



Fisheries and Oceans  
Canada

Pêches et Océans  
Canada

1 Nov, 2006

The *Larocque* Decision  
and  
Cost Implications for Science

October 2006





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## *Larocque & APPFA Decision*

- In 2003, DFO advised Gulf crab fishers that it would conduct a snow crab survey in certain areas and would issue a licence to a fisher to take and sell up to 50t of crab from the existing TAC to cover the costs of the survey.
- Mr. Larocque contested DFO's decision to issue a scientific fishing licence to do so, alleging that DFO entered into a contract for services and used a fisheries resource to cover expenses.
- The Federal Court decision, dated May 16, 2005, concluded that the Minister was acting within his mandate; Larocque appealed.



## *Larocque & APPFA Decision*

- The Federal Court of Appeal (FCA) allowed Larocque's appeal and reversed the Federal Court decision.
- The FCA concluded that the Minister did not have the authority to finance his department's research activities by granting a licence to fish and sell snow crab.
- FCA also concluded:
  - Case turned much more on financial authority of Minister and not on his power to issue licences;
  - DFO and licence holder had entered into a contract for services; and,
  - Minister financed the research program without having appropriated the necessary funds; he used a resource that did not belong to him – the fisheries resource – to finance the activity.



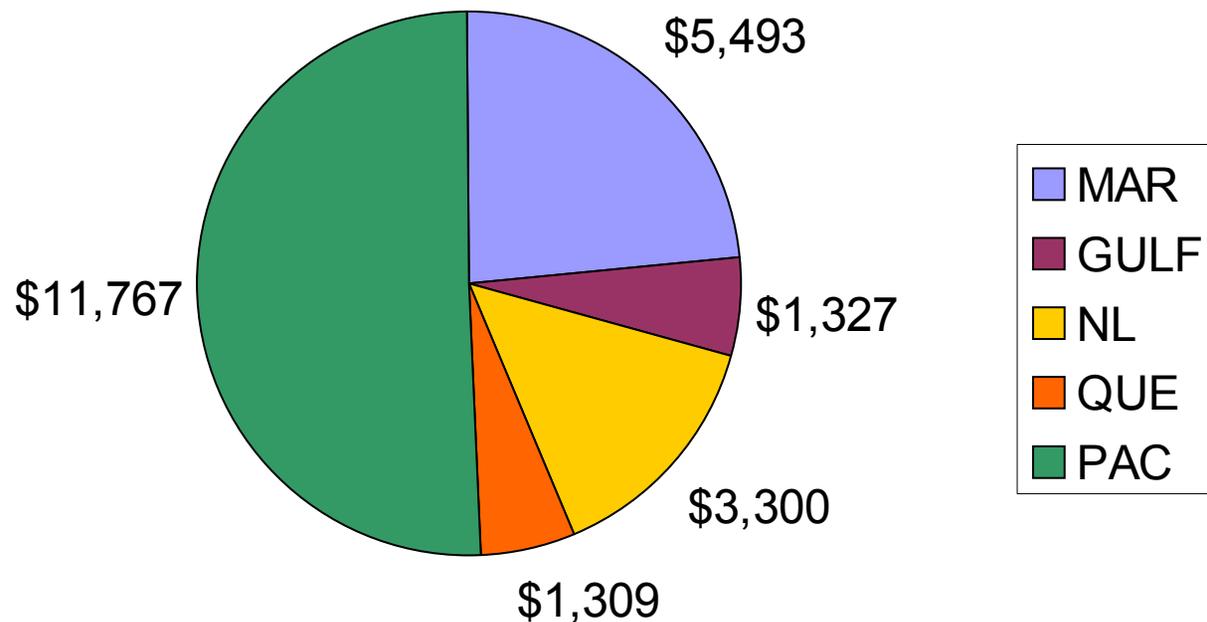
## *Larocque & APPFA Decision*

- In April 2005, DFO entered into a Joint Project Agreement (JPA) with the APPFA to improve the management of the crab fishery in the Southern Gulf area and “to provide funding for incremental activities of the Department.” The APPFA provided \$1.9M for the Minister to use to fund the additional activities, and the Minister issued a commercial licence for 480 tonnes of crab to the APPFA.
- The Federal Court (FC) in the *APPFA* findings of October 18, 2006 are similar to those in the *Larocque* case, but more restrictive.
- The FC concluded that the Minister did not have the authority to finance any of his department’s activities by granting a licence to fish and sell the snow crab catch to cover costs.



