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SOLUTIONS ARE IN OUR NATURE

Dr. M. Saunders
Wild Salmon Policy
Department of Fisheries and Oceans
200-401 Burrard Street
Vancouver, B.C. V6C 3S4

May 1, 2005

Dear Dr. Saunders.

Re: Critique of the April 22, 2005 Draft Wild Salmon Policy.

We thank DFO for hosting another public consultation to review the April 22, 2005 draft of the Pacific Wild Salmon Policy. Many criticism of the December 2004 draft have been taken into account and the recent draft is significantly improved in its writing and clarity. We appreciated that misguided concepts of 'wise use' and 'balance' between fish protection and the economy have been removed. However, we are left with a cold feeling caused by the type of thinking that prevails in DFO that would have allowed such concepts to be advanced in such an important conservation document. What will they think of next?

The wording may have been improved but has the thinking in DFO changed? As noted by myself and others at Saturday meeting, the document still has many improvements that must be made before it is a true conservation document that will assure future generations of diverse and abundant populations of Pacific salmon on the West Coast of Canada.

In that we have only been given a Sunday to assemble and forward final comments, our comments will be rushed and the tone a bit direct at times. One has to appreciate our patience and trust is growing thin.

Overview comments:

Whether this draft document is significant improved or not, many of us in the conservation, aboriginal and commercial and sports fishery groups clearly stated that they feel DFO does not have the will, leadership, or above all, the resources and expertise to

implement this policy. Accordingly we are very concerned that any past references made to resources to implement this policy has been removed. Also the section giving details on modernization of habitat protection has been removed. We have a great concern that sections or items that received great criticism or maybe have been overly honest have been removed from the document. DFO noted that this could not be a prescriptive document. However, until we see a draft implementation plan, we have doubts if this policy can be implemented with the many shortcomings mentioned.

Throughout the document the wording is left rather loose and the meaning can be misunderstood. We will outline where improvements must be made. Also as noted at yesterday's meeting, we find it unacceptable that the habitat protection program has been totally revamped (a.k.a. "modernization") and absolutely no consultation has taken place. Why has this been allowed to happen? Your Director of Habitat noted that consultation will now start. Unfortunately that is a year too late and comes after DFO has signed cooperation agreements with the largest industrial associations in Canada and has charted a new direction without making any assessment available for public information and review. It is this callous disregard for transparency and public review that destroys any trust that the public can have in DFO and their ability to do the job in the face of present resources and political and agency leadership.

Detailed comments:

Page 4. Improper Delegation. Despite DSF past stated criticisms and rationale you still believe that cutthroat and steelhead management and protection has been legally delegated to the Province and therefore they are not covered by this document. This makes no sense from an ecosystem management point of view (as stressed in this document) and legally it is incorrect. The protection of cutthroat and steelhead habitat cannot be delegated and it is a DFO responsibility as well determined by the courts (as is the protection of all fish in Canada). It should also be noted that large numbers of Pacific salmon do enter Arctic waters and migrate up Arctic rivers to complete their life cycle. Climate change may encourage that. Should the policy not cover Pacific salmon in the Arctic (eg. Mackenzie River system NWT) as well as in B.C. and the Yukon?

Page 6. Bulldozers do not use salmon habitat. As noted in our previous critique it is not correct to say that habitat important for salmon has significant economic value to non-fishery uses. You should properly state that **the land or water in question that is salmon habitat also has significant economic value for non- fishery uses such as...** Salmon use salmon habitat – bulldozers do not use salmon habitat – they destroy it! Builders do not use salmon habitat – they build on it and thereby destroy the habitat.

Page 10. Principle 3. We totally question the wisdom of stating that "Resource management decisions will.....and maintain the potential for future generations to meet their needs and aspirations". This appears to be a thought from Brundtland 1988. However it does not assure sustainability of salmon for future generations. Those that are to manage and protect the public interest so as to assure sustainable salmon resources for future generations should not plan for ecologically disconnected future generations that

may not see salmon as a part of their needs and may want to get rid of them if they interfere with their aspirations to build more dams etc. As in many other sections, such thoughts and soft language will come back to haunt the salmon resource especially when developers see salmon as interfering in their need and aspiration to build a dam on the Fraser River or build more houses near streams as recently allowed by DFO and the Province.

