

**REPORT TO THE HONOURABLE DAVID ANDERSON
MINISTER OF FISHERIES & OCEANS**

RE: COMMERCIAL SALMON ALLOCATION

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April 30, 1998

DFO-07045

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INTRODUCTION

On October 15, 1997, I was asked by the Honourable David Anderson, Minister of Fisheries and Oceans, to continue my work with British Columbia commercial salmon fishery stakeholders in an effort to reach consensus on the development of an allocation plan for all commercial salmon gear sectors.

The Minister asked me to consult with stakeholders, and provide him with a "well defined 1998-2001 Long Term Allocation Plan". I was instructed to strive for consensus among stakeholders, but to recommend a reasonable plan in the event that a consensus could not be achieved. As well, I was asked to provide the Minister with a set of principles to guide allocation over the longer term.

This report provides an overview of the process I followed, a review of stakeholder input, and finally, my recommendations for a Long Term Allocation Plan for the period 1998-2001.

The overview of process covers the period from January to April 1998 during which I consulted, sought consensus, and reached my conclusions.

The review of stakeholder input is presented in four parts. First, the report reviews the results of the 1997 allocation planning process which established a set of allocation principles used as a starting point in January 1998. Second, where these established principles provoked additional discussion among stakeholders, this discussion is reviewed. Third, the report details stakeholder input on the primary allocation issues facing the industry in 1998. Fourth, other issues raised by stakeholders are summarized.

My conclusions and recommendations are presented in the final section of the report.

PROCESS

To carry out my mandate, I followed the following process:

1. On January 26, 1998, I wrote to approximately 4000 commercial salmon fishery stakeholders. This included every license holder, as well as industry associations, community groups and others. This letter:

- summarized seven areas of general consensus achieved during the 1997 process, on which I had previously made recommendations to the Minister.
- posed seven additional questions, asking stakeholders for their input.
- described the process that I would be following, requesting written response to my letter and offering to meet with stakeholders in groups or other settings as appropriate.

Originally, my deadline for receiving written input was February 20, 1998. This was based on my overall deadline of March 31, 1998. It became clear, however, that additional time would be necessary due to the complexity of the issues involved and time conflicts created by the herring season. I asked the Minister for a new deadline of April 30, 1998 and this was approved.

2. During the next two-month period, from the time the letter was released to approximately March 31, 1998, we collected stakeholder input. I received 72 written briefs and met with over 50 people in various settings. Input was collected and collated throughout this period.
3. In April 1998, I convened a small advisory committee of industry stakeholders chosen across the various sub-sectors of the industry. Committee members helped me fully understand the input that had been received and use it in the formation of a long term allocation plan. DFO provided technical input during this stage of the process.

I was assisted in this process by two consultants, Tim Taylor and Dave Schutz. Mr. Taylor has worked on a number of projects for the Department. Mr. Schutz is a former employee of the Department who has extensive experience in allocation issues and in managing the commercial salmon fishery.

STAKEHOLDER CONSULTATION

Review of 1997 Process

In 1997 I worked with the Commercial Fishing Industry Council ("CFIC") and the Department of Fisheries and Oceans ("DFO") in developing a long term allocation plan for the 1997-2000 seasons. After extensive meetings and discussions with CFIC and other groups, there was little consensus on the details of the plan.

In the process of working with stakeholders, however, some consensus emerged in a number of general areas. As a result of this and on the basis of my own deliberations, I made seven recommendations to the Minister in a letter dated April 30, 1997.

1. Allocation should include all five species, sockeye, chum, pink, coho and chinook salmon.
2. Sockeye equivalents should be the unit of measurement in allocation.

3. Where possible, an allocation plan should reflect traditional fishing patterns.
4. Allocation must be considered on a four year basis.
5. The allocation plan should target coast-wide shares of 34 per cent gillnet, 42 per cent seine, and 24 per cent troll.
6. Allocation planning should strive for equality between southern areas, but cannot guarantee equality between northern and southern areas.
7. The allocation plan should provide for Fraser River Sockeye catch-up/make-up amounts of 477,477 Sockeye to be given the troll fleet, and 143,754 to be given the seine fleet. This payback arises from terms of the 1990-94 Long Term Allocation Plan.

These recommendations became the starting point for further consultation on allocation. In my letter to stakeholders of January 26, 1998, I described these seven items as "established allocation principles".

Discussion Of Established Allocation Principles

Not all stakeholders agreed with the recommendations I made to the Minister in my April 30, 1997 letter, or with the allocation principles these recommendations implied. Although these principles are the result of a earlier process -- input received and deliberations already undertaken -- understanding the discussion surrounding these points is important in understanding other input that was received. Also, in some cases this discussion highlights perceived contradictions between stated allocation principles and the way allocation is implemented.

1. **Use Sockeye Equivalents As The Unit Of Measurement In Allocation.**

Stakeholders largely agree with the Sockeye Equivalent (SE) as an accounting tool, used to compare catches of different species in similar units, or used to express a mixed species catch in terms of a single unit.

Members of both the gillnet and seine fleets, however, expressed the view that Sockeye Equivalent's are not used this way in practice. Instead, these individuals and groups assert that the Sockeye Equivalent has been used to convert catches of other species into Sockeye, deriving a number of pieces

that have then been given to other groups in the form of actual Sockeye allocations.

These stakeholders hold the view, in other words, that Sockeye Equivalence has not been used to express mixed species catches in a single unit, but as a means to convert this mixed species catch into an equivalent number of Sockeye for re-allocation. This is troubling to these stakeholders given the superior market value of the Sockeye compared to other species.

2. Where Possible, Reflect Traditional Fishing Patterns In The Allocation Plan.

Stakeholders voiced a number of objections to this allocation principle. There are those who feel traditional fishing patterns have been rejected in practice and are no longer an "established allocation principle". On the other hand, there are stakeholders who feel the principle is used in practice and should not be.

Stakeholders who feel that traditional fishing patterns have been unfairly rejected include northern gillnetters and trollers. These groups point out "traditional" fishing patterns include Fraser Sockeye fisheries in Areas 1 and 2W, but that this consideration has been entirely, and unreasonably, subordinated to the objective of area licensing to focus

the harvest effort of license holders on species originating in their own license area. A northern gillnetter writes:

To suddenly halt our historical share of the Fraser Sockeye has no foundation in logic or science.

Many of these same northern stakeholders point out that numerous other groups target Fraser stocks -- Area G and D license holders, Alaskan fishermen -- who also do not fish in the license area where the Fraser Sockeye originate.

Among seiners and gillnetters in the south, there are also stakeholders who feel that traditional fishing patterns have been rejected. But the example they cite is the reallocation of Sockeye to the troll fleet to replace the traditional troll catch of Chinook and Coho. These stakeholders may not support the use of traditional fishing practices as an allocation principle, but they believe that the principle has, in any case, been overridden by other management and allocation objectives.