## Cost Analysis Findings

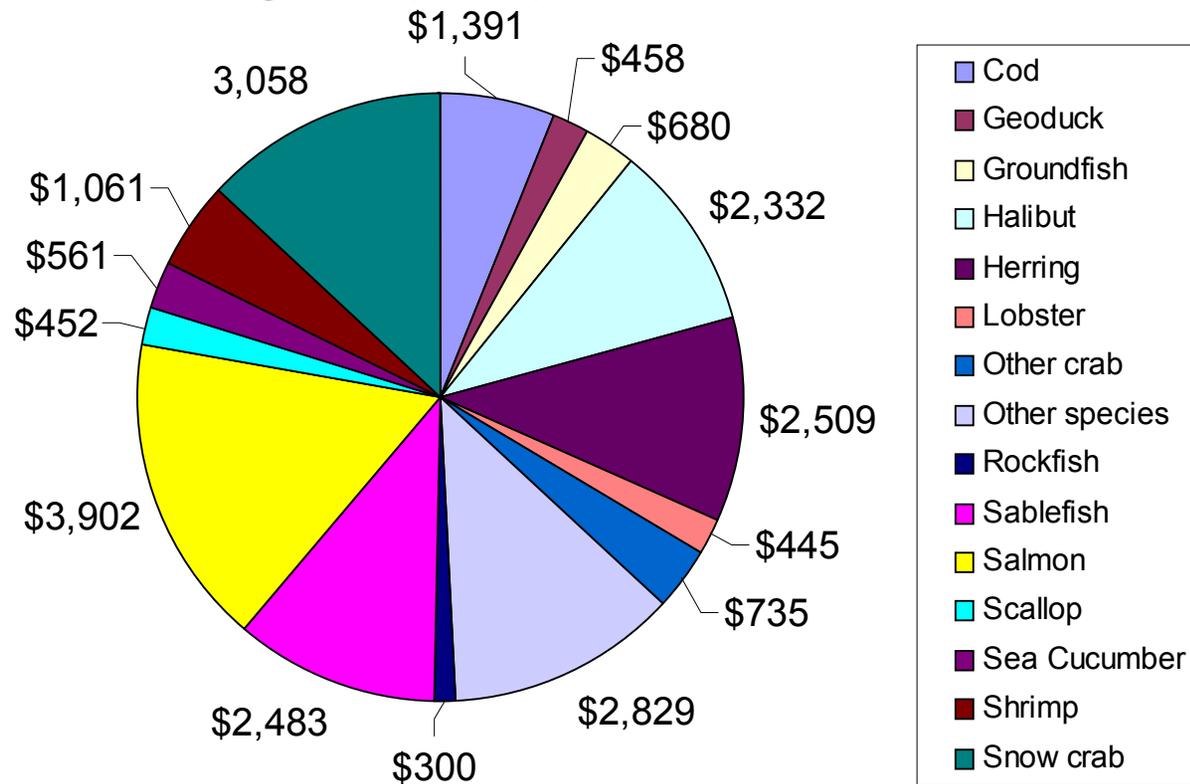
**Contributions by Industry to Science Programs**  
Total = \$23.2M Nationally ('000s)





## Cost Analysis Findings

**National Contributions by Industry to Science Programs ('000s) Total = \$23.2M**





## Cost Analysis Findings – Stock Assessment / Management Risk Analysis

### Likelihood Definition

- **High** – the likelihood of not achieving conservation or management objectives are very probable
- **Medium** – the likelihood of not achieving conservation or management objective are probable
- **Low** – the likelihood of achieving conservation or management objectives are probable

