

Assembly of First Nations
National Policy Analysis Group Meeting
Habitat Management Session
December 13-14, 2007-12-13
Novotel Ottawa Hotel

Round table:

Audrey Mays, AFN
Winona , AFN
Chief Eddie Skookum
Tom Hoggarth
Randy barnhart
Nick Winfield
Karen D., DFO
Patrice Leblanc
Paul Jones
Randy Lake
Neil Rooney
Mario St-georges
Cheryl Knockwood
Terry Wilson
Dan Kelly
Brian Hunter
Tina Giroux
Chris Morin
Brian Scribe
Julie Dahl
Marcel Shepert
Kristen Paul

DAY 1

Jump into agenda, ample time for Q and A, lump some presentations together, re-jig agenda, discussion by Audrey on afternoon presentations

Various FN don't know what is happening, want explanation from DFO, give FN a chance to explain their positions and ask Qs, joint policy discussion table, forum to discuss key areas of concern, policy, joint dialogue with FN, we have been successful in teasing out key areas, 3 workshops in 2008, this is habitat so focusing on key area

Patrice (presentation)

welcome, long overdue, 3 important parts, legal policy and program framework we use and tools, better understanding of program direction, what are your priorities, how do we improve relationship, context of program , legal framework, the policy, context – fresh and marine systems produce number of benefits, 1000 + species, source of food, millions of jobs, billions to economy, subsistence to FN, indicator of environmental quality, water used for drinking, industry, transportation, recreation, results in loss or contamination of fish and fish habitat, loss of benefit, area of fish and habitat conservation and protection has risen as important area of policy, we regulate and established policy, section 91(12), parliament

DFO-49328

\\nats01\NSD\CDCI NCR Inquiry\Network Shared Drive
s\Habitat\X HM & ES\HM&ES Directorate\HP&SD\OPERAT
IONAL LIAISON\Partnership Arrangements\national ag
reements\Aboriginal Inland Habitat Program\AIHP wo
rkshops\AFN Ottawa Meeting\AFNPA~1.DOC

CAN014387_0001

exclusive jurisdiction, PCO in England, constitutional principles of fisheries, exclusive tidal waters, combined in inland waters, province decide who fishes and how many fish inland waters, feds have jurisdiction of conservation of fish and fish habitat, province overlaps with land management, Canada's fisheries act, law evolved over the years, 1976/77 amendments, habitat protection and pollution prevention provisions, passage, flow, harm to habitat, harm to fish, deleterious substances, key definitions in act (describes habitat provisions), HADD, pollution prevention (deleterious substances – DOE administrators), DFO responsible under parliament to administer fisheries act, our responsibilities have been added to over the years, CEA, consultation, must ensure an EA is done, SARA, aboriginal consultation and accommodation, that was the legal framework, move on to Policy Framework, policy for the management of fish habitat, guides us, net gain objective, conservation restoration development, guiding principle of no net loss, integrate habitat needs into broader planning process, 8 strategies, 1986, in 1990s we introduced policies, habitat conservation guidelines, decision framework, cosigned policy for enforcement with EC, risk management framework, consolidated all policies into standard operating policy manual on website, has guides, strategic objective, Healthy and productive aquatic ecosystem, training and performance, 6 regions, program does not operate in isolation – science, C&P, national senior habitat management committee, HPSD subcommittee, day to day our main focus is to review projects (the fisheries act does not issue permit, no one has to come to us), the act limits us to authorizing a harm, habitat biologist reviews project and discusses with proponent, mitigation, consider authorization under the act, compensation, can include monitoring, like for like but other options to offset loss, CEA assessment, other EA processes, SARA and FN consultation, we receive referrals (not an application), if impact avoidable then letter of advice or OS, if not avoided then may authorize (300 a year, plus EA), many stakeholders and FN express concern, timelines transparency predictability, continuous improvement, 5 prong improvement (describes), 2004 we had additional direction, EPMP, 5 key elements (RMF, streamlining, coherent predictable, training, management model for MP, HCM), developed guide to RMF, scientifically based approached, POEs cause and effect, risk matrix, management tools, example (POE – vegetation clearing), if can't break pathway then go to risk matrix guide, low to high, Streamlining regulatory reviews, Operational Statements, 18, some provinces don't apply, illegal or don't harmonize, we defer to a province who meets or beats the regulation, integrate streamlining and tools into BMPs, guide to information for reviews being produced, looking at options for streamlining medium risk reviews (class authorizations or assessments), coherence and predictability in decision making, training, manual, national governance structure, performance measures, etc., Partnering, signed agreements, roles and responsibilities, AIHP, improve capacity, MOU with 9 conservation organizations (examples), on website, Canadian Electricity Assoc., 7 NIA, established coordinating committee with RCEN (engo), Canadian Union of Municipalities, EA&MP, new resources allocated to program, clarified roles and responsibilities, 2005 added HCM, doing paperwork and needed to know two things, are people applying terms and conditions, and are they actually working, set up HCM, 37 new positions, protocol between us and C&P, operational policies for handling compliance, discussion, done.

Paul – Annex 7 Partnering, you think consultation would be sooner in process, consultation would impact any agreement that would be signed, DFO does not carry definition of conservation, how big does a project have to be for CEA?

