

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

Hearing for Standing

Audience relative au statut de  
partie intéressée

Commissioner

L'Honorable juge /  
The Honourable Justice  
Bruce Cohen

Commissaire

Held at:

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

Friday, March 26, 2010

Tenue à :

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

le vendredi 26 mars 2010



### Errata for the Transcript of Hearings on March 26, 2010

Page	Line	Error	Correction
1	2	March 23, 2010 / le 23 mars 2010	March 26, 2010 / le 26 mars 2010

APPEARANCES / COMPARUTIONS

Brian J. Wallace Brock Martland Kathy Grant	Senior Commission Counsel Associate Commission Counsel Junior Commission Counsel
Nicole Schabus	Cheam Indian Band
Margot Venton Judah Harrison	Conservation Coalition
Rob Miller	Carrier Sekani Tribal Council
Tim Dickson	Stó:lō Tribal Council
Robert Janes Karey Brooks	Adams Lake Indian Band Te'mexw Treaty Association
Don Rosenbloom	Area D Salmon Gillnet Association
Brent Lehmann	Maa-Nulth Treaty Society
Tina Dion Scott Bernstein	Tsawwassen First Nation
David Robbins	Cowichan Tribes Chemainus First Nation
Krista Robertson	Musgamagw Tsawatineuk Tribal Council
John Gailus Carly Chunick	Hwlitsum First Nation
Allan Donovan Rod Naknakim	Laich-Kwil-Tach Treaty Society
James I. Reynolds	Musqueam Indian Band
Brenda Gaertner	First Nations Fisheries Council

APPEARANCES / COMPARUTIONS, cont'd.

David Butcher	Southern Area (E) Gillnetters Assn. B.C. Fisheries Survival Coalition
Patti McAhonic Bill Otway	B.C. Wildlife Federation B.C. Drift Fishers Federation
Douglas White III Kwulasultun	Coalition of Douglas Treaty First Nations
Bertha Joseph Shannon Bentley	Council of Haida Nation
Gregory McDade, Q.C.	Alexandra Morton Raincoast Research Society Pacific Coast Wild Salmon Society
Jeffrey Young	David Suzuki Foundation
Ming Song Lisa Fong	Heiltsuk Tribal Council
Marguerite Parker	Aboriginal Aquaculture Association
Stephanie Albiston Gary Ducommun	Métis Nation British Columbia
Chris Sporer Don McLeod	Seafood Producers Association of B.C.
Chris Ashton	Area B Harvest Committee
Christopher Harvey	West Coast Trollers Area G Association
Irvin Figg Paul Kandt	United Fishermen and Allied Workers' Union local of CAW
Alan Blair Angela Cousins	B.C. Salmon Farmers Association

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## Opening Remarks / Observations préliminaires

Vancouver, B.C. / Vancouver (C.-B.)  
March 23, 2010 / le 23 mars 2010

1  
2  
3  
4 THE REGISTRAR: Order. The hearings for standing are  
5 now resumed. Commissioner Cohen is presiding.

6 THE COMMISSIONER: Good morning. I hope you can all  
7 hear me. I understand that the microphone here  
8 works pretty well, but there may be times when my  
9 voice drops off. And I ask you if for any reason  
10 you're not hearing what's going on, just raise  
11 your hand and I'll know that's a signal that  
12 either you want to leave the room for some reason  
13 or you can't hear me. So please don't be shy. I  
14 want to make sure that everybody who's here can  
15 hear what's going on. Mr. Wallace.

16 MR. WALLACE: Good morning, Mr. Commissioner. Bonjour,  
17 Monsieur le Commissaire. My name is Brian Wallace  
18 and I am the senior Commission counsel on the  
19 Cohen Commission of Inquiry.

20 Mr. Commissioner, I've invited a number of  
21 applicants for standing to attend this hearing  
22 today. The applicants who were asked to attend  
23 are those to whom it appears to Commission counsel  
24 may share interests in the issues within your  
25 Terms of Reference.

26 And I would like to thank all of those who  
27 have attended. We have one attendee who is in  
28 Colombia and on the phone.

29 As set out in my letter of last weekend, I am  
30 concerned that the number of potential  
31 participants will lead to an unnecessarily  
32 lengthy, unwieldy and costly process for this  
33 inquiry. You have received more than forty  
34 applications for standing, and some of those  
35 applications are already for groups of  
36 organizations. That much interest is, of course,  
37 a very good thing, but the management challenge is  
38 obvious.

39 Having read the applications, it appears to  
40 Commission counsel that the interests identified  
41 in some of the applications may be the same as or  
42 at least consistent with the interests of others  
43 in the issues that you're charged with  
44 considering.

45 I just would like to take a moment to briefly  
46 remind everyone of what your Terms of Reference  
47 are. The Order-in-Council establishing the

## Opening Remarks / Observations préliminaires

1 inquiry charged you, Mr. Commissioner:

- 2
- 3 - to review and assess previous
- 4 investigations, inquiries and reports on
- 5 the issues relating to the sockeye in the
- 6 Fraser River and the Government's
- 7 responses to them; and
- 8
- 9 - to consider the policies and practices of
- 10 the DFO with respect to the sockeye salmon
- 11 fishery in the Fraser River, including the
- 12 department's scientific advice, its
- 13 fisheries policies and programs, its risk
- 14 management strategies, its allocation of
- 15 departmental resources and its fisheries
- 16 management practices and procedures,
- 17 including monitoring, counting of stocks,
- 18 forecasting and enforcement.
- 19

20 Next, Mr. Commissioner, you are charged with:

- 21
- 22 - investigating and making independent
- 23 findings of fact regarding the causes of
- 24 the decline of Fraser River sockeye
- 25 salmon, including, but not limited to, the
- 26 impact of environmental changes along the
- 27 Fraser River, marine environmental
- 28 conditions, aquaculture, predators,
- 29 diseases, water temperature, and other
- 30 factors that may have affected the ability
- 31 of sockeye salmon to reach traditional
- 32 spawning grounds or reach the ocean, and
- 33 the current state of Fraser River sockeye
- 34 salmon stocks and the long term
- 35 projections for those stocks.
- 36

37 And finally, you are asked:

- 38
- 39 - to develop recommendations for improving
- 40 the future of sustainability of the
- 41 sockeye salmon fishery in the Fraser
- 42 River, including any changes to the
- 43 policies, practices and procedures of the
- 44 Department of Fisheries and Oceans in
- 45 relation to the management of the Fraser
- 46 River sockeye salmon fishery.
- 47

## Opening Remarks / Observations préliminaires

1           Mr. Commissioner, the purpose of this meeting  
2 is twofold. First, it is to try to have  
3 applicants form relationships solely for the  
4 purpose of representing their interests at this  
5 inquiry, cognizant that those representations are  
6 entitled to be represented fully and fairly, and  
7 to do so in a way that will allow you to conduct  
8 an inquiry that is thorough, fair, and that is  
9 conducted in a timely way. And it is to provide  
10 you with further submissions to assist you in  
11 determining who should be granted standing and on  
12 what basis.

13           And just to emphasize, in addition to asking  
14 applicants to agree to coalitions, I would ask  
15 them to consider and specify the specific issues  
16 in the Terms of Reference for which they seek  
17 standing.

18           Importantly, today's hearing is also intended  
19 to be the last opportunity for applicants to make  
20 an oral submission for standing. The Terms of  
21 Reference authorize the Commissioner to grant to  
22 any person who satisfies him that they have a  
23 substantial and direct interest in the subject  
24 matter of the Inquiry, an opportunity for  
25 appropriate participation in it. The Terms of  
26 Reference also allow the Commissioner to adopt any  
27 procedures and methods that he may consider  
28 expedient.

29           I note that you have done so by adopting  
30 rules for standing and funding. Those rules  
31 authorize you to direct that a number of  
32 applicants share a single grant of standing. I  
33 understand that you hope to be able to exercise  
34 the discretion to grant standing based on the  
35 written submissions you have already received from  
36 applicants and on what you learn in the hearing  
37 today. That's not to say that as the Inquiry  
38 progresses, decisions on standing cannot be  
39 revisited. The Commission's standing rules  
40 provide that the Commissioner will determine on  
41 what terms and in which parts of the Inquiry a  
42 participant may participate and the nature and  
43 extent of such participation. The Commissioner  
44 retains the discretion to vary a participant's  
45 participation or to rescind standing.

46           Some applicants have also applied to you for  
47 a recommendation to the Government of Canada for



## Roll Call / Appel

1 funding for legal representation before this  
2 Commission. This meeting is not for the purpose  
3 of making submissions on funding. Rather, I  
4 understand that if you believe you should learn  
5 more about an applicant's financial circumstances  
6 to support an application for a funding  
7 recommendation, you will invite those applicants  
8 to appear before you individually. Additionally,  
9 applicants for whom you decide a joint grant of  
10 standing is appropriate may be given an  
11 opportunity to appear before you on a different  
12 day to address funding issues.

13 Those are my opening remarks, Mr.  
14 Commissioner. The agenda, which I think everyone  
15 has seen, next calls for a roll call followed by  
16 initial reports from applicants, and I will ask my  
17 colleague, Brock Martland, to conduct that part of  
18 the session.

19 MR. MARTLAND: Thank you, Mr. Wallace. Mr.  
20 Commissioner. Brock Martland, M-A-R-T-L-A-N-D,  
21 and I'm one of the associate Commission counsel  
22 for this proceeding, for the record. With me is  
23 Kathy, with a "K", Grant, who is also a Commission  
24 lawyer. And my first item of business is  
25 relatively straightforward. What I'll be asking,  
26 since we have such a big group of folks here  
27 today, is that each of the applicants or their  
28 counsel please come forward in front of the  
29 microphone; whichever one is closest to you is  
30 fine. The routine with these microphones, for  
31 those who haven't appeared here, is that you need  
32 to push a button and ensure the red light is on in  
33 order to be amplified and heard by everyone.

34 And if we could briefly, please, have  
35 everyone do that, perhaps moving through counsel  
36 tables and then into the first few rows of people  
37 attending as applicants in the courtroom. And at  
38 the outset, if I could just confirm that joining  
39 us from Colombia by phone is Nicole Schabus,  
40 representing the Cheam.

41 MS. SCHABUS: Right. Nicole Schabus. I'm counsel for  
42 the Cheam Indian Band and I'm calling from the  
43 International Environmental Negotiations in Cali,  
44 Colombia. I'm (indiscernible - poor sound  
45 quality) and I very much thank the Commission and  
46 Commission counsel for accommodating this  
47 appearance.

## Roll Call / Appel

1 MR. MARTLAND: Thank you. And so if I could please ask  
2 counsel, perhaps we could begin at the far side of  
3 the room and I'll just have everyone -- we'll try  
4 and be comprehensive and make sure no one is  
5 missed, and please come forward and state and  
6 spell your last name for the record, indicate who  
7 else is with you as well as who you're appearing  
8 on behalf of. Thank you.

9 MS. VENTON: Mr. Commissioner, my name is Margot  
10 Venton. That's V as in Victor, E-N-T-O-N, and I'm  
11 here today with Mr. Judah Harrison, H-A-R-R-I-  
12 S-O-N. And we are here on behalf of six  
13 applicants which we refer to as the Conservation  
14 Coalition. The members of the coalition are the  
15 Coastal Alliance for Aquaculture Reform, Fraser  
16 Riverkeeper Society, Georgia Strait Alliance,  
17 Raincoast Conservation Foundation, Watershed Watch  
18 Salmon Society, and Mr. Otto Langer. Thank you.