A final objection comes from those who do not believe this principle should underscore allocation planning regardless of how it may or may not have been used in the past. These parties -- typically seiners and processors -- express the view that traditional patterns must evolve to meet the demands

of the market place. The Fisheries Council of B.C. writes in its brief:

If this industry is to survive into the future with changing seafood markets and all of the constraints of conservation, allocation to other user groups, international obligations etc., it can not cling to traditional fishing patterns. Arguments over the definition of "traditional" only serve to add another element of disagreement and acrimony to the debate.

3. **The Allocation Plan Should Target Coast-Wide Shares of 34 Per Cent Gillnet, 42 Per Cent Seine, and 24 Per Cent Troll**

There were various individuals and groups -- mostly trollers, seiners and processors -- who dispute these coast-wide shares.

Trollers concerned by this sharing arrangement feel that their share has been unduly reduced relative to the 1990-94 LTAP. Several briefs from trollers provide detailed analyses to support this contention. In summary, these analyses conclude that during the re-calculation of shares that accompanied the transition to single gear licensing, too large a share was "transferred" to the seine sector. Referring to per license averages, a troller writes:

How can you transfer into the seine sector from the troll sector a percentage that is 3 times higher than average?

Allocation based on these percentages has been explained in detail in previous correspondence, but the key points of this transition bear repeating. In the single gear selection process, there was a significant reconfiguration of the fleet. Isolating the impact of single gear selection, we know that there was an increase in the number of gillnetters, a very slight increase in the number of seiners, and a decrease in the number of trollers. One option under these circumstances would have been to leave coast-wide shares as they were. The impact of that choice would have been to decrease the per license catch of gillnetters, slightly decrease the per license catch of seiners, and increase the per license catch of trollers. I chose a different option. I re-calculated gear shares coast-wide, holding Catch per Unit of Effort (CPUE) constant, in an effort to smooth the impact of this change across all sectors. This calculation did not result in a transfer of allocation at three times the average per seine license catch. By this method, instead, the impact of a reconfigured fleet (due to single gear selection), and a slightly smaller fleet (due to AFS license retirement) was a benefit to all gear groups. Each gear group enjoyed a per license catch increase of approximately 2 per cent.

Seiners and processors dispute these gear shares for a different reason. They typically support the use of a constant CPUE recalculation of gear shares in the event of a

significant license reconfiguration. However, they feel that the same constant CPUE calculation should have continued past the single gear licensing transition and accompanied the 1996 license retirement program as well. The Fisheries Council writes:

It remains the FCBC strongly held view that the 1996 Licence Retirement program was not a fleet self-funded reduction and that the benefits of that government funded reduction should be evenly reflected in the allocations by gear type.

4. Allocation Planning Should Strive For Equality Between Southern Areas, But Cannot Guarantee Equality Between Northern And Southern Areas.

Some trollers disagree with this interpretation of equality. They feel that equality can and should be achieved between northern and southern areas. Those holding this view frequently cite the "Troll Consensus" which emerged from the 1997 allocation process. They also point out that achieving equality between areas now, will forestall area re-selection after the in 1999 season, and therefore foster stability during the LTAP we are now working to establish. One northern troller writes:

We believe the troll sector can and should be allowed to achieve equity between troll areas.

As I wrote in my letter of April 30, 1997, however, the difficulty I had with the Troll Consensus at the time was that it contemplated both changes to the Mifflin areas and directed northern fisheries on Fraser Sockeye. Neither of these was within my terms of reference at the time of my deliberations in 1997. In this round of consultation, I have put to stakeholders the issues of both a slight re-alignment of Troll statistical areas between Areas F and G, and a small directed Fraser Sockeye harvest by Area F license holders.

Response to these potential modifications came from across all gear types, and detail is provided under Section Five - Specific Troll Fleet Issues, below.

1998 Stakeholder Input On Allocation Issues

My letter of January 26, 1998 requested stakeholder input on seven further areas. I discuss these below and summarize the input that was received on each.

- 1. Deficit (Surplus) Accounting of Allocations — What should Happen In The Event That A Gear Type In A Given Area Catches More Or Less Than Its Allocation? Who Should Determine Repayment, If Any, And How Should Repayment Be Made?**

Only a small number of briefs recommend no adjustment of any kind. Opposition to adjustment in these cases centres on the

belief that there are too many reasons why an allocation might be not met, or is exceeded, to justify protecting gear groups from these variations. One such stakeholder writes:

Fishing, by nature, is an uncertain business, and some variability from targets is normal and expected. In addition, harvesters themselves can influence the allocation outcome through actions such as not attending openings, leaving an opening before closure and shaking fish.

Most stakeholders support the principle of repayment in the event of overages or shortfalls in yearly harvest relative to allocation. Area or gear type does not appear to play a significant role in influencing opinion on this matter. In some cases, support is contingent on establishing the reason for the deficit or surplus, and repaying only in certain such cases, but support for the principle is wide-spread.

Expressing a common sentiment, a northern troller writes:

Catch-up make-up is an essential part of any LTAP.

There is, however, some variance of opinion on the mechanics of how such an adjustment system might work.

Opinions on the level of overage or shortfall which should trigger adjustment range from a high of 25 per cent of the original allocation, down to a low of a single fish. Respondents suggest payback based on species or stock group. Time-frame suggestions range from pay-back the following year to once in four years, although most stakeholders agree that the time for repayment should not exceed four years due to changes in market conditions that might occur over that period. Most stakeholders also agree that payment should be contingent on availability of the same species. And so, even those suggesting immediate payback the following year acknowledge that managers might need more than one season to accomplish the adjustment.

Stakeholders have various ideas about what kind of entity should oversee the adjustment process. An independent body of fishermen is a common suggestion. Several groups suggest using the same allocation board that is being contemplated in the Samuel Toy process. A few stakeholders feel that DFO should be excluded from this process, but many more feel that the Department has a key role as a technical advisor.

2. **Northern By-Catch Of Southern Bound Salmon -- What Level Of By-Catch In The North Is Considered Acceptable? How Should These Amounts Be Accounted For In The South?**

Response to this question is strongly influenced by the stakeholder gear and area. Having said this, it is crucial to make the distinction between true by-catch and the harvest from directed fisheries in interpreting responses to this question. There were occasions when stakeholders from southern areas may have misinterpreted the question as relating to directed northern fisheries.

In summary, northern license holders from all three gear types support a limited 'true' by-catch of south-bound fish in the north. By true by-catch in the north, I mean the harvest of south bound stocks in the prosecution of directed fisheries on northern stocks. Among southern license holders, gillnetters are the most likely to oppose this and trollers are most likely to be tolerant of it.

In the southern gillnet fleet, the majority of written and in-person responses express strong immediate opposition. A southern gillnetter expresses a view shared by a number of respondents when he writes:

The level of northern by-catch of fish of southern origin considered acceptable is ZERO PERCENT. This is because we each have our licensed areas that we have chosen to fish in.

There was some disagreement with this. In those briefs acknowledging the difference between by-catch and directed harvest, many D and E license holders feel that while there should be no directed fisheries on southern stocks in area C, true by-catch is inevitable. One Area D gillnetter puts it this way:

To limit north coast fishermen's ability to catch their allocated share of north coast stocks by imposing a zero by-catch restriction on southern bound stocks would not be fair to fishermen or managers.