### Impact Definition

#### High

- May result in a highly costly loss to resource or may significantly impede department's mission (i.e. conservation of the resource or delivery of management objectives)

#### Medium

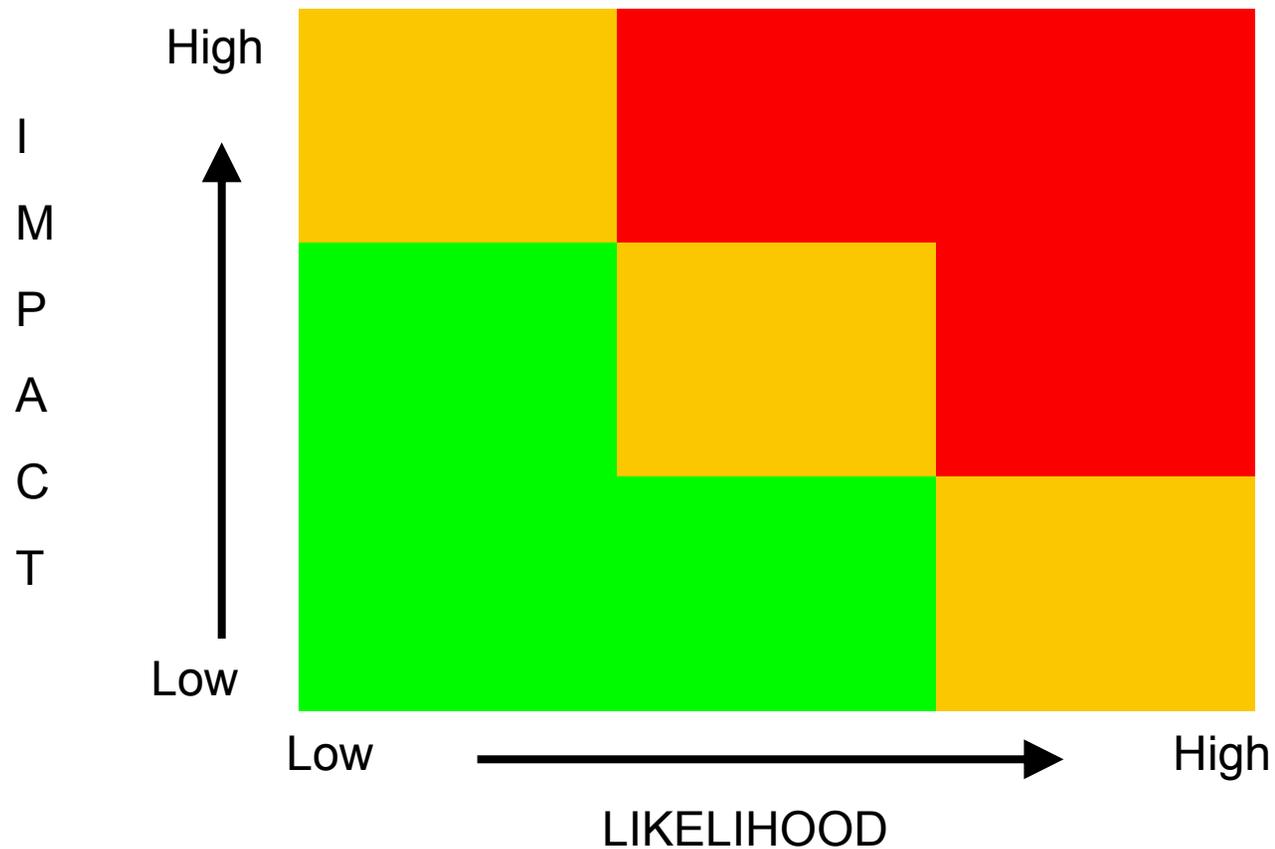
- May result in a costly loss to resource or may significantly impede department's mission (i.e. conservation of the resource or delivery of management objectives)

#### Low

- May result in a loss to some tangible portion of the resource and not likely to impede delivery of department's mission (i.e. deliver of the conservation resource or management objective)