19 THE COMMISSIONER: Thank you.

20 MR. MILLER: Mr. Commissioner, Rob Miller, M-I-L-L-E-R,  
21 counsel for the Carrier Sekani Tribal Council.

22 MR. DICKSON: Mr. Commissioner, Tim Dickson, D-I-C-K-S-  
23 O-N, for the Stó:lō Tribal Council.

24 MR. JANES: Mr. Commissioner, Robert Janes, J-A-N-E-S,  
25 and I'm here in two capacities today. Ms. Harvey  
26 is not available today so I'm attending for Adams  
27 Lake Indian Band, and Mr. Charlie Andrews of the  
28 Council of the Adams Lake Indian Band is here  
29 today. And I'm also appearing with Ms. Karey  
30 Brooks of our office for the Te'mexw Treaty  
31 Association.

32 MR. ROSENBLOOM: Mr. Commissioner, my name is Don  
33 Rosenbloom. I appear on behalf of the Area D  
34 Salmon Gillnet Association. Thank you.  
35 Rosenbloom, spelled R-O-S-E-N-B-L-O-O-M, for the  
36 record.

37 THE COMMISSIONER: Thank you, sir.

38 MR. LEHMANN: Good morning, Mr. Commissioner. My name  
39 is Brent Lehmann, L-E-H-M-A-N-N. I'm here with  
40 Mexus Tom Happynook from the Huu-ay-aht First  
41 Nations, and we are representing the Maa-Nulth  
42 Treaty Society. Thank you.

43 THE COMMISSIONER: Thank you.

44 MS. DION: Mr. Commissioner, my name is Tina Dion,  
45 D-I-O-N. I'm representing and here on behalf of  
46 Joe Arvay, who is lead counsel for the Tsawwassen  
47 First Nation. And with me I have Scott Bernstein,

## Roll Call / Appel

1 article student, B-E-R-N-S-T-E-I-N.

2 THE COMMISSIONER: Thank you.

3 MR. ROBBINS: Mr. Commissioner, my name is David  
4 Robbins, R-O-B-B-I-N-S. I'm appearing on behalf  
5 of the Cowichan Tribes. I'm also appearing on  
6 behalf of the Chemainus First Nation. Counsel  
7 Gary Campo is not available today and I'm here for  
8 both tribes.

9 THE COMMISSIONER: Thank you.

10 MS. ROBERTSON: Good morning, Mr. Commissioner. Krista  
11 Robertson, R-O-B-E-R-T-S-O-N, initial K., and I'm  
12 appearing for the Musgamagw Tsawatineuk Tribal  
13 Council. There's four nations in that council.

14 THE COMMISSIONER: Thank you very much.

15 MR. GAILUS: Mr. Commissioner, my name is John Gailus,  
16 G-A-I-L-U-S. I'm appearing here today along with  
17 Carly Chunick, C-H-U-N-I-C-K. She's back in the  
18 gallery somewhere. And we're appearing today on  
19 behalf of the Hwlitsum First Nation.

20 THE COMMISSIONER: Thank you.

21 MR. DONOVAN: Mr. Commissioner, Allan Donovan, D-O-N-O-  
22 V-A-N. I'm appearing on behalf of the Laich-Kwil-  
23 Tach Treaty Society. Rod Naknakim, N-A-K-N-A-K-  
24 I-M, general counsel with the Laich-Kwil-Tach  
25 Treaty Society, is also here today.

26 THE COMMISSIONER: Thank you.

27 MR. REYNOLDS: Mr. Commissioner, James I. Reynolds,  
28 R-E-Y-N-O-L-D-S, appearing for the Musqueam Indian  
29 Band. Thank you.

30 THE COMMISSIONER: Thank you.

31 MS. GAERTNER: Mr. Commissioner, it's Brenda Gaertner,  
32 G-A-E-R-T-N-E-R, and I'm here on behalf of seven  
33 applicants who at this point have already formed a  
34 coalition into one standing application, two of  
35 them umbrella organizations: the First Nations  
36 Fisheries Council, which is an umbrella  
37 organization on behalf of First Nations throughout  
38 the whole of the province; the Aboriginal Caucus  
39 of the Fraser River Aboriginal Fisheries  
40 Secretariat, which is an umbrella organization on  
41 behalf of the Fraser River watershed itself; and  
42 then the Secwepmc Fisheries Commission on behalf  
43 of the Shuswap Nation Tribal Council, which has  
44 ten member First Nations; the Upper Fraser  
45 Fisheries Conservation Alliance, which has four  
46 tribal organizations and 23 First Nations; and the  
47 Northern Shuswap Tribal Council, which has four

## Roll Call / Appel

1 First Nations; and the Chehalis Indian Band.

2 THE COMMISSIONER: Thank you very much.

3 MR. BUTCHER: Mr. Commissioner, I'm David Butcher and I  
4 am appearing for the Southern Area (E) Gillnetters  
5 Association and the B.C. Fisheries Survival  
6 Coalition.

7 THE COMMISSIONER: Thank you, Mr. Butcher.

8 MS. MacAHONIC: Good morning, Commissioner. My name is  
9 Patti MacAhonic, M-a-c-A-H-O-N-I-C, and with me  
10 today is Bill Otway on behalf of the B.C. Wildlife  
11 Federation and the B.C. Drift Fishers Federation.  
12 And our legal counsel, Keith Lowes, was unable to  
13 make it today, and his last name is L-O-W-E-S.  
14 Thank you.

15 THE COMMISSIONER: Thank you.

16 MR. WHITE: Good morning, Mr. Commissioner. My name is  
17 Chief Douglas White III Kwulasultun of the  
18 Snuneymuxw First Nation. I'm here today on behalf  
19 of the Coalition of Douglas Treaty First Nations.  
20 That includes the Snuneymuxw, Tsartlip First  
21 Nation, and Tsawout First Nation. Thank you.

22 THE COMMISSIONER: Thank you.

23 MS. JOSEPH: Mr. Commissioner, Bertha Joseph. With me  
24 is Shannon Bentley. J-O-S-E-P-H, B-E-N-T-L-E-Y.  
25 Our senior counsel, Terri-Lynn Williams-Davidson,  
26 is not available today. We're with White Raven  
27 Law. We are representing the Council of Haida  
28 Nation.

29 THE COMMISSIONER: Thank you very much.

30 MR. McDADE: Mr. Commissioner, my name is Gregory  
31 McDade. I'm representing -- that's spelled M-c-D-  
32 A-D-E.

33 THE REGISTRAR: I'm sorry, counsel. Would you just  
34 repeat that, please. We've got static.

35 MR. McDADE: Gregory McDade, M-c-D-A-D-E. I'm here  
36 with Ms. Alexandra Morton for the Raincoast  
37 Research Society and the Pacific Coast Wild Salmon  
38 Society.

39 THE COMMISSIONER: Thank you, Mr. McDade.

40 MR. YOUNG: Mr. Commissioner, I'm Jeffrey Young, Y-O-U-  
41 N-G, and I'm here from the David Suzuki  
42 Foundation.

43 THE COMMISSIONER: Thank you, Mr. Young.

44 MS. SONG: Good morning, Commissioner. My name is Ming  
45 Song, S-O-N-G. I am here with my co-counsel, Lisa  
46 Fong, F-O-N-G. And we are here on behalf of the  
47 Heiltsuk Tribal Council. Thank you.

## Roll Call / Appel

1 THE COMMISSIONER: Thank you.

2 MS. PARKER: Mr. Commissioner, my name is Marguerite  
3 Parker, P-A-R-K-E-R. I'm the executive assistant  
4 to Chief Richard Harry of the Aboriginal  
5 Aquaculture Association. Chief Harry and our  
6 counsel, Steve Kelliher, are unable to be here  
7 today.

8 THE COMMISSIONER: Thank you.

9 MS. ALBISTON: Mr. Commissioner, Stephanie Albiston.  
10 Last name is spelled A-L-B-I-S-T-O-N. I'm an  
11 articulated student with Joseph Geruluk Law Office.  
12 Gereluk is spelled G-E-R-E-L-U-K. We are  
13 representing Métis Nation British Columbia,  
14 appearing today with Mr. Gary, Ducommun, D-U-C-O-  
15 M-M-U-N, Director of Natural Resources, Métis  
16 Nation British Columbia. Thank you.

17 THE COMMISSIONER: Thank you.

18 MR. SPORER: Good morning, Commissioner. My name is  
19 Chris Sporer, S-P-O-R-E-R. I'm appearing today  
20 for the Seafood Producers Association of British  
21 Columbia. I'm here with Mr. Don McLeod, M-c-L-E-  
22 O-D.

23 THE COMMISSIONER: Thank you.

24 MR. ASHTON: Good morning, Mr. Commissioner. My name  
25 is Chris Ashton. That's A-S-H-T-O-N. And I'm  
26 appearing on behalf of the Area B Harvest  
27 Committee.

28 THE COMMISSIONER: Thank you.

29 MR. HARVEY: Mr. Commissioner, Christopher Harvey  
30 appearing on behalf of the West Coast Trollers  
31 Area G Association.

32 THE COMMISSIONER: Thank you, Mr. Harvey.

33 MR. FIGG: Mr. Commissioner, Irvin Figg, F-I-G-G. My  
34 colleague in the back, Paul Kandt, with a K-A-N-  
35 D-T, for the United Fishermen and Allied Workers'  
36 Union local of the CAW.

37 THE COMMISSIONER: Thank you, Mr. Figg.

38 MR. BLAIR: Mr. Commissioner, my name is Alan Blair,  
39 B-L-A-I-R. I'll be assisted by my associate,  
40 Angela Cousins, C-O-U-S-I-N-S. And we appear for  
41 the British Columbia Salmon Farmers Association.

42 THE COMMISSIONER: Thank you, Mr. Blair.

43 MR. MARTLAND: Mr. Commissioner, that's quite a  
44 line-up. I think we've covered everyone on my  
45 list, and that is helpful, I hope, for everyone to  
46 have a sense of who else is in the room today.  
47 By way of moving through the agenda for

## Submissions by Counsel / Représentations

1 today, one of the things we're looking to do early  
2 on is to call upon some of the groups that have  
3 already coalesced as a result of Mr. Wallace's  
4 letter of about a week ago. And you've heard some  
5 description and some of the applicants effectively  
6 came to us as coalitions and others have joined in  
7 the interim, in particular the B.C. Wildlife  
8 Federation and the Federation of Drift Fishers.

9 What I'd like to do at this point is simply  
10 call upon any of the applicants who are before you  
11 today to address you with respect to coalitions  
12 that have been formed and to indicate what that  
13 coalition group is and describe it for the  
14 Commission, please.

15 MR. ROSENBLOOM: Mr. Commissioner, I'm in a position to  
16 inform you as follows. Again, I represent the  
17 Area D Salmon Gillnet Association. That  
18 association represents the licensed Area D gillnet  
19 fishermen of that region.

20 Mr. Commissioner, a great deal of time has  
21 gone in, both by my clients and by myself, to  
22 carry out dialogue with various parties in an  
23 effort to seek some sort of arrangement wherein we  
24 can narrow our presentation to the extent of at  
25 least working jointly with other parties.

26 There are four fisher groups before you  
27 seeking application, Mr. Commissioner. They are  
28 my clients, the Area D Salmon Gillnet Association.  
29 There are the Area B Harvest Committee, which are  
30 seiners fishing in an overlap area with Area D and  
31 with a number of other areas. Thirdly, there's  
32 the Area E Gillnet Association represented by my  
33 friend Mr. Butcher, and that of course is also a  
34 gillnet fishery. And lastly, there is the West  
35 Coast Trollers Area G, and again, obviously, a  
36 troller fisher organization. Only four groups are  
37 before you seeking intervention status that are  
38 fishers and are catching the fish of the West  
39 Coast and the salmon of the Fraser River.