Area D and E gillnetters holding this latter view recommend various criteria to govern levels of northern by-catch including that the amount be based on abundance in the north, and that the by-catch be limited as a percent of northern harvest. Caps of 5, 10 and 15 per cent of northern harvest were proposed.

Area C gillnetters support an allowable by-catch, suggesting in some cases that a cap is appropriate. A 15 per cent cap is suggested in one brief. Other briefs point out that in certain years up to 60 per cent of revenue may come from the sale of south bound fish caught as by-catch and given this, it cannot be fairly eliminated. Others contend that DFO has at various points promised a share of south bound fish to northern fishermen and that this promise must be honoured.

Southern trollers are somewhat less likely to oppose a northern by-catch than are southern gillnetters. There are still those who suggest targeting zero percent by-catch, but more respondents feel that a true by-catch is inevitable. One such brief suggests that a cap of 10 per cent of northern harvest be imposed.

Northern trollers hold similar views to northern gillnetters. The catch of south bound fish is characterized as a vital part of their livelihood, a necessary part of prosecuting fisheries directed at species originating within the license area. In a typical response, a northern troller writes:

Fraser River stocks as by-catch are part of the traditional harvest pattern of the northern troller.

In briefs and meetings seiners typically opposed directed fisheries in the north. When the question was understood to address true by-catch, reaction would moderate and there was some acknowledgement that by-catch could not be eliminated without unfairly shutting down northern fisheries directed on northern resident stocks. One seine brief suggests a cap of 10 per cent of the northern harvest. The Fisheries Council writes on this matter:

Northern by-catch of southern bound salmon is not an allocation decision. By-catch is just that. It is not planned for, and in most cases can not be helped if a commercial fishery is to take place.

On the separate question of how to account for this by-catch, the majority of respondents express the view that it should be deducted from the same gear type in the south to protect coast wide shares.

3. Allocation Change Over Time -- What Guidelines Should Govern Allocation Change Over Time In The Event That There Is A Significant Change In Fleet Composition?

Responses to this issue were strongly influenced by gear type, and less so by area.

There is disagreement over whether the long term allocation plan should provide for the adjustment of allocations in the event the license composition changes significantly coast wide. Two ways in which this composition might change were presented in my letter of January 26, 1998: license buy-backs and area re-selection. Most respondents focussed on the event of a buy-back.

In general, trollers do not support adjusting allocations after a buy-back. This view is held widely in both the south and north. Although there were a few trollers who disagreed,

the majority felt that their present coastwide allocation should not be adjusted further under any circumstances. Two trollers write:

As in the Toy recommendations, neutral impact should be the goal on troll licenses. In the case of fleet reduction, CPUE must increase.

For neutral impact to be achieved each sector would have to be bought out so that the same target shares are maintained.

Gillnetters expressed views on both sides of the issue. Some agree with trollers, as in the following:

I feel that if commercial licenses are bought back from a specific gear type that allocation should remain with that gear type.

Other gillnetters believe an allocation adjustment may be necessary to smooth the impact of uneven fleet reduction across all gear types. An Area D gillnetter, for example, writes:

It is important that the effect is neutral between gear types. If the buy back is not even, then allocations to area gear types will have to change in order that there is a neutral effect on the relative position of all fishermen.

Seiners typically supported adjustment holding CPUE constant in the event of buy back. A seiner expresses the following view:

A gear group should not benefit if the buy-back is government money; troll or gillnet licenses and vessels might be bought out primarily because they are more affordable.

It is noteworthy that stakeholders on either side of the issue use the term "neutral" in describing the desired impact of a buy-back. Definitions of neutral, however, vary. This captures the dispute in principle between those who believe the benefits of fleet reduction should flow to the specific gear group that is bought out, and those who feel it should flow to the fleet overall. Those who feel the gear type should benefit, do not support adjustment of allocations after a buy-back. Those who feel the fleet overall should share these benefits, support a reallocation post-buy back, holding CPUE constant.

For those supporting adjustment, another issue is the significance level, that is, the per cent change in fleet size after which re-allocation would be considered. The most commonly cited figure is 10 per cent beyond which CPUE-based adjustment would begin.

Only a few briefs directly address the event of area re-selection. Of those, several suggest that targeted buy-backs might be a stabilizing mechanism after area re-selection is complete. For example, in the event that gillnet license holders re-locate from north to south after the 1999 area re-selection process, the impact on southern gears might be neutralized by buying out gillnet licenses in the south. The impact on the north might be neutralized by buying out capacity in the troll and seine fleets.

For those who propose a body to oversee this process, most support an independent body of fishers with appropriate scientific support from the Department.

4. Dispute Resolution — How Should The LTAP Prepare For The Settlement Of Disputes.

The responses to this question were not heavily influenced by either gear or area. There is broad support among all license holders for a dispute resolution process, although there are various opinions as to how this should be implemented.

Most briefs express the view that a board or committee is desirable. Suggestions about who should sit on this body vary. Many stakeholders feel it must involve fishermen. Some feel that DFO should not be involved in this process. More commonly, stakeholders support an advisory role for the

Department. Many would seem to agree with the following statement, drawn from one brief:

The Department of Fisheries and Oceans cannot be judge and jury.

Many feel that this body should be assisted by a mediator or an arbitrator. Some feel that the Commercial Fishing Industry Council ("CFIC") could still play a role in this, although there is disagreement here. Even among those who support CFIC's continuing involvement, some feel that this body has become either too unwieldy or too politicized, and that a more streamlined body is needed.

My interpretation of responses received to this question is as follows. There are many different ideas about process and about the composition of a governing body, but most stakeholders endorse a de-politicized, mediated and/or arbitrated dispute resolution process, overseen by a body of manageable size with independence, appropriate technical assistance, and a clearly understood mandate.

5. **Specific Troll Fleet Issues: Should Area G License Holders Be Given Access To Some Or All Of Areas 11 And 111? Should Area F License Holders Be Given Access To A Small Fixed Number Of Fraser River Sockeye Subject To Monitoring And Subject To This Allocation Not Affecting Other Gear Types?**

These questions were addressed to the troll fleet but responses came from all license areas. With few exceptions, non-troll stakeholders submitting briefs do not consider these troll-only issues. As one gillnetter writes:

Troll fishing plans require input from net fleets to solve the conflicts arising over time and space issues of fishing together.

With this in mind, I summarize below all of the input received from all license areas. These responses are highly dependent on the area and gear of the respondent. Although there is some variance of opinion within each area, there is a dominant view for a given license profile. In an attempt to simplify the complexity, opinions are clustered in five groups: seiners, southern and stacked gillnetters, northern gillnetters, southern and stacked trollers, and northern trollers.

Seiners:

Seiners tend to oppose either modification. Most feel that management should, in the words of one respondent "Stick to Mifflin." This implies observing both its areas and the directive that there be no further fisheries on Fraser Sockeye in the north.

