed.

35 MR. GROUT: The intention of the document is to provide  
36 a broad scan of the status category on a scale of  
37 1 to 4 for a number of salmon stocks in the  
38 region. I believe this document contains up to 93  
39 of those stocks, so by the major species as well  
40 as major stocks within each of those.

41 In 2009, we hadn't aligned this with the Wild  
42 Salmon Policy conservation units, but that's work  
43 that's being developed.

44 In terms of the information provided, there's  
45 four status categories, from status 1 being a  
46 stock of concern. The criteria there are listed.  
47 The criteria are somewhat subjective, but they're

1           meant to give you an indication of stocks that are  
2           less than 25 percent of their target where those  
3           are identified or has been declining rapidly, up  
4           to a category 4 population which is considered  
5           abundant and is forecast to be well above target.

6           Q     Okay. So would people like Timber Whitehouse be  
7           involved in developing this document for Fraser  
8           River sockeye?

9           MR. GROUT: It's my understanding Timber and a number  
10          of his staff would be providing specific inputs  
11          for populations specifically returning in the  
12          Fraser watershed. It could also be similar inputs  
13          from staff in the Lower Fraser office as well as  
14          in the south coast and north coast in this case.

15          Q     And Timber Whitehouse and his staff and the other  
16          people that are in similar positions are all part  
17          of the Stock Assessment; is that right?

18          MR. GROUT: Yeah, yes. So this is primarily a Science  
19          and Stock Assessment staff activity.

20          Q     And is the analysis of the stocks based on  
21          quantitative forecast information, or is it also  
22          -- does it also contain a qualitative assessment?

23          MR. GROUT: In November, we typically are still waiting  
24          for post-season information to come in on the  
25          number of spawners that have reached the spawning  
26          grounds, information from survival rates on a  
27          number of stocks and it's too early to have that  
28          information in November, so what usually happens  
29          is this provides a preliminary scan and then --  
30          for a number of populations = Fraser sockeye is  
31          one of the notable ones - we have a quantitative  
32          forecast that's provided later.

33          Q     Is the document, the Outlook document, revised  
34          after it's been presented in the November meeting?

35          MR. GROUT: In some past years, this document has been  
36          revised a number of times as the information gets  
37          updated, and so there will be different versions.  
38          Quite often we'd see one in January or February  
39          and even after that in some years.

40                 What we're trying to do, though, is move this  
41          to a document that's done once in November, and  
42          then one final update in the spring, rather than a  
43          whole series of versions and updates with -- as  
44          minor changes are made. Really, the main  
45          intention of this document is to provide people a  
46          sense of where the problem areas are going to be  
47          in the coming year, stocks that are category 1,

1 but also to provide -- or 2 -- and then also to  
2 provide an indication of what populations are at  
3 target or abundant levels and can support harvest.  
4 Q Moving to the January south coast IHPC, what's on  
5 the agenda for that meeting?

6 MR. GROUT: The January south coast IHPC is primarily  
7 focused on the post-season review although the  
8 Agenda Committee has, at times, identified other  
9 topics that they would like to see discussed at  
10 that meeting. The Department can also propose  
11 additional topics that they'd like to see  
12 discussed there as well.

13 The main focus of the meeting is the post-  
14 season review of south coast fisheries.

15 Q Okay. Do you -- at that time, does the Department  
16 respond to any of the issues raised in November?

17 MR. GROUT: At the November meeting, there's quite  
18 often issues that are raised that the Department  
19 has been asked to follow up on, and depending on  
20 whether it was a north coast or south coast item,  
21 we may respond at the January meeting.

22 What we've been doing to try and streamline  
23 the process is to respond by email or  
24 electronically with action items that we can  
25 follow up on as we get them done. So it's --  
26 quite often we'll have action items that are  
27 being followed up on and sent to the committee  
28 members in between meetings as well.

29 Q Okay. Is any pre-season forecast information  
30 available at the January south coast meeting?

31 MR. GROUT: Usually, we'd have the -- let me think  
32 here. The schedule for the Fraser River sockeye  
33 forecast was delayed last year, but typically we  
34 would try and have that quantitative information  
35 for this meeting.

36 Q And following that meeting, what's the next phase  
37 in the development of the IFMP? Do you -- are you  
38 able -- are you in a position at the end of  
39 January to start putting that document together?

40 MR. GROUT: Yes. So the Department lays out a table of  
41 contents for the Integrated Fisheries Management  
42 Plan, and we will -- we will have been meeting --  
43 we typically meet in December to outline the table  
44 of contents and where we're going -- the lead  
45 authors for the various components. So people  
46 will be -- will have started working on some of  
47 the elements of the IFMP, identifying where

1 changes need to be made, information needs to be  
2 updated. Some of the issues raised will have --  
3 preliminary exploration of those will have  
4 started, so if issues were raised at the November  
5 meeting of the IHPC or elsewhere at any of our  
6 other consultation meetings, we can start  
7 evaluating some of those issues and we may be able  
8 to bring them back to the January meeting or they  
9 would come at a subsequent one.

10 Q Okay. When is the first draft of the IFMP  
11 prepared then?

12 MR. GROUT: Our objective in producing the first draft  
13 of the IFMP is to have it publicly available one  
14 week prior to the Integrated Harvest Planning  
15 Committee meeting in March to give people time to  
16 review it. And then we typically provide  
17 approximately one month for public review as well.

18 Q After the March meeting?

19 MR. GROUT: So it should be on this schedule that's  
20 been entered here as an exhibit, a date when the  
21 -- well, in this version of the schedule, we  
22 didn't have the date marked, but there's public  
23 posting listed there. "Draft No. 1, IFMP, for  
24 review and comment."

25 So the date would have been approximately one  
26 week prior to the full IHPC meeting which is  
27 listed on March 24th, 25th.

28 Q And then the public would have a month from the  
29 day it was posted?

30 MR. GROUT: Give or take. That's typically the amount  
31 of time we provide for comment.

32 Q Do any of the people with interest in the  
33 fisheries or the public have an opportunity to  
34 provide input in the creation of the first draft?  
35 How does their input get incorporated into the  
36 first draft before it's posted?

37 MR. GROUT: In terms of the first draft of the IFMP, we  
38 will have been incorporating potentially any  
39 revisions that have been requested or potential  
40 options that groups would like to see explored.  
41 So to the extent that those issues have been  
42 raised and the Department's been made aware of  
43 those prior to the first draft coming out, some of  
44 that information will be captured in the first  
45 draft.

46 There will be other things that are not  
47 raised until after the first draft goes out, and

1           they would not be dealt with until after the first  
2           draft is gone. So it's a mix of the two. We do  
3           have some input that's incorporated before, but we  
4           also receive new input as well after it's  
5           released.

6           Q     One of the issues, I take it, that has to be  
7           settled before you do the first draft is the pre-  
8           season forecast which is prepared by Science; is  
9           that right?

10          MR. GROUT: That's correct.

11          Q     Okay. So I'd like to look at that process now.  
12                Who does the -- who, within the Department of  
13                Fisheries and Oceans, is responsible for doing the  
14                pre-season forecast?

15          MR. GROUT: Currently, Sue Grant with Stock Assessment  
16                in the Lower Fraser office has been putting the  
17                forecast document together.

18                For a number of years before that, it was Al  
19                Cass, Science.

20          Q     Okay. And this -- she prepares a pre-season  
21                forecast paper; is that right?

22          MR. GROUT: There's one of two things that can happen  
23                with our forecast documents. If the forecast is  
24                being done with an approved methodology that's  
25                been used in the past and has a previous research  
26                document supporting it, then a shorter -- a  
27                shorter update of the forecast is done. It's  
28                called a SAR document, and I can't recall if --

29          Q     Science Advisory Report?

30          MR. GROUT: Science Advisory Report, thank you. If  
31                there's been a substantial revision or change to  
32                the methodologies, then a longer research document  
33                would be done with -- typically a Science Advisory  
34                Report is also produced to summarize the research  
35                document for the public as well.

36          Q     Okay. And that document, the Science Advisory  
37                Report, is provided to who in your organization?  
38                Is it provided to your -- to you or to Mr.  
39                Rosenberger or who?

40          MR. GROUT: A number of individuals in the Department  
41                would participate in the scientific review  
42                process. It's also open to the public as well.  
43                Once the paper has been reviewed and approved,  
44                it's circulated quite widely in the department.  
45                Certainly in developing the IFMP, Barry and I are  
46                paying close attention to the development of the  
47                forecast. He's using it and taking it to the

1 Fraser Panel process, and I'm keeping my eyes open  
2 for it going to the IFMP document.

3 Q Okay. Now, Sue Grant will be coming here and  
4 we'll have a session with her on the development  
5 of pre-season forecasts, so we don't need to get  
6 into a lot of detail of that process with you  
7 because we'll have her here to talk about exactly  
8 how that modelling is done and what documents are  
9 produced.

10 But I think it would be useful for this  
11 session to understand how the output is used by  
12 you in planning. So just in terms of -- just from  
13 an overview sense, what information is generated  
14 by that forecasting process that is used by you in  
15 the IFMP?

16 MR. GROUT: The forecast provides detailed information  
17 of the range of returns expected for salmon, a  
18 number of key salmon stocks, 19 of them to be  
19 precise. It provides information on ranges of  
20 returns, specified probability levels to give  
21 people a sense of the uncertainty of the potential  
22 returns, and it provides some information on the  
23 overall returns for Fraser sockeye that might be  
24 expected, given the combination of the stocks that  
25 make up the forecast.

26 Q Okay. Does it include information about numbers  
27 of -- health of juvenile fish?

28 MR. GROUT: The forecast methodology uses a number of  
29 different potential models and it -- in going  
30 through that, Sue Grant is probably the best one  
31 to give you the details of those, but one of the  
32 primary models that's used is the relationship  
33 between the number of spawners four years prior  
34 and the number of returns that you might expect  
35 given that most Fraser sockeye mature as four-  
36 year-olds.

37 So a number of the models make use of that  
38 information. There are some populations where we  
39 have juvenile information and smolt-out migration  
40 which can inform the forecast, Chilko Lake in  
41 particular, and also Cultus Lake. We get  
42 information for those populations from fences at  
43 the outlets of those lakes where the juveniles can  
44 be counted.

45 So in the cases of those populations, those  
46 are actually the best models to use in the  
47 forecast.



1 Q Okay.

2 MR. GROUT: And there's also some models that just look  
3 at averaging over previous years so they're not  
4 explicitly biological mechanisms to do the  
5 forecasts. They're looking recent averages or  
6 recent cycle-line averages as ways to produce the  
7 forecast information.

8 Q Okay. And, as I said, we'll get into some of the  
9 detail of all that when Sue Grant is here.

10 Does the forecasting information contain  
11 information about the status of the marine  
12 environment, where the fish live for a couple of  
13 years?

14 MR. GROUT: In the past, the forecast document may have  
15 included commentary on some of those issues, but I  
16 think in a very limited way. In recent -- in the  
17 last couple of years in particular, the Department  
18 has been looking at how we might incorporate  
19 information from some of the various different  
20 marine indexes that could be used to perhaps  
21 strengthen the power of the forecasting. But I  
22 think it's preliminary efforts of that work, and  
23 it's a work in progress.

24 Q You mentioned that -- and again, if this is a  
25 question for Barry Rosenberger, just let me know.  
26 You mentioned that the forecast document is taken  
27 to the Fraser River Panel. Do you know why that  
28 is, or what use they make of it?

29 MR. GROUT: Fraser River Panel makes use of the  
30 forecast information for pre-season planning  
31 purposes.

32 Q Does the Fraser River Panel have any involvement  
33 in setting probability levels?

34 MR. GROUT: The Fraser Panel does recommend which  
35 probability levels they're going to use for  
36 planning purposes at the Fraser Panel.

37 Q Okay. And is there communication between the  
38 Fraser River Panel on the probability levels to be  
39 used back to Department of Fisheries and Oceans or  
40 -- do you put forward your planning using the  
41 recommendations from the Fraser River Panel, or do  
42 you do it independently?

43 MR. GROUT: We're working typically closely with the  
44 Fraser Panel on that.

45 Q So if there's a probability level chosen by the  
46 Fraser River Panel, we would expect to see that in  
47 the IFMP as well?

1 MR. GROUT: In recent years, we have been consistent on  
2 that.

3 Q Now, we haven't spent any time talking about what  
4 those probability levels are or what they mean, so  
5 what I want to do is look at the first draft of  
6 the IFMP for 2009 and look at the forecast  
7 information that's contained in there, and we can  
8 go through some of the data.

9 So the first draft of the IFMP is CAN 004017,  
10 and that should be in Tab 6 in your binder.  
11 You'll see at the bottom of the page a number, CAN  
12 number with an underscore and then a page number.  
13 I'm going to use those page numbers as references,  
14 so if you go to 64, you'll see a -- whoops! Yeah,  
15 yeah, there, stop.

16 Table 9 has pre-season forecast for 2009 by a  
17 stock timing group and probability. So looking at  
18 that document, is this information which is taken  
19 from the Science Advisory Report that's prepared  
20 by Sue Grant?

21 MR. GROUT: Yes.

22 MS. BAKER: Okay. I should mark this first draft of  
23 the IFMP as an exhibit.

24 THE REGISTRAR: Exhibit number 321.

25 MS. BAKER: Thank you.

26

27 EXHIBIT 321: First draft, Pacific Region  
28 Integrated Fisheries Management Plan, Salmon,  
29 Southern B.C., June 1, 2009 to May 31, 2010  
30

31

MS. BAKER:

32 Q All right. So let's just go through some of the  
33 columns to help people understand what's being  
34 shown here. If we look across the headings,  
35 you'll see mean run size, all cycles, 2009 cycle.  
36 What is that referring to and what are those  
37 columns referring to?

38 MR. GROUT: Maybe a bit of context here. For Fraser  
39 River sockeye, as I mentioned, they primarily  
40 mature as four-year-olds. In some of these  
41 stocks, we do see a four-year period of abundance  
42 which can have quite different levels of abundance  
43 on the different cycle lines. So in terms of the  
44 mean run size here, "all cycles" means overall  
45 historical year, so all four cycle lines.

46 The 2009 cycle refers to returns from 2009,  
47 2005, 2001, just on that individual cycle. So it

1 gives you an idea of whether you're on a dominant  
2 or an abundant cycle line of abundance for some of  
3 these stocks relative to the average abundance.  
4 Q All right. And if we look on the far left side,  
5 it says "Sockeye stock timing group", and then it  
6 has all the different stocks that are measured in  
7 this model; is that right? Within their run  
8 timing groups, so the four run timing groups are  
9 Early Stuart, Early Summer, Summer, and Late, and  
10 within it are the different stocks on those run  
11 timing groups?  
12 MR. GROUT: That's correct.  
13 Q Okay. And there's a number that are just listed  
14 as miscellaneous stocks?  
15 MR. GROUT: Yes.  
16 Q Okay. And the next table has CU's, table 2, those  
17 are referencing the conservation units that are  
18 contained within those stocks that are used in the  
19 model?  
20 MR. GROUT: Yes.  
21 Q Okay. And forecast model, I'm not going to ask  
22 you to go through that. I'll deal with that  
23 through Ms. Grant when she's here.  
24 The next column over, "Probability of  
25 achieving specified run sizes," .1, .25, .5, .75  
26 and .9. What is that that referencing?  
27 MR. GROUT: This information refers to the cumulative  
28 probability distribution which gives you a sense  
29 of the likelihood of different returns occurring.  
30 So on the Early Stuart line under 0.1, it's  
31 telling you there's a ten percent chance, or a 1  
32 in 10 chance of having a return 645,000 or more.  
33 At the 0.5, it's saying there's a 50 percent or a  
34 1 in 2 chance of having a return of 255,000. At  
35 0.9, it's saying there's a 90 percent chance, or 9  
36 out of 10 chance your return will be 107,000 or  
37 more.  
38 Q Okay. And just because that's going to be  
39 confusing, I just want to identify there's been a  
40 change to the way those probabilities are  
41 described in the 2000 year's forecast document and  
42 going forward. Can you explain what that change  
43 is?  
44 MR. GROUT: What has been done is we've essentially  
45 used the inverse of the probability levels here in  
46 terms of reading through the table for 2010. So  
47 when you look at a 2010 IFMP, the probability

1 levels will be of achieving the run or less. So  
2 it's really the inverse of what's shown here in  
3 this table.

4 Q Okay. So we have to be careful when we're looking  
5 at these documents and talking about probabilities  
6 which method we're referring to, because there was  
7 this switch which creates the reverse in 2010.

8 MR. GROUT: That's right.

9 Q Okay. Now, why is this information presented?  
10 How is it expected to be used by people reading  
11 the document and by the Department in planning?

12 MR. GROUT: Well, the forecast information explains  
13 some fraction of the variation in potential  
14 returns based on the historical data. The amount  
15 of variation that's explained can vary across  
16 stocks. In some, it can explain quite a lot of  
17 the variation, and some not as much. So the  
18 forecasts can give you an idea of the range of  
19 returns that are possible for the population and  
20 the probabilities of those returns occurring.

21 The information is used at the Fraser Panel  
22 for pre-season planning purposes and developing  
23 potential fishing plans for the various groups if  
24 in fact a specified return level were to occur  
25 during the upcoming season.

26 Q It talked about one change in 2010 to the  
27 forecasting, the way the data is presented, but  
28 there were some other changes required in 2000 --  
29 or not required, but implemented in 2010 and I  
30 will ask Sue Grant to explain what those are, but  
31 I'm wondering if you could just explain why  
32 changes were deemed needed to the forecasting  
33 model after the 2009 year?

34 MR. GROUT: In 2010, there were some substantive  
35 changes made to the methodology for forecasting  
36 which required a research document to be done. In  
37 that document, there was concern about the recent  
38 declines in productivity and forecasts essentially  
39 being higher than what was actually returning.

40 So in the new work in 2010, there were some  
41 new models introduced that included the sort of  
42 historical basis for forecasting, which was to  
43 include all years. There was another suite of  
44 models that were using just the recent  
45 productivity for the last -- since the late '90s.  
46 And then there was a third model which was  
47 essentially extremely poor returns would be

1 repeated similar to the past year that had just  
2 come back.

3 So return rates, if they're similar to the  
4 year that had just gone by, there was also another  
5 category in the models that they looked at.

6 Q And so it was -- the change was a response to the  
7 declining productivity that was being seen?

8 MR. GROUT: I think that was one of the items that had  
9 driven the look at that potential change in the  
10 methodology.

11 Q And the result was to produce a couple of  
12 different cases, one which looks at all the  
13 historical data, one which looks at a more recent  
14 subset, and one which looked at the most recent  
15 and the poorest return year?

16 MR. GROUT: That's right.

17 Q Okay. And, as I said, I'll talk to Sue Grant  
18 about all the details of how that was put together  
19 when she's here. I just felt it was important to  
20 understand the reason why that work was done.