40 Now, Mr. Commissioner, I informed you that we  
41 have made every effort possible to seek some kind  
42 of alliance - my learned friend speaks of  
43 coalition - in any event, where parties can work  
44 together and appear with one counsel. And I am  
45 pleased to inform you that my clients, the Area D  
46 Salmon Gillnet Association, has worked out an  
47 arrangement wherein we will work cooperatively,

## Submissions by Counsel / Représentations

1 with myself as counsel, with Area B Harvest  
2 Committee, in other words the seiner group.

3 We are unable to form any wider coalition  
4 than that in terms of the four fisher groups that  
5 are before you. But I hope that at least speaks  
6 of our good intentions and that we will work  
7 cooperatively.

8 I should add, Mr. Commissioner, that with,  
9 for example, Area E Gillnet, represented by Mr.  
10 Butcher, Mr. Butcher and I have had exhaustive  
11 discussions about the common interest and the  
12 areas where it may be less than common interest.  
13 And I think all counsel recognize that the matters  
14 before you are complicated, they are challenging,  
15 and that it makes a lot of sense that where there  
16 are common interests that counsel work  
17 cooperatively. And in the case of my discussions  
18 with Mr. Butcher, who represents the other gillnet  
19 association that's before you, I think I can speak  
20 for Mr. Butcher in indicating that we intend to  
21 divvy up work where we have common interests so  
22 that we aren't simply tripping over each other  
23 presenting similar evidence on the same subject  
24 matter.

25 So the best we can do is my clients in a  
26 grouping with the Area B Harvest Committee, and we  
27 hope that that's of some assistance to you, Mr.  
28 Commissioner. Thank you.

29 THE COMMISSIONER: Most grateful, Mr. Rosenbloom.

30 Thank you very much.

31 THE REGISTRAR: Any further counsel that wish to come  
32 forward, would you kindly introduce yourself each  
33 time you speak, for the clarity of the record.

34 Thank you.

35 MR. MARTLAND: And if I might just interrupt for a  
36 moment, I understand that the phone line from  
37 British Columbia to Colombia, with an "O", has  
38 dropped. So if we could attempt to connect as  
39 we -- I think we should just carry on, Mr.  
40 Commissioner, and we'll give it our best efforts  
41 to try to reconnect that line as we move forward.  
42 Sorry, I interrupted.

43 MR. LEHMANN: Brent Lehmann. For the purposes of this  
44 question, I've been asked to speak on behalf of  
45 the Tsawwassen First Nation, the Maa-Nulth Treaty  
46 Society and the Musqueam Indian Band. These three  
47 applicants have had preliminary discussions and we

## Submissions by Counsel / Représentations

1 all three hold the view that we are able to work  
2 together. The Maa-Nulth Treaty Society represents  
3 five First Nations: the Huu-ay-aht First Nation,  
4 the Ka:'yu:'k't'h'/Chek'tles7et'h' First Nation,  
5 Toquaht Nation, Uchucklesaht Tribe, and the  
6 Ucluelet First Nation in the treaty that they have  
7 ratified with Canada and British Columbia. The  
8 effective date of that treaty is April the 1st of  
9 2011. So in many ways, the interest granted to  
10 the Maa-Nulth under that treaty relating to  
11 domestic fishing and their commercial fishery  
12 associated with that treaty are similar with the  
13 Tsawwassen First Nation, whose treaty came into  
14 effect on April 1st of 2010 -- sorry, April 3rd,  
15 2009.

16 We've had discussions and there are common  
17 interests. There are some obvious separate  
18 interests that we would want to be able to present  
19 to the Commission, but I think the commonality of  
20 the interests are sufficient to allow a single  
21 representation there with input from counsel for  
22 Maa-Nulth and Tsawwassen on their separate issues.  
23 The Musqueam Indian Band and the Tsawwassen First  
24 Nation are geographically very close to each  
25 other. I as told this morning they actually do  
26 some of their fishing together, so there's a  
27 commonality there. Although Musqueam is not under  
28 a treaty, some of their interests would be very  
29 similar to those of Tsawwassen. And Maa-Nulth and  
30 Tsawwassen and Musqueam have agreed to work  
31 together as a coalition in these proceedings.

32 THE COMMISSIONER: I'm grateful. Thank you, Mr.  
33 Lehmann.

34 MR. REYNOLDS: James Reynolds, counsel for Musqueam. I  
35 just want to be clear that Musqueam's position is  
36 very much that where there are unique issues that  
37 affect Musqueam, only Musqueam can speak to those  
38 issues. And of course Musqueam has had its  
39 aboriginal right to fish accepted by the Supreme  
40 Court of Canada in the *Sparrow* case.

41 Musqueam is eager to work with any other  
42 applicant, in particular First Nation applicants,  
43 where there are common interests. And it's  
44 already been pointed out by Mr. Lehmann that  
45 there's a commonality of interests especially with  
46 Tsawwassen, but Musqueam would like to work  
47 together. Whether that's correctly described as a



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1 coalition is something that I would like to  
2 reserve comment on because I'm not quite sure how  
3 that term is being used, how it will impact on  
4 things like funding, representation by counsel of  
5 choice. So those are the comments I would like to  
6 make on behalf of Musqueam. Thank you.

7 THE COMMISSIONER: Thank you very much, Mr. Reynolds.

8 MR. JANES: Mr. Commissioner, Robert Janes. And  
9 there's a group of us representing, first, the  
10 Te'mexw Treaty Association. And just to orient  
11 you a bit, the Te'mexw Treaty Association is a  
12 group of five First Nations in southern Vancouver  
13 Island who are all Douglas Treaty signatories and  
14 who are engaged in active treaty negotiations and  
15 have a particular interest with respect to the  
16 fisheries. We have had discussions with a couple  
17 of the other Vancouver Island groups. And I want  
18 to be clear how I want to characterize this. What  
19 we've discussed, and they are preliminary  
20 discussions, is that there are areas where we  
21 believe we can work together to be somewhat more  
22 efficient in the way in which our interests are  
23 advanced. However, there are divergences in our  
24 interests where we expect - and we are much like  
25 Mr. Reynolds in this respect - where we would  
26 likely want to be able to speak individually to  
27 these things. And we're still working out the  
28 details of this, but that's where we are.

29 And those would include Chemainus and  
30 Cowichan, represented by Mr. Robbins. We've also  
31 discussed with Chief White, who's representing the  
32 other Douglas Treaty group that was described to  
33 you. And also we've had discussions with  
34 Hwlitsum, represented by Mr. Gailus in this  
35 respect. So I wouldn't quite call us at the stage  
36 of a coalition yet. However, we do believe that  
37 there's ways in which we can work together to make  
38 it more manageable in terms of the toing and  
39 froing of counsel and examinations and the  
40 advancing of potential evidence.

41 THE COMMISSIONER: Thank you very much, sir.

42 MR. ROBBINS: Mr. Commissioner, David Robbins for the  
43 Cowichan Tribes and the Chemainus. And I'll just  
44 echo Mr. Janes's comments and add that the  
45 Cowichan Tribes are a band descendent from at  
46 least six local groups with villages in the  
47 Cowichan Valley on Vancouver Island. The

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1 Chemainus First Nation is a band descendent from  
2 at least two local groups with villages at or near  
3 the mouth of the Chemainus River on Vancouver  
4 Island. And the Cowichan Tribes and Chemainus  
5 First Nation, as indicated in their separate  
6 applications, are willing to be joint applicants,  
7 and in fact have agreed to be joint applicants.

8 THE COMMISSIONER: Thank you very much.

9 MR. GAERTNER: Brenda Gaertner. I wanted to speak a  
10 little bit about the concerns that have been  
11 raised around the word "coalition" and what it  
12 might mean and what are the kinds of assistance we  
13 may get from you around that. And I'll speak  
14 first from the applicants that I'm representing  
15 and then I'll mention a little bit more of what  
16 I've learnt since we received the letter.

17 First of all, from the applicants that I'm  
18 representing. As I explained in the roll call,  
19 I'm representing two larger umbrella  
20 organizations, the first one being the First  
21 Nations Fisheries Commission, which is a  
22 commission with a board of directors  
23 representative of all of the province of British  
24 Columbia fisheries communities and of course all  
25 of the interests reflected from the interception,  
26 approach, mouth and throughout the river. That  
27 organization can be extremely useful in  
28 coordinating common concerns and common interests.  
29 They cannot, however, speak on behalf of unique  
30 perspectives, unique geographical experiences and  
31 unique interests that any one First Nation may  
32 hold, either in conflict with others or at least  
33 in difference to others.

34 To start with, I think it's useful that the  
35 commission has instructed me to advise you that  
36 they are more than happy to provide a coordinating  
37 role amongst First Nations in British Columbia.  
38 That is one of their mandates as it relates to  
39 those common interests and common concerns.

40 The Fraser River Aboriginal Fisheries  
41 Secretariat is again another umbrella organization  
42 within the Fraser River itself and provides a  
43 coordinating role amongst what is commonly  
44 referred to as the lower, the middle and upper  
45 First Nations. Again, they do not speak  
46 specifically on behalf of title-holders or rights-  
47 holders, but they provide a significant

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1 coordinating role, a useful role in the  
2 experiences they've had working with DFO for the  
3 years that they've been in existence and can,  
4 again, provide assistance to Commission on that  
5 front.

6 And so you'll see that my standing  
7 application includes a complexity because I also  
8 then represent First Nations who are title-holders  
9 and who have a unique perspective and a unique  
10 interest. And they wanted me to impress on you  
11 the importance of not assuming that because there  
12 are effective umbrella organizations in the  
13 province that they would override in some way the  
14 unique perspectives and interests.

15 And so I am asking for standing that includes  
16 both of those nuances, both the ability to  
17 facilitate and bring forward common interests and  
18 concerns and have offered that to any of the other  
19 First Nation applicants that have contacted me  
20 since the letter. And for those that haven't been  
21 able to, we are prepared to do that, and then  
22 needing to support and provide room and  
23 flexibility for the unique interests and  
24 perspectives. And I know, given a couple of the  
25 conversations I've had, if that balance was both  
26 understood at this rather, I'm going to say,  
27 organic stage of the Commission, where we don't  
28 quite know how this is going to unfold and we need  
29 to see how the various different concerns and  
30 interests will unfold, if there is an ability to  
31 have that flexibility, I think coalitions can be  
32 formed.

33 So I'll use an example. It may be possible  
34 that the First Nations Fisheries Council can  
35 coordinate a fair bit of the voice as it relates  
36 to interests and concerns that all First Nations  
37 might have around global warming and the impacts  
38 of that. However, it may be extremely necessary  
39 for particular First Nations to articulate on  
40 their own behalf, either through me if I'm  
41 representing them directly, or through their own  
42 counsel, particular concerns they have in the  
43 geographical area in which they live. And if we  
44 can create that clarity going forward with this  
45 notion of a coalition, I think we're going to have  
46 a lot more comfort at the First Nation level.  
47 Without it I think we're going to have discomfort

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1 and a need to particularly watch for duplication  
2 and a constant brief on behalf of a whole bunch of  
3 First Nations.

4 I will need the flexibility to be able to  
5 say, well, yes, I'm counsel for all of these  
6 organizations. There will be times when I will  
7 need other counsel to stand up and speak on behalf  
8 of one of my own applicants or one of the  
9 applicants who may choose to join this coalition  
10 with this kind of clarity provided.