Southern and Stacked Gillnetters:

Southern and stacked gillnetters (those with southern and northern licenses) tend to support Area G troll access to 11/111 but oppose Area F troll access to a Fraser Sockeye harvest in the north. There are individuals who disagree in both areas, but this is the more common view.

Southern and stacked gillnetter support for G troll access to 11/111 tends to arise from an assessment of the management difficulties in Area 12 in 1997. G trollers were given access to this area in years of high diversion as a concession under the original terms of area licensing. In 1997, a year of high diversion, there were various gear conflicts and crowding problems reported around Port Hardy as a result of gillnet and troll fisheries overlapping. Many southern and stacked gillnetters, therefore, see Area G access to 11/111 as an alternative which provides for a management separation between the two fleets fishing in high diversion years. As an Area D gillnetter writes:

It is therefore our recommendation that Area G trollers be given access to Areas 11 and 111, in order to reduce the gear conflict that arises when their only opportunity to harvest Fraser River stocks, on high diversions, is in Area 12.

Concerns expressed about this access include the fact that Chinook and Coho feed in area 111 and concerns that even the management separation between 11 and 12 will not be sufficient, but there is broad support for the position as stated.

On the matter of Area F access to a limited Fraser Sockeye fishery in the north there is also some dispute, but the balance of opinion among southern and stacked gillnetters is that this access should be denied. Reasons vary. Most express either the view that trollers traditionally did not fish Sockeye, but Chinook and Coho, or the view that the management risks of a northern Fraser Sockeye fishery are too great. A joint submission from a group of Area D fishers states this in the following terms:

Area F license holders should not be given access to Fraser River Sockeye. There is no confidence in catch monitoring.

A stacked gillnetter also points out the investment he has made in southern capacity given his assumption that directed fisheries in the north would not be permitted.

It was with this understanding I purchased a second license to have both a north and south area to fish. If fishers in the north are permitted to harvest south coast stocks, then I have just wasted \$100K plus a second annual license fee of \$1400.

Northern Gillnetters:

We received only limited response from northern gillnetters on these issues, and their opinion is divided evenly across both issues. Area G troll access to Areas 11 and 111 would have arguably little impact on Area C gillnetters. And while northern gillnetters are significantly affected by management decisions to have no directed fisheries in the north, the modification in question concerns the troll fleet..

Southern and Stacked Trollers:

There is a mix of opinions among Southern Trollers regarding G access to 11/111. In general, G trollers support the modification. Reasons given are not dissimilar to those given by southern gillnetters, centring on the management benefits that might be realized by separating the troll and gillnet fleet in Area 12. Having said this, opposition was heard from a few H trollers. This opposition centres on two points. First, 11/111 access for G, in addition to their present access to area 12, would give them access to all three license areas G, F and H. Second, while G access to 11/111 might be a trade-off for F access to a limited Fraser Sockeye harvest in the north, no "grey area" would exist to help H trollers achieve their Fraser Sockeye allocation in years of low diversion.

Southern trollers are also split on the issue of Area F access to Fraser Sockeye. The central reason for opposition relates to area selection. Speaking to this issue, a stacked license troller writes:

I am an area F license holder and would love to have access to Fraser River stocks in Area F, but we were told there would be no directed fisheries on Fraser stocks. Consequently, myself and others purchased Area G or H licenses to get access to Fraser stocks. It is past time DFO stops changing the rules in the middle of the game.

Other southern trollers are prepared to consider limited F access to Fraser Sockeye in the north as a trade-off for G access to 11/111 in the south.

Northern Trollers:

Northern Trollers are virtually unanimous in supporting F access to Fraser stocks in the north, citing their traditional harvest of these stocks. But on the matter of G access to 11/111, they are split. Some oppose it strenuously, pointing out that 11/111 is part of Area F, and had only been off-limits to F license holders in recent years due to concerns about Chinook and Coho interceptions. Given this, as one northern troller put it:

If anyone fishes there it should be only us,
it is our area.

Other trollers in the north are prepared to concede access to these two areas in return for access to Fraser Sockeye stocks in the north, Area 2W, seeing a trade off between the two issues. A northern troller writes:

Your question regarding access to Area F for Area G fishermen...and an allocation of Fraser River Sockeye for Area F are tied absolutely together.

Other Ideas:

More than one troller focussed on the conflict created by proposing these two modifications. Areas 11 and 111 are part of Area F, although access is presently restricted. Area G is seeking access to Fraser bound Sockeye in 11/111 in part to avoid the traffic problems in Area 12. Area F harvest of Fraser bound Sockeye in Area 2W, meanwhile, is a matter of dispute for management and conservation reasons. With this in mind, several briefs suggest that both Area F and Area G be given the opportunity to catch a Fraser Sockeye allocation in Area 11/111. One stacked troller writes:

The prospectus that was given to troll license holders at the implementation of the PSRS stated that there would be no harvesting of

Fraser River Sockeye north of Cape Caution. This means that a directed Fraser River Sockeye fishery for area F license holders could take place in statistical areas 11 and 111 below Cape Caution. If area G license holders are given access to these areas for the purpose of harvesting Fraser River Sockeye, there is no logical reason to deny the area F license holders access to the same areas for the same purpose.

Another Area F troller agrees, writing:

I would be prepared to take my Sockeye allocation in Area 11 and 111 along with Area G trollers.

In another brief, a stakeholder suggests that Area 11 and 111 be used as troll "grey areas," for management to use in years of high diversion as necessary to achieve equity and balance in troll fishing opportunities.

6. Selective Fisheries Issues -- How Should Selective Catch -- Such As That By Trap Or Wheel -- Be Accounted For In The Allocation Process (Part Of Original Allocations, Part Of A New Gear Category)?

There is a high degree of consensus that no new fisheries should be created without formal re-allocation. This re-allocation should accurately retire fleet capacity to meet the needs of any new fishery, and appropriate compensation should be provided.

Many stakeholders express the view that a gear unable to catch its allocation because it is thought to be non-selective should be given the first opportunity to catch the same allocation using a modified method. The Department, many of these stakeholders continue, should concentrate not on old technologies such as the trap and the wheel but on improving the gear types presently in use.

Some stakeholders write:

We would recommend that dramatic changes in harvest methods...not be considered until fishermen have been given every opportunity to develop adequate selectivity within their traditional methods.

I believe that first and foremost, all gear types should be allowed to explore every opportunity to harvest their allocations by using traditional methods in more selective ways.

Agreement was similarly strong on the issue of accounting for selective catch. Most stakeholders express the view that the department should not contemplate any new fisheries. These stakeholders feel that the resource is already fully subscribed and cannot support further users. Other stakeholders express the view that such new fisheries might be contemplated, but that there should be no new extra-commercial fisheries without an express buy-out of commercial capacity.

...there are no new fish and fishing for salmon is oversubscribed now. Any salmon caught in any method but the traditional manner would have to be considered a new fishery, and, as such, the allocation to process these fisheries would have to be bought from a willing seller (the industrial solution).

...for a change in use of salmon allocated to a specific gear type, the allocation should go with the capacity removed, and the overall catch share to that gear adjusted accordingly.

