

**Q. What is the Department doing to address the illegal sales issue in B.C.?**

**Pillar 1 - EDUCATION/SHARED STEWARDSHIP**

*Building Support For the Future*

Pillar 1 activities in the Region are designed to promote and enhance our C&E program with First Nations and other stakeholder groups.

*Examples*

- *Gathering Strength and Pulling Together Canoe Journey's held in the Region again in 2010. Officers engaged with First Nation youth, Chiefs and elders to facilitate a mutual understanding and respect for each others views on fisheries issues.*
- *Plans continue with First Nations for Canoe Journey's in the South and North Coast again in 2011.*
- *Attendance at the Dream-Catcher events with youth from FN Communities from all over the Pacific Region.*
- *Attendance at Career Days at many levels of educational facilities.*
- *Open houses were held in many locations; include our remote sites in the Central Coast.*
- *Fishery Officer's in the Pacific Region are assigned a liaison role with a specific First Nation community to enhance the dialogue between the department and First Nation Band.*

**Pillar 2 - MONITORING, CONTROL AND SURVEILLANCE**

*Traditional Enforcement Activities*

In 2005 as a result of the Williams Report, Pacific Region C&P began receiving \$1.2M for Fraser River Sockeye Enforcement. In 2007 as a result of the Pacific Integrated Commercial Fishing Initiative (PICFI) this funding was rolled into PICFI and allocated to C&P as part of the broader PICFI B Base program established to run from 2007 to 2012. Over the past several years this PICFI funding has contributed substantial funding to C&P allowing the establishment of a credible compliance and enforcement program in the Region.

*Funding allocation of C&P's Intelligence Program including 5 FTEs is PICFI funded. Losing all or a portion of this B Base funding will have devastating impacts to C&P's Intel/MCM program in the Region.*

- Staff continues to shifted hours of work and days of rest to enhance our patrol frequency during the night and on weekends.
- Continue to use helicopter flying hours to enhance our patrol coverage.

- Developed a Triage approach to deploy fishery officers throughout the Region to address high priority issues/operations.
- We have for the first time in many years conducted multi-agency patrols on the Fraser River. Other areas continue this practice to enhance our C&E program.
- Investigations using covert surveillance, intelligence probes and undercover officers have been and continue to be used in the Region.
- At-Sea Observers and Dockside Observer Programs assist in monitoring and control on certain fisheries.
- Use of ASP over flights in support of target specific investigations.
- MSOC – Region has developed strong ties to the MSOC process.
- Inspections of fish processing and storage facilities are ongoing. Inspection data base will assist with identifying FSC product and movement as we hold industry more accountable.
- Increased monitoring at harvesting and landing sites related to Economic and ESSR fisheries have been conducted throughout the Region – PICFI funding.
- Identified shortfalls in traceability of catch. E-Log development and implementation in some, but not all fisheries. Work is being done in conjunction with PICFI staff – Pacific Region to improve data management.
- Restorative Justice has been enhanced through out the Region. Improved relationships with First Nations. Accountability has been enhanced for the actions of some community members.
- Integrated Risk Management process is completed each year to identify Regional Priorities. Aboriginal fisheries were identified as a high priority again this year.
- Program Integration with AFS Managers – Development of Enforcement Protocols.
- We have expanded our investigations to include internet sales.
- Investigations in the Region indicate that fish & sales are also satisfying local markets (i.e. on Vancouver Island Somass Sockeye are not all being sent to the Lower Mainland or commercial Fish Plants).
- Investigations support the thought that road side and residential sales can move a very high volume of fish.
- C&P staff are working together to develop Target Project development lead by the collection and evaluation of intelligence.
- An April Regional I&IS/GD planning meeting produced 26 joint Projects, 12 of which were considered priority Ops. Most of these Projects focused on the illegal sale of FSC salmon in key areas of the Province.
- Specific areas of C&P staff activity were centered in the North Coast, on Vancouver Island, and in the Vancouver Lower Mainland, Fraser Valley and BC Interior.
- April 1/11 will see Pac Region begin a wide application of Intel/MCM business rules and products ready for the fishing season.