Patrice – process is to ensure regulatory decision does not impact, to clarify rules with associations, members of association carry endeavours, its not the size of the project but the trigger, could be a culvert, oilsands,

Brian – Victor Diamond project example

Nick – explains trigger, act says if section 35 triggered then EA, our role is first to assess all impacts to avoid all impacts, if not we trigger EA and follow all requirements, there are size requirements for comprehensive study, panels and/or mediation,

Patrice – different pathways for different triggers

Tom and Brian discuss Victor Diamond project

Brian S – lack of emphasizing treaties, we are not stakeholders but nation to nation, no mention of our nation to nation agreements in treaties

Terry – what process do you use to address aboriginals, meaningful consultation

Patrice – engage early etc., we will discuss this afternoon

Terry – streams into Lake Superior maintaining coastal brook trout, logging, no one listened to me, said they would have major problems, culverts redirecting water flow, population collapsed so much, no one looking at the impact of water flow, used to get a 1000 white suckers, smelts, don't catch as many brook trout, what about management of water flow and its impacts

Patrice – good point, talking about a series of structures installed over the years, cumulative effects, we have SARA because of 'past sins' and now looking at closer, existing structures impeding fish passage, water shed level assessments

Tom – DFO is working with the province, forest management plans, can talk to them about specifics

Marcel – relationship aspect with the provinces, history with provincial crown is different relationship, transfer of DFO duties to provinces is unnerving, AAROM facilitated meeting on pine beetle, silo-effect alive in room, scientists in room but not decision makers, very important issue but no headway, MOF has own kingdom and is impediment,

Patrice – no delegation of DFO authority to province, institutional gridlock, talking to province on agreements for habitat management but just 4 agreements not functioning as well as they should, a lot of energy to bring institutions together,

Marcel – not communicating well on website, sounds like transferring responsibilities, won't enact protection of two endangered species (sockeye).

Chief Eddie Skookum – one window approach with multiple gov't up north, better collaboration, Yukon queen – disrupt salmon roe, don't think anything done, mandatory training, climate change

Patrice – Yukon Queen we can have a side-bar, regulatory process for Yukon placer mining (3 levels of government involved),

Tom – explained mandatory training provided, CD with policies and acts, slowly gearing up AIHP people,

Patrice – if need to expand program we need to know, with respect to courses,

Tom – recommendations provided to training people, courses will be offered

Patrice – can't speak to climate change, EC

Audrey (presentation)

I would like to go over NPAG presentation

National Fisheries Strategy, 5 year strategy, fully developed in 2005, until 2010, look at various aspects of fishery, 18 components but we are dealing with 8, large strategy, National Fisheries Committee (BC, NB/PEI), Chiefs Shawn Atleo and Len Tomah, large area, 4 pillars, Rights – recognition and respect for aboriginal and treaty rights, Access – fare share, Capacity – meaningful participation, Accountability - government, Habitat SARA stock assessment, we have research, analysis and discussion groups, Inland and coastal fishery, Legislative and policy review, dfo policies on the radar, make sure they are not infringing on FN, C-32 changes will effect FN and consultation, sections related to habitat, C-32 implications (aboriginal and treaty rights, consultation, environmental issues, fisheries management, enforcement, jurisdiction, Canada Fisheries Tribunal, advisory bodies, implementation of C-32 regulations), SARA rights ATK infringement, aquaculture increasing mostly on coasts, economic implications of aqua, some FN opposed, Oceans Act implementation, DFO science renewal, fish habitat management (1986 policy without consultation, not modernized, case law, Bill C-32), 3 workshops, AIHP and non AIHP groups, objectives – raise awareness, review and evaluate DFO HMP and EPMP, FN perspective knowledge views concerns, gather and share info, address gaps, build on successes, First Nations and habitat policy – report on FN interest, review and report on DFO consultation framework and tool box, partnership with academics, develop roster of experts, consideration of inland habitat, national habitat working group, special chiefs assembly on fisheries policy 2008-09, First Nation Advisory board, Partner opportunities (address silo effect), Priorities, How FN are involved (examples), that was an overview – take a 10 minute break.

BREAK

Audrey

Shows slides quickly, idea of how it functions (national policy analysis group), National Fisheries Committee - AAROM, AIHP, AFS, Regional policy processes, others, AFN/DFO NPAG (feeds in to policy development)

Joint steering committee, joint senior management committee, RIFING, feed into policy development

Example of relationships between working groups, regional representatives, develop regional roster of experts, NPAG is not a consultation table, but can indicate where consultation is required

Tom (presentation)

Background, AFS, AAROM, AIHP, key distinguishing point is AIHP is available where provinces manage fisheries but fish habitat management is a federal responsibility

AIHP intended to assist capacity for fish habitat management and help DFO improve relationships, includes Metis, 1.87M in G&C

Objective to increase capacity, participate in decision making related to fish habitat management regulatory and non regulatory activities

Located in inland provinces, represent an aggregate of groups, have a resource mgt group independent of political influence

This is the first year we had most of our AIHP bodies up and running

AFN workshops, recommendations, develop coordinated plan

How do we manage fish habitat – regulation, stewardship planning, research, etc.
Awareness and stewardship, regulatory aspects – research, monitor, advice
Current agreements, developing proposals,

Tom - Busy but I don't mind repeat requests until done.