11 And so if there is flexibility not only in  
12 the approach but in the applications for funding  
13 that would allow for that type of coordination, I  
14 think that would be extremely useful.

15 THE COMMISSIONER: Thank you very much for those  
16 comments. I appreciate that.

17 MS. GAERTNER: One more concern that they have with  
18 respect to this -- and I'm just trying to go from  
19 memory of all these concerns. The allocation of  
20 time before the Commission would also be of  
21 concern. It would be, I think, an easy way of  
22 saying it is unfair to expect a coalition such as  
23 the one I'm representing to have the same amount  
24 of time allocated to them as one First Nation. I  
25 may have a lot more to say if I have to cover the  
26 entire Fraser River in more or less different  
27 perspectives. And so we'll have to be very  
28 careful about the allocation of both pages in the  
29 application -- I couldn't get my standing  
30 application even describing the different groups  
31 into the pages that were requested, and I won't  
32 necessarily be able to always speak within a short  
33 period of time.

34 THE COMMISSIONER: Thank you very much. Mr. Wallace.

35 MR. WALLACE: Mr. Commissioner, if I may, I would like  
36 to take the opportunity to respond to a couple of  
37 the general points that Ms. Gaertner made. But I  
38 wonder if it might be an opportunity now if we  
39 could just break for five minutes or three minutes  
40 to try and reconnect Colombia. I know that Ms.  
41 Schabus has an interest in these very issues.

42 THE COMMISSIONER: Yes. Thank you very much, Mr.  
43 Wallace. I don't know if you all heard that.  
44 Regrettably, our connection with Colombia in South  
45 America and our voice there that is representing  
46 the Cheam Band has been cut off for the moment.  
47 And as Mr. Wallace says, we're concerned to try

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1 and get that voice back on the speakerphone so she  
2 can hear what's going on here and address some of  
3 these points that you've been making.

4 So if you don't mind, and with your  
5 cooperation, let's take a five-minute break to see  
6 if we can reconnect, and then we'll continue with  
7 the agenda to allow those who want to address  
8 points along the lines that have already been  
9 addressed in the last fifteen minutes or so can  
10 continue before we take the morning break. Thank  
11 you very much.

12 THE REGISTRAR: The hearing will now recess for five  
13 minutes.

14  
15 (PROCEEDINGS ADJOURNED / LA SÉANCE EST  
16 SUSPENDUE)

17 (PROCEEDINGS RECONVENED / LA SÉANCE EST  
18 REPRISE)

19  
20 THE REGISTRAR: Order. The hearing is now resumed.

21 MR. WALLACE: Mr. Commissioner, if I may just respond  
22 to a couple of the general points that Ms.  
23 Gaertner made.

24 Commission counsel are of the view that we're  
25 seeking to have this Inquiry run fairly and  
26 efficiently. As a result, don't put too rigid an  
27 interpretation on a particular word choice. And  
28 the sort of opportunities for specific  
29 representation on specific interests may well be  
30 something that are appropriate and applications, I  
31 suggest, ought to be made at the time for those  
32 sorts of specifics. What we're trying to do at  
33 this stage is establish a framework which will  
34 allow this to work efficiently.

35 So in terms of finding the right mix, I  
36 invite counsel to use their imagination, and we're  
37 hearing that today and I'm grateful for those  
38 submissions.

39 I'd also say that that flexibility, I suggest  
40 to counsel, might also be exercised as this  
41 Inquiry progresses. And as somebody said, at this  
42 organic stage we're in a formative stage. We're  
43 trying to make this work. And if it turns out  
44 that a different arrangement makes more sense as  
45 we move along, then again I would invite counsel  
46 to make applications and engage in discussions to  
47 see if we can't do that.

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1                   So flexibility is what we're seeking in order  
2                   to get fairness and efficiency.

3       THE COMMISSIONER: Thank you, Mr. Wallace.

4       MR. WALLACE: Ms. Schabus is on the phone, I believe.  
5                   Are you there, Colombia?

6       MS. SCHABUS: I am there. Thank you.

7       MR. WALLACE: Thank you.

8       THE COMMISSIONER: Thank you, Mr. Wallace.

9       MR. OTWAY: Thank you, Mr. Commissioner. Bill Otway,  
10                  B.C. Wildlife Federation.

11                 Just a little background. We represent  
12                 38,000 individual members and 130 member clubs  
13                 throughout the length and breadth of British  
14                 Columbia. With the matter of coalition, we have  
15                 joined with the B.C. Federation of Drift Fishers  
16                 and will be working collectively with the same  
17                 counsel throughout this process hopefully.

18                 We have special interests, as the  
19                 organization and our members, particular to the  
20                 recreational fishing community, and we share some  
21                 of the views and some of the interests in a cross-  
22                 section of the other participants, and we hope and  
23                 expect to be working collectively with most of  
24                 them on these shared views and issues.

25                 But our major interests are divergent, and we  
26                 have very specific interests that we have to deal  
27                 with on behalf of our constituents and we are  
28                 anticipating full participation in all phases of  
29                 this process, which we hope will bring about some  
30                 major positive changes to the future of our  
31                 fisheries.

32       THE COMMISSIONER: Thank you very much, sir.

33       MR. JANES: Robert Janes, and I'm here in the capacity  
34                 of speaking for Adams Lake. And I can happily  
35                 advise you, with the assistance of the ten-minute  
36                 break, that Adams Lake has agreed that they are  
37                 able to work with Ms. Gaertner's group, that they  
38                 will apply with them, subject to -- you know,  
39                 we'll see how the funding applications and issues  
40                 work out as Ms. Gaertner alluded to. I'll work  
41                 with Ms. Gaertner to coordinate and to assist in  
42                 that in regard to the evidence and such like that.  
43                 But that's essentially the news there.

44       THE COMMISSIONER: Thank you very much, sir.

45       MR. YOUNG: Mr. Commissioner, Jeffrey Young, David  
46                 Suzuki Foundation.

47                 The David Suzuki Foundation applied for

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1 independent participant status because we feel  
2 that we have the capacity, diversity of experience  
3 and direct interests to be a meaningful  
4 participant throughout the Inquiry. We also think  
5 there could be some value in having more than one  
6 conservation participant, particularly given the  
7 likelihood that there will be multiple First  
8 Nations and industry participants.

9 However, we have also spoken with the  
10 Conservation Coalition and would be willing to  
11 join them if that was the decision of the  
12 Commission.

13 THE COMMISSIONER: Thank you very much, Mr. Young.

14 MS. VENTON: Mr. Commissioner, Margot Venton. I'm here  
15 today on behalf of the Conservation Coalition.  
16 And I wanted to make a few comments about  
17 representation of the conservation interest in the  
18 Inquiry.

19 There are about ten separate organizations  
20 who have applied for participant standing to  
21 represent the conservation interest in the  
22 Inquiry. Six of those groups have already banded  
23 together as part of the Conservation Coalition and  
24 a number of those six had initially considered  
25 applying on their own and then, seeing the  
26 direction of the Commission, decided that they  
27 would put a joint application in. And we have  
28 spoken among ourselves and agree that if it is the  
29 Commission's direction that the David Suzuki  
30 Foundation should join us, we are more than happy  
31 to have them come and join the coalition.

32 The Conservation Coalition has made a  
33 standing application to participate throughout the  
34 Inquiry on all issues that are considered by the  
35 Inquiry, and that puts us in a different position  
36 than the other coalition of three conservation  
37 groups represented by my friend, Greg McDade. And  
38 we have spoken with Mr. McDade about his clients'  
39 interests and understand that they are interested  
40 in participating on one specific issue with  
41 relation to aquaculture and its impacts on the  
42 Fraser River salmon. And we think it makes quite  
43 a bit of sense that we continue to have separate  
44 representations as our clients' interests are  
45 broader, and we want to ensure representation  
46 throughout. That is going to involve a certain  
47 amount of consistent participation. But we are in

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1 agreement that, to the degree that we can avoid  
2 duplication, that we can work collaboratively  
3 together between counsel to ensure there isn't  
4 repetition on the issue of aquaculture. We'll  
5 make every effort to do so, but we would recommend  
6 that those two separate groups continue to be  
7 separately represented. Thank you.

8 THE COMMISSIONER: Thank you very much. Mr. McDade.

9 MR. McDADE: Mr. Commissioner, Greg McDade for  
10 Alexandra Morton and the Raincoast Research  
11 Society and Pacific Coast Wild Salmon Society.

12 I wasn't going to stand up at this point  
13 because I understand you're looking for reports of  
14 success. But my friend, Ms. Venton, having  
15 spoken, I think we agree with the submissions that  
16 she's made. The group I represent is in a  
17 somewhat unusual position in that we've been very  
18 clear in our application that we are focused on  
19 one issue, and that is the effects of aquaculture  
20 on the wild salmon. Ms. Morton has been a very  
21 significant scientific voice that's been largely  
22 responsible for the identification of the sea lice  
23 problem and disease problems and lately the  
24 connection to the Fraser River, and it's very  
25 important, in my submission, that the Commission  
26 hear from her. But it shouldn't interfere greatly  
27 in terms of efficiency in that -- I'm not quite  
28 sure how we'll divide this up yet once the  
29 Commission gets a better sense of its schedule,  
30 but that we're looking to participate only in a  
31 very limited role.

32 There may still be some success to be  
33 reported this morning. There are other groups,  
34 not conservation groups. There's a fisheries  
35 group and a First Nations group that also has a  
36 very strong focus on aquaculture issues, and we're  
37 talking together to see if there's some common way  
38 to work those matters out. But I think that that  
39 will take a little bit more work and maybe some  
40 discussion with Commission counsel as to how these  
41 things are going to be divided up and scheduled.

42 THE COMMISSIONER: I'm much obliged, Mr. McDade. Thank  
43 you, sir.

44 MR. DONOVAN: Mr. Commissioner, Allan Donovan for the  
45 Laich-Kwil-Tach Treaty Society.

46 Unlike Mr. McDade, I'm here to talk about  
47 success, but not complete success. The Laich-



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1 Kwil-Tach Treaty Society is a coalition in itself.  
2 We've heard the Commission's message prior to  
3 applying for participant status, and the Laich-  
4 Kwil-Tach is the coming together of all of the  
5 Kwak'wala-speaking peoples, the Wei Wai Kum  
6 Nation, the Wei Wai Kai Nation, and the Kwiakah  
7 Nation. The goal there was to come together to  
8 the Commission to present some what we view as  
9 critical historical information about the promises  
10 made by Canada to the First Nations - to these  
11 First Nations and others on the coast - concerning  
12 their continued ability to obtain a livelihood  
13 from the sea and the related provision of  
14 completely inadequate reserves for anything other  
15 than a livelihood based on fishing.

16 At the Commission's suggestion, we've had  
17 discussions with the Haida, the Heiltsuk and the  
18 Terms of Reference Tsawataineuk Tribal Council,  
19 which on the surface seem like a very good fit  
20 because all of these are First Nations that are  
21 coastal, that have not entered into a treaty and  
22 that have similar histories with respect to  
23 reserve allotment. On further discussion between  
24 counsel, it appears that, in particular with a  
25 couple of those First Nations, the main focus is a  
26 very strong opposition to aquaculture. And the  
27 Laich-Kwil-Tach Treaty Society's submission  
28 doesn't mention aquaculture. Their view is more,  
29 on that issue, that they want to be led by the  
30 right science, whatever that may be.

