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Chair

Mr. Tom Wappel

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Friday, December 3, 2004

• (0930)

[English]

The Chair (Mr. Tom Wappel (Scarborough Southwest, Lib.)):
Good morning.

I call meeting 13 to order. Just for the record, pursuant to Standing Order 108(2), we're continuing our study on the 2004 Fraser River sockeye salmon harvest.

This morning until 11:30 a.m. we have panel seven under the heading "Recreational". We have with us today from the Fraser Valley Angling Guides Association, Tony Nootebos, director.

From the B.C. Federation of Drift Fishers we have Frank Kwak, director.

From the Sportfishing Defence Alliance we have Bill Otway, president; Chris Gadsden, director; and Gwyn Joiner, director.

From the Fraser Valley Salmon Society we have Fred Helmer, president.

From the Chilliwack Fish and Game Protective Association we have Bill Wimpney, president, and Alexander Ritchie, director.

And from the B.C. Fisheries Survival Coalition, we have Phil Eidsvik, spokesperson.

Welcome to everyone.

I hope you know the drill. If you don't, it's pretty simple. We'll give each organization a maximum of 10 minutes to make their presentation. We have a lot of organizations, so if you can make your presentation in less than 10 minutes that would be greatly appreciated, because that will give us more time for questions. As you can see, we have a good number of members of Parliament here who are interested in this issue. If you don't get a chance to say something in your 10 minutes, I'm sure you'll get a chance to say it in response to some of the questions that are asked.

There are a couple of small technical matters.

Number one, please remain well back of your microphones. They are very sensitive. Everybody, including me, has a tendency to speak into it and it's very disruptive to the people who are recording.

Number two, we have two members from the Bloc Québécois who will be asking you questions *en français*, so you'll need the English translation, which is on channel one. I'll warn you when that happens, and we'll take just a minute for everybody to get organized before the questioning begins.

Does anyone have any questions before we start? Is everything clear?

Then we'll begin in the order that we have you on the agenda, and that is Tony Nootebos, director of the Fraser Valley Angling Guides Association, for a maximum of 10 minutes.

Mr. Tony Nootebos (Director, Fraser Valley Angling Guides Association): Good morning. My name is Tony Nootebos and I represent the Fraser Valley Angling Guides Association. The Fraser Valley Angling Guides Association was formed in 2000 and now has 55 full members. Our organization is made up of region 2 licensed fishing guides who are concerned about protecting sport fishing opportunities, including trout, sturgeon, and salmon fisheries, while managing the fisheries resource for generations to come. Our members are on the water more than anyone as we derive our income as sport fishing guides. We truly are the eyes and ears of the Fraser River and its boundaries, from the area from Mission Bridge right up to Yale. During our peak season from July through October, it is not uncommon to have 30 to 40 members on the water on any given day.

I understand that we're only one piece of the fisheries management puzzle, but because of our proven commitment to opportunity, to conservation, we do believe it is important to stand up and speak before this committee. We appreciate the consideration. Our association provides a large boost to the local economy through region 2 by offering guided fishing trips and fishing holidays to people from all over the world. Our industry contributes millions of dollars to the hotel, marine trade, gas, taxi, and restaurant business in communities such as Hope, Harrison, Mission, and especially Chilliwack. We are concerned about the future of this great sockeye salmon resource.

Today we are all here to solve the mystery of where did 1.8 million Fraser River sockeye salmon disappear to before reaching the spawning grounds in a tributary to the upper Fraser. The Fraser Valley Angling Guides Association believes that although there are likely several contributing factors to the shortage of spawning sockeye in the upper Fraser, none is more obvious than the set gillnet as well as drift net activity in the lower Fraser River. In the past seven years, we have watched the aggressive first nation set net activity increase by over 500%. You can confirm these numbers by flight record data with DFO. Historically, there has never been a drift net fishery in the area between Mission and Yale. Yet for the past four years, we have witnessed more and more illegal drift net activity from one particular area around Agassiz.

The Cheam First Nation band have been illegally drift netting for salmon stocks from May through September for the past four seasons, with the bulk of the drift net activity happening from mid-July through mid-September. This very effective and deadly method has the ability to take large numbers of fish in a very short timeframe with no consideration to threatened species of concern or weak salmon returns. The Cheam band have been drifting illegally with very little enforcement for years, but 2004 marks the first time we saw this activity greatly increase and spread to other areas around the lower Fraser, with other first nation bands joining in this illegal fishery. As a matter of fact, Cheam was actually given a legal drift fishery for the first time in 2004, as set out by DFO upper management. This fishery was awarded without concerns of local DFO personnel and scientists being considered. Local DFO officials and scientists were against this drift net fishery.

On July 21, 2004 Fred Helmer, Frank Kwak, and I had the opportunity to take out two people from Fisheries and Oceans Canada, Ann-Marie Huang and biologist Jeff Grout, to show them some of our concerns regarding this illegal gill set net, and especially the drift net fisheries throughout the Fraser River in the Chilliwack area. Within only a few minutes of leaving the Island 22 boat launch, we witnessed our first illegal net.

• (0935)

The Chair: Excuse me, the names again?

Mr. Tony Nootebos: The names were Fred Helmer, Frank Clark—

The Chair: No, the DFO officials.

Mr. Tony Nootebos: Ann-Marie Huang and biologist Jeff Grout.

The Chair: Thank you.

Mr. Tony Nootebos: By the time we reached the Agassiz-Rosedale Bridge, we had witnessed six stationary gillnets, and this during a closed period due to conservation concerns. These nets were reported to the observe and report 1-800 number as we witnessed them.

As we passed under the Agassiz-Rosedale Bridge, we witnessed our first illegal drift net that had just been set out. We pulled up alongside and drifted with it for no more than 10 minutes before the individuals who were manning the net began pulling in their catch.

Fred, Ann, Frank, Jeff and I counted the catch together, and it totalled 53 sockeye salmon and three chinook salmon. A total time for their effort was no more than 20 minutes. To say that Fisheries people were shocked at the numbers would be an understatement. We again reported the illegal activity to the observe and report line before heading upriver a little further to do some fishing of our own.

In the next two hours we witnessed no less than one drift net every half an hour drifting past us. We managed to catch one chinook salmon and zero sockeye with three anglers during that time.

When the DFO personnel had seen enough, we began working our way downriver, back to the launch. During this time we witnessed the same nets as on the way up. No nets had been removed by DFO enforcement even though violations had been called in almost three hours earlier. Where is the enforcement? I would call this activity a typical day on the Fraser River.

The amazing part is, after all the illegal activity over the past four years by the Cheam First Nation with drift nets, they're awarded with a legal opening. Is this how we award lawbreakers who make violent threats to fisheries officers?

Let's quickly do the math to give you some idea of how many fish were taken in just drift nets, legal or illegal, keeping in mind that the Department of Fisheries and Oceans admit they have done no studies to see how many salmon the Cheam drift nets take. Again, it's amazing that DFO would not only reward lawbreakers with a legal opening but do so without having any idea of what the fish numbers taken might be.

Considering that DFO is not even allowed to approach a drift net fisher or drive on Cheam First Nation land, how can they even guess at the impact these drift nets might have on the sockeye? That's not to mention what message this treatment of lawbreakers sends to the many legitimate and law-abiding first nations bands throughout region 2. It tells them that if they too begin drift fishing illegally they will likely be rewarded with legal openings as well. They might as well try to get their piece of the fishery as well.

Just from the numbers of fish witnessed while we were out with DFO personnel, we came up with some scary numbers. If there was only one drift net every half hour for a 12-hour period, based on a catch of 50 sockeye per drift, there would be 1,200 sockeye caught daily over the 60-day sockeye return. That would equal 72,000 fish during that period.

Now, considering that we have witnessed up to eight boats drift netting all at one time in an area from Peters Road right down to Jespersen Bar, the numbers are obviously much higher. We are also aware that in many cases the drift net fishery actually went on 24 hours a day during the month of August. The above numbers do not include the illegal set nets during the month of August constantly fishing during closed periods as well.

Another scary factor is that when we were with the DFO the main sockeye run had not even entered the river yet. Again, this was proven by the test fisheries at Albion. Imagine the amount of fish taken when the run is in full swing. The numbers would be double, if not triple. Our guides reported drift after drift of net, and even after the concern for late-season fish was brought up by DFO, no enforcement action was taken.

The above numbers and incidents do not include all of the fish taken by illegal drift nets that popped up up and down the lower river throughout the season. There were literally dozens of reports of illegal drift net fisheries taken over the month of August. Many called in to the observe and report phone line. I do have to admit there was some action taken by DFO enforcement in this area. Why was action taken against these illegal fishers and not the ones above the Agassiz-Rosedale Bridge?

● (0940)

I know it appears that we are against, and even blaming, the first nation fishers above and below the Agassiz-Rosedale for many of the missing sockeye of the 2004 season. It is true that fish did end up in their nets, but they are only one small part of the problem. How can you blame the illegal fishers if they are awarded legal openings through intimidation and total disregard for fisheries law, not to mention a total lack of accounting of the fish caught by monitors, as with all other user groups using this resource?

We believe that if Fisheries and Oceans Canada enforced fisheries law equally for all user groups by not awarding illegal fishers with openings due to pressure and threats of violence, the sockeye return would be in much better shape. If Fisheries and Oceans took the monitoring process seriously through a non-biased report of fish harvested by the many gill and drift nets along the river, you would not have 1.8 million fish missing. In fact, we believe the number would be very close to zero.

The Department of Fisheries and Oceans Canada must start managing the sockeye fishery as a resource for all user groups by regaining control of the many flawed practices of the past seven years. This can be done by the following:

Enforce the law equally among all user groups. There should be no consideration made of what level of enforcement is used based on the colour of skin, or heritage, or threats of violence. If there is a law broken, it should be dealt with swiftly and to the letter of the law.

There need to be more enforcement officers on the river. Provide independent monitors to record the actual catch data to paint a more accurate picture of who is taking what out of the river at any given time.

Conservation has to be the highest priority when it comes to fisheries management. There is no room for politics when it comes to protecting the future of our sockeye salmon resource.

Thank you.

The Chair: Thank you very much. Right on time. Excellent.

Now we go to the B.C. Federation of Drift Fishers, Frank Kwak. Ten minutes, starting now.

Mr. Frank Kwak (Director, B.C. Federation of Drift Fishers): Thank you for the opportunity to speak to this committee today.

I am on the river about 200 days a year, fishing all salmon openings and sturgeon. I also work for LGL in the sturgeon tagging program with first nations.

There were numerous incidents that have not been reported, as we did not come up with an observe and record report book until around the middle of June 2004. These booklets came out as a result of the

fact that we saw numerous violations and shared that amongst each other without properly reporting them.

Here are some of my recorded dates:

Witness: Jim. There is a last name, and I'm always on board as well. Date, June 30, 2004; time, 6:30 a.m.; location, Wellington Bar; drift net.

Witness: Brett. July 8; time, 4:05 p.m.; Grassy Bar; drift net, which resulted in an incident.

Jim: July 14, 6:45 p.m., Wellington, set net on sling pole.

Bruce: July 18, 6:15 p.m., Grassy Bar, set net plus one hung net.

Witnesses: Fred, Tony, Ann-Marie, Jeff. July 21, 9 a.m. to 12 p.m., various locations, numerous set nets and one drift net, all on board counted a drift net catch of 50-plus sockeye and 3 chinook in one 10-minute drift.

Brett: July 23, 6:30 p.m., across from the Cheam, drift net.

Brett: July 23, 8:10 p.m., Spaghetti Bar, drift net, forced to remove gear.

Brett: July 23, 8:45 p.m., Ferry Island, drift net.

Jim: July 25, late afternoon, Grassy Bar, three set nets after 6 p.m.

Jim: July 25, late afternoon, Grassy Bar, drift net resulting in a near drowning incident.

Jim: July 26, 8:30 a.m., Grassy Bar, set net.

Pete: August 8, 12:05 p.m., Langstrom Bar, two drift nets, overflight.

Norm: August 9, 3:45 p.m., Cheam area, drift net, overflight.

Bob: August 15, 5:05 a.m., Grassy Bar, drift net.

CJ: August 15, 7:05 p.m., Mission, set net from shore.

Jim: August 16, 6:10 a.m., Wellington, drift net.

Jim: August 17, 5:30 a.m., landing, unloading fish.

Jim: August 23, 5:20 a.m., boat launch, set net.

Jim D.: October 15, 11 a.m., sturgeon classic, story.

Eric: October 25, 8:30 a.m., Victoria Bar, set net.

Eric: October 25, mid-morning, Harrison Confluence, story and incident.

I saw many other incidents but did not record them in my book because I did not have it along or had no cell phone. Some were directly reported to DFO officers. Sometimes I was on someone else's boat, or I just plain gave up because cell phone towers were not reachable, or my fishing time would also have been wasted. There are some other incidents in my book that are not recorded here, because I only have 10 minutes to speak.

To give you some of the involvement that I have, I will name some of the organizations that I am involved with. I am the chair of the Sport Fishing Advisory Committee for Chilliwack area, vice-president of the Fraser Valley Salmon Society, director for B.C. Federation of Drift Fishers, director of the Chilliwack River Action Committee, director of the Sports Fishing Defence Alliance, BC Hydro Wahleach Water Use Plan committee member, Cultus Lake Sockeye Recovery team member, Sturgeon Society Tag Team, Fraser Valley Regional Watershed Coalition member representing the Fraser Valley Salmon Society.

This is a certified true copy of the events that I have personally observed. Thank you.

• (0945)

The Chair: Thank you very much, sir.

We now go to Sportfishing Defence Alliance. Who is going to do the talking?

Mr. Otway.

Mr. Bill Otway (President, Sportfishing Defence Alliance): Mr. Chairman, I will start and hand off.

Mr. Chairman, committee members, on behalf of our membership we wish to thank you for providing time for us to meet with you today. We wish you were able to provide adequate time to actually deal with the issues we face on the west coast fishery and we hope that some day your committee may see its way clear to do this. Quite frankly, the amount of time allocated to this appearance today is totally inadequate.

Representing the Sportfishing Defence Alliance today are me, as chairman; our treasurer, Gwyn Joiner; and Chris Gadsden, from our member group, the Fraser Valley Salmon Society.

We have for your full information, Mr. Chairman, committee members, a written presentation that we have made available to you. Given our short time before you, we would simply cover a few key points at this time.

First it must be understood that fisheries management is an art and not a science. In season, things are very much in a state of flux and change. It is our view that the members of the Fraser River panel did an excellent job of managing the 2004 Fraser River sockeye fishery. They acted rationally based on the best information they had available. Regardless of what some may say about catches in the commercial fisheries, the fact remains the panel ensured more than adequate numbers of Fraser sockeye entered the river to ensure healthy returns in fisheries in four years.

At that point management came under the control of Fisheries and Oceans Canada and we can only classify their efforts as incompetent at best and criminal at worst.

Even if one uses the most extreme losses due to environmental conditions, there should have been still over 800,000 additional spawners on the grounds in 2004 providing more than enough for a healthy and economic fishery in 2008. Instead, these 800,000 fish never showed beyond Mission, at least in any record.

Much has been said about the illegal net fishing that went on in the river and has gone on for over five years now. I will just take a

moment and give you the dates my records indicate I was identified of these activities in 2004 alone: February 29; June 12; April 21; May 17, 21, 26, 28; June 21, 22, 23, 24, 25; July 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, 25, 26, 28, 31; August 1, 2, 3, 4, 5, 6, 7, 9, 11, 12, 14, 15, 16, 22, 23, 24, 25, 29, 30, 31; September 15, 16, 17, 18, 19, and 20. I should note I was away a good deal of September and October.

I will now turn the floor over to Mr. Chris Gadsden and Mr. Joiner, both of whom have extensive experience on the river and have some video footage for your information.

In closing, I advise that SDA did a number of fixed-wing overflights and one helicopter flight in conjunction with the survival coalition. Mr. Gadsden and Mr. Kwak were very involved in these, and I have to say that in no incident did we make a flight and not find illegal netting.

Thank you.

• (0950)

The Chair: Thank you, sir.

Committee members, we do have a copy of the tape. The clerk has it and so we'll take a look at it when we have an opportunity.

Go ahead.

Mr. Chris Gadsden (Director, Sportfishing Defence Alliance): Thanks, Bill.

You've already heard of all the reports of illegal drift netting that went on this year. As was just mentioned, I brought a video tape of some of these infractions, which I gave to Jim. The tape is 37 minutes long, and I had hoped that we'd be able to show it here, but I don't think we have 37 minutes to do that. Hopefully, you will take the opportunity to watch it.

I just want to briefly talk about what was on the tape.

On June 12 there was illegal drift netting on the Fraser River in the Gill Road area, just below the Agassiz-Rosedale Bridge. It was reported to Fisheries and Oceans report line, 1-800-465-4336.

On July 8 there was a Global TV report on confrontation between a drift netting boat and recreational anglers at Grassy Bar, which is at the east end of the Chilliwack Mountain.

On July 30, in the afternoon, there was illegal drift netting just below the confluence of the Harrison River and the Fraser River reported to the FOC report line. In that incident, we were bar fishing and we had to pull out our three rods to prevent losing them to the drift net that was put right in front of us. It isn't shown on the video, but that's what happened.

On August 14 a video was taken from a helicopter of an illegal drift net on Ferry Island, just below the Agassiz-Rosedale Bridge. A helicopter and video camera were used. This footage shows fishing when drift netting was closed during that time period.

On August 14—video items 4 and 6—we have comments from Bob McKamey of the B.C. Fisheries Survival Coalition regarding fishing activity observed when we flew the helicopter. Bob was with us, along with Frank, and he has on that tape the observations of what we saw.

The final one, August 14, is a helicopter flight over the Fraser River, just to give you an idea of what the river looks like.

I have one extra copy, if someone would like it.

I'll turn it over to Gwyn. I know we're probably getting short on time.

Thank you.

●(0955)

Mr. Gwyn Joiner (Director, Sportfishing Defence Alliance): From one of our books, which was turned in, I'd like to read out some of the violations here:

May 13, drift netting Agassiz-Rosedale Bridge, seven and a half hours reported, file 040481.

May 14 drift netting Peg Leg Bar reported, file 040482.

June 22, drift netting Agassiz-Rosedale Bridge, not reported.

June 26, drift netting, two boats, four sets, Agassiz-Rosedale Bridge, not reported.

June 29, drift netting, Agassiz-Rosedale Bridge, not reported.

July 11, drift netting, Agassiz-Rosedale Bridge, not reported.

July 17, drift netting between 2:15 and 4:05, reported to Fisheries and Oceans, not given file number.

July 18, drift netting between 4:20 and 7 o'clock, three sets, Agassiz-Rosedale Bridge.

July 23, drift netting 9:30 a.m., Agassiz-Rosedale Bridge.

Thank you very much.

The Chair: Thank you.

We'll now go to the Fraser Valley Salmon Society, Fred Helmer.

Mr. Fred Helmer (President, Fraser Valley Salmon Society): Thank you.

I would like to thank the committee for the opportunity to share the concerns of the Fraser Valley Salmon Society. Our membership represents a very diversified cross-section of the angling community that fishes the Fraser River, including retail tackle companies, fishing guides, and—for the most part—dedicated, conservation-minded anglers. These people enjoy their fishing opportunities and are very hopeful that we will see them protected for future generations to come.

The Fraser Valley is an area that provides fabulous fishing on the Fraser to recreational anglers as well as hosting a booming tourism-based charter business. It is also a very important area for the Stó:lō Nation, who are seeking very aggressive fishing plans and economic opportunity for their people. Every summer we are hopeful that the Department of Fisheries is able to predict ample numbers of

returning salmon to allow sports angling openings, thereby producing tremendous social and economic value to our community.

Every summer the frustration and concern has grown on how this important fishery is managed. We are witness to glaring problems that include poor management decisions, political interference, lack of enforcement, lack of funding, overfishing, abuse, and disregard to laws, with very little accountability all around. It is sad to see how this precious resource with all its benefits to our community could be threatened because of the direction we are headed in.

Illegal netting and illegal sales have been a problem on the Fraser for many years. Unfortunately, this is becoming a major activity, one that is difficult to curtail and is often ignored by fisheries. This approach is very concerning and results in more effort to catch more fish by first nations. The increase in effort to catch more fish with nets on the Fraser River is growing exponentially. We are seeing more set nets each year, and they have a huge impact on returning salmon and other species of fish. Plus, we are now allowing a method of drift netting that is far more productive but that is dangerously impacting escapement numbers.

There is grave concern about the expanding geographic area where illegal fishing is evident in both set and drift gillnets. Drift nets have proven to be most effective, yet the department suggests that they are not sure what the catch potential is. To allow illegal fishing with methods that are very effective with virtually no consequences is a recipe for disaster.

The Cheam fishing plan and agreement of 2004 is just a beginning, with approved drift netting opportunities, which we understand will be considered and possibly expanded in 2005. After several meetings we have attended with the leadership of the Cheam Band, it is very clear that the fishing capability is going to grow in this strategic area, having a major impact on future runs. In fact, they are very open about the right to sell the fish catch despite a signed agreement that clearly prohibits such sales.