21 Typically, is it fair to say that there's  
22 often variations in season from the pre-season  
23 forecasts?

24 MR. GROUT: Yes.

25 Q And sometimes they can be very significant  
26 variations from the forecasts?

27 MR. GROUT: In some cases, yes. Although I should  
28 clarify that we have to be careful, because what  
29 the forecast is providing is a distribution of  
30 potential returns, so maybe you could clarify your  
31 question. Were you referring to the midpoint of  
32 the forecasts there or something else?

33 Q Well, if you're planning, you will choose one of  
34 these probability columns as the probability for  
35 which you will do your planning, correct?

36 MR. GROUT: Yeah, typically the Panel will look at a  
37 number of probability levels through the forecast,  
38 but historically the 25 -- .25 and the .5 levels  
39 have been done -- or, sorry, the .5 and the .75  
40 levels were done using the -- this terminology  
41 from 2009.

42 Q Okay. And so you would settle on a probability  
43 and plan based on that probability for developing  
44 your pre-season planning, correct?

45 MR. GROUT: Yeah, so pre-season planning would look at  
46 different slices, if you will, through the  
47 distribution and the returns associated with

1 those. So if your question was have the in-season  
2 returns differed from some of those sort of  
3 discrete estimates at times, the answer is yes.  
4 But Sue could better give you a sense of how well  
5 the whole distribution has captured the range of  
6 outcomes.

7 Q Okay. Well, my next question just is are fishing  
8 decisions for Fraser River sockeye in-season based  
9 on the pre-season forecasts which are shown in the  
10 IFMP document?

11 MR. GROUT: There may be specific cases where the pre-  
12 season information is providing some information  
13 at the start of the season, but the Department and  
14 the Fraser Panel focuses its management on the  
15 assessment of actual returns in season.

16 Q Okay. So if the in-season management is really  
17 being completed based on what's appearing in  
18 season and not on the forecast, why is so much  
19 time spent on the forecast? Is it -- what's the  
20 point of it?

21 MR. GROUT: Well, this is a point Barry may want to  
22 comment on as well when he gets in later. But the  
23 forecast does provide information. The  
24 relationships do provide some explanatory power in  
25 terms of explaining the number of returns that may  
26 come back from previous years' spawners or the  
27 number of juveniles that migrated out from some of  
28 the systems. It does give you a probability  
29 distribution on the range of potential returns.  
30 This can provide assistance to people considering  
31 how their fisheries might unfold in the summer.

32 In particular, you can look at each of the  
33 different management units and see if one of the  
34 management units is not very abundant relative to  
35 another one. You'll have to consider how you  
36 might harvest the more abundant management unit  
37 relative to others. You can also see individual  
38 stocks, the abundance of those relative to others  
39 in their management unit. In some cases,  
40 additional management action has been planned for  
41 those reasons.

42 MS. BAKER: Okay. Mr. Commissioner, it's almost 20  
43 after 11:00. Should we take our break now?

44 THE COMMISSIONER: Yes. Thank you, Ms. Baker.

45 THE REGISTRAR: The hearing will now recess for 15  
46 minutes.

1 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)  
2 (PROCEEDINGS RECONVENED)  
3

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

5 MS. BAKER: If we can go to the CAN page number?

6 MR. LUNN: I think that's -- oh, I'm sorry. Yes.

7 MS. BAKER: Yeah, that's it.

8 MR. LUNN: How's that?

9 MS. BAKER: Yeah.

10

11 EXAMINATION IN CHIEF BY MS. BAKER, continuing:  
12

13 Q So Section 5.4.9 of this chapter sets out a table  
14 which looks sort of like what we saw on the  
15 Outlook document. Is this information in the IFMP  
16 related to the Outlook document we saw earlier?

17 MR. GROUT: It's different in the sense that what we're  
18 doing here is laying out the considerations for  
19 the pre-season planning of the fishery and what  
20 potential scenarios we need to look at for the  
21 coming year.

22 Q But is this information informed in any way by the  
23 Outlook document that we saw earlier?

24 MR. GROUT: Usually, what we would have in the  
25 "Comments" box would be similar to what was in the  
26 Outlook and/or informed by the forecast  
27 information, if we had that available, the time of  
28 the draft.

29 Q Okay. If you'd turn to page 72. Yeah, stop  
30 there. You see there's two stocks that are  
31 identified as conservation concerns. Do those  
32 relate to one of the categories in the Outlook  
33 document?

34 MR. GROUT: Yes, these would have been classified as  
35 Category 1 in the Outlook document.

36 THE COMMISSIONER: Ms. Baker, I wonder if I could just  
37 ask just for some clarification so I can follow  
38 this. Could you go back to the table we were  
39 looking at just before the break?

40 MS. BAKER: This is the pre-season forecast table?

41 THE COMMISSIONER: Right.

42 MS. BAKER: That's CAN 60 -- 64.

43 THE COMMISSIONER: 64, right. Right. In that table,  
44 there, in the second column, it refers to CU's.  
45 Earlier on, the witness mentioned that the 2009  
46 information was not adjusted or aligned for the  
47 Wild Salmon Policy. And I notice in the document

1           you've just referred the witness to, at page 68,  
2           at -- it was referenced, I believe, there, again  
3           to stocks not CU's and I just want to understand  
4           what he meant earlier by not aligning it with the  
5           Wild Salmon Policy, but there is a reference to  
6           CU's in that particular table.

7       MR. GROUT: Mr. Commissioner, when I mentioned this  
8           point earlier, it was in the discussion of the  
9           2009 Salmon Outlook, and in the past, that  
10          document's been put together for 93 stocks. What  
11          we did in this most recent year was start aligning  
12          those stocks with the CU's that are contained in  
13          those. That had not been done in the 2009  
14          Outlook, but it's something that we've included  
15          for 2010.

16       THE COMMISSIONER: I see. Thank you.

17       MS. BAKER:

18       Q       So the s. 5.4.9 in the draft IFMP which sets out  
19           the prospects for 2009, and you said that it has  
20           some of the information in the comments part of  
21           that document, comes from the Salmon Outlook  
22           document, I mean, how -- is this table in the  
23           draft IFMP really a condensed form of the  
24           information contained in the Outlook document? Is  
25           that what the intent is, identifying particular  
26           items of concern?

27       MR. GROUT: It's intended to summarize at the  
28           Management Unit level, as well as the specific  
29           stocks of concern, the information from the  
30           Outlook in the forecast.

31       Q       Okay. And what determines whether a specific  
32           stock will be identified in the summary form that  
33           shows up in the IFMP?

34       MR. GROUT: In this case, Cultus and Sakinaw were both  
35           designated by COSEWIC, and they were stocks that  
36           we were paying special attention to in the  
37           development of the Management Plan.

38       Q       Okay. So that's why they got their own special  
39           identification on this table?

40       MR. GROUT: That's correct.

41       Q       Now, the next management tool I wanted to look at  
42           is the Fraser River Sockeye Spawning Initiative,  
43           which goes by the name FRSSI, F-R-S-S-I. And we  
44           will be going into this model in some depth again  
45           later in the hearings. This is one of the topics  
46           where we have a panel put together to deal with it  
47           in detail, but if you could, just for our purposes



1           and understanding of the planning process, give us  
2           a high level summary of what the FRSSI model is,  
3           and the process is and what it's intended to  
4           achieve.

5           MR. GROUT: Okay. The FRSSI --

6           MS. BAKER: It's never a hearing if somebody doesn't  
7           dump water.

8           MR. GROUT: So to answer your question, first off, I'd  
9           start by saying that FRSSI, if I can refer to it  
10          as that, is really a framework for assessing the  
11          long-term harvest rules for Fraser River sockeye.  
12          The reason I've clarified it from model to  
13          framework is that a model is a component of the  
14          work that we've got there, but it was also a  
15          process to incorporate feedback from our First  
16          Nations and various stakeholders as we developed  
17          the work. The intention of the work was to really  
18          lay out long-term harvest plans that could be used  
19          for the management units that took into account  
20          the maintenance and protection of the stocks or  
21          CU's in those groups. It was also intended to  
22          provide an explicit way to balance the interests  
23          of conservation of low abundance with providing a  
24          more stable harvest as abundance increased, and  
25          incorporate input from the various stakeholders on  
26          how they thought that balance should be achieved.

27                 In addition, the model, itself, has been  
28          developed extensively over about an eight-year  
29          period and it's increasingly been developed and  
30          it's had two scientific reviews as the  
31          Department's tried to incorporate feedback that  
32          we've received on, initially, shortcomings in the  
33          model, or additional things that people would like  
34          to see addressed. So as the process has unfolded,  
35          we've also increasingly made modifications to the  
36          modelling tool, itself, to try and incorporate  
37          some of the concerns people had.

38          Q       Canada is responsible for setting escapement goals  
39          under the Salmon Treaty. Is this one of the tools  
40          that's used to assist Canada in setting those  
41          goals?

42          MR. GROUT: Yes, we've been using the outputs from the  
43          FRSSI process from 2007 for the purpose of setting  
44          escapement targets for Fraser sockeye.

45          Q       Okay. How are conservation objectives defined in  
46          the context of FRSSI?

47          MR. GROUT: In terms of the work we did, maybe I should

1 just add some context here. We had a steering  
2 committee that included external people from each  
3 of the First Nation recreational, commercial and  
4 for part of the process, the Marine Conservation  
5 Caucus providing advice on various benchmarks we  
6 might use to make those assessments. We also had  
7 a technical working group that was involved in  
8 trying to develop the model to provide the metrics  
9 that people were looking for. In a broad sense,  
10 what we were doing for conservation units, or  
11 stocks, was looking at the impact of a particular  
12 harvest rule on the conservation objectives for  
13 individual populations. And the way we did that  
14 was set benchmarks for spawner abundance and we  
15 looked at the probability of those being exceeded  
16 over time.

17 Q And those are interim benchmarks under the  
18 program; is that right?

19 MR. GROUT: Yes, we -- at the time that the work  
20 started, we did not have benchmarks that were  
21 defined necessarily consistent with the Wild  
22 Salmon Policy methodologies or conservation units  
23 that were approved for use after the work started.  
24 Some of the more recent work will be to  
25 incorporate -- or some of the upcoming work we'll  
26 have to do will be to incorporate those  
27 benchmarks, but at the time, we were using the  
28 advice of our steering committee and others to  
29 develop a range of benchmarks that we use to look  
30 at abundance of spawners.

31 Q In terms of in season, looking at the conservation  
32 objectives in season, are they the same thing as  
33 these escapement targets that we're talking about?

34 MR. GROUT: I'd maybe clarify that. So what we're  
35 doing is laying out a harvest rule for each  
36 management aggregate of Fraser sockeye, so Early  
37 Stuart, Early Summer, Summers and Lates. And the  
38 harvest rule is really intended to -- or the  
39 performance of that harvest rule can be assessed  
40 to see how well we're ensuring escapement and  
41 production for the individual component stocks in  
42 that aggregate. So we're not looking at stock-  
43 specific level, we're looking at the performance  
44 of the harvest rule developed for the aggregate.

45 Q How many stocks or stock groupings are modelled  
46 using the FRSSI model?

47 MR. GROUT: I think currently, there's approximately 19

- 1 stocks in the model.
- 2 Q And these are grouped into the management groups  
3 that you've referred to?
- 4 MR. GROUT: Yes, the model uses spawner and recruitment  
5 data. So we -- the stocks that are included have  
6 a sufficient time series of that data available  
7 that they can be used in the model and those --  
8 the model can accept inputs in terms of which  
9 stocks go into which management groups.
- 10 Q Okay. And these are the same 19 stocks that we  
11 see in the pre-season forecast model?
- 12 MR. GROUT: It's my understanding that they line up  
13 closely with what's there, if not identically.
- 14 Q And it's based on long-time series data that has  
15 been collected by the prior Commission, and the  
16 current Commission and Department of Fisheries and  
17 Oceans over years, going back to the 1950s or  
18 earlier?
- 19 MR. GROUT: Right, and one of the key elements that the  
20 model uses is a forward simulation which looks  
21 historical spawning and recruitment data to try  
22 and understand what the performance might be of  
23 different harvest rules into the future. In terms  
24 of the stocks we were using, the time series has  
25 to include spawning information, but also  
26 recruitments, which includes the reconstructed  
27 catch and total run, and the Salmon Commission  
28 developed -- Pacific Salmon Commission develops  
29 that information that we use.
- 30 Q Right, and the historical information that you use  
31 in this model is the same information that's been  
32 collected under the prior Commission and the  
33 current Commission?
- 34 MR. GROUT: That's correct.
- 35 Q Okay. And what percentage of the fish in the  
36 Fraser River system are represented by those 19  
37 stock groupings?
- 38 MR. GROUT: The vast majority of the abundance that's  
39 returning would be represented by those. It may  
40 be -- it may vary from year to year. In the IFMP,  
41 they're primarily stocks that are associated with  
42 the miscellaneous groups that are not included.
- 43 Q If you were to say what -- can you give me a  
44 percentage? Is it 50 percent of the fish in the  
45 Fraser River system that are represented by those  
46 19 stock groupings, or is it more or less?
- 47 MR. GROUT: If I was to put a rough average on it, I'd

1 say it's probably in the range of five to 10  
2 percent each year that's comprised of this early  
3 -- well, maybe I'll say it the other way, 90 to 95  
4 percent of the abundance is covered by the  
5 populations that have the spawning and recruitment  
6 data.

7 Q Okay. And why do you not include specific data or  
8 specific relationships for that five to 10 percent  
9 that are not included in the 19 groups? Is there  
10 a data deficiency or is there some other reason?

11 MR. GROUT: As I was pointing out, for the model to do  
12 its simulations, it needs to have the time series  
13 of spawning and recruitment data. So there'd be  
14 deficiencies in one or both of those that might  
15 preclude the use of the data.

16 Q Do you expect to obtain data on any of those  
17 smaller stocks that can be then -- in the future  
18 that could then be fed into this model?

19 MR. GROUT: I would expect over time, there may be  
20 opportunities to improve the way that we get data  
21 for some of those populations. I can't speak  
22 specifically for your question, but I would -- my  
23 own assessment would be if we have that data and  
24 it becomes available in the future, then it's  
25 something that could be used.

26 Q And we touched earlier that the 19 stocks are  
27 grouped into the four management groups which we  
28 have seen over and over again in this hearing.  
29 How are they divided into those different groups?  
30 Like, how do you decide which stocks fit into  
31 which groups?

32 MR. GROUT: The stocks themselves are fit into the  
33 timing groups primarily based on their return  
34 timing through the fisheries and there have been  
35 changes, I think, over time to the way some of  
36 those stocks have migrated, potentially, or which  
37 groups people have argued they should be in. The  
38 model's got the flexibility to evaluate different  
39 groupings of stocks in each of the management  
40 units.

41 Q So you could move stocks around between the groups  
42 if you wanted to and run an output from that  
43 simulation?

44 MR. GROUT: I believe that work has been done from time  
45 to time with this model, as well, but I couldn't  
46 comment on the specific details.

47 Q Okay. For the smaller percentage of stocks that

1           aren't specifically addressed with a data set, as  
2           in the 19, those smaller stocks, how are they  
3           dealt with in the modelling process, or in the  
4           FRSSI process?

5       MR. GROUT: They aren't -- it's my understanding that  
6           those small stocks that don't have the long time  
7           series of spawner and recruitment data are not  
8           explicitly accounted for in the modelling, but  
9           what we're then doing is when we put the  
10          escapement plan together, we're making adjustments  
11          to the harvest rules to account for the abundance  
12          of those populations.

13       Q       Now, as I understand it, the model does a forward  
14          projection as to impacts on certain harvest rules  
15          on the different stocks going into the future; is  
16          that right?

17       MR. GROUT: That's right.

18       Q       And the timeframe for which the forward modelling  
19          runs are done is 48 years into the future?

20       MR. GROUT: That's correct.

21       Q       Why was 48 years chosen?

22       MR. GROUT: Well, I guess there's a certain amount of  
23          arbitrariness to the selection of a long timeframe  
24          into the future, but in terms of the modelling  
25          work, there's a number of uncertainties associated  
26          with the model, including uncertainties about what  
27          the best model parameters would be to describe the  
28          population dynamics of these populations. There  
29          may be patterns in the annual abundance of the  
30          spawners that may change in the future associated  
31          with a particular harvest rule. So we were  
32          wanting to look at the performance over a longer  
33          timeframe to see what we might expect to occur.  
34          Through the various workshops, I think we also  
35          looked at different timeframes during the planning  
36          period, as well, but one of the reasons, another  
37          one of the reasons is using a longer timeframe  
38          gives you a better sense of where you expect the  
39          populations to potentially equilibrate for from  
40          applying a particular harvest rule.

41       Q       The model assumes -- and correct me if I'm wrong,  
42          but the model, I take it, assumes that the past  
43          history of stocks, the productivity of stocks and  
44          the relationships of stocks in the past will be  
45          predictive of future behaviour of those stocks; is  
46          that fair?

47       MR. GROUT: The model, itself, uses the information

1 from spawning and recruitment and the distribution  
2 of the annual variations about that. In the  
3 initial formulations of the model, we were just  
4 looking at the historical spawner and recruitment  
5 data, but in recent revisions to the model, we've  
6 added -- or it's my understanding elements have  
7 been added that would allow you to look at  
8 different productivity scenarios moving forward  
9 into the future. And by that, I mean you could  
10 look at a continuing decrease in recruits per  
11 spawner, potentially, or maybe something that goes  
12 back to -- more similar to the historical pattern,  
13 or you could even put in your own series of  
14 productivity in the future to see what the  
15 potential impacts of that would be. So that's one  
16 of the more recent revisions that's been made.

17 Q Okay. Up in 2009, and previously, I take it that  
18 revision was not in place and decisions were made  
19 assuming that the past data set was reflective of  
20 what would occur in the future?

21 MR. GROUT: It might be a better question to ask the --  
22 one of the panellists for that particular session.

23 Q All right.

24 MR. GROUT: I can't recall specifically.

25 Q In terms of this new refinement that you've  
26 described that does allow you to make assumptions  
27 about future productivity, those are still based  
28 on assumptions that you make about what might  
29 happen in the future, right? You can plug in  
30 different assumptions, but they're still just  
31 assumptions?

32 MR. GROUT: That's right. And to my knowledge, we  
33 don't have anybody that can tell us what exactly  
34 is going to happen during the 48 years to come.  
35 So the reason for maybe looking at some of those  
36 different scenarios would be you could look at a  
37 pessimistic scenario where productivity continues  
38 to decline, and you could maybe look at something  
39 where it maybe wanders around, but around some  
40 mean level, and you could look at whether there's  
41 large differences in the harvest rules that might  
42 be resulting from that kind of evaluation of the  
43 scenarios.

44 Q The model allows you to measure the performance of  
45 the stock against certain management objectives,  
46 correct?