Other Issues Raised By Stakeholders

1. Problems with the Process

Some stakeholders felt that the time available to provide input this year was insufficient given the complexity of the issues under consideration, as well as the herring season. These points were well taken, and I requested and was granted a 30 day extension to my deadline, to April 30, 1998.

2. Interpretation of the Mifflin Plan

As noted at various points earlier, an adjustment in Areas between G and F was tabled for discussion in my letter of January 26, 1998 letter. The detailed stakeholder response to this issue is provided above under Five - Specific Troll Fleet Issues.

Discussion of the Troll Specific Issues frequently led to broader discussions of the Mifflin Plan and the application of its original rules. In short, there are stakeholders in each gear group who object to any change in Mifflin areas, a view particularly evident among those who have invested in stacked licenses. These license holders note that they have made financial investments based on area licensing rules which were understood to be permanent. Changing the areas now, particularly letting license holders fish outside their license areas, greatly undermines the value of their investment, and creates significant uncertainty about how to invest for the future.

3. Perceived Departmental Promises

Various stakeholders feel that promises have been made by the Department and not been honoured. Certain trollers and gillnetters, for example, feel that a 60 per cent coastwide allocation was promised the small boat fleet. In the north, some trollers feel that an assessment fishery on Fraser Sockeye was promised and not delivered last year. Other northern license holders feel that promises have been made to deliver increased Fraser Sockeye allocations in compensation for the loss of Chinook and Coho allocations.

4. Fleet Reduction

Across the gear groups there are stakeholders who feel the fleet is still too large. There is no broad consensus on the amount of further reduction still needed. Estimates range upwards to 50 per cent. As noted, there is also a difference of opinion on how the Long Term Allocation Plan should account for fleet reductions. Seiners and processors favour a neutral impact approach which re-allocates holding CPUE constant. Some gillnetters agree with this approach. Other gillnetters, and most trollers, feel that the neutral impact approach means holding coast wide shares constant regardless of changes in the number of license holders.

Some gillnetters also express the view that due to uncompensated reallocations out of the commercial sector in the past a "catch up buy back" is required, that is, a reduction in commercial fleet capacity to provide for reallocations out of the commercial sector that have already occurred. Those holding this view refer specifically to previous uncompensated allocations made to provide for the Aboriginal Fisheries Strategy.

SUMMARY & RECOMMENDATIONS

Outstanding Allocation Issues

For each of the seven questions asked in my letter of January 26, 1998, I have considered stakeholder input and prepared recommendations. In some cases, more than one recommendation has been made, relating to various aspects of the issue.

Deficit Surplus Accounting

This is a difficult time to be considering allocation in general and an especially difficult time to be contemplating mechanisms that provide for pay-back in future years. I say that for three reasons.

First, there are other allocation exercises underway which will have an impact on the amount of fish available for commercial harvest in future years. The magnitude of this effect is uncertain.

Second, coast-wide concerns about Coho stocks will reduce management flexibility for the period of time necessary to

rebuild these stocks. Meeting base allocations and making yearly adjustments will, therefore, be more difficult in the next two or three years than it would be under more stable circumstances.

Third, and of perhaps most significance, is the prospect of commercial salmon license area re-selection after the 1999 season. Since the distribution of licenses coast-wide might significantly change as a result of re-selection, it may be impossible to adjust accurately and fairly for deficits and surpluses during the 2000 season. The movement of license holders between areas in anticipation of the 2000 season, for example, might dilute the impact of adjustments made based on 1999 results. Likewise, license holders might make re-selection decisions in anticipation of taking advantage of repayment of deficits during 2000 and subsequent seasons.

With these uncertainties in mind:

1. I recommend that formal adjustment for deficits and surpluses be suspended until after Area Re-selection is complete. In the interim, the Department should attempt to meet allocations and should attempt to provide adjustment where possible and appropriate.

Another source of uncertainty is the possible discrepancies between reported catch and actual harvest. There are various reasons for these differences and a full discussion of the matter is beyond the scope of this process. However, whether caused by system errors or unaccounted sales, these discrepancies have the effect of eroding confidence in the catch statistics and, by extension, in stated deficits or surpluses in a given year.

One option would be to delegate catch accounting to an independent agency for the purposes of identifying allocation deficits, surpluses and the appropriate adjustments. This is not the optimal solution in my view. The Department's internal accounting and catch monitoring systems must have the confidence of industry and where they do not, they should be improved.

2. The Department should continue its efforts to improve catch accounting and monitoring systems with a view to improving confidence in catch statistics.

Even with confidence in catch statistics, different measures can be used to assess whether an allocation has been met or not. In increasing order of complexity, deficits and surpluses might be appraised as follows:

- Plan vs. Actual Share by Gear, by **Coast-Wide totals**
- Plan vs. Actual Share by Gear, by **North and South totals**
- Plan vs. Actual Share by Gear, by **License Area**
- Plan vs. Actual Share by Gear, by **Species Production Area**
- Plan vs. Actual Share by Gear, by **Statistical Area**

If coast-wide totals are used as the measure, then the combined catch of all areas are compared between gear types to determine whether a surplus or a deficit exists. An area-to-area comparison might be considered more equitable in the sense that it does not aggregate the surplus of a gear in one area with the deficit of the same gear in a different area. This provides for more precise adjustment.

But there is a trade-off for this precision. The more the adjustment system is fine-tuned, the more unlikely managers can actually deliver the adjustments contemplated.

In my view area-by-area and species-by-species deficit and surplus accounting is not practical either from a management or a license-holder perspective. In the event of a small deficit to a particular gear in a single statistical area targeting a certain species, it may take many years before the

same species in the same area is able to support an increased harvest to accommodate the pay-back required. Although the Department should make it a priority to adjust using the same species, and where possible deliver from the same stock group, it must retain some flexibility to adjust allocations in a way that is both prompt from the perspective of license holders, and does not jeopardize other management obligations such as conservation.

3. Until Area Re-selection is complete, the Department should measure deficit and surplus amounts on the basis of Plan vs. Actual Catch, by gear on a coast-wide basis in Sockeye equivalents and adjust on a best efforts basis.
4. After Area Re-selection is complete, the Department should measure deficit and surplus amounts on the basis of Plan vs. Actual Catch, by gear, by North and South totals in Sockeye equivalents.

It is also important to consider why an allocation has not been met or has been exceeded, because adjustment may not be appropriate in all cases.

Some deficits or surpluses will occur over which the fishers involved have no control. An opening may be prematurely

closed, for example, causing a gear to take less than was allocated to it. The reverse might also occur, resulting in a catch surplus to allocation for a given gear. A fishery might be suspended due to conservation concerns about intercepted species. This might cause one gear group to run a deficit. At the same time a more selective gear may be given the chance to catch this foregone allocation and might show a surplus for this reason. Allocations of all gear groups might show a deficit due to biological factors affecting run size.

Other surpluses and deficits may arise due to choices made by fishers themselves. For example, in the case of certain species, fishers may decide that the expected market value of an allocation does not justify the expense of harvest. In this case, the group choosing not to fish would run a deficit.