## Examples

- *BCI - In 2010 there were at over 40 occurrences/files involving illegal sales. Of these 30 were Aboriginal (FSC). Charges are pending on at least four files. Several files were dealt with through alternative measures (i.e. Restorative Justice). Two people were arrested for illegal FSC sockeye salmon sales that were caught upstream of sawmill creek and sold in Surrey. Charges are pending on at least 7 other suspects.*
- *C&P staff conducted regular inspections and worked with First Nation Groups to ensure that fish from the new demonstration fisheries could be tracked. Officers worked both with internal DFO staff, commercial processing facilities and FN groups to ensure provincial and federal regulations were being followed.*
- *North Coast completed the second year of an investigation into significant laundering of FSC Salmon into the commercial fishery. File is the number 1 priority for the Region in 2010. Joint (GD/I&IS) investigation continues, but currently over 40 violations are being processed. New Intelligence Analyst Unit has been assigned and has supported the file.*
- *The frequency of Fraser River enforcement patrols conducted during closed times, often at night and sometimes during the weekends, was significant enough to deter both the level and intensity of poaching activity on the Fraser this year*
- *Many illegal set-nets were removed from the River during sockeye migration and many individuals were arrested by Officers when they were encountered fishing illegally. All user groups expressed appreciation to the Officers for their dedication and effort to protect these stocks.*
- *Barkley Sound - The First Nations fished weekly on a self determined fishing plan. This plan was presented to DFO and mirrored in Aboriginal Communal Fishing Licences for each nation. Fishing with gill nets was limited to 48 hours or less weekly. The First Nations controlled their members to the prescribed fishing times; compliance was very good.*
- *Officers maintained a uniformed presence at the BC Ferry terminal throughout the Region. Conduct vehicle inspections and to gather intelligence regarding the amount of fish leaving Vancouver Island and Haida Gwaii.*
- *C&P undertook two major and costly surveillance operations to try and address sales of Somass Sockeye. On June 22 and again on June 29 fishery officers followed large loads of fish from the residence of the REDACTED REDAC. The officers maintained surveillance on these loads from Port Alberni. One of the loads went to Nanaimo, then to the Lower Mainland. The presence of the DFO surveillance team was detected by the suspect at a hotel in Burnaby. This interrupted what is believed to be the sale of a large quantity of fish. The*

*suspect returned to Vancouver Island with the load of fish and eventually distributed the fish to the Kloochoose First Nations community on Cortez Island near Campbell River. The second load went directly from Port Alberni to Campbell River for distribution to members of the Kloochoose First Nation.*

- *The new demonstration fisheries (Osoyoos Lake, Thompson River, Kamloops Lake and Fraser River) were monitored closely for compliance on gear, tracking of catch, species harvested. – PICFI funding.*
- *Demonstration Fisheries in the Skeena and Nass watersheds were closely monitored to ensure compliance – PICFI funding.*
- *Yukon - FN governments work cooperatively in taking actions to monitor, limit or in some cases request and support regulatory closures of the FSC fishery.*
- *Work with the US authorities to address illegal export/import of salmon on the Stikine and Taku Rivers (Lacey Act).*
- *Pre-season enforcement contingency plans included a stepped approach to promote and gain compliance in the fishery. These plans included:*
  1. *An active high profile uniform presence in the community to detect and deter illegal activity;*
  2. *A media strategy that would alert the public to the legalities of purchasing fish products;*
  3. *With the assistance of the I&IS, concentrate our investigative and surveillance efforts on subjects who were suspected of transporting and selling large quantities of fish;*
  4. *Gather and generate intelligence on participants and activities that could be of use in future investigations.*

### **Pillar 3 –\_MAJOR CASE/SPECIAL INVESTIGATIONS** *Enhanced Investigative Capacity*

Over the past 2 years Pacific Region using funding exclusively from PICFI has moved significantly toward full implementation of C&P's Pillar 3 Intelligence/MCM. Some accomplishments are;

- Creation of a Regional Chief of Intelligence & Investigation Services.
- Formation of a Regional Intelligence Services group dedicated to Operational and Tactical Intelligence products targeting high value targets/offenders.
- Close association with PPA for Strategic Program Intelligence.
- Creation of Area and Local Intelligence Liaison Officers allowing a broad use and application of the Intelligence Cycle at all levels.
- Adoption and implementation of MCM, electronic file Mgmt, X fire.
- Creation of the Pacific Region C&P Inspection Data Base accessible to and used by all C&P staff and now being adopted Nationally.

- Development in Pacific Region of the National i2 (Intelligence Management System) server.
- Pacific Region staff working closely with Maritimes Region MCM staff on MCM training and Business Rules – training set for Jan and Feb of 2011.
- Pacific Region C&P staff are working as partners in the National Intel/MCM Management Committee efforts to develop and implement National policies and business rules.
- Working groups for the Area/Local Intelligence Officer program, the MCM Officer program and Inspection Officers have been formed and are all working to increased C&P program capacities.

**Q. Why do we still regularly hear complaints from the public about illegal sales of FSC fish?**

Just as there are illegal activities in the protection of habitat, commercial and recreational fisheries that sometimes go undetected, the reality is that a certain level of illegal sales does take place in the Aboriginal fisheries. The public, including First Nations have become aware of the capacity challenges that the C&P program has in the Pacific Region. Many have an increased awareness of budget challenges and reductions. Stewardship programs have enhanced the public's expectations of C&P in the Region to address a multitude of fisheries in this Region. Some have been very critical of the lack of stable support for the program during past and present public meetings and inquiries.

With the potential to lose funding through Williams (1.2 million) and PICFI, which are both slated to sunset on March 31, 2012, the Pacific Region has forecast a reduction of 60% in our patrol effort. We will not be able to prevent or address the level of illegal fishing activities, including illegal sales, which existed prior 2005.