31 So those discussions on that form of  
32 coalition are ongoing and counsel are trying to  
33 see whether something could be worked out there.  
34 But I can say that, with respect to other members,  
35 other potential participants, you heard from Chief  
36 Harold Sewid of the Mamalilikulla Qwe Qwa Sot Em  
37 on Monday and James Walkus of the  
38 Gwa'Sala'Nakwaxda'xw First Nation, also on Monday.  
39 Both of these have a life in commercial fishing  
40 and have a perspective as aboriginal people  
41 bringing their expertise and having seen what has  
42 happened to the aboriginal commercial fishing  
43 fleet and livelihood over the last number of  
44 decades. That's a coalition that we believe, from  
45 our client-to-client discussions, will work. And  
46 we'll have to work out the details, but it sounds  
47 like the perspective is very similar.

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1           And similarly, discussions between clients  
2           with the Aboriginal Aquaculture Association, which  
3           is another potential participant here today. That  
4           group represents 17 First Nations and provides  
5           services to 35 First Nations in total. Its focus  
6           is on sustainable aquaculture, and in particular  
7           in ensuring that aboriginal peoples continue to  
8           enjoy their right to a livelihood from the sea.  
9           And so we've got every indication that that will  
10          be a successful coalition partner.

11          So that's where the Laich-Kwil-Tach Treaty  
12          Society is at right now. So we're pretty clear  
13          that we'll have a coalition there between at least  
14          four potential participants and we'll definitely  
15          continue discussions with others.

16        THE COMMISSIONER: I'm very grateful, Mr. Donovan.  
17          Thank you, sir.

18        MR. DICKSON: Mr. Commissioner, Tim Dickson for the  
19          Stó:lō Tribal Council.

20          Mr. Commissioner, the tribal council is  
21          comprised of eight First Nations along the Fraser  
22          and its tributaries from Langley to Hope, and  
23          among those First Nations is the Cheam. They  
24          have, as Ms. Schabus may tell you after, some  
25          distinct issues from the tribal council as a  
26          whole.

27          But we are very much willing to team up and  
28          work together collaboratively except where those  
29          distinct issues arise. As you've heard from other  
30          coalitions, we would ask for the ability to -- for  
31          separate counsel to speak to those issues on  
32          behalf of their separate clients.

33          Further, Mr. Commissioner, we would very much  
34          seek to collaborate with other groups on issues.  
35          We'd like to have separate standing but we would  
36          very much reach out and try to work cooperatively  
37          with other First Nation groups so as there is no  
38          duplication where the perspectives are shared.

39          And I imagine as we go forward that we would  
40          be able to identify issues among such groups and  
41          divvy them up so that a group takes one issue  
42          forward. But at this stage it's difficult to do  
43          that ahead of time. But that would very much be  
44          our attitude, and we would be looking to make this  
45          process as streamlined and as focused and  
46          effective as possible. Thank you.

47        MR. MARTLAND: Mr. Commissioner, if I might suggest,

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1 Ms. Schabus is on the line and that's maybe an  
2 opportune time for her to address you.

3 MS. SCHABUS: Mr. Commissioner, can you hear me?

4 THE COMMISSIONER: Yes, I can, Ms. Schabus. Thank you.

5 MS. SCHABUS: Perfect. Mr. Commissioner, thank you for  
6 allowing me this opportunity to speak, and just to  
7 reiterate with Mr. Dickson that we are ready to  
8 work together as one applicant, as the Stó:lō  
9 Tribal Council and Cheam, sharing and co-  
10 counselling the application and seeking full  
11 standing throughout the Inquiry. And we are  
12 seeking that Cheam can address all issues  
13 especially relating to allocation, management and  
14 enforcement.

15 I don't want to go into too much detail, of  
16 course. Written submissions are before the  
17 Commission. But the Cheam people, who are part of  
18 the Pilalt Tribe and the Stó:lō Nation, have a  
19 very strong (indiscernible - poor sound quality)  
20 tradition asserting their inherent rights. And  
21 also their geographic location directly on the  
22 Lower Fraser River has created a strong  
23 relationship with the river and the Fraser River  
24 salmon, and their livelihoods are directly  
25 impacted by the decline of the Fraser River  
26 salmon. It's at the core of their life, their  
27 economy and their culture.

28 The Cheam people have been very strong at  
29 asserting their inherent rights, which has made  
30 them a target of enforcement activities by the  
31 (indiscernible) which has taken away from  
32 management activities and creates an adversarial  
33 relationship and results in their indigenous  
34 knowledge not being taken into account to the  
35 extent that it should be to ensure the sustainable  
36 management of the resource. So our position is  
37 also going to be that there is an indigenous  
38 dimension to conservation and management. DFO  
39 does not have exclusive jurisdiction over those  
40 issues.

41 And we also want to point the Commission to  
42 international minimum standards that could form  
43 the basis for recommendations by the Commission.

44 So again, like Mr. Dickson indicated, we are  
45 ready to work as one with the Stó:lō Tribal  
46 Council, both Cheam and Stó:lō Tribal Council  
47 sharing the standing. We are ready to collaborate

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1 with others and work on specific issues, but we  
2 are seeking full standing throughout the  
3 Commission to address those issues. And we are  
4 going to seek the (indiscernible) necessary to  
5 invoke the discretionary provision to allow  
6 (indiscernible) necessary to address such issues  
7 as allocation, management and enforcement.

8 THE COMMISSIONER: Thank you very much, Ms. Schabus,  
9 for --

10 MS. SCHABUS: Those would be my submissions. Thank  
11 you.

12 THE COMMISSIONER: Thank you.

13 MR. MILLER: Mr. Commissioner, Rob Miller for the  
14 Carrier Sekani Tribal Council.

15 I'd like to thank Ms. Gaertner, Mr. Reynolds,  
16 Mr. Dickson and others for quite eloquently  
17 stating some of the issues and concerns that the  
18 Carrier Sekani share.

19 The Carrier Sekani Tribal Council is already  
20 a coalition of eight nations in the Nechako  
21 watershed whose combined territory is over 78,000  
22 square kilometres. These nations are not applying  
23 for independent standing but are applying through  
24 the Carrier Sekani Tribal Council.

25 These communities have inhabited the Nechako  
26 watershed and other important Fraser watershed  
27 lakes and rivers for thousands of years. These  
28 communities know that area intimately, have a  
29 special and unique connection to the land, water  
30 and salmon, and have always played a special  
31 stewardship role in respect of Fraser River  
32 sockeye.

33 They view participation in the Commission as  
34 an extension of that stewardship role that they  
35 have served for thousands of years. No other  
36 group, to our knowledge, can claim as strong a  
37 connection to the Nechako River, the Stuart River,  
38 the Middle River, the Nautley River, the Stellako  
39 River, the Driftwood River, the Tachie River, to  
40 name a few, than the Carrier Sekani. Almost 25  
41 percent of the Fraser River sockeye originate in  
42 these rivers.

43 So the Carrier Sekani is very much willing to  
44 cooperate with applicants like the First Nations  
45 Fisheries Council, like the Upper Fraser Fisheries  
46 Alliance, represented by Ms. Gaertner, and we've  
47 had some conversations with Ms. Gaertner to that

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1 effect. We've also had some conversations with  
2 the Stó:lō about cooperating with the Stó:lō and  
3 potentially other First Nations where we share  
4 common issues. And we anticipate, having looked  
5 at the Terms of Reference, that there will be a  
6 large number of common issues, and we're committed  
7 to ensuring that the process runs efficiently and  
8 that there isn't unnecessary duplication on those  
9 issues.

10 However, our position at this time is that  
11 the Carrier Sekani would very much like  
12 independent standing and an ability to be heard  
13 independently outside of any coalition if the need  
14 arises and if there is a divergence of interests.  
15 The Carrier Sekani will have unique interests in  
16 some of the matters before the Commission and  
17 would very much like an opportunity and a voice to  
18 express their concerns regarding those issues.  
19 Thank you.

20 THE COMMISSIONER: Thank you very much. Mr. Harvey.

21 MR. HARVEY: Thank you, Mr. Commissioner. Christopher  
22 Harvey for the West Coast Area G Trollers.

23 I just wanted to say something with respect  
24 to the three groups which we have now reduced from  
25 four fisher groups, commercial fishers. First of  
26 all, to bear in mind that the licensed commercial  
27 fishers account for somewhere in the region of 95  
28 percent of the uptake of the fish, so it's a  
29 significant group, and in a sense are already  
30 under-represented with three fisher groups before  
31 the Commission.

32 The Area G Trollers fish on the west coast of  
33 Vancouver Island. They fish from five miles  
34 offshore to up to 30 miles offshore. So in a  
35 sense, they are representing the -- their interest  
36 is focused to a large extent on the marine  
37 environment, the ocean environment. They are the  
38 first eyes to the fish, reporting the fish as they  
39 come in. The group that Mr. Rosenbloom spoke on  
40 behalf of, as I understand it, are the east coast  
41 of Vancouver Island, the Johnstone Strait area,  
42 Broughton Archipelago, an area which has a large  
43 concentration of fish farms. The Area E Gillnet  
44 Association, Mr. Butcher's group, is the river  
45 fisher group. So with respect to one of the many  
46 issues there will be in the Commission as between  
47 ocean interception fisheries, in-river fisheries

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1 and terminal fisheries, these three groups can  
2 bring a perspective and somewhat of a different  
3 perspective in that.

4 Basically what I'm saying is that these three  
5 groups, as I understand it, can bring a wealth of  
6 practical experience to the Commission and assist  
7 the Commission in what is the common interest of  
8 everyone here, that is to determine the reasons  
9 for the decline of the sockeye and hopefully  
10 reverse the decline.

11 So I would urge you with respect to the  
12 Area G Trollers to allow standing and to not cut  
13 down the representation which seems to be now  
14 coalesced into three groups from the commercial  
15 fishing sector. Thank you.

16 THE COMMISSIONER: Thank you, Mr. Harvey. Mr. Butcher.

17 MR. BUTCHER: Mr. Commissioner, it's David Butcher for  
18 the -- I have two industry clients, one of whom,  
19 the Pacific Fisheries Survival Coalition, has  
20 support from many sectors in the industry, and one  
21 of whom has a membership drawn from a very finite  
22 geographical area as just described by Mr. Harvey,  
23 is the southern end of Vancouver Island and the  
24 Fraser River up to Mission.

25 It is true that Mr. Rosenbloom, Mr. Harvey  
26 and I represent different sectors with different  
27 interests, and there are going to be times when we  
28 will all, in my submission, have to represent  
29 their separate and specific interests. And so we  
30 remain with our separate applications before you.

31 But what I can tell you - and this is the  
32 successful part of our discussions in the last  
33 week or two, and indeed in the last few months as  
34 the fishery groups have talked together about  
35 bringing their applications before you - is we do  
36 share some common interests. And in fact, we  
37 share not only common interests with each other,  
38 but there may be some areas where we have common  
39 interests with other groups unrelated to the  
40 commercial fishery, and it will be our approach  
41 here to work cooperatively with those other groups  
42 in those areas where we share a common interest.

43 But we can't escape the fact that we have separate  
44 and specific interests that have a continuing need  
45 for independent representation here. Thank you.

46 THE COMMISSIONER: Thank you, Mr. Butcher.

47 MR. SPORER: Mr. Commissioner, my name is Chris Sporer

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1 with the Seafood Producers Association of British  
2 Columbia.

3 The Seafood Producers Association of British  
4 Columbia is a coalition of eight seafood  
5 processing companies in British Columbia. Our  
6 members probably purchase and process  
7 approximately 75 percent of the commercially  
8 caught halibut in British Columbia.