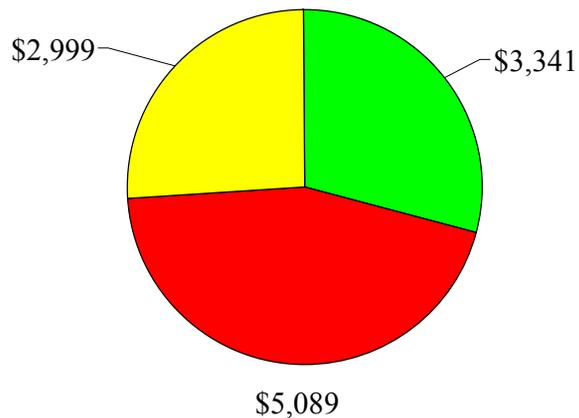
## Cost Analysis Findings – Risk Analysis



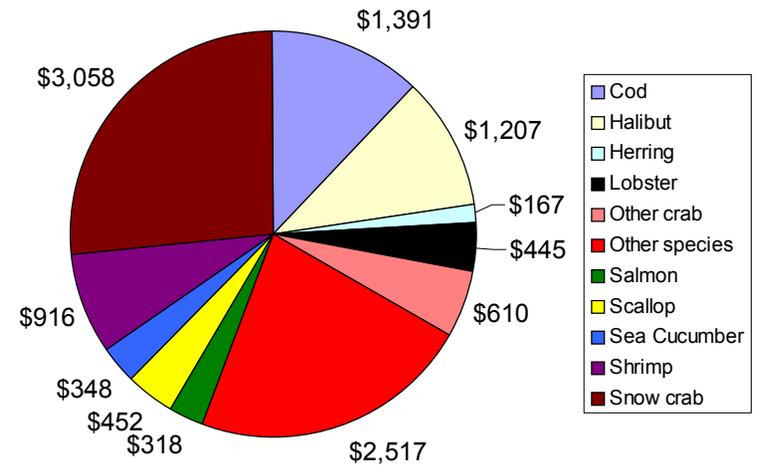


# Atlantic Cost Analysis Findings – Risk Analysis

Industry Contributions to Science Programs Total  
\$11.4M - By Risk Level Atlantic Regions



Industry Contributions to Science Programs  
Total \$11.4M - Atlantic Regions ('000s)