There are many examples like the ones above. It is impossible to anticipate them all and decide beforehand whether adjustment is appropriate. Instead, the adjustment process should be guided by more general rules. It is my view that if management has provided the necessary access to the resource, and there are no other impeding factors, then the uncertainty of final catch must be borne by the license holder. Clearly "necessary access" will not mean unlimited access, but rather that all reasonable opportunity has been provided within the constraints of other management objectives such as conserva-

tion. The Department should have the ability to make these decisions on a year-to-year basis, provided there is a dispute resolution process (discussed below), and a periodic formal allocation accounting.

5. I recommend that deficit adjustment only be considered in those instances when, allowing for the constraints of other management objectives, a gear group has not been provided with a reasonable opportunity to catch its allocation.

Many stakeholder suggestions were made and considered regarding the structural features of the accounting and adjustment mechanism. In keeping with Recommendation One, I have concluded that the following features should be implemented after Area Re-Selection before the 2000 season.

6. I recommend that deficits and surpluses be monitored by the Department year to year by Sockeye Equivalent.
7. I recommend that the Department adjust for deficits and surpluses where possible and appropriate on a year to year basis.
8. I recommend that there be a formal allocation accounting once every four years, using Departmental catch statis-

tics, but co-ordinated by an Allocation Facilitator (see Dispute Resolution below). At this time, deficits and surpluses will be formally stated, and repayment of these amounts built into the Allocation Plan for the upcoming four year period.

Northern By-catch

There was some consensus that the Department needs by-catch decision rules to govern management in the north. After listening to stakeholders, I have concluded that the dominant concern in this regard is Fraser Sockeye caught during the prosecution of Skeena and Nass Sockeye harvests, as well as certain troll Chinook harvests, and the comments in this section focus on this by-catch species.

One possible approach rule is to minimize northern by-catch at all costs, or cap by-catch at zero per cent of northern harvest. In my view, this would be impractical and inefficient. It would result in shutting down a range of northern fisheries and foregoing a significant commercial harvest of northern stocks that would then go to other user groups or to excess escapement.

A different approach would focus on achieving overall commercial allocations coast wide, even if this implied some

northern by-catch of south bound fish. In 1997, for example, an unusual number of Fraser Sockeye were present in northern waters at an unusually late point in the season. Under these circumstances managers must decide, among other things, whether these fish will successfully migrate into southern license areas. If it is decided that the fish will not migrate to southern license areas, the a fishery might be permitted in the north even if it intercepted these stocks.

Stakeholders more commonly proposed using a 'cap' percentage decision rule. This input is summarized under Stakeholder Consultation above, but suggestions ranged from 5 per cent to 15 per cent, Fraser Sockeye by-catch relative to total northern harvest.

There are actually two different cap percentages that might be used. Harvest might be capped when Fraser Sockeye by-catch reached some agreed percentage of total northern harvest. Alternatively, harvest might be capped when Fraser Sockeye by-catch reached some agreed percentage of the expected Fraser Sockeye Total Allowable Catch ("TAC") in the south. There are some difficulties with both these methods.

If the first method is used -- capping harvest when by-catch reaches a certain percentage of the northern harvest -- northern commercial harvest would be curtailed most during

years of low abundance in the north (when a given by-catch of Fraser Sockeye would represent a relatively greater percentage of the northern catch). This curtailment, arising from a percent cap, might have no relation to the acceptable harvest level of the northern stock in concern.

If the second method is used -- allowing a certain percent of the Fraser TAC to be taken in the north as by-catch -- the decision rule implies that northern harvests might be scaled upward during years of high Fraser sockeye abundance (maintaining by-catch at a given per cent of the southern run). This, indirectly if not directly, implies an allocation of the Fraser run to northern license holders. That is not within my Terms of Reference, beyond a limited catch discussed below under *Troll Specific Issues*.

Given these difficulties, I was drawn to conclude that firm per cent caps -- calculated either way -- might not give management the necessary ability to respond to future scenarios. But in order to assess the magnitude of the catch at issue, and determine whether caps might be necessary to curtail northern catch, I asked the Department to summarize northern by-catch of Fraser Sockeye both as a percentage of northern harvest in total, and as a percentage of the total Fraser Sockeye harvest over the past ten years. This data is presented in the tables below.

TABLE 1

North Coast Incidental Fraser Sockeye Catch as a per cent of North Coast Catch									
1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
0.38%	10.26%	2.73%	2.57%	1.66%	5.13%	14.61%	0.12%	0.00%	9.95%
10 YEAR HIGH = 14.61%									
10 YEAR LOW = 0.00%									
10 YEAR AVERAGE = 4.75%									

TABLE 2

North Coast Incidental Fraser Sockeye Catch as a per cent of total Canadian Fraser Catch									
1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
0.93%	1.48%	0.58%	1.28%	2.05%	1.80%	3.55%	0.54%	0.00%	2.65%
10 YEAR HIGH = 3.55%									
10 YEAR LOW = 0.00%									
10 YEAR AVERAGE = 1.5%									

This data demonstrates that the average by-catch as a percentage of northern harvest actually is at the low end of the range typically endorsed by stakeholders. By-catch as a percentage of southern Fraser TAC, on the other hand, appears relatively stable. This leads me to conclude that a formal percent cap is not necessary provided there is a four year formal allocation accounting process during which by-catch trends might be re-assessed.

9. I recommend that by-catch of Fraser Sockeye be included in formal allocation accounting once every four years giving stakeholders and managers the opportunity to assess by-catch trends.
10. I recommend that the Department otherwise use discretion in managing fisheries in the North, seeking to provide fisheries to Northern license holders without significantly varying from by-catch patterns in the past.

Although I have recommended that by-catch trends be formally assessed once in four years as part of a formal allocation accounting process, it is understood that the amount of northern by-catch must be known yearly. Any portion of the Fraser Sockeye TAC harvested in the north must come out of southern catch in order to protect seasonal escapement. It is

my view that these matters should be kept within gears in order to preserve coast-wide shares.

11. I recommend that by-catch in the North be deducted from the TAC of the same gear type in the south in-season, in order to preserve coast-wide gear shares.

Allocation Change over Time

Fleet Reduction through Privately-Financed Buy Back

Various stakeholders raised the possibility that within a gear group private investors might buy out other licenses for the purposes of rationalizing the fleet. Considering this eventuality, few stakeholders disagreed that the remaining vessels of that gear group should benefit from the increase in per vessel catch that the buy-back implies. The way to accomplish this, all other things being equal, is to hold gear shares constant before and after the buy back.

12. I recommend that in the event of a privately financed license buy back, gear shares not be adjusted.

Fleet Reduction through Publicly-Funded Buy Back

A buy back financed with public funds raises much more difficult questions.

As discussed above, there is a disagreement in principle between parts of the fleet regarding how benefits should flow to remaining licenses in the event of a buy back. There are those who feel that coast wide gear shares should never change, and that the benefits of fleet reduction should flow to the gear group making the reduction. To illustrate this view, in areas where the number of Gear X vessels has fallen as a result of the buy back, total allocation would not change and allocation on a per vessel basis would rise for those Gear X vessels remaining in the area. The alternate view on this matter is that the impact of fleet reduction should be neutral or proportional across gear types, in other words, the benefits of fleet reduction should be distributed evenly among all remaining licenses.