Paul – where are Metis nations being recognized in Ontario, where are they putting them?

Marcel – clarification that AIHP is sibling of AAROM, isn't 1.87 M low?, a lot of development is being proposed, to get people involved in decisions need more, EPMP looking to balanced approach in theory but consultation hurdle and develop capacity at that level, Lisa knows EA acts and we need at least two more just for BC

Patrice – better than zero, more support from FN the better, build business case

Tom – describes what some groups are doing with money with respect to working with DFO

Patrice (presentation)

Context, a couple of points, to administer we need policy, FA needs to be modernized, plus CEA SARA Petitions International agreements Precautionary Ecosystem based, Comprehensive policy agenda for the program,

Agenda – guiding principles, practical and cost effective

Life cycle approach

Policy agenda structure

Policy – internal, guidance for external, gives description

Standard Operating Policy Manual, 5 year schedule, monitor and feedback, list of policies under development

What when and with whom do we consult? We recognize we need to do a better job.

End

Patrice (presentation)

Program Activity Architecture (PAA)

Shows DFO PAA structure

Safe and accessible waterways, sustainable use, HAPAE

Habitat activity description, what do we do under these three activities, deliver on responsibilities, all of our budget allocations and people are assigned to these, 8.1 8.2 8.3,

Marcel – what interface

Patrice – would feed into AIHP, training program, they administrate across the board but come from my program, we put in technical content, we may attend and present, content people go to course and deliver

Marcel – we would need someone there to be a shared exercise

Patrice – how do we share our modules, good way of engaging, we have been trying to ensure all of our staff are trained

Marcel – capacity being developed in the agency, but FN need to benefit, another point of contact and interface, FN are on the land, bring the people on the land base forward, good business case to be made

Tom – I have been advocating that, get FN access

Patrice – we have limited capacity to deliver training internally

Tom – to deliver on course you have to get Train the Trainer training, then present training modules, we have a bureaucracy to get our people through

Marcel – include FN as a step in process rather than just doing one then another

Audrey – our FN are experts, important to keep consistency and capacity, FN get frustrated with different people and gaps, you will hear more of this

Patrice – we need your knowledge put together into recommendations, put priorities, this group can be instrumental in recommendations including first priorities

Paul – consultation should start at conception, if idea of doing something in our territory, bigger than just reserves, INAC deals with our reserve, if potential impact then monitoring should be included and FN should be included and informed

Audrey – when this program started, we have unique relationship with Crown compared to Metis, process have to be defined by FN, challenge to convey to gov't that it is not one size fits all with FN,

Patrice – a point on that, our program works within the policies, not us to change that, focused on habitat, FN have role in broader policy, cabinet give responsibility to DIAND

Audrey – key message, notification before bulldozers come in, part of decision, FN asking for equal voice on advisory boards, and recommendations on whether to proceed with project.

Paul – in terms of 1.87M, what relationship for renewal of program and growth, cover provinces and territories

Brian S – drop in the bucket

Patrice – habitat program is 15M out of larger budget

Tom – AAROM program then AIHP, no idea how they figured on 1.87M, trying to increase it, all groups had a kick at the can at how it would be divided up, Ontario was looking at bringing 6 or 7 groups together, when you put in your applications tell me what you truly need to show what requests are compared to available funds, looking for recommendations, any recommendations along that line will be helpful

Terry – danger in saying how much you need vs what you get, risk that it will backfire for some FN because will conclude not getting enough to proceed.

Tom – discussed how to do that, we came up with a funding allocation, recommended through chiefs of Ontario how much to fund, understand what you are saying and issues with doing it either way

Audrey – need 6.8 M,

Patrice – the HMP was not really involved in putting this together

Tom – had to do with a percentage of AAROM, last minute thing

Patrice – we need FN groups speaking to this and recommending it increases, when we go to cabinet there is a hundred others asking for money, to get more money we will have to elbow others

Terry – when it comes to getting more money, will it be used for FN, INAC got money but not FN

Tom – not case with AIHP

Patrice – one salary and O&M, rest is all FN

Tom – on the renewal we may ask for additional, ask for more G&C, earmarked for FN not DFO, 13 AIHP bodies now, trying to get proposals through

Audrey – speech from the throne had components that provide good arguments with respect to environment, encourage FN to write letters, will be an effective program and will benefit all,

LUNCH

Stewart
Ginny Flood
Alyson Defranco

Ginny (presentation)

EA&MP component, established unit in response to high risk major projects, approach wasn't consistent nationally, developed first what we defined as a major project (panel reviews, public interest, etc.), gov't of Canada initiative, developing EA policy with CEA Agency, EA process being criticized for constraining, lack of clarity or consistency,

Crown consultation with aboriginal groups, need to collectively ID issues with aboriginal groups between departments, 300B worth of new development over the next decade

Created MP management office, streamlining whole approach, not about reducing standards but making sure we do the right process without duplication, harmonized, cutting the EAs from 4 years to 2 years,

Management office is single point of entry, engage early discussion, get proper information available to us, many proposals are inadequate

If proponents doing their part then we are accountable for our timelines for our decisions, establish project agreements for each major project, facilitate integration of crown/aboriginal consultation, maintain monitoring and tracking system, know where we are in the process,

Paul - Trying to pick up aboriginal component, so shouldn't be at back end of process, but at front end, proponents should be forced to provide consultation with aboriginal groups, going on 5 years now, just can't go on, our territories are being impacted on, we are forced to look like the bad guys when project is delayed for consultation.

