

NOT FOR DISTRIBUTION
DRAFT
25/05/2004

First Nation Consultation Summary for SARA Legal Listing Meetings of 10 Pacific Aquatic Species

First Nation Consultations

Consultations with First Nation groups are currently underway throughout coastal and interior British Columbia, with a total of 6 meetings completed. All Lower Fraser, South Coast, Central Coast and North Coast first nation groups were notified and invited to attend one or more of these meetings by telephone and letter. The dates and locations of the meetings were also posted on the Fisheries and Oceans website. Interior first nation groups have also attended legal listing meetings with more meetings planned. The meetings to date have been well attended with a total of 94 attendees at the 6 meetings. The consultation meetings were scheduled in locations where large numbers of first nation groups are located. Travel expenses were provided for one member per band for groups that had to travel long distances. The location and dates of completed or scheduled meetings include: February 23 Quesnel, March 23 Abbotsford, May 10 Campbell River, May 13 Port Hardy, May 17 Prince Rupert, June 8 Chilliwack and June 14 Lillooet. There is a completion target date of June 15, 2004, with potential follow-up meetings with individual first nations if requested.

These sessions followed a similar format to those of the general public sessions, providing both PowerPoint presentations on background information and a 'Consultation Workbook' with First-Nation-specific feedback questions. The SARA legal listing background information was presented by DFO legal listing specialists. This was followed by presentations providing background information on the species being considered for legal listing. The department of fisheries and oceans had species specialists attend and present the species specific information, which often included the chair of recovery teams. DFO area directors or area chiefs of resource management or fish management also attended to address area specific questions from first nations. Questions and feedback were solicited through out each presentation. Meetings to date have produced good comments, questions and feedback from first nation participants regarding the 10 species up for legal listing. The opinions and comments are varied however a number of themes have emerged from the consultations. Written comments from workbooks and feedback from meetings are summarised below.

GENERAL FIRST NATIONS FEEDBACK

- Concern was expressed how socio-economic impacts will be considered during the listing process. Some groups were upset at the possibility of their food, social and ceremonial fisheries (FSC) being reduced, especially if commercial and recreational fishing didn't face similar reductions. It was

stated by FN that there shouldn't be any recreational or commercial fishing impacting legally listed species if FN FSC fishing opportunities are being reduced.

- Concern was raised by First Nations' groups about how much power SARA has on their reserves. There was also a concern that Provincial Land (i.e non-federal land) will be treated differently than reserve lands under SARA. The lack of participation by the Province and Environment Canada in these consultations was also brought up several times during the meetings.
- "At what point do you decide that a species is beyond help?" asked one First Nation stakeholder. Several times it was brought up that there must be criteria to determine when a species cannot be saved and this should be included with any de-listing criteria that are developed.
- Comment: "We're brought into these presentations to be consulted, yet you rarely have all the answers to our questions. And similarly, "There's no confidence in this process of evaluating the species. Local people should be making the decisions, not people who have no knowledge of the local area."
- There were concerns that FN are not being involved in projects to recover SARA species that many FN have the capacity and interest to participate in. There were many questions regarding what FN funding will be available for participation in the recovery of SAR.
- There was an interest at all meetings in how one would request to have a local species population assessed by COSEWIC. There was a feeling that there are many more fish populations that are at greater risk than some of the current populations being considered.

COSEWIC

- There were concerns expressed at every session regarding the lack of transparency of the COSEWIC process, and a general misunderstanding about how the committee is structured and how the COSEWIC designation process works. There were many questions on how COSEWIC is run, for example "Who appoints the 30 people to the COSEWIC board?" First Nations were also interested in how COSEWIC weighted aboriginal traditional knowledge when making designation decisions.
- The First Nation sub-committee of COSEWIC was hailed by FN members, however, they wanted to see local traditional knowledge being drawn from the actual areas which stand to be affected. It was stated several times that first nations would like to see COSEWIC conduct local meetings such as the current legal listings meetings which the department of fisheries and oceans is conducting, prior to completing their COSEWIC assessments.
- Many First Nations asked how the COSEWIC assessments were done. For example, "At what point does COSEWIC gather information from the public and conduct consultations?"

- There was a general confusion of COSEWICs role and the federal governments' role under SARA. There was also some scepticism expressed that COSEWIC is actually at arm's length from the federal government.
- Many questions were directed at how a species may be de-listed and if there is any criteria for de-listing a species.

SPECIES SPECIFIC FEEDBACK ON SARA LEGAL LISTINGS

Blue Whale

Input on the legal listing of the blue whale received relatively little comment. There was an interest in blue whale distribution, abundance and biology. Comments were restricted to the rarity in Canadian waters and the real ability of human actions to recover the species given that the major threat to their recovery was commercial whaling which has now ceased in the North East Pacific. There were very few comments for or against legal listing this species.

Sei Whale

Input on the legal listing of the sei whale received very little comment. There was interest in the importance of such a large aquatic mammal to the ecosystem, however, the rarity in British Columbian waters and real ability of human actions to assist in the recovery of such a species kept comments and questions to a minimum. There were very few comments for or against the listing this species.