After listening to extensive stakeholder input on this matter, I have concluded that a neutral and proportional impact is appropriate in the event of a publicly funding buy back. There is no reasonable explanation, in my view, for a gear benefiting at the expense of others under these circumstances. In the event that public funds are committed to the rationalization of the Pacific salmon fleet, the benefits of fleet reduction should be distributed evenly among all remaining license holders.

Even having arrived at this conclusion, a very difficult choice remains. There are two strongly opposing views of how this "neutral and proportional impact" might be achieved. In each case, stakeholders believe that the way allocation is handled during and after a buy back will have crucial, long term ramifications for the industry.

There are those who believe that a neutral and proportional impact would be best achieved by holding *Catch per Unit of Effort constant* during a buy back. There are others who believe that the same effect is achieved without certain negative side-effects if the *coastwide gear shares* are held constant during a buy back.

The first group of stakeholders believe that a mechanism must be used to hold in balance the catch per vessel of the three gear sectors before and after the buy back. One way of accomplishing this involves using the variable Catch per Unit of Effort (CPUE). CPUE is a calculation used to define a relationship between the average catch per vessel of the three gear sectors. If the CPUE is held constant before and after a buy-back, the average catch per vessel for all three gear sectors will change at the same rate. If it is not held constant, the average catch per vessel of one gear might increase or decrease disproportionately to the other two.

In practice, this might play out as follows: (1) a voluntary buy back is implemented using a reverse bids from stakeholders wishing to sell their licenses; (2) after the buy back is complete, one gear group has been reduced by a greater proportion than the others -- as one might expect to be the case without any mitigating measures; (3) the total allocation to that gear group is reduced to spread the benefit of the fleet reduction proportionately to the other two gear groups; (4) all gear groups benefit from a proportional increase in average per vessel catch.

On the other side of the issue, the second group of stakeholders which includes many trollers disagree with the CPUE-constant method. Their concern is that this approach opens the door to a radical downsizing of the small boat fleet. Small boat owners, they argue, are more likely to sell in a voluntary buy back, diminishing their numbers and weakening the coastal communities where they are typically based. In order to prevent this, coast wide gear shares should be held constant during the buy back, creating an incentive among gear groups to reduce in proportion to one another and protect their relative gear CPUE's.

The disagreement brings into focus different views on public policy in the fishery. Both groups support the "neutral and proportional" aspect of a buy back. One group, however,

prefers that the market determine which licenses stay in the fleet and which licenses are bought out. The other group believes that a constraint need be placed on this process in order to protect the small boat fleet and coastal communities. Because of this, some stakeholders are opposed to my making any recommendation in this area. They feel that as a matter of public policy which will affect fleet composition and the livelihood of coastal communities, this decision should be made by Government.

My conclusions in this area should not be construed as a judgment on this issue of public policy. It is not within my mandate to make recommendations on fleet composition -- the protection of the small boat fleet or any other such matters -- but only to address how allocation should be handled under various circumstances including a buy back.

In this regard -- given that it has already been concluded that the impact of the buy-back should be neutral and proportional across the fleet -- it is my view that CPUE must be held constant after a buy back even if this implies adjusting coast wide gear shares. The difficulty with the alternate approach, holding coast wide gear shares constant, is that it cannot ensure proportional fleet reduction and a neutral impact. The latter approach presumes that gear groups are able to co-ordinate the decisionmaking of their constituent

license holders. I do not have this view of commercial salmon license holders. I believe they make individual choices based on a very wide range of individual factors. These factors may include the price of the license, the income history of the license type, the personal circumstances of the license holder and the economic options available to him or her. With individual license holders acting as individual economic agents, it is difficult to see how proportional fleet reduction and proportional impact could be ensured holding coast-wide gear shares constant.

My conclusion in this area does not mean that fleet composition must necessarily change. As discussed above, this is a public policy matter many stakeholders feel is outside the mandate of this allocation process. If it were agreed that proportional fleet reduction is a desirable outcome -- to protect the small boat fleet or for other reasons -- and if it is achieved by other means, then the use of the CPUE constant rule will have no effect on coast-wide gear shares.

13. I recommend that in the event of publicly funded license buy back, CPUE be held constant in the adjustment of coast wide gear allocations.

Other Buy-Back Issues

A buy-back can be used to reduce fleet capacity for different reasons. The buy-back might be designed to reduce catch capacity in order to rationalize the fleet. In this case total allocation to the commercial sector does not change after the buy-back. Alternatively, the buy-back might be designed to reduce fleet capacity to provide for a reallocation to another sector such as recreational or aboriginal. In this case total commercial allocation will fall after the buy-back. In either case, the impact of the buy-back should be neutral and proportional across gear types and CPUE-constant adjustment of gear shares may be used to accomplish this end.

In the second case, however -- capacity reduction to provide for reallocation out of the commercial sector -- stakeholders have an additional concern which I share. In order for the impact of the buy-back to be neutral, it must also be ensured that the capacity purchased accurately reflects the reallocation out of the commercial sector. If, for example, the reallocation is made on the basis of average catch per license but the licenses purchased have lower than average catch histories, reallocation will exceed the capacity retired and negatively impact the remaining commercial fleet. If the retired licenses have catch history in a different species than that being reallocated, problems also arise.

With these difficulties in mind:

14. In the event of an inter-sectoral reallocation I recommend that catch capacity purchased be matched as accurately as possible to catch reallocated, by volume, species and area.

Area Re-selection before the 2000 season

After area re-selection, license composition could be changed significantly across the coast. Allocations, considered on a per vessel basis, might also change as the numbers of different gears rise and fall in proportion to one another. A mechanism could be used to neutralize the impact of these potential changes. That mechanism might be similar to the CPUE method described above.

There are some clear difficulties with this approach. If the numbers of Gear X rose sharply relative to the other gears in a particular area after re-selection, then the allocation to Gear X would have to rise to protect gear CPUEs in the area. This penalizes other gear types in the area for the choices made by Gear X license holders. On the other hand, if many Gear X license holders left a certain area, then allocation to remaining Gear X license holders would have to fall to protect CPUEs in that area. This penalizes the Gear X license holders

remaining in an area for the choices made by Gear X license holders leaving the area.

Some stakeholders have suggested that allocation move with the license. Using this approach, a significant relocation of Gear X license holders from north to south would mean that Gear X harvest in the south would rise proportionately. Various factors might make this impossible. For example TAC in the south might well not accommodate the increased catch.

My conclusion is that gear groups must bear the cost of their own area re-selections. This is accomplished by conducting the 1999-2000 area re-selection process in an environment of fixed coast-wide shares. To assist license holders making their selection decisions, as much information should be made available to them as possible. This includes catch histories and forecasts, income averages for licenses from the various areas, as well as information during the selection process about how licenses are distributing coast-wide. A two-stage selection process should be considered, during which license holders have a second opportunity to adjust their choices.

