

DECISION NOTE FOR THE RDG – PACIFIC REGION

CHANGE OF FISHING AREA – HUL’QUMI’NUM TREATY GROUP

(For Decision)

SUMMARY

- Hul’qumi’num Treaty Group (HTG) is comprised of six Bands situated on the lower south east coast of Vancouver Island.
- These Bands have demanded they be licenced to fish within the Fraser River.
REDACTED
- This note reviews considerations and recommends that discussions commence authorizing a small number of vessels from the HTG (less than 6) to fish in the Fraser River in an area not heavily utilized by Bands residing in the area.

Background

- The Hul’qumi’num Treaty Group (HTG) is comprised of Penelakut, Lyackson, Cowichan, Chemainus and Lake Cowichan Bands that are annually provided access to Fraser sockeye. The fishery is generally undertaken by means of a seine vessel in Johnstone Strait or off the mouth of the Fraser River.
- For many years, Cowichan Band has demanded the opportunity to reinstate one of their historical practices of fishing in the Fraser River.

REDACTED

- DFO has encouraged the HTG to enter into a protocol arrangement with local Fraser River First Nations (Musqueam and Tsawwassen). While the HTG have made attempts to discuss the issue with local Bands, there has been only a limited response indicating that the matter is “under consideration”. Musqueam representatives have indicated their reluctance to consider this request citing, among other things, issues related to exclusive territory and concern that additional allocation to other groups would interfere with the Musqueam fishery.

- The HTG have demanded a licence be issued saying their aspirations are being unduly and unnecessarily held up.
- Another factor is that of a small group of individuals (the Wilson family) that live in the Richmond area (Canoe Pass) that were recently granted status as Indians by the courts. Indian and Northern Affairs Canada did not grant them “Band” status advising historical records suggested linkages with the Penelakut Band.
- In 2004, due to late abundance and low fishing success in approach areas, the Penelakut fished in the Fraser River (Canoe Pass using a gill net) for their original allocation as well as an amount to address the needs of the Wilson family.

Analysis

- The HTG has indicated increasing frustration with continued delays and if not addressed have advised of their intention to fish illegally. REDACTED
REDACTED
- While the motivation for this position is linked more to treaty negotiations (HTG has recently modified their statement of claim to include the Fraser River) than to a need for food, the request must be dealt with. Bands affiliated with the HTG are making arrangements to harvest most of the allocation in Johnstone Strait.
- Early indications are that if DFO can support this initiative, the HTG would be satisfied with a limited opportunity (<6 vessels fishing for a day in an area not extensively utilized by local bands). Early discussions with the HTG indicate that a protest fishery could be significantly larger in scope.
- It should be anticipated that there will be future requests from the HTG for increased allocations of Fraser sockeye; increased time for First Nation (food, social and ceremonial) fisheries will be required and commercial fishing opportunities could be impacted.
- While it was under unusual circumstances, there has been some precedent for outside communities fishing in the Fraser with the Penelakut First Nation fishing in the Fraser River in 2004. The fishery was well monitored with accurate and timely reporting.
- It is felt that for 2005, there would be no significant increase in DFO staff and resources to monitor this fishery as currently proposed.
- This plan is somewhat consistent with the future vision of the fishery; this will help to improve relations with the HTG and the HTG have indicated an interest in working with other lower Fraser First Nations to plan fishing activities. Conversely, Musqueam are anticipated to express concerns. Over time, increased First Nations fishing activity for food, social and ceremonial purposes in the Fraser may disrupt commercial fishing opportunities.

Recommendations

- DFO indicate support for a limited fishery in 2005 authorizing the HTG to fish in the Fraser River. The objective, subject to consultation, would be to minimize interaction with all groups by fishing during one or two of the open periods for local First Nations but in an area removed from the main fishing area (Canoe Pass).
- Continue to consult with Musqueam and Tsawwassen before issuing any licences to HTG to fish in the Fraser River so as to attempt to avoid any potential impacts on Musqueam and Tsawwassen fishing and to seek the views of Musqueam and Tsawwassen regarding when and where any fishing by HTG might best take place in the Fraser River.
- Continue to encourage HTG to develop a protocol agreement with Musqueam and Tsawwassen First Nations and to work with lower Fraser Bands to co-ordinate fisheries.
- Continue to emphasize to Musqueam, Tsawwassen, Penalakut and any other Vancouver Island First Nations that may fish in the lower Fraser River in 2005 that:
 - All fisheries must be conducted in a safe and orderly manner;
 - In authorizing a First Nation to fish in the lower Fraser River, whether that is Musqueam, Tsawwassen or Penalakut, DFO is not recognizing aboriginal rights. Fishing arrangements under the Aboriginal Fisheries Strategy are “without prejudice” to whatever positions First Nations or DFO wish to take in future regarding aboriginal rights; and
- These fishing arrangements are for 2005 only and will be subject to review after the fishing season.

I concur

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