

Judah Harrison
Ecojustice
Suite 214 – 131 Water Street
Vancouver, BC.

October, 16, 2011

Dear Mr. Harrison:

Re: Cross Examination Questions

Further to the letter of October 11th, 2011 from the Cohen Commission to Ecojustice I have been requested to respond to two questions posed to me by the Cohen Commission staff. The questions and the answers are as follows:

Question 1. In relation to your work for DFO and Environment Canada, please describe your role and experience in respect to fiscal management and budgetary processes.

Answer: During my thirty two and one half years in DFO and DOE I was always a supervisor and had the responsibility to plan out the work, develop budgets and be fiscally accountable for the workings of the many groups I directed. During the 1969 to 1972 period I determined what studies had to be conducted to protect salmon in BC from physical habitat impacts in cooperation with input from my superior and draw up a budget and implement that program and approve expenditures for the various initiatives. Programs that fell under that work included the evaluations of screening needs for a various large water intakes the Fraser and Cowichan Rivers, the minimal flow and protection needs in various Fraser River streams including those in the Shuswap, Nicola and the Lower Fraser Valley area, impacts of gravel mining and sediment impacts on fish and collection of evidence for some of DFO's first habitat protection prosecutions and habitat impact work such as the evaluation of log driving on various BC rivers including the Quesnel and Nass Rivers.

In late 1972 I was promoted to head of Water Quality in DFO Southern Operations and had to establish a new unit, program and establish budgetary needs and hire staff and direct various studies related to the new DOE EPS organization and provide significant input into several prosecutions involving sediment discharges, water quality hearings and pesticide control. Many of these programs were new to DFO in that Section 36 administration was moved to DOE and DFO had to find a fitting role into the complex process of water pollution control involving the IPSFC, DOE, the Province and the significantly enlarged Habitat Management Unit and program in DFO.

In 1976 I applied for a higher level position in DOE and directed their Freshwater Studies and Contaminants Control Programs. This position was more demanding in terms of relating to the new Environmental Contaminants Act and Fishery Act 36 responsibilities and I had to work with DOE NHQ on many first time studies such as the control of PCBs, PCPs, and set up terms of reference and press for budgets to hire many contractors

to develop various control programs for the electrical and lumber etc industries and to develop an expert witness course.

In 1983 I moved back to DFO to be Head of Habitat Management for Fraser River, Northern BC and the Yukon. My job was to establish a new decentralized group and document needs for a new technical field operational offices and budgets to put staff in Whitehorse, Prince George, Kamloops and then in Chilliwack in addition to the main area office in New Westminster. Obtaining a minimal budget and having staff to their job with less than adequate resources was a real challenge in that DFO had decentralized staff but no new allocations of money were made to support the new units so planning and fiscal management was a constant challenge.

In 1985 DFO NHQ was impressed with the decentralized program I had implemented and circulated my program budget planning documentation to DFO nationally as the example or template to follow. Despite a 10% DFO wide cut as part of a Zero A base review, my budgetary planning process provided the documentation for my unit to actually gain three new staff to address the well documented A Base workload. Also with the new International Pacific Salmon Treaty I was able to rationalize international monies for the establishment of a Prince George office to allow DFO for the first time to have technical staff in Prince George to protect upper Fraser River salmon stocks.

In 1990 I was seconded by the Pacific Region RDG to work on a Treasury Board Fraser River Action Plan as part of Canada's Green Plan initiative. I had to be cleared to the secret level to handle secret cabinet documents. I spent a year working on a FRAP organization, Fraser River basin needs, program plans and budgets for science, habitat protection, habitat planning and new watershed stewardship and habitat assessment programs. This basin wide plan was approved and accepted as a 1991 to 1997 Canada Green Plan Project.

During this time I was very involved with NHQ staff in countless rewrites of the program to address various technical and government needs. This constant rewriting of the budget and work plans had to be done in coordination with DOE, NHQ and had to reflect upon other Green Plan projects such as the St. Lawrence River Green Plan. DFO and DOE were each awarded fifty million dollars and over the next six years I developed detail terms of reference for many contract studies and was on an RDG Committee over seeing budget allocations to various DFO branches and the responsible spending of millions of dollars. In addition I directed my own technical work unit that directed many studies into habitat planning and habitat zoning along our rivers and estuaries, the assessment of the DFO no net loss habitat policy and initiated some of the first thinking and programs on formal watershed and stream stewardship groups.

