

## **SUMMARY OF ANTICIPATED EVIDENCE**

**SUE FARLINGER**

**DFO Regional Director General**

**17 November 2010**

### **Ms. Farlinger's involvement in the development of the Wild Salmon Policy**

- Ms. Farlinger will say that WSP came out of DFO's New Directions policy framework in 1998. She was involved in the development of the new Directions framework as part of the regional management team. The new Directions framework set out the commitment to develop detailed policies, including the Wild Salmon Policy, the Salmon Allocation Policy and the Selective Fishing Policy. The WSP was just one component, but is probably the component of greatest complexity and interest.
- She will say that DFO wanted a policy that was consistent with international and domestic policies and obligations, and consistent with current applied science thinking.
- She will say that, in 2000 or 2001, she went with Laura Richards went to National Headquarters (NHQ) on behalf of the Region to present the concept of the WSP to the Departmental Management Committee (DMC). The WSP was a challenge at the national policy level because its concepts had never been codified by DFO before.
- She saw the WSP as a key opportunity to link habitat to fish management in a way that had not always been explicit in the past and to make the point that habitat and fisheries are all related, although connecting harvest and habitat is difficult.
- She will say that the actual writing of the final version of the WSP started in earnest with the assignment of Pat Chamut to lead the process in early 2004. As the Regional Director of Oceans, Habitat and Enhancement Branch (OHEB) at the time, she was involved as a member of the WSP steering committee. She also oversaw and worked with an OHEB team, including on habitat, enhancement and aquaculture issues.
- In her view, Mr. Chamut's success was due to the fact that he could focus exclusively on this task, as well as to his ability to liaise with NHQ. She believes that he has not always been convinced of the merits of a detailed WSP, but that he came to realize that it could be practical and doable with a clear definition of CUs.
- She will say that issues associated with CUs were a challenge in the development of the WSP, specifically identifying and assessing the implications of adopting CUs, and remain a challenge in implementation. She will say that defining the CUs and indicators is informed by Science, but is, at some level, a subjective exercise.
- She also identifies as a second challenge achieving balance and practicality, and specifically whether DFO could do what it said it was going to do in implementation.
- She will say that the WSP was an ambitious policy to develop. She will say that, by and large, DFO has traditionally been an operational department and thus a reactive department and its policies have been neither explicit nor well developed, so it was a shift for DFO to codify what it meant by conservation. She will say that the WSP was documenting changes that were already occurring in the management of the fishery and that documenting and consulting on those in a policy was a shift for DFO.
- She will also say that the WSP was, in large part, codifying changes that DFO had already been making over the last 15-20 years, including dealing with weak stock management and bycatch issues.
- She has only a vague recollection of the draft operational guidelines created by DFO during the period of WSP development. She may have participated in efforts to create operational guidelines under the WSP.

### **Ms. Farlinger's recollection of WSP implementation planning in 2005**

- Ms. Farlinger will say that she worked for DFO Pacific Region until May 2005, when she was posted to National Headquarters, and then to another government department, and did not return to DFO Pacific Region until April 2008.
- She was not at the August 9, 2005 Regional Management Committee (RMC) meeting (see CAN018588 and CAN006181) or at the September 20, 2005 RMC meetings (see e.g. CAN018627 and CAN18628) where WSP implementation was discussed.
- She does not remember a WSP Implementation Plan (as referred to at page 35 of the WSP, CAN045794, CAN019833 and CAN18628 at p.20).
- With respect to the phrase "a phased approach" to WSP implementation, she will say that, generally, this refers to the time that it will practically take to implement the policy. She will say that she knew that Science would need time to do the analysis required for full implementation.
- When asked why DFO did not release an Implementation Plan publically, she will say that she does not know if any Implementation Plan was released publically as she was not working in the Region in the second half of 2005.
- She will say that DFO internally has annual WSP work plans as well as program workplans that include WSP elements.
- When asked if DFO has consulted on its implementation plans, she will say that DFO uses its regular consultation structure and meetings, including with First Nations; web-updates on the WSP; and bilateral consultations with First Nations as requested.
- When referred to the consultations anticipated in CAN045794 and CAN019833, her understanding is that the proposed consultations with First Nations on WSP implementation went forward in the second half of 2005, but she does not know because she was not in the Region at that time.

