

April 4th 2010

Submission of
Gordon Judd and Priscilla Judd
to the
Commission of Inquiry
into the
Decline of Sockeye Salmon in the Fraser River
Honourable Bruce Cohen
Commissioner

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As citizens concerned with the plight of the Siska native band and their lack of salmon for food. We are writing to share our knowledge and suggestions to protect salmon and thereby restore the upper Fraser native fishery.

For background information, you can read Priscilla's blog on collecting donations of salmon for the Siska band and reply letters from Government Ministers and DFO.¹

We realize that the issues are complex and political and the will to make real change is hard to find. This is seen in the fact that one hundred years of stakeholder meetings, laws and policy decisions have preceded the present crisis with sockeye salmon. Therefore, it is important that things are done differently this time. To that end, we applaud the commission for accepting submissions from people who bring a personal perspective on 9 million disappeared salmon.

Points on Fraser River fishing and saving salmon for the environment and for people upstream: It seems sensible that First Nations fishing rights be pursued in accordance with their philosophy that in the past, sustained the salmon and avoided over exploitation. Historical first nation fishing ensured that fish proceeded past the mouth of the Fraser to spawn and supply fish to people upstream.

In the last few years, when Fraser river fishing was opened for two days to Interior Bands, there has been little notice and many people could not arrange their lives in order to get there in time. When sockeye salmon are restored to the river, notification and access could be improved.

Forced starvation:

Canada has an historical, documented and ongoing Government policy to deny native access to salmon so any final extinction of salmon may be perceived as a forced starvation.²

Forced starvation was practised by European settlers who in their desire for farm land, decimated the buffalo thereby starving the natives and forcing them to move from their traditional land and territories.³

Points about the Fraser valley and pesticide:

At the same time the Fraser river sockeye have declined, Fraser valley Agribiz has boomed. This means that pesticide use has also boomed and it follows that ever increasing quantities of pesticides and their degrading chemicals are leeching into the Fraser River.

¹ Priscilla Judd online blog can be found at: <http://www.priscillajudd.ca/theXpress>

² "Salmon" - Decline of the British Columbia Fishing Industry by Geoff Meggs.

This book is a valuable resource. It documents the entire history of salmon, native fishing, commercial fishing, canneries and government policy up to the 70's. <http://www.geoffmeggs.ca>

³ Wikipedia

We don't have to prove that pesticides affect salmon, that work has already been done in the United States where pesticide use is banned in the Pacific Northwest areas of salmon habitat. ⁴

The following observations are drawn from our personal experience in the matter of PMRA pesticide regulation in farming applications.

Canadian Federal law that governs the safety of pesticide relies on the directions as set out on the pesticide labels, this does not account for human error.

No agency can guarantee that directions on a label have been read, understood and followed. Pesticides are used to increase sales and profits in farming. Whether compliance is achieved or not relies on a farm worker's understanding and ability to follow directions to apply pesticide.

PMRA Compliance and enforcement goals:

In a letter we received from the PMRA on 12 January, 2005 it was stated that:

"Our goals, as outlined in our Compliance and Enforcement Policy Guidelines B98-01, is to achieve compliance with the provisions of the PCP Act." ⁵(following label directions for application)

That PMRA has a policy to **achieve** compliance is a tacit admission that pesticide is used without label compliance. In light of that, we know that pesticide is unsafe at the point where it enters the environment. Is it possible to prohibit pesticide use in areas of salmon habitat as the US has done?

The US ban sets large buffer (no pesticide use) zones near salmon rivers but in Canada but PMRA has a methodology that renders a buffer zone useless. Clarification of the term "buffer zone" was provided in the above mentioned letter from the PMRA:

"... Buffer zones pertain to terrestrial and aquatic habitat... If the wind is taking the spray drift away from the sensitive habitat, then there is no buffer necessary."⁶

Suggesting that no buffer is necessary beside water, renders the intended buffer zone useless. It overlooks pesticide on the ground, near the water waiting to be washed by irrigation or unpredictable rain directly into that water.

We are told that pesticides become inert or degrade in sunlight but there is no guarantee of safety to salmon with inert compounds settling in the water or synergistic interaction with the environment. The only fact we know is that - pesticide application can be stopped and that it should be stopped in nearby areas that affect salmon. The only changes that can be made are ones that involve human activity.