Red= high likelihood & Impact

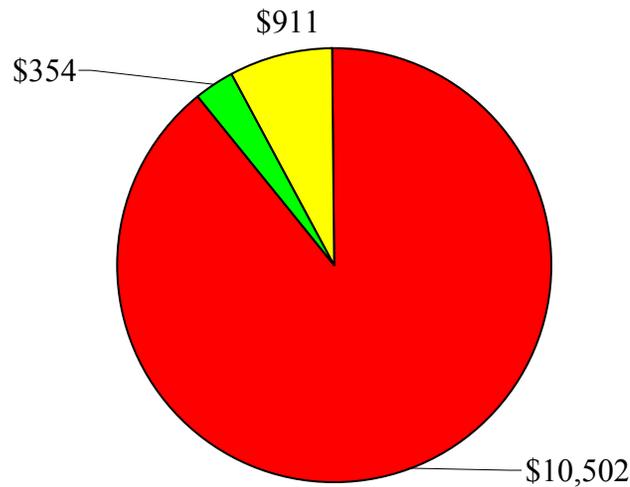
Yellow = medium likelihood & Impact

Green = low likelihood & Impact



# Pacific Cost Analysis Findings – Risk Analysis

**Industry Contributions to Science Programs Total  
\$11.8M - By Risk Level Pacific Region ('000s)**

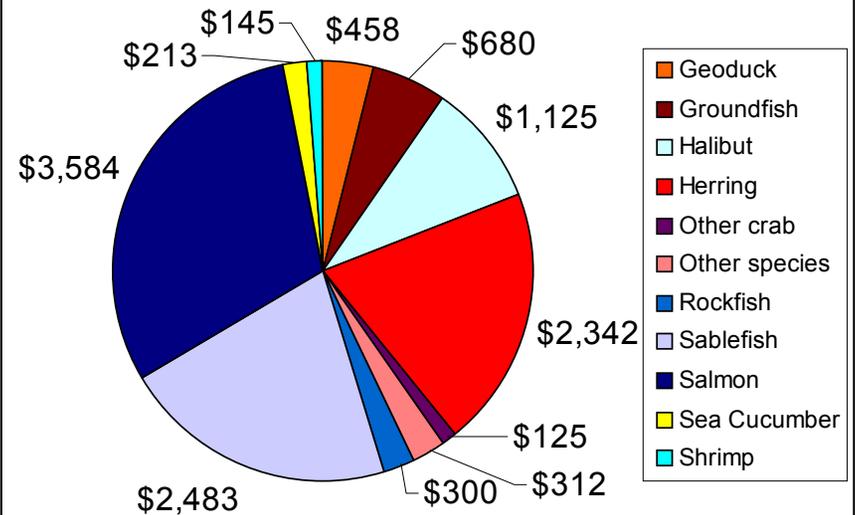


Red= high likelihood & Impact