- Increased demands on C&P staff in the Region on many fronts have impacted on our capacity to address issues like illegal sales. Increased demands include ATIP requests, Cohen, Aquaculture, Waste Water Treatment, Dual Fishing, Financial Audits/accounting and the increase taxes on A-Base budgets.
- Recent court decisions have put some uncertainty around specific rights for sale. This has resulted in an expansion of perceived rights to sell by many FN Communities.
- Delays in Treaty Implementation have resulted in many First Nations looking for alternate ways of resolving their claims. This has resulted in more court challenges and organized protests (Geoduck and Sea Cucumber this year.)
- Challenges to the Allocation/WSP/Risk Adverse Mgt approach on salmon fisheries.
- Perceived limited access through PICFI/ATP/AAROM to high value licences (Halibut/Blackcod/Geoduck/Prawn etc) by First Nations.
- Failure to complete mandates on Economic Fisheries (i.e. Somass Sockeye in Port Alberni).

- Illegal sales of FSC fish are difficult to monitor and enforce. The courts are very specific on the Crown's obligation to prove the sale. The fishery is authorized in many cases through a Communal Licence and the simple possession or transport of FSC fish is not an offence.
- Administrative work load on our field staff has increased substantially (Detachment Standards, Injury Prevention Plan and Labour Canada Inspections).

### *Examples*

- *By early June 2010, unauthorized sales sites were numerous and obvious along Highway #4 on the Hupacasath and Tseshahht Indian Reserves. Uniformed patrol and presence did not have any impact and did not deter this activity. This continued daily and the number of sites increased steadily all summer long. Both First Nations were reminded on numerous occasions through correspondence and in meetings that sales were not authorized. DFO was told that the First Nations would do what they wanted with their fish as their right to sell was confirmed in the Ahousaht decision. The Department was very slow to initiate the media strategy despite the urgings of C&P. The reason seemed to be to protect the negotiations with the Bands, but this delay led to a public perception that since the sales sites were numerous and obvious, that the sales were legal.*
- *As in previous years, the roadside sales sites are, for the most part, operated by children, women and elders. The fishers are rarely, if ever, seen at these sites. C&P documented over 200 of these unauthorized sales sites during the sockeye season of 2010. Charge approval for on reserve roadside sale has not been granted given predicted Ahousaht et al application and DOJ analysis.*
- *Bands have maintained through correspondence with the Department, and in the media, that they need and have a right to a higher proportion of fish (allocation), and that they have an aboriginal right to sell fish (which was confirmed in the Ahousaht decision).*
- *First Nations further advised that they would continue to fish to their own "responsible, conservation and science-based fishing plan". (fixed harvest rate strategy)*
- *Current legislation limits our ability to enforce sales of FSC fish. Fish lawfully caught under the authority of a Communal Licence can be harvested in the Native Food fishery, be transported to commercial processing plants, be custom processed, and be stored in commercial cold storage plants for an indefinite period of time - all of this is legal. No ability exists within DFO to ascertain where this product is shipped, sold, or exported to a final destination.*
- *Many reports of illegal sales were not responded to or investigated for several reasons. Firstly, officers have a very high workload monitoring existing fisheries (recreational, aboriginal, demonstration) and conservation closures.*
- *Officers are oversubscribed during the summer months to adequately respond to all complaints.*

- *The number of commercial and First Nation sales fisheries in Region, make it nearly impossible to ascertain if fish was commercial caught.*
- *These investigations require gathering a lot of time sensitive evidence (statements, warrants, shipping documentation, test fisheries sales records, etc) when our efforts were focused on ensuring live fish were making it to the spawning grounds. (i.e. enforcement on close times and existing fisheries). That said, numerous investigations are still ongoing and those reports/investigations of illegal sales have put certain suspects on the radar for years to come.*
- *DNA and Oxygen isotope testing has been used successfully in the past to distinguish between commercially caught fish and other fish but when there are FSC fisheries and commercial fisheries on the same stocks in the same areas it can't be used.*
- *Although we have made strides in Intelligence lead investigations as captured in the Pillar 3 update above, the Intel Analysts were just recently hired in the last 2 years.*
- *A large increase in the Fraser River sockeye runs this year led to a large number of First Nation FSC fisheries, FN economic fisheries, commercial gillnet and seine opportunities, and the largest recreational bar fishery in North America. Fishery Officers continually responded to violations on all of these fisheries.*
- *Current successes within DFO focusing on illegal sales are limited to low level opportunistic buys of small numbers of fish sold along roadsides or via ads on the internet and do not touch the exporters of large volumes of native food fish who have established markets dating back to the Pilot Sales Initiative.*
- *Media reports affirm area, local and community support for the Somass First Nations and the economic stimulus that the fishing and sales provide. There was regular criticism of DFO policies with respect to allocations.*
- *The First Nations & Vancouver Island population have accepted and embraced access to Somass sockeye via First Nations sales. In 2010 greater than 90 K Somass Sockeye were caught and distributed. This is harvest level is expected to continue in 2011.*