Ginny – valid points, each project will have an agreement, doing more now and getting proponents doing more up front, additional funding for dedicated people to talk to aboriginal communities, DFO is quite vocal saying we need more, being done through INAC, funding to take initiative on, set up mechanism, policy will help inform that

Audrey – what kind of funding

Ginny – describes funding, will have more assessors on ground, each region has one or more aboriginal capacity positions for major projects, in addition to what we already have, more than double

Chris – not your role to decide which FN is impacted, caters to industry and not others who are effected, does FN have a seat at MP office, crown is obligated to consult but you are saying proponents are? Are you consulting with FN on establishing this office?

Ginny – doesn't just cater to industry, I will raise your Qs with the MP office, established in new year?, not sure how they plan on engaging aboriginal communities, crown is obligated, we do not delegate to proponent or MP office who coordinate regulators, I can't say for sure, it is a government of Canada initiative

Stewart - Has the process guidelines already been established? What type of process are we looking at? Is this streamlining provincial process? Court case regarding treaty areas and jurisdiction?

Ginny – no, at preliminary stage. I think they are looking 3 areas. Trying to harmonize with provinces respecting jurisdictions, trying to build capacity and be collaborative to avoid duplication, and collectively approach consultation, deal with the issues in the right jurisdictions. Don't know the ins and outs of the court decision.

Patrice – appointed leader and looking for office space (Bill Jennings?), template agreements could be considered guidelines,

Byron? - We need the ability to determine the impacts to our rights, record aboriginal crown consultation and then run rough shod for approval, is there going to be a working group structure for us to advise on impacts to aboriginals, the BC agreement is between BCEAO and CEA and decision says province doesn't have authority,

Ginny – initiative is not aimed to provide capacity, that is another issue not within this initiative, this is about providing resources to departments, can't speak on behalf of the leader running the office, court decision is being worked on to decide what impacts are,

Stewart – dialogue with gov't of Canada and develop a process and give assistance with consultation and product,

Ginny – it's good governance for us to do that, I will pass your comments on, DFO understands our duties to consult,

Alison (presentation)

Provides some context, background, aboriginals have rights not enjoyed by other Canadians, DFO has developed some guidelines, duty to consult triggered by federal decisions, Habitat trigger is most commonly section 35(2), compensation planning trigger as early in the process as possible, learning from others best practices, change and evolve and not static, one size does not fit all and we are providing general guidance, consult for potential and established rights, guidance will bring more transparency, benefit of improved decision making, complimentary initiatives,

Stewart – case law is minimal standard, can we have a practitioners guide for higher standard? DOJ may say this is far as you need to go?

Alison – yes, can provide baseline and further guidance, benefits to consult,

Ginny – DOJ wants us to go beyond the minimum, way beyond.

Alison – the goal is to be proactive, build an effective and long term relationship,

Stewart – aboriginal decision making, have land based bylaw decision authority, applies to reserve land and residents

Patrice – can't delegate authority, authority is delegated in Act, C-32 comment

Tom – standards must be at par or better,

Paul – have you devised a definition of consultation?, people are doing it because they are obligated

Alison – that's DOJ, we haven't, not the focus (legal)

Chris – strongly encourage you to work with FN

Audrey – engage up front rather than in court

Stewart -

Patrice – forum, communicate, collaborate, consult

Marcel –

Nick – habitat is trying to join process early

Patrice – consultation secretariat

Marcel – Jay had had good ideas, not a perfect model, lessons learned, encourage consulting at the nation level, develop intertribal process, 96 bands on Fraser River

Nick (presentation)

Fisheries Act renewal, C-32, large topic, so quick overview, I am providing document with background information, I am speaking more from Habitat side

Looked at fisheries act and asked where are areas for improvement, most changes relate to management of fisheries, not huge changes for habitat, managing 5 key areas (mentioned by Patrice earlier), sections have been challenged and need more weight, S 36 inspectors powers and HADD, making conditions of Authorizations enforceable

1868 Bill, needs to be updated, bill introduced and died, updated and re-introduced, 4 areas changed since last year, outlines changes since last year, provides general outline, part 1, 2, 3, 4, 5, 6, 7, department cannot consult on Bill until it is received, so we have been briefing people, we have no authority yet to consult, standing committee on Fisheries and Oceans,

Paul – number 4 changes are to remove quota of fish as part of management agreement, why is that removed

Part 3 talks about conservation, more merit for aboriginals because it comes before aboriginal interests

Nick – court says can't allocate, we need guidance on defining conservation

Patrice – becomes difficult if we define in Act because may take another 140 years to redefine the act. Use other sources for series of definitions, many are the same elements,

Stewart – common property resource, we have an interest after conservation, but problematic

Patrice – supreme court decision it is a common property resource, will debate the content, in the wild it is common property

Stewart – hydro dams blow out spawning habitat, how will you lay charges on corporations

Nick – it is possible under current act and next act

Patrice – argument with utilities if it applies prior to provision, if your structure was built before the act applies to ongoing impact, not to footprint, applying to existing facilities is long process of negotiation,

Stewart – same process for other industry such as mills?