In the 1997 to 2001 period I was put on a committee to take the lead in developing a eighty million dollar habitat and habitat stewardship program as part of CFAR initiative. This Habitat Conservation Restoration and Stewardship Program (HCRSP) and its planning and budgeting considerations involved many meetings with the Minister's regional advisor. Although I did not direct that program I was part of a four person

HCRSP steering committee to provide program and fiscal overview of that five year initiative which ended in 2002. My role in planning programs and sufficient budgets was especially difficult during this time period. I was to assist in the development and fiscal management of a new five year program but also maintain and run my Habitat Assessment and Stewardship unit which was left with very few resources after the expiry of the Canada Green Plan and expected to advise on the National Blue Print and provide early input into the DFO oceans program and assist a contractor in the final evaluation of the fiscal considerations and the accomplishments of the Fraser River Action Plan.

This was very taxing and in that the Habitat A Base program was being run on B Base program monies that were to end on March 31, 2002 I resigned from DFO in late 2001.

In summary, I have had constant and was expected to determine the need, establish budgets and implement and direct new programs and be accountable in the establishment of ongoing habitat protection and many first time DFO habitat enforcement programs as related to Section 36 and then 35 of the Fisheries Act and develop programs for habitat mapping and stream protection zoning, stream stewardship, the first estuary protection initiatives and finally habitat assessment and stewardship programs. Much of that established the basis of many programs found in DFO today across Canada.

Question 2. Do you have any direct knowledge arising from your employment with DFO of the DFO or Environment Canada staffing levels for s. 36 work after the year 2000? If so, please describe your knowledge of this topic.

Answer: My affidavit outlined the human resources that DOE had on staff as of the 2000 - 2001 period to do Fisheries Act Section 36 pollution abatement work. In 2000 I was still working with DOE staff related to various problems such as legal proceedings and prosecution matters. At the time DOE was hiring new uniformed staff for enforcement and I meet with two such officers in Prince. In addition to meeting with various DOE staff in RHQ, I had also met with staff DOE located field staff into new field offices such as in Prince George.

DFO had reduced it water quality and pollution control staff during the Habitat Management decentralization in the 1980s. In 2000 to 2002 DFO had about 4 pys (person years) of water quality staff in Vancouver and New Westminster had at least 2 pys working on water quality issues. Kamloops had a half py dedicated to WQ issues and no dedicated WQ staff existed in Prince George. DFO also had a full time water quality position in Nanaimo that of course related to Fraser River sockeye habitat in the Gulf of Georgia.

Although I left active work with DFO in late 2001 I did remain in contact with staff in DFO and DOE but that began to wind down after 2002 except as related to isolated issues such as water quality related to salmon farms. I did maintain contact and visited many DFO offices in the 2001 to 2005 time period and was well aware of their cuts after 2002. While with the David Suzuki Foundation I did design and initiate studies, including that

related to habitat, to examine the DFO ability to do their job as related to their fiscal constraints. After B Base funding ran out in 2002. I did keep a tally of total DFO habitat positions and cuts but I did not make any effort to determine who was in DOE or DFO doing water quality or Section 36 work. Also the Commission should remain aware that there were several staff in DFO Science that worked on Section 36 issues such as Dr. Ian Birtwell and none of those have been considered in this answer.

There are many better sources of information that the Cohen Commission could have readily accessed for this information. I indeed did suggest to Cohen staff that they should subpoena Mr. Mike Nassichuck as a witness on this issue in my two 2010 interviews with Ms. Baker and Mr. Martland. Mr. Nassichuck, who is now retired, was the DFO head of Water Quality in DFO RHA for many years and then the DOE Direction of Pollution Abatement during much of time period under question.

Sincerely yours,

A handwritten signature in black ink, appearing to read "O. E. Langer". The signature is fluid and cursive, with the first letter of each name being significantly larger and more stylized.

Otto E. Langer BSc(Zool), MSc
Fishery Biologist and Aquatic Ecologist.