⁴ <http://www.panna.org/node/1037>

<http://www.watoxics.org> - banned pesticides by salmon streams - posted 2009

⁵ from Letter 12 January 2005 to Gordon and Priscilla Judd re: pesticide enforcement

⁶ *ibid*

Reverse onus of proof:

We know that tons of pesticides have been released into the Fraser valley and we also know those products can and do precipitate into water. Rather than requiring proof of harm, the onus ought to be on proof of no harm.

The UN banned the military from having organophosphates (OP's) in biological weapons but for some reason - perhaps an economic one - we don't mind putting organophosphates in the hands of farmers to put into our food. Diazinon (an OP) continues to be used in agriculture and it has been linked to salmon extinction.

Fish Farms protected in BC coastal waters by Right to Farm:

The following comments are based on our personal experience in the determination of Normal Farm Practice under the Right to Farm statute that has protected fish farms since the sockeye entered this current death spiral.

The Right to Farm legislation is not about defending the rights of small farmers who are being put out of business by unreasonable neighbours and their frivolous law suits. That spin allows the expropriation of private and public land and ocean water by private enterprise. The Act keeps private any potential food scandal, providing time to target the whistle blower. Interestingly, governments around the world enacted similar legislation in the mid 1990s coinciding with the rise of industrial agriculture on an unprecedented scale.

Wider public scrutiny is avoided when neighbours are denied court access. Right to Farm trades security of the person, the home and land, food, salmon, clams or water for the appearance of a safe food system making it impossible to address trespass, nuisance and/or negligent pollution in a timely fashion.

Right to Farm apports the rights to profit by certain land users in the commission of torts with impunity against other land or water users. That's why we can assume that fish farms pollute and Fraser valley farms pollute and without check will continue to do so.

There is no reason to offer special protection for farm operations that do not harm neighbours or the environment. Our judges and common law system are quite capable of dealing with frivolous law suits without extra legislation that also protects wrongdoing. Farmers who apply pesticide are more likely to be cautious if they know there are direct consequences for their actions and rightfully held accountable for "mistakes".

By removing Right to Farm protection, the natural pressures created by rule of law for a self regulating society will be restored. We hope that new DFO regulations on fish farms do not incorporate any part of BC's Right to Farm Act.

Since Right to Farm was created to defend farmers, take the money that formerly went into administration of the Act and when necessary, provide legal assistance to defend farming in a court of law where the rules of evidence apply.

DFO Predictions

DFO seems unable to accurately predict salmon returns. The impact of salmon extinction on native people and our wilderness has not yet been determined. We know the cost to replace the natural source high quality protein from salmon is immeasurable. People cannot eat money and neither can the bears, eagles, fishers, martins, otters, seals, and other wild creatures. Even our forest trees rely on decayed salmon in our rivers. Salmon, like nature itself is neutral in it's position on survival. That salmon desire to spawn and reproduce has been our only reliable certainty. That human intervention may have disrupted that natural spawning cycle demands a halt to chemicals that may have that consequence.

Relevant information concerns the actions and non action of people. What we do is common knowledge and that's what can be changed. We know about fish farms on our coastal shores. We know that logging a watershed causes stream beds to silt. We know that pesticide washes into rivers. We know that 2010 fishing methods over-harvest the salmon. We know that pesticide regulation at the point of application is problematic. There is no problem with salmon and nature - the problem is human and it's political because we continue to view salmon only in monetary terms.

We need to take collective action to remove every obstacle that is humanly possible. Obviously climate change is a bit beyond the purview of this commission so our efforts must be even more vigilant to allow for that which is out of our hands. There will be no need for "broad co-operation amongst stakeholders" if there are no salmon to co-operate over.

In closing

This problem has many sides. Hopefully the outcome of our collective intelligence will not be channelled toward DFO charts and graphs and power point presentations to restore confidence where none is due.

Creating the opportunity for nature to flourish requires government orders and laws with teeth to prevent the extinction of the sockeye and sockeye habitat. Increase funding to employ conservation officers to provide effective enforcement. A moratorium on sport fishing and pesticide use near the Fraser river would also be helpful. Get the fish farms out of the ocean water. Stop Right to Farm protection to restore natural common law consequence in the commercial use of pesticide. Stop watershed logging and effectively enforce that ban. Reduce commercial fishing at the mouth of the Fraser. Educate future generations by having the book *Salmon* by Geoff Meggs on the school curriculum.

Our greatest challenge is having the political courage to take action to save our wild sockeye.

Thank you
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