47 MR. GROUT: Yes.

1 Q And the management objectives include things like  
2 catch or spawner abundance?

3 MR. GROUT: Well, maybe I would clarify that I would  
4 call those performance measures.

5 Q Okay.

6 MR. GROUT: So we can assess the performance of these  
7 populations against performance measures.

8 Q Okay.

9 MR. GROUT: A couple of the key categories of  
10 performance measures, and we looked at dozens, if  
11 not more of potential different ways to look at  
12 this over the course of the production of the  
13 work, but one of the key ones we look at is  
14 whether the population's above an escapement  
15 benchmark. However that might be set, and there  
16 were some different options for setting those. So  
17 avoiding low spawner abundance is the way I would  
18 characterize it. And the other one of the key  
19 ones that we were looking at was stabilizing  
20 catch. So how often does your catch in any given  
21 year exceed some level. And a million fish was  
22 used for at least some of the simulations, but  
23 other levels could be looked at, as well.

24 Q And how were these performance measures  
25 determined?

26 MR. GROUT: The performance measures, themselves, were  
27 the outcomes of the numerous workshops and  
28 discussions we had with our stakeholders during  
29 the development of the model.

30 Q Does the Department have any performance measures  
31 that it wants to achieve when it's doing its  
32 planning?

33 MR. GROUT: Well, I will say the Department was an  
34 active participant in the Fraser Sockeye Spawning  
35 Initiative workshop process, as well, as we also  
36 contributed benchmarks that we thought would be  
37 important to look at. Over time, in the process,  
38 we were able to narrow down the benchmarks to some  
39 of the ones that we thought were the most  
40 informative. So I think the ones that we have now  
41 are consistent with the Department's thinking in  
42 terms of looking at conservation of populations  
43 and avoiding low numbers of spawners, stabilizing  
44 catch. There's some subjectivity to those  
45 benchmarks, but our clients were able to agree on  
46 some benchmarks that could be looked at there.

47 Q When you say your clients could agree, who are you

1           referring to?

2       MR. GROUT: These are -- by that, I mean the  
3           participants that were involved in the workshop  
4           series and those that we maybe consulted on as  
5           part of the broader consultative process around  
6           what we were doing with this process and model.

7       Q       Okay. Are they groups similar to the groups that  
8           we talked about earlier when looking at the IHPC  
9           process and the parties that you meet with through  
10          that process?

11       MR. GROUT: Yes. There would have been quite a large  
12          number of presentations on the work we were doing,  
13          including to First Nations and technical staff  
14          that are supporting First Nations, as well as  
15          commercial recreational harvesters and the marine  
16          conservation caucus.

17       Q       The avoiding low numbers of -- avoiding low  
18          escapement was one of the objectives or  
19          performance measures that were important for the  
20          Department, and then stabilizing catch was the  
21          other one you referred to. Does that -- can you  
22          give me some sense of what that means from the  
23          Department's perspective?

24       MR. GROUT: The Department had a strong interest and  
25          role in shaping the form of the harvest rule that  
26          was used. We had a number of different ways. We  
27          tried to come up with the harvest rule for Fraser  
28          Sockeye from when the process started to where  
29          we've come now. I think the shape of the harvest  
30          rule that we've got, which specifies the total  
31          allowable mortality versus run size is consistent  
32          with the objectives that the Department's trying  
33          to achieve. So we've got a zone with no fishing  
34          or limited fishing up to a higher level of  
35          abundance, where we'd go into a sort of fixed  
36          escapement regime, if you will, and then a cap on  
37          the total mortality at high abundance. So the  
38          Department was really ensuring that these harvest  
39          rules captured our interest with the shape of the  
40          harvest rule.

41       Q       But I'm just trying to understand what was meant  
42          by the -- what is the Department's interest in  
43          stabilizing catch, like is there a number, is  
44          there a value that you're trying to reach each  
45          year? What is the objective?

46       MR. GROUT: That would be an important question, I  
47          think, to follow up on the FRSSI panel, but it's



1 my understanding that one of the numbers that was  
2 used was, roughly, one million fish, which aligns  
3 similarly to the communal licence harvest targets  
4 that are outlined in the IFMP for First Nations  
5 for Fraser sockeye.

6 Q So you would be looking -- the Department would be  
7 looking at whether any of these harvest rules  
8 would provide at least one million fish each year  
9 to a fishery?

10 MR. GROUT: One of the -- that was one of the  
11 performance measures that could be looked at. And  
12 these were all provided in a probabilistic sense.  
13 So you could look at the probability of avoiding  
14 low catch in terms of a probability value, which  
15 gives you an indication of how many years out of  
16 10 you might avoid falling into that scenario.

17 Q All right. How many times you might go lower than  
18 one million fish available for catch, how many  
19 times out of 10 you may go beyond a certain  
20 benchmark for escapement targets, that sort of  
21 thing?

22 MR. GROUT: That's right.

23 Q Okay. Now, when the first draft of the IFMP is  
24 presented, there are certain options contained in  
25 it that are generated through the running of the  
26 FRSSI model; is that right?

27 MR. GROUT: That's correct. The four options in the  
28 draft IFMP were some of the options that were  
29 looked at as part of the process.

30 Q Okay. If I can ask you to go to pages 64 and --  
31 sorry, 66 and 67. Well, starting there with --  
32 which is page 66, Table 10a, this comes from the  
33 draft IFMP that's provided to all of the  
34 participants in the fishery, correct?

35 MR. GROUT: Yes.

36 Q And it sets out -- see, 50p shows at the top,  
37 that's a 50 percent probability; is that right?

38 MR. GROUT: That's right. This is a copy of the table  
39 that would be produced assuming the 50p or  
40 midpoint of the pre-season forecast was --  
41 occurred for each of the management groups listed  
42 there.

43 Q Okay. And then the options that you see for each  
44 of the run-timing groups, there's four, three,  
45 depending on what you're looking at, these are all  
46 options that were -- the numerical values that are  
47 presented are generated through the running of the

1 FRSSI model; is that right?

2 MR. GROUT: That's right. Those are specific -- the  
3 two -- for example, in Early Stuart Option 1, the  
4 4,000 -- the 10,000 numbers are the two points  
5 that would -- inflection points that would  
6 describe the shape of the harvest rule. So each  
7 one of those options describes a different harvest  
8 rule than might be used for that management unit.

9 Q So just to try and put some diagrams in front that  
10 may help explain this a little better, could you  
11 go to the 2009 Escapement Strategy Memo, that I  
12 think may be helpful in helping to understand  
13 this. So that would be found at Tab 11, and the  
14 CAN number is CAN 015976. So if I go to page 14  
15 of this document, and while we're turning to there  
16 -- just to back up, this document is created  
17 following the running of the FRSSI model, is that  
18 right, in preparation of the drafting of the IFMP?

19 MR. GROUT: This memo is put together by our technical  
20 working group, summarizing their work for the --  
21 in developing options for the IFMP.

22 Q Okay. So if we turn -- so this is just some text,  
23 sort of introductory text. If we turn to the next  
24 page, that sets out for the Early Stuart, two  
25 tables. I don't know if you can show them both at  
26 the same time. Yeah, one that shows the  
27 performance indicators, and one that shows the  
28 escapement strategies and it has the options set  
29 out. So you can you relate those -- describe  
30 what's being shown on the escapement strategy  
31 table to the performance indicators, and then also  
32 to those options that we were just looking at in  
33 the IFMP.

34 MR. GROUT: I can do that. I wonder if I might make a  
35 suggestion that we go back to page 9 in this  
36 document.

37 Q Yeah.

38 MR. GROUT: And I can maybe walk you through that first  
39 because it --

40 Q Sure.

41 MR. GROUT: I think if you understand the first figure,  
42 which is Figure 1 --

43 Q Okay.

44 MR. GROUT: -- page 9, it might help the understanding.

45 Q Okay. Sounds good. You know better than me so  
46 whatever makes sense to explain it.

47 MR. GROUT: So the top figure here, which is the total

1 allowable mortality gives you a sense of the shape  
2 of the harvest rule, which you're going to see in  
3 the subsequent figure. There's two key reference  
4 points that describe the shape of the curve. One  
5 is the no-fishing point, which is at about 0.4  
6 million in this curve, and to that point, we're  
7 trying to maximize escapement. There might be  
8 some minimal harvest for food, social and  
9 ceremonial harvests, potentially ceremonial  
10 fisheries and test fisheries, but up until about  
11 0.4 million, we're trying to maximize the  
12 escapement, which is what you see in the lower  
13 figure. So the top figure shows you the total  
14 mortality you can apply to the run. The lower  
15 figures shows you the escapement that's going to  
16 result from that.

17 For the next sort of middle stanza between  
18 the no-fishing point and the cutback point, we  
19 enter in a period from 0.4 million to 1 million  
20 where we're applying a fixed escapement. So over  
21 this run size return, we're allowing 400,000  
22 spawners to go back to return to spawn, and so you  
23 see the total allowable mortality increasing over  
24 that point. And then the final stanza of  
25 abundance, we have above one million, we've capped  
26 the total allowable mortality at 60 percent, and  
27 it splits the benefits, essentially, 60/40 between  
28 catch and escapement. So that's the context of  
29 the harvest rules that I think leads into the  
30 options, then, that you were going to show me.

31 Q Okay. Thank you. So then if we go back to page  
32 15 which sets out the actual curves that are  
33 ultimately going to be presented in a numerical  
34 way in the IFMP, can you then explain this?

35 MR. GROUT: Yeah. So if you just focus on the lower  
36 figure for now, which is the total allowable  
37 mortality rate versus the run size, it's not  
38 showing the escapement in this figure. It's  
39 showing you the amount of mortality you can apply  
40 and it's got four different curves listed there  
41 from option 1 to option 4. And option 1 is a  
42 curve where you would start fishing sooner and  
43 you'd place a higher importance on avoiding low  
44 catch, for example. Option 4 would be you'd wait  
45 longer to fish. You can see the no-fishing  
46 reference point is shifted over to over 150,000,  
47 and then you would gradually build harvest. So

1           you'd be much more interested in avoiding low  
2           spawners in that case.

3           In terms of the performance indicators, at  
4           the top, the access on the top figure is the run  
5           size which the total allowable mortality is  
6           reduced. So it's the -- essentially, the cutback  
7           point. So you can read off there what the  
8           performance of the different options would be. So  
9           Option 1, for example, has a cutback point that's  
10          quite low here, and -- well, maybe I'll just use  
11          the example that's provided here.

12          Maybe going back to the lower figure, the  
13          vertical dotted lines and the solid vertical bars  
14          show you the probability range on the forecast,  
15          with the solid bar being the midpoint of the  
16          forecast. The lower dotted line, the p75  
17          probability and then the -- I believe the p90 on  
18          the other side.

19          What you can then do is look at the figure  
20          above at the run size at which the total allowable  
21          mortality is reduced. So each of figures --  
22          options 1, 2, 3, and 4 has a different level and  
23          it shows you the probability of avoiding low  
24          catch, or probability of catch less than the low  
25          catch benchmark.

26          So for option 4, it's got a high point so the  
27          -- if you look on the lower figure, at option 4,  
28          there's a solid circle. That's sort of just under  
29          400,000. If you were to look at the above figure,  
30          at 400,000, you can see it's got a higher -- or C  
31          less and C low is higher than, say, Option 1. And  
32          so that's indicating to you that the probability  
33          of your catch, less than the lower benchmark is  
34          higher in Option 4 and -- but your probability of  
35          your spawners less than the lower benchmark is  
36          lower.

37          Q        So the bottom -- the probability S, less than  
38                    S\_BM2 is the spawner value and --

39          MR. GROUT: Oh, okay, thanks. That might be helpful.

40          Q        Okay. And then the top level is the catch. Those  
41                    are the two benchmarks, spawners and catch?

42          MR. GROUT: That's right. So it's showing -- it's  
43                    essentially giving you the comparison of the  
44                    performance for the harvest rules.

45          Q        Okay. And then what is the vertical line going  
46                    from Option 3 on the escapement strategies table  
47                    up to the -- it seems to be a horizontal line that

1 goes all the way through both tables -- sorry, a  
2 vertical line that goes through the two tables.  
3 What is that indicating? Is that showing --  
4 MR. GROUT: Yeah. So that's giving you the example of  
5 how you would read the curves for Option 3.  
6 Q Okay.  
7 MR. GROUT: So that's maybe what I should have focussed  
8 my -- so for Option 3, here's the cutback point  
9 where you're going to start -- or what's called  
10 the run sizes which the total allowable  
11 mortalities reduce. So it's going from here,  
12 saying it's 60 percent, and we start reducing it  
13 at this point. Here's the performance of that  
14 value upon on this figure. Option 4 would be over  
15 here to the right, and Option 2 and 1 are over  
16 there.  
17 Q And what is the bottom dotted horizontal line on  
18 the performance indicator table?  
19 MR. GROUT: The -- this line here --  
20 Q The horizontal line on the top table.  
21 MR. GROUT: Oh, this one, here?  
22 Q Yeah.  
23 MR. GROUT: That's the probability of a four-year  
24 average of spawners being lower than a particular  
25 benchmark for abundance.  
26 Q All right. Is this management escapement memo  
27 provided to all participants in the process, or do  
28 they simply get the table in the IFMP?  
29 MR. GROUT: We typically circulate the memo separately,  
30 as well as provide it in the Integrated Fishery  
31 Management Plan.  
32 MS. BAKER: We should mark the escapement memo,  
33 strategy memo as the next exhibit.  
34 THE REGISTRAR: Exhibit number 322.  
35  
36 EXHIBIT 322: Fraser Sockeye Escapement  
37 Strategy 2009  
38  
39 MS. BAKER:  
40 Q All right. So can you relate that table, then to  
41 what we see in page 68 of the IFMP, looking at  
42 that -- I took you to the Early Stuart stock as an  
43 example.  
44 MR. GROUT: So if we were to look at the Early Stuart  
45 rows on the table so the four options and the four  
46 curves that we were just looking at are  
47 represented by Option 1, 2, 3, and 4. Each has

1           their own row. The first column represents the  
2           no-fishing point, or the fixed -- essentially,  
3           it's equivalent to the fixed escapement target.  
4           And maybe if we just keep focussing on Option 3.  
5           So at that point, it's 108,000 for Option 3. So  
6           it's essentially a fixed escapement target of  
7           108,000 and we want no fishing, or minimal fishing  
8           below that point.

9           From there, the -- we'd go through that next  
10          phase, which is a fixed escapement phase where  
11          we're trying to maintain 108,000 and up to a run  
12          size of 270,000. Over that range, we would have  
13          an increasing allowable mortality, but the  
14          escapement would be fixed.

15          The next column shows the total allowable  
16          mortality at the run size. So this is saying if  
17          you were to use the 50p forecast for the year and  
18          looked it up on the harvest rule, what would be  
19          the total allowable mortality of the run size. So  
20          for Option 3, it's 58 percent. The escapement  
21          target associated with that is 108,000.

22          In the escapement plan, we also include some  
23          provisions in the preseason for management  
24          adjustments. And maybe it would be a good point  
25          here to describe what that is, but that's a  
26          provision to account for the fact that we quite  
27          often have fewer fish than past Mission in the  
28          Lower Fraser show up on the spawning grounds once  
29          accounting for catch. So it's essentially a  
30          buffer that's added to try and help improve the  
31          achievement of the escapement target. That  
32          proportional adjustment is just multiplied by the  
33          escapement target to get the actual management  
34          adjustment in a quantity of fish, which in this  
35          case is 63,720.

36          After accounting for the escapement target  
37          and essentially, this management adjustment buffer  
38          you're putting on it, the exploitation rate then  
39          for fisheries available would be 33 percent under  
40          this option, or 83,300 fish for this option.

41          Q       Okay. So we are going to have people come and  
42                  talk to us in detail about management adjustments,  
43                  but just for our purposes here, the number that  
44                  you see under the management adjustment number is  
45                  a number that gets added onto the escapement  
46                  target number to make sure that at the end of the  
47                  day, that 108,000 fish actually do make it to the

1 ground and spawn, that's the goal?

2 MR. GROUT: It's not a guarantee that we're going to  
3 achieve that escapement target, but given the  
4 target in this case is 108,000, and looking at  
5 historical information and/or preseason  
6 information on historical differences between  
7 Mission and upstream, the models used there would  
8 suggest, at least the basis here is .59 is used  
9 for the management adjustment, which tells you to  
10 add almost 64,000 fish to the escapement target,  
11 essentially, to try and improve your chances of  
12 getting 108,000 to the ground.

13 Q Okay. And Option 3 in this example is highlighted  
14 and why is that highlighted?

15 MR. GROUT: The options that are highlighted were the  
16 options that were ultimately chosen for the  
17 Integrated Fishery Management Plan for 2008, the  
18 year prior.

19 Q Okay. Now, each of the different management  
20 groups has the same thing, some of them only have  
21 three options. Looking at -- that would be that  
22 the Summer has only three, I guess? And BK Group,  
23 what's that? That's not a run timing group.  
24 What's that one?

25 MR. GROUT: This is Birkenhead, stocks that are  
26 returning and migrating through the lower Fraser  
27 up through into the Harrison system and beyond --

28 Q And they --

29 MR. GROUT: -- but not including Harrison.

30 Q And why did they get their own line on this table?

31 MR. GROUT: Well, Birkenhead was a group that we were  
32 considering separately for a couple of reasons.  
33 One is that it didn't appear to have the same  
34 early entry and high mortality of the late run and  
35 so we weren't applying a management adjustment to  
36 this group. And also with its migration, it  
37 wasn't likely going to be subject to the same  
38 constraints, or it wasn't going to be exploited  
39 similar to the late run group for that reason and  
40 so we just -- and because we're passively managing  
41 it, essentially, we just bookmarked the Summer Run  
42 exploitation as the upper end on what would occur  
43 for the stock and then provide the associated  
44 information.