### **Accountability for and funding of WSP implementation**

- Ms. Farlinger will say that, within Pacific Region, responsibility for WSP implementation lies with the Regional Director General (RDG) position
- She can explain how WSP implementation is managed at DFO. The Region uses the Policy sector to organize and coordinate WSP implementation. An RMC sub-committee, the Operations Committee, deals with WSP work planning including for consultations. The Regional Directors have responsibilities over their Sectors' assigned WSP tasks. The Area offices also have accountabilities for various phases of WSP implementation.
- She may explain the role and responsibilities of WSP Implementation Team
- She will say that, as the Regional Director of Fisheries and Aquaculture Management (FAM) from April 2008 to June 2010, she was recently responsible for implementation of Strategy 4, supporting pilot processes, putting forward proposals to the RMC, oversight of pre-season fishing planning to ensure decisions rules were consistent with the WSP's intentions, and budget planning with NHQ.
- She may explain her efforts, as former FAM Director, in the annual workplanning and budget process with NHQ for development and planning on Strategy 4, and the results.
- She will explain why FAM has been assigned to be the lead sector on Strategy 4.
- She will say that FAM officials with WSP responsibilities include the Head, Salmon Programs, Treaty and Aboriginal Policy Director, Aquaculture Director, PICFI Director and PICFI Co-management Coordinator. She will say that the Area directors are also responsible for implementing Strategy 4 and other elements of the WSP program as part

of their program delivery role for the respective programs, and that FAM sets the relevant (Strategy 4 and 5) WSP implementation priorities for the Areas.

- She will say that, as the Director of Science, Laura Richards has overall responsibility for the science aspects of the WSP but that the Program Manager for salmon in the Science Branch, now Mark Saunders, is accountable for ensuring WSP Science work gets done. She will say that Science has responsibility for input into each of Strategies 1, 2 and 3.
- She will say the OHEB Director has operational responsibility for Strategy 2 and parts of Strategy 3, and for the Salmon Enhancement Program (SEP) as it relates to WSP.
- She will say that NHQ has responsibility for WSP in approving the workplans and budgets, set out in the service level agreements with the Pacific Region. She will say that service level agreements have been evolving to be more detailed, but do not always document WSP-related items.
- She may explain if NHQ has any other accountabilities for WSP implementation.
- She will explain the budget and governance implications of WSP being a policy rather than a program.
- She may explain, from a Regional perspective, the process and challenges in seeking national funding support dedicated expressly to WSP implementation.
- She will be asked about the potential merits of assigning responsibility for WSP implementation to one director, or about creating a new WSP Director position charged with ensuring timely WSP implementation. She will say that the roles in implementing the WSP are diffuse and dispersed throughout DFO and therefore the benefits of creating a single director versus the existing governance structures are not clear.

### **Implementation of WSP Strategies 1-3 to date**

- Ms. Farlinger will provide her views on the timeliness and comprehensiveness of DFO's implementation, to date, of the Action Steps required under Strategies 1, 2 and 3, including why that implementation has been incremental.
- She will say that financial resources are an issue in the pace of WSP implementation and always a consideration. However, she says that the bigger issue is that it has taken time to do the underlying technical work to identify CUs and their benchmarks.
- She will also say that any change in how DFO does business requires the injection of new financial resources.
- She will also say that she believes it is possible to implement the WSP within existing resources. As an example of how this is possible, she will note how DFO relies on the WSP in difficult harvest management decisions.
- If asked whether DFO has implemented the WSP as quickly as it could be implemented, she will say that the WSP could be more quickly implemented if all stakeholders accept the need to implement it. She will say that one of the reasons that it is taking a lot of time to implement the WSP is that the stakeholders who originally embraced it are now encountering its realities. She says that, as DFO implements the WSP, it has or will result in significant changes for harvesting, habitat management and SEP.
- If asked whether DFO can, in light of the challenges, fully implement the WSP, she will say it is an ambitious policy although it simply codifies DFO's existing objectives.
- She will address the "sequencing" of implementing Strategies 1-4. For example, she will say that implementation of Strategy 2 depends on the definition of CUs in Strategy 1.
- She will be asked whether Strategies 1-3 can proceed autonomously, or whether and how their implementation can be integrated or simultaneous.