Page 11. Further to the above comment you note that conservation decisions will not be taken without regard to their cost or social consequences. Is this stated in the Fisheries Act? In that a number of WSP statements do not seem to have a foundation in the Fisheries Act, does that mean DFO is about to amend the Fisheries Act? **We would like a written response to this question.**

Page 12. Acceptable time frames. In the CU extirpation statement you suggest that an acceptable time frame is a human lifetime (ie 80 years). Such a long time frame is without scientific rationale and above all is unacceptable. It should be related to the biology of salmon and be stated as 10 return cycles ie 20 years for pink salmon and 40 years for sockeye etc.

Page 16. Objective 2 Maintain habitat and ecosystem integrity. Overall this habitat section is not well written and it lacks an understanding policy and law. For instance in paragraph 3 you state that “Where habitat is damaged, losses may be compensated by habitat replacement”. Taken as stated this is misleading and could be damaging to habitat protection. It must be reworded to say – “DFO policy requires that where a harmful alteration of habitat is authorized by the Minister, losses shall be compensated by habitat replacement”. Why give the person that destroys habitat the impression that they can build replacement habitat after they have damaged habitat. If you destroy habitat, you must be charged.

Further to the above comment, the WSP seems to go out of its way to hide the legitimate function of DFO - charge those that harm habitat. At the Saturday meeting and at the Williams Inquiry it was clear that DFO is trying to avoid using the courts to address legitimate violations of the Fisheries Act – too long and too costly. The word enforcement is rarely used in the WSP – why? Is this an indication that the new modernized method of protecting habitat will rely upon candy for the bad guys more than a consistent and effective enforcement program? In the past inexperienced DFO habitat managers have noted that if stewardship works, there will be no need for enforcement. Such thinking lacks an understanding of human nature and due process and will help destroy more habitat. Unfortunately the new modernized habitat program seems to often rely upon wishful thinking versus reality.

Page 17. Habitat destruction – a habitat use?? As noted on Page 6, this is again terrible writing. Building on or destroying habitat is not a salmon habitat use? This is not a difficult concept to grasp! By pretending that industrial use of a salmon habitat area is a legitimate competition of habitat does a great disservice to the Fisheries Act, those that have to protect habitat and to salmon!

Also in this section DFO buys into the naïve concept of a reduced effort to address low risk industrial activities versus high risk activities. It is not well thought out and is again based on wishful thinking. It will result in much habitat loss unless a very sophisticated approach is taken to put cumulative effects into perspective and addresses human behavior and the differential response of the local landscapes to a similar activity. Many developments on a low risk piece of land doing low risk work (a housing subdivision) can do much cumulative damage. Will DFO largely ignore landscape – NPS erosion and similar impacts? Who has the mandate to address such problems? If it's not DFO, who does the risk analyses and enforce the prescriptions and can be held accountable? Mentioning the Pacific Council of Fisheries and Aquatic Ministers as a coordinating mechanism is not convincing and such approaches best belong in the implementation plan

Page 18. A simple statement in paragraph one re-enforces some of the naïve beliefs in the WSP. It notes that “...all Canadians support conservation..” This is again wishful thinking and will cause DFO to walk out on a branch of a “modernized” habitat tree until it breaks off. Suggest you say that “....most Canadians

Pages 21 to 42. Impossibility of Implementation of WSP with Existing Resources.

The sections relating to strategies on monitoring, integrated planning, etc. hi-lights the need for serious thought on the reality of implementation of this policy with less resources than were available to certain DFO programs just a few years ago. Resources for salmon work have been reduced and inadequate effort goes into planning, project review and monitoring, research and enforcement. This policy calls for much greater effort in stewardship, research, monitoring and planning. It appears that existing DFO managers refuse to admit how resource intensive is the building of partnerships, education, awareness and integrated planning, ecosystem accounting, monitoring and annual reporting and if time is left over – for public consultations. Once you do more proactive work, it does not mean the workload will become more manageable. Often this work increases public expectations thereby adding to the workload. DFO should examine past proactive programs that were conducted in the 1993-2003 time period.

There is the naïve belief that simple inexpensive monitoring will indicate habitat health and this can re-direct annual work plans and priorities. DFO now does not have the staff nor experts to review habitat compensation monitoring reports provided by industry. Also there is the naïve belief that simple indicator monitoring will proactively inform us the status of habitat. Many staff also promoted such ideas 30, 20 and 10 years ago. The technical know how and the resources to do it are simply not there.