45 Q How is the decision made to provide these four  
46 options? Is there a process to decide which  
47 options will be presented every year, or are they

- 1 a standard set of options that are run every year?  
2 MR. GROUT: I may not recall the specifics of how they  
3 were developed originally, but we worked with the  
4 steering committee and workshop participants to  
5 try and identify a range of options that came  
6 close or provided an indication of the interests  
7 that were being expressed from the groups for --  
8 and provided some contrast for comparison  
9 purposes. And then I can't comment specifically  
10 how much the options changed from year to year,  
11 but in some cases they're quite similar from year  
12 to year.
- 13 Q So the actual options will stay the same in terms  
14 of -- I think you gave some examples, like, with  
15 the early Stuart, when we were looking at the  
16 table, and then in the management, or sorry, the  
17 escapement strategy memo, you said, okay, the one  
18 on the -- with Early Stuart, the 4,000 no-fishing  
19 point is one where you would favour harvest over  
20 escapement and then Option 4 was one where you  
21 sort of weigh it more in favour of escapement over  
22 harvest, and I guess a couple of variations in  
23 between there?
- 24 MR. GROUT: That's right.
- 25 Q Okay. Those are set by the Department, I take it,  
26 when they present the IFMP?
- 27 MR. GROUT: Yeah, the Department was ultimately making  
28 the decision on the options that went into the  
29 draft plan.
- 30 Q Okay.
- 31 MR. GROUT: Based on feedback that we've had from the  
32 working group and the steering committee, and  
33 others.
- 34 Q Okay. I take it the values -- the options may be  
35 the same, but the values change depending on the  
36 run size; is that fair?
- 37 MR. GROUT: The two points that describe the shape of  
38 the harvest rule would not change from year to  
39 year, but the way the table is filled out for the  
40 50p probability level, for example, might change  
41 from year to year, depending on what the forecast  
42 was.
- 43 Q Okay. And the management adjustments, they would  
44 change year to year, as well; is that fair?
- 45 MR. GROUT: We have made changes to the management  
46 adjustments from year to year.
- 47 Q Okay. And then you do this same table, but at a



1           75 percent probability. If you could turn to the  
2           next page? So that's laid out, as well. And  
3           again, this 75 percent probability means what,  
4           again, in this version?

5       MR. GROUT: It's the probability of the return being at  
6           or above that run size. So it's actually a lower  
7           level of abundance than the 50 percent  
8           probability.

9       Q       Okay. All right. So these are both presented to  
10           people who participate in the IHPC through the  
11           draft IFMP. Is there a discussion around these  
12           different options, then, with the different  
13           stakeholders?

14       MR. GROUT: Yes, we would present this information at  
15           the IHPC, but also to our other advisory processes  
16           and meetings, as well, and we have developed -- we  
17           typically would develop a presentation and provide  
18           the memo, as well, the escapement plan memo for  
19           the various different groups to discuss this.  
20           Where the capacity is in place for technical  
21           groups to meet to discuss, as well, we do do that,  
22           too.

23       Q       And who -- what is that? Can you explain that?

24       MR. GROUT: First Nations, for example, have some  
25           technical advisory processes that the Department  
26           would meet and present this information to. For  
27           the Sport Fishing Advisory Board and the  
28           Commercial Salmon Advisory Board, and others, it  
29           would typically be departmental staff providing  
30           the technical support to help understand the  
31           information.

32       Q       So would there be separate meetings with those  
33           different organizations, or would it all happen at  
34           the IHPC?

35       MR. GROUT: It would happen at all of those. So we  
36           would take the information to the IHPC, but also  
37           to the other processes, as well. So there'd be  
38           some overlap depending on who the representatives  
39           were at each meeting.

40       Q       Sorry to back up. One thing I meant to ask you is  
41           the Late Run seem to have a different format than  
42           the other run management groups. Can you explain  
43           why that is?

44       MR. GROUT: The Late Run had a couple of considerations  
45           that are important that were identified in the  
46           table. One is that the Shuswap stock group, which  
47           includes Adams River, has strong evidence of

1 cyclic variations in abundance. So there's one  
2 year which is a very strong return called the  
3 dominant cycle line, followed by a sub-dominant  
4 line and two off year cycles. And when you looked  
5 at the harvest rules, the two off years in  
6 particular would quite often fall well below the  
7 no-fishing point. So if you were to look at the  
8 four options at the bottom, in years -- and this  
9 was an example of one of the off years here, you'd  
10 see a zero percent total allowable mortality  
11 across all of the options. And one of the  
12 considerations that was made was whether there'd  
13 be some harvest allowed of these stocks to provide  
14 access to more abundant Summer Run stocks. So one  
15 of the things we considered was looking at floors  
16 on the exploitation rate that would be allowed on  
17 this Late Run group to allow harvest of the more  
18 abundant Summer Run group. And 20 percent was one  
19 of the objectives that was looked at, among  
20 others. But 20 percent was ultimately put in the  
21 plan. 20 percent was also consistent with what  
22 the Department proposed for the exploitation rate  
23 for Cultus Lake sockeye. So those were the two  
24 considerations that are shown here.

25 Q I take it a 20 percent exploitation rate is not  
26 really a FRSSI-generated option. It's a different  
27 mathematical process, right?

28 MR. GROUT: Using the FRSSI model, we were able to look  
29 at a fixed floor on the exploitation rate so that  
30 was something the model could simulate. We did  
31 also have a population viability model that we  
32 used for Cultus Lake sockeye which incorporated  
33 potential harvest, but also enhancement,  
34 improvement to the freshwater habitat that might  
35 improve survival, and then hatchery  
36 supplementation. So for Cultus Lake sockeye, we  
37 also had a separate tool that was able to assess  
38 the impact of the exploitation rate on that  
39 particular stock.

40 Q Is that process that you've just described, that  
41 thinking outlined in the escapement strategy memo?  
42 If you turn to page 19 of that document, which is  
43 at Tab 11. It says, "The strong cyclic pattern  
44 ...". It explains the information on the 20  
45 percent exploitation rate floor that was in place  
46 for 2008. Is that the same reasoning as to why it  
47 was being suggested for 2009?

1 MR. GROUT: Yes, and the two bullets underneath that  
2 were referring to the points I made about the  
3 strong cyclic pattern in abundance for the -- in  
4 the Late Run, which is driven by Shuswap, which  
5 includes the Adams River, and then also on the  
6 consistency with the Cultus Lake management.

7 Q Sorry, going back to one more question on the  
8 table that's in the IFMP, with the probabilities,  
9 if you look at the Early Summers, there's two  
10 numbers under the no-fishing point and the cutback  
11 point for each of the options. Why is that?

12 MR. GROUT: That's actually a good question and point  
13 to clarify. So for each option, you'll see -- for  
14 example, Option 1 has got a no-fishing point of  
15 80,000 and a cutback point of 200,000. Those  
16 reference points are for the stocks that are  
17 included in the spawning initiative model. We're  
18 recognizing here, though, that we don't include  
19 all of the populations in the model and so there's  
20 a contribution to the abundance of the groups from  
21 a number of miscellaneous stocks that are shown in  
22 the forecast table. And so what we're essentially  
23 doing is shifting the harvest rule to account for  
24 the abundance that's going to contribute -- be  
25 contributed from these miscellaneous other stocks.  
26 So they're getting the same harvest rule applied  
27 to them, but we're basically making sure we don't  
28 apply the harvest rule at a too low of an  
29 abundance. And I hope I've explained that  
30 correctly or in a way that makes sense. We're  
31 trying to account for the fact that the model  
32 develops a harvest rule for only the stocks with  
33 stock recruitment data. We recognize that a  
34 contribution to the returning abundance will come  
35 from these miscellaneous other stocks and so we're  
36 adjusting the harvest rule upwards to account for  
37 that. If we didn't do that, you would start  
38 fishing sooner than you otherwise should have  
39 based on the --

40 Q Because the --

41 MR. GROUT: -- simulation.

42 Q -- the numbers would come back at what would be an  
43 artificially high number in a sense, because it  
44 would include all these --

45 MR. GROUT: You would have the contribution -- if you  
46 were to use the harvest rule of 80,000 and 200,000  
47 as your reference points, when you're assess the

1 abundance of the Early Summers in season, it would  
2 have these miscellaneous stocks contributing to  
3 that abundance. And in effect, you would move  
4 past your no-fishing point too quickly. So what  
5 we're doing here is inflating the reference points  
6 to account for the miscellaneous stocks that we're  
7 not modelling directly.

8 Q All right. So the two probability scenarios that  
9 are available for people to consider are the 75  
10 percent probability, which is a more conservative  
11 possibility, and then the 50 percent probability,  
12 which is 50 percent, correct?

13 MR. GROUT: That's right. At times, we've looked at  
14 other probability scenarios, but by convention and  
15 in past practice, we've typically shown these two  
16 tables in the IFMP.

17 Q Now, if the run sizes actually turn out to be  
18 quite different from one of these two  
19 probabilities, they're not 50 percent or 75  
20 percent, they're some other number, does any of  
21 this have relevance to real run size numbers?

22 MR. GROUT: So when we get to the final IFMP, what's  
23 going to be shown is one option for each of the  
24 management units. The no-fishing point and the  
25 cutback point will then be determined or will be  
26 stated for each management unit, and those are the  
27 basis for determining how you'll manage no matter  
28 what return or run size comes back. So if  
29 Option 3 was selected here, if the return in  
30 season differed from the 50 or 70p and was less  
31 than 108,000, it would be in the no-fishing zone.  
32 If it was between the 108 to 270,000 range, we'd  
33 be at the fixed escapement of 108,000, and above  
34 that, it would split the benefits between harvest,  
35 our total allowable mortality at 60 percent to  
36 that, and 40 percent would be added on  
37 incrementally to the escapement, fixed escapement,  
38 which was 108.

39 MS. BAKER: Mr. Commissioner, it's 12:30. I was hoping  
40 I could get through FRSSI before lunch, but I've  
41 got a couple of more pages to go so maybe we  
42 should stop now.

43 THE COMMISSIONER: Thank you.

44 THE REGISTRAR: The hearing will now recess until two  
45 o'clock.

46  
47 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

(PROCEEDINGS RECONVENED)

1  
2  
3 MS. BAKER: I see that the registrar just left but we  
4 need to swear in Mr. Rosenberger. So we can maybe  
5 just wait for a few seconds till he's back.

6 Thank you, Mr. Commissioner. We now have  
7 with us Barry Rosenberger. So what I propose to  
8 do is we'll have Mr. Rosenberger sworn in and then  
9 I'll complete the area I was covering with Mr.  
10 Grout and then we'll go back and deal with the  
11 area that was left for Mr. Rosenberger to deal  
12 with.

13  
14 BARRY ALLAN ROSENBERGER,  
15 affirmed.

16  
17 THE REGISTRAR: Would you state your full name, please?

18 MR. ROSENBERGER: Barry Allan Rosenberger --

19 THE REGISTRAR: Thank you.

20 MR. ROSENBERGER: -- R-o-s-e-n-b-e-r-g-e-r.

21 THE REGISTRAR: Thank you. Counsel?

22 MS. BAKER: Thank you. And I'll also just review Mr.  
23 Rosenberger's background as well so that that  
24 introductory piece is finished. So his c.v. has  
25 been provided and it's before you on the screen.

26  
27 EXAMINATION IN CHIEF BY MS. BAKER, continuing:

28  
29 Q Mr. Rosenberger, this is the c.v. you've provided  
30 to the Commission?

31 MR. ROSENBERGER: It is.

32 MS. BAKER: Okay. Can I have that marked, please, as  
33 the next exhibit?

34 THE REGISTRAR: Exhibit 323.

35 MS. BAKER: Okay.

36  
37 EXHIBIT 323: *Curriculum Vitae* of Barry Allan  
38 Rosenberger

39  
40 MS. BAKER:

41 Q And just to summarize, you've been with the  
42 Department of Fisheries and Oceans since 1978?

43 MR. ROSENBERGER: Correct.

44 Q And you've held a variety of positions with the  
45 Department from fisheries officer into management  
46 over the years?

47 MR. ROSENBERGER: That's correct.

- 1 Q Okay. And you've been involved in stock  
2 assessment, habitat protection, enforcement and  
3 fisheries management?
- 4 MR. ROSENBERGER: That's correct.
- 5 Q And you've been all over the province from Alert  
6 Bay to Prince Rupert and presently in Kamloops?
- 7 MR. ROSENBERGER: That's correct.
- 8 Q Your current role within the department is area  
9 director for the B.C. Interior and you've been in  
10 that role since 2002?
- 11 MR. ROSENBERGER: That's correct.
- 12 Q You've been involved with the Pacific Salmon  
13 Commission from '85 to '89 as part of the Northern  
14 and Southern Boundary Technical Committee?
- 15 MR. ROSENBERGER: Northern Boundary Trans-Boundary  
16 Technical Committee.
- 17 Q And in 2001, you became the Canadian co-chair of  
18 the Southern Boundary Panel?
- 19 MR. ROSENBERGER: That's correct.
- 20 Q And in early 2009, you became the Canadian chair  
21 of the Fraser River Panel?
- 22 MR. ROSENBERGER: That's correct.
- 23 Q And as part of -- and as a Canadian chair of the  
24 Fraser River Panel, who do you report to?
- 25 MR. ROSENBERGER: As the Panel, I report to the chief  
26 commissioner, which is the regional director  
27 general of the Department of Fisheries and Oceans.
- 28 Q Okay. And you chair the operations side of things  
29 for the Fraser River Panel in that role?
- 30 MR. ROSENBERGER: That's correct. That's what we call  
31 the Fraser River Integrated Management Team.
- 32 Q Okay. That's -- that's on the domestic side?
- 33 MR. ROSENBERGER: That's correct.
- 34 Q Okay. And what is the -- that's the FRIMT, we  
35 call it, F-R-I-M-T?
- 36 MR. ROSENBERGER: That's correct.
- 37 Q All right. And what's the responsibility of that  
38 committee or group?
- 39 MR. ROSENBERGER: As the -- one of the -- the roles the  
40 department did was make sure that the Fraser River  
41 Panel chair and the chair of the Fraser River  
42 Integrated Management Team, which is DFO's  
43 collection of managers responsible for Fraser  
44 sockeye and pinks, is the same person. So it's  
45 coordinating all of the Fraser sockeye and pink  
46 management within Canada.
- 47 Q Okay. Thank you.

1 MS. BAKER: So Mr. Commissioner, I'll now move back to  
2 the questions I was going through with Mr. Grout  
3 before we broke.

4 Q I had just asked you how in season or in practice  
5 you dealt with a situation where the run sizes, as  
6 they came in, differed from one -- either of the  
7 probability levels and you explained how the rules  
8 were established through that process and they  
9 would apply to whatever the run was when it came  
10 in. The IFMP -- we looked at the escapement  
11 strategy document, which is now marked as, I  
12 think, Exhibit 322. That -- and you took us -- or  
13 we went through the example of the different  
14 harvest rules and the TAM rule table and that.  
15 Why do you not have a copy of that kind of a TAM  
16 rule in the IFMP to help explain how the rule is  
17 developed and how it can be applied to any run  
18 size?

19 MR. GROUT: The primary reason we've got an escapement  
20 table listed in the IFMP is that's the approach we  
21 took in previous years to present the information  
22 to -- to people. I think it's a suggestion that  
23 has come forward that we should maybe consider  
24 putting in the actual harvest rules themselves  
25 showing the plot of total allowable mortality  
26 versus run size. So that's something I'm going to  
27 consider in the development of this year's plan.

28 Q Okay.

29 MR. GROUT: That information was only provided in the  
30 drafts of the IFMP as part of the escapement memo  
31 that was appended to the plan, though, in 2009.

32 Q Okay. Now, you've described this, I think,  
33 already as the strategy creating a TAM rule, or a  
34 Total Allowable Mortality rule; is that right?

35 MR. GROUT: That's correct.

36 Q Okay. And does that -- did the TAM rules account  
37 for all harvest mortality?

38 MR. GROUT: The total allowable mortality has two main  
39 components, one, the harvest mortality that's  
40 permitted and then en route -- it also accounts  
41 for any en route mortalities that occur between --  
42 or en route losses that occur between Mission and  
43 the spawning grounds.

44 Q Okay. And as I said earlier, we will have -- or I  
45 hope I said earlier, we're having somebody come to  
46 talk to us about management adjustments and how  
47 those are created. Dave Patterson will be here to

1 talk about that so maybe I'll just leave that  
2 topic for now. Is the March IHPC meeting the  
3 first times any stakeholder groups have the  
4 opportunity to comment on the IFMP?  
5 MR. GROUT: As I mentioned earlier, we indicate in our  
6 schedule and to clients that we try and post the  
7 IFMP for comment on our consultation web page  
8 about one week prior to the IHPC meeting itself.  
9 So that is intended to give our participants at  
10 the IHPC an opportunity to review the document  
11 prior to coming into the meeting.  
12 Q All right. But the meeting is the first time you  
13 start to get any real substantive comments, I take  
14 it, on that draft?  
15 MR. GROUT: Yes, that's correct.  
16 Q Okay. And at the March IHPC meeting, you go  
17 through the draft IFMP that's been presented?  
18 MR. GROUT: Yes, the key objective of that meeting is  
19 to go over the components of the IFMP. In  
20 particular, we draw people's attention to the key  
21 revisions that have been made from the subsequent  
22 year. Those are also summarized on one of the  
23 preface -- or one of the early pages in the plan.  
24 We highlight the management changes from the  
25 previous year so we try and draw people's  
26 attention to some of the main changes we're  
27 contemplating making from one year to the next.  
28 Q Okay. And then what actually happens once the  
29 people are all in the room together and the plan  
30 is on the table, so to speak? What's the  
31 discussion that takes place?  
32 MR. GROUT: The IHPC meeting in March, that's a meeting  
33 of the -- the main IHPC so it includes both the  
34 northern and the southern subcommittees. They're  
35 analogous groups. One covers the northern part of  
36 the province and one's the southern area from the  
37 top end of Vancouver Island into the Fraser River.  
38 We have a plenary there where we discuss  
39 management issues that would be north and south.  
40 Fraser sockeye tends not to be an issue that's  
41 discussed at the -- the plenary that way.  
42 And then we do breakout sessions where we  
43 have two rooms. Half of the committee meets to  
44 discuss northern issues and half to discuss  
45 southern issues. And in the southern plenary  
46 session would be where we'd -- usually issues  
47 around Fraser sockeye would be discussed but also



1 for other species contained in the plan. And what  
2 we're trying to do there is discuss coordination  
3 of fishing plans and any potential conflicts or  
4 concerns, additional options that people would  
5 like to see explored in terms of developing the  
6 plans further.

7 Q Is there a discussion at that meeting about the  
8 different options? Those four options that you  
9 identified in the plan, are there -- is there a  
10 debate about which is the appropriate option to  
11 use?

12 MR. GROUT: The department does try and get feedback  
13 from the various groups and we seek agreement  
14 where we can on the -- the options for the  
15 escapement plan. Typically, the perspectives  
16 differ among the groups, though.

17 Q Do -- do you ever have a consensus coming out of  
18 that meeting as to which option is preferred for  
19 the -- any of the management groups?

20 MR. GROUT: I can't recall the -- the group reaching  
21 consensus on all of the management units there.  
22 There may be more agreement on the Early Stuart  
23 Management Unit, though, than on the other ones.

24 Q Okay. And after the March IHPC meeting, what  
25 happens in terms of planning for the IFMP?

26 MR. GROUT: After the -- the March meeting at the IHPC,  
27 the department is also engaging with a number of  
28 its other consultation processes to get feedback  
29 on the -- on the management plans, including  
30 meetings with First Nations, both in some of our  
31 processes that are more regional in nature, as  
32 well as bilateral meetings with our area managers  
33 and -- and First Nations. We also have meetings  
34 with area harvest committees, area commercial  
35 harvest committees and sport fishing advisory  
36 board interests.