9 Our membership considered in our application  
10 for standing working with other groups, and as  
11 you've heard from other groups today, we feel  
12 we've got some unique interests. We're the  
13 processing sector. We're the only organization  
14 representing processing interests. We bring a  
15 market perspective as we deal with consumers,  
16 people directly buying the fish. So we would sort  
17 of seek the -- try to maintain our independent  
18 standing. However, we do recognize, as other  
19 groups have mentioned, that there will be issues  
20 where we'll probably have similar interests and  
21 work cooperatively. That would be our approach on  
22 certain issues that come up where our interests do  
23 align. But at this time we're -- in discussions  
24 with our members, given our sort of unique  
25 perspective, we're seeking to maintain our  
26 standing. Thank you.

27 THE COMMISSIONER: Thank you. Chief White.

28 MR. WHITE: Mr. Commissioner, Chief Douglas White from  
29 the Snuneymuxw First Nation speaking on behalf of  
30 Tsawout and Tsartlip.

31 We're a group of three First Nations, Coast  
32 Salish nations, on Vancouver Island that each have  
33 Douglas Treaty rights in relation to this fishery.  
34 When the Commission sent out the letters of  
35 invitation for standing, we took the opportunity  
36 to form this group to come before you so that we  
37 could present our common interests in a more  
38 effective fashion.

39 I want to echo what has been said by many of  
40 the counsel before me, that we do have common  
41 interests with other groups, whether it's with  
42 Mr. Janes' group, the Te'mexw Treaty Society,  
43 which is another group of nations that have  
44 Douglas Treaty rights, or whether it's the group  
45 under Brenda Gaertner and the First Nations  
46 Fisheries Council. I want you to know that we're  
47 open to the idea that we can work more effectively

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1 if we're working collaboratively with those  
2 groups, but that we nonetheless do have very  
3 unique interests in relation to this fishery under  
4 our treaties, and we would want to maintain  
5 independent standing and the ability to speak on  
6 behalf of our own interests and perspectives on  
7 certain matters.

8 But to the extent possible, we're open to  
9 continuing to discuss with the other groups how we  
10 may come together to work more effectively and  
11 efficiently in front of the Commission. So I  
12 wanted to share that thought with you.

13 THE COMMISSIONER: Thank you very much, Chief. Thank  
14 you. Mr. Martland.

15 MR. MARTLAND: Mr. Commissioner, I rose slowly just to  
16 ensure that there wasn't anyone who still wanted  
17 to come forward to address you.

18 THE COMMISSIONER: I think there is, Mr. Martland.  
19 Sorry.

20 MR. MARTLAND: Thank you.

21 MS. DION: My apologies. Tina Dion on behalf of  
22 Tsawwassen First Nation.

23 I just wanted to follow up with the comments  
24 of Mr. Reynolds for his client, the Musqueam First  
25 Nation. I appreciate that we are looking for  
26 flexibility. However, I just wanted to draw to  
27 the attention of Mr. Commissioner that for the  
28 Tsawwassen First Nation, while we are prepared and  
29 happy to work with other First Nations, we in our  
30 submissions - and we were careful in putting those  
31 together - Tsawwassen First Nation is the only  
32 First Nation currently that has a full treaty in  
33 effect. Under the treaty, the treaty established  
34 a number of different schemes. One of them is a  
35 joint fisheries committee which works with Canada  
36 and other parties - the Province, for example - to  
37 work towards assessing, planning and managing the  
38 fishery. And as a result of the treaty, our view  
39 is that while we have some common interests with  
40 other First Nations, we certainly from the treaty  
41 perspective are the only First Nation represented  
42 here that has a full treaty in place.

43 The other issue is that we set out four  
44 issues in our submissions that align quite nicely  
45 with the work of the Commission here, and felt  
46 that we could bring forward certainly some unique  
47 perspectives given our status as a treaty First



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1 Nation. That doesn't take away from our  
2 willingness to work with Maa-Nulth and Musqueam.  
3 But we wanted to echo that we would certainly be  
4 looking to be leading our own evidence and  
5 bringing forward our issues through our counsel,  
6 Mr. Arvay.

7 And I just wanted to also reiterate that  
8 we've set aside some funding in order to allow us  
9 to do that. I just wanted to make those comments  
10 before the close of counsel's comments.

11 THE COMMISSIONER: Thank you very much, Ms. Dion.

12 MR. GAILUS: Mr. Commissioner, my name is Gailus, first  
13 initial J.

14 As I said in my opening comments, I represent  
15 the Hwlitsum First Nation, which is kind of unique  
16 First Nation in that although they're involved in  
17 the B.C. treaty process at Stage 2, we're still  
18 working out the details of what their status is  
19 with the Government of Canada.

20 The Hwlitsum First Nation would represent a  
21 unique interest in that not only are they Section  
22 35 rights holders; they also have several  
23 commercial fishers as part of their membership.  
24 So we submit they have a substantial and direct  
25 interest in this proceeding.

26 The preference of my clients would be that  
27 they be granted standing on their own. But as you  
28 heard earlier today, we've had some discussions  
29 with counsel for Te'mexw, Cowichan and Chemainus  
30 about ways that we could possibly work together on  
31 this.

32 Just by way of background, the Hwlitsum First  
33 Nation is a Hul'qumi'num-speaking community, so  
34 they have relationships with the Hul'qumi'num  
35 speakers -- Chemainus, Cowichan, Penelakut, that  
36 Hul'qumi'num Treaty Group, which is on Vancouver  
37 Island.

38 As I said, there've been some preliminary  
39 discussions, but I think we need to work those  
40 out. And I'd echo many of the comments that we've  
41 heard from counsel, and that if we are going to  
42 form a group together, we would try to coordinate  
43 submissions. But there are some unique  
44 perspectives that each of the parties, I think,  
45 would want to put forward on their own in this  
46 Commission.

47 And I think it should be up to counsel

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1 working together to come up with these creative  
2 solutions that address the interests that we've  
3 heard from Commission counsel today and ensure  
4 that both the First Nations' interests, the  
5 commercial fishers' interest, all of the other  
6 groups, but also the Commission's interest itself  
7 are best served in this process.

8 THE COMMISSIONER: Thank you very much, sir. I think  
9 there was one other, Mr. Martland, just behind  
10 you.

11 MR. MARTLAND: There may have been. And if I might  
12 just preface that, though, by indicating this,  
13 because I've had a few inquiries. Our game plan,  
14 such as it is, was to permit -- we've had a series  
15 of requests for counsel and applicants to take  
16 some time to meet. We've arranged indeed private  
17 meeting rooms for that to take place. So just to  
18 assist in the process, for those who may be  
19 engaged in further associating with others, we  
20 will be looking to stand down and allow that to  
21 happen.

22 THE COMMISSIONER: Thank you.

23 MS. JOSEPH: Bertha Joseph for Council of the Haida  
24 Nation.

25 I want to confirm that our client is  
26 interested in working cooperatively with other  
27 First Nations groups. Mr. Donovan did indicate  
28 that we have had a meeting of about four different  
29 groups. We continue to examine that. We also are  
30 interested in having further discussions with the  
31 Fisheries Council, so we do require time to be  
32 able to do that. I want to confirm as well that  
33 as stated by other counsel, that we would like to  
34 also continue to have the right to be able to  
35 present our unique perspective in the hearing.  
36 Thank you.

37 THE COMMISSIONER: Thank you very much, Ms. Joseph.  
38 Mr. Martland.

39 MR. MARTLAND: Mr. Commissioner, I'm tempted to say  
40 that with a ten-minute adjournment, we've already  
41 made what seems to be significant progress, and  
42 just think what we might do with a twenty-minute  
43 adjournment. I wonder if I might propose that we  
44 stand down with the intention that we reconvene  
45 before the lunch break at least to give you a  
46 status update. It may well be that applicants  
47 need further time for discussions. But if I might

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1 propose that at this juncture.

2 THE COMMISSIONER: All right. Thank you, Mr. Martland.  
3 If my watch is correct, it's about 11:30 or close  
4 to it. May we suggest that we stand down until  
5 noon, Mr. Martland? Is that what you're  
6 suggesting? And then perhaps counsel can speak  
7 with those of you who are here who wish to have  
8 further discussions. As he said, there are some  
9 rooms set aside for that purpose. And then you  
10 can report to him and let him know the status of  
11 any discussions or whether you wish to make any  
12 further submission before me on the terms of the  
13 status. We intended to break for lunch at 12:30,  
14 just to let you know what we held for the day.

15 I just want to thank all of you who have  
16 spoken here this morning. You have very  
17 graciously been patient listening to others, and  
18 you have picked up on the theme of those  
19 discussions, and many of you have been working  
20 at -- I know not just today but, as Mr. Rosenbloom  
21 and others said, over the past weeks and perhaps  
22 even months, to try and bring together some of the  
23 great successes you've already made in terms of  
24 coming together. Ms. Gaertner, I won't use the  
25 word "coalition." I'll say "coming together."  
26 Because as Mr. Wallace said, it doesn't have a  
27 fixed terminology in our minds. We're really  
28 relying upon you and your clients to be creative  
29 in this way.

30 So if you don't mind, we'll stand down now  
31 for about half an hour. If you could let Mr.  
32 Martland know where you're at at the end of that  
33 half hour, we'll resume and then we'll break for  
34 lunch at 12:30. Thank you very much for your  
35 patience.

36 MR. MARTLAND: Mr. Commissioner, if I might just by way  
37 of assistance to the people here, first of all, we  
38 have copies of the Terms of Reference with a view  
39 to focusing discussions about respective interests  
40 on those Terms of Reference. And secondly, Mr.  
41 Wallace was hoping to address applicants after we  
42 stand down now. Thank you.

43 THE COMMISSIONER: If you could just remain in your  
44 seats just for a moment. Thank you very much.

45 THE REGISTRAR: The hearing is now adjourned until  
46 12:00 noon.

47

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1 (PROCEEDINGS ADJOURNED / LA SÉANCE EST  
2 SUSPENDUE)  
3 (PROCEEDINGS RECONVENED / LA SÉANCE EST  
4 REPRISE)  
5

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

7 MR. WALLACE: Thank you. Mr. Commissioner, I've had  
8 approaches by about three people who wish to say a  
9 very few words, and I invite them to do that now.

10 THE COMMISSIONER: Ms. Gaertner.

11 MS. GAERTNER: I think this is good news. Brenda  
12 Gaertner.

13 I wanted to confirm that in addition to the  
14 seven applicants that the standing application was  
15 submitted by me, you've already heard that Adams  
16 Lake will join that coalition. I can now confirm  
17 that the Carrier Sekani are also content to be  
18 named as a distinct party, like the other parties  
19 within my application, within that coalition.

20 And I want to stress this proviso which I  
21 spoke to earlier this morning, but is a proviso  
22 that the Carrier Sekani want understood clearly.  
23 The proviso is that there is an ability of each of  
24 those distinct applicants to bring forward unique  
25 perspectives and unique concerns, including  
26 through counsel other than me, should that be  
27 necessary. And when we get to the funding  
28 applications, we will be applying for funding  
29 accordingly.

30 But at this point in time, they are content  
31 to be named as an applicant within that coalition  
32 with those provisos. And that would apply to the  
33 other -- as I spoke earlier today.