The government's inability to apply the laws fairly and evenly is flawed and dangerous, setting precedents others will follow. Illegal activity was rampant this past summer in the Cheam territory and soon expanded to other areas where historically there had not been problems. The non-compliance by this group was horrifying, to say the least. They fished seven days a week around the clock with no accountability. Enforcement officers are being told to only observe and report infractions and are not allowed to deal with illegal activity in the Cheam area. The monitoring of this fishery is very poor and has little credibility.

The question is now being asked, how can 1.8 million fish disappear? When the water temperatures were predicted to get to lethal levels, we all hoped Mother Nature would help with a cooling-off period at critical times. The temperatures were high, but we did not see or witness the huge numbers of dead and failing fish that were projected. In fact, we saw very little evidence of the forecasted devastation. When fish die off, we see the results, dead fish floating by. This was not the case in the summer of 2004, and we are hopeful that the facts clearly defined on this are not used as an excuse to cover up the failure in management and enforcement.

A number of organizations that are committed to conservation have adopted the observe, report, and record book intended to document illegal fishing activities and the frequency of those activities, and I have examples. The phone-in hotline was used extensively this summer, so you have on record hundreds of reports of illegal fishing. Some are verified in our book program. Many people did not agree, nor could they understand why so much abuse was allowed. People felt helpless, became bitter, and at times took matters into their own hands. It was an ugly summer, with people not getting along, especially when netting was aggressively pursued in areas frequented by anglers. The missing fish matter, but we need to include the people as well.

•(1000)

It is difficult to assess the numbers of fish taken in a fishery that is being ignored. Fisheries estimates the legal catch at about 400,000 sockeye but has no idea how many fish actually left the river. In fact, no one does. The department has repeatedly stated that this is new, uncharted territory.

On July 21 we invited a senior Fisheries biologist out for a day of travel to witness first-hand how many fish nets were illegally fishing the Fraser. We reported six of them within only minutes of the boat launch. We then travelled to a known area of illegal drift net fishing and encountered one drift netter's results. The official was shocked at the numbers of fish taken in less than 10 minutes by one single illegal drift net operating in broad daylight underneath the Agassiz-Rosedale Bridge. A minimum of 53 sockeye and three chinook were caught in the net. Remember that the test fishery results were extremely low at Albion.

These nets can and do take hundreds of fish in each drift. If you were to consider the potential catch from one net fishing twice per hour over 12 hours each day for 60 days, you'd come up with a very scary number. The really scary element is considering the number of nets fishing around the clock up and down the river with very little monitoring or enforcement. Does this add up to 1.8 million missing fish? Perhaps not, but you certainly need to understand that it is likely to be a good percentage.

We have always put conservation as our first priority; however, we fight for every opportunity to fish. Numerous studies and surveys suggest that the sports angling impact is minimal, and we agree. The estimate of total sports-caught sockeye is approximately 50,000 fish, less than one illegal drift net catches in a season. If this is beginning to sound like a nightmare to you, we agree.

Our organization is proud of our community involvement and our reputation in working with the Department of Fisheries and Oceans, numerous organizations, and the native community. The Fraser

Valley Salmon Society wants to work with first nations leaders towards a better understanding that supports healthy fish returns and benefits for all people. However, we are not prepared to sit back and watch the fishery die from a DFO policy that allows abuse and overfishing by people who have no regard for the law.

In view of the limited time given here today, I have tried to give you an accurate account of the thoughts of our members and the general public in reference to what is happening on the Fraser River. I have never seen so many people interested in trying to better things for the future. I suppose this is an opportunity to make good decisions that will in fact ensure a better future. You can be sure that the Fraser Valley Salmon Society is willing to help in every way to make that possible.

I do have some pictures and I do have examples of a number of books, with over 50 illegal activities documented, and they're here if anybody wants to look at them.

•(1005)

The Chair: Thank you, Mr. Helmer, and thanks for staying within the time limit.

Could you give me the name of the scientist you mentioned?

Mr. Fred Helmer: It's Jeff Grout.

The Chair: Like in "grouting".

Thank you.

Now we go to the Chilliwack Fish and Game Protective Association. Bill Wimpney.

•(1010)

Mr. Bill Wimpney (President, Chilliwack Fish & Game Protective Association): Thank you, Mr. Chair.

I make this presentation today as the president of the Chilliwack Fish and Game Protective Association. The CFGPA has a membership of over 600 and is one of the oldest and largest fish and wildlife conservation organizations in the upper Fraser Valley, and possibly even in the province. I would like to thank the committee for the opportunity to bring forward the concerns of my membership.

Let me first say that this issue has assumed a level of importance beyond all proportion among the participants in the recreational fishery in our area. The general feeling is that their right to access the resource and their ability to catch food fish is being unfairly impaired. Our right stems from the Magna Carta and is as existent and as inalienable as the aboriginal right to fish for food, social, and ceremonial purposes. As a result, the Department of Fisheries and Oceans has a moral and legal obligation to manage the fishery in a way that meets the needs of conservation and the participants in this food fishery, both aboriginal and non-aboriginal.

It is our considered opinion that the fish belong to the citizens of British Columbia and that DFO is only a contracted manager, a manager who is performing very poorly as indicated by its abysmal performance on the Fraser River this year. We are compelled to make a number of observations.

On funding, DFO has suffered almost unbelievably large reductions in funding across the board and is expecting more reductions in future. As a result, there is almost no science being generated to manage the resource with. This has far-reaching consequences. If it doesn't know how and where the fish are being harvested, or when and how they successfully spawn, it's impossible to predict the result.

Also, a number of aboriginal court cases have been incompetently prosecuted by the government as a result of its not being able to produce accurate and acceptable data to support its case. Conservation is a numbers game; if you don't have the numbers, you can't play the game.

On political interference, it is our view that the very complicated process of the management of fish is difficult enough without having good science undermined by purely political decisions. The annual fishing plan is instituted in the spring and is almost immediately undermined by DFO's upper management for purely political reasons. There were actions taken this year that violated the principles of good management and ignored the recommendations of all of the advisory committees. This problem has been going on for approximately 12 years and has been escalating over time.

There have been two previous non-judicial inquiries, the Pearse-Larkin inquiry in 1992 and the Fraser inquiry in 1994, and numerous other review processes, all of which we've participated in. Their recommendations have been ignored to the extent that they run contrary to the political desires of the government.

There is a lack of effective law enforcement. Understaffing and severe underfunding inhibit the work of our conservation officers. It is absolutely impossible to enforce the law in so large an area with so few personnel, assuming that the Crown will proceed with the charges anyway; it doesn't usually. Their effectiveness is severely undermined by this lack of departmental support for their actions in respect of aboriginal infractions. There is a tendency in the upper levels of government to cave in to extortion on the part of some aboriginal organizations. The government cannot allow the law to be subverted and expect to retain any credibility with the citizens of the country.

The management and enforcement staff of the Department of Fisheries and Oceans in the province of B.C. are dedicated and are capable of doing good fisheries management, but it can only happen if they receive the additional staff and funding to do the job. The government has just passed the Species at Risk Act and approved associated funding to the tune of \$135 million for ten listed species. It's pure hypocrisy to talk about recovering the species at risk on one hand and, on the other hand, working to create additions to the list. The government has just announced a budgetary surplus of over \$8 billion. It's not that it doesn't have the money; it's that it doesn't have the right priorities.

With respect to political interference, a judicial inquiry must be established to compel the upper management of the Department of Fisheries and Oceans to account for their actions and to protect potential witnesses from adverse effects in order to find out why, where, and how political interference occurred.

It's time for the government to get serious about its responsibility to the people of British Columbia and give DFO Pacific Region the leadership, direction, and resources required to return the Fraser fishery to a healthy state. If the government is ever going to regain our respect as the steward of our fisheries resource, it's going to have to lay bare for all to see the decisions, causes, and effects that led to the unmitigated disaster that occurred on the Fraser fishery this year.

I respectfully submit that on behalf of the Chilliwack Fish and Game Protective Association.

The Chair: Thank you very much.

From the B.C. Fisheries Survival Coalition, we now have Phil Eidsvik.

Mr. Phil Eidsvik (Spokesperson, B.C. Fisheries Survival Coalition): Thank you, Mr. Chairman.

I do have a number of documents that will help you understand my presentation. Because of the limited amount of time, only one of them is translated. I'm not quite sure of the proper process at this point.

The Chair: Carry on with your presentation and just hand the documents to the clerk afterwards. We'll deal with the distribution and translation.

Mr. Phil Eidsvik: First of all, everybody's heard this is the third time we're in this type of situation, so none of what I'm going to say is new. It's all been said before. Everything that everybody has said in this room this committee has heard before, for 13 years now. It's hard not to get angry that we're in this position again.

I'm just going to run very quickly through some of the documents to give you a sense of the time scale.

An August 19, 1994, letter from the Chehalis Indian Band reads:

I will scratch the surface of other issues going on. One of the largest black market operations is run by one of the head executive members [of the Stó:lō]; kind of a self-appointed; personal gain, clears anywhere from \$15,000.00 to \$30,000.00/day.

A protected letter from the Department of Fisheries, describing problems in the mandatory landing program, is titled: "No Ability to Audit Native Catch". It reads:

DFO contacted J.O. Thomas to provide Observers to monitor the harvest of salmon during this fishery. Unfortunately, the native fishers were adamant that no monitor or observer was to be allowed on their vessels.

A report done for DFO after the 1994 inquiry on AFS-related enforcement challenges goes to the scale of the accusations that everybody poaches and it's all the same: Some DFO enforcement field staff believe that as many as 75% of the fishing violations on the Fraser River involve opportunities created by AFS agreements to poach or launder fish from gillnets and dipnets.

This document was prepared for DFO. They know what's going on; this is nothing new.

Another DFO memo, this one from July 22, 1996, indicates: Fisheries management have some serious concerns with the level of compliance with the MLP during this fishery. ... As a result of the non-compliance with the MLP, the chinook catch estimate for that week is a gross underestimate.

A September 23, 1998, memo from an enforcement supervisor in Port Alberni to his boss states: We are in an absolute state of confusion, disarray and communication/coordination vacuum over all the licenced or unlicensed fish harvest and transportation of fish by natives on WCVI.

A December 4, 1999, headline "DFO seizes salmon from B.C. warehouse" notes: More than 27 tonnes of frozen sockeye salmon in a Surrey, B.C., warehouse have been seized by fisheries officers in what is shaping up to be another skirmish between Department of Fisheries and Oceans and native fishermen.

Unfortunately, the warrant was obtained improperly, and the charges were dismissed. It was 27 tonnes, with one buyer and one event.

And then there is a memo on a provincial court decision, Regina v. Aleck. This involved Tony Aleck of the Cheam Band, who identified himself as a fish buyer.

The Chair: Mr. Eidsvik, I'm sorry, but this won't take away from your time. Who prosecuted that? Was it the RCMP or Department of Fisheries officers, with respect to the warrant?

Mr. Phil Eidsvik: It was the Department of Fisheries officers. They were good fisheries officers, and there was a technical error, which happens sometimes in court. The reason I bring it up is to show the scale of illegal activity.

The Chair: Okay. Thank you.

Mr. Phil Eidsvik: The Tony Aleck case. Tony Aleck bought fish from a food fishery in 1998. He bought about \$300,000 worth of fish. It was shipped to a plant in Vancouver and processed for canning. It was shipped to a warehouse in a canning plant in North Vancouver and put into cans and stored. He attempted to sell it through a fish broker, but the fish broker was honest. It's the only reason he was caught.

The DFO enforcement officers out of Steveson did a sting on him, and he was prosecuted and fined \$15,000. If he had got away with it, he had \$300,000 in cash in the bank. He did nothing wrong by commercially processing it, canning it, boxing it, and labelling it for sale. All that was legal, so DFO could do nothing. The only thing he did wrong was attempting to sell it. Because there was no pilot sales fishery that year, it was easy to say it was food.

There's a memo on that. We have a series of DFO documents that we obtained through the court. Many of these we would never have if not for the litigation that we undertook. I'll only summarize the top memo.

It's a memo from Herb Redekopp concerning the Musqueam and Tsawwassen native catch. He goes through what they did. They tried to get a handle on whether the catch in that native fishery is being reported accurately to DFO. I won't go into the details of it, the memo is there for you.

In summary: Furthermore, today's audit confirms investigative data from previous weeks which indicates a discrepancy of around 300% overall... The catch data provided to DFO by the Musqueam fishers is poor at best and should not be used to make fisheries management decisions. The misreporting is not a matter of making an error. The evidence collected by DFO fishery officers proves some Musqueam fishers are deliberately misreporting to the AFOs.

I can tell you that this memo was written and not a damn thing happened. They continue to rely on hails. The data has absolutely no meaning, and we're supposed to manage fisheries on that basis. This is a senior enforcement officer making these comments, not Phil Eidsvik.

Why do we still have this problem? This memo was written in 1999. Peter Pearse wrote it in 1992, and John Fraser wrote it in 1994. Our level of frustration is pretty intense.

The remainder of my time is on why we want a judicial inquiry. You'll probably have to cut me off.

First of all, I want to say that a bright light should be shone on everyone's fishing activities, the commercial guys, the recreational guys, and the aboriginal guys. We have nothing to hide. If the commercial guys did something wrong, tell us we did something wrong and we'll fix it, because we cannot fish in the way that we're fishing now.

Shine a bright light on DFO. There are excellent people in DFO who want to come and testify but can't. I've personally been told that if we get a judicial inquiry, they can come and tell the truth. If we don't protect them through a subpoena and give them some kind of immunity, they will never be able to tell the truth. On a regular basis, we're encouraged to keep fighting for a judicial inquiry.

The difference between a judicial inquiry and the type of review that's going on is that the process is transparent. All the documents are filed in public and all the testimony is in public. There will be no more secret discussions between people and the review committee, where the review committee comes out with a conclusion and we never know where it came from. There's a judge in a court, rather than a political appointee.

With all respect to Mr. Fraser, and some respect to Mr. Pearse, we don't think we have the truth out of those inquiries. With Mr. Fraser, it was simply a matter of process. We believe that if he had better tools, we could have done a better job, as he said today, and insisted that a judicial inquiry was proper.

Could you tell me how much time I have left? Two minutes. Thank you.

There's an impact on the witnesses. They testify under oath. They're questioned by lawyers without time limits. We're not relying on a ten-minute hearing.

The difference is obvious with Chuck Guité in the Gomery inquiry. Chuck Guité lied to the standing committee from Parliament. It's very clear. In the judicial inquiry, it's a whole different story. I think you've probably read some of his testimony and seen the articles. Good lawyers, trained professional interrogators, kept him on the stand for days until they got the truth out of him. You know all the things he let out that he never let out to the MPs on the committee.

• (1015)

And there is the ability to subpoena. We can subpoena the DFO officials. We can subpoena truckers, cold-storage operators, and fish processors, and they have to come and testify in public, and if they don't tell the truth, you can put them in jail.

I'm going to stop at that point, and maybe I'll get a chance later on.

Then I bring your attention to one of the problems in the Pearse inquiry. There's an excerpt here. One of the issues was, were fisheries officers told not to lay charges? Pearse said yes, they were told not to lay charges.

Deputy Minister Rawson of Department of Fisheries and DG Chamut appeared before this committee in January 1993 and said that Pearse was wrong, it never happened, it was a mistake. As a matter of fact, Mr. Rawson said, "I have to say no such directive was issued", straight like that.

This is a copy of the 1991 food fishery policy, signed by Chamut, and he says, "I spoke with Bruce Rosen today regarding enforcement policy.... Sale of small amounts of personally caught food fish (i.e. less than 25 fish) should not be prosecuted...".

We have a second memo that I wasn't able to bring this morning in the chaos in my office but that I'll present to the committee hopefully this afternoon, where following the 1992 disaster, Rosen, Chamut, and other senior DFO officials met with members of the Lower Fraser Fishing Authority, which included the Stó:lō, Musqueam, and Tsawwassen Bands. They discussed outstanding fisheries charges, and the senior DFO officials agreed to lobby the Department of Justice to get all the fisheries charges dropped against these guys. Then he comes before your committee two months later and says, "I did not issue those instructions".

The only reason we have those two documents is because they were leaked to us. That's why we need a judicial inquiry.

Thank you.

• (1020)

The Chair: Thank you, Mr. Eidsvik.

We're now going to go to questioning, and as you can see, colleagues, we have a large panel. So if you have questions of individual people, would you please identify who you want to answer the question.

Actually, it would probably be helpful if you did address your question to a specific person or group, because if we have a question that's going to be answered by everybody, we'll never get around to hearing the questions that everybody wants to ask.

We'll start with Mr. Cummins, for 10 minutes.

Mr. John Cummins (Delta—Richmond East, CPC): Thank you, Mr. Chairman.

Mr. Eidsvik, I'm going to go to you first, because I'd like you to address that issue of Tony Aleck and that charge.

I think the notion of what happens to this fish and how it's moved is important, and I wonder if you could, in a nutshell, again explain to the committee how that operation worked and why it disguises the ability to move fish.

Mr. Phil Eidsvik: In a specific area on the lower Fraser is where the Stó:lō fish, and Tony Aleck went into this fishery during a food fishery and bought the fish from various aboriginal Canadians. He then put it in trucks and shipped it down to a place called Great Northern Packing.

Now, it's not illegal to carry big semi-trailers with totes and Hiabs and forklifts. It's not illegal to do that with food fish. So it was carried down to Great Northern Packing. They cut it up into little pieces and it was put in cans—and again, that's not illegal. Then it was stacked in boxes and labelled for sale. And again, none of that is illegal. It's perfectly legal to do that with food fish.

Then it was kept in the warehouse for four or five months. Of course, even if DFO was tracking it, there's no way DFO could put enforcement staff in front of that warehouse to maintain the chain of evidence to make a successful prosecution.

The only thing that made it work this time was when the individual phoned the broker, and the broker became suspicious and phoned a DFO enforcement official with whom he got along well and said, "Look, there's something funny going on here." So then they set up a sting operation and caught it when he tried to make the actual transaction for the money.

The reason DFO was able to prosecute is because there was no commercial sale in the upriver area in 1998. If there had been a pilot sales fishery, his defence would have been, "Well, I caught it during the pilot sales fishery." Even if there might have been ten food fisheries and only one pilot sales fishery, it could never have been separated.

The big impact of pilot sales is that it has allowed a really good means to launder food fish into the commercial fishery.

Does that help, Mr. Cummins?

Mr. John Cummins: Yes.

It was mentioned by Mr. Otway and others, about enforcement, and you've collected the observations that have been made to you. People have advised you of enforcement infractions. Some were reported to the government, and some weren't. I know that I too have reported illegal fishing activity by the Agassiz Bridge to the department, and no action was taken.

I'd like one of you—I don't care who—to explain how that process works, so that the committee understands how the process works if you observe illegal activity and you want to advise the department. What do you do, and what's their response?

• (1025)

Mr. Bill Otway: I can answer if you wish, Chair.

You could simply phone the officer's office. The B.C. Wildlife Federation and a community have put together a program called "Observe, Record and Report", otherwise known as ORR. With both the provincial and federal governments, we established a 24-hour-a-day, toll-free call-in number, and we provided information sheets, so that people can record and call in to report transgressions of whatever they see, dealing with fisheries, hunting, or the environment. This is primarily fishing. At the time it's reported, it is supposed to be referred to the officers. If it's an ongoing incident, it's supposed to be reported directly to the officer in the field and action is supposed to be taken, with a follow-up to the person who called in and who indicates they're prepared to testify.

The way it's worked in the past five years is that you phone it in and it disappears into the great black maw of DFO. As a matter of fact, I do know, because I have followed it up with field officers, and quite often, or too often, it is not even referred back to the officer in the field.

Mr. John Cummins: Now, all of you gentlemen who are sport fishing in the Chilliwack area, you spend a lot of time in the water.

I've got a document here, Mr. Chairman, which I'll make available to the committee. It's the Chilliwack stats and it's a record of observed non-licensed fishing activity. It demonstrates when there is no enforcement; it goes week by week and day by day and shows when there's no enforcement evident on the river in that area.

I'd like to know from you gentlemen, when you are on the river, do you often see a fisheries officer? Do the fisheries officers have much of a presence on the river?

Could each of you, in ten seconds or less, just give some indication of how frequently you spot fisheries officers or an enforcement presence?

Mr. Tony Nootebos: Just going by the Fraser Valley and our guide association, we've got 30 to 40 members out there daily. As reported, I bet we have less than ten boardings a year by fisheries officers. That gives you an idea.

Mr. John Cummins: Frank.

Mr. Frank Kwak: As a recreational fisherman who is out there 200 days a year, I would say that I saw maybe three or four fisheries officers at Island 22 over the course of this last year.