37 We try and -- we usually have a meeting with  
38 the Marine Conservation Caucus as well to discuss  
39 the management plan. And then in the -- the  
40 period of about a month between the release of  
41 that draft and the deadline for feedback, the  
42 department's trying to synthesize the -- the key  
43 issues that have been raised, do any additional  
44 analysis that would be required to evaluate some  
45 of the options that have been brought up and make  
46 any revisions to the IFMP that would go into the  
47 second draft.

1 MS. BAKER: Okay. Before I get to the second draft of  
2 the IFMP, I'm going to take Mr. Rosenberger back  
3 to deal with some of the meetings and input that's  
4 received from different groups. Mr. Grout has  
5 already covered the input received from the  
6 commercial sector, the sports fishing sector and  
7 the Marine Conservation Coalition. The one area  
8 that we didn't deal with was First Nations and  
9 that was left for you to -- to talk to us about.  
10 So can you identify how First Nations' interests  
11 are brought into the pre-season planning?

12 But before I do that, if I can just advise  
13 the Commissioner that we -- the Cohen Commission  
14 lawyers have actually organized another series of  
15 days, which will be dealing with First Nation  
16 interests and fishing interests. So I'm not  
17 asking Mr. Rosenberger to get into any level of  
18 depth on this but simply to identify what -- by  
19 name, you know what the processes are and then  
20 they will be dealt with in some depth later. So I  
21 don't want us to get sidetracked on that because  
22 we will have a full session on that particular  
23 topic.

24 Q So with that in mind, can you review some of the  
25 meetings and inputs that you get from First  
26 Nations?

27 MR. ROSENBERGER: We have three levels of process  
28 around the consultations with First Nations. The  
29 broadest level, highest level, is called the First  
30 Nations Forum on Conservation, Harvest and  
31 Planning, which encompasses First Nations from  
32 within the Fraser River, as well as southern  
33 approach areas. So primarily from the east coast  
34 of Vancouver Island, Johnston Straits but also the  
35 west coast of Vancouver Island, First Nations  
36 attend at times. We also have meetings that are  
37 sub-regional in nature. The -- a number of the  
38 First Nations groups have amalgamated, in  
39 particular, in the upper Fraser.

40 There's a group called the Upper Fraser  
41 Fisheries Conservation Alliance. The lower Fraser  
42 has a group that's functioned periodically that  
43 they call "LFRM", which is Lower Fraser Resource  
44 something Management Group. And then the east  
45 side of Vancouver Island has been working on  
46 bringing themselves together in a -- in an  
47 aggregate group. So those groups have met

1 periodically and then we also meet what we refer  
2 to as bilaterally. It's not necessarily as an  
3 individual First Nations to DFO but if that's the  
4 level that they choose or in -- it's often in  
5 tribal council or geographic area amalgamations.  
6 And so we go -- try to go through all the same  
7 types of information at those various levels.

8 Q Okay. And how many of those bilateral meetings  
9 that you've just described would you -- would the  
10 department undertake for this -- for the southern  
11 region and the Fraser River sockeye?

12 MR. ROSENBERGER: All of the meetings around all those  
13 groups?

14 Q Or how many different groups would you be meeting  
15 with?

16 MR. ROSENBERGER: The total number of First Nations is  
17 probably 130, 140, and potentially at the forum  
18 level meetings the -- each of the subgroups  
19 probably ranges from 20 to 30 or 40, probably the  
20 largest size. And then individual First Nations  
21 or aggregates, you know, might be one to 12, 13 in  
22 some of the tribal council groupings. The -- the  
23 amalgamations of all those meetings is -- there's  
24 four forum meetings each year. There's -- the  
25 sub-regional meetings tend to be -- some of them  
26 have three or four, some of them only one or two  
27 in the preseason/post-season process. But  
28 overall, it's probably 40 to 60 meetings to  
29 accomplish all of those different processes in the  
30 preseason planning aggregate process.

31 Q And who at DFO is responsible for undertaking  
32 those different meetings?

33 MR. ROSENBERGER: Most of the meetings are arranged to  
34 be done by the area staff so within the geographic  
35 area. So it's the -- at the bilateral level,  
36 there's a resource manager that has a geographic  
37 area of responsibility that would meet with the --  
38 their -- the First Nations within their areas.  
39 The sub-regional and the forum process we tend to  
40 have people like myself, Jeff would attend forum  
41 meetings and the chiefs of resource management  
42 from each of the areas. We try to bring -- when  
43 we're having presentations that require scientists  
44 or people who are going to hit on more in-depth  
45 discussions, we make sure that they attend at  
46 those larger meetings and then often the staff  
47 have to carry that information to their best of

1           their abilities into the bilateral sessions.

2       Q     Okay. have you -- is one of those processes that  
3           you just have run through the Fraser Watershed  
4           Joint Technical Forum?

5       MR. ROSENBERGER: The Fraser River Joint Technical  
6           Forum Group is -- is a sub-group under the Fraser  
7           River Aboriginal Fisheries Secretariat. And so it  
8           -- it's the technical process that's co-chaired by  
9           First Nations and DFO to deal with technical  
10          matters trying to support the forum. There's not  
11          a -- at this stage, there's not a formal link to  
12          the Island folks.

13       Q     And would that technical committee review  
14           materials such as the technical work that supports  
15           the IFMP that we've reviewed today?

16       MR. ROSENBERGER: That's correct. In all those types  
17           of materials, there's a secretariat with the --  
18           with the Fraser River Aboriginal Fisheries  
19           Secretariat. And all that information is released  
20           on newsletters and as needed basis out for  
21           information to everyone.

22       Q     And who are the people in the technical forum?

23       MR. ROSENBERGER: DFO has a co-chair, one of the -- one  
24           of our management biologists. It's also co-  
25           chaired by a First Nations person, currently Grand  
26           Chief Ken Malloway. The -- each of the First  
27           Nations groups can bring their technical  
28           representatives. They also have -- contract  
29           biologists and other technical people like Mike  
30           Staley and others that would -- would attend, Pete  
31           Nicklin. So there's a number of community reps.  
32           There's also hired fisheries staff. From DFO's  
33           side of things, our biologists, our resource  
34           managers and then depending on the subject matter,  
35           we might have subject matter experts there to try  
36           to deal with given issues.

37       Q     What's the purpose or the goal of the joint  
38           technical forum?

39       MR. ROSENBERGER: Two-fold. One is that technical  
40           information gets a chance to be explained,  
41           debated. First Nations are bringing information,  
42           DFO is bringing information into that process so  
43           that we make sure we have common understandings  
44           and have a chance to have technical challenge on  
45           -- from each of the parties. The First Nations'  
46           side as well as they're gaining that information  
47           so there's -- there's some capacity building side

1 of it but overall that they can take that  
2 information then and be able to take it back to  
3 their leadership, review the information, have  
4 their debates and try to inform their -- their  
5 leadership to -- for attending things like the  
6 forum processes where they -- or helping them  
7 with, you know, letters or other meetings so that  
8 they can make their -- provide their input into  
9 the decision-making side of it.

10 Q And the forum that you described, who participates  
11 in that?

12 MR. ROSENBERGER: From the department's side, I've been  
13 the lead for the four years that we've been  
14 undertaking the -- both the approach and within  
15 Fraser River area, the side of it. We tend to  
16 have the chiefs of resource management. Sometimes  
17 other area directors participate. Jeff is usually  
18 a participant. And we have a number of other  
19 resource managers and biologists that come whether  
20 they're making presentations on forecasts or  
21 dealing with specific issues. Chinook has been a  
22 draw card and we've had a number of different  
23 people on that side of things.

24 The -- and at times, things like the FRSSI  
25 you were talking about earlier, we've had people  
26 like contractors like Gottfried Pestal has come  
27 and provided presentations. He's the consultant  
28 that helped to prepare the model. From the First  
29 Nations' side, they tend to have community people,  
30 technical people, leadership. In a typical  
31 meeting, we'll have 40 to 80 First Nations people  
32 of which you might have four to eight chiefs or  
33 councillors that identified themselves as -- as  
34 their fisheries' representative for a community.

35 Q Is it -- is that forum open to all the First  
36 Nations in the Fraser Watershed?

37 MR. ROSENBERGER: It's open to all -- in the Fraser  
38 Watershed and in the southern approach areas.

39 Q Okay. And do all First Nations that are within  
40 those two areas attend?

41 MR. ROSENBERGER: No, the -- some First Nations don't  
42 want to attend because they view it -- or the  
43 department has stated that this forms part of our  
44 consultation process so some don't want to attend  
45 because of that reason. Others have identified  
46 lack of technical capacity or funding from the  
47 department to attend. If you don't have an

1           Aboriginal fisheries strategy or AROM agreement,  
2           we will pay costs of travel. But many groups are  
3           looking for something beyond that. So there are  
4           some groups that haven't attended and some groups  
5           that attend sporadically. There's probably a core  
6           of, you know, two-thirds of the First nations that  
7           are there on a regular basis or have -- have some  
8           type of representation.

9           Q     And that forum, I've asked you about the purposes  
10           and goals of the technical side of things, the  
11           technical group. What are the purposes and goals  
12           of the larger forum?

13          MR. ROSENBERGER: We're seeking First Nations input  
14           into the management of the various species. The  
15           primary focus over the four years has been sockeye  
16           and Chinook but we are interested in -- in broader  
17           discussions. The -- the -- from the sockeye side  
18           of it, we've been -- a key goal of the department  
19           has been trying to come up with sharing  
20           arrangements for stock groupings when we don't  
21           have enough total allowable catch to meet all of  
22           the objectives that the First Nations have  
23           requested. So within the Early Stuart stock  
24           grouping, First Nations accomplished that in a --  
25           in a one-year agreement for themselves back in  
26           1996. The department has modified that with some  
27           input from First Nations since that time so we  
28           have -- we have an arrangement that we -- we use  
29           and we talk about in the -- in the processes. We  
30           don't have any similar such arrangement for Early  
31           Summer, Summers or Lates. So that's a key  
32           objective.

33           And the overall management of all of the  
34           species looking for interactions and input from  
35           groups. As Jeff pointed out earlier, we don't  
36           have necessarily consensus for things like  
37           escapement objectives from First -- from the IHPC  
38           side of things. We also at times have not had  
39           that from the First Nations. So it's trying to  
40           create education and interaction between coastal  
41           and Interior groups, which, in the beginning, was  
42           -- became a significant part of it. But as we  
43           move forward, we're trying to get that input from  
44           groups to help to -- to seek as much consensus as  
45           we can on -- on input into management decisions.

46          Q     Have you, as a department, found this to be an  
47           effective forum for receiving input from First

1 Nations?

2 MR. ROSENBERGER: Yeah, I think it's worked out quite  
3 well over the period. Definitely much more so  
4 after the first couple of years, as groups, you  
5 know, gained an understanding amongst themselves  
6 and some of their own objectives. So that the  
7 education side of it was very important. But I  
8 think it's been -- been helpful in a number of  
9 aspects but there are a number of areas that we're  
10 still -- you know, both parties are trying to move  
11 forward with it.

12 Q And how long has this forum been in effect?

13 MR. ROSENBERGER: Four years.

14 Q Okay. You said that not all First Nation groups  
15 participate in that process. How do you get input  
16 from the First Nations who are not part of that  
17 process?

18 MR. ROSENBERGER: We usually write and have some kind  
19 of contacts with most of the groups so we're  
20 trying to arrange bilateral sessions. Some  
21 groups, you know, haven't had -- or haven't been  
22 interested in any meetings but there's a number of  
23 groups that don't participate in that process that  
24 do provide us either verbal or written information  
25 from bilateral sessions.

26 Q Okay. Now, we covered quite a lot of the  
27 technical information that forms -- that is fed  
28 into the IFMP process this morning before you were  
29 here and we talked about the IFMP first draft and  
30 where that was reviewed at the IHPC's. Are any of  
31 the technical data that's prepared in aid of the  
32 IFMP reviewed through this process? And is the  
33 IFMP itself reviewed in any of these processes?

34 MR. ROSENBERGER: The IFMP is -- is reviewed. That's  
35 one of the -- the documents that people are made  
36 aware of, as similar to the way Jeff described the  
37 Integrated Harvest Planning Committee process, we  
38 don't, you know, go through it page-by-page. We  
39 tend to look at issues that were raised by the  
40 First Nations or by DFO in the January/February  
41 session. So before the first draft comes out. So  
42 that helps to focus on areas where people are  
43 looking for a change or there -- or might be  
44 seeking new information.

45 The specific technical items -- there's been  
46 some data sets reviewed in different ways around  
47 the sockeye, some of the catch information, some

1 of the -- some of the data on the catches in the  
2 past were lumped by First Nations groups, not  
3 necessarily separated between economic fish and  
4 food, social, ceremonial fish, some things like  
5 that. Some of the groups have been trying to  
6 understand harvests off of ceremonial licenses  
7 within the total when you get to some of the small  
8 numbers. So that would probably be the focus  
9 sockeye-wise. There's a few things Chinook-wise  
10 but...

11 Q Okay. All right. Thank you. Now, I'd like to  
12 get back to where we were in the -- in the  
13 process. So we finished off with the first draft  
14 of the IFMP. I wanted to take you a document,  
15 which you'll find at Tab 4, and it's CAN 003448.  
16 This is a document that's prepared within DFO and  
17 it outlines concerns raised by various interests.  
18 Who prepares this?

19 MR. GROUT: This is a document that I put together with  
20 assistance from the salmon officer and the salmon  
21 team. And we also for some of the responses will  
22 talk with the relevant area staff that can provide  
23 additional analysis or response, as required.

24 Q Okay. And the date on -- on the bottom of this  
25 says May 5th, 2009. So would this be basically a  
26 summary of all the input you got on the first  
27 draft of the IFMP?

28 MR. GROUT: This is a document that we started  
29 producing for the IHPC to make the committee aware  
30 of the sorts of feedback we were getting from the  
31 variety of different groups. In past years, the  
32 department would have received feedback but the  
33 committee itself would not necessarily have seen  
34 all of the suggested revisions. So what we're  
35 trying to do here is provide a synopsis of the  
36 types of feedback we were getting from the  
37 different groups and how we've responded to it, if  
38 we've responded to it.

39 Q So who receives this document then? It goes out  
40 to the IHPC members?

41 MR. GROUT: This document's tabled at the IHPC for the  
42 members to review. And as a general rule, once  
43 documents are tabled at the IHPC, then our  
44 managers will also then be using them to support  
45 any of their consultations where they seem  
46 appropriate as well.

47 Q All right. Would this be presented then at the



1 same time the second draft of the IFMP would be  
2 presented?

3 MR. GROUT: That's correct.

4 Q Okay. And that document is produced at the  
5 beginning of May right around the time this table  
6 was finalized?

7 MR. GROUT: The department will be continuing to do  
8 analysis and revision of the -- of the document  
9 through April leading up to its release about a  
10 week before the second IHP -- or the IHPC meeting  
11 in May, as draft two.

12 Q Right. Okay. Before I move off of this concern  
13 raised document, however you describe it, I'd like  
14 that marked, please, as the next exhibit.

15 THE REGISTRAR: Exhibit 324.

16

17 EXHIBIT 324: Concern raised regarding the  
18 2009 Draft South Coast Integrated Fisheries  
19 Management Plan and initial draft response  
20

21

MS. BAKER:

22 Q So draft number two is Tab 7 and it's CAN document  
23 CAN 004024. This is the second draft. This would  
24 have been presented at the May meeting?

25 MR. GROUT: Yeah, that's so -- this is Tab 7, I  
26 believe.

27 Q Sorry, Tab 7. Did I say something --

28 MR. GROUT: Okay, yes, that's correct.

29 Q And again, this is sent out to the same people who  
30 -- it's posted, is it, online and then it's  
31 circulated to the IHPC members?

32 MR. GROUT: For draft number two, we -- I believe we  
33 don't post it a second time online. Or do we?

34 Q Why not?

35 MR. GROUT: I'm just trying to recall whether we post  
36 it on our -- our secretariat site or not. Well,  
37 maybe I'll start here. For the second draft, we  
38 don't re-circulate it for another one-month period  
39 for comment, just given the amount of time  
40 available. We do provide it to the IHPC members a  
41 week before the -- the second IHPC meeting. I  
42 believe it goes on our consultation secretariat  
43 prior to -- the consultation secretariat website  
44 prior to the meeting, though.

45 MS. BAKER: This is a question maybe directed more to  
46 Mr. Rosenberger.

47 Q Are there decisions by the Fraser River Panel that

1 get integrated into the IFMP?

2 MR. ROSENBERGER: There have been. In 2009, the panel  
3 adopted 75 percent -- or the P75 level for the  
4 Early Stuart forecast and so we made that as part  
5 of the change. A number of the type of issues  
6 that we're dealing with at the panel are not  
7 necessarily concluded by the time we're trying to  
8 get these documents together. A number of our  
9 issues -- we're often taking this document to feed  
10 into how the panel will be, or at least Canada's  
11 bringing its views into how the panel bilateral  
12 process will work. There are documents that are  
13 prepared for the panel that are also part of this,  
14 though. The diversion rate and the timing  
15 documents show up in here.

16 Q Okay. What about management adjustments? Is  
17 there any input from the Fraser River Panel on  
18 management adjustments?

19 MR. ROSENBERGER: The management adjustments are  
20 another aspect that do show up in here so people  
21 have a sense. At this stage, they tend to be the  
22 recent year's averages and not necessarily what  
23 we're using at the panel level for our in-season  
24 -- our preseason management model.

25 Q So the IFMP is the historical information. It  
26 doesn't actually reflect what's being used at the  
27 Fraser River Panel?

28 MR. ROSENBERGER: Well, it's just -- it's a series of  
29 steps so at this stage we wouldn't have snowpack  
30 information, some other -- some other parts of the  
31 tools that are fed into the management adjustment.  
32 So we would tend to use a recent year average or  
33 -- or some period average that would go into this.  
34 I'm sure you're going to get into some of that  
35 detail with some other folks later so there's an  
36 average level that will be put into here now but  
37 then the preseason document -- preseason planning  
38 model for the Fraser River Panel would be updated.  
39 We would have the May and June snowpack  
40 information and that would tend to feed into a  
41 different number potentially by the time we're  
42 getting into the preseason side of things.

43 Q By the time you're getting into the preseason or  
44 the in-season?

45 MR. ROSENBERGER: Preseason. In-season, we use the  
46 actual data that we get on a weekly basis from the  
47 environmental watch group.

1 Q Okay. Are there any -- any implications for  
2 domestic harvest from what's been talked about at  
3 the Fraser River Panel that needs to get put into  
4 the planning process on the domestic side?

5 MR. ROSENBERGER: From our side of it, Canada has the  
6 majority of the harvest. So we're trying to make  
7 our domestic issues, in particular around First  
8 Nations Fisheries, drive the issues that were  
9 taken to the panel side.

