

February 2, 2011

To: Sue Farlinger, RDG Pacific Region

CC: Hon. Gail Shea, Minister of Fisheries and Oceans
Claire Dansereau, Deputy Minister of Fisheries and Oceans

RE: Issues raised by the First Nations Forum participants

SENT VIA ELECTRONIC MAIL

Dear Ms. Farlinger:

The Fraser River and Marine Approach First Nations participants of the Forum on Conservation and Harvest Planning for Fraser Salmon (Forum) are writing to you today to outline concerns expressed at our meeting on January 26, 2011 in Richmond, B.C. A number of policy concerns were raised in discussions with DFO staff; however, it was indicated by Barry Rosenberger, Area Director of the B.C. Interior, that policy issues could not be addressed by the staff members present at this particular meeting. Therefore, the First Nations Forum participants felt that these issues should be addressed by senior DFO staff. Recommendations on a number of issues have been presented below.

IFMP process

According to the schedule received from DFO, the Integrated Harvest Planning Committee (IHPC) will release the first draft of the Integrated Fisheries Management Plan (IFMP) in early March. As has been expressed by First Nations in the past, the current process does not allow for adequate consultation with First Nations on the contents of the IFMP. The amount of information and the breadth of the options presented require a great deal of time, care and attention. First Nations feel that more consultation is needed prior to the release of the first, second and final drafts. In addition, First Nations request that DFO provide feedback on First Nations' input prior to the release of revised drafts.

Recommendation #1: DFO must provide a schedule for adequate consultation with First Nations prior to finalizing amendments to the existing IFMP.

Recommendation #2: DFO must ensure adequate consultation with First Nations prior to finalizing the 2011-2012 IFMP.

Recreational fishing issues

The impact of recreational fishing on wild stocks remains a serious concern for First Nations. Aboriginal fishing rights dictate that food, social and ceremonial (FSC) needs must be met before the commercial and recreational sectors are granted access to the resource; however, the FSC needs of many First Nations communities throughout the province have not been met in many years.

A number of concerns regarding the management of recreational fisheries have also been raised. The voluntary head recovery program is clearly not a satisfactory means of collecting the coded wire tag (CWT) data necessary to accurately assess recreational catch, as the number of heads returned has consistently failed to meet the targets set by DFO. Recreational fishers may also view accurate catch data as a threat to their continued access to the resource; therefore, the voluntary program may in fact have inherent disincentives for recreational fishers to turn in heads. In order to improve the head recovery program, First Nations monitors could be put in place to monitor recreational fisheries in their territories, collect heads, and even do the work of dissecting and processing CWTs.

Allowing open access to all areas and all species under a single recreational license is also a serious concern for First Nations, as area- and species-specific licensing would provide a higher degree of control over the management and regulation of the recreational sector.

Recommendation #3: Head recovery should be mandatory for recreational fisheries.

Recommendation #4: Allow First Nations to monitor recreational fisheries in their traditional territories, collect heads, and collect CWTs.

Recommendation #5: Have species-specific area licensing, with licensing fees going back into stock rehabilitation for that particular area.

Priority access for First Nations

The First Nations participants at the Forum have on several occasions expressed their disapproval of DFO's use of the language "bearing the brunt of conservation" in reference to commercial and recreational fisheries. In the context of the *r v Sparrow* decision, the recreational and commercial sectors are meant to bear the brunt of the burden of conservation only **after** First Nations' food needs have been met:

*If, in a given year, conservation needs required a reduction in the number of fish to be caught such that the number equaled the number required for food by the Indians, then **all the fish available after conservation would go to the Indians according to the constitutional nature of their fishing right** (emphasis added). If, more realistically, there were still fish after the Indian food requirements were met, then the brunt of conservation measures would be borne by the practices of sport fishing and commercial fishing.*

First Nations food needs are **not being met**, and have not been met for many years. Therefore, First Nations argue that DFO's interpretation of priority is not consistent with the Sparrow decision; however, even within their current interpretation, DFO has failed to demonstrate how this model is implemented, measured, and evaluated. For example, the data on 2009 Chinook does not indicate that the brunt of conservation was borne by the recreational and commercial sectors. As First Nations continue to fall short of meeting their FSC needs under DFO's management regime, a tool that directly measures success in meeting priority is required.

Recommendation #6: First Nations' food needs must be met before other sectors are allowed to access the resource.

Recommendation #7: A tool that directly measures DFO's success in meeting priority is required.

It is critical that your written response is received by the First Nations prior to the next Forum meeting, which is scheduled for February 22 and 23, 2011. We look forward to discussing these matters with you in the near future.

Sincerely,

Chief Ken Malloway

On behalf of the First Nations participants of the Forum on Conservation and Harvest Planning for Fraser Salmon