

WITNESS SUMMARY

Rod Naknakim

Witness background

Mr. Naknakim is a member of the Cape Mudge Indian Band. He grew up on Cape Mudge Indian Reserve on Quadra Island and spent a significant portion of his youth on a seine boat. He fished with his grandfather Harry Assu from the time he was eight years old until he was approximately eighteen, and had fully expected to become a fisherman. However, his studies led him to obtain a law degree from the University of British Columbia in 1978. He still considers himself to be a fisherman, but one that also happens to hold a law degree.

Since being called to the Bar, Mr. Naknakim has worked as a general practitioner and has specialized in aboriginal legal issues. He helped to establish the Native Fishing Association, has been involved in the Native Brotherhood of BC, and has been involved in several fisheries issues in opposition to DFO. Mr. Naknakim was also a co-chair of the Area 13 Salmon Seiners Association, working on issues related to DFO's policies for openings and closings following the *Sparrow* decision.

Currently, Mr. Naknakim is the Chief Negotiator for the Laich-Kwil-Tach Treaty Society (LKTS).

The LKTS is made up of three bands: Cape Mudge (Wewaikai), Campbell River (Weiwaikum) and Kwiakah. Among these three bands, there are 11 reserves. The largest one is the Cape Mudge Reserve with 1200 acres, but most of the others are between 50-300 acres. The reserves are very small relative to the needs of LKTS communities, but one way or another they were associated with fishing.

Traditional participation in the fishery

Members of the LKTS have always relied on the sea. This reliance has taken the form of clam gardens, fish traps (including ocean fish traps) and other fishing. For example, fish traps were set at Seymour Narrows, which is the narrowest section of water between Vancouver Island and the mainland. Immediately to the north of Seymour Narrows, there are two bays - Plumper Bay and Deepwater Bay - where fish traps are found. Elders explain that these traps were placed to catch Fraser stocks as they hold in the bays, waiting for the tide to turn, during their return migration. These returning stocks, when captured at this point in their migration were valued for their high oil content and quality. Coincidentally, when cannery owner W.E. Anderson came to this area in the early 1900s, he also put fish traps in two of the bays that had been used by LKTS in the past.

LKTS elders also tell of another area called Little Bear River. Oral history tells of a trap for salmon that was placed at the mouth of that river, to catch both Little Bear River salmon and salmon passing by on their way to the Fraser River. The way the tides work, the salmon are driven into bays and river mouths where they can be harvested with traps. More large, tidal fish traps are found at Blenkinsop Bay. Fraser fish hold at Blenkinsop Bay and it is possible that these traps were used to catch these fish.

Between Sonora Island and Howe Island, LKTS elders have also described the use of moveable box traps. At this location there is a very shallow and narrow channel that LKTS fishermen and elders identify as being an important fishing site for Fraser River stocks. Box traps are made by attaching nets to the corners of a box and stretching them across the channel. Young men then dive into the water, acting as human plungers, to scare the fish in and towards the box trap. Once they swim up to the net, they follow it, like a weir, to the box entrance and into the box. When the box is full, the door is closed. This method of fishing allows fishers to catch literally thousands of fish in this particular spot. Mr. Naknakim notes that this same site is used by commercial fishers and is still seen as an important fishing area for Fraser River stocks. Several LKTS fishermen note that they have successfully fished this same place in recent memory. In addition to traps, nets made of cedar and some hook and line fishing were also used by LKTS members to fish for passing salmon stocks. Nets were used from the beach, but could also be dragged between two canoes. Platform fishing by spear, and likely gaff, was also done for salmon in front of the village at Cape Mudge.

The LKTS bands have a name for sockeye, *matik*, but there is also a distinction made between local and passing sockeye. Fishermen say that they can tell the difference between local and passing sockeye, and also between the different runs of the passing sockeye based on behavioural and physical differences in the fish.

LKTS fishermen can see the fish when they are coming through local waters. The fish will either fin and show their backs or jump right out of the water. Each of the different species has different ways of jumping and you can tell what they are. You can certainly tell when they are sockeye because they slide on the top of the water. The fish show up at certain stages of the tide. Some people tell the story that when they were young, it was their job to climb to the highest point on the boat and search for the dark spots in the water. This was a school of salmon.

In the past, LKTS members also fished local stocks. However, logging practices have clogged up local salmon-bearing streams. A dam at Campbell River has also had an effect, so LKTS members now rely on Fraser stocks more than they used to.

Modern participation in the fishery

In present times, the gear and boats involved in the fishery are different than in the past. Now there are really heavy duty and fast boats. LKTS fishermen use drum seines, while in the past fishermen would pull seines out of the water by hand. Mr. Naknakim's grandfather, Harry Assu, for example, was the last to switch from a table seine with a power block to a drum seine.