10 Q So it's more of a DFO into Fraser River Panel  
11 decision-making direction rather than Fraser River  
12 Panel back to Department of Fisheries and Oceans?  
13 Is that what you're saying?

14 MR. ROSENBERGER: At the stage of populating these  
15 documents and trying to determine what the issues  
16 are so things like Early Stuarts are -- been  
17 identified as a priority stock by First Nations.  
18 So in Canada's side of things, many years ago,  
19 we've said that stock is one that we're going to  
20 be trying to have the -- all or the bulk of  
21 harvest by First Nations. So it's that type of  
22 information we take into the panel and -- and the  
23 kinds of rules that we're working with and the  
24 discussions we have with the U.S. folks on stocks  
25 where -- where we end up as we did in -- in the  
26 in-season of 2009. So when you're talking about  
27 rules that you might want to use in -- when you  
28 have stocks that may not have a harvestable  
29 surplus, we try to bring those discussions at the  
30 same time into the -- both processes and try to  
31 come to a consensus in both places, if we can, off  
32 the same information.

33 Q Things that -- for example, the management  
34 adjustments, you said that at this time you didn't  
35 have -- you wouldn't have the right information at  
36 the time of the second draft. Is there updated  
37 information that's received from the Fraser River  
38 Panel at the time the IFMP is finalized?

39 MR. ROSENBERGER: It's after the time of the --  
40 generally, it's after the time or around the time  
41 in June that this document's been finalized.

42 Q Okay. So it may be finalized without that current  
43 information from the Fraser River Panel in it?

44 MR. ROSENBERGER: It could be, yes.

45 MS. BAKER: I haven't marked this draft number two,  
46 which I should do. If I could have that marked as  
47 the next exhibit?

1 THE REGISTRAR: Exhibit Number 325.

2  
3 EXHIBIT 325: Pacific Region Draft #2  
4 Integrated Fisheries Management Plan Salmon  
5 Southern B.C. June 1, 2009 to May 31, 2010  
6

7 MS. BAKER:

8 Q And as the chair of the Canadian panel on the  
9 Fraser River Panel and the chair of the Fraser  
10 River Integrated Management Team, you're involved  
11 on both sides of that equation, you've involved in  
12 the drafting of the IFMP and you're involved in  
13 the Fraser River Panel process?

14 MR. ROSENBERGER: That's correct.

15 Q Okay. All right. So I just wanted to go through  
16 some of the changes that we see in the draft  
17 number two from the first draft. If you turn to  
18 pages 68 and 69, this is again the forecast -- or  
19 sorry the FRSSI options tables at 50 percent and  
20 75 percent probability. We had looked at these  
21 tables previously. And in the first version under  
22 the late runs, for example, there was a number of  
23 options set out. And now it just has a fixed  
24 exploitation rate of 20 percent. Why was that  
25 change made?

26 MR. GROUT: After our first round of consultations on  
27 the first draft of the plan, we recognized that  
28 there was quite a bit of confusion among the --  
29 our stakeholders that we were talking with around  
30 whether we were considering implementing one of  
31 the four options or whether we had proposed to  
32 implement a fixed 20 percent exploitation rate.  
33 So in this version of the escapement plan, we're  
34 showing a fixed 20 percent exploitation rate for  
35 the late run group to clarify the intention.

36 Q So at this point, there was -- there was no  
37 further debate on the late runs? They were  
38 determined to be using this 20 percent harvest  
39 rate?

40 MR. GROUT: For this draft, this is what the department  
41 had proposed to use in terms of the -- the  
42 development of the escapement plan. Certainly  
43 possible that we would have gotten feedback and  
44 views on whether that was appropriate or not.

45 Q Okay. There's another option you see under Early  
46 Stuart that says "new option five" that's been  
47 added. It's on both the 50 and 75 percent

1 probabilities. What's that in reaction to?

2 MR. GROUT: This was advice we received from the First  
3 Nation Forum on Conservation and Harvest Planning,  
4 that they'd like to see an option for Early Stuart  
5 with an even stronger emphasis on escapement  
6 before harvest.

7 Q What was that --

8 MR. ROSENBERGER: And just --

9 Q Sorry?

10 MR. ROSENBERGER: If I could just add to that. It  
11 wasn't from the whole forum; it was from some of  
12 the groups at the forum.

13 Q Okay. And was that option then debated at the  
14 second IHP -- or the fourth IHPC meeting?

15 MR. GROUT: Yeah, we would have had discussion around  
16 the addition of the -- the option and potential  
17 implications for management.

18 Q Okay. There's a lot of communication back and  
19 forth from the different groups and DFO. Are  
20 those communications all communicated to the -- to  
21 the other members of the process in any way other  
22 than that table that we just reviewed, which has  
23 now been marked as Exhibit 324?

24 MR. GROUT: We get a range of advice from our various  
25 different groups. Some of the advice that's  
26 provided at the IHPC is recorded in the minutes  
27 and would be available for others to look at. For  
28 a number of our other major processes with the  
29 Commercial Salmon Advisory Board and the SFAB, we  
30 have minutes that are recorded and posted on our  
31 consultation website for the department. We also  
32 receive correspondence, letters and such, from  
33 individuals and groups expressing their views.  
34 Some of those are shared.

35 Usually what we would do, if we thought there  
36 was a particularly important point raised is I  
37 would follow up with the group and just confirm  
38 that they were okay with us sharing the  
39 information, if it was just addressed to the  
40 department. Sometimes the letters we receive are  
41 already cc'd to another -- a number of other  
42 groups so the groups themselves are also spreading  
43 information around. There's another -- emails can  
44 also be distributed at times with perspectives on  
45 development of the plan.

46 Q But there's not a requirement or an understanding  
47 that all communications will be copied by -- to

1 all members or anything like that?

2 MR. GROUT: That's not something that we have formally  
3 in place at the moment.

4 Q Okay. Is draft number two of the IFMP the first  
5 time that stakeholders or other user groups see  
6 the impact of requested changes or comments that  
7 have been made by participants to the process?

8 MR. GROUT: The circulation of the second draft would  
9 be the first time they'd see a formal response  
10 from the department on suggestions that have been  
11 made. What we do with this draft as well, and  
12 you'll notice in the exhibit there's a  
13 considerable amount of highlighting at various  
14 spots in the table of contents and throughout the  
15 plan. So that's done for the benefit of the  
16 various processes so they can quickly find places  
17 in the plan where changes have been made.

18 MR. ROSENBERGER: If I could add to that. We also take  
19 this information and though we don't have a formal  
20 process to take comments specifically from, say,  
21 the First Nations' interactions or the sport or  
22 commercial, across each one of them, a lot of the  
23 key points that we think that we might be  
24 considering doing more work on, we're raising  
25 those in each of the other meetings. At times,  
26 that's been contentious that -- that people's view  
27 that we might be promoting some given groups'  
28 views, which isn't necessarily the case, but ones  
29 that might be getting more consideration, we have  
30 been taking those kinds of comments and/or their  
31 letters.

32 And so if we're taking something that's  
33 formally provided to us, we tend to ask them if  
34 it's okay to distribute that to -- you know, in  
35 other places, and some of them at times have come  
36 to some of the other processes to, you know,  
37 present that information themselves. And that  
38 happened with some of the changes that went on in  
39 '09 and again some -- in '10 in this process here.

40 Q What were the -- what are you referring to there?

41 MR. ROSENBERGER: The -- I think this option 5, there  
42 was some First Nations people came to the IHPC and  
43 in -- I'm trying to think in general here, not  
44 necessarily these specific ones that you raised  
45 but at the -- around the Chinook side of things,  
46 we've had a number of First Nations who are not  
47 participants in the IHPC process that have come to

- 1 present letters that they may have also provided  
2 to the department. So they wanted to make sure  
3 that it was presented in their words, not us  
4 passing on their words.
- 5 Q Okay. I take it by looking at the document when  
6 it's presented as draft two there's no way for  
7 anybody to know who -- who was the genesis for any  
8 changes that were made. Like it's not identified  
9 that this was in -- this change was in response to  
10 a suggestion made by a particular party.
- 11 MR. GROUT: In the previous exhibit you referred to  
12 where we outlined some of the suggested changes  
13 that have been made by various individuals, there  
14 may be cases in the plan where you can see that  
15 the department has implemented a specific change.
- 16 Q Mm-hmm.
- 17 MR. GROUT: It's not specifically labelled as such,  
18 though, throughout the plan.
- 19 Q Okay. After the May IHPC meeting, what happens in  
20 terms of the planning process?
- 21 MR. GROUT: The May IHPC meeting is the last formal  
22 chance for the Integrated Harvest Planning  
23 Committee to -- to comment on the draft of the  
24 IFMP. The department reviews the -- the final  
25 changes or considerations that we've been asked to  
26 look at. And then we begin the -- the process of  
27 finalizing the plan and development of the  
28 briefing materials to get the IFMP ultimately  
29 approved by the minister for release for the  
30 coming year.
- 31 Q Is there any -- although the IHPC process has  
32 concluded at that point, is there any other  
33 further comments received from parties after the  
34 May IHPC meeting?
- 35 MR. GROUT: We certainly have received comments in some  
36 years often well into June and even July. And  
37 those are obviously a challenge to try and  
38 incorporate given the -- the time when they're  
39 received.
- 40 Q Okay. Now, we took -- we've marked the final IFMP  
41 when we opened today. That's Exhibit 317. So if  
42 we could just look at that. And that's in the  
43 binder you have there at Tab 8. What's the  
44 internal process for finalizing the IFMP?
- 45 MR. GROUT: As a department, I would take the -- or in  
46 the department, I'd take the lead on coming to  
47 terms with any final decisions that we need to be

1 made around the plan that we've received. For  
2 example, for Fraser sockeye, I'd -- I had worked  
3 with Mr. Rosenberger and others around confirming  
4 the final options we were going to propose in the  
5 -- in the final plan. That process would occur  
6 through a number of meetings. There may be  
7 briefings with various individuals in the  
8 department, as we move towards finalizing the --  
9 the plan. I then -- at the same time I'd be  
10 working on briefing materials so this would be a  
11 briefing note to the minister for approval of the  
12 IFMP outlining some of the key issues that we --  
13 that came up in the consultations and the feedback  
14 we got from the various groups and the  
15 consultations.

16 We also identify the key constraints around  
17 fisheries planning for the coming year and in the  
18 additional analysis that would need to support  
19 that. And from there, the -- the briefing note  
20 and the plan would go to the regional director of  
21 Fisheries and Aquaculture Management and then to  
22 the RDG. We also send the version of a plan  
23 around to a number of our directors for review of  
24 specific sections related to their programs as  
25 well. I would -- I'm directly responsible for  
26 providing briefings to the director of fisheries  
27 management and the RDG.

28 Q Okay. Thank you. I'm going to come back to the  
29 briefing note in a bit. But before we get there I  
30 wanted to have a look at the actual final  
31 document. When we looked at the drafts, you'll  
32 remember we saw those tables that had the  
33 different FRSSI options contained in them. In the  
34 final report, it looks a bit different. So if we  
35 turn to pages 67 and 68 -- or sorry -- it's just  
36 67. No, I'm sorry, no, that's right, 67 and 68.  
37 So 68 has Table 10(a). Sorry. I'm getting my  
38 page numbers mixed up. 67, 10(a). So this sets  
39 out the Fraser River sockeye escapement plan  
40 options for 2009 at 50 percent probability  
41 forecast. Can you just review for us how this  
42 relates to what we saw earlier when we had the  
43 FRSSI tables and the options?

44 MR. GROUT: Okay. In this table, what you're seeing is  
45 the single harvest rule chosen among the four  
46 options for each of the stock groups or management  
47 units, so Early Stuart, Early Summer, Summers and



1 Late run. The first column for Early Stuart, the  
2 number is 255. So that's the -- the run size, the  
3 forecast probability level. The run size  
4 reference points are simply the two points that  
5 describe the shape of the harvest rule so the no-  
6 fishing reference point at 156,000 and the upper  
7 reference point, which we refer to as the cutback  
8 point, is 390,000. So for Early Stuart, this  
9 corresponds to option four from draft two and one  
10 of the plan. We provide the total mortality rate  
11 guidelines for each of those run size ranges.

12 In this case, the preseason forecast at  
13 255,000, it falls in the range of 156 to 390. In  
14 that range, we've got the fixed escapement  
15 strategy of 156,000 for the fixed escapement. So  
16 any additional harvest or any difference between  
17 that and the run size is available for harvest.  
18 And that allows us to determine the total  
19 allowable mortality rate. From that, we also  
20 consider the management adjustment and any fish  
21 that would be added to the escapement target do  
22 account for that so the buffer. And any remaining  
23 exploitation after the management adjustment's  
24 applied is in the final column. So in this case,  
25 it's 3 percent.

26 Q Okay. And so if we look at the run size reference  
27 points, we've got -- it's a bit hard to read  
28 perhaps but there's one line that goes across the  
29 top that's got a bullet, which would be zero, I  
30 guess, to 156. And it says that the town  
31 guideline is going to be zero percent if the run  
32 size comes in at that level. Is that how we read  
33 this?

34 MR. GROUT: That's correct.

35 Q And then the next line down has 255, which is the  
36 run size estimate, in fact, but that shows the  
37 number of fish that are expected, correct?

38 MR. GROUT: The 50P forecast --

39 Q Right.

40 MR. GROUT: -- probability, yes.

41 Q And then the 156 to 390 shows that if the fish  
42 come in, in that range you're going to harvest  
43 them at zero to 60 percent and that's the curve  
44 that we saw earlier?

45 MR. GROUT: That's right.

46 Q Okay. And then --

47 MR. GROUT: It's easier to think of it as we've got --

1           over that range, we've got a fixed escapement  
2           target of --  
3       Q     Right.  
4       MR. GROUT:   -- 156,000.  
5       Q     Okay.  
6       MR. GROUT:   And you're going to harvest the difference  
7           between or -- total allowable mortality is the  
8           difference between that and the run size.  
9       Q     And then the last one is 390 or greater.  It will  
10          be harvested at 50 percent?  
11       MR. GROUT:   That's correct.  
12       Q     And sorry.  I might have used the word "harvest"  
13           but it's actually the total allowable mortality,  
14           which would include en route mortality and  
15           everything else?  
16       MR. GROUT:   Correct.  
17       Q     Okay.  Then the next page, which is page 69, shows  
18           the run timing -- or it actually starts on 68.  It  
19           talks about run timing and it -- there's a graph  
20           on page 69 that sets out the run timing.  What is  
21           that -- what is the run timing information in the  
22           IFMP used for?  
23       MR. ROSENBERGER:  It's just to give people a general  
24           sense of which stocks come in, in which order.  If  
25           you understand the four stock groupings, you can  
26           take a look and see which ones might be  
27           amalgamated or which ones we might be taking  
28           actions.  Within a stock grouping, we -- we often  
29           have individual populations that we might be  
30           taking extra actions for within Canada.  So it's  
31           schematic to show the relative expected timing of  
32           the stocks, as they pass through area 20, which is  
33           in Juan de Fuca Straits.  
34       Q     And why do you use area 20?  
35       MR. ROSENBERGER:  Probably historical more than  
36           anything.  That's the original test fishing area  
37           that the old Salmon Commission established as the  
38           key focus point.  Before the mid-'70s, you  
39           typically had 80 to well over 90 percent of the  
40           Fraser sockeye migrated through Juan de Fuca on an  
41           annual basis with a much limited -- more limited  
42           portion coming into Johnston Straits, what we now  
43           call the northern diversion.  So it has that  
44           historical factor.  It's -- it's one place where  
45           we make an assessment, the Fraser Panel and with  
46           the Salmon Commission staff, an assessment of all  
47           of the populations.  For example, Early Stuart

1 rarely migrate down through Johnston Straits so  
2 they're not present in that location.

3 And because we have some stocks that hold  
4 like the lates in some years, if you used a place  
5 like Mission, the -- the late run information  
6 would move around drastically depending on the  
7 actual return in a given year. So this -- for the  
8 marine fisheries it's a constant. We have  
9 prepared tables over time that we've handed out to  
10 people to show timing periods between area 20 to  
11 the mouth of the river to Mission to, you know,  
12 Hope and Lytton and a number of different places  
13 so people can make that sense for themselves. So  
14 the graph could be moved easily to any other  
15 location. The -- other than the lates, the -- it  
16 wouldn't necessarily change except for the dates  
17 at the bottom.

18 MR. GROUT: Wendy, I might add a couple points to what  
19 Barry has said. And one of the things you can use  
20 the figure for, if you look at the -- the screen,  
21 it's giving you the daily abundance for each of  
22 these groups. And the -- the Salmon Commission  
23 has provided the department these curves based on  
24 our forecast information and historical  
25 information about run timing.

26 So at the top point of one of these curves  
27 gives you the peak expected for the migration  
28 through this area. What this curve shows you is,  
29 if you look at the top curve, which is the total  
30 sockeye curve, you can see that most of the  
31 abundance in this particular year is expected to  
32 come from Chilko and Quesnel and actually be able  
33 to harvest those stocks at the rate your might  
34 like to, you have to keep in mind that there's a  
35 number of less abundant stocks down lower here  
36 that are overlapped with that migration.

37 So it helps our -- our stakeholders and  
38 others see the potential constraints around trying  
39 to harvest more abundant populations when we have  
40 smaller ones in the mix. In this particular year,  
41 because 2009 is an odd year, we also have pink  
42 salmon returning to the Fraser. So it also gives  
43 you a sense of how you might have to structure  
44 your fisheries to access pink salmon given that  
45 you have less abundant late runs that were also  
46 trying to protect the pink salmon can overlap  
47 with. So it's also used for that purpose.

1 Q We've talked a lot about the consultation process  
2 with different groups and feedback that different  
3 groups can bring to the table to the department,  
4 as they develop the final IFMP. Do you think that  
5 the processes that we've talked about today and  
6 that the department undergoes provide all the  
7 different interested groups with an opportunity  
8 for meaningful input into the process?

9 MR. GROUT: Well, the department has established a lot  
10 of these processed based on past recommendations  
11 to improve the -- to improve our consultation  
12 process. We've set up a number of committees to  
13 improve the way that we do that and provide  
14 multiple opportunities for -- and ways for people  
15 to provide feedback to the department. So in  
16 general, I think we've got quite a comprehensive  
17 approach for obtaining feedback on the fishing  
18 plan as we develop it.

19 Q Okay. Do you have anything to add to that?

20 MR. ROSENBERGER: Not -- I mean there's -- there's also  
21 been studies and, you know, other -- other  
22 commissions and other processes looking into the  
23 Fraser sockeye over the years so that, you know,  
24 there's been a number -- the centre out of UVic  
25 that did a lot of work on, you know, what kinds of  
26 structures you need to establish and how you need  
27 to -- to select people.