- Regarding Strategy 1, she will say that the identification of CUs under Action Step 1.1 and identification of CU benchmarks under Action Step 1.2 takes time and technical work and that this has been a challenge for timely implementation.
- Regarding Strategy 1, she will explain FAM's role, if any, in consulting First Nations on the identification of CUs.
- Regarding Strategy 2, she will say that OHEB has developed the indicators for habitat assessment, and that the Region views the Environmental Process Modernization Plan (EPMP) as complementing and supporting the WSP. She will say that OHEB does not yet have the ability to assess the value of habitat for a particular CU.
- Regarding Strategy 2, Action Step 2.4, she will give her recollection of the RMC's October 2008 decision to defer a request by OHEB for funding to launch its web-mapping application required under Action Step 2.4. She will say that she does not recall being briefed about the web-mapping application before the RMC meeting. She felt that further discussion was needed of the application's utility to other sectors' overall WSP implementation, and priority within the overall WSP workplan rather than assessing a one-off proposal from OHEB. She believes that Policy was therefore tasked with including the proposal as part of the workplan.
- She will say that she has not seen the web-application proposed to RMC since.
- Briefly regarding Strategy 4, she will explain the difference between any official WSP pilots that may exist, and other processes through which DFO pursues WSP objectives. She will say that FRSSI is not the model for Strategy 4, but rather a planning tool used to work with all Fraser River First Nation interests to manage fisheries, which incorporates elements of Strategy 1 and 4, that DFO has used in the interim while CUs were being defined and CU benchmarks are being developed. In this respect, she will say the benchmarks for Fraser River sockeye are being developed and reviewed this fall.

**Even without full implementation, the WSP can be useful as a context for explaining DFO's management decisions**

- Ms. Farlinger will say that, apart from whether the WSP Action Steps have been or are being implemented, the WSP serves as an important and useful context in which DFO can transparently make and communicate its management actions.
- She will say whether it is sufficient to have the WSP to generally support operational decisions, or whether full implementation of the WSP is necessary.
- She believes that the WSP could one day be fully implemented. However, she says that there are subjective public policy issues embedded in each of the science-based Action Steps in the WSP Strategies. She will say that implementation of those Action Steps is ambitious but underway. As an example, she says that it is too ambitious to expect that as of today, as set out in Strategy 1, Action Step 1.2, that each CU will have a final biologically-based upper and lower benchmark in place but that they will continue to evolve. She will say that DFO needs those benchmarks or reference points in place but they need not be strictly science-based.
- She will be asked whether, and if so how, the WSP addresses and influences the SEP.
- She will be asked whether and, if so how, the WSP has influenced aquaculture.

**Decision to defer the independent 5 year review under Strategy 6**

- Ms. Farlinger will testify about DFO's deferral of the independent five year review of WSP Implementation, required under Action Step 6.2 to occur by June 2010.