Patrice – could apply, provision in new act to remove an obstruction

Stewart – are people eligible for compensation

Patrice – good legal question,

Audrey – what about infringement on aboriginal treaty rights, one of the mining cases there was an issue about clean up, delegated to province but not done properly, not happening properly, now streamlining projects

Patrice – licensing a mine is provincial jurisdiction, we talked about silo effect

Nick – mine has performance bond, covered both provincial and federal, but now we want them separated so feds get security bond

Byron? – in the US if a dam or facility is causing mortality, you must mitigate,

Nick – new act, powers minister has to ensure free passage of fish, use orders to force free passage of fish, minister negotiates before, but if issues not addressed then not easy for project to proceed, new act application principles – to raise the standard of decisions by Minister – demonstrate what they took into account,

Stewart – recourse for private citizens? First nations as part of negotiations?

Patrice – existing developments with impacts, two dams in Ontario, negotiating with utilities, we have the authority to do that,

Ginny – major projects will often have a seat for an aboriginal group who provides advice

Tom – with respect to listing species, mentions they brought in aboriginal groups using two avenues

Paul – removed “license confers privilege”, privilege can be taken away, can people say it must be a right, groups fishing under license who are trying to in fact exercise an aboriginal right

Nick – other part says a license does not confer a right

Tom – C-32 has removed wording that it is a privilege

Patrice – lawyer said why did you remove this (in meeting), stakeholders pushback, discussion with fisheries management group,

Marcel – Pacific salmon, ocean survivability, need to know more about open ocean, oil and gas moratorium being lifted in Hecate Strait, fish farm huge problem and conflict

zone, monitoring should be in Act, we support any movement towards understanding what is going on in ocean,

Nick – not in the Bill, whole program is trying to move towards monitoring, science lead, section 25 says consider fish and fish habitat with respect to fisheries decisions, benthic trolling, the bill is about how the minister must make decisions, get involved with standing committee on fisheries and oceans,

Patrice – science, and we try to influence, not per-say to do with the Act, must get through second reading, SCFO, could do one of two things such as call witnesses or go across country, we are prepared to hold technical briefing,

Stewart – preamble, need second reading, if purpose of act is to change

BREAK

[Randy action item – find court decision that says fish are a common property resource]

Marcel (presentation)

EPMP, discussed with Nick Leone, decreasing capacity in department, talking to DFO who are overwhelmed with referrals, shifting responsibility to industry and government, deregulation

Overview, FN have different view of what habitat is important, flexibility means more opportunity for development to move forward, cultus sockeye exploitation rates higher than we recommended

Shows risk matrix diagram, Kemess Mine and tar sands pipeline stopped, 5 nations of native people came together to put pressure,

Shows pie chart of EPMP balanced approach, early intervention good but key is having FN involved early, Harmonization, calls FN stakeholders, does not recognize fiduciary duty, does not seek FN input into goals and expectations, may increase conflict and uncertainty

Over arching EA principles, TEK

Aboriginals think in longer time frames, live off the land

Capacity development is beneficial, FN full enforcement capacity,

EPMP recommendations, What triggers an EA, onus is on the crown, top down approach doesn't work – all reactionary, trend to treat FN as stakeholders needs to be changed, current policy lacks meaningful engagement of FN, promote full FN representation and participation at all levels of fisheries policy development and planning,

Hired one person to be an expert on the provincial and federal EA acts,

Incorporate aboriginal people into train the trainer

Be wary of further transfer to provinces (Patrice – no transfer)

Example of Pine Beetle conflict

Risk Management Framework

Patrice – Habitat advocating for fish and fish habitat, we do not delegate our authority to others

Marcel – province slamming DFO, opportunity for FN to bring these groups together

Patrice – values and position they hold, we are always in that position with developers

Marcel – another mine site being proposed, a lot of discussion going on between 5 nations

Audrey (presentation)

AAROM and AIHP, AIHP unrolled when DFO did overview of how program was designed and asked for FN input,

Challenges and Issues, lack knowledge of government rules, who is responsible and who do you go to at national/regional level, lack of information on MOUs, (Patrice – we have only a few MOUs in Habitat), jurisdictional issues for FN, FN have different priorities, we are on the wrong side of the fence with respect to fish habitat, need process for FN involvement in proposals, loss of species, intro of invasive species, lack of protocol for TEK, new emerging policies and legislation, FN require capacity to address habitat projects and remediation activities,

Gaps in AIHP program, insufficient funding, lack of flexibility, poorly defined roles and criteria for proposed staff, program focuses on competitive first come first served, program funding is for FN support, Conclusions, FN are unanimously in favour of the program's objective of building capacity, program and funding deficiencies, need consultations, etc,

Next steps, list improvements

Implementing ATK in Habitat decision making process, resource management is based on policy in theory informed by science, etc., resource management and sustainable development, most research is stock assessment and habitat characterization, etc., ATK systems determined by complex social interactions, equivalent to science, decisions based on practical application of knowledge, need training in ATK, collect knowledge from users and elders, etc., assess and collect findings, assess ATK systems among aboriginal groups globally, etc.