Yellow = medium likelihood & Impact

Green = low likelihood & Impact

**Industry Contributions to Science Programs Total  
\$11.8M Pacific Region ('000s)**





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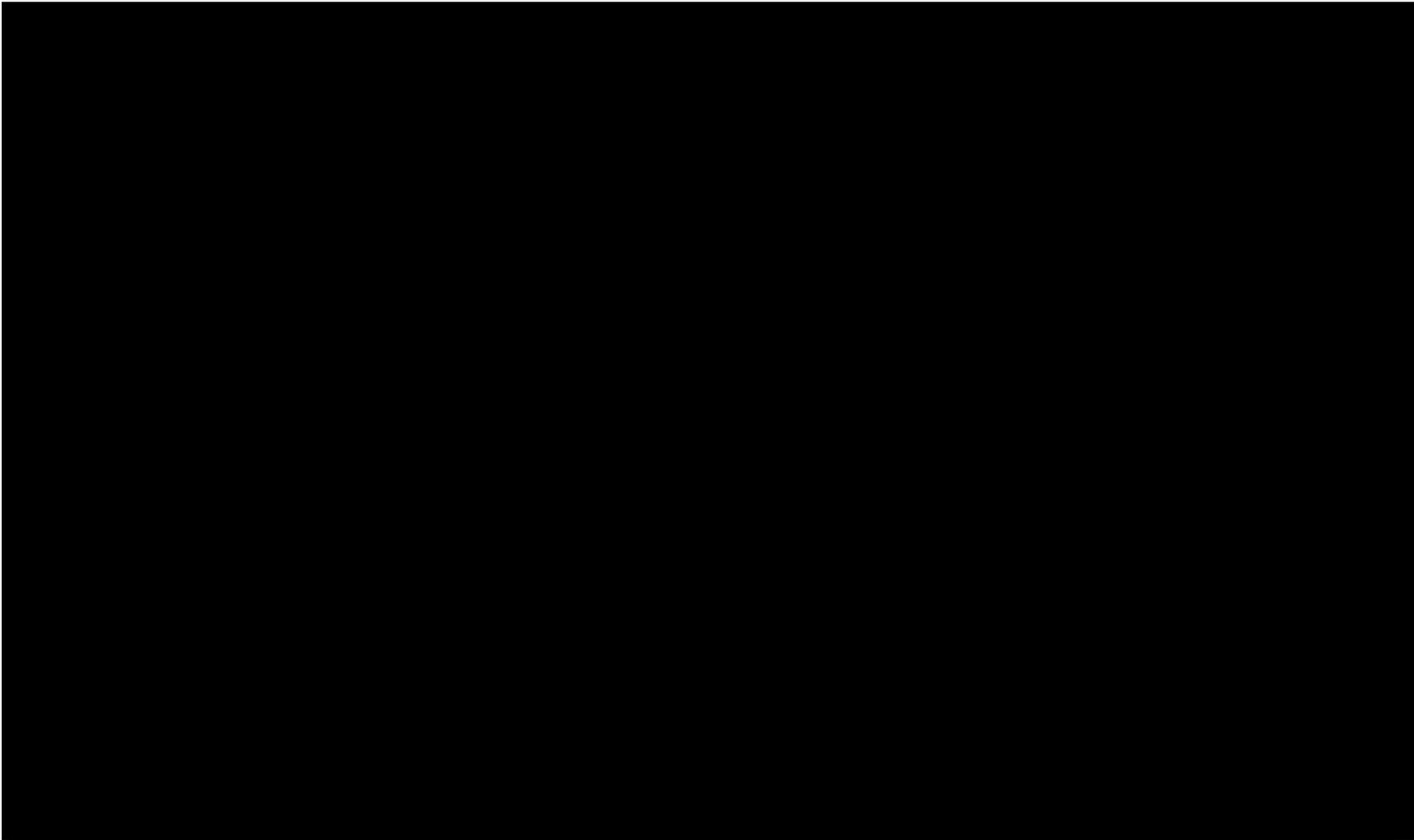
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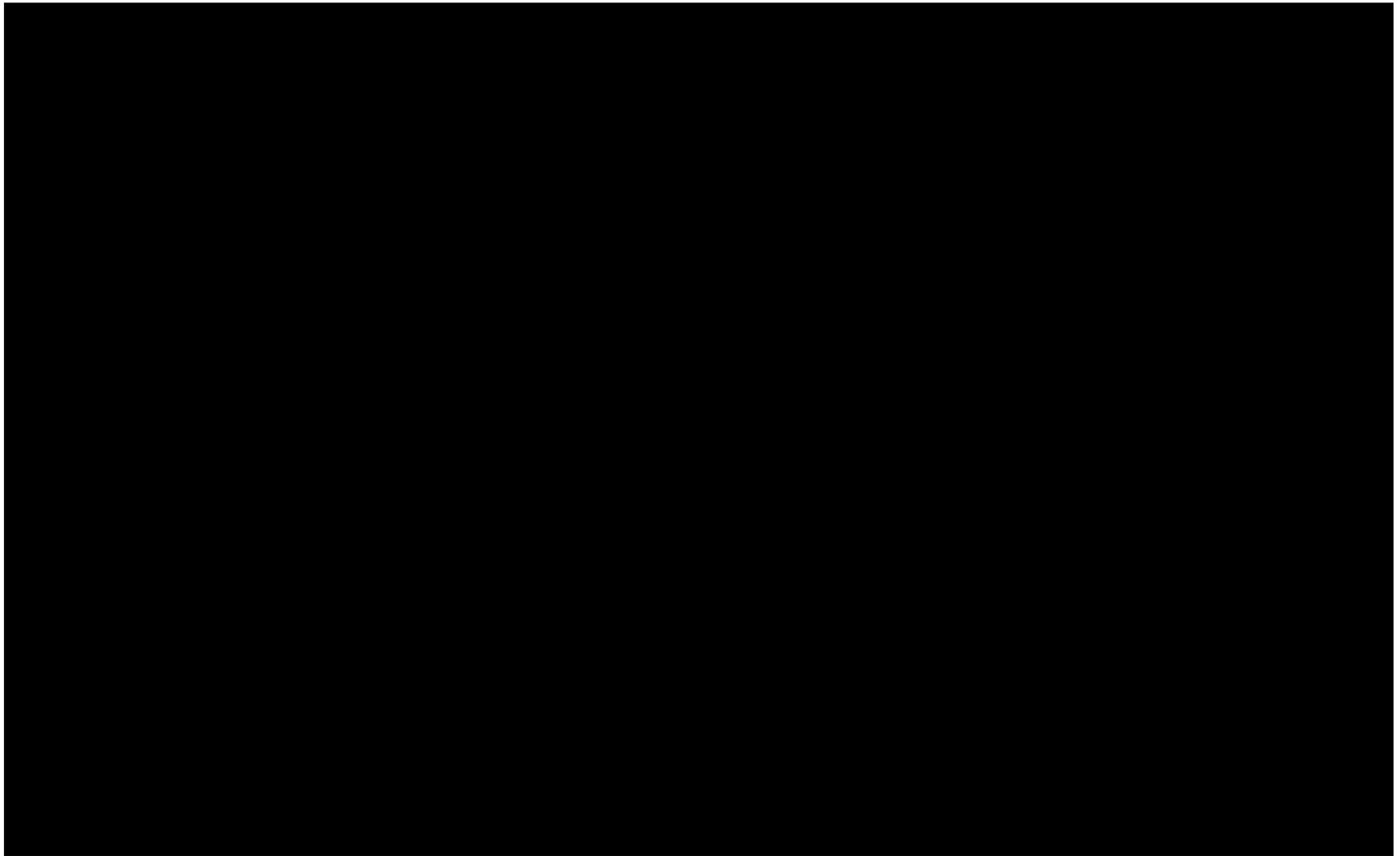