Humpback Whale

There was considerable comment on the COSEWIC assessment of Humpback whales in that the population has recently increased since commercial whaling has ceased. First nation participants suggested that the major cause of the decline (commercial whaling) is no longer a threat, therefore, they questioned the need for the legal listing protection under SARA. Other comments included, "Is there anything that can really be done to help declining whale populations?" There was interest in how fishing activities may be impacted/changed if a valuable fishing area is found to be of importance to humpback whales. There were very few comments for or against legally listing humpback whales.

Salish Sucker

Input on the legal listing of salish sucker received very few comments. There was mention of the catching and eating of salish sucker for food historically. There was also a question on how the access to water may be effected if water removal is restricted in water courses where salish suckers are found. There were very few comments for or against the listing of salish sucker.

Speckled Dace

Input on the legal listing of speckled dace received very few comments. There were some questions on basic biology and where this species occurs. There were no comments for or against the listing of speckled dace.

Enos Lake Stickleback

Input on the legal listing of enos lake stickleback received very few comments. There were some questions on the basic biology of sticklebacks and if human development was affecting enos lake stickleback habitat and water quality. A question was asked if any enhancement efforts had been attempted on enos lake stickleback. There were no comments for or against the listing of speckled dace.

Sakinaw Lake Sockeye

Sakinaw lake sockeye was a large issue, mostly concerning FSC access to co-migrating Johnstone Strait sockeye, migration issues and the continuously low water levels in the sakinaw lake outflow that may be contributing to stock depletion. Some scepticism was expressed around how much DFO really understands about this species and, with the onset of global warming how effective recovery efforts will be. There was interest in how the dam on sakinaw lake may be impacting sockeye recovery and what the residences along the lake were doing to ensure water flow to the stream outflow. There was a sense that non-fishing threats to sakinaw sockeye recovery have not been examined in enough detail. The threats of salmon aquaculture to wild salmon were brought up at all meetings. There was some resistance to listing sakinaw sockeye if FSC fisheries were greatly reduced, however, it was recognized that in the long term, healthy salmon runs will ensure the long term viability of FSC fisheries.

Cultus Lake Sockeye

Cultus lake sockeye was a large issue at the coastal first nation consultation meetings. There were many questions on what efforts were under way to recover cultus lake sockeye. It was asked what steps were being taken to remove milfoil weed from cultus lake and if predation issues (i.e. northern pike minnow, seals and sealion) were being assessed. Affects of recreational use of Cultus lake and potential impacts on pre-spawning mortality of cultus lake sockeye were brought forward as concerns. Global warming was also identified by First Nations as a concern. A comment was made for DFO to work with Lower Fraser first nations to look at selective fishing methods such as fish wheels to enable selective fishing instead of a blanket closures due to cultus lake sockeye presence. Interior first nations were for conservation measures for Cultus lake sockeye with the acknowledgement that this would increase the terminal abundance of fish stocks in the interior areas. The degree of closures for FSC salmon fisheries was a concern for coastal first nations. The accuracy of DFO salmon abundance forecasting was questioned with the comment that a fish counter beam should be installed at the mouth of

the Fraser River or in Johnstone Strait instead of the current test fishery method that is occurring.

Interior Coho

Waiting for Interior first nation comments.

Bocaccio

There were many comments on the lack of scientific information on bocaccio distribution and abundance in British Columbia waters particularly North of Vancouver Island. There were concerns raised regarding the COSEWIC designation that bocaccio are threatened. First nations were concerned that if bocaccio was listed under SARA that closures would affect FSC fishing for rockfish when commercial ground fish fisheries are by far the greatest cause of mortality.

Other Species and General Comments

Sea-otters were a major concern to West Coast of Vancouver Island First Nations. Comments were received that west coast first nations were upset with the SARA legal listing of sea otters and are worried that other species that are listed under SARA will have similar effects to their FSC fisheries. It was stated that sea otters are wiping out all the shellfish on the west coast limiting first nation access to shellfish for food, social and ceremonial purposes. There is a desire to cull the sea otters in localized areas where the sea otter population is threatening shellfish resources.

White sturgeon was brought up at all meetings. There was an interest in the time table for the legal listing for this species and what the current status of this species is.

It was stated that DFO needs to take an eco-system approach to conserving SAR and that there may be other species that need to be co-managed to ensure the recovery of species at risk.

Questions on the funding commitment by the federal government to follow through on the recovery process were common, for example "What kind of money is associated with a recovery plan? Has the government of Canada committed to this?" Many FN were concerned with how the money is allocated. If the budget is spread too thin, they can't see SARA being very effective. There was a question of who is responsible if recovery actions fail.

SARA ENFORCEMENT

- Concerns were raised about the lack of enforcement of recreational fishers, which many First Nations feel is unfair. "It's never enforced for them, but it is for us. They should be pulled out of the water if they violate non-retention, instead of just having to fill out a voluntary survey card."
- First nations want SARA applied evenly across all user groups.
- Interest in how prohibitions are going to be implemented (i.e. immediate or education program period prior to charging individuals) and the penalties associated with violations under SARA.

- The “teeth” of SARA was called into question a number of times.

INTERNATIONAL CONCERNS

- “Are there any guidelines on dealing with the US? After all, some salmon goes through their waters as well.” First nations are worried that conservation efforts in Canada are potentially useless unless the United States recognizes that they are intercepting Canadian species at risk (particularly cultus lake sockeye, sakinaw lake sockeye and interior fraser coho caught in US mixed stock fisheries). First nations want to know what the federal government is doing about this.