34 And then I have a slightly more nuanced  
35 success, I suppose, if we're trying to streamline,  
36 and this is a success on the part of legal  
37 counsel. I have been informed and instructed that  
38 the Coalition of Douglas Treaty First Nations that  
39 Chief Douglas White spoke to this morning, which  
40 represents the Snuneymuxw, the Tsartlip and the  
41 Tsawout First Nations, are happy to have myself  
42 act as their legal counsel. They are content and  
43 would prefer at this point in time to maintain a  
44 distinct standing application, and I think that's  
45 appropriate until I have an opportunity to  
46 understand the complexities that I may be getting  
47 myself into and would want to ensure that there is

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1 proper representation in that way.

2 And I'm resting this work a little bit on  
3 Brian Wallace's comments earlier today about going  
4 forward with these types of alliances or at this  
5 point in time willing to find places of common  
6 interest, without prejudice to our ability to  
7 shift those coalitions should, as we proceed in  
8 this hearing, that be required in order to ensure  
9 that parties' interests are properly put before  
10 the Commission.

11 THE COMMISSIONER: Thank you very much, Ms. Gaertner.

12 I appreciate that.

13 MS. GAERTNER: You're welcome.

14 THE COMMISSIONER: Mr. Janes.

15 MR. JANES: (Off microphone) I keep on forgetting to  
16 press the button.

17 THE COMMISSIONER: And identify yourself on the record.

18 MR. JANES: Yes. Robert Janes.

19 THE COMMISSIONER: Thank you, sir.

20 MR. JANES: I'm going to speak to two things. First of  
21 all, I will just speak to the question of progress  
22 on consensus or coalition or working together  
23 building. And what I'm going to say is that we've  
24 been working further the group that we've talked  
25 before. Various members of our group, however,  
26 have to seek some further instructions and, as Ms.  
27 Gaertner discussed, talk about some of the nuances  
28 of how what we've been discussing will work. And  
29 so we can't report success yet, but we hope either  
30 this afternoon or subsequently by written  
31 communication to advise you of the outcome of  
32 those discussions.

33 I do want, though, to make this point, and  
34 it's really the follow-up on the comment this  
35 morning that the conclusion would be an  
36 opportunity to make the last few comments with  
37 respect to standing. And it actually goes to why  
38 we've been having some difficulties in putting  
39 together this coalition.

40 I just want to really hammer home a point  
41 about why we want to maintain the separate  
42 standing application, not just for TTA but for  
43 many of these groups. And I think it's important  
44 for you, Mr. Commissioner - and I'm sure you do,  
45 but I think it has to be said - to appreciate for  
46 the aboriginal groups - and I am speaking  
47 specifically with respect to the aboriginal

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1 interests before you - is that there's a long  
2 history of frustration with respect to various  
3 efforts that have been undertaken to reform,  
4 revise, adjust, re-imagine, fisheries management  
5 and specifically the sockeye stock management.

6 There's a lot that's happened since 1982.  
7 But there's been a very strong sense amongst many  
8 First Nations that the reason that earlier efforts  
9 have failed -- and I say failed because they've  
10 really failed to engage the First Nations. And so  
11 there's just been this endless conflict between  
12 the Department of Fisheries and Oceans and  
13 aboriginal groups about the management of the  
14 fisheries. The sense is the sense that they feel  
15 they've been left out of the process of developing  
16 how that new management should be imagined, how it  
17 should be put together, what their real  
18 perspectives are.

19 And so many of these First Nations come  
20 forward and make these separate applications to  
21 you because they are separate people who feel that  
22 they have separate visions and separate interests  
23 that are still aboriginal interests, and they want  
24 to know that this Commission - which I think  
25 everyone here views as one of the most important  
26 opportunities that's come along in two decades,  
27 maybe three, to address this concern - is the time  
28 to have their voice be heard.

29 And there is this feeling that they don't  
30 want to be submerged into a generic aboriginal  
31 perspective. There are in fact many different  
32 aboriginal perspectives.

33 And my own client, the Te'mexw Treaty  
34 Association, has very strong views on this,  
35 partially informed by the fact that they have a  
36 treaty, the Douglas Treaties, but also informed by  
37 the fact that they have a different vision in the  
38 modern treaty negotiations about how future  
39 management should be carried out. And they want  
40 the opportunity to articulate those views and not  
41 have to engage in necessarily a negotiation with  
42 other First Nations that have different views.  
43 And so they hope that you can hear those views,  
44 weigh them, consider them.

45 And they're willing to be efficient about  
46 this. They're not here to try a full-blown case  
47 about aboriginal rights or treaty rights or

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1 anything like that; but they're here to make sure  
2 that on the particular issues that concern you,  
3 you actually hear their distinct voice.

4 And that's why -- you know, they've come  
5 together as five nations to work together in  
6 treaty and to make these submissions to you, but  
7 they do want to be heard as a distinct voice. And  
8 we can see ways to cooperate and to be efficient,  
9 but we don't want that distinctiveness to be lost.

10 THE COMMISSIONER: Thank you very much, sir. Mr.  
11 Reynolds.

12 MR. REYNOLDS: James Reynolds, counsel for the  
13 Musqueam.

14 During the break, I had the opportunity to  
15 meet with counsel for the Maa-Nulth and Tsawwassen  
16 First Nation and some of their representatives.  
17 And we went through the Terms of Reference, as Mr.  
18 Wallace asked that we do, and we found that there  
19 were many, many issues that we have in common and  
20 on which we felt that we can make joint  
21 representations, including the use of one counsel  
22 for those representations.

23 However, we do want to reiterate that each of  
24 the applicants feel that there are specific issues  
25 relating to that applicant and would like to have  
26 the opportunity to have counsel of their own  
27 choice deal with those specific issues. So if  
28 that's a coalition, then we're willing to form a  
29 coalition together.

30 And also in the course of our discussion it  
31 became obvious that there would be other issues on  
32 which we could work together with other First  
33 Nation groups, and we have a willingness to do  
34 that. Thank you.

35 THE COMMISSIONER: Thank you, Mr. Reynolds, very much.

36 MR. MILLER: Mr. Commissioner, Rob Miller for the  
37 Carrier Sekani Tribal Council.

38 I'd like to echo Mr. Reynolds' comments, and  
39 I'd also like to express a concern that I think  
40 Ms. Gaertner and I had discussed about the Carrier  
41 Sekani forming part of any coalition. And that  
42 was a procedural issue relating to being able to  
43 present and have its voice heard on specific  
44 issues that come in front of the Commission. And  
45 one of the concerns that we would have is that  
46 members of a coalition be able to be represented  
47 and be heard without having to go through a

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1 subsequent application process prior to being able  
2 to appear before the Commission. Because we're  
3 agreeing to participate and cooperate in the  
4 interest of efficiency but we want to be careful  
5 that we don't prejudice our ability to speak to  
6 issues that we feel are of unique interest to the  
7 Carrier Sekani going forward. Thank you.

8 THE COMMISSIONER: Thank you. Mr. Harvey, I saw you on  
9 your feet.

10 MR. HARVEY: Christopher Harvey on behalf of the West  
11 Coast Trollers Area G.

12 I just wanted to report that there is an  
13 evolving working relationship coming into place,  
14 it appears, between the Trollers who I represent  
15 and the union, the UFAWU, who are as yet  
16 unrepresented but have an application for standing  
17 before the Commission. There's common ground in  
18 the sense that they're both industry participants,  
19 they both have a large portion of First Nations  
20 members, and it seems there's grounds to expect  
21 that they have common interests in many areas. So  
22 what I would like to do is -- and I say this  
23 because the president of the West Coast Trollers  
24 is ill today, has been for about a week, is not  
25 able to be here. There's a need for further  
26 discussions. What I would like to do is confirm  
27 that in writing. And I noticed that -- I think it  
28 was Mr. Janes made reference to confirming  
29 something in writing. Perhaps it would be useful  
30 to have a deadline for submissions like that. I  
31 would expect seven days would be sufficient for  
32 us. Thank you.

33 THE COMMISSIONER: Thank you.

34 MS. ROBERTSON: Krista Robertson for Terms of Reference  
35 Tsawataineuk Tribal Council.

36 I can report that I have had initial  
37 discussions with three other coastal First Nation  
38 groups around collaborating. They do have common  
39 interests in the sense that they rely on the  
40 interception of the Fraser River sockeye for their  
41 food fishery, which is a very significant interest  
42 from the point of view of my clients. But there  
43 are significant differences of opinion around the  
44 issue of salmon aquaculture, and that is the main  
45 interest that my clients have in participating in  
46 this Inquiry.

47 So to that end, I have had on the break some



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1 discussions around alternative coalition grouping  
2 around the issue of salmon aquaculture. I don't  
3 have instruction yet, but I can just report to you  
4 that I have some preliminary instruction that  
5 there is an interest in pursuing that further.  
6 That would be with two groups who I understand are  
7 particularly focusing on the impacts of salmon  
8 aquaculture on the fishery.

9 THE COMMISSIONER: Thank you very much. Mr. Donovan.

10 MR. DONOVAN: Allan Donovan, Mr. Commissioner.

11 The Laich-Kwil-Tach Treaty Society coalition  
12 with the Aboriginal Aquaculture Association with  
13 Chief Harold Sewid and James Walkus is confirmed  
14 if the Commission is willing. The discussions are  
15 continuing with the Haida Nation and the Heiltsuk  
16 Nation. Those are, again, both coastal First  
17 Nations with very similar reserve histories and  
18 similar involvement in the commercial fishery. We  
19 see a lot of common interests. But the lawyers  
20 for those parties have to speak with their  
21 clients, who aren't here and who are travelling.  
22 So that's something that we will work on but we  
23 won't have an answer today, but a written response  
24 in short order will be in the cards.

25 And as Ms. Robertson pointed out, we have  
26 tried hard to work things out with Terms of  
27 Reference Tsawataineuk Tribal Council and so has  
28 she, and there are certainly common interests and  
29 a common history about reserve allotment. But  
30 given the particular interest and position that  
31 those groups have on finfish aquaculture,  
32 basically there are better dance partners out  
33 there than our group. Thank you.

34 THE COMMISSIONER: Thank you very much, Mr. Donovan.

35 MR. DUCOMMUN: Good day. Gary Ducommun, D-U-C-O-M-  
36 M U-N, Métis Nation British Columbia.

37 I had an opportunity to talk at the break  
38 with representatives of the conservation group - I  
39 won't use the word "coalition" - so actually the  
40 Conservation Coalition and the David Suzuki  
41 Foundation or the Suzuki Foundation, and we find  
42 that there are a number of areas, particularly  
43 around environmental issues, where we are likely  
44 to have common interests and concerns, and Métis  
45 Nation B.C. will be looking to identify those  
46 areas where we can cooperate with that group.

47 On the other hand, Métis Nation B.C.

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1 represents an aboriginal group that is unique and  
2 distinct from First Nations, and our issues are  
3 essentially throughout the watershed and  
4 throughout the coastal area of British Columbia.  
5 So we think that there is, number one, a need on  
6 our behalf to maintain our application for  
7 intervenor status, but I also believe that we will  
8 have an ability to contribute actually to some of  
9 these issues actually from a broader, more  
10 holistic standpoint. Thank you.

11 THE COMMISSIONER: Thank you very much, sir. Mr.  
12 Wallace.

13 MR. WALLACE: Thank you, Mr. Commissioner. There seem  
14 to be two groups who would like to provide further  
15 information in writing. I think that's a good  
16 idea. We are trying to be flexible here and I  
17 think that if there's an opportunity to have some  
18 of the issues which are complex obviously in  
19 setting these arrangements up, and if people can  
20 be more specific as to the nature of the  
21 relationship they envisage, I think that would be  
22 helpful to you, sir, in making your decisions.