The LKTS has fishermen who own their own boats, and who participate in the general commercial fishery. The LKTS bands also have an FSC allocation, which is administered through the A-tlegay Fisheries Society. This is done through a communal licence with an allocation of about 80,000 sockeye for five Bands.

This FSC fishing is performed by separate families, so there is a mix of methods used. These methods include seine boat and gillnet. Trollers are rarely used now although they had been at one time. Some of the seine boats will also harvest fish to share with other LKTS members, and not just their own families.

The LKTS has never had a pilot sales fishery. However, LKTS members do have an AFS agreement under which there is a communal commercial licence. This is also administered through the A-tlegay Fisheries Society, and it is relatively new.

LKTS members believe that the Johnstone Strait fishery provides the highest quality of fish because of the oil content of fish caught in that area.

Mr. Naknakim stresses that LKTS members are still relying on the fishery for their livelihoods today. They have no choice in that. Mr. Naknakim states that reserves for the LKTS member Nations were small and granted on the understanding that the LKTS member bands would continue to earn their livelihood from the sea as they always had. In fact, 7 of the 11 reserves were originally allotted by Canada specifically for fishing purposes. Although Mr. Naknakim is not against anybody else getting their fish up the river, and although the LKTS would be happy to help if they could, LKTS members should still be allowed to make a living as well.

Cultural significance of Fraser River sockeye and the act of fishing for it

LKTS member bands are conservationists. They know when the stocks are there and when they are not. They had so much strength in Johnstone Strait and there are rocks and points named after Chiefs and LKTS people.

The cultural connection that LKTS members have with sockeye is like their connection with everything else – and it is difficult to describe in singularity. For example, there are many stories involving all the animals and how the LKTS relate to them. However, you might say that, in relation to the LKTS culture, sockeye have always been “front and centre.” Sockeye are the source of making a living; they are how LKTS members keep healthy. Other marine species are also relied on - not just sockeye - but it is very important.

It is very important to the LKTS that their involvement in the fishing industry is maintained. The LKTS culture and LKTS communities depend on participation in the industry. The fishing industry is the one way that the LKTS are able to compete in industry and it is important to maintain access to the fish.

LKTS would like to increase their participation in the industry, but economic barriers are keeping many people out.

Mr. Naknakim states that the LKTS have their way of life and have always tried to be good stewards of the runs going by because they depend on them coming back each year. LKTS members have stewardship principles, and they have shared those principles and thoughts on conservation methods with DFO on numerous occasions.

For example, LKTS members have identified areas where they would not fish so that there would be certain conservation methods in place when they did fish. The LKTS fishermen know the water very well and know the salmon runs very well. They have made their living off of them and want to continue doing so.

For LKTS members, it is really important to have family units fishing together. This allows youth and elders to work and spend time together every year and it is an event that families look forward to. When Mr. Naknakim was growing up, families all had setting spots where they would set out their nets. Each family had an area and this had been that way not just for a few years, but was passed down through generations. Most of the families owned their own boats. In fact, the old five dollar bill with a seine boat on it was his grandfather's boat, and the boats in behind were run by his two uncles being the sons of his grandfather.

The cultural aspect of fishing is all kept in LKTS crests and carvings and sockeye have always been a part of big houses for food, and the salmon dances, salmon songs and salmon ceremonies. The LKTS members celebrate the sockeye salmon.

The LKTS still practice what has been taught for hundreds of years and are also training their youth how to fish. Some of the families do not have access and the wherewithal to teach their youth about fishing and preserving. The LKTS communities therefore take responsibility for teaching those who would not otherwise learn. That is part of the culture and the people do not exist without it. It is the act of actually doing the fishing and hunting that really allows people to appreciate it. That cultural connection to the water and the land is definitely there and remains very strong today.

Interactions and consultations with DFO

Mr. Naknakim states that LKTS members are not happy with the way that Canada has treated them. The LKTS member Nations were given small pieces of land as Indian Reserves by the government on the representation by Indian Affairs that they would be able to continue to earn their living from fishing as they always had. However, DFO then stepped-in and regulated the fishery and reduced LKTS access. Later, in more recent times, programs like the Davis Plan saw a lot of people put on shore, after they sold their licences and were unable to replace them. Mr. Naknakim states that many LKTS fishermen felt that they were misled and left hanging after that.

Mr. Naknakim's grandfather was a fisherman who would tell DFO when stocks were good and not good. His knowledge was worthwhile listening to. However, DFO has not listened to it. There is history and knowledge that DFO has not taken advantage of. Rather, Mr. Naknakim advises that DFO decides where and when LKTS fishermen can catch fish. This has not worked well for everyone, especially this year.

Some West Coast tribes did not get their fish this year even after the largest return in recent history. Some of these groups have access problems, and do not have boats. They might ask LKTS fishermen to fish for them, but if that were to happen, then it would impact the allocation to LKTS fishermen because of DFO's adjacency policy. The LKTS is therefore not able to assist these groups.