28 You know, I don't think that we've got to the  
29 point to meet all of the recommendations in all of  
30 these groups where you have people that are there  
31 that are, you know, appointed or elected or  
32 whatever, you know, the appropriate process might  
33 be for all the places and for all the groups. But  
34 I think that the structure is there to make it  
35 work and it's -- hopefully some day it gets --  
36 continues to make some improvements.

37 Q Do you think there's some gaps that need to be  
38 addressed still?

39 MR. ROSENBERGER: We don't have representative --  
40 elected representatives at all of the processes.  
41 So it's very difficult to make -- work towards  
42 consensus agreements when you might have an  
43 individual that has one given objective that might  
44 be very contrary to others both within their group  
45 or from another group. So it's fairly -- in some  
46 places, it's difficult for people to make those  
47 kinds of trade-offs. And then I think that the

1 First Nations are in a very difficult position  
2 without having land claim treaties settled to --  
3 to come to these kinds of processes and try to say  
4 that, you know, I'm willing to -- you know, want  
5 to make these kinds of trade-offs or do certain  
6 things when they're still trying to have some of  
7 their rights affirmed in different places.

8 Q Do you think that the stakeholder groups that you  
9 do engage in the process have the capacity to  
10 understand the issues that are being presented to  
11 them for decision or for feedback, including some  
12 of the technical work that we've just touched on  
13 today?

14 MR. ROSENBERGER: The level of technical capacity of  
15 some of the groups varies for sure. I think it  
16 depends on the groups and individuals you're  
17 talking about. Some of them definitely want and  
18 expect the department to have that capacity, bring  
19 that information and them to be able to give  
20 input, you know, based on what they -- they see as  
21 the -- the impacts or the results of whether it's  
22 a model or -- or, you know, some other -- the  
23 policies, you know, how well is -- is the sharing  
24 arrangement between rec and commercial and  
25 whatever working.

26 Other groups are trying to have people that,  
27 you know, understand all the models to the same  
28 level that, you know, we might have a scientist  
29 somewhere working on. So you know, I wouldn't say  
30 that, you know, all of them think that they have  
31 the capacity that they want to have. But I think  
32 if the department is able to bring the -- you  
33 know, various technical information and present it  
34 in a way that people can make trade-offs around  
35 the issues that affect their fisheries and they  
36 bring their expertise into that process, I think  
37 the structure is there that it can work.

38 Q Do you think that the participants need to  
39 understand the technical workings of things like  
40 the FRSSI model or the preseason forecast model in  
41 order to provide meaningful input?

42 MR. ROSENBERGER: I do not. I don't know how all the  
43 technical workings of those models for myself, you  
44 know. You have -- we can't all have PhDs and all  
45 have the same expertise. We're not all going to  
46 be geneticists and -- and you know, modellers and  
47 whatever. We have to be able to get that

1 information from somewhere and I don't think it's  
2 effective to expect that you're going to have, you  
3 know, ten or 15 different people developing their  
4 own models and, you know, having discussions  
5 around them. But I think we have to have enough  
6 understanding -- if you have a model and it tends  
7 to become fairly obvious and FRSSI is one -- I'm  
8 not certain how much data you're going to do  
9 earlier but I mean it's changed drastically in the  
10 last version that went through our science peer  
11 review process because of inputs that we receive  
12 from people earlier.

13 And it wasn't changes just because the  
14 department had their modeller saw something, you  
15 know, wrong or the person that we'd contracted.  
16 So I think what you see out of that is if the  
17 results don't make sense, if it's -- you know, if  
18 you've -- it's based on assumptions and if there -  
19 - you know, if it's obvious they're incorrect, you  
20 need to make some adjustments for it. And I think  
21 that's what people see as the results of those.  
22 If they're not consistent with what you would  
23 expect in your area, then you know you need to  
24 make some adjustments.

25 Q I've heard that the members of the Commercial  
26 Salmon Advisory Board have requested funding from  
27 DFO for technical assistance. First of all, do  
28 you -- is that -- is that your memory? Do you  
29 agree with that?

30 MR. ROSENBERGER: I think they have, over time.

31 MR. GROUT: We haven't had the request made of us  
32 recently. I believe that we provided some of that  
33 assistance when we were doing the work on the --  
34 the Cultus Sockeye Recovery Team.

35 Q Okay. Other than that, has funding been provided  
36 for technical issues to the Commercial Salmon  
37 Advisory Board or its members?

38 MR. GROUT: In the terms of reference for the  
39 Commercial Salmon Advisory Board, it outlines that  
40 in most cases the department will be providing the  
41 technical support to help the -- the group  
42 function.

43 Q And is that the same for this Sports Fishing  
44 Advisory Board as well?

45 MR. GROUT: Yes, the department would primarily be  
46 providing expertise on interpretation of  
47 information, assessment of options to -- to that

1 group as well.

2 Q And we talked about the technical forum that is  
3 available for First Nations to support that -- the  
4 other forum that they're engaged in. Is that  
5 funding provided by the department for the  
6 technical forum?

7 MR. ROSENBERGER: Yes, it is.

8 Q Okay. What about the Marine Conservation Caucus?  
9 Has it made requests for a technical fund --  
10 funding for technical assistance?

11 MR. ROSENBERGER: I don't believe that -- well, that  
12 request has not been made to me. They seem --  
13 there seems to be a certain amount of technical  
14 capacity within the group to -- to do their own  
15 work.

16 MS. BAKER: Okay. Mr. Commissioner, it's 3:04. I'm  
17 going to move to the briefing notes section now,  
18 so perhaps this would be a good time to break.

19 THE COMMISSIONER: Okay.

20 THE REGISTRAR: The hearing will now recess for 15  
21 minutes.

22

23 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

24 (PROCEEDINGS RECONVENED)

25

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

27 MS. BAKER: Thank you.

28

29 EXAMINATION IN CHIEF BY MS. BAKER, continuing:

30

31 Q Right now I'd like to move to the briefing note  
32 process, which you've already touched on, Mr.  
33 Grout. First of all, it's your group that  
34 prepares a briefing note and you're the sort of  
35 lead person for the briefing note?

36 MR. GROUT: Yes, I take the lead on drafting the note,  
37 but I do solicit feedback from others as I'm doing  
38 that.

39 Q And that would be -- include people from the  
40 salmon working group; is that right?

41 MR. GROUT: It can include members of the salmon  
42 working group, the Fraser panel chair and FRIMT  
43 chair for Canada, technical individuals  
44 potentially, as well, if there is additional  
45 analysis in the note.

46 Q And let me take you to the briefing note that you  
47 prepared for this year, which is CAN 065902, which

1 is, I think, Tab 26. I might have the -- maybe  
2 I've got the CAN number wrong on that. Sorry,  
3 just a moment.

4 MR. GROUT: It might be in one of these --  
5 Q Sorry, I have the wrong CAN number. It's CAN  
6 285384. Okay, so that is a copy. Now, I know  
7 that the briefing note that goes to the minister  
8 has a number of attachments -- has a number of  
9 attachments to this cover document, but this is  
10 the document that you would have prepared; is that  
11 right, with all the attachments beneath it as  
12 well?

13 MR. GROUT: Sorry, am I at Tab 26 here?  
14 MS. BAKER: No, sorry, it's Tab 26.  
15 MR. LUNN: Thank you.  
16 MS. BAKER: Okay, there. And I think if you just  
17 scroll down. There.

18 Q Is it?  
19 MR. GROUT: Yes, this is the note.  
20 Q All right. And what is the intent of the briefing  
21 note, what are you trying to cover in it?

22 MR. GROUT: For salmon fisheries in B.C., the  
23 Integrated Fisheries Management Plans are approved  
24 by the Minister. A number of our other fisheries  
25 in the Pacific region are not approved at the  
26 ministerial level, but salmon is one of the plans  
27 that is.

28 So the note is seeking approval of the  
29 Integrated Fisheries Management Plans for the  
30 coming year. It also seeks to identify the key  
31 issues, and we are able to remind the minister on  
32 a number of those by referring to briefing notes  
33 that have been sent previously. So as the  
34 management plan is being developed there are  
35 opportunities to update the minister along the way  
36 on some of the issues.

37 And we also provide attachments to this plan  
38 summarizing some of the consultations. Sorry, I  
39 just want to make sure I referred to all the  
40 attachments. Yeah, summary of the consultations  
41 and then also issues that are impacting on the  
42 fishing opportunities.

43 Q Do you attempt to set out different points of view  
44 that you've received from constituent groups?

45 MR. GROUT: The templates for the management -- or,  
46 sorry, the template that the government uses for  
47 these briefing notes are quite short. There's



1           only three to four pages provided in the primary  
2           note. In terms of setting out some of the views  
3           we've received from others, we have to append that  
4           and attach it separately.

5       MS. BAKER: Okay. Now, Mr. Commissioner, we have a  
6           full copy of the IFMP with all of the documents  
7           that would be attached. Unfortunately, it's just  
8           been sent over in electronic form from the  
9           Commission's office - we just had a bit of a mix-  
10          up - so what I propose to do is I will take, at  
11          some point in my next questions, I'll go to the  
12          briefing note that comes from Ottawa, and I will  
13          not mark them, though, I will wait until I have  
14          the final electronic document and we'll mark them  
15          at that time.

16       Q       Okay, so this briefing note, as we identified,  
17           covers a number of documents which we are going to  
18           bring forward. Just for reference, while we wait  
19           for that document to come forward, if you turn to  
20           Tab 20, there's a reduced version of this briefing  
21           note that has the attachments in it. So if you  
22           need to look at something, that can be used as  
23           reference until we get our final electronic  
24           document.

25                        So once you've prepared the briefing note  
26           which covers all the documents, where does that  
27           package go? When it leaves your hands, where does  
28           it go?

29       MR. GROUT: Typically, the briefing note would go from  
30           myself through the salmon team lead for a review  
31           and approval, and then to the Regional Director of  
32           Fisheries and Aquaculture Management.

33       Q       Who was the salmon team leader at this time?

34       MR. GROUT: In 2009, when this note was prepared, it  
35           was Paul Ryall.

36       Q       Okay. So it goes to Paul Ryall and then it goes  
37           to where, sorry?

38       MR. GROUT: The Regional Director of Fisheries and  
39           Aquaculture Management and when this note was  
40           prepared it was Sue Farlinger.

41       Q       Okay. And are further comments communicated to  
42           you at that point?

43       MR. GROUT: Yes. It's possible that the salmon team  
44           lead and/or the regional director could ask me for  
45           -- to make further revisions.

46       Q       Okay. And after it goes to Regional Director of  
47           Fisheries and Aquaculture Management, where does

1           it go?  
2       MR. GROUT: From there, the regional director usually  
3           sets up a meeting to brief the RDG, and usually  
4           the regional director attends, as well as myself.  
5       Q       Okay. So you're involved in the briefing of the  
6           RDG?  
7       MR. GROUT: That's correct.  
8       Q       Are further changes made at that stage?  
9       MR. GROUT: Yes, the RDG quite often will ask for  
10           changes to be made.  
11      Q       And are those changes that you would put into the  
12           document, or would they be done at some other  
13           level?  
14      MR. GROUT: No, I would -- usually I would make the  
15           changes and have the document resubmitted.  
16      Q       Okay. And once it's gone through that process  
17           here on the Pacific coast, does it eventually get  
18           sent to Ottawa?  
19      MR. GROUT: That's correct.  
20      Q       All right. And what happens there? Like it gets  
21           sent to who in Ottawa?  
22      MR. GROUT: I don't usually deal with the briefings  
23           that occur in Ottawa, that would, at that point,  
24           would become the RDG's responsibility, but there  
25           should be a transmittal slip here which indicates  
26           who's seen the note.  
27      Q       Does it go directly to the minister, or is there  
28           another level within the Department of Fisheries  
29           and Oceans it goes to in Ottawa?  
30      MR. GROUT: No, it would be -- it would go to fisheries  
31           management and -- or ecosystems and fisheries  
32           management, now in Ottawa, and then to the deputy  
33           minister before going to the minister.  
34      Q       Okay. At the - sorry, how did you describe the  
35           fisheries and oceans group in Ottawa? You had a  
36           title that -- I dismissed it.  
37      MR. GROUT: They've just recently reorganized  
38           themselves to, I believe it's, ecosystems and  
39           fisheries management.  
40      MR. ROSENBERGER: Essentially, it's going to go to the  
41           assistant deputy minister of what's Fisheries and  
42           Aquaculture Management, so whatever the title  
43           might be, that person's going to get it and brief  
44           with the deputy, and then that's -- it'll go from  
45           there to the minister.  
46      Q       All right. And is it at that point another  
47           briefing note cover is prepared from the Ottawa

1 branch up to the minister? And in asking that  
2 question, I'm asking if you could look at Tab 24  
3 of the binder in front of you. And this is CAN  
4 285370. Is this the final version of the briefing  
5 note that makes its way up to the minister?  
6 MR. GROUT: Yes, that looks like it.  
7 Q Okay. Would changes be made in Ottawa to the plan  
8 as it was presented from the Pacific region? Has  
9 that ever happened?  
10 MR. GROUT: There have been cases where changes have  
11 been made in Ottawa and occasionally I'll be  
12 called to clarify what a specific point might mean  
13 and some wording changes can be inserted to  
14 further clarify.  
15 Q Okay. And then if you look at the -- sorry, when  
16 does your salmon team, or your salmon working  
17 group here in B.C.'s involvement end in the IFMP  
18 approval process? Are you involved right up to  
19 the very end, when it goes to the minister, or  
20 does it stop when it goes to Ottawa?  
21 MR. GROUT: Typically, I would not be involved after  
22 the note has been signed off by the RDG and it  
23 goes to Ottawa, although, as I stated, there are  
24 -- can be occasions where I'm called to clarify  
25 specific comments in the note.  
26 Q Okay.  
27 MR. GROUT: Then we are keeping an eye on when the note  
28 is signed off, and once that's done we work with  
29 our -- to get our IFMP posted on the public  
30 internet site once it's approved.  
31 Q All right. Have you received changes by the  
32 minister herself, or himself, whatever it may be  
33 at the time, once the recommended IFMP has been  
34 advanced through this briefing note to the  
35 minister?  
36 MR. GROUT: Not personally, no.  
37 Q Are you familiar with changes being made by the  
38 minister?  
39 MR. ROSENBERGER: I'm not aware of any changes.  
40 Q All right. If we look at the last page of this  
41 document CAN 285370, there's a signature by the  
42 minister, Gail Shea, and there's a little asterisk  
43 and it says:  
44  
45 Need to ensure we maximize opportunities for  
46 commercial fisheries.  
47

1           What does that mean to you, when you received this  
2           back, or what did that mean to you?

3       MR. GROUT: Well, my personal view is that that's  
4           something that we'd be looking at doing within the  
5           constraints identified in the Integrated Fisheries  
6           Management Plan.

7       Q     Is it a change to the plan? Is that a direction  
8           which is a change to the plan?

9       MR. GROUT: I didn't take that to provide a specific  
10          direction to change something that was in the  
11          Integrated Fisheries and Management Plan.

12      Q     So there were no changes made, I guess, based on  
13          that comment? Or you saw no changes being  
14          required and you didn't make any changes?

15      MR. GROUT: Not to the Integrated Fisheries Management  
16          Plan document.

17      Q     What about in terms of management in-season? Did  
18          it change the process of management in-season?

19      MR. ROSENBERGER: No, it didn't.

20      MS. BAKER: Okay. Mr. Lunn, has that document found  
21          its way to you, yet?

22      MR. LUNN: Yes. It's just about... Sorry, it's just  
23          saving through. It should be available shortly,  
24          but I don't have it right now, if you want to keep  
25          going, or...

26      MS. BAKER:

27      Q     It's the document that we just referred to, which  
28          is the one with the minister's signature on it,  
29          which is being sent to Mr. Lunn right now.

30      MR. LUNN: I think this is it --

31      MS. BAKER: Oh. And can you just go through some of  
32          the -- see how many -- if we've got all of the  
33          schedules attached? All right, so what I'd like  
34          to do is mark the briefing note, which is just a  
35          five-page document that covered the schedules that  
36          Mr. Grout prepared, and that's right now in -- as  
37          the next exhibit.

38      THE REGISTRAR: Exhibit number 326.

39

40                   EXHIBIT 326: Fisheries and Oceans briefing  
41                   note, dated May 28, 2009, re: Approval of the  
42                   2009/2010 Integrated Fisheries Management  
43                   Plans for Salmon in Northern and Southern  
44                   B.C.

45

46      MS. BAKER: And then the next exhibit would be the  
47          document you just received electronically, which

1 has the briefing note that's been signed by the  
2 minister and has attached to it all of the  
3 schedules that actually form the full briefing  
4 note document. That's the next exhibit.

5 THE REGISTRAR: 327.

6

7 EXHIBIT 327: Fisheries and Oceans Canada  
8 Memorandum for the Minister, signed and dated  
9 June 16, 2009, re Approval of the 2009/2010  
10 Integrated Fisheries Management Plans for  
11 Salmon in Northern and Southern B.C., with  
12 attached schedules  
13

14

MS. BAKER: All right.

15

Q Now, I'd like to move to the in-season process.  
16 I'll just ask you, once you receive back the sign-  
17 off from the minister of the IFMP, you're in a  
18 position to start the in-season decision-making  
19 process; is that fair?

20

MR. ROSENBERGER: That's correct.

21

Q Okay. Have there been instances where you've had  
22 to make in-season decisions before that IFMP sign-  
23 off was obtained from the minister?

24

MR. ROSENBERGER: Just about every year.

25

Q Okay.

26

MR. GROUT: Usually, in that case, we're providing a  
27 separate briefing note outlining where those  
28 instances may occur.

29

Q All right. And how far into the season would you  
30 be before IFMP was signed off? Was it just a  
31 couple of weeks, or what are you looking at?

32

MR. GROUT: Typically, there's some fisheries that  
33 occur in June, where we'd be identifying to the  
34 minister that these could be going ahead prior to  
35 the formal sign-off of the IFMP.

36

Q And, of course, we're talking here about Fraser  
37 River sockeye. You'd actually be making fishing  
38 decisions on other species long before this was  
39 signed off; is that fair?

40

MR. GROUT: Yes, sorry, I should clarify. I was  
41 referring to all fisheries in the Pacific region  
42 that might be covered by the IFMP's and not Fraser  
43 River sockeye, specifically, as my remark.

44

Q Okay. And Fraser River sockeye, do you ever have  
45 to make in-season decisions on it before the IFMP  
46 comes back from the minister?

47

MR. ROSENBERGER: We regularly have potentially some

1 small First Nations fisheries that have either  
2 sockeye-directed fisheries or significant sockeye  
3 incidental harvest in the Chinook that would be  
4 occurring before the sign-off.

5 Q Okay. There's a transfer of -- there's regulatory  
6 control that is a transfer authority from DFO to  
7 the Fraser River Panel for in-season management of  
8 Fraser River sockeye and pinks, correct?

