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December 16, 2010

By Email

Commission of Inquiry into the Decline of Sockeye
Salmon in the Fraser River
2800 – 650 West Georgia Street
Vancouver, British Columbia
V6B 4N7

Attention: Brian J. Wallace and Lara Tessaro

Dear Sir and Madam:

Re: FRASER River Sockeye Salmon - Commission of Inquiry - DFO
Our File: 2-272052
Canada's Written Re-examination for the Wild Salmon Policy Implementation Panel –
Questions and Answers

Further to your correspondence of December 13, 2010, we write to provide you with Canada's questions and answers in connection with the written re-examination of the WSP (Part 1) implementation panel. The questions and answers are set out in the table below with the witness who answered the question in bold text.

No.	Questions for Re-examination:
1.	<p data-bbox="240 1318 706 1354">Reexamination for Dr. Kim Hyatt</p> <p data-bbox="240 1396 1414 1535">In your cross examination by Mr. Rosenbloom on December 8, 2010 he asked Ms. Stalberg about the level of engagement between the Province and the Federal Government and asked if it is at a level that is in the public interest (December 8, 2010 Transcript, p. 30, beginning at line 15):</p> <p data-bbox="277 1577 1312 1635">I invite you to be blunt from your perspective, whether you believe that the level of collaboration [between the provincial and federal governments] is what the public would expect.</p> <p data-bbox="240 1677 1406 1736">In response, Dr. Hyatt stated that he had 3 points to make (December 8, 2010 Transcript, p. 30, beginning at line 19):</p> <p data-bbox="277 1778 1349 1963">I'm willing to begin that response to that question while Ms. Stalberg has some time to gather her thoughts, partly because I do interact with the province at a number of levels through my capacity as a scientist working on implementation of Wild Salmon Policy. So let me first say that at the working level there are a number of important interactions that have taken place and that are ongoing between the federal government and the provincial government, of – where technical personnel are involved in examining a variety of issues that influence both the province and Canada and that are</p>

relevant to the Wild Salmon Policy. I'll cite three.

The first point you explained was the initiative of the Province called *Hectares BC* (December 8, 2010 Transcript, p. 30, beginning at line 33):

First, there was an initiative undertaken by the province called "Hectares BC" in which the proposal was to essentially assemble data, the kinds of indicator data that both levels of government require to manage and to assess various resource concerns, including Wild Salmon Policy.

Mr. Rosenbloom did not permit you to provide your remaining two points.

My question upon re-examination is: *Can you please provide us with your remaining two points to the question whether the level of collaboration [between the provincial and federal governments] is what the public would expect?*

Answers

Dr. Kim Hyatt:

"I'm not an expert on exactly what the public would expect but language in the Wild Salmon Policy does raise expectations that successful implementation will require elevated levels of engagement and cooperation within and among federal and provincial government agencies.

As noted previously, **my first point** was that there are many important interactions that have taken place or that are ongoing between the federal government and the Province of BC of relevance to implementation of the Wild Salmon Policy (WSP). For example, within the past three years federal-provincial initiatives that I have personally been involved with include: (a) the Hectares BC project to integrate information about wild salmon CU status with information on habitat status, (b) the Okanagan Fish-and-Water Management Tools project to create a computer-based decision support system to facilitate "fish-friendly" water management decisions and (c) discussions about BC Water Act modernization needs that have identified opportunities to integrate the objectives of wild salmon and biodiversity conservation in both federal and provincial statutes.

My second point is that although working level collaborations and engagements such as these have value in moving WSP objectives forward, they fall far short of the broad scale integration of effort envisaged under various sections of the WSP. For example, Action Step 2.4 (p. 22 WSP) directs the Department to establish "linkages to develop an integrated data system for watershed management". Other sections of the WSP clarify that these linkages must overcome the currently fragmented state of the many WSP relevant information and data systems developed and maintained by various federal government departments (DFO, EC, NRCan etc...), the province (BC-MOE, BLMR, MONRO etc...0 and Industry (e.g. forest, mining and aquaculture). The ways and means to achieve this general objective within a reasonable time-frame have yet to be identified.

My third point is that the elevated level of provincial and federal engagement noted above will be essential to implementation of WSP Action step 4.2 (p. 27 of WSP) which directs DFO to "design and implement a fully integrated strategic planning process for salmon conservation by designing an effective, integrated planning process that respects people's interests in Pacific salmon, land and water uses, watersheds, fisheries and marine areas."

2. **Reexamination for Dr. Irvine**

In your cross examination by Mr. Rosenbloom on December 8, 2010, he asked you whether you required additional money to conduct marine research. In response, you agreed that DFO needed more resources but raised for the first time that you are the Chair of the North Pacific Anadromous Fish Commission that has scientists from Russia, Japan, and America. I attach the relevant portion of the transcript:

December 8, 2010 – Page 46 – Question by Mr. Rosenbloom:

5 DR. IRVINE: Certainly. Additional resources is always
6 beneficial.

7 Q Well, not just beneficial, but am I correct in
8 assuming that if this research is essential, if it
9 is in your opinion necessary, that it will require
10 a commitment from the Government of Canada and
11 from Treasury Board to pull off this kind of
12 expensive initiative.