Mr. Naknakim feels that the DFO relies on information from the Fraser River to determine openings and closings. Once the fish get down to the Fraser River though, it is too late and LKTS communities get nothing. There needs to be a better mechanism to figure out what is going on earlier in the migration, so that coastal people can have access to the fish.

Collaborative processes with other First Nations

The LKTS has been involved in talks with other First Nations, for example through meetings with southern Vancouver Island representatives to talk about fisheries access. At one time LKTS fishermen would catch fish and deliver them to other bands that were unable to do so. However, that system is not in place anymore because DFO advised that any fish caught that way would count against the fish allocated to LKTS members.

The LKTS are also open to assisting Upper Fraser bands in catching fish in Johnstone Strait, if they were to ask for that, and if DFO would authorize it. This might not be appealing to all in-river Nations, but it may be one alternative for those who want to have fish.

Traditional Knowledge

Mr. Naknakim and other LKTS members grew up on the water. Johnstone Strait is not the easiest place to fish. You have to know the tides, which makes all the difference between a good set or not.

Mr. Naknakim's grandfather had traditional knowledge about the size of runs and quite often he was right. He would lobby for openings when DFO would predict no fish, and he was right. Mr. Naknakim considers this knowledge of the fishery to be traditional knowledge, in addition to the stories from elders on when to fish and when not to.

Visions for involvement in the management of the Fraser River sockeye fishery

LKTS members desire a greater role in the management of the fishery. They have always had a problem with how DFO makes decisions. Mr. Naknakim thinks that the more the LKTS can get involved the better off fisheries management would be. This would allow them to understand what was going wrong and what was going right. First Nations can bring local knowledge. His grandfather could predict how wrong DFO would be and why. He would know that as a fisherman. One of the things he did was record every set he made, how strong the tide was, how much he caught and what species. After 10-15 years of doing that he could pretty well see the pattern.

By "getting involved in management", Mr. Naknakim is referring to all levels: generating the information and evidence needed for proper science, consultation and joint decision-making. The LKTS has taken a lot of steps, baby steps, towards co-management within A-tlegay Fisheries Society and with the DFO. One of the biggest breakthroughs was by way of catch monitoring. The A-tlegay Fisheries Society has a full-fledged database to the point where the DFO is hiring them to teach others how to implement it in their situations. One of the other areas that the A-tlegay Fisheries Society has been strong in is charter patrols. They have taken over the contract from DFO for patrols between Kelsey Bay and Seymour

narrows. These are local fishery guardians that patrol the commercial fisheries and First Nations fisheries.

For enforcement purposes, Aboriginal guardians can only observe, record and report. The DFO would still have to step in if there are obvious abuses. However, there is a good working relationship between Aboriginal guardians and the DFO. It is a matter of building trust between Nations, commercial fishermen and the DFO.

As far as joint decision making and planning goes, the LKTS are involved in all the normal processes, including the IHPC for salmon and herring. They are also working on an AAROM agreement which will allow them to hire a biologist.

Mr. Naknakim feels that the technical committee of the Fraser River Panel has a very strong role in guiding the decisions of the Fraser River Panel. First Nations should be involved in that process, if at all possible, but without putting 100 bodies in the room, as you cannot make a decision in that way. Thus, getting First Nations representation on the Fraser River Panel technical committee is the way to go. It is especially important that First Nations representation on the technical committee include a representative from Johnstone Strait (or a representative who can speak for marine and coastal First Nations generally). The technical committee would benefit from input from First Nations fishermen and biologists with experience in Johnstone Strait and other marine areas, because of their role in the fishery, and their unique perspective on the fishery, including the knowledge that has been acquired over many generations.

An LKTS member, John Henderson, also sits on the First Nations Fisheries Council (FNFC), so that is another way that the LKTS participate. The FNFC is still working though its internal governance issues and that process needs to be completed. There are still questions around how much jurisdiction a co-management group would have. If the DFO still makes all the decisions then there will be no trust in it. What's necessary is that the mechanism is built up with trust and that First Nations are given the capacity to be involved in management.

Perspective on the sale of FSC fish

The LKTS and its members are not all in agreement on this. Mr. Naknakim, speaking for himself, agrees with the teachings of his grandfather, who said that food fish should not be sold. As soon as you start allowing sales, there are not going to be any food fish left for the ordinary people. If you are going to sell fish, then it should be done under a licence to sell. That decision to sell should be made up front by the First Nation and done properly. However, there may be a need for some portion of food fish to be sold to cover the costs of the family that is out catching fish for others. Boats are owned individually and there are expenses that arise in catching the fish. There should be some allowance for sale of fish to cover the cost associated with fishing under a communal food fish licence.

However, many people in the LKTS have their personal views on this matter.