I have had the fortune to have talked on the telephone to Perry Powers, who is one of the local officers, and who did phone me quite

often in the morning to ask me what was going on. He had no access to a boat to be able to come and do what he needed to do.

Mr. Bill Otway: They were there the day I killed a fish. That's the only time I can account for.

Mr. Chris Gadsden: I'm out on the river an awful lot, and every year that goes by, I see less and less.... I was only checked once last year, when I was on the river maybe fifty times. When Gwyn and I were out, we were checked once.

Mr. John Cummins: Do you see anybody often? Is it when you're checked that you'll see them? But most of the time you're out there, I'm assuming you don't see them.

Mr. Chris Gadsden: You see them going up and down the river. But my observation is that when we are out there, we can videotape four or five different infractions going on. I'm maybe not answering your question, but I find it so hard that the boats weren't there to intercept those nets.

Mr. Gwyn Joiner: I'm not on the Fraser that much, but I think I've only seen fisheries officers there twice in the last four years. Out on the Chilliwack-Vedder system, I've fished that for over thirty years, and I think I've only been checked once by provincial or federal officers. The only time on the Fraser that I'm really checked is by the creel census guys; they come along and just check what fish you have, and that's it. They have no enforcement themselves, but we do supply data to them.

• (1030)

Mr. Fred Helmer: I would say I spend a lot of time on the river, and the enforcement staff is very lacking out there. They obviously are very underfunded. They are extremely frustrated. They do the best job they can—I think a lot of those guys deserve medals. There is no money for after hours; there's no overtime money. A lot of this activity happens at night. We see what happens in daylight, but what happens at night is five times that.

I have one thing I will pass to you, John; it's an e-mail from a guy who specifically talks about seeing illegal netting activities. He reports it; a fisheries officer comes with an RCMP—

The Chair: Mr. Helmer, would you move back a little way from the mike, please?

Mr. Fred Helmer: The fisheries officer showed up and explained to him for half an hour how they have a new program of observing and being non-confrontational. While they were there, a first nations net went out. They watched it; they went over and talked to them for ten seconds, then went away, and these guys continued to fish for a couple of hours and caught hundreds of fish. I have that here.

Mr. John Cummins: I'd like a copy of that.

Bill?

Mr. Bill Wimpney: I'll defer to my partner here. He does more fishing than I do.

Mr. Alexander Ritchie (Director, Chilliwack Fish & Game Protective Association): I fished all of July and August this year. I observed them once in July and once in August. The only time I have ever seen any real commitments as to when they could get out there and do anything is when we had a crisis up at what we call Scale Bar. All during that crisis, they were up there on two occasions. I don't want to go into that—it was quite a problem—but they were allowed to come up there twice during that entire crisis.

The Chair: Thank you, Mr. Cummins. That's ten minutes, believe it or not.

Mr. Murphy, you have ten minutes.

Hon. Shawn Murphy (Charlottetown, Lib.): Thank you very much, Mr. Chairman.

Thank you to all the witnesses who appeared here today.

I want to follow up on the last area Mr. Cummins raised. That is this whole issue of almost a total lack of enforcement, as I hear the testimony here today.

We're going to hear from some officials from DFO, and they talk of lack of funding, but it seems to me that while there were cutbacks, they wouldn't explain the total lack of enforcement that's going on in this particular area. You identified that there is an area—the Agassiz-Rosedale Bridge—where there seems to be a totally unregulated fishery with no enforcement whatsoever.

Is intimidation the reason why they're not there? I just don't buy this whole idea of “no funding”.

The Chair: Are you going to ask a specific person?

Hon. Shawn Murphy: No, I don't think so. I'll just throw it open to whoever wants to answer it.

The Chair: Who wants to answer that? Would you put your hands up, please?

Let's start with Mr. Ritchie; then we'll go to Mr. Otway, and then to Mr. Wimpney.

Mr. Alexander Ritchie: I think one of the things you're missing is it's not that the enforcement officers who are there.... They want to be there; it's just that there aren't that many of them. We're talking about an area of immense size.

The 13 officers who were on this year had an area that expands all the way from Squamish down to White Rock and then all the way up the Fraser River to Sawmill Creek. It's a huge area for 13 guys. How do you do that 24 hours a day with 13 men? It's a near impossibility.

The Chair: Mr. Otway.

Mr. Bill Otway: Mr. Chairman, thank you.

I think we have to understand the real reason. Certainly funds and resources play a part, but the real reason we don't see them, in the main, is that they take pride in the work they do, and they have been ordered not to enforce the law for one segment of the community.

Quite frankly, my experience with them is that they are basically ashamed to go out and to face the rest of the community whom they are expected to enforce the law against, and so they do not put the effort in that they normally would, simply because they do not agree, and neither do we, that the law can be enforced selectively; in fact it's

illegal to do that. They have been put in the position where they are told they must do it, and that has taken away a great deal of their incentive to actually carry out their work.

• (1035)

The Chair: Mr. Wimpney.

Mr. Bill Wimpney: I'm going to hearken back to 1992 when I was employed as an investigator for the B.C. fisheries commission. My zone of responsibility was the Fraser River from the mouth up to slightly above Lytton. There were numerous infractions that occurred during that time period, a lot of which were observed by fisheries officers and responded to by fisheries officers. There were charges laid by fisheries officers. There were charges laid in areas outside of fisheries law by enforcement officers, and those charges were not proceeded with in response, I assume, to the document Mr. Eidsvik presented here just a couple of minutes ago.

I was involved in an awful lot of that stuff. I observed it myself and watched enforcement being undermined, even back then when their budgets were somewhat threatened but not nearly as badly as they are now. They had enforcement staff. They brought in enforcement staff one year from down east to make sure we had enough fisheries officers. They went to all of the effort of putting those people on the river, went to all of the effort of responding to the immediate activity that was occurring, only to have it undermined by the political arm of government through not proceeding.

Enforcement of the law is only as effective as the political will to support it. We had an incident last year where three fisheries officers were in trouble on the Indian reserve. The response was totally ineffective in dealing with the issue. Then they were turned around, pulled off the job, and suspended, which reduced the enforcement staff on the river even further and totally took the legs out from under the enforcement staff by putting their credibility in question in the public eye. It is an absolutely abysmal response.

That's where this stuff comes from. It's not just a case of budget. It's not a case of the enforcement officers not necessarily having a presence. It is the total ineffectiveness of the conservation and protection program as a result of the fact that there is no political support for them and that the mechanisms by which they do their job are being interfered with for purely political direction.

The Chair: Thank you.

Mr. Murphy.

Hon. Shawn Murphy: My next question concerns the gear methodology. You talk about drift nets. Is it illegal to have them for the food, social, and ceremonial fishery?

The Chair: Mr. Wimpney.

Mr. Bill Wimpney: It used to be. It's something we have to be careful with. I find myself in a bit of a box sometimes in referring to these things, because it's only illegal if the government doesn't allow you to do it.

Hon. Shawn Murphy: But my question is this. If a fisheries officer is out there on the bank of the Fraser River and sees two drift nets going down in front of him, if it's.... A lot of us come from the east coast, but one thing down there is, if the fisheries officer saw illegal gear, there'd be no question that the gear would be confiscated. There would be no question about it at all; it wouldn't even be an issue. We have our own problems with enforcement, and it's not simple down there either, but that would be a no-brainer. The fisheries officer, if he had seen a drift net and the drift net was illegal, would certainly take it into his possession.

Is that done in the Fraser River?

Mr. Bill Wimpney: Yes, sir. That is the normal process here. However, those drift nets were illegal until, in a purely Pavlovian response to extortion, certain members in the upper end of DFO decided to allow the drift nets rather than deal with the threats of violence and with the improper behaviour on the part of the natives.

Hon. Shawn Murphy: So right now, if a fisheries officer sees a drift net, he or she, whichever the case may be, probably would not confiscate the gear?

Mr. Bill Wimpney: I don't think the case would stand up in court.

Hon. Shawn Murphy: My question is, do they presently not do anything? Obviously, they're out there; you people have all given very accurate and vivid testimony of seeing drift nets all up the Fraser River. Obviously the fisheries officers see the same thing when they're out there. But do they not do anything?

Mr. Bill Wimpney: We don't see it happening.

Hon. Shawn Murphy: Now, obviously you people have some associates and friends from the native community. This is a very serious issue. You obviously talk to them. What's their reaction?

•(1040)

Mr. Bill Wimpney: I could speak to that in a very simple fashion. I've lived in Chilliwack for about twenty years now. My house is immediately adjacent to five small Indian reserves. When I moved to Chilliwack, my boys were just in grade one and grade two. They used to go down and play with the kids from the Indian reserve. I used to be able to go by our school yards and see our kids playing together. It no longer happens. You go to our school yard and it's just like you divided everybody into teams. Our kids are absorbing the animosity that is being generated among those of us in the community. I have friends—a number—who I've known for a long time in the area who I can no longer go for coffee with, because we've spent so much time across the table from each other fighting over issues that were not created by us.

The Chair: Anyone else? Mr. Ritchie

Mr. Alexander Ritchie: In relation to the drift net, I'll just give you a little example of how I experienced it this year. In previous years of course the drift nets were not legal and would be confiscated if they were caught. This year I observed that they were coming out in daylight, and I thought that rather strange.

However, when we were fishing on the bar, which is known to us as Wellington Bar, there were two young native boys who came ashore and asked us if we would pull our gear that night. In a very friendly, open way we said, "Well, yes, but what's up?" They said, "We're going to drift fish tonight", and we said, "With a drift net?" They said, "Oh, yes, we have a permit to use the drift net." Okay, if

they have a permit I'm certainly not going to stand in their way, and we did pull our gear.

After a couple of nights of this I got a little curious, so I phoned my good and learned friend here, Mr. Otway, and I asked Bill if he would check out if there had been drift net permits issued for that area. Mr. Otway did that and phoned me back within half an hour and said that there have been no permits issued for that area.

I went on a bit further to find out why these two young fellows would come in the daylight and assure us that they had a permit. It appears to me that they had permission from another band member or a councillor higher up within their organization who somehow got a rumour from upriver from the Cheam Band that the Cheam Band had permits to drift fish, when in fact they did.

Now, my question is, were they the only ones? We can't get answers to this.

The Chair: Thank you.

Before we move on, just to be clear, is your evidence that drift netting was illegal for everybody throughout the Fraser River and that has now changed? If so, when did it change and who is it illegal for? Is it legal for everybody?

Mr. Eidsvik.

Mr. Phil Eidsvik: Thank you, Mr. Chairman.

Concerning drift netting above the Mission Bridge—the Mission Bridge is about 75 kilometres from the mouth of the Fraser River—until this year drift netting had been illegal up there for more than a hundred years.

The Chair: Up there being from the mouth to Mission?

Mr. Phil Eidsvik: No, the Mission River above—sorry, Mission Bridge above.

This year they made it legal. Drift netting had been going on in the Cheam area for a number of years.

The Chair: Sorry, Mr. Eidsvik, but by "they made it legal", you mean DFO permits drift netting by anyone?

Mr. Phil Eidsvik: No, only by aboriginal bands.

The Chair: All right, that's what I'm getting at.

Mr. Phil Eidsvik: Actually, only by the Cheam Band, as far as I know, above the Mission Bridge. Nobody else is allowed to.

The Chair: So only the Cheam Band is permitted to drift net anywhere on the Fraser River. Is that correct?

Mr. Phil Eidsvik: No, in that area, around the Cheam area.

The Chair: In that area.

Mr. Otway, help us out here.

Mr. Bill Otway: Mr. Chairman, Phil's correct. There was no drift netting, simply because the river is shallower, narrower, and the efficiency of drift gill nets is first of all unknown, but known to anybody who's used them to be astronomically better. The only drift netting that is allowed, for example, for non-aboriginals is from the mouth of the river to Mission Bridge in the tidal water. That is the area where in the past certain bands, in fact most of the bands living on the Fraser River below Mission Bridge, have been allowed to drift net for their food, social, and ceremonial needs, and for their commercial fisheries that they have since the government has given them special commercial fisheries.

Above the Mission Bridge in the non-tidal waters drift fishing by everyone was banned. As noted, for five years now in our reports to your committee and government and others, the Cheam Band members have been drift fishing almost continuously, in contravention of the regulations.

On August 3 this year, DFO issued a licence to the Cheam Band only, to fish five days a week, 12 hours a day, with drift nets. They are the only individuals who are legally allowed to fish during the hours that are set out in the licence that DFO gave them. They are the only ones who are allowed to drift fish. All other bands from Mission to Prince George and beyond are allowed to set net or dip net only.

• (1045)

The Chair: Good. Thank you very much.

We'll go to Monsieur Roy for five minutes.

[*Translation*]

Mr. Jean-Yves Roy (Haute-Gaspésie—La Mitis—Matane—Matapédia, BQ): Thank you, Mr. Chairman.

If we wished to summarize all of your statements—as well as those that we heard yesterday—it might all boil down to the non-enforcement of the rules by the Department of Fisheries and Oceans. We might also say that the rules are interpreted differently depending on whether you are aboriginal or not.

I believe Mr. Wimpney mentioned a little earlier that the rules were not being enforced for political reasons, in other words that the government was refusing to intervene solely for political reasons. I wish to fully understand what you mean by political reasons, Mr. Wimpney. Do you mean to say that the government is refusing any confrontation whatsoever with native bands? Is that what you mean when you talk of political reasons?

[*English*]

Mr. Bill Wimpney: Yes, that's exactly it. We've attended meetings with representatives from the Department of Fisheries and Oceans and an individual who was seconded from the RCMP to the Department of Fisheries and Oceans with the sole purpose of negotiating with the Cheam Band in particular with respect to bringing some peace to the rivers. That's their particular phraseology, not mine.

The problem we have is that the particular band they're negotiating with have been the bad actors on the river from the very beginning. They've gone out there, there have been armed confrontations, there have been threats of violence—and in actual

fact violence delivered in a couple of cases—there has been confrontation with fisheries officers, and there have been attempts and threats by them to destroy the railway tracks that go through their reserve. This has been a continuous process since before 1992, but from 1992 to now there has been an almost continuous process of escalation on their part.

The government has given in to this extortion. They have decided that it seems to be far better for them to put a good light on this in the public eye than to respond to it in the fashion necessary. The unfortunate thing about it is that by not responding to the extortion, what they have done is send the message to other bands and other participants in the fisheries that the way to resolve this doggone issue, the way to get what you want from the resource, is to be a bad actor, just to be a criminal.

We refuse to accept that criminal activity is acceptable in any way, shape, or form, and that's why we have this problem. They've bowed to extortion. I think you've hit the nail right on the head in your assessment of where the political will comes from. It also relates, I think, more directly than we'd like to admit to the resolution of native land claims in this province. This is very often being used as leverage at the negotiating table.

Now, I've been involved in treaty negotiations in this province for a long time, and one message my organization has sent clearly is that we will not accept using fishing and wildlife as currency at the negotiation table, and that's exactly what's happened. Our worst fears have come true.

The Chair: Mr. Otway, you wanted to add something?

[*Translation*]

Mr. Jean-Yves Roy: In conclusion...

The Chair: Excuse me, Mr. Roy, but Mr. Otway would like to say something.

• (1050)

[*English*]

Mr. Bill Otway: I'd just confirm what Bill has said. The key we need to keep in mind very strongly here is that there are 97 different bands of Indians along the Fraser River, and we're talking primarily here about one. We need to remember that the vast majority of the 97 live within the terms of the regulations, are law-abiding, and are good managers of the fish. We need to be clear about where the problem is.

But it still is pointed out—and this is a growing problem—that by its actions the government, through DFO, has made it clear that being law-abiding does not pay; being criminal does. So we are now seeing an expansion of the problems on this river beyond the one band. That's one of the key reasons why you lose if you don't enforce the law and regulations: you turn off the people who are actually on your side and cooperating.

The Chair: Thank you.

Monsieur Roy.

[*Translation*]

Mr. Jean-Yves Roy: Thank you.

That answers my question. I thought we were talking generalities, but you are saying that most of the problem is being caused by one band only out of the 97. I would therefore say that the majority of aboriginals are in favour of protecting this resource. They are also in favour of Fisheries and Oceans Canada's intervention in order to protect the resource. Is my view of things correct? Yes?

[English]

The Chair: Just for the record, all the witnesses are nodding yes.

[Translation]

Mr. Jean-Yves Roy: It seems I have answered in the witnesses' stead. Thank you, Mr. Chairman.

We have been hearing witnesses since yesterday. I came here in 2001, if my memory serves me right, to discuss the very same issue. The Standing Committee on Fisheries and Oceans came out with a report. You talk of 97 Indian bands, but I would like to know how many associations or groups of other nationalities—we have also met Vietnamese fishers—are worried about the survival of the Fraser River resource.

[English]

The Chair: Can anyone on this panel answer that question?

Mr. Eidsvik.

Mr. Phil Eidsvik: I don't know any group that isn't. Most of the public is concerned. The problem is that they've heard this when we've had the previous reviews.

[Translation]

Mr. Jean-Yves Roy: Is there some federation made up of all these groups? Is there some united defence group?

[English]

Mr. Phil Eidsvik: There are two of them, and I think Mr. Otway can speak to this.

We're the largest commercial group in B.C., and the only thing we do is look after aboriginal fishing issues. That's how important it is to us.

The Chair: Mr. Otway.

Mr. Bill Otway: Thank you, Mr. Chairman.

The B.C. Wildlife Federation, which is the oldest and largest conservation organization in this province, has 130 organizations, member clubs, in every section of this province. I can tell you it's of major concern to them. The people around this table represent some member groups. Bill's group is a member of our federation, for example.

Quite frankly, the population of British Columbia as a whole, all ethnic groups and all citizens, is very concerned about the well-being and the health of the Fraser River and the stocks. The response from government to the loss of this year's fishery is a clear indication that it is beginning to recognize that the population as a whole is concerned about this fishery.

The Chair: Thank you.

I'm just going to move on, Mr. Wimpney, because I think we've had an answer to the question.

Mr. Cullen, would you like to ask some questions for five minutes?

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): Thank you, Mr. Chair, and thanks to the panellists.

I represent the Skeena—Bulkley Valley riding to the north of here. I've looked at this case as a bit of a canary in the mine for us on the Skeena. We face a lot of similar concerns around the stock management and the protection or non-protection DFO is providing.

I have a number of questions for my five minutes. I hope the panellists feel okay about making their responses short.

I have one question for Mr. Eidsvik around the judicial inquiry, because I've heard both encouragement and discouragement around this idea. I'm wondering if you could give me just one or two things you think are important reasons why we should go this route through a judicial inquiry and one or two things you might think would not be so helpful about going down this path.

● (1055)

Mr. Phil Eidsvik: The key thing is our past experiences. DFO paid lip service to previous inquiries, paid attention for a bit, and then that died away. Now we're at the point where we've decimated one run of fish. There are three more to go. We don't have any options left.

We litigated this issue in 1995, and the court somewhat wisely said that it didn't want to get involved in deciding who should fish and who shouldn't and how many fish there are. As a result, in 1999 the Fraser River was closed for the first time in its history. We've had two inquiries of other models. This is really the only thing we have left.

I pointed out that bit about Peter Pearse and the confusion over it. Well, Bruce Rawson and Pat Chamut lied to this committee. If it had been a judicial inquiry, Bruce Rawson and Pat Chamut would be in jail; at least then they wouldn't have been managing the fishery, and our fishery would have been much better managed the last few years without those two. Pat Chamut was promoted to Ottawa after misinforming and misleading this committee. That's why we need a judicial inquiry.

The disadvantage is the time it would take. I know in the Gomery inquiry, the terms of reference gave the authority for interim recommendations to be made. We would like interim recommendations from this guy to be made in April or May.

I've heard cost as an objection. Mr. Wappel has suggested \$25 million. A properly managed Fraser River fishery is worth \$500 million a year. DFO blows \$100 million out here every year; \$25 million spent in 1992 would probably have prevented this today. We'd be looking at a \$500-million fishery in 2008 instead of zero.

Mr. Nathan Cullen: Thank you.

I have a question for Mr. Wimpney. I'm glad Mr. Roy made some corrections, because initially, from my impression of the conversation, it was becoming a very race-based discussion. It was first nations versus non-first nations. The clarification was very helpful to me.

From the description you gave of living in a community and not being able to have coffee with some people—we've seen that in the north as well—it feels like we need to avoid another Burnt Church here. We're looking to avoid a full-out, full-faced confrontation involving weapons.

I'm wondering if you can describe what you think the eventual resolution of this might look like. If you can think forward to the future in some sort of an ideal way, whether or not it's through this judicial inquiry, give me a picture of the Fraser River fishery in five years' time when there's an increased level of harmony within your community and up and down the Fraser River.

Mr. Bill Wimpney: Maybe I should take that in that direction but give you an example from 1992, when I was working for the fisheries commission. I did not have to do anything clandestine in my job on the river. I was not there to look at the aboriginals in a law enforcement capacity; I was there doing a time and motion study to try to improve their fishery, so it wasn't an adversarial situation to start with.