For example, a small change of sediment in a spawning stream (e.g. 1- 2%) can result in a 4 fold reduction of egg survival. No monitoring that is cost effective can pick up such small differences in a large number of index streams. Once a difference is noted, the habitat will have been greatly impacted and suddenly it's a costly restoration project. As you will recall the present B.C. government cut \$30-40M a year from watershed restoration work. Water measuring networks have been slashed by WMB and DOE. If we

cannot afford to measure the amount of water in our streams, how can we measure much else that is much more costly to measure? Material on Page 26 sounds great but it is not worth the paper it is written on until it is determined if it can be done and at what cost and at what level of effectiveness. Until this reality is addressed the policy is seriously undermined by the reality of the need for a properly resourced and strong willed implementation strategy.

Page 26. Assessment of Habitat Status. This section appears to be written in a time warp. It does not relate to what is possible and does not indicate that an analysis has been done to determine what has worked in the past and what has not worked and what can be implemented and an improved program be developed out of that analyses. The belief is that (and this has been stated by the RDG and Directors) that past habitat protection has not worked and we have to go in a new direction. This is extremely faulty thinking and to rationalize such a terrible misunderstanding the Director of Habitat and this document notes that project referrals take up too many resources and greatly reduced resources now have to be spread into other areas for balance. Some of us have pushed for that balance in the early 1990s and programs like Green Plan and HRSP was developed. Now all that balance has been removed as of 2003.

At the Saturday meeting the Habitat Director noted that project review takes up to 75% of her branches habitat management resources. She noted that \$8M goes into habitat stewardship and restoration programs. Does that mean \$24 M goes into project review. That is simply not the case so something is really wrong here. Just a few years ago less than \$1M per year went into habitat compliance and enforcement, about \$5M into project review and about \$15M per year into stewardship and community restoration – was this not a balance? When questioned about this, the Director noted that it was a myth that you could just throw more biologists and Fishery Officers into protecting habitat. That appears to be a new DFO Habitat myth in that no one else has proposed this silly scenario. Some public consultation, openness and honesty is required here or the habitat implementation of this policy is doomed to failure. In terms of the WSP it is unacceptable to perpetuate a myth to rationalize a new direction. This should be in the implementation plan and the policy should better dwell on the law, values and the general standard of protection.

These issues may not be part of the policy but until they are evaluated in a transparent way, little trust will be forthcoming in DFO's ability to develop an effective WSP implementation plan and effectively implement it.

We request that DFO live up to the ADM promise at the Williams Inquiry of making available the analyses and studies of what has worked and what has not worked as the basis for promoting the new modernized habitat protection approach as outlined in this policy. **We formally request a response to this item.**

As noted in our previous critique and at the meeting (no answer provided) where does water quality and DOE fit into this policy? Section 36 responsibilities are a key part of the habitat and planning sections of the report and why is the DOE responsibility to

protect fish and habitat from deleterious substances not included? I fear that this policy has been developed with no consultation with DOE.

Further the policy mentions the goal of defining various benchmarks. Where will it be stated that DFO must define enforcement benchmarks needed to protect habitat?

Page 30. Global Warming. It seems that the section on climate change has been watered down. Was this a political need? The policy must clearly state that DFO must be an advocate for addressing global warming – the ultimate and greatest threat for wild salmon and the fishery.

Page 32. Key Attributes for Effective Planning. DFO is having difficulty in determining what has to be done to build effective planning processes because few staff have seen successful examples and although great effort has gone into many integrated and other planning processes, the analyses of those processes and their successes and failures seems lacking. Two key attributes are missing i.e. 1). develop effective partnerships based on common values (rarely ever done with the Province and local government) and 2). Define the legal basis for planning processes and the legal basis for accountability to make planning work.

Page 33. The need to aggregate CUs for planning is mentioned. However, when it comes to watershed planning (the logical unit for land use and water planning) the need to disaggregate CU's should also be mentioned.

Page 37. Enhancement. This section was criticized in the past – risks are underplayed. By lengthening the enhancement discussion the section has not improved. All you have done is to try and rationalize that all is under control and this could allow the enhancement program to proceed as it always has in the past. Should how DFO rationalizes past actions to accommodate this policy be in such a policy document? This is not a political briefing note!