23 Mr. Harvey suggested seven days. May I  
24 suggest that those representations might be put in  
25 writing by the close of business on Tuesday, which  
26 is not seven days, but it's getting close.

27 I also have a sense that there may be some  
28 movement going on today that could be reported  
29 this afternoon, and particularly was taken by Ms.  
30 Robertson's comments that that might be useful.  
31 Would it be useful to have you work on this over  
32 lunch and come back at two o'clock?

33 MS. ROBERTSON: Sure.

34 MR. WALLACE: I'm not sure if there are others who wish  
35 to come back at two o'clock to see whether or not  
36 we can make further advances today. We are here,  
37 and I would ask, Mr. Commissioner, that we make  
38 use of the time booked to do that. So if you're  
39 agreeable, then please proceed with those  
40 discussions.

41 My sense is that doesn't need to involve  
42 everybody who's here now, and only those who are  
43 in active discussion who wish to pursue it this  
44 afternoon, I would invite to come back at 2:00.

45 And again, I would ask anyone who wishes to  
46 clarify or augment what they've said on standing  
47 to this point to do so to the Commission by

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1 e-mail, in writing obviously, by e-mail, by the  
2 end of the day on Tuesday. And by the same token,  
3 Commission counsel will be thinking about these  
4 things and we may have some questions for  
5 individual applicants that we may submit to you by  
6 e-mail in the same period of time.

7 And finally, I understand, Mr. Commissioner,  
8 you are anxious to get on with this and to make a  
9 decision on standing. And once you have done  
10 that, then I can say that with respect to funding  
11 that Commission counsel will be in touch with each  
12 of the participants with standing to discuss what  
13 further information we require to support the  
14 present funding applications.

15 And I don't see anyone else on their feet.

16 Oh, my junior colleague, Mr. Rosenbloom.

17 MR. ROSENBLOOM: Wishful thinking, Mr. Wallace. Mr.  
18 Commissioner, are you in a position to give any  
19 sense to counsel as to the future progress of this  
20 Commission? I hear rumours of a possible set of  
21 hearings in the month of June. I'm fully mindful  
22 of the fact that you have an obligation under your  
23 terms to provide an interim report to the  
24 Government, I believe, on August 1st. It would be  
25 useful to I'm sure all of us to know anything more  
26 than we can currently glean from the website in  
27 terms of your intention, both on the question of  
28 spring hearings and also in terms of the fall  
29 hearings. I assume you'll be holding hearings in  
30 the fall or into the new year, and it would be  
31 very useful, certainly for myself anyway, to get a  
32 sense of what you currently intend in terms of  
33 process. Thank you.

34 THE COMMISSIONER: Thank you, Mr. Rosenbloom. Mr.  
35 Wallace.

36 MR. WALLACE: If I may, Mr. Commissioner, respond to  
37 Mr. Rosenbloom's request for information on  
38 timing, we are moving this forward as quickly as  
39 we can. We hope to have some further hearing  
40 activity later this spring, but this is evolving.  
41 And we're all very conscious of the importance of  
42 doing this in as timely a way as we possibly can.

43 THE COMMISSIONER: I can say, Mr. Rosenbloom, just a  
44 couple of comments in response. One is obviously  
45 I have an interest in ensuring that these matters  
46 get on and get completed before the Commission's  
47 mandate expires, and all of you have an interest

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1 in that happening before I expire. So there's a  
2 definite interest on both sides.

3 I also want to say to you that we've been, as  
4 you have been, very engaged in dealing with this  
5 first step, which is the standing and funding part  
6 of the process. What I have in mind is that once  
7 we get through this part of the process, then we  
8 will have on our plate knowledge of who has  
9 standing, and at that point we can start to engage  
10 those parties, those participants, in discussions  
11 about going forward. We plan to keep everyone  
12 fully informed as best we can about our progress  
13 and we will also want to know about the  
14 participants' progress in respect of our going  
15 forward plans under our mandate.

16 But I can only say to you this morning, and I  
17 say this quite sincerely, I don't know the answer  
18 to your question now. We are certainly very  
19 hopeful that we can aim for the kind of timeframe  
20 you're suggesting for initial parts of the  
21 process. But as Mr. Wallace says, we are so  
22 engaged right now in this first step that once we  
23 get through the first step, we will then take the  
24 next step. But we'll certainly keep everyone  
25 fully informed.

26 MR. ROSENBLOOM: Thank you very much, Mr. Commissioner.  
27 If I may be permitted just a few moments of my  
28 musings about the whole situation. Obviously it's  
29 an early stage for you and your staff, and one  
30 can't expect you to set out for us yet the full  
31 agenda. It will be useful for the staff and the  
32 Commission to be mindful of the fact that as you  
33 overhear the discussions of counsel about their  
34 interest in certain areas, that when we are  
35 engaged in the full hearings, if the Commission  
36 chooses to approach the subject matters in  
37 compartments, it will be very useful to counsel so  
38 that those counsel that want to engage in, for  
39 example, the ecological issues, the sea lice  
40 issues, the farming issues, if they can be  
41 informed that yes, those hearings will be the  
42 first or the second grouping within your agenda,  
43 it will be very, very useful to the parties,  
44 because I imagine - I certainly speak for myself.  
45 I don't intend to be here day in and day out -  
46 would appreciate some sense when the opportunity  
47 is there to have an agenda of generally where this

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1 Commission is going with its agenda.

2 THE COMMISSIONER: I very much appreciate those  
3 comments, Mr. Rosenbloom, and I can tell you that  
4 once we get through this part of the process, we  
5 definitely intend to start engaging the  
6 participants in those kinds of discussions.

7 MR. ROSENBLOOM: Thank you.

8 THE COMMISSIONER: Thank you very much for your  
9 comments.

10 Just before we adjourn, first of all, let me  
11 as Commissioner express my deep appreciation to  
12 all of you who've come here today and to the  
13 thought you've put into not just what you've told  
14 me today but leading up to today. We're very  
15 grateful for the time you've spent respecting the  
16 spirit of what we sent you in our e-mail, and  
17 you've certainly done that, and I'm most grateful  
18 to you.

19 Mr. Wallace has laid out the first part of  
20 our timetable. And so we expect to hear from you  
21 by the time he has suggested and you'll hear from  
22 us within that timeframe if we have anything to  
23 add as well.

24 We did reserve this courtroom and the break-  
25 out rooms for today. I wonder, Mr. Wallace and  
26 Mr. Giles, our Registrar - and I thank him for his  
27 assistance in organizing today's meeting - if any  
28 of you wish to use that break-out room during the  
29 lunch break or into the afternoon, whether it  
30 would be possible, Mr. Wallace, for them to let  
31 you and Mr. Giles know so arrangements could be  
32 made, if that's agreeable.

33 MR. WALLACE: Thank you. We will come back at two  
34 o'clock, then, to see --

35 THE COMMISSIONER: We'll resume at two o'clock --

36 MR. WALLACE: -- to see what further developments have  
37 taken place.

38 THE COMMISSIONER: Yes. And as Mr. Wallace said, for  
39 those of you who do not feel that anything further  
40 can be accomplished today or you've said what you  
41 want to say in addition to your written  
42 applications, certainly there's no need for you to  
43 come back at 2:00. But for those of you who would  
44 like to add something at 2:00 to what you've  
45 already told Commission counsel this morning and  
46 myself, I certainly invite you to do so. Thank  
47 you very much again.

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1 THE REGISTRAR: The hearing is now adjourned until 2:00  
2 p.m.  
3

4 (PROCEEDINGS ADJOURNED FOR NOON RECESS / LA  
5 SÉANCE EST AJOURNÉE POUR LA PAUSE DU DÉJEUNER  
6 (PROCEEDINGS RECONVENED / LA SÉANCE EST  
7 REPRISE)  
8

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

10 THE COMMISSIONER: Mr. Wallace.

11 MR. WALLACE: Thank you, Mr. Commissioner. I think  
12 this afternoon will be very efficient. Ms.  
13 Robertson is with us and will, I think, report on  
14 progress.

15 MS. ROBERTSON: Thank you, Mr. Commissioner. I'm  
16 feeling a little self-conscious as the sole person  
17 who is here. I'm not exactly efficient. But I  
18 really appreciate your reconvening to hear from  
19 me. I have made some progress. Maybe I'll just  
20 give you a little bit more detail.

21 THE REGISTRAR: First your name, please.

22 MS. ROBERTSON: Oh, pardon me. Krista Robertson, and I  
23 represent the Terms of Reference Tsawataineuk  
24 Tribal Council. As I mentioned before, they are  
25 four nations. They're located in the Broughton  
26 Archipelago, which is kind of on the west coast of  
27 the province.

28 So initially we had conversations with three  
29 other coastal nations, and as I had mentioned in  
30 my submissions earlier, there is some conflict  
31 issues around the different approaches the First  
32 Nations have towards salmon aquaculture, and that  
33 is the main interest of my client in  
34 participating.

35 So that said, there is still an interest on  
36 the part of my client in collaborating with the  
37 Council of Haida Nation. They do have certainly  
38 similar interests in terms of their food  
39 fisheries' interception of the Fraser River  
40 sockeye, and I'd be very willing to collaborate  
41 with them on developing sort of a joint  
42 evidentiary foundation, I guess, of the historical  
43 use of that run and the allocation of their  
44 reserve for the purpose of salmon fishing, et  
45 cetera.

46 I can just assure you that I'm having ongoing  
47 discussions with the Council of Haida Nation, and

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1 I think that we can collaborate, maybe not in a  
2 formal coalition kind of way but certainly around  
3 efficiency and making sure that we don't duplicate  
4 there.

5 The new development that's happened over the  
6 break is working with Alexandra Morton and the  
7 Pacific fisheries group. And as well,  
8 potentially -- and I think what is emerging is  
9 that we will form a coalition, Alex Morton's group  
10 and the Musgamagw people, around their common  
11 experience and attitude towards salmon  
12 aquaculture, and I think we can really be quite  
13 efficient in terms of evidence there.

14 Additionally, the Area D Gillnetters  
15 Association, I understand, is going to be making  
16 submissions that are quite focused on the impact  
17 of salmon aquaculture. And although I think we  
18 wouldn't be in a position to form a more formal  
19 coalition with them, we certainly will collaborate  
20 with them in trying to streamline our positions  
21 and collaborate where we can on that front.

22 So because I'm working for a tribal council  
23 that is four nations, I really have to convene a  
24 board meeting to get that formal instruction. But  
25 I've spoken to the chair of the tribal council and  
26 he's supportive of what I've said so far. So I'm  
27 very hopeful that I will get that instruction and  
28 I expect that I can certainly advise the  
29 Commission by Tuesday.

30 THE COMMISSIONER: That would be great. Thank you very  
31 much, Ms. Robertson.

32 MS. ROBERTSON: Thank you.

33 MR. WALLACE: Thank you. I would just point out for  
34 Ms. Robertson that one lawyer is often quite  
35 efficient. It's when there are two lawyers it  
36 becomes inefficient. And I don't see anyone else  
37 in the room, so I would ask that we could adjourn.

38 THE COMMISSIONER: All right. Well, then, we'll  
39 adjourn and I look forward to hearing from  
40 further, Ms. Robertson. Thank you very much.

41 We will adjourn generally. We haven't set  
42 another date. Counsel will be doing that shortly.  
43 Thank you.

44 THE REGISTRAR: The hearing is now adjourned.

45  
46 (PROCEEDINGS ADJOURNED SINE DIE / L'INSTANCE  
47 EST AJOURNÉE SINE DIE)