When I went to talk to them, 95% of the people on that river were enthusiastic about what they did; they were proud of what they did; it was part of their heritage. They conducted themselves in the best fashion possible, given their understanding of what was required of them. The other 5% were the troublemakers, the same as the 5% who are troublemakers on our side of the issue.

This is only a racial issue to the extent that as a result of aboriginal land claims and some other political issues that are going on, the Department of Fisheries and Oceans is unable to do its job as a result of interference; it's for those reasons. It's not a racial issue in the sense that this is something where there's a problem with natives. It's a problem because they have allowed a particular faction to extort their way into some benefit.

It wouldn't matter if these were natives or if they were any other group. The only reason it has an adverse effect is because they are an identifiable group and because the response to that group has been allowed to undermine the government's attitude to the rest of the people on the river.

The Chair: Thank you very much.

Mr. Kamp, five minutes.

Mr. Randy Kamp (Pitt Meadows—Maple Ridge—Mission, CPC): Thank you, Mr. Chair.

Thank you, witnesses, for appearing. We appreciate the frank discussion you've had with us.

Mr. Murphy has asked some of my questions.

I think it is important that we really strive for clarity here, especially in the terms we use. We've used terms like "illegal"; I think that's the term that has been used most often this morning. Yesterday we tended to use the terms "unauthorized" and "unreported". I think they're all different in some ways. It needs to be clear to us—or at least to me—what we are saying. On the one hand we've used the term "illegal", and then I hear others saying, but they authorized this, what used to be illegal.

So I would like some clarification on just what the right terminology is in terms of what DFO means—I see that at least Mr. Kwak and Mr. Wimpney would like to respond to that—because I think it is important for us to understand what went wrong and what needs to be clearer.

• (1100)

The Chair: Mr. Wimpney.

Mr. Bill Wimpney: I think the word we should be using is "ill-advised". I don't think it's a question of whether this is legal or whether it's unauthorized. To get through the fog to that issue is going to be a question for the judicial inquiry, because to be honest with you, we don't know. Every time we turn around, we get a different story from someone else.

But what these fisheries are is ill-advised. There's 100 years of history on the river showing that these particular activities have not been allowed in the past because of the serious impact they have on the fishery. And all of a sudden, as a result of extortion—and that's the only word I can use—the government decided to change its mind and allow this situation to develop.

I think "ill-advised" is probably the most acceptable word we could use to describe it. It will be up to the inquiry to find out how it occurred.

The Chair: Mr. Kwak.

Mr. Frank Kwak: Thank you.

We were called to Agassiz earlier this summer by the RCMP. We were informed there was a memorandum of understanding that had been signed by DFO under the leadership of Greg Savard and the Cheam Band, and that they were going to allow a weekly fishery from 5 a.m. till 11 a.m. and from 5 p.m. till 11 p.m., five days a week. With that came all kinds of other subsections, including proper identification markers, and locations as to where the fish could be monitored, etc., etc. Anything outside of that timeframe would be illegal, and anybody other than the Cheam fishing in that 20-kilometre band would be fishing illegally.

Mr. Randy Kamp: Mr. Otway?

Mr. Bill Otway: To be short and sweet, the fishery is closed unless opened by regulation, and fishing in any manner during the time when there is not an opening by regulation is illegal. The fisheries are illegal unless authorized.

DFO in 2004 authorized a total of 15 twelve-hour days, starting on August 8, for the Cheam Band to use drift nets. Those were the only 15 legal days where drift netting was allowed during the sockeye run. The rest of the time, you can put all the words you want on it, but it's illegal—if you accept the fact that the government has the right to make laws. If you don't, then I guess it's not.

But the simple fact is, under our laws as we understand them, any fishery taking place with that gear, other than on those 15 days, is illegal.

Mr. Randy Kamp: Okay. Mr. Wimpney's point is well taken as well, that the decision to even allow those days may have been ill-advised. But your testimony then is that fishing was taking place at times when the fishery was closed.

The Chair: Let us just make sure the record shows that the witnesses were nodding in the affirmative.

Mr. Gadsden.

Mr. Chris Gadsden: I just want to make sure the committee understands that the dates we listed were illegal times, when the river was closed to drift netting.

Mr. Kamp, the listed times are times when it was closed. As for the times that Mr. Otway talked about, the 15 days, we didn't report those days, but there was fishing going on between that 11 a.m. and 5 p.m. time.

• (1105)

The Chair: I'm sure we recognize that you wouldn't have taken your time to list legal fishing days.

Mr. Keddy, for five minutes.

Mr. Gerald Keddy (South Shore—St. Margaret's, CPC): Thank you, Mr. Chairman, and thank you to all of our witnesses here today.

We've been listening to testimony yesterday and certainly your testimony this morning, and I have to say that this pit gets deeper and deeper and deeper. It does seem to me that—and I think it's encouraging—the issue isn't being divided along a race-based issue, that it's not a matter of an aboriginal fishery versus everybody else on the water. And in order to find some reconciliation to it, I think that's going to be absolutely critical to any answer that comes up.

I have a couple of questions and probably a statement. I have five minutes like the rest of my colleagues, so I'll try to keep it brief and perhaps I would ask you to keep your answers brief.

On the issue of drift netting, I just want to be absolutely clear on the gear type. When you're talking about a drift net on the Fraser, you're talking about a net that's set. Is it being drifted with a boat or is it with someone in the boat?

Mr. Tony Nootebos: Yes.

Mr. Gerald Keddy: Okay. So it's a gill net, the same idea as if it was fixed ashore except it's being drifted down the river, because I think most of us would think of a drift net offshore simply as a net left to drift, with a recording device on it, and you come back and find it.

Thank you.

Just another point of clarification, the one aboriginal band, the Cheam Band, had a licence from the department for 15 days to set drift nets.

Mr. Tony Nootebos: For 12 hours a day.

Mr. Gerald Keddy: So 12 hours a day for 15 days. Thank you.

Does anyone have any idea why that licence would have been given, or why that right would have been given, for drift net versus a net set from shore? If you could be very quick in your answer, I'd appreciate it.

Mr. Bill Otway: Mr. Chairman, Bill Wimpney made it clear: blackmail. The department wanted peace in our time. The drift netting is the preferred method of fishing. The Cheam Band had

been doing it for five years anyway, and the department was in a position to sign any kind of deal it could get.

It is interesting to note that at the end of the season, the last week of fishing, the Katzie Band, fishing downstream where drift nets are nowhere nearly as efficient as they are upstream, were given two hours to fish for their food, social, and ceremonial needs, and they have a band approximately the same size at the Cheam. That same weekend Cheam was given five days to catch its fish.

Mr. Gerald Keddy: Thank you.

Mr. Eidsvik, earlier on in your testimony I think you said 1999 was the first record of a drift net legally used on the Fraser in 100 years.

Mr. Phil Eidsvik: I'm sorry, that issue has caused some confusion. The title water boundary was moved down to Mission about a hundred years ago with the first conservation measure. In 1898, I believe it was, no drift net fishing was allowed above Mission. This year was the first year that they legalized the illegal Cheam practice.

Mr. Gerald Keddy: Thank you for that clarification, because I think....

Did you have a point?

• (1110)

Mr. Tony Nootebos: Yes, I just have a point on the reason that the Cheam were given the 12-hour openings for those 15 days that they were given. I sat in meetings at the RCMP station, along with a few others, and the department's reasoning behind it was that they had no way to take them off the river with their illegal fishery since they can't approach them or deal with them in any way. So their theory was that if they entered into an agreement for a 12-hour opening a day, at least there'd still be some escapement and hopefully that would curtail some of the illegal activity in between those other times.

That was a very big point for that opening.

Mr. Gerald Keddy: Thank you.

The issue here that most concerns me is the whole issue surrounding illegal gear. Monofilament nets and drift nets are illegal gear practically anywhere on the continent and practically anywhere in the world these days.

If DFO has the final authority and responsibility as well for conservation, recognizing the rights of individuals to fish—whether that is an aboriginal right, whether that is a sports fishing association, the seiners, or whatever group we happen to talk about—then DFO not only has abrogated the responsibility to enforce the law but they have also abrogated their responsibility for conservation. If we don't have conservation, we are not going to have a fishery. This is not a complicated issue.

Therefore I have to say that Mr. Duncan, my colleague, brought up the matter of a judicial inquiry some time ago. From what I can see up to this point, although my mind may be changed yet in this inquiry, I absolutely think we are going to have to have a judicial inquiry in order to get to the bottom of this. That's becoming clearer and clearer.

The Chair: Mr. Keddy, you meant Mr. Cummins, not Mr. Duncan.

Mr. Gerald Keddy: Sorry. There are two Johns in the party here, Mr. Cummins and Mr. Duncan. But yes, Mr. Cummins, as a point of clarification.

The Chair: All right.

Mr. Hearn, five minutes.

Mr. Loyola Hearn (St. John's South—Mount Pearl, CPC): Thank you very much, Mr. Chair. Again, let me thank the witnesses for coming.

I'm going to stay away from asking a number of questions because we've gone over them not only today but before. Almost two years ago we tabled a very relevant report. We could almost go home, dust it off, and send it in again.

However, I don't think the trip has been an exercise in futility. There have been different things happening. We did see a disastrous summer. Hopefully, the consciousness of everybody has been notched up a bit, and consequently we might get some people to listen.

When this problem started during the summer, we had just come through, as you all know, an election on June 28, so if people thought there was a lack of action on behalf of the committee, for instance, we want to assure you that wasn't the case. Immediately after the House opened and the committee was put in place, the very first request at the very first meeting was for the committee to travel out here to deal with this problem, for two reasons.

Number one, we know Mr. Cummins had, as an individual, requested a judicial inquiry. That was supported by us and officially requested by, certainly, our caucus just recently. We support that and we will continue to do that. However, as we know, that will be a long-term process, looking for resolutions in the long term. You don't have time to fool around. This coming year you can't have another summer like the one you had last year.

In order to facilitate things and to get this issue into the House of Commons to try to force a resolution of some of the problems, we thought we were the best avenue. This is an all-party committee. Many of you don't have a clue as to who represents which party, and that's the good thing about this committee. It's been like this for three or four years. We operate very objectively. If we can get this into the House and create some attention, as I say, we might be able to force action.

The minister has set up a 30-person committee, I understand, and we've had different views presented as to how successful people think it will be. In particular, when you get 30 stakeholders in one room trying to iron out an issue in such a short time, I don't think that's going to solve our problem. Hopefully we can be of some help.

What I would like to ask is, what other supports do you have?

All of us know from the reams of material we've got from you... and don't think at all that it was lost. Some of you might be frustrated that you weren't getting replies back from all of us. Daily we had dozens, hundreds in some cases at the crisis time, of e-mails from this area, from you here, from your whole organizations, and from

people you probably don't even know about who were concerned about this issue. That certainly created an awareness. Most of what you said today we have copies of somewhere in our e-mails, from people directly affected, individuals and organizations.

Above and beyond that, what about the focused support of the provincial government and agencies, like municipalities, both provincially and even nationally?

Why I raise that is that some years ago we saw warning signs about the groundfish off the Atlantic coast. Nobody paid any attention. The same thing is happening in this. You have your good guys and bad guys. We've lost a resource, practically. We have communities dying. We have 10% of our Newfoundland population somewhere out in the country, most of them in Alberta. We got that issue on the table some time ago, again through this committee, as one of our first major reports. It is now getting international attention.

Have the problems been solved? Absolutely not, mainly because of a lack of leadership and, I guess, of objectivity on the part of the government. It isn't there at this stage, but it's changing. Steps are being taken. More and more people are aware of what's happening, and some of the illegal activities are being curtailed.

• (1115)

But we at the time had the provincial government heavily involved. We had the municipalities collectively right in there, supporting what we were doing. Have you tried to build that kind of support base here in your province?

The Chair: Mr. Wimpney.

Mr. Bill Wimpney: It's in the process right now in the sense that my organization in particular is making efforts in that direction now.

But let me explain where the difficulty is in that. There's a treaty-making process going on in this province right now that has three parties at the table: the provincial government, the federal government, and the aboriginals. We are not a party directly at that table. Our organizations participate to the nth degree in consultation processes and such, but we are not parties at that table.

When you're dealing with a problem that is to a large degree generated by the political fallout from that process, we find it very difficult to expect that the actions on the part of the provincial government will be very much different from those of the federal government. That's been borne out in the past with the previous government. This government we're not sure about because we've been excluded from the process recently.

So to the extent that it relates to the fisheries problem, we don't have a lot of confidence, but we are in the process right now of approaching the provincial government with respect to dealing with these issues. My organization firmly believes that this is in fact a provincial resource and that the federal government is only the caretaker of that resource, and one would think the owners would have some interest in putting the caretakers on notice.

So yes, we are in the process of working on that.

The Chair: Thank you. Mr. Wimpney. I'm amazed that none of my colleagues have challenged you on that notion.

Mr. Otway.

Mr. Bill Otway: Mr. Chairman, I've been in contact with and discussed this with the Minister of Agriculture, Food and Fisheries. The minister has a very, very deep interest in what's going on and is working to carry out a watching brief on this whole process. The minister's office has been involved in the other process that the government is trying to set up to review.

The simple fact of the loss of a \$400 million or \$500 million income to this province in four years tends to grab the provincial government's attention. We would hope it would grab the federal government's attention as well.

I think that's the one thing.... We've talked about the illegal fishing and so on. These are symptoms, things that need to be dealt with. But they all have to be taken in the context of understanding that we have over one million sockeye from this year's return to the Fraser River that aren't accounted for. We think—in fact we know—a major portion of that number has gone to the illegal fisheries. There are other factors, but the key here is that we find out what in fact did happen and take action to ensure that it doesn't happen again.

• (1120)

The Chair: Thank you.

I have a couple of questions, and then I'll go to Mr. Cullen. If anyone else wants to ask a question, just get the eye of the clerk, please.

I just want to confirm a couple of things, if I may. Our briefing notes show that the Fraser River Panel Sockeye Review figures indicate that the recreational industry took 52,200 fish cumulatively. Is that about right for this year?

Mr. Bill Otway: Yes, that is correct.

The Chair: There's something else in our briefing notes that I want to read into the record and ask you to comment on it. The Sport Fishing Institute expressed concern that a quota system—this is just for context purposes—would put a cap on the recreational sector. It noted that the recreational fishery, which accounts for about 8% of the salmon harvest, generates about \$600 million a year, while the commercial fishery, which lands about 80% of the harvest, accounts for a landed value of only \$42 million.

That's according to the Sport Fishing Institute. You guys are the recreational people. Do you agree with those figures?

Mr. Otway.

Mr. Bill Otway: Mr. Chairman, they are in the ballpark. If you look at our presentation, you will find that reflected. The sport fishery, freshwater and saltwater, generates about \$1.2 billion for this province and for Canada.

The commercial fishery currently, because of mismanagement by DFO, is working at a very, very low return for their efforts. The fact is that you have to take the cap in context. First of all, with regard to sockeye, the recreational fishery has a cap of a total of 5% of the sockeye catch out of the total of the province of British Columbia. That's what our allocation is. There is a cap on that.

At the same time, we're looking at some small growth to 8% overall of the fish stocks because we are the major harvesters now—or we were up until this past year—of the chinook and coho stock.

In a normal fishery—for example, in the Fraser River—if the government was allowing proper harvest and management of the Fraser sockeye, that 52,000, or even 150,000, would represent less than 1% of the catch.

The Chair: Excuse me, Mr. Otway, but what I'm getting at is this. Is it correct that 52,000-odd fish generate \$600 million?

Mr. Bill Otway: No, that's not correct.

The Chair: That's not correct. That figure is for the whole recreational fishery, not just the salmon fishery.

Mr. Bill Otway: No, it's the salmon fishery, but it covers some of the other stock. But it's salmon, primarily coho and chinook, and that's for the whole coast of British Columbia.

The Chair: I know, but what is that from? Is it from tourists who come and hire people and stay in hotels and spend money and rent boats, all that sort of thing and everything else that's associated with it? Is it the tourism factor of fishermen who come up here because they want to catch some nice fish? Is that the general idea?

Mr. Bill Otway: That's a part of it. The majority of it comes, quite frankly, from residents of British Columbia and Canada.

DFO has produced a report, the last one in 2000. It documents where those amounts specifically come from.

The Chair: All right. This may seem totally simplistic, so forgive me, but if instead of 52,000 fish it was 100,000 fish, would there be a corresponding increase?

Mr. Bill Otway: In percentage of the \$600 million, no, not corresponding; however, if you took what was being caught in the Fraser River, which generates \$10 million or \$15 million in sockeye, yes, you would see a corresponding increase there.

The Chair: All right, thank you.

I will go to Mr. Cullen now, for five minutes.

Mr. Nathan Cullen: I have just one quick question for Mr. Ritchie.

You held up a document when we were referring to DFO earlier. Has that been submitted to the committee?

• (1125)

Mr. Bill Wimpney: No.

Mr. Alexander Ritchie: No, it has not been submitted. We just got this yesterday.

The Chair: What document is it?

Mr. Alexander Ritchie: It's the Cheam First Nation salmon fishing and monitoring plan for July 2004. It gives you the times and dates that they were allowed to fish and who signed the document.

The Chair: Can you make that available to us?

Mr. Alexander Ritchie: We certainly will.

The Chair: Thank you.

Mr. Nathan Cullen: Thank you.

I have a question for Mr. Helmer. With respect, this is the way these committees work. We're going to get some testimony this afternoon, I believe, from Chief Douglas. Anticipating some of that testimony, because we're hearing essentially one aspect of the argument right now coming from the Cheam side of things, what am I going to hear later and what would you propose to those arguments?

Mr. Fred Helmer: We've sat in a room with Mr. Douglas many times. We've aligned ourselves in many cases and have had a lot of agreement.

The Cheam Band, you'll hear, is a band of individuals who have struggled through history. There are a lot of problems with the Cheam Band, and Mr. Douglas is trying to provide the economic opportunity for his people.

That all sounds great. But the impact of it and of how the government is dealing with that particular band is precedent-setting and very concerning. Although we'd like to see the Cheam Band become part of the community in a very productive manner, it creates a lot of issues in the rest of the community. The bottom line is the conservation issues really get ignored or shoved under the table.

It's interesting that you have Mr. Douglas signing the document Mr. Ritchie just talked about. There are certain rules of engagement, yet he will sit in the room after signing that document, and to a question such as "Mr. Kwak says right here you're not allowed to sell your food fish", he'll just say, "We'll find that out in a court of law".

You'll find it a very interesting display and a very interesting argument. A lot of it is historical. It's very problematic. That's exactly why the government struggles with these questions.

Mr. Nathan Cullen: Thank you.

One small question—perhaps not all that small—is to Mr. Otway. There have been allegations and words used such as "extortion" and "corruption". I want to understand whether we are talking about within the band structure, or of individual fishermen, or of... These are very strong words, the "illegal" word, or "extortion", or "corruption". I want to understand where we're placing this with respect to the fisheries going on.

I'm not sure if it's to Mr. Otway or Mr. Wimpney.

Mr. Bill Otway: I think the words apply. I don't know the full structure within the band; however, I submit to you there is a report filed by the undercover section of DFO, which has been buried in Ottawa, that you might find of interest with regard to what is going on within the bands.

It is not just the Cheam Band. The provincial and federal governments and enforcement throughout this province have responded to extortion from bands who are prepared to stand up and say, we don't care what you do, we're going to do it our way whether it is lawful or not; or, if you don't give us this, we will block this road, or we will do that. If I do that, it's called extortion. I say that if anybody else does it, it's called extortion. It's as simple as that.

They have said, we're going to fish whether you let us or not; if you don't give us the right to do it, or the licence to do it, we're going to do it anyway. So the government gives it to them.

Mr. Cummins has a report from freedom of information, reporting on the negotiator's comments, that makes it clear. DFO has turned itself into a social aid society instead of a fish management agency and is providing gravel opportunities for economic benefits to the band and just about whatever they wish. You can read it quite clearly in the document. It is "peace in our time", and that is what they are going to do.

Frankly, when you respond to threats and give what those threats are asking for, you are dealing with extortion.

Mr. Nathan Cullen: Just another question, Mr. Chair.

The Chair: No, no more. I am sorry, Mr. Cullen, we're beyond our time. We have another group waiting. I have four people who want to ask questions. I will give one question per person—no statements, or I'll cut you off.

Mr. Cummins.

• (1130)

Mr. John Cummins: Mr. Chairman, I have a document that I'll make available to the committee—it's the briefing note that was prepared for the regional director general here in British Columbia on April 26 of this year—that relates to the Cheam conflict. It's called "Taking Stock". The document talks about the history and the background. I'll just quickly read a couple of the points.

The Chair: Do you have a question?

Mr. John Cummins: Yes, I have, but I think it's important, because this substantiates much of what's being said—and it follows up on the question that was asked by my colleague across the way—that the comments by these folks here are not made in isolation, but also that—

The Chair: Yes, I know that. You're going to table that document, so we'll be able to read it for ourselves.