9 MR. ROSENBERGER: That's correct.

10 Q All right. And when that happens, does that  
11 really signify the beginning of the in-season  
12 phase of the year?

13 MR. ROSENBERGER: That's one way to characterize it,  
14 yes.

15 Q Okay. Does the Department of Fisheries and Oceans  
16 consult directly with -- sorry, let me back up.  
17 First of all, we have spent a lot of time, today,  
18 talking about all the different meetings and  
19 interactions that the department has with  
20 different groups in the planning process. Does  
21 any of that -- do any of those meetings or  
22 opportunities for feedback continue during the in-  
23 season phase of the year?

24 MR. ROSENBERGER: Yes.

25 Q Okay. Can you describe what kinds of meetings and  
26 communication happen during the in-season phase?

27 MR. ROSENBERGER: With the Sports Fish Advisory Board  
28 we typically have an in-person or a larger meeting  
29 late June, early July, which will lay out all of  
30 the expectations of the year, or key issues, and  
31 then every Tuesday afternoon throughout the season  
32 until mid September. So there's a weekly  
33 conference call over most of that period.

34 Q That's with the sport fishing group?

35 MR. ROSENBERGER: Sports fishing group, that's correct.  
36 So that's what they call the sockeye pink working  
37 group, so it's there to handle sockeye and pink  
38 fisheries across the south coast areas.

39 There also can be local area committee  
40 meetings to try to deal with any issues, you know,  
41 which might focus, for example, on the southern  
42 interior group on a Thompson River fishery around  
43 sockeye. So there could be smaller, specific  
44 issues. They tend to be called either by the  
45 department or the co-chair from the Sports Fish  
46 Advisory local committee.

47 First Nations meetings and process, there's a

1 few things. One is that we've established that  
2 there's what's called an open line, but we have --  
3 First Nations groups have access to listen to all  
4 panel meetings. They can't talk, at least they  
5 can't talk to the panel. They may be able to talk  
6 amongst themselves; I've never been on that side  
7 of the phone. So they can listen in on all the  
8 panel sessions.

9 On Thursday afternoon there's a session  
10 that's set up through the Fraser River Aboriginal  
11 Fisheries Secretariat, generally chaired by Mike  
12 Staley, other sockeye biologists or one of their  
13 salmon biologists, so he's also a member of the  
14 Fraser Tech Committee, so he has that specific  
15 information. He participates in all the panel  
16 meetings and the tech meetings. So he provides an  
17 overview of all of the information that would be  
18 current date of Thursday afternoon, given that  
19 Friday is often key time for panel decisions.

20 DFO participates in those processes.  
21 Initially, when they were set up, it was more of a  
22 joint process, but the First Nations were seeking  
23 to have more of their own people providing the  
24 information and their own interpretations of the  
25 data, but DFO does participate to make, you know,  
26 if there are any clarifications or issues that we  
27 want to raise.

28 If there are special issues, which occurred  
29 in 2009, which is the focus of the documents we  
30 were just looking at, then we might call other  
31 meetings, in which case we did in 2009, trying to  
32 deal with issues that weren't covered off in the  
33 Integrated Fisheries Management Plan.

34 There also has been meetings from some of the  
35 sub regional groups that I mentioned before. In  
36 particular, almost the last two or three years  
37 I've been more actively involved in this, the  
38 Upper Fraser Fisheries Conservation Alliance has  
39 held a meeting, quite often in July or later July,  
40 wanting to work through more specifics around some  
41 of their areas.

42 And then the local area bilateral meetings,  
43 First Nations to DFO, have a number of meetings.  
44 Some of them are set up as -- some of them are  
45 called fisheries working group meetings, some of  
46 them are the -- may not have a title, but if there  
47 are any planned fisheries changes, then the groups

1 would get together with the department to work  
2 their way through whatever the specifics might be  
3 of the fishing plan.

4 So in the lower Fraser area that occurs  
5 weekly, and sometimes multiple times a week. In  
6 the B.C. interior, much less so. And the same on  
7 the marine approach areas, where often the  
8 communal licenses cover larger periods of time and  
9 they don't necessarily change much with run size  
10 changes or anything like that. The lower Fraser  
11 area there's often meetings once or twice a week  
12 to work through fishing plan issues.

13 From the commercial side of things, the area  
14 harvest committees tend to meet, and quite often,  
15 for some of the committees with the department  
16 getting the same type of -- all of these groups  
17 are getting the same type of information that's  
18 coming out from the Fraser River Panel, so there's  
19 information sheets that occur -- that are provided  
20 by the Pacific Salmon Commission before each  
21 meeting, which typically is Tuesday and Friday.  
22 And that's not necessarily all worked through and  
23 all the details, but the key points that might  
24 affect a given group's interest, whether it's  
25 their catch to date and how much allowable catch  
26 they have left, or changes in run sizes, or  
27 whatever it might be.

28 So at that level the commercial folks have  
29 sessions, and they -- a number of them are as  
30 called either by a co-chair from the area harvest  
31 committee or by the department.

32 And then we have, on Thursdays -- Wednesday  
33 or Thursday at five o'clock - there's a schedule  
34 of these things, we've got them laid out for the  
35 season - all of the commercial harvest groups meet  
36 with the department and that session is generally  
37 led by the Fraser panel co-chair for all the  
38 commercial groups.

39 Q The Fraser Panel co-chair, would that be you?

40 MR. ROSENBERGER: No, Randy Brahniuk over the last two  
41 seasons.

42 Q And all of these meetings, are they on the DFO  
43 side, where do the people come from? Are they  
44 from FRIMT, from the integrated management team?

45 MR. ROSENBERGER: They would all be members of the  
46 Fraser River Integrated Management Team. Some of  
47 them are also panel members, and some of them are



1 from the tech committee.

2 Q Once the season has started and fishing has  
3 started, what responsibilities does the Department  
4 of Fisheries and Oceans have?

5 MR. ROSENBERGER: Is the question trying to split the  
6 Fraser panel decisions --

7 Q Right.

8 MR. ROSENBERGER: -- from the department's in-season?

9 Q Yes.

10 MR. ROSENBERGER: The department has responsibility  
11 that the panel does not for management of the  
12 recreational and First Nations fisheries in all  
13 waters and commercial fisheries outside of panel  
14 waters.

15 Q Okay. And within season, what are the  
16 responsibilities of the Fraser River Panel?

17 MR. ROSENBERGER: So the panel, in Canadian waters, has  
18 the responsibility for commercial fisheries within  
19 panel waters.

20 Q Okay. Does the Fraser River Panel make decisions  
21 with respect to run size and management  
22 adjustments, timing, those sort of things?

23 MR. ROSENBERGER: That's correct. So the Fraser River  
24 Panel is responsible for making the decisions. In  
25 this case, the Pacific Salmon Commission staff  
26 will, with tech committee, will develop a number  
27 of different options potentially around different  
28 aspects of run timing, management adjustments and  
29 the run sizes, and the panel is responsible for  
30 making the decisions. Whether, you know, which of  
31 those they adopt or other information that we  
32 might seek to have analysis done before there's  
33 anything adopted.

34 Q Who makes decisions with respect to food, social  
35 and ceremonial fisheries for First Nations?

36 MR. ROSENBERGER: The Department of Fisheries makes  
37 those decisions.

38 Q And is any information about those decisions  
39 provided to the Fraser River Panel Canadian caucus  
40 or the panel itself?

41 MR. ROSENBERGER: Yeah, that's right. We review, in  
42 our own caucus meetings, review all of the  
43 proposed fisheries and options. The caucus is  
44 not, in this case, there to debate the food,  
45 social and ceremonial fisheries. We do have  
46 discussions around order of fisheries, for  
47 example, in First Nations economic or

1 demonstration fisheries that are on the equal  
2 allocation footing with commercial fisheries. So  
3 there's some discussion on that side of things.

4 But all of the potential fisheries and, you  
5 know, which stocks -- we're looking to move stocks  
6 from the lower river to the upper river or which  
7 ones may be harvested, that type of discussion  
8 occurs so that we have a fulsome plan.

9 Q And that, sorry, that happens at the Canadian  
10 caucus level?

11 MR. ROSENBERGER: That's correct.

12 Q And are there discussions in the Canadian caucus  
13 with respect to recreational fisheries Canadian  
14 caucus of the Fraser River Panel? You've  
15 identified that rec fisheries are dealt with by  
16 DFO, so is there a crossover of information into  
17 the Canadian caucus?

18 MR. ROSENBERGER: That's correct. We review all of the  
19 recreational fisheries -- all the fisheries,  
20 commercial, recreational and First Nations, so  
21 that there's an understanding of them all and what  
22 the implications are to the various stocks.

23 At the panel level, though, as far as, you  
24 know, more decisions side of things, as I  
25 mentioned, that doesn't include the FSC side.

26 Q In case this hasn't been clear, yet, what is the  
27 Canadian caucus of the Fraser River Panel?

28 MR. ROSENBERGER: Well, it's Canadian membership of the  
29 Fraser River Panel. So each country has -- is  
30 entitled to have six members and six alternates,  
31 so there's potentially 12 people in the Canadian  
32 side, and it's representatives from the Department  
33 of Fisheries and Oceans, commercial interest  
34 processors, recreational and First Nation, and we  
35 have two observers, which are not panel members,  
36 from the Marine Conservation caucus.

37 Q So on the Canadian side, it includes all of those  
38 people for the Canadian caucus, and then those  
39 people join with the U.S. equivalent for a  
40 bilateral Fraser River Panel?

41 MR. ROSENBERGER: That's correct.

42 Q Okay. And commercial fisheries in non panel  
43 waters, I take it from what you said that they  
44 would also be discussed within the Canadian caucus  
45 so that there's an understanding of all the  
46 fisheries that are ongoing?

47 MR. ROSENBERGER: That's correct.

1 Q Okay. And then is there reporting out from the  
2 Canadian caucus to the bilateral processes to the  
3 numbers of fish that are intended to be caught in  
4 these other fisheries, or is that simply  
5 information that is useful for the Canadian caucus  
6 alone?

7 MR. ROSENBERGER: No, catch from all fisheries is  
8 provided to the Pacific Salmon Commission staff.  
9 They incorporate that into all of their analysis  
10 and into the reporting documents, so that that  
11 information is essential to make run size  
12 projections for the model -- in-season models to  
13 operate. So all of our catch data provided, you  
14 know, the department collects from various  
15 sources, is provided into the Pacific Salmon  
16 Commission.

17 Q Okay. And in season, how often does the Fraser  
18 River Panel meet? And I guess maybe if there's a  
19 difference between how often the Canadian caucus  
20 meets, as opposed to the bilateral meetings, you  
21 could explain that as well?

22 MR. ROSENBERGER: Yes, so panel meetings first, which  
23 is the bilateral process. Whenever we refer to  
24 the "panel" we mean the bilateral process. The  
25 panel meets at least twice a week. We tend to  
26 start late June or early July, but it's almost  
27 always late June and has been since I've been  
28 there. The sessions are every Tuesday and Friday  
29 as a minimum, and we often will hold other  
30 meetings as needed. If there's, you know, we're  
31 waiting for a piece of information or something.  
32 So over the last two years there's been four or  
33 five other meetings required, like two or three in  
34 a season. Those meetings carry on twice a week  
35 until about mid September, or essentially until  
36 the vast majority of the sockeye and pink have  
37 migrated through the system. In 2009, with the  
38 pink run, we went through until late September.

39 And then we will hold a final in-season  
40 meeting, we called it, which is usually late  
41 September or early October. There might be,  
42 though, a week or two break from the ending the  
43 twice a week calls.

44 On the caucus side of things, we'll meet  
45 before all of those panel meetings, often  
46 immediately after those panel meetings. We often  
47 caucus during those panel meetings. And the tech

1 committee meets usually Tuesday and Thursdays, and  
2 so after the tech meeting on Thursday we often  
3 hold a conference call of the caucus as well, to  
4 prep ourselves for the Friday morning session.

5 So in-season that's generally the meetings  
6 that we would have. There's other caucus meetings  
7 that we hold in preparation. Like, for example,  
8 we were meeting last week on some things, and  
9 we'll hold those periodically through the spring,  
10 but not on a -- not a formal schedule, but there  
11 would be three or four meetings to get ourselves  
12 into the start of the season in June.

13 Q All right. So you've beat me to the punch on one  
14 of my questions, which is how often does the tech  
15 committee meet? So that's good. Tuesday and  
16 Thursday, you said?

17 MR. ROSENBERGER: That's in-season.

18 Q In-season.

19 MR. ROSENBERGER: And they also hold -- they'll be  
20 meeting -- well, the tech committee meets during  
21 the annual PSC total process, so that's one week  
22 in January, one week in February. So they'll hold  
23 meetings during that time. They typically hold a  
24 two or three-day meeting in March, where they're  
25 going through a number of their technical issues,  
26 usually data-type issues. And then we'll hold a  
27 one-week meeting, about four days, where two days  
28 of tech and two days of panel, usually one in  
29 April and one in June, or May/June, that kind of  
30 thing, as we -- things like populating the model,  
31 getting updates on some of the data we talked  
32 about earlier here, of run timings, management  
33 adjustment, in-season information, and trying to  
34 confirm our pre-season model that we would use to  
35 help to frame the Canada/US fisheries in-season.

36 Q All right. And just in terms of breaking up the  
37 witnesses that have come for the first part of the  
38 harvest management hearings, we have -- we will be  
39 dealing with a lot of those meetings when Mike  
40 Lapointe is here, so I've tried to let him carry a  
41 lot of that burden and try and free you up to talk  
42 about other things, so I haven't, so far, talked  
43 about some of those processes during the pre-  
44 season, but we will definitely be dealing with  
45 that tomorrow.

46 In terms of in-season timing, you've said in-  
47 season the panel meets two times a week and the

1 tech committee meets two times a week as well.  
2 And then you talked about the caucus meeting  
3 around those meetings.

4 The tech committee, I just want to understand  
5 how that works. You have -- the tech committee  
6 meeting reviews the technical data that's going to  
7 be used for decision-making at the panel level; is  
8 that right?

9 MR. ROSENBERGER: That's correct.

10 Q And so that meeting happens right before you meet  
11 as a panel on the Tuesdays; is that right?

12 MR. ROSENBERGER: That's correct.

13 Q And then is there a longer meeting on Thursday?  
14 Why is it Thursday/Friday? Why are they not on  
15 the same day? Is it a longer meeting on Thursday  
16 and a longer panel meeting?

17 MR. ROSENBERGER: We tend not to start the Tuesday  
18 meeting until 10:00, 11:00, because we do it by  
19 conference call. The Friday meetings generally  
20 start -- we strive for 10:00, but we rarely start  
21 on time, just in case you want to call in later  
22 on. On the Friday session, there's not enough  
23 time, generally, to get things together, and they  
24 spend more time, I think, going through, you know,  
25 model deliberations and things like that, to  
26 understand the implications to them. So the end  
27 of the week is generally the larger meeting, and  
28 during the season we'll hold four to five,  
29 sometimes six of those panel meetings in person,  
30 so there's not an opportunity for staff to do  
31 their work and get to those sessions and be lined  
32 up for that.

33 MS. BAKER: Okay. Mr. Commissioner, what I was going  
34 to do, next was go to some of the materials that  
35 are used in-season, but I see it's at -- it's five  
36 minutes to 4:00. I'm wondering if you want me to  
37 start down that process? I can, but we are  
38 probably going to get interrupted by four o'clock,  
39 so what would you like to do?

40 THE COMMISSIONER: No, I think we should adjourn and  
41 then we can get underway tomorrow morning.

42 MS. BAKER: Okay. These witnesses will be back on  
43 Friday, but --

44 THE COMMISSIONER: All right.

45 MS. BAKER: But I think that will work well, because  
46 we'll have Mr. Lapointe come in and talk about  
47 some of the processes that Mr. Rosenberger just

1           talked about.

2           Now, before we close, though, I do have some  
3           housekeeping notes I was making about -- so I  
4           think we'll -- if that's fine with you --

5           THE COMMISSIONER: Yes.

6           MS. BAKER: -- we'll end with these witnesses for  
7           today, thank you very much, and they'll come back  
8           on Friday to continue.

9           There was some question in the room about  
10          whether we had a -- that's fine. There was some  
11          question in the room about whether there was a  
12          counsel meeting scheduled for tomorrow morning,  
13          and I understand there's not, just so if everybody  
14          -- if anyone had any questions, we're just  
15          starting our session at ten o'clock as normal  
16          tomorrow.

17          And I wanted to let counsel know, as well,  
18          that looking at where I am in my notes, they  
19          should be ready to start cross-exam on Friday. I  
20          think I'll be finished before lunch on Friday,  
21          with Mr. Rosenberger and Mr. Grout.

22          And I also wanted to ask counsel if they  
23          could talk to me about what their plans and timing  
24          is for cross-examination, because we have two days  
25          set aside for these witnesses on Monday and  
26          Tuesday, and I'm sure they'll be half a day on  
27          Friday available as well for cross-examination,  
28          and immediately after these witnesses we'll move  
29          to more of these panels that we have set up. And  
30          if we're not going to need all that time, I would  
31          kind of like to know sooner rather than later so  
32          that I might be able to reorganize some of those  
33          panels, as I'm worried a little bit about how much  
34          time we have set aside for them.

35          So if people could get back to me as soon as  
36          you can about what your expectations are, I might  
37          be able to reorganize some of the panels to start  
38          a bit earlier, if that's the likelihood.

39          So those are all my housekeeping matters for  
40          today. Thank you.

41          THE COMMISSIONER: Thank you very much, Ms. Baker. So  
42          I understand we'll adjourn until tomorrow morning.  
43          And is it Mr. Lapointe who will be in the witness  
44          box tomorrow morning?

45          MS. BAKER: That's correct.

46          THE COMMISSIONER: Thank you very much.

47          THE REGISTRAR: The hearing is now adjourned until ten

1 o'clock tomorrow morning.  
2

3 (PROCEEDINGS ADJOURNED AT 3:57 P.M. UNTIL  
4 TUESDAY, JANUARY 18, 2011, AT 10:00 A.M.)  
5

6 I HEREBY CERTIFY the foregoing to be a  
7 true and accurate transcript of the  
8 evidence recorded on a sound recording  
9 apparatus, transcribed to the best of my  
10 skill and ability, and in accordance  
11 with applicable standards.  
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14 \_\_\_\_\_  
15 Patricia Kealy  
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17 I HEREBY CERTIFY the foregoing to be a  
18 true and accurate transcript of the  
19 evidence recorded on a sound recording  
20 apparatus, transcribed to the best of my  
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22 with applicable standards.  
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I HEREBY CERTIFY the foregoing to be a true and accurate transcript of the evidence recorded on a sound recording apparatus, transcribed to the best of my skill and ability, and in accordance with applicable standards.

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Karen Hefferland

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