- She will say that DFO has not abandoned the five year review but rather has deferred it.
- Regarding when regional management first discussed deferring the five year review decision, she may say that she recalls discussion about this issue in 2009.
- She will say that she was absent at the June 25, 2009 Operations Committee meeting
- She will say if she was present at a Spring 2009 meeting of the SD Committee at which the regional management team discussed the potential timing of the Strategy 6 review.
- She will say that, on June 17, 2010, the Operations Committee confirmed a decision to defer the Strategy 6 that is required to be conducted by June 2010.
- She will say whether she is ultimately accountable for this decision, as RDG, or whether it was made prior to her becoming RDG.
- She will comment on the powerpoint presentation made at the June 17, 2010 meeting [final version not yet available in Ringtail, draft version CAN178220). Regarding Slide 12 of that presentation, she may confirm if the decision to defer the Strategy 6 review had initially been made in the 2009-2010 fiscal year.
- She will say that any decisions to defer Strategy 6 would be documented, whereas management discussions on deferring Strategy 6, absent a decision, may not be.
- She will elaborate on the Draft Record of Meeting (not in Ringtail) and the Final Record of Meeting of June 17, 2010 (CAN185527). She will say that the following sentence was unfortunate language and she had it edited to reflect the actual decision: “As WSP is not a program, it is not possible to attribute resources towards implementation”.
- Regarding the reasons for the decision to defer the independent five year review, she will say that she and the regional management team discussed and agreed that the evaluation would not be complete without considering how to measure the operational implementation. She will say that it would be straightforward to check off what DFO has or has not done in its annual WSP workplans or to satisfy the WSP Action Steps. However, she will say that such an evaluation would be too narrow, and would not say much about how DFO’s operational, on-the-ground work and decisions in the last five years may have been influenced or modified by the WSP.
- She will say that the WSP annual work plans do not fully describe all the work DFO does that is related to the WSP.
- She will say that, in the Summer of 2010, she asked the WSP Implementation Team to advise regional management in the Fall of 2010 on how to proceed with desired review criteria. She will explain the efforts that DFO officials have taken, in the last 5 months.
- She will bring to the hearing a copy of material produced for the consideration of regional management specifically the “draft internal review outline” referred to in CAN185492.
- She will say that DFO is considering how its implementation of the WSP should be evaluated, rather than having the evaluation approach or criteria being decided independently. She will describe any involvement of stakeholders or the public in the efforts taken by DFO officials, to date, to determine the evaluation approach or criteria.
- She will say whether she or regional management have decided, at this time, to pursue an internal review or an independent review. She will say that the deferral decision reflected the need for DFO to be able to document and explain what it has done to date on WSP implementation, before DFO proceeds with any independent review.
- She will comment on DFO’s media lines first prepared in June 2010 (e.g. CAN178232) and revised in October 2010 (CAN185528). She will be asked if the Cohen Commission was in fact an original motivation for DFO’s decision to defer the Strategy 6 review.
- She may bring to the hearing copies of any of e-mails she sent or received documenting DFO’s discussions or decision to defer the five year review.

### **Provincial engagement with the WSP**

- She will say that the Province was supportive of the WSP at the time it was finalized.
- She will say that DFO engages with the Province on WSP implementation, by engaging in provincial planning processes that may not be driven by Pacific salmon or fish, like water management processes.
- She may note any operational relationships or activities with Provincial officials that are specific to WSP implementation, with reference to particular Action Steps like Step 2.4 that reference the involvement of the Province and other partners.

### **Ms. Farlinger's involvement in the Marine Stewardship Council certification process, namely the certification conditions related to the WSP**

- Ms. Farlinger will briefly explain what she knows, including from her time as Director of FAM, of the challenges and delays with the MSC certification process for BC sockeye
- She will say that reasons for delay included a lack of clear process by the evaluators, the amount of work necessary to support certification, and the concern heard by DFO that the WSP was not being implemented
- She will say that the fishing industry is the author of the certification and of the conditions
- She will explain that DFO prepared an Action Plan, which sets out how DFO is going to meet the industry's conditions
- She will say that the MSC certification puts DFO's efforts on WSP implementation into the context of some very specific deadlines. She will say that these deadlines are supported by industry. She will say that there is continued concern about the pace of WSP implementation held by environmental non-government organizations, some of whom objected to the certification for Fraser River sockeye.
- She will be asked to comment on DFO's exclusion of Strategies 2 and 3, and any timelines for their implementation, from its Action Plan.
- She may comment on the appropriateness of the use of target and limit reference points in DFO's Action Plan, whether this fails to acknowledge a difference between RPs and WSP benchmarks and, if so, whether this difference has any significance going forward.

### **DFO powerpoint prepared for commission counsel and earlier testimony**

- Ms. Farlinger will not present to the Commissioner the powerpoint created in support of her WSP evidence.
- She will say that, while she wrote some and not all of the powerpoint content, the powerpoint accurately reflects some of her views and experiences.
- She will clarify some of her testimony offered regarding the WSP on November 1, 2010.