Mr. John Cummins: Yes, I will.

The Chair: Could you put your question?

Mr. John Cummins: I'll just do one point, Mr. Chairman.

It says: "The situation in 2003 is not sustainable. Serious injury or death is a strong likelihood". That's the tone of this document, and I think it should be noticed. That is DFO's comment. It was prepared for the regional director general.

My question relates to this decision-making about when to allow the Cheam and other bands to fish and when not to. The question is, the decisions made to allow the Cheam and others to fish, are they political decisions or are they decisions made based on an aboriginal right?

Mr. Eidsvik, perhaps you might try a quickie at that, and Mr. Otway—

Mr. Phil Eidsvik: I'm going to try to be brief, because I know there are other questioners in front of me.

I think the best way to look at this is to look at the 1987 and 1988 early Stuart run, which is the first sockeye salmon run to hit the Fraser River. In 1988 that run was 195,000, compared with this year's 187,000. We know there has been a 200% to 400% increase in the aboriginal fishing effort. In 1988, DFO closed that fishery for the early Stuart run. It said there would be no aboriginal fishing in the Fraser River during July. This year it opened the river the whole month of July, every single day.

Now, if it was a wise conservation measure in 1988 to close it, why would they reverse themselves and open it every day in 2004? The reasons for it have nothing to do with aboriginal rights to fish, because conservation is supposed to come first. It's simply political pressure, and I think in the discussion today we lost sight of the fact that much of the aboriginal fishing going on in the river that led to these Mission fish was in fact legal, and the opening of the early Stuart run, of course, is but one of those.

We need to get the DFO guy on the stand under oath to ask, "Why did you open the fishery during July? When we knew in 1987 it was wrong, why would you open it in 2004 when there's been a 400% increase in fishing effort?"

The Chair: Thank you, Mr. Eidsvik. That will be it for that question.

Mr. Otway, apparently you referred to an undercover DFO document, or something like that. I don't have the direct quote. Do you have that, and can you make it available for us?

Mr. Bill Otway: Would that I did, Mr. Chairman. I would hope one of these inquiries is going to get it.

I will provide the background for the committee so that they know who to apply to or what report to ask for. I was trying to find it in my notes here and haven't been able to do so, but I will provide the information.

The Chair: Could you try to do that before tomorrow afternoon?

Mr. Bill Otway: Yes, I will.

The Chair: Mr. Kamp, one question.

Mr. Randy Kamp: Thank you, Mr. Chair.

I have just a very quick question. I think it has been largely answered by Mr. Eidsvik here.

Along the way I think I've heard that drift net fishing has been taking place by the Cheam Band for the last few years, or maybe a year or two longer than that. This year it was kind of made authorized.

What's different about 2004? The fish have gone missing this year. They didn't seem to go missing last year, at least not in the same numbers, or the year before that or the year before that, when presumably the same kind of drift net fishing was going on.

So I'd like quick comments on the answer to that.

The Chair: Mr. Ritchie.

Mr. Alexander Ritchie: The effort was increased because of the pilot sales.

Mr. Randy Kamp: This year?

Mr. Alexander Ritchie: Yes.

The Chair: Mr. Hearn, one question.

Mr. Loyola Hearn: Thank you very much, Mr. Chair.

You mentioned fish and wildlife being bargained off basically to get gains in other areas. We see the same thing with shrimp and other groundfish, as you know. It's a major problem. But in order to get to the bottom of all this, it seems a whole new set of rules and regulations had to be put in place to govern the fishery in the area of the Fraser and the associated rivers.

I've heard a couple of you ask about the judicial inquiry in order to get all the truth out. Are you all in total agreement that a process such as a judicial inquiry is needed to get all the facts out so that these rules and regulations can be changed and focused properly?

I see all heads nod.

• (1135)

The Chair: Okay, the answer is yes. Thank you.

Mr. Ritchie, you referred to pilot sales.

Mr. Alexander Ritchie: I'm sorry, it was a sales fishery. I used the wrong word.

The Chair: Right, because pilot sales were suspended after Kapp.

Mr. Alexander Ritchie: That's right. It was a sales fishery this year.

The Chair: It was a sales fishery. All right.

Mr. Eidsvik.

Mr. Phil Eidsvik: Mr. Chairman, it was reintroduced this year, following the B.C. Supreme Court decision that overturned Kapp.

The Chair: As a pilot sales project?

Mr. Phil Eidsvik: They call it "economic opportunity", but it's exactly the same.

The Chair: "Interim economic fishing opportunities for first nations"—is that what they call it—

Mr. Phil Eidsvik: Yes.

The Chair: —a.k.a. "pilot sales projects"?

Mr. Phil Eidsvik: There we go. Said like a lawyer.

The Chair: The last question, Mr. Keddy.

Sorry, Mr. Ritchie, I have to cut you off there.

Mr. Keddy.

Mr. Gerald Keddy: I'd like to follow up a bit on the economic opportunity comment.

In the recreational fishery, you said there are 57 recreational fisheries on the Fraser—

Mr. Tony Nootebos: There are 55 members in our association.

Mr. Gerald Keddy: There are 55 companies.

Mr. Tony Nootebos: There are others that are not in our association.

Mr. Gerald Keddy: How many recreational fishery companies would be aboriginally owned?

Mr. Tony Nootebos: I'm not aware of any.

Mr. Gerald Keddy: So the aboriginal groups don't participate in the recreational fishery at all?

Mr. Tony Nootebos: I would say it would be very little. On the commercial aspect, it would be none.

Mr. Gerald Keddy: If we're looking for economic opportunity here, obviously there's economic opportunity available in the recreational industry. How much is that fish worth to the recreational group versus how much the fish is worth sold on the market?

Mr. Tony Nootebos: To give you a really quick example on that, you have to keep in mind that probably 60% to 70% of our guests never kill a fish during their stay here with us.

The Chair: They still pay for it.

Mr. Tony Nootebos: They're coming from England and other parts of the world, and they've no desire to kill the fish.

Mr. Gerald Keddy: They catch it and release it. Is that it?

Mr. Tony Nootebos: Yes, absolutely. That is by far the biggest priority to our guide company and to most in the Fraser Valley. They are here for the economic opportunity to fish for it, take a picture of it in some cases, and to let it go. So if you look at the value of the fish, it can be five times the number of a killed fish.

On Vancouver Island, for instance, it is based on a kill fishery in most cases. Those 4% institute numbers, they typically harvest. If you go to Queen Charlotte Lodge...you take halibut, you take salmon

Mr. Gerald Keddy: I understand.

What I'm trying to get at is this: how much is that fish worth to the recreational industry versus how much that fish is worth if it is just sold by the pound?

Mr. Frank Kwak: The Gislason report says \$110 for recreational, \$18 for commercial, and \$6.75 for first nations in the Fraser River.

Mr. Gerald Keddy: Is there more room in the recreational fishery?

Mr. Frank Kwak: Yes.

The Chair: Thank you. I have to cut you off.

Mr. Murphy, one question.

Hon. Shawn Murphy: I know none of you are commercial fishermen, but there's been some allegation or some suggestion that the commercial fishery during 2004 caught 890,000 pounds in excess of their quota. Is there any truth to that?

The Chair: Mr. Eidsvik.

Mr. Phil Eidsvik: I am the one commercial fishermen here, and I somehow ended up with this group. But you know what? Bill always sat on the Fraser panel and he understands the fishery management issue better than I do, so Bill can answer that.

The Chair: Mr. Otway.

Mr. Bill Otway: Mr. Chairman, as we said in our presentation—it's written as well as presented—that specious statement that they caught 800,000 more...and part of that was through the first nations economic fishery as well.

The simple fact is that the decision to fish was made based on the information that was available at the time. Subsequently, total

numbers were found to be lower, so in theory, based on the four-season plan, there was "overfishing". Overfishing only occurs when you do not put enough fish into the system in truth to provide for the future fishery. In this case, regardless of the commercial or any other catch outside the Fraser River and below Mission, more than enough fish—way more than enough fish—were put into the Fraser River, first, to provide for first nations' food, social, and ceremonial needs, and second, to more than provide for future fisheries and the rejuvenation of the stock. That's what needs to be recognized. There were adequate stocks put into that river.

You will hear things over time. I talked to the experts yesterday, and yes, there was hot water and there were environmental problems. But the very best the scientists and managers can put to a loss to environmental factors is 30% of the run of that 1.8 million fish. Even if you said 40% of the run disappeared because of environmental factors, there were still more than enough fish in that river to provide for the legal fisheries that were to take place and to provide for a fishery in the future. That's what's important.

As I said at the start, fish management is an art. You can make all the plans in the world when you're dealing with a migrating stock like salmon, but when the fish come, the world changes dramatically and you have to act and respond with the information you have.

• (1140)

The Chair: Thank you very much. That'll be it. It was a great panel.

I have to cut you off, I'm sorry. You had at least as much time as we gave the Minister of Fisheries and Oceans in Ottawa.

Mr. John Cummins: I have a point of order, Mr. Chairman.

Mr. Chairman, Jim Terris was unable to attend today, but he supplied with me a document that he would like to have presented to the panel.

The Chair: With this panel?

Mr. John Cummins: Yes. I'd like to give that to the clerk so that it could be translated and made part of the record of evidence that we heard this morning.

The Chair: It is certainly accepted. Thank you.

Gentlemen, there are people waiting. It's unfair to them.

Thank you very much for an extremely interesting two hours plus. We'll do our best to do what we can do.

Yes.

Mr. Bill Otway: I just want to say thank you. I have appeared before this committee on numerous occasions and I have to say that this one, as pointed out by Mr. Hearn, is devoid of political rhetoric, and I am most appreciative. You are very much to be complimented.

The Chair: Thank you very much to everyone.

I'm going to declare a 10-minute pause so that we can change panels and get coffee and whatever.

- _____ (Pause) _____
-
- (1155)

The Chair: I call the meeting to order.

We're now going to hear from panel 9.

We have today with us, from the Native Brotherhood of British Columbia, Josh Duncan, president. Welcome, sir.

We also have Bill Duncan, business agent.

Just for your records, colleagues, the Aboriginal Fishing Vessel Owners Association is unable to be here. Mr. Wasden advised that he's in Nanaimo. So obviously if he's in Nanaimo he can't be here. So we have just the Native Brotherhood of British Columbia. We'll do as we usually do, and that is have up to—it's up to you—a 10-minute opening statement and then we'll go to questions. As you can see, the members have a number of questions, so you'll have an opportunity to add whatever you want to add if you've used up your 10-minute opening time.

Mr. Duncan, away you go, welcome.

Mr. Josh Duncan (President, Native Brotherhood of British Columbia): Thank you, Mr. Chairman, ladies and gentlemen.

First, I'll give you a brief background on the Native Brotherhood of British Columbia. It's the oldest acting organization in B.C., and not only B.C. but in Canada, that is recognized. I am to date the youngest president ever elected as the brotherhood representative, as the voice of the brotherhood. I'm here today to offer our input in the 2004 fishery and the collapse of the Fraser River fishery as we see it in the past and today. There are many questions I have, of course, related to these issues, Mr. Chairman.

We sit here today in a world where we talk about a new way. In the past, in 1994, Mr. Tobin announced new implementations that were to take place from the past review panel. Today I still highly criticize these recommendations, and I also wonder how much of it was implemented. I know for me to sit here now and talk about our perspective, especially after the sports fishing industry...it's in something of a highly volatile environment for us, because it's always a finger-pointing game at the end of the season. In the beginning of the season we sit in the same room, natives and non-natives, to discuss the pre-season plans and how we're going to implement them. But after every year, we sit here, and we as first nations are always being pointed at as the cause and the problem.

Quickly looking at the numbers, yesterday I attended the South Coast Salmon Advisory Board Post Season Commission meeting in Nanaimo. The numbers DFO gave me were 600,000 fish missing from the Fraser River. I look over the "2004 Fraser River Sockeye Escapement Crisis", as written by Mr. Cummins, and his number is 1.8 million, well over. So for us it's hard to grasp who's right and who's wrong. We look at different methods every year of catch monitoring, escapement monitoring, and aboriginal fishing monitoring.

Myself, I'm from the mid-Vancouver Island coast. Campbell River is where I live. It's a town that's divided 50-50 commercially and recreationally. In Campbell River both industries have the mentality

that no one can keep us off the water. It's hard for me. I'm also a commercial fisherman who on a day-to-day basis watches the sports fishermen come in and come out with their catches. I highly criticize some of their reports, as well, as to the numbers. You know, 52,000 pieces is, in my opinion, a little shy as to what has actually been taken. This year I spent the start of my year in the Queen Charlotte Islands and I finished off down in the bottom of Vancouver Island. I saw a lot of sports fishermen, but I didn't see any enforcement. I know that's a major issue for DFO's enforcement. It's constrained financially. For people like us coastal people of the Johnstone Strait, we have AFS programs in place now that have guardianships and monitoring programs that oversee the troll industry, the gillnet industry, and the seine industry. Also, it oversees the sports fishing industry, but our guardianships have no authority to lay down fines or to go to court. All we are is basically a security patrol. We have to phone Fisheries, but the Fisheries people can't come out and see for themselves.

It's hard for us to sit on the water as fishermen and to come into a room like this and talk about fish, and the Fisheries people themselves come and sit across the table from us and dictate how we're going to fish and dictate the season, but yet they don't leave the office. I think the train of thought needs to change. In the brotherhood itself, we're now into a third-generation organization, as I see it. Many of my fellow people on the executive board with me are much older than I am and they've seen the change in their lifetime.

- (1200)

Growing up myself, I've lived in the eighties and nineties, in the glory days, and now our season is down to a matter of hours. We spend more time sitting in meetings discussing our season than we actually do implementing it and fishing it. Therefore, I sit here, and as the president of brotherhood I strongly feel that the review of the DFO management is something that should be implemented in the judicial inquiry, because we don't know what happens behind closed doors, in river, anywhere.

So I'll leave that with you, Mr. Chairman.

The Chair: Thank you.

Let's just be clear. The Native Brotherhood is calling for a judicial inquiry? Is that your evidence?

Mr. Josh Duncan: We would firmly back a judicial inquiry on that issue.

The Chair: Very good, thank you.

All right. We'll start the questioning with Mr. Hearn.

Mr. Loyola Hearn: Thank you very much, Mr. Chair.

Let me thank the witness for coming, and Mr. Duncan, congratulations on being the first chief elected. That certainly speaks well for you and your involvement in your community.

You mentioned, and I'm sure you're well aware of it, the history of the fishery by your people in your area. Could you tell us about this year and your involvement, your fishing method and the amount you caught, and compare it to past history, maybe not from your own knowledge but certainly, I'm sure, from the information you've received from those who went before you.

Mr. Josh Duncan: Certainly, Mr. Hearn.

As I mentioned before, I am a commercial fisherman. This is my sixth year as skipper now, and the methods of fishing now compared to the past have changed somewhat drastically, not to the extent of the size of nets. But our nets for commercial seines have been cut back in recent years. Our fishing time has been cut back. Of course, in the buyback programs we've seen in the past eight years, ten years, it was always said about the buyback that it would free up more fishing opportunity for those who stayed in the industry, yet we who stayed in the industry are having a time getting our fishing opening.

This year I fished 29 hours for a season, a season in which you pay \$2,000 to renew a licence in which you have to hire five men to come out with you. Expenses are high. So when you go out fishing, your expectations are high. And a lot of it depends on when we fish. We fished in the early part of August due to a large part of the Sakinaw and Cultus Lake, and in that part of the year, in August, the fish aren't here yet. They're not in the Johnstone Strait, they're still off the coast of Vancouver Island. And sure enough, 10 days after our last commercial opening, the sockeye did start coming through, but because of the strict policies of DFO on the conservation of the Sakinaw and Cultus Lake, we are restricted to our fishing time.

I know a lot of organizations are looking at different approaches and selective fishing, but to date, none have worked.

•(1205)

Mr. Loyola Hearn: In terms of the amount of salmon you're allowed to catch today compared to what you were allowed to catch five, ten, fifty years ago, has the number increased, decreased, or stayed around much the same?

Mr. Josh Duncan: Is that of a commercial catch?

Mr. Loyola Hearn: Yes, as a commercial catch.

Mr. Josh Duncan: The commercial catch numbers—

Mr. Loyola Hearn: As an individual fisherman.

Mr. Josh Duncan: For individual fishermen, the commercial catch number has definitely decreased, as well as the size of the fleet itself. I think our fleet has dropped somewhere around 50% to 60%. The fleet size has dropped, and so have the numbers. But growing up as a young boy and a young adult on the boats, I heard lots about how in the seventies and eighties, when the big runs were there, Fisheries would only allow for half a million fish or so to reach the spawning channels. There's a real fine line in Mother Nature herself of the spawning channels—too much and you kill off a large portion, or they kill themselves off; too little and there's a big risk that no numbers will come back. There's a lot of theory into that and lots of discrepancies.

Mr. Loyola Hearn: We've heard a number of witnesses over the last couple of days, and perhaps it's too bad you weren't here yesterday. We had the seiners and the trollers here then. Many of them expressed the same concerns you heard this morning. They also admitted that within their own groups—we always have our bad boys—everyone doesn't play by the rules. I come from a fishing area, from Newfoundland, and I know that within the different sectors of the fishery, if somebody can get away with something, he or she will try. It's probably desperation in some cases and need, but

at other times, if one guy can get away with it, somebody else will try.

Even today, those who were here raised concerns. When they talked about aboriginal groups they made it quite clear, I believe, that when they talk about aboriginal fisheries they have no problems whatsoever with the 90% to 95% of the people involved who play by the same rules as everyone else. But they have concerns with certain groups in certain areas. In particular, they mentioned the Cheam area, where drift netting seems to have got out of hand.

From what you know, what are your views on that? Where do you see the problem with disappearing fish on the rivers?

Mr. Josh Duncan: That's a pretty bold question for me to answer.

Where I see the problem lies is within management itself—someone who is an outsider of pilot sales but also of first nations. It's really hard for someone like us on the coast to understand why first of all this was implemented and taking place. As you all know, there's the Indian Act. Well, each and every one who's a first nation, and a registered first nation, lives under that Indian Act. Yet we talk about pilot sales and the illegal sales of fishing in the river. You know it happens coast-wide. Back home and up and down the island you see it. You're right, it comes out of everyone being desperate. Everyone needs money. I for one am in favour of sitting down with DFO for the coast, because it's important to keep the integrity and the enhancement of salmon stocks.

On the pilot sales in the river, I know there have been many court cases about it. There has been a lot of heated discussion about it. Something on that issue, to that extent, separates us fishermen from everyone else. In the fishing industry itself we are separated from pilot sales in a lot of meetings. I just heard it yesterday and I hear it again today. It's hard for me to sit here and really talk about how we could make things better when we don't get the full participation from everyone.

•(1210)

Mr. Loyola Hearn: Over the last number of years, I guess in all our fisheries across the country, not just here, it has happened that there has been a reacting to situations. So if you're here, certain rules and regulations are put in place, but when it's plentiful, then more people are brought in, gear types are changed, licence fees go sky high, even though the cost of operation is going up also and the end profit is decreasing. Instead of that, do you think it would be beneficial for everybody and do you think it's time that we have a solid overall view of the west coast salmon fishery, with solid rules and regulations recognizing the participants and doing the best we can for all of them? Don't you think something like that should be done?

Mr. Josh Duncan: Yes, I would like to see a change in DFO's mandate in the new era. We keep talking about this post-treaty era that's upon us, but as an individual I don't know any first nation yet that's involved in a post-treaty fishery. To be honest, there's a major backlash because of this.

We talked about the pilot sales. The pilot sales were put in place as an interim measure for a treaty, much as nowadays you have the economic opportunity fishery, which was put in place as an interim measure for a treaty. But with all these different programs running today and in the past, I sit here and criticize the extent of it and the completion of the program as to where it's going. What was the purpose of it? The native fishery that takes place today as sales is not pilot sales, in my mind, but an economic fishery.

Living on the coast, we're not viewed as a coastal people who can take part in an economic fishery, because we're already involved in a commercial fishery. If there is no commercial fishery—and there is almost none now—how am I involved in a commercial fishery and why can I not be involved in an economic opportunity fishery? As first nations, we have a sense of strong mandate to the Native Brotherhood, both in the past and today, for coastal management and coastal development strategies. There is a major transition in our world today, in B.C. and in Canada, that is taking place. For us, as first nations, we want to sit beside DFO and talk about the way we can structure things. DFO is coming up with all these new committees such as harvest committees—the list is endless—and from what I see, these committees have just separated DFO further away from the fishermen themselves.

I don't know when was the last time the Native Brotherhood of British Columbia sat down with the Minister of Fisheries and talked about ways in which we could structure the Pacific coast today.

The Chair: Thank you.

Thank you, Mr. Hearn.

Mr. Duncan, we have a Mr. Larden here. Would you like him to join you and you could introduce him?

Mr. Josh Duncan: Yes, I would. Thank you.