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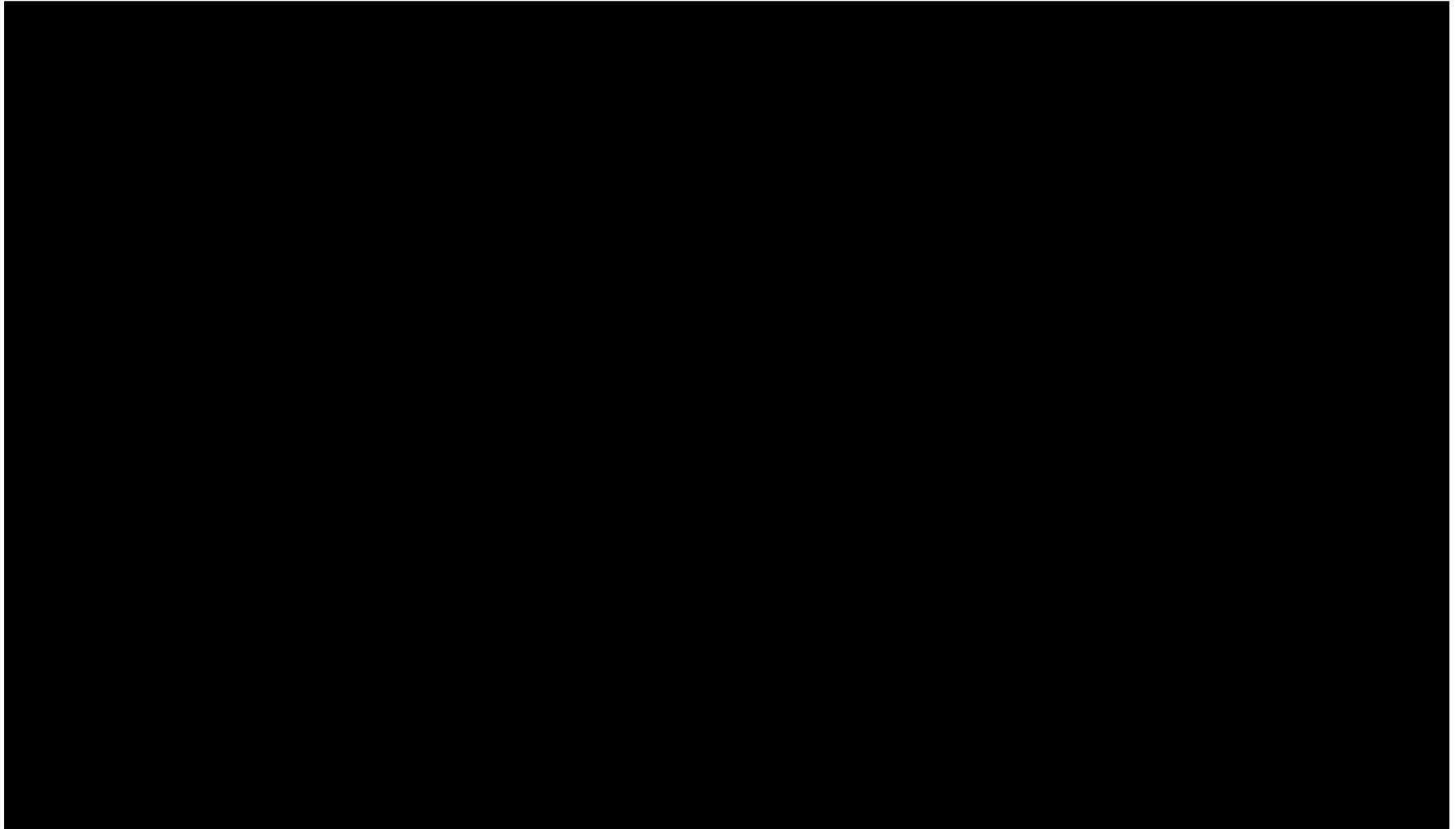
## Conclusions