Page 38. At the Saturday meeting it was noted that the **Aquaculture section** would be improved like the Enhancement section was i.e. how DFO addresses the risks. Don't go there. DFO site location guidelines etc. are useless. Again, should DFO rationale to look good be in such a policy document? If that is done it will further undermine the section and pretend that DFO has everything under control and salmon farming can carry one as it has in the past. The most relevant policy statement related to aquaculture is hidden in a sidebar on page 43. If DFO was objective the word "may" in that sidebar would read 'can'. The time for DFO denial on aquaculture impacts should be long over. The B.S. statement that DFO is in the middle of the aquaculture debate is simply that. It's time for DFO to move on and show some leadership in what must be a focused WSP conservation document.

Page 40 (and side bar Page 41). Habitat Myths to rationalize a new approach to accommodate the agenda of reduced resources. Here DFO again promotes a big myth or at least present a story that is only half true. See the comments related to Page 26. DFO

did have balance in their programs in the 1990s to about 2003. Where is the analysis of what was accomplished in that time period? To say the old approaches failed is not objective and is unscientific. It's really a lame political statement. Now that the programs of the past 10 years have been reduced to an old A base budget DFO is irresponsible to reduce their minimal project review program to try and do what a \$20M program did over the past several years. Here, once again, DFO should say what they will do to conserve salmon and their habitat and not criticize past programs to rationalize severe budget cuts which are forcing them to come up with a wishful thinking scenario of a modernized approach to protect habitat. Many statements and even deletions from the past draft of this document could be politically motivated. If this type of discussion is to be in a policy document, DFO Habitat should offer their much sought after balance and reference a DOE Pacific Region study that concluded that voluntary compliance approach simply does not work as well as the traditional approach in addressing water quality concerns – a key part of this policy.

The WSP habitat policy writers need history lessons in that what they are saying is what some of us said over 10 -15 years ago to rationalize getting the Habitat Green Plan and HCSP. These plans created the balance that was lost in 2003-2005. It is true that many field managers did not buy into proactive methods of habitat protection and they along with senior management including the RDGs office, ripped off these new proactive plan finances to do more project reviews so as to protect a few more fish in smaller and smaller habitats that were often largely ignored over the past 50 years.

Page 42. Performance Reviews. This is essential but once we take a reduced and demoralized work force and for instance in habitat have them switch resources from project review it will be impossible for them to do a better job of protecting habitat when they have to put a greater emphasis on awareness, public education, inventory, stewardship, partnerships, integrated planning, defining indicators and benchmarks, monitoring, as well as do project reviews better (a legal requirement), environmental assessments, research, investigations and monitoring, audits, enforcement and performance reviews and attend more consultations.

Conclusions:

We will be much more comfortable with the WSP when it clearly indicates that DFO will close fisheries or take other drastic actions as necessary for the sake of conservation. Also we would have a greater comfort and trust zone if the policy clearly stated that the Habitat Policy of 1986 will be enforced and a no net loss of habitat will be assured in that the law will be applied to all industries in Canada that can harm fish and fish habitat i.e. wild Pacific salmon and their habitat in this policy statement. The Policy indeed shies away from saying that a proactive and aggressive approach will be taken to reverse many negative trends affecting wild salmon. Compromise and the soft language and the emphasis of the carrot approach could well allow the flood gates to open as DFO appears desperate to find politically friendly solutions to meet great new and complex challenges with a watered - down will and diminished resources.

It is obvious that DFO expects to download much of their responsibility to implement this policy. How will they download accountability? Considering the system of governance, the law and way business is done in Canada, this will be hit and miss. Many essential partners seem to have had little or no input into the policy including even DOE that shares the Fisheries Act with DFO. Also great dependence is being put on stewards when DFO has cut funding to such groups and has shown no real leadership to legally empower them or any of the professional organizations that must share and assume ethical and legal responsibility in protecting wild salmon.

Regardless of what improvements are made to the final WSP, it is the implementation plan that is now of great importance. We request that the public be given an opportunity to review this plan to see if it can realistically relate to expectations created in the WSP as related to the resources, expertise and will available to do the job. The salmon and the habitat and future generations depend upon a well motivated and dedicated DFO to do the job more so than countless policy and planning documents that often have difficulty relating to the real world of salmon and the essential conservation mandate of the Fisheries Act and the public interest.

The David Suzuki Foundation thanks you for inviting us to attend the consultation session on Saturday and to be able to forward these last minute inputs.

Sincerely yours,

Otto E. Langer, R.P. Bio
Director, Marine Conservation

Copy to DFO Minister, DOE Minister, David Suzuki Foundation, MCC, CAAR