The Chair: Give his full name and his title, please.

Mr. Josh Duncan: His full name is Doug Larden, Jr., and he is the alternate and the south coast vice-president.

• (1215)

The Chair: While Mr. Larden gets down here, we will go to Mr. Murphy for ten minutes.

Hon. Shawn Murphy: Thank you very much, Mr. Chairman.

Thank you very much to the witnesses for appearing.

You're going to have to forgive me. A lot of us come from the east coast, and we are not as familiar with the west coast fishery as we are with that on the east coast. I'm going to ask you, Mr. Duncan, to explain it to me, and I want to compare it to the east coast.

On the east coast, in response to the Marshall decision of the Supreme Court of Canada, there was an initiative where a lot of commercial licences and fleets were purchased and transferred to the native communities. There were a few problems, but in my experience it's worked reasonably well. Can you familiarize me with what the situation is on the west coast of Canada in reference to native access to established commercial fisheries?

The Chair: Yes, Mr. B. Duncan.

Mr. Bill Duncan (Business Agent, Native Brotherhood of British Columbia): What has happened on the west coast versus the

east coast is there has been some money poured into what is called an allocation transfer program. Here on the west coast it has had a budget of around \$4 million. That doesn't buy much.

Hon. Shawn Murphy: Is that all they spent?

Mr. Bill Duncan: That is per year. It's been going since 1992. In the last ten years there might have been \$40 million, whereas on the east coast I believe they poured in something in the neighbourhood of \$175 million or so.

Hon. Shawn Murphy: I think you're right.

Mr. Bill Duncan: So there is a big difference in what has happened, and it is a gradual program here, but it doesn't have much money to do anything.

What does happen is that DFO buys the licence and then transfers that to a first nation and the characteristics of that licence change. It becomes a communal licence.

The licences transferred for the salmon fishery are really not worth that much because there is so little time. I think the actual fishery for salmon on the south coast here was something in the order of one day for sockeye and two days for chum—hardly a way to make any money.

That's the big difference between the east coast and west coast. I know DFO didn't pour a lot of money into it.

Hon. Shawn Murphy: Has there been aboriginal access into the halibut fishery on the west coast?

Mr. Bill Duncan: Yes, as a matter of fact, there has been.

It has been a while; I used to work for the department too. I retired five years ago.

Something in the order of probably in excess of 5% of total allowable catch has been transferred to bands.

Hon. Shawn Murphy: Is that fishery working reasonably well?

Mr. Bill Duncan: The halibut fishery? Yes.

Hon. Shawn Murphy: I'll just throw the question out to get your response.

We've been here for a day and a half now. We've heard monumental evidence about native overfishing, unauthorized harvest of salmon in the river above Mission. Do you have any recommendations or advice to this committee to try to deal with the issue?

This is getting right to the heart of the conservation of the resource and the overarching principles of the Department of Fisheries and Oceans. I know there have been a lot of complaints about the Department of Fisheries and Oceans, but the fundamental principle has to be the conservation of the resource and the sustainability of the industry. It seems that the food, social, and ceremonial right, which we all acknowledge, appears to be, if you believe the evidence we have heard, tremendously abused by certain people, albeit a minority.

Do you have any suggestions or comments or advice to the department or this committee?

Mr. Bill Duncan: The initial response is yes, as far as what DFO is doing, all the evidence points to a lack of enforcement. That's a major problem coast-wide and in the river. I think it's tantamount to a collapse of the fishery when you get into that. There aren't that many, but there are a few around.

On a personal level, yes, there are abuses. We know that. It is the level of abuse that I question. I don't think there's that much. It's non-native as well.

On the level of abuse, I don't know. I don't think it's that great. To have a million fish disappear, or even two million, or whatever it is, I think it's pretty hard to fathom that this can be taken out of the fishery.

That fishery that happens in the Fraser River above Mission is a 10-fathom net, 60 feet long.

•(1220)

Hon. Shawn Murphy: They're drift nets, are they not?

Mr. Bill Duncan: That's only a minor part of it. The bulk of the fishery is set nets.

Hon. Shawn Murphy: If I could interrupt, we've heard evidence this morning, from not only one person but a number of people, that there are a lot of drift nets used by bands above the Mission station, and these are supposed to be illegal in the fishery in these parts of the Fraser River. There doesn't seem to be too much in the way of enforcement, but you don't see this as a major problem.

Mr. Bill Duncan: Drift nets?

Hon. Shawn Murphy: Yes.

Mr. Bill Duncan: I personally don't have any experience with it. I've been up there, and yes, there are all kinds of what they call "set nets". A lot of fish farther up the river are fished with dip nets. So that is fairly selective.

As to the number of drift nets, I don't know. I don't know how big it is, but I will take the point of view of the people who live on the river that it does happen. Sure, it does happen.

I've heard of confrontations, but I haven't heard the magnitude of that. Still, we are dealing with a 10-fathom net, regardless, because that is the limit imposed by DFO upon the fishery itself.

Hon. Shawn Murphy: Your answer seems to be that more enforcement is required by the Department of Fisheries and Oceans.

Mr. Bill Duncan: It's definitely lacking now.

Hon. Shawn Murphy: Thank you.

Nothing further, Mr. Chairman.

The Chair: We're going to have questions en français from Monsieur Roy from the Bloc Québécois for five minutes.

[Translation]

Mr. Jean-Yves Roy: Thank you, Mr. Chairman. You seem somewhat surprised.

You said earlier, Mr. Duncan, that whenever something goes wrong, fingers are pointed at first nations. You were not in the room at that time, but I asked a question and all groups answered that a majority of first nations peoples are in favour of conservation and that the problem originates with one group in particular out of 97. I

would like to know if you represent this group which, according to recreational fishers, causes the major problem.

[English]

The Chair: And that's the Cheam Band.

Mr. Josh Duncan: In response to your question, Mr. Roy, no, I do not represent that organization. As it stands today, I don't think the Native Brotherhood of B.C. represents any of the first nation bands being accused of illegal fishing. This is the problem I reiterated earlier about the structure and the DFO's incompetence to sit down at the table with the first nations people of B.C. for the Fraser River sockeye and other fisheries as well.

•(1225)

[Translation]

Mr. Jean-Yves Roy: I do not want to presume anything, but I believe you would agree with a recommendation made by the Standing Committee on Fisheries and Oceans in 2001 about the salmon fishery in the Fraser River. I am going to read slowly to you this first recommendation:

The Committee recommends that DFO return to a single commercial fishery for all Canadians, in which all participants in a particular fishery would be subject to the same rules and regulations. Consequently, DFO should bring to an end the pilot sales project and convert current opportunities under the pilot sales program into comparable opportunities in the regular commercial fishery.

In other words, the Committee said that all citizens who partake in the same fishery should be treated the same way and be subject to the same rules. Do you agree with this recommendation made by this committee in 2001?

[English]

Mr. Josh Duncan: In response to your question, Mr. Roy, for me as an individual, I do not agree with the recommendation that pilot sales be removed. Is that what you're asking, that pilot sales be extinguished?

[Translation]

Mr. Jean-Yves Roy: It is part of the Committee's recommendation, but the first part of it contains the following words: "All participants in a particular fishery would be subject to the same rules and regulations". Do you agree with this part of the recommendation?

[English]

The Chair: Mr. B. Duncan.

Mr. Bill Duncan: Going back to the beginning of what is known as pilot sales, in 1992 the department bought up 75 seine, gill net, and troll, and then through its analysis it converted that to what is called sockeye equivalents. The basis for the fishery we have today was based on that allocation. It's been a while since I left the department, but I think the figure is something like 175,000 sockeye equivalents were transferred to the lower Fraser, and that was the basis for the fishery. Because DFO did that, it had to be a different fishery, since below Mission I believe the natives were allowed to fish with a 50-fathom net; above Mission it was a 10-fathom net.

[Translation]

Mr. Jean-Yves Roy: Mr. Duncan, your answer deals with pilot sales and I understand your point. However, I would like to know what you think about the first part, which says that all participants in a particular fishery would be subject to the same rules and regulations as the rest of the industry.

[English]

Mr. Bill Duncan: Yes, I concur with that.

[Translation]

Mr. Jean-Yves Roy: Thank you.

The Chair: Thank you, Mr. Roy.

Mr. Cullen, you have five minutes.

[English]

Mr. Nathan Cullen: Thank you, Chair, and thank you to the witnesses for their testimony.

I think you were here for most of the testimony that preceded you. Is that correct? Maybe it was for half.

My first question is just a request for any particular comments you have. You mentioned at the beginning of your statement—and I forget the word you used—it was not a hostile environment but an uncomfortable environment to come into. I'd like to understand specifically what you meant by that, and if that's directed toward the accusations.

I have two more questions, so if that answer is short, that would be better.

Mr. Josh Duncan: In relation to my comments earlier about past relationships of commercial fishermen to the sports fishing industry and of first nations to the sports fishing industry, I am a commercial fisherman, as I mentioned before, and when I go out every summer with my seine vessel to capture fish for the community, I always get out to the fishing grounds and hear strong accusations about our people from the sports fishermen themselves. They sit out there on their boats on the fishing grounds and there have been instances in the past when they have blocked me from my setting location. Even during the set they've run inside my net. They always scream and cry that it's not fair, that Indians shouldn't be allowed to fish for food fish here.

But in another case, back at home on the Campbell River, every year we're entitled to fish on the river for chinook and coho that our people use for smoking in the fall in the smokehouse. Even so, last year I went out on my river and captured 42 chinook to an escapement I believe of 8,000 pieces, and the story that came out of this was phenomenal. I had a lady who came down and ran over my net again, 10 fathoms long. All I wanted was enough fish for me and my family to harvest, and it was only something we do once a year. After that incident the media was there and DFO was there. Of course there were comments made by the sports fishing industry in relation to natives fishing in the river. That was the first time in over 56 years that a band member of my band fished in the river.

In the past and just this year there has been a lot of finger pointing between first nations and the commercial sector, and in my opinion that finger pointing leads us to the same place we are today in

discussions. I don't want to sit here and point fingers at the sports fishing sector either, but we need to find a common ground and a common resolution to this fishery on the coast of B.C.

• (1230)

Mr. Nathan Cullen: I absolutely agree.

Some of the testimony was very focused earlier today with respect to what was going on in the Fraser with these drift nets and a specific band. You mentioned numbers and numbers missing. There have been comments made to me that we don't record what's coming out—and let's take a look just at the Fraser—with respect to first nations fishery on the Fraser, so we'll never know the numbers, and that DFO and first nations have to get together and actually record those properly. I'm wondering if you have any comment to that.

Mr. Josh Duncan: My comment to that and to the speaker before, Mr. Roy, is I want to go into the pilot sales program briefly. The term “pilot sales” should be removed. The pilot program was removed a few years ago, and now we're in an economic opportunity fishery. Now is the chance for DFO and for first nations to sit down and put together a strong paper of organization and of design, a structure in these fisheries.

You are right, we don't know the number of nets in that fishery. Before being elected as the president of the brotherhood, I attended many fishery meetings for the past five or six years, and every year you'd hear a different story coming from the river. Last year I heard that on a given weekend there were almost 800 nets in the river. I don't know this. DFO doesn't know this. That is coming about because of the lack of enforcement on the river.

Mr. Nathan Cullen: I'm sorry to interrupt. It seems a bit that there are intimidations made. It's not so much the lack of enforcement. That's part of it as well, but there is a fear factor going into this. What was suggested in testimony earlier is that DFO doesn't want to take on the confrontation. We don't want a Burnt Church.

There is a pivotal cause. Perhaps it's the bad apples, but whatever it is, there is a reluctance to have it out, in a sense. If all that I heard this morning or even half of it were true, just with respect to the drift nets.... The paper has been submitted as to when there was legal drift-netting allowed, and there are all these observations made about other times when drift nets were out there, which is in a sense illegal—not in a sense: it is illegal. First of all, do we accept that?

Second, I have a comment on the impact of what seems to be the Cheam pushing the boundaries, as it were, and challenging DFO. The challenge is such that they're being permitted to do it. That is the testimony I heard today.

In your mind, is that true, and if so, how do you get around it?

Mr. Josh Duncan: With respect to the Cheam, I don't know the full background on their movement to try to extend their boundaries and their fishing operations in general. I don't know the full scope of their fishery. It is something we as the Native Brotherhood of B.C. are trying to get involved with—not to develop it, but just for our sake, for numbers.

As a brotherhood we are expected to speak on behalf of all of the first nations in B.C. Yet many of these first nations, who have programs put in place by DFO, and promises put in place by DFO with regard to treaty measures, will not come to us and speak on these issues.

I have a strong feeling of discomfort around DFO, and distrust now. I think for a lot of first nation organizations, that is the number one issue: mistrust, and the trust issue with DFO itself. As first nations, we have been promised many things by DFO; with respect to the farm fishing, it is the same thing.

Yes, the first nations on the river were promised fish and an economical opportunity to sell, but there were no real guidelines put in place for those fisheries to take place.

●(1235)

The Chair: Thank you, Mr. Cullen.

Just before I go to Mr. Kamp, perhaps you could help me here, Mr. Duncan. You just said you think it's your job to represent the first nations of British Columbia.

Mr. Josh Duncan: That is, the coastal first nations.

The Chair: Does that include the first nations of the Fraser River?

Mr. Josh Duncan: At one point it did, but now they've broken off into what is known as the B.C. Aboriginal Fisheries Commission.

The Chair: Why is that DFO's problem? You're saying you don't trust DFO. I must have missed something in your evidence. You may not trust DFO, but the fact that you don't speak for the bands of the Fraser River has nothing to do with DFO, has it?

Mr. Josh Duncan: The program is federally funded in the river, if that is what you're asking.

The Chair: No. You would like your organization to be able to speak, I gather, for all the first nations of British Columbia. That is not the case today because the first nations of the Fraser River have removed themselves, I gather, from the Native Brotherhood. Is that correct?

Mr. B. Duncan.

Mr. Bill Duncan: The brotherhood has been around since 1931. Fifty years ago, representation throughout the province extended into the Fraser Valley. There were a lot of commercial fishermen.

I can recall doing some research from 1954 to 1957, and the total membership of the Native Brotherhood was 4,600 people throughout the coast. Part of that included the Fraser River and up through Squamish and in the far reaches of the Skeena. Today there isn't the participation—there are some, but very few—of those who actually fish the Fraser River.

As members of the brotherhood, essentially we are dealing with a coastal fishery, and no river fisheries per se.

The Chair: Thank you for that clarification. But how does that relate to DFO and not trusting DFO?

Mr. Bill Duncan: I think it's a general mistrust, period.

The Chair: Okay, thank you. I have it clear.

Mr. Kamp, you have five minutes. Then it will be Mr. Keddy, and then Monsieur Blais.

Mr. Randy Kamp: Thank you, Mr. Chairman.

Thank you, gentlemen, for appearing. I think you've told us some things that are important for us to hear.

I just have one question—really of clarification—and then I'll pass it over to Mr. Keddy.

Mr. Duncan—Josh—near the beginning of your testimony you mentioned the figure 600,000 as the figure used for missing fish. I wonder if you could clarify where you got that figure, who gave it to you, and how it relates to the truth. Obviously, the truth of what we're trying to find here is what happened to the missing fish; that is the specific objective. We've heard other larger figures, so I would just like a bit of clarification there.

●(1240)

Mr. Josh Duncan: Yes, Mr. Kamp. Yesterday I received information. I have it here; I can make a copy available to the committee. This is what I received yesterday in Nanaimo from DFO, in the south coast advisory board post-season review. It goes, in the last page, into post-season escapement discrepancies, and it breaks down the runs. It gives a total number of fish missing of 600,000, roughly.

The Chair: And you will make that document available to us?

Mr. Josh Duncan: Yes. I believe I have one copy without my scribbles on it that I could—

The Chair: All right. We'll photocopy it and give it back.

Mr. Kamp.

Mr. Randy Kamp: I think that's all I'd like to ask.

The Chair: Mr. Keddy.

Mr. Gerald Keddy: Thank you, Mr. Chairman, and thanks to the witnesses.

Listening to your testimony, I think you've clarified a number of issues. You were probably asked some questions that weren't quite fair to you, such as to comment on upriver fishery, which really you don't govern and may not have enough knowledge about, so I'm going to make my questions a bit more general.

There are three issues here at stake. We've heard, from all of our witnesses so far, a broad recognition of an aboriginal right to fish, which quite frankly in the late nineties I didn't always hear when I was in British Columbia. I think it's much more a given today. What I'm hearing from you and your group, I think, is a recognition of the fact that definitely there are fish that are missing, that allocation hasn't been distributed fairly, and that there's a real serious problem with enforcement.

I just want to go that far at the beginning. Would you agree with that?

Mr. Josh Duncan: Yes, I would strongly agree with the enforcement issue.

Of course, the issue of recognition of first nations for participation in the fishery is also something of a question. I don't remember which speaker it was who spoke on the system being abused. I could sit here for hours to try to come up with reasoning as to why it would be abused, but we as first nations people don't see a sense of a future in it.

We as commercial fishermen and first nations fishermen sit with DFO in these meetings, and we talk about salmon enhancement and the creation of employment for first nations and for non-first nations, but we don't see anything coming forward, from the DFO standpoint. There's a crisis in B.C. now where B.C. fish hatcheries are in limbo. At one time these hatcheries provided a strong sense of future fisheries and future fish, and now these hatcheries are at risk of being shut down. In Campbell River, I know our hatchery is in a really tough situation right now.

Mr. Gerald Keddy: Mr. Duncan, if you could keep your answers brief, I have a couple of further questions.

Mr. Josh Duncan: Oh, I'm sorry. I'll let you....

Mr. Gerald Keddy: Obviously, in the enhancement program there could be a much better job done. I can tell you from experience on the east coast, once the hatcheries are shut down, as ours are, you lose a very valuable tool for multi-sea-winter salmon to return.

Enforcement is a problem, but gear type could be a problem. I'm not saying it is. We've heard witnesses appear before us who are saying there is illegal gear being used. At the end of the day we're supposed to make our decisions on the fishery based on conservation. There are certain rights among aboriginals and among non-aboriginals. There is access to a commercial fishery.

All that set aside, there should be an overriding rule for all of it, and that overriding rule would be conservation. We cannot have a fishery if we do not have salmon that make it to the headwaters to spawn. It looks as if—at least, from the witnesses we're hearing—DFO, because there are larger issues to grapple with here, has ignored its responsibility based on conservation. I think we're seeing that in the headwaters of the Fraser.

But are you seeing it in the coastal waters? Are you getting as many checks, quite frankly? As a fisherman, is there any dockside monitoring? If we've seen a slide in it in the commercial fishery and a slide in the recreational fishery, then I suspect we've seen a serious slide throughout the province.

• (1245)

Mr. Josh Duncan: Yes, Mr. Keddy, you're correct about the serious slide. This year I participated in only two commercial openings in the summer, the only two that were granted, and both days not once did I see a fisheries officer even go by. Budgets for fuel and the consumption of fuel are restricted to those of two years ago.

To give you an instance, a protest fishery took place in the Johnstone Strait. I don't know if many of you know, but in the protest fishery the Zodiacs of enforcement that went by only went by once, the reason being they couldn't afford the fuel.

I was mentioning our guardianship program. We have different sources of funding and different ways of putting money into the program. I'm not speaking about illegal fishing; I'm speaking about

moneys from the governments and other organizations. We have the funding and efforts there, put in place. This is why I raised the question about the guardianship programs, and not only on the coast. There are also guardianship programs on the river, the south coast of Vancouver Island, and the north coast.

The Chair: Thank you, Mr. Duncan.

Monsieur Blais.

[*Translation*]

Mr. Raynald Blais (Gaspésie—Îles-de-la-Madeleine, BQ): Thank you, Mr. Chairman. Thank you to all the witnesses for appearing before us today.

My first question is on a point of clarification in order to get a better grasp of the issue. I took note of one sentence when you said that you had a strong feeling of discomfort around DFO. What causes you to make that statement? What has your experience been? Could you provide facts to explain why you have this feeling of discomfort about Fisheries and Oceans Canada? Why do you not trust the Department anymore?

[*English*]

Mr. Josh Duncan: Thank you, Mr. Blais.

In response to your question, my discomfort with DFO is that historically, we commercial fishermen have cut back on the size of gear and fishing opportunities. The buy-back program was put in our face, which was supposed to reduce the size of the fleet. As I mentioned before, those who stayed in the industry have been conserving for ten years now the stocks of coho in the Fraser River and other tributaries up and down the coast, and now we're at a point where we see the numbers of coho back in most areas.

We still see a small fleet. For instance, the south coast commercial seine fleet is 128 boats; ten years ago that number was at 300 or 400. The size of the troll fleet coast-wide used to be 2,000 or 3,000, which has now been reduced to, I believe, around 1,100. As well, the gillnet fleet was cut down drastically. All of this came with the promise from DFO that there would be more fishing opportunities granted in future for us who stayed in the industry and for those who did not sell their licences, who did not sell their boats. We're fishing in 2004 fewer hours than we fished before the buy-back was implemented. So you can see the concern we have as fishermen, and with DFO as well with the buy-back program in place.