- The total cost for programs affected by *Larocque* is \$23.2M Nationally
  - Atlantic Regions costs are \$11.4M. The largest four species comprise 60% of the total program cost (\$3.1M snow crab, \$1.4M cod, \$1.2M herring and \$916K shrimp)
  - Pacific Region costs are \$11.8M. The largest four species comprise 81% of the total program cost (salmon at \$3.6M, \$2.5M Herring, \$2.3M Sablefish and Halibut at \$1.1M)





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## Appendix

Table 1. DFO positions funded via industry contributions through either the sale of fish or direct monetary contribution from industry

	All Postions			Budget			Total
	Science	FAM	C&P	Science	FAM	C&P	
Atlantic	8	IC	IC	\$585,000			\$585,000
Pacific	14	6	5	\$835,500	\$458,100	\$475,800	\$1,769,400
Total	22	6	5	\$1,420,500	\$458,100	\$475,800	\$2,354,400

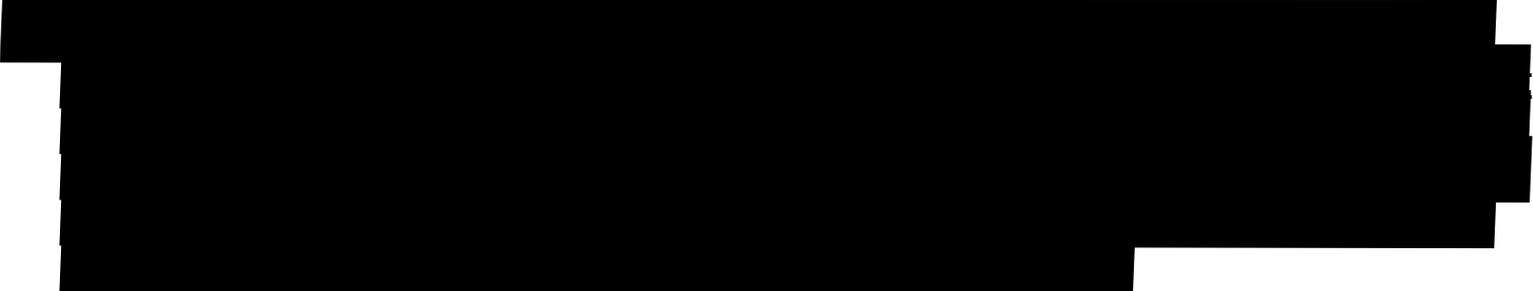
	Indeterminate		
	Science	FAM	C&P
Atlantic	1	IC	IC
Pacific	2	4	5
Total	3	4	5

IC = Incomplete



## Appendix

- Pacific Region program cost changes and considerations

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- Halibut cost were modified from the original \$3.1M to \$1.6M. The original submission included DFO in-kind costs of \$1.5M. This assessment focuses on the Industry contribution affected by the *Larocque* decision.
  - Herring was estimated to cost \$2.4M. This cost could be decreased based upon analysis done by Pacific Science staff to about \$1.0M
  - This amount is contingent on the Herring Industry collection of bio-samples in the 3 Pacific region areas where fisheries are planned for 2007 otherwise Science costs will increase by \$420K. This analysis is only relevant for 2007 program costs where dive surveys and sampling area would be reduced due to lower returns in some areas. A separate decision note on Pacific Herring is under development.