What to consider when using ATK protocols and policy? Intellectual property rights, copy right laws, guidelines, ethics, consultations, approval processes, GIS, traditional use studies

Audrey – think about what we can do for improvement, what we will hear about tomorrow, anything to add?

Stewart – building better relationship with AIHP body, that is what we look at as far as our activities,

Chris – disappointing that government won't recognize treaty rights

Nick – preamble of act, set context with respect to rights

Tina - Nothing in act other than preamble

Patrice – good comments and make more comments

Assembly of First Nations
National Policy Analysis Group Meeting
Habitat Management Session
December 13-14, 2007-12-13
Novotel Ottawa Hotel

DAY 2

\\nats01\NSD\CDCI NCR Inquiry\Network Shared Drive
s\Habitat\X HM & ES\HM&ES Directorate\HP&SD\OPERAT
IONAL LIAISON\Partnership Arrangements\national ag
reements\Aboriginal Inland Habitat Program\AIHP wo
rkshops\AFN Ottawa Meeting\AFNPA~1.DOC

Chief Day joins the workshop
And others.

Patrice (presentation)

Science agenda for the HMP, context, access to timely and sound science advice, monitoring, advice, compensation

HMP science needs, describes science support needs,

Had a workshop with science to ID needs, science priorities, 5 areas where science provides 5 services - research, advice, monitoring, data mgt, outreach

Centres of expertise, one on habitat that is evolving

ATK, feed into process

Audrey – gaps, defining what is good science, how can we integrate ATK, need to change mindset of scientists, a problem is encouraging youth to enter into science field as a career,

Patrice – I agree with ID of challenges, scientists do not make decisions but provide knowledge and advice, work on ATK, Peter B. at UBC,

[good science, science methods and accurate reporting for peer review and replication]

Bring science into ATK

Patrice – discusses case of parallel structure of ATK and science

Paul - DFO contributing to university courses, incorporate traditional knowledge,

Patrice – NSERC,

Marcel – discusses location of villages in relation to river confluences in BC, discusses wild salmon policy conservation units, Stuart sockeye, waiting for stock status report, done stock status report with aboriginal people, climate change,

Patrice – wild salmon policy, drawing near to end date for comments,

Paul – people creating policy but not talking to aboriginal people, consult at inception, Ontario power authority plan is going to have an impact for next couple of hundred years, need to create opportunity for participation, we need a veto or our own process

Marcel – John Jack John case, preferred means method and location, got fined for fishing illegally for ceremonial purposes when he went to someone else's territory to fish, many locations for fishing but only large aggregates for conservation units,

Stewart – lawyers and policy decisions, people don't know everything,

Audrey – front end of policy, review process of policy is just as important

Patrice – we also recognize policy needs to evolve and change, need arguments for table to say what we want to see in policy

Paul – policy is based on beliefs, directed by things and people other than science, thought we would be involved in decision making if we are to buy into it,

Marcel – current mgt structure in BC lumped sockeye basically into four aggregates, describes run of sockeye in BC, early and late component, gov't built spawning channel and blocked lake and eliminated run, loss of timing group, recently big run returned and they let them through, let's take ATK but more work for department

Audrey (presents roundtable)

Start with round table, east to west, habitat issues and priorities, AFN help FN with habitat issues,

Marcel (BC) – habitat is driver of future, policy directive needed, aboriginal resource agencies with funding from HRDC, AAROM, target young budding scientists, from BC perspective environment is an opportunity to develop capacity, FN is one indicator of environmental health, groups forming strategy which would be helpful to other aboriginal groups in sharing information, empowering information, useful tool to share information, BC going to explode in next 50 years with development, FN don't want it in their backyard, how do we deal with it, Hecate Strait development in pristine area, don't want repeat of Africa, interface with aboriginal people,

Patrice – comments more integrated approach for gov't programs to develop capacity of aboriginal people, aquatic sciences a natural,

We have an arrangement to talk to industry, we can ask how to bring aboriginal people into process, need consensus, I can bring that to table (NRIA, 7 associations),

Chris Morn (Saskatchewan) – currently what we have done is 8 community discussion sessions and completed communications strategy, I am just speaking to the funding, we are lacking in Saskatchewan, running short of money, information role to tribal council, can be helped with networking for communication with other groups,

Tina – fisheries habitat portion, we have been going to communities and identifying and developing capacity, huge difference between north (looming oilsands and mining) and south province (agriculture), because of that difference it is like there is two plans, more resources needed to develop fully, aiming to implement next fiscal year, want to develop ATK database, to do that we have worked with elders to develop protocol to collect info, trying to develop priorities, need for education at school level and community,

Brian Scribe – ATK or TEK, talked to people through out province, rock and a hard place, Cree population, protocols and concerns about documentation, should it be documented?, people in south are telling us to record traditional knowledge, some

screaming for TEK but traditionalists say we can't relinquish, bring together north and south people to incorporate knowledge, still those who use and understand the land, lost a lot in south because of becoming farmers and ranchers, 3 Cree nations and recognizing ourselves for uniqueness and commonality, protocols to sharing, challenges, don't know how we will document, spiritual aspects to it,