• (1250)

[*Translation*]

Mr. Raynald Blais: In terms of the Fraser River and the salmon fishery, in view of everything we have heard up to now—and which is not new—and the situation that has existed for some time, do you feel the same mistrust and, if so, why?

[English]

Mr. Josh Duncan: With the Fraser River, I presume you're referring to the Fraser report. The Fraser River is something of concern for all first nations and first nations commercial fishermen, in that the people of the coasts who are in the industry have an investment in the fishery. They have bought licences, they have bought boats, they have put themselves financially at risk to be in the industry. When you look at the Fraser River and the in-river fishery, it's hard for us as coastal people to sit back and watch others up the river of the same blood who live under the same Indian Act being able to fish without limit. They're supposed to be in a program that would only allow them to take out a certain amount of surplus from the river, but they exceed it, I guess. And now, because of this year's crisis again, the fingers are directly pointed at the Fraser River aboriginal people.

So in reference to the mistrust there, one of my goals in the brotherhood, as president, is to sit down with the B.C. aboriginal fishing commission to understand more of what is taking place on the Fraser River, so that when instances like this take place in the future, if they take place, we both can speak to what is taking place and why it's taking place. I too feel left in the dark.

The Chair: Thank you for that candid answer, Mr. Duncan.

Mr. Cummins, briefly, if you don't mind.

Mr. John Cummins: Thank you, Mr. Chairman.

The question I wanted to ask was answered quite well just now. I guess the issue is that your organization represents fishermen who, for the most part, own their own vessels and have been full participants in the commercial fishery. I'm not sure from the earlier questioning by some of my colleagues whether that was understood, but I think that's a fair assessment.

I would also add that your members have been very successful. Richard Gregory, former vice-president of B.C. Packers, I think at one time was asked about the top 25 fishermen in British Columbia, and he said more than half would be native. Those probably would have been members of your association. I think those statements are true and represent your organization, do they not?

Mr. Josh Duncan: Yes, I strongly agree.

Mr. John Cummins: I have just one other quick question and a comment.

Mr. B. Duncan, you mentioned the 75 commercial salmon licences that were purchased in 1993. I've got a document here that was prepared for the minister just this year. It is a briefing note referring to the pilot sales in the lower Fraser River. I will just read the bullet. It is only three lines long. It says, "In 1993, as part of the AFS, 75 commercial salmon licences, which harvest the equivalent of 317,189 sockeye, were retired to provide additional fishing opportunities to first nations in B.C." That works out to 4,229 sockeye per licence. My comment is that it's probably been a long time since a gillnetter in British Columbia has seen 4,229 sockeye come aboard his vessel in a year. I think that when there's conflict here, it flows from that. That lump remains the same for one group, and yet the other group have had their access cut back. Is that a fair comment?

●(1255)

Mr. Bill Duncan: I thought it was 1992, but that could be corrected. When the analysis was done, it was based on all gear types. For gillnets, I think the average was something like 2,500 sockeye. There were a few seines bought. That was something in the order of 9,000 to 10,000. I wasn't privy to the economic analysis that was done at that time, but I did work in the department then.

I don't know if that answers your question.

Mr. John Cummins: Even at 2,500, say, for a gillnet licence, with the circumstances under which we've been fishing for the last number of years, most people haven't been able to harvest sockeye in the order of 9,000 to 10,000. I wasn't privy to the economic analysis that was done at that time, but I did work in the department then.

Mr. Bill Duncan: Most definitely.

Mr. John Cummins: Thank you, Mr. Chair.

The Chair: Gentlemen, thank you very much for your evidence. It was greatly appreciated. I am sorry for making you wait a little longer than otherwise.

Colleagues, speaking of waiting, I'm trying to keep us more or less on course, but we're a little behind. So we are going to return here at 1:45 to hear panel number 8, the union. But before you leave the room, would you join me up here for a minute? I just want to talk to you briefly.

I will suspend the meeting. Thank you.

●

_____ (Pause) _____

●

●(1345)

The Chair: I'm reconvening the meeting.

We're beginning this afternoon with the United Fishermen and Allied Workers Union. We have Mr. Garth Mirau.

Hi, Mr. Mirau. You have someone with you. I would appreciate it if you would introduce that person and their title.

Mr. Garth Mirau (Vice-President, United Fishermen and Allied Workers Union): I will. This is Mr. Mike Emes. Mike is a member and a fisherman. He fishes on the north coast. He's a gillnetter.

The Chair: Great.

I've convened the meeting on time, because we have a lot of witnesses we want to hear from. So you're going to see members drift in. Don't let that in any way affect your presentation.

We'll give you ten minutes to start, and then no doubt there will be questions from many, if not all, of the members.

Mr. Garth Mirau: Thank you, Mr. Chairman.

I guess I should start by welcoming you to the centre of the universe. You're not really in it; it's 35 miles to the west of here, on Vancouver Island, but you're close.

I'd like to start by thanking the members of the fisheries committee for taking the initiative to visit in person and to hear the many differing views on what happened this past summer before, during, and after the Fraser River sockeye fishery.

With your indulgence, I'd like to approach this from a different place, perhaps, from that most of the presenters will take or have taken. The union has forwarded to the committee copies of a paper we sent to the minister, Geoff Regan, on November 16. I hope you've all had an opportunity to look at that paper. In the paper, which we see as an alternative to the McRae-Pearse report, we make a case for changes to licensing that, if implemented, would address many of the problems the committee has travelled to the west coast to investigate.

In a 1988 report from DFO entitled "British Columbia Salmon Fleet Financial Performance, 1981- 1985", the first paragraph of the introduction reads:

The British Columbia salmon fishery is one of the most valuable in the world. The industry makes a significant and longstanding contribution to the economy of the province. It is especially important to many isolated communities as the main source of income and employment.

Further along it says: "...the average wage of crew members over all four fleet components is substantially above the average wage in the province.

A mere six years later we hear from the same DFO that there are too many boats chasing too few fish, and the infamous Mifflin plan was introduced, with resulting job losses and devastation to our coastal communities, both first nations and others.

There'd been other things happening as well. A shrinking budget forced many changes in the way DFO operates. This resulted in a lack of enforcement and a reluctance on the part of DFO to proceed with charges in many cases, because of budget constraints. Sometimes highly trained fisheries officers did not have the resources, even fuel, for instance, to do the job they were trained for. Managers had to make decisions based on budgets rather than fish at a time when they were expected to deliver fish to many more places without the information required to make rational judgments. The AFS strategy, interim agreements, pilot sales, area and gear licensing all contributed to this complicated and sometimes impossible situation. Salmon fisheries no longer operate in the approaches, so DFO is really left without any certainty, or even any idea in some cases, regarding run sizes, timing, and approaches until the fish are already in the system.

I have to look at this from the point of view of a fisherman. This is what happened in the Fraser River just in the last four years. In 2001 we had a total run of nearly 30 million salmon. There was very little commercial fishing. In 2002 there was a near-record return of sockeye, more than 15 million by DFO's count, perhaps 20 million or more. We'll never know for sure, because DFO simply didn't have the people or the funds to put people on the grounds.

The other side of that is, with the massive over-escapements, what happens in 2006? Will there be any returns at all? Did the massive returns result in fishing opportunities? No, they never did, not really. They did result in at least two demonstrations and more than 40 charges against fishermen. They also resulted in an external inquiry led by the very person who is in charge and has been responsible for Pacific region management and policy since the 1980s, the same

person who was in charge in 1992 and 1994, when there were inquiries into missing fish.

In 2003 sockeye was curtailed early because of a 15% ceiling on late runs. Over 20 million fish, including pink salmon, returned to the river. How does a 15% ceiling get to be a target? There were 20 million pinks not harvested. In 2004 there was another inquiry into missing spawners. Does anyone know what happened to them? Will anyone ever know? How can we ever know unless someone has the ability to call witnesses and swear evidence? Otherwise, you get stories, lots of them, and you've heard them for the last two days, but all they are is stories.

DFO talks about warm water overfishing. Where? There was no fishing in the early Stuarts, and they arrived on the spawning grounds in numbers of only about 10% going past Mission.

• (1350)

Was the count wrong? We've heard that before from DFO and the panel. The problem with this is that any other time it was raised, it was discounted.

There's no doubt there was warm and very low water this past summer. Part of the reason for extremely low water has to do with DFO not protecting habitat around and along streams in the past, and the logging, farming, development, and all the other things that go on in our watershed. Extreme high use of water for irrigation and other uses in the interior contribute to high temperatures as well.

We do know that the gill net fishery in area D, Johnstone Strait, indicated a large body of sockeye. There were near record catches, if you look at catch per unit of effort. There was very good fishing for seines in Johnstone Strait when it opened for them. There was very good fishing also for area H trollers, in the Gulf of Georgia. In the Fraser itself, it was the same thing as with the area E gillnets. In fact, in a two-hour fishery in August, they caught three times what DFO and the panel expected would be caught.

As an aside, at a recent Commercial Salmon Advisory Board meeting, a recently retired DFO official, now contracted by the province, told us that if we don't look at quotas or something else, these kinds of fisheries will never happen again. The answer from the area E representative, that we leave the fish to spawn, I think indicates not greedy fishermen but a department that has no idea what it's doing.

Good fishing by all gears, as happened this summer, cannot happen if there are no fish. There's no doubt the missing sockeye were present up to some point. What happened to them is the question. Some blame first nations. That's a lot of fish to put in pickup trucks. Some blame warm water. There was no sign of mortality anywhere.

Some in DFO have told me of large bodies of sockeye holding in the mouths of creeks along the Fraser. But where did they go? Did they die? There is no sign of that.

We're joining others in calling for a judicial inquiry. Without one, we'll likely never know. Furthermore, we will continue to lurch from crisis to crisis. There are many reasons to believe those in DFO Pacific region and those responsible in Ottawa for Pacific region have no vision for fisheries beyond getting through this day, this meeting, this season.

We do believe part of the reason for that is budget constraints. There's a mentality in DFO and here in the Pacific region that if you do not agree with them, you are the enemy. We should all be interested in the good of fish, no matter what. That's always been our position.

The recent story regarding harassment and discrimination internally in DFO also points to the need for changes. If the managers act toward their colleagues in this manner, would anyone be surprised that this is their attitude with others who disagree with them?

The committee coming to B.C. to investigate what happened this year to the missing fish will not, at the end of the day, change anything. The inquiry just announced by the minister, with an independent head, and the integrated salmon harvest committee shows just how disconnected this department is—no budget, no idea of what's expected.

The salmon harvest committees that grew out of the 2002 sockeye review, and from which the Commercial Salmon Advisory Board is drawn, really do not know what they are expected to do. I do not know of anyone on the committee who was contacted ahead of time to see if they would participate. I'm on the integrated salmon harvest committee, and no one called me to see when I'd be available even to meet. When the minister says that those who are on the integrated salmon harvest committee will be part of the inquiry, that is simply nonsense. However, the union will participate in some manner if it goes forward.

We are asking the committee to support our demand for a judicial inquiry, but not just into the missing spawners in 2004. We need a judicial inquiry into the actions of DFO in the Pacific region over the last number of years. We need an immediate end to changes in licensing.

You'll remember that the minister takes his advice from the managers in Pacific region. This isn't an attack on the minister. Certainly I'm not shy, though, about saying that this is an attack on the bureaucrats in Pacific region.

If there is a judicial inquiry called into the actions of DFO bureaucrats—and I believe this is bureaucratically driven, not politically driven—we intend to present a list of our concerns to the inquiry.

One, we believe the minister should immediately announce a policy change in DFO that will make it mandatory to take into consideration socio-economic impacts in the decision-making process.

● (1355)

Two, we believe the minister should immediately announce that area licensing for salmon in B.C. is discontinued, and that for the 2005 season there will be coast-wide licensing.

Three, we believe the minister should provide access to capital to develop community licence banks to redress the disenfranchisement that happened in the past.

Four, we believe the minister should immediately announce an owner-operator and fleet separation policy, and immediately begin a process to allocate back to licensed fishermen access to fisheries that were taken from all A licences and reallocated to others.

Five, we believe the minister should immediately make representation to the cabinet and the House of Commons to reinstate a budget for DFO operations that allows DFO to fulfill its obligations to manage fish and protect fish habitat.

Finally, we believe the minister should immediately announce that DFO is going to enforce the Fisheries Act as it relates to the aquaculture industry, and the needs of wild fish should be put first.

I've heard some on the committee voice some concern about a judicial inquiry and what that might mean. I want to make it clear to you that fishermen are willing to take their chances on that. At the end of the day, I think we'll be proven right.

Thank you very much.

● (1400)

The Chair: Thank you, Mr. Mirau.

We'll start the questioning with Mr. Hearn.

Mr. Loyola Hearn: I'll defer to Mr. Cummins.

The Chair: All right.

Mr. Cummins, for ten minutes.

Mr. John Cummins: Thank you, Mr. Chairman.

Mr. Mirau, I want to thank you for appearing today.

On the call for a judicial inquiry—we've heard it from many groups over the last two days—is it fair to say that people are calling for a judicial inquiry to end the finger pointing, to identify solutions, and to ensure that the fish will be saved for future generations? That's really what's behind it, I think. People are just tired. They're fed up with the ongoing bickering back and forth between this group and that group, blaming this bunch and that bunch. They just simply want, once and for all, to end the discussion and identify the problem.

Is that a fair comment?

Mr. Garth Mirau: I think that's right, Mr. Cummins. I took the liberty of bringing the draft minutes from a Commercial Salmon Advisory Board meeting, which was set up actually by DFO to somehow give advice on fisheries. At the last meeting, one thing everybody in the room agreed on, and there was a motion, was that the CSAB propose that there be a judicial inquiry into the returns of sockeye salmon to the Fraser River in 2004.

Perhaps I can just expand a little on that. I think it's important that we understand what happened, but unless we get to the root of the problem about why we are, in 1992, in 1994, in 1999, in 2002, and again in 2004, having inquiries into what happened to missing fish, or other management issues....

That certainly points to a problem in the Department of Fisheries and Oceans. I think it speaks volumes that they expect the CSAB to participate in the inquiry even while that same board is calling for a judicial inquiry.

Mr. John Cummins: It does. And I guess I was rather intrigued by your comment that, as a member of the integrated salmon harvest committee, there was no forewarning that the committee was going to be asked to conduct any kind of investigation.

That said, we heard from another harvest committee member yesterday that part of the problem in having that group examine what went wrong is, number one, the size of the group, at 30 members, and number two, the issue that about six or seven identifiable groups are in there—commercial fishermen, recreational fishermen, aboriginal groups, the province, and so on. Everybody has an agenda, and everybody's bringing that agenda to the table. In that sense, it would make it very difficult for the group to properly investigate it, to leave their prejudices, if you will, behind, and seek a solution.

Is that your view as well, that it would be very difficult for that group to function effectively?

• (1405)

Mr. Garth Mirau: Absolutely. There is no question about that. I can't imagine who came up with the idea of giving that kind of advice to the minister without understanding the diverse thoughts on that committee, because it certainly is a diverse group. We all tend to bring our own agenda to the meeting, as I brought mine today. I wanted to talk about something broader than just the missing fish—so yes, we do that.

Mr. John Cummins: Any group you talk to says there's a problem at DFO, whether the Native Brotherhood we had before lunch, the sporties, the commercial guides, and the other groups to come. Everybody looks and says the problem is systemic and that, yes, there are a lot of good people at DFO, but that it's a problem that just seems to be inherent to the department, and that some structural change or some new direction is needed.

Part of the problem, in the view of some, is that the department doesn't promote from within; it can bring managers from outside the department and plunk them down and say, "Now you're a fisheries manager". Is it that sort of thing really the problem here? Yes, there may be some good people at the core at DFO, but the structure and the way it has been abused is making it dysfunctional.

Mr. Garth Mirau: I would agree with you completely. In my speaking notes, I think I referred to the person who's been in charge, basically, of the Pacific region, and really has had his finger in every single management change that has happened in DFO in the last twenty years, and that's the former deputy minister, Pat Chamut. I believe there is a reign of terror in Pacific region, and I believe the senior managers are behind that.

I have had calls since the release of the Pearse-McRae report about threats made to individuals who have been voicing their concern about the lack of consultation, the lack of clarity, the lack of anybody having any input into the original consultations, which were very tiny and negative. They heard negative comments about ITQs, but those never appeared anywhere in the report. I've been told by people in DFO that when they voiced this at their own internal management committee meetings, they were told they'd better be

quiet about it or they would see themselves buried, with their heads never to rise again.

So those are the kinds of things that I'm sure are going on; otherwise, I can't imagine why they would tell me, of all people.

Mr. John Cummins: You mentioned in your comments that the committee wouldn't change anything. I tend to concur. I think the committee has a job to do. I think that in the past it has done a pretty decent job, considering the constraints we operate under; we're limited in time and we've got limited research abilities. But overall, I think the committee is well intentioned and we try to do the best we can.

My view and my hope of the end result, I guess, of the committee's hearing this time is not that the committee is going to apportion blame here, but that the committee would see fit to recommend a judicial inquiry.

What do you expect from the committee's report?

Mr. Garth Mirau: I am hoping that the committee will recommend a broader judicial inquiry into more than just the missing spawners this year, but will recommend a judicial inquiry into DFO action in the Pacific region.

I agree with you, Mr. Cummins. I have a great deal of respect for this committee. I've appeared before it a few times. If I didn't have that respect I wouldn't have bothered making many phone calls to James, as he will attest, trying to appear before the committee. If I didn't have that respect, I certainly would never have done that. I think this is probably one of the better committees in Parliament.

Thanks to you, I did lead a letter-writing campaign with my colleagues, on both the east and west coasts, so that the fisheries committee could remain on its own. I think it does serve a useful purpose.

My concern is that in the past the minister got his advice from the bureaucrats I'm talking about, and he pays more attention to them than he does to this committee. I think that's a shame.

• (1410)

Mr. John Cummins: Thank you very much, Mr. Mirau.

The Chair: Thank you.

Mr. Murphy.

Hon. Shawn Murphy: I thank the witnesses for appearing. It's certainly been an interesting day and an interesting discussion.

I want to follow up on your recommendation, Mr. Mirau, the request for a judicial inquiry. I'm not going to speak against it, but I'm not so sure the industry has the two years to wait and go through the time and the lawyers. If I hear what you're saying, you sense a total lack of leadership in fisheries management policy on the west coast. Is that correct?

Mr. Garth Mirau: That's what I believe.

Hon. Shawn Murphy: You also sense insufficient funding, a lack of strategy, and certainly a lack of clear rules as to fisheries management, especially no clear rules as to the aboriginal food, social, and ceremonial purpose fishery.

Mr. Garth Mirau: I didn't say there were no clear rules on first nations issues. What I said was that I don't believe there are any clear rules or clear policies on anything, and I do believe fisheries policy in the Pacific region is simply to get through the day, through the meeting, through the season. I don't believe there is a vision at all. The director general is going to be here tomorrow, and if you ask him what fisheries policy is in the Pacific region, I don't think he will be able to give you an answer—cost recovery, certainly, and conservation, those two things, and that's all.

Hon. Shawn Murphy: But the policy has to be conservation and sustainability of the resource—

Mr. Garth Mirau: Absolutely.

Hon. Shawn Murphy: That has to be the policy, the overarching consideration.

The minister did announce the Williams commission, headed by retired Chief Justice Bryan Williams, with a panel of, I think, 30 members, which sounds awfully large to me. You don't see this being effective in dealing with the situation?

Mr. Garth Mirau: I've yet to talk to anybody in person; I've had a couple of e-mails. I think it's very unwieldy. I can't imagine 30 of us sitting down in a room and coming to an agreement on anything. You've heard the wide range of views in the last day and a half just on the one small fishery, so I have no faith in that process at all.

Hon. Shawn Murphy: This issue's been studied to death. We had the Pearse report in 1992, we had the John Fraser report in 1994, we've had a couple of other studies since then. Of course, this committee, I thought, wrote a very good report tabled in 2003; I wasn't on the committee, but I read it. I don't see us changing the recommendations that much, though they don't seem to have been followed. From everything I've heard so far, I don't think there'd be any new recommendations compared with the ones we made before. What makes you think that if we go through a \$40 million budget and a two-year process and a judicial inquiry gives a report, things will change?

Mr. Garth Mirau: Mr. Murphy, with all due respect, I don't believe the judicial inquiry should take two years. If it got up and running, if the minister decided that it was going to happen, I'm sure it would happen faster than that. But you said it. You could dust off all the other reports and you'd come to the same answer I'm convinced you're going to get from the inquiry we're looking at now. Whatever the results are, the bureaucrats in DFO... Because this is very much bureaucratically driven. The downturn in fisheries, the privatization of fisheries, shutting down of coastal communities, all of those things come from the bureaucrats, not the politicians. I can't imagine any of you people going back to your constituencies and saying, you know what I'm going to do? I'm going to shut down the fishery—most of you are from fishing communities—I'm not going to replace it with anything, I'm not going to give you the help the community needs to survive—and by the way, I want your vote. I don't believe any politician would do that. I don't believe the minister is doing that. I believe there's a problem in the bureaucracy, particularly in the Pacific region, and I think the only way we'll ever get to the bottom of it is with a judicial inquiry.