13 DR. IRVINE: And there are efforts being made. I mean,
14 one of the hats I wear is a scientist with the
15 North Pacific Anadromous Fish Commission, so
16 Canada is one of five signatories to this -- this
17 Commission. So we carry out a number, we
18 participate in a number of collaborative cruises
19 with American scientists, Russian scientists,
20 Japanese scientists, so it's more than just a
21 provincial/federal issue. It's expensive to study
22 in the ocean, and so we need to be looking at --
23 at ways of, you know, things like satellite
24 imagery that we touched on earlier.

My question upon re-examination is: *Can you please describe the scientific work that the North Pacific Anadromous Fish Commission is doing to study salmon in the marine environment?*

Answers

Dr. Irvine:

“First, a couple of points of clarification. I am one of several Canadian scientists who represent Canada on the North Pacific Anadromous Fish Commission (NPAFC). I co-chair the Stock Assessment Working Group that summarizes salmon catch and hatchery production data and publishes our findings. The NPAFC is made up of representatives from Canada, the USA, Russia, Japan, and the Republic of South Korea.

The NPAFC recently released its science plan (http://www.npafc.org/new/science_plan.html) for 2011-2015, which identified an overarching research theme, “Forecast of Pacific Salmon Production in the Ocean Ecosystems under Changing Climate,” and five research topics:

- 1) Migration and Survival Mechanisms of Juvenile Salmon in the Ocean Ecosystems;
- 2) Climate Impacts on Pacific Salmon Production in the Bering Sea (BASIS) and Adjacent Waters;
- 3) Winter Survival of Pacific Salmon in the North Pacific Ocean Ecosystems;

- 4) Biological Monitoring of Key Salmon Populations; and
- 5) Development and Applications of Stock Identification Methods and Models for Management of Pacific Salmon

NPAFC conducts research in all five of these areas and regularly publishes findings from this work. The centerpiece of NPAFC's marine ecosystem research to date has been its BASIS program (2 above). BASIS has had an extensive field sampling program led primarily by the USA, Japan, and Russia."

3. **Reexamination for Mark Saunders**

In your cross examination by Ms. Gaertner on December 8, 2010, she took you through a series of exhibits to confirm the dates when DFO consulted with First Nations on the development and implementation of the WSP. At the conclusion of this series of questions, at page 93 of the transcript, Ms Gaertner asked you if there was anything you wanted to add to the consultative progress to-date.

28 Q Thank you. I'm now going to turn to the next
29 issue. That has me full circle on the efforts on
30 consultation. Is there anything else that you
31 would like to add, Mr. Saunders, in terms of the
32 chronology of the consultative efforts to date?
33

You then explained that there were a series of other meetings that were not captured by the list provided: At page 93 / 94 of the transcript you responded:

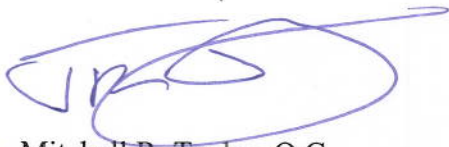
MR. SAUNDERS: Okay, well, I think that's, again, how
36 you define -- I know consultation has a very
37 strict meaning and interpretation with First
38 Nations and others, but I think if you were to
39 take a -- there's a fuller description of -- that
40 would go down another layer down in terms of
41 technical meetings and workshops related to
42 Strategy 3, there were a number of specific
43 workshops related to moving forward on Strategy 3,
44 which would have included the articulation of the
45 -- of why -- of how we, you know, moved forward
46 with the knowledgeable persons panel or not, were
47 a result of some of those meetings.

1 Some of the documents -- or 1 some of the CSAS
2 proceedings, I would say, while not necessarily
3 meeting a certain description of consultation,
4 they are open processes that we chose to develop
5 and move forward on implementing -- or on coming
6 to ground on scientific methodology.
7 So there are another -- if we drill down
8 another layer, there's a lot more work that was
9 going on during that time, and I would
10 characterize the last several years as being very
11 much in a technical mode and may fly under the
12 radar of being consultation.

	<u>My question upon re-examination is:</u> <i>Who at DFO is best able to provide a complete answer to the consultations on WSP development and implementation with First Nations?</i>
	Answer
	Mark Saunders: "My response to the question below is Ms Deborah Phelan, the head of the Consultation Secretariat for DFO Pacific Region. Who at DFO is best able to provide a complete answer to the consultations on WSP development and implementation with First Nations?"

We trust you will find the above in accordance with the method described in your December 13th letter and look forward to receipt of the Commission's questions.

Yours truly,



on behalf of: Mitchell R. Taylor, Q.C.
Senior General Counsel

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Enclosure