Marcel – did traditional use study in BC, pipeline project through territory, elders were asking what if it breaks, impacts to food fish,

Brian – traditional land use studies can cost a lot and start identifying all of the resources in territory, people back out

? (Ontario) – getting back, not paid right now but volunteering until then, working on project to inform, get students to look at fish-tech. as a career, have those who are police and social workers, need organization that can provide technical positions, we are trying to provide resource planning support for Lake of the Woods area, due to us not having a biologist on staff we are interviewing people to fill position, issues such as solid waste and culverts, protect walley and yellow perch, cisco study, whitefish moving into areas they haven't been seen before, working with cottage owners association, algae and septic systems, our main focus is organizational development and voice at Lake of the Woods, we don't have a plan so we hope to change that, comments on traditional land use issues, studies, they were looking for pin points on a map to document traditional land use but not how we view it, working with province not the best with respect to traditional land use, haven't leveraged other money, staffing issues, down to one permanent staff

Terry – at my level we don't deal with site specific concerns, most of our concerns with province, not consulted at federal level, C-32, concerns with aboriginal consultation, concern about what prompted change to Ontario habitat guidelines, forest industry concerned about loss of fibre, to assess impacts of clear cutting down to waterways was based on a study of one system, revamped fish and wildlife program and we asked about how they would consult but no response, species at risk legislation and we showed up but told that it was strictly information sharing but we were not being consulted but later told that it constituted consultation, many elders saying fish and wildlife no longer eligible, people getting sick a lot more and feel it is contamination, process fails to protect habitat, not adequately funded, communities may identify large areas for protection but province won't consider large areas, no holistic approach considered, issue with forest company bridge proposal and bass spawning, most of our students don't see the opportunity in fish and wildlife studies because of lack of funding for those positions, ATK/ETK concerns, willing to disseminate but issues of ownership of information, ongoing mistrust factor with the people who are controlling things,

Chief Day – from a habitat point of view, biodiversity being impacted by a wide range of issues, industry impacts and bad management, science compared to TEK, science appears to be static but TEK involves different value systems across country, not a cookie cutter approach with TEK, geographic issues, tribal councils a good place to get this work done,

need to have our system developed based on our own values and laws, marry that with what we do with fisheries mgt in Ontario, fisheries authority framework, ask what is it about our own laws that are legitimate, work with technical group that is severely under funded, we have to pressure for funding,

Consultation and accommodation, court cases, time for substantive discussion, interplay at a broader policy level, there is some activity that has to happen at the policy level, split in Ontario with management and habitat being on different sides, case law will effect trilateral process, FN nations have a legitimate place at table for trilateral discussion which should be an improvement,

Dudley George, Ippawash, MNR, need to look at Canada/Ontario agreement, need to get moving on that area,

Patrice – trilateral should provide good opportunities, recommendation could be that FN should have a seat at table, bring to attention to senior officials that you have a legitimate role,

Brian - funding is always key issue, we collect TEK, science, translation, no money in it but a lot of info, unilateral perspective, we need proper protocol with mediums that transfer information to government officials, what do we educate people with in the long term, TEK is catalyst for winning court cases, TEK important in future

Chief Day – focused area for AFN involvement, on the ground struggles with implementation of objectives, human and financial capacity side, the federal and provincial gov't have responsibility to ensure resources are in place, industry has the money in their pockets, hopeless argument to assume gov't will come to the table with cash, cost of doing business, mining companies banging on our door because FN need the ability to contribute at the table, role of industry to ensure FN can make decisions, AFN could work with industry and key players to make sure we have a role at the table,

? - orders are where we could put in mitigation and things we need, in Haida-Taku when it was decided industry didn't have to pay then industry walked away from the table, look at levers, when we have to go to the store to get food we are subsidizing gov't for not having our food available, one case had to provide supplementary fishery and long term care, cost of resource extraction

? - access AAROM, getting key staff, researching funding, impact assessment study on lobster issue, lobster netting 17M per year for FN so want to maintain habitat, slowly getting off the ground, having people in place makes a key difference, capacity is important at FN level, also launched economic development research program in Atlantic, to collect data to determine what we need to be a force, impacts of Marshal decision, interim fisheries in last 5 years until treaty establishes long term relationship, building capacity at the community level, funding to hire fisheries tech in every community, ACFI 10 million per year funding announced that will diversify fishing, work cooperatively to diversify, chiefs gave go ahead for fisheries vehicle to get groups involved, meet demand for fishery, habitat is important, AFN can help us by networking and information sharing, providing technical workshops, lobbying, whatever

recommendations are made here are great and send off to regions to get ratified, we need to be accountable to our regions,

Chief Day – echo what can AFN do, streamline regulation process, economic impact analysis, what is streamlining of gov't going to do to us if they get more expedient and we are out of the loop, cost analysis approach required to assess, FN are microcosm gov't and can't be streamlined,

Byron – Haida Taku, adequate consultation, MP 60 M is going to them, what about FN,

Patrice – FN have an important role in unrolling, recommend to Minister, and you have a legitimate role to participate in streamlining process, mentioned streamlining of industry and there is the concept of corporate social responsibility, NRIA arrangement, our deputy meets with the president of this association, make recommendation to them for funding role of FN,

Chris – couple of Qs of DFO, sustainable development framework new funding opportunities?