15. I recommend that the Department make available as much relevant information as possible prior to and during a two step area re-selection process. This information

might include catch forecasts and income averages per license per license area.

16. I recommend that the Long Term Allocation Plan not be adjusted after the 1999 Area Re-selection process.

Dispute Resolution

Disputes will arise relating to deficit surplus accounting and other matters. I share the view of many stakeholders that an expeditious process is needed to handle these situations. Resolution must be possible in a relatively short time frame, without great expense, and in an independent forum.

The final decisionmaker in any such dispute must be the Minister. But the Minister should have the advice or recommendation of an independent person from outside the Department. I suggest an "Allocation Facilitator". This person would be appointed by the Minister in consultation with commercial salmon advisory bodies. The person should be neutral, have some familiarity with the industry and be independent of DFO.

A dispute would be referred to the Facilitator if any of the following thought it appropriate:

- (1) the Department;
- (2) a substantial number of industry participants; or
- (3) an established stakeholder group such as the Pacific Gillnetters Association, the Pacific Trollers Association, the Area C Gillnetters Association, the Area D Gillnetters Association, the Area E Gillnetters Association, the Northern Trollers Association, the Area G Trollers Association, the Fishing Vessel Owners Association of BC, the Gulf Trollers Association, the Nuu-chah-nulth/WCVI Regional Aquatic Management Steering Committee or other similar industry organizations.

The Facilitator should have the power to determine his or her own procedure but would ensure that stakeholders organizations directly affected by the dispute have the opportunity to provide input.

17. I recommend that an Allocation Facilitator be appointed to handle disputes. The Allocation Facilitator shall seek consensus where possible and make recommendations to the Minister.

Specific Troll Fleet Issues

The Minister asked me to determine if there was overwhelming support in the troll fleet for two modifications -- Area F access to a small Sockeye harvest, and Area G access to parts of Areas 11/111.

For various reasons, not all stakeholders view these matters as troll-specific. There is significant concern in the southern net fleet, for example, regarding troll access to Fraser Sockeye in Area 2W at which point run sizes may still be in doubt. Even more common were in-principle objections to what is perceived as a bending of area licensing rules.

Within the Troll fleet, on the other hand, there was broad support for the modifications with certain conditions as follows: (1) Area 111 should not be used for Sockeye harvests given concerns about Coho and Chinook interceptions; (2) the modifications should have no impact on allocations to other gears -- Northern troll catches of Fraser Sockeye should come from Southern troll allocations; and (3) Northern harvest of Fraser Sockeye should be conditional on improved catch monitoring and subject to abundance. Taken together, and subject to these conditions as noted, the modifications are seen by the Troll fleet as an important way to help all troll areas achieve their allocations.

It is my view that the concerns of other gear groups are significant. Areas as they were defined in the area licensing process were the basis for strategic investment decisions made by license holders. If the long term allocation planning process is to enjoy the confidence of stakeholders, and if investment decisions are going to be made in future, areas

cannot be arbitrarily changed. This implies that the modifications should be denied in the interests of area licensing overall.

Recognizing that the changes are broadly endorsed in the troll fleet, however, it is difficult to justify denying these modifications if they do not impact the catch of other gears, and are subject to appropriate stock and catch assessment.

To reconcile these two positions, I have concluded that the modifications should be made, but on a temporary basis. It is my understanding that before the 1999-2000 area re-selection process, the Department may give consideration to certain changes in area boundaries. These decisions must be made in advance of re-selection and made known to stakeholders. These decisions should also be made with a view to meeting the long term needs of the various gear groups. After area boundaries are set, and re-selections have been made, there should be no need for further area modifications.

18. Until area re-selection is complete before the 2000 season, I recommend that Area G be given access to parts of Area 11 for the purpose of achieving its allocation, and that Area F be given a small harvest of Fraser Sockeye if abundance supports it.

19. I recommend that the Department provide Area F this access to Fraser Sockeye in such a way that minimizes risk when run size is uncertain. Area 2W or Area 11 might be considered.
20. I recommend that the Department provide Area F this access only subject to suitable catch monitoring.
21. After area re-selection, I recommend that there be no continuation of modifications of this kind. Boundaries for license areas should be drawn in such way that further modifications are not necessary.

Selective Fisheries Practices

Stakeholders have different views about the likelihood and desirability of new selective fishing practices, but after hearing from many on this issue, I have come to share the view of a broad consensus as follows:

- If there are going to be new selective fisheries, capacity must be retired from the conventional commercial fleet with compensation to provide for the re-allocation.

- Existing commercial fishermen should be encouraged to innovate and given an opportunity to participate in new selective fisheries.

The first issue is similar to the matter discussed above under Allocation Change Over Time. In order for the buy-back to have a neutral and proportional impact across gear types, it must also be ensured that the capacity purchased accurately reflects the reallocation out of the commercial sector. Accuracy can be improved in a number of ways. The full catch history of the retired license should be matched to the expected harvest of the new selective fishery, including accurate volume calculations and species mix. Also, the area where the license fished should be matched to the area in which the new selective fishery is being considered.

The second issue relates to the evolution of existing harvest techniques. It is not within my mandate to address the matter of which selective practices warrant further development and which do not. I have concluded, however, that fishermen would be interested in exploring new ways of fishing were they provided an allocation to do so. For example, using accurate catch history data from a group of commercial licenses, the Department might suspend the conventional licenses and transfer this allocation into an experimental fishery of some kind prosecuted by the same license holders. The suspension

and transfer of allocation might be done on an assessment basis, with the Department deciding at the end of a season whether the fishery is viable.

With this in mind, the Department should establish a program intended to consider applications for various experimental selective fisheries. Commercial license holders in areas where selectivity is an issue should be encouraged to participate. I acknowledge that there are many complexities to be addressed in setting up such a program but I endorse the principle.

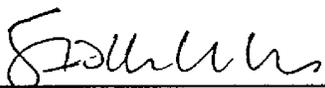
22. I recommend that the Department consider no new selective fisheries without accurate retirement of commercial fleet capacity and appropriate compensation.
23. In the interests of encouraging commercial license holders to innovate, and providing them with an opportunity catch their allocation in new more selective ways, I recommend that the Department establish a program to consider applications from commercial license holders to harvest by more selective means on a trial basis.

Long Term Principles

The following long term principles should guide allocation planning. Long term allocation plans should:

- meet DFO objectives of conservation, manageability and government cost;
- comply with the Pacific Salmon Treaty resolution requirements;
- be fair and equitable;
- be flexible enough to accommodate a variety of fleet management arrangements and levels of abundance;
- be based on reliable catch statistics published in a timely fashion yearly;
- be subject to formal allocation accounting once every four years;
- incorporate a transparent, stream lined dispute resolution process;
- be based, in the long term, on well defined clearly understood areas;
- encourage innovation in fishing technologies among existing commercial license holders; and
- adhere to historical fishing patterns if possible, but recognize the need for evolution and change in response to both economic and environmental factors.

All of which is respectfully submitted this 30th day of
April, 1998.



STEPHEN KELLEHER, Q.C.