Patrice – FAM initiative but no funding

Audrey – we invited them to talk and we are going to meet with them, they had a deadline for input but FN didn't know so they pushed it into January, concern that gov't developing framework without FN, express concerns about deadline for input,

Chris – yesterday I forgot to ask Q about C-32, reference to transfer of habitat to province,

Patrice – minister may transfer some responsibilities to province or agencies, but only applies to part one, no ability in act to transfer habitat to province in part 2

Mario (Quebec) – biologist working with Algonquin, working with 3 communities, started our AIHP project a week ago, trying to gather information with respect to fish habitat, agreement in one community to develop integrated resource development plan, we will gather information on fish and habitat,

Russ – policy advisor, work with Algonquin, had agreement with Quebec and Canada, our data collection phase was called indigenous knowledge collection, includes views and opinions, it took a lot of blockades and hardship to get regime change with forestry, measures to harmonize, buffer areas of concern, Canada walked away but Quebec continued with integrated mgt plan, recommended territory be identified as a special use area, part of problem is collecting data for that size of territory, computer modelling with forestry issues, building technical capacity, Quebec has to decide if they are going to recommend implementation, legally binding agreements, concern about precedents by province, riparian zones very important, Barrier Lake TEK, plans developed with professional standards, responded to Haida Taku by drafting interim guidelines, forestry

mining hydro issues, whole Ottawa river watershed disturbed by dams, impacts of reservoirs on fisheries, interview community members, harvest studies to estimate household consumption of meat and wild berries, ethnographic research, current use maps, GIS capacity for land base, comprehensive approach not just fisheries, interim measures until resolution of aboriginal title issue,

Byron – will they share harvest/consumption plan? Framework for consumption.

Russ – will ask, book published to describe mapping, elders reference group and adjusts to species, reference template,

We talk about consultations, harvesters suspicions about information is going to be used, in light of court cases they are laying out the parameters to assert rights, need the baseline data, suggest to AFN if you want to be helpful then point to developing professional standards, Barrier Lake took a fact based approach, conflict approach can cost a lot of money, be professional to be taken seriously,

Chief Day – comment, changes to resolution, AFN can't go in again and take a program approach to solutions at a low level in community

We have to have a sense of our own values, fish doesn't have a dollar sign on it's back
Once resources are restricted, we are going to be in a conflict between communities over resource

Russ – burden of proof onto FN, Haida and Taku are two decisions, legal principles and standards, if Ontario doesn't implement then we may have to take them to court, change through pressure but must have information, research has to be a priority, crown duty to consult, should provide funding to FN to do the research,

Paul – need level playing field, need resources

Byron – Q about framework Russ talked about, values are part of that, it's not just the economics of jobs from a dam development for example, people no longer have access to fish, health issues for FN, look at actual costs to our people,

Russ – social indicators for community, have to agree what those indicators are, Kelowna Accord measured housing etc, not interaction with environment,

Paul – Ontario treats FN worse, worst consultation policy, feds worse, partnership with university of Guelph, AFN should partner up with technical people, feds could sponsor scholarship for FN, need faster movement,

Audrey – we are planning workshops, Edmonton in January 15-16, Toronto Feb 5-6, Montreal Feb 19-20, reminder that we will count on AIHP groups, highlighting your success with AIHP.

LUNCH

Audrey – appreciate input, will send out information in January for this meeting, include CDs,
want to outline activities, providing support for FN, what can we do?
Partners working with industry, network of experts, dos and don'ts of negotiations and consultations, interactive website and links, AFN portal on fisheries, develop national roster of experts
What can FN do? FN to FN exchanges, watershed ecosystem groups, Habitat mgt practices, ATK, training and mentoring,
What can we do together? Aboriginal and treaty rights groups, compensation, advisory boards, trans-boundary issues, ATK protocols and policies, consult and engagement framework, national habitat mgt working group, just skimmed the surface of habitat issues in the last two days,
Case studies - decline of FN fisheries, recovery strategies, ATK, policy and practices, etc,
Tools and resources - effective partnership, how FN organize to fish, gap analysis of AIHP
Looking for project philanthropy, online tool for FN
Any comments for additional areas and priorities?

Chris – FN green strategy, what we've been doing is complimenting AIHP and green strategy (protecting our world strategy), 8 youth from across Saskatchewan, coordinator providing support, identifying needs of communities at the youth level, conferences (3 so far) theme "only a matter of time", upcoming meeting and youth involved in setting up, Another area is the NRTA, pose Q to dfo, provinces took on fishery mgt role and messed it up.

Chief Day – forum, bringing to Chiefs of Ontario youth gathering, seeking mandate from youth, check out Chiefs of Ontario site for information.

Audrey – the national working group on habitat?, should we continue?

Marcel – I support, very helpful

Audrey – everyone agrees, need commitment from gov't to fund it.

Tom – we love to hear that, discusses funding, we will stress