•(1415)

Hon. Shawn Murphy: Believe me it will be two years. You can challenge me if you want, but I'm very confident in that statement.

And it will be a very complex, convoluted, lengthy process. My biggest fear is that at the end of the day, the judicial inquiry will make the very same 10 recommendations this committee made in June 2003. He or she may be able to make it into 20 recommendations saying the same thing, but that's my fear, and we'll be no further ahead.

Mr. Garth Mirau: From my view of a judicial inquiry, I believe we would be further ahead. For one thing, I hope it would be able to order some changes if they're needed, and somebody would have to pay attention finally to a report, rather than just putting them aside and letting them gather dust, which is what's happened to all the other inquiries into fisheries—on both coasts, I might say.

Hon. Shawn Murphy: Pardon me?

Mr. Garth Mirau: I would say on both coasts that's happened, if we think about the cod collapse on the east coast and the advice these same bureaucrats were getting about the problem, but wouldn't act on. I believe, Mr. Murphy, there are some really entrenched problems in DFO, and we'll never get to the bottom of it and never change it until it's too late. The fishery will be privatized. It will be run by somebody else, and then it's too late.

I heard an interesting speech the other day from a young woman from Venezuela. They took back their government, as you know, recently. The government of the day is doing three things that she talked about: they're trying to implement some public health care in Venezuela, they're trying to implement public schools for all the children, and they're repatriating their fisheries. That's what we have to do. We have to repatriate our fisheries for all Canadians, for everybody. The fish belong to Canadians. It's a common property resource, and all Canadians should benefit from that resource, not just a handful of investors who work hand-in-glove with DFO bureaucrats.

Hon. Shawn Murphy: I have nothing further, Mr. Chair.

The Chair: Thank you.

Mr. Mirau, this may seem like a flippant question, but I don't mean it to be so. If you have no faith in this committee that is going to be studying it led by chairman Williams, why take part?

Mr. Garth Mirau: Not to take part, Mr. Chair, is saying I give up.

The Chair: Would it not be a message that you have no faith in that particular committee? And if everybody didn't take part, it wouldn't happen, and that would send a message to the minister.

Mr. Garth Mirau: I agree with you on that one, Mr. Wappel. If that happened, I would be glad to join those other people in boycotting it.

•(1420)

The Chair: Doesn't somebody have to take leadership?

Mr. Garth Mirau: I'm willing to do that. That's one of the positions I'm going to put forward on Tuesday morning, when we have our first opportunity, by the way; I have to do it from somewhere else on a telephone, which doesn't work that well. So I agree with you. But you know, if there are 30 people on the committee and the fishermen's union decides to walk away, we're on the outside of the tent looking in, and that doesn't work very well.

The Chair: Let me be clear. I'm making no recommendation, I'm just asking a question.

Mr. Garth Mirau: I know that. Thank you. I appreciate that.

The Chair: Okay.

We now go to Monsieur Roy.

[Translation]

Mr. Jean-Yves Roy: Thank you, Mr. Chairman. If I understand you correctly, it is only a suggestion, but it is nevertheless an excellent idea.

Mr. Mirau, I am going to read a quote and tell you afterwards where it comes from. The frustration about the 1994 crisis is due in a large part to the fact that no one, neither government, nor the experts, nor the review committee, know precisely what happened nor how...

Do you agree with the quote I just read?

[English]

Mr. Garth Mirau: I agree with you.

[Translation]

Mr. Jean-Yves Roy: This quote is from the public review board on Fraser River sockeye of 1994. It shows that the situation has not much changed. Ten years later, we find ourselves exactly in the same spot. I understand your frustration. It is perfectly natural. It is as if time had stopped and we woke up suddenly ten years later.

I want to ask you a question about the Williams Commission. You said, in answer to a question from Mr. Cummins or Mr. Murphy, I believe, that differences of opinion are so wide that it will be unworkable. In your view, these 30 people have such divergent views and interests that it will be absolutely impossible for this Committee to succeed. If I were the minister of Fisheries and Oceans, it is precisely the type of committee I would set up and I am going to tell you why. All considered, the type of message that is being transmitted—I do not agree with it—is this. Tell me if you believe that this is true.

Division allows to do nothing. As long as you do not agree amongst yourselves, the Department will do nothing.

Do you think this is what is happening presently?

[English]

Mr. Garth Mirau: Absolutely, and I think that's why the bureaucracy is giving the minister the advice that they're giving.

[Translation]

Mr. Jean-Yves Roy: Therefore the solution must also come from yourselves. People are involved in the fishery. As long as you remain divided and unable to collectively protect your interests, this situation will go on.

[English]

Mr. Garth Mirau: You're right about that too.

[Translation]

Mr. Jean-Yves Roy: Thank you.

[English]

Mr. Garth Mirau: If I may, Mr. Roy, we have attempted to give some leadership to some changes, and we believe there is a better way to do fisheries. We believe that the fishery should benefit the people who work in the fishery rather than investors.

We think that first nations and others should be able to work together, rather than the situation we find ourselves in now, where DFO has put, for instance, my friend Arnie Narcisse, who you're going to hear from next, in a box and us in another box and somebody else in another box. As a result of that, we have such a fracture out there that we can hardly sit in the same room and agree on anything, and that plays well into the bureaucracy of DFO.

[Translation]

Mr. Jean-Yves Roy: Mr. Mirau, although we do not know the real cause of the problem in the salmon run this year, everyone among your people has his or her own idea. Almost everyone reaches the same conclusions. There might be some variations in scientific data, but everyone among your people who is involved, among your groups, knows the reasons.

Instead of relying on the Williams Commission or on a judicial inquiry that will hold hearings for two years, would it not be better if all of you sat down together to produce a document describing the situation and outlining the conclusions reached by all the people involved? Rather than waiting for the government to provide leadership and produce a report, it might be preferable for you to take leadership and to produce such a report. It would involve everyone, which would be ideal.

• (1425)

[English]

Mr. Garth Mirau: I agree, and we have started to do that. We have started to build a coalition to do that very thing with first nations, with the recreational harvesters, with academics. We've put together some papers. We are trying to come to a common solution, if you will.

The problem is there is nobody to make a deal with. There is nobody out there. I'm a deal-maker by profession, if you will. There's nobody to make a deal with. That is our problem. That's a real problem at the end of the day.

[Translation]

Mr. Jean-Yves Roy: Thank you.

[English]

The Chair: Merci, Monsieur Roy.

We have three more—Mr. Cullen, Mr. Keddy, and Mr. Kamp. I'll cut it off there.

Mr. Nathan Cullen: Thank you, Chair.

Thanks for the testimony.

I will preface my questions by just saying that as a new and young politician, I have learned quickly that the safest ground for me is to blame DFO. I get accolades all around, I step on no one's toes, and everyone's generally happy with what I have to say along those lines. So take my questions with a grain of salt.

I would like some clarity on the 30-person committee. Who's directing the composition of the committee? Who's directing the size and scope of it? Is that DFO? Is it the chair? Who's saying there are 30 people around the table?

Mr. Garth Mirau: Out of the inquiry in 2002 led by Pat Chamut, there were some salmon harvest committees put together, elected coast-wide.

By the way, Mr. Wappel, I think we talked about it the last time I appeared before the committee, and I said it was supposed to inject some democracy into the whole question of advisory committees, if you will. But it was not a very good exercise in democracy. In fact, some people went out and did boycott that, and we ended up with what we ended up with.

I got elected to an area D committee, the gillnet committee, if you will. I am also on their overarching board as the vice-president of the United Fishermen and Allied Workers Union. We have two people on that board, the Native Brotherhood has two people on that board, and the processors have two. That was melded with recreational harvesters and first nations, and I believe that's all. But in total, we are between 25 and 30 people.

Does that answer your question?

Mr. Nathan Cullen: And that's the group that's going to be recommended go forward from Mr. Williams?

Mr. Garth Mirau: Except none of us has really talked face to face with anybody, that I know about.

Mr. Nathan Cullen: I am looking over the Auditor General's report that just came out...with the Commissioner of the Environment and Sustainable Development, talking about the wild salmon policy.

Has it been released yet? Does it exist?

Mr. Garth Mirau: No, but the same Pat Chamut's been working on it since 1998.

Mr. Nathan Cullen: Yes. So it's due, apparently, in her report. She's thinking it maybe will be December. She makes quite a few comments about how long that's taken.

I am looking forward to what the decision-making regime should be. In your experience, I'm wondering if you've seen anywhere in the world this picture you're painting of the stakeholders having some influence in decision-making and an overarching body. Is there anywhere in the world, that you've seen, a fishery managed under this type of regime, where people feel more included and better decisions are being made?

Mr. Garth Mirau: I think there are ways to do it. I would put to you that in the seventies and eighties there was a regime in place, at least in the Pacific region, where certainly we did not agree with each other all the time, but there was a sense of trust between the bureaucrats in the Pacific region and people who fished for a living and the representatives of the people who fished for a living. There was a sense of trust; there was a sense that when you sat down to talk to somebody, and they talked to you and you talked to them, somebody was actually listening.

However, that has long since disappeared. In fact, if you were to ask my good friend here, Mr. Mike Emes, about the results of every single change that has happened in the fishery, which DFO told him he would be better off as a result of...

Maybe I should let him answer that question.

• (1430)

Mr. Mike Emes (Member, General Executive Board, United Fishermen and Allied Workers Union): Just going back to when Fred Mifflin came out here to announce the so-called Mifflin plan, he was at a press conference just over here, and he said to me, "Don't worry, Mr. Emes, if you stay in the industry, you're going to be very well off." I said, "Well, I don't think so." Here we are over ten years later, and I'm still here, but a long way from being very well off, that's for sure.

The industry has fallen down. For me, it doesn't matter, because I fish for a living. That's what I do; I don't do anything else. I fish for a living and started when I was 12 years old. No matter what happens, the only way they'll get me off the water is to completely take my boat and take my licence.

Mr. Garth Mirau: The thing is, every time they tell us we'll be better off, we're worse off.

Mr. Nathan Cullen: I have just one last question on this, to be very clear about your testimony. I'm getting a strong sense from you it's a personality set we have here. You're talking about essentially the same department, in name and description, operating in some successful way on the west coast, having evolved into what I think you called a "reign of terror" by the personalities particularly drawn up.

Are we looking for a judicial inquiry, or are we just looking to have someone fired? You've named that specific issue.

Mr. Garth Mirau: No, I don't think just firing people will do the trick. I wouldn't necessarily know who to aim at anyway, after you got rid of the first two or three. But when I hear people who are fairly senior managers in the department telling me I have to do something, that speaks to me of a huge problem in the department.

The Chair: Thank you, Mr. Cullen.

Just for your information and reference, Mr. Cullen, in our briefing book you will see, near the back, the backgrounder issued by Fisheries and Oceans Canada. It talks about the terms of reference, as well as the people who have been asked to be on the committee. However, no one seems to have picked up bullet three, under "Scope". I want to mention it and put it to the witness just to think about.

Under the scope of this committee, I quote: "Recommendations"—that is, recommendations of the committee—"must be consistent with Government of Canada and Fisheries and Oceans Canada policy, and able to be implemented within the existing resource capability of DFO". How is the committee going to be able to recommend anything outside the current box? I just throw that out.

Mr. Garth Mirau: Thank you. I had underlined that in my own copy to talk about on Tuesday.

The Chair: Okay.

Mr. Keddy.

Mr. Gerald Keddy: I have a couple of quick comments and one or two specific questions. I'll try to stay within my time.

You mentioned the cod fishery on the east coast. I'm sure there's a clear analogy, but I think it's a bit more complicated than that. Much of the collapse of the cod fishery was, quite frankly, because of under-reporting, misreporting, by the fishermen, by the fishery. The cod didn't just disappear; they were caught, sold, and processed. So if there's a lesson to be taken from the east coast, it's that the fishery needs to be conservation-based, it has to have some control over gear type, and there has to be accurate reporting. I don't think anyone from the east coast would disagree with those statements.

You mentioned something in your discussion that I'd like clarification on. You talked about reallocation of licences. You mentioned the socio-economic impacts of licensing. You suggested those were two items the committee should look at, or a judicial inquiry should look at. I suggest to you that might be outside the scope of the committee. I think the issue at stake here is the 2004 sockeye run on the Fraser River; what happened to those fish, if something did happen to those fish; and how to find that out.

I'd like a little more clarification on exactly what you meant by the socio-economic impact of licensing, and how you think the committee or a judicial inquiry should look at that.

• (1435)

Mr. Garth Mirau: Our hope, Mr. Keddy, is that the judicial inquiry was called to look at the bigger picture rather than just missing fish in the Fraser River this year. I think it has to do that; otherwise we're going to be back here again talking about the same thing, or we're going to be talking about conservation concerns in other places. There's no question about that. All you have to do is look at the history to figure that one out.

Given that fish remains a common property resource under the Constitution of Canada, the Department of Fisheries and Oceans is bound to manage it for the good of all Canadians. Particularly now that we have the new Oceans Act, which speaks to this issue, you have to take into consideration the needs of communities, the socio-economic impacts of licensing decisions, and what they mean to people. That doesn't happen any more. There is no policy around socio-economic concerns any more.

I'll give some accolades when they're due. I think both the Minister of the Environment and the Minister of Fisheries made the right decision on not listing Cultus and Sakinaw, not because I don't think there's a problem with Cultus and Sakinaw fish, because I believe there is, but there is a recognition that people who fish for a living simply have to have some work. So I congratulate him for that. The minister is left with a great big tool box that he can still use to deal with those issues.

On the reallocation issue, my friend here—

Mr. Gerald Keddy: Mr. Mirau, excuse me a second. I just want a point of clarification here. I represent a riding on the southwestern coast of Nova Scotia where fishery decisions have been made for socio-economic reasons for a long time, and the fishery has suffered drastically because of it. If you're going to catch the last fish because you want to give somebody a job, then that next generation of people is never going to catch a fish.

I understand where you're headed, but I have some real difficulty with it. Maybe you can convince me—and we don't have a lot of time—but it's a dangerous route.

Mr. Garth Mirau: If you don't take into consideration the needs of communities.... We're talking more about licences than about management decisions.

• (1440)

Mr. Gerald Keddy: Based on conservation.

Mr. Garth Mirau: Yes, because you did ask me about reallocation and socio-economics.

Mr. Gerald Keddy: I just want to bring the conservation word into it—based on conservation.

Mr. Garth Mirau: That's right, and to me they come together.

Prior to the Davis plan, everybody was allowed to go fishing, so they brought in licences, and that was fine and dandy. But when they did that, they brought in an A and B licence, and after ten years the B licences disappeared. Those B licences were mostly from first nations communities, rural coastal communities. When their licences disappeared, they were left with no other options. Their employment opportunities simply dried up.

And as the fishing licences have been removed from the A licence...whether it be black cod, halibut, herring, all of the fisheries that you hear DFO talk about that work so very well, they work well only for the investors. They work well only for the processors, those with the deepest pockets. The socio-economic concerns of communities are never taken into consideration.

The very fact that this year, 2004, the Department of Fisheries and Oceans allowed foreign processing fleets to start processing Canadian fish again and displacing Canadian workers speaks to that. The reason for that was the undue influence of the quota holders.

By the way, Mike, who's sitting beside me, used to have the right to fish those fish under his licence. That was removed. Now he's left with only salmon in only one area. Those considerations have been completely set aside by DFO.

The Chair: Thank you, Mr. Mirau.

Mr. Gerald Keddy: Thank you for your answer.

The Chair: Mr. Kamp is the last questioner.

Mr. Randy Kamp: Thank you, Mr. Chair. I'll be brief.

I just want a bit of clarification on what you meant when you talked about repatriating our fisheries.

Mr. Garth Mirau: Our fisheries are being privatized in this country. It's important that those fisheries continue to provide employment. The employment that Pat Chamut talked about in 1988, the 1981 to 1984 fishery—

Mr. Randy Kamp: Privatized in what way?

Mr. Garth Mirau: Quota fisheries—quotas going to those with the deepest pockets, and the individual small boat owner-operator losing fishing opportunities.

Mr. Randy Kamp: So you're opposed to the individual quota.

Mr. Garth Mirau: Absolutely, yes.

As I said before, I came with my own agenda, and I was hoping to be able to meet with the committee just on the issue of quotas at some point.

Mr. Randy Kamp: Is it not true that those fisheries that have gone in that direction have prospered, let's say, relatively speaking, while salmon has not?

Mr. Garth Mirau: Yes, Mr. Kamp, that's true. They have prospered. If you're referring to the halibut fishery, certainly it has prospered. But I would put to you that it was never any other way. The price has increased, partly because of the spread of the fishery, but certainly conservation was never an issue.

I was a halibut fisherman, and when I fished halibut we had an eight-day layup program and we had a program that allowed people to move in and out of the fishery. That was removed by DFO. There were licence limitations brought in, and then there were times for fishing—fishing went ahead, no matter what the weather was. DFO actually put fishermen in a position where they had no choice but to agree to quotas, and this is the result of that. At least 70% of the value of the fish goes out to pay for the licence before a hook ever goes into the water. That results in a loss of employment and meaningful employment opportunities for those people who are forced to continue to work on those boats.

You heard what Mike said: he keeps going fishing because he fishes. People like Mike have been removed from all of those fisheries, and that's a shame.

Mr. Randy Kamp: Thank you.

I, for one, would be interested in hearing more about that at another time.

Mr. Garth Mirau: I'll tell Jim that.

The Chair: Thank you, Mr. Kamp.

Thank you very much, Mr. Mirau and Mr. Emes. I appreciate your evidence.

We're going to take exactly a 10-minute break for the purposes of changing panels. I'll ask the clerk to put the timer on, and when the beeper goes off, I'll bang the gavel.

We're adjourned for 10 minutes.

• _____ (Pause) _____

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• (1450)

The Chair: I'm reconvening the meeting now.

We have panel 9A, with the B.C. Aboriginal Fisheries Commission appearing. We have with us today Arnie Narcisse, chair; Ken Malloway, interior co-chair; Edwin Newman, coastal co-chair; and Chief Doug Kelly, who is on the political executive.

As with other witnesses, gentlemen, we'll begin with an opening statement by you for up to 10 minutes. Then we'll go into rounds of questioning, because I'm sure our members of Parliament have a number of questions for you.

Who's going to lead off?

Mr. Narcisse, away you go.

• (1455)

Mr. Arnie Narcisse (Chair, B.C. Aboriginal Fisheries Commission): Good afternoon, gentlemen. *Et M. Blais et M. Roy, bonjour et bienvenue.* Welcome to the Musqueam traditional territory in which you people sit today.

I'd like to present the people I have with me: Wileleg, who is hereditary chief of the Stó:lō Nation and will answer questions specific to the fishery that went on in that part of the river; Chief Edwin Newman, hereditary chief of the Heiltsuk people and coastal co-chair for the B.C. Aboriginal Fisheries Commission; Chief Doug Kelly, chief of the Soowahlie First Nation, who has specific concerns regarding the non-listing of the Cultus stocks of sockeye that migrate to his territory.

I am also ex officio to the Pacific Fisheries Resource Conservation Council. Yesterday my good friend Mr. John Fraser was here and made the comment that the spiritual value of salmon to first nations is incalculable. And it is, despite things that Gord Gislason and others may say in terms of the socio-economic reports that they put out.

I was also an external adviser to the Auditor General's reviews. I'm very concerned regarding the lack of movement on the development of a wild salmon policy that would espouse the benefits of precautionary principles and risk-averse management measures, which would hopefully ensure the long-term sustainability of wild salmon that continue to sustain our people.

I have another document here that I've asked your assistants to give to you. It's called "Our place at the table: First Nations in the B. C. Fishery". It's a very detailed effort. Our people went throughout the province to hear our people's opinions on what the post-treaty fisheries situation should look like. The main point I wish to emphasize to you, gentlemen, is our opposition to the development of quotas.

Finally, I have a document from the 1994 Fraser River sockeye review, where I met my good friend John Fraser. At that time the fingers were being pointed at the first nations people, as they are again this year by people like Mr. Cummins, Mr. Eidsvik, and others.

This is a situation that cannot go on. We're sick and tired of being blamed for this situation. The jury is still out. The people at DFO science will tell you that they won't know until January just what the true escapement was. People over at the Pacific Salmon Commission, to which I am a newly appointed Canadian commissioner, will also point out that for one week this past summer the echo sounder at Mission was out of whack. Further, when it was recalibrated from a single-beam to a split-beam mechanism, there may have been problems with the calibration. In addition, there were the environment conditions that prevailed.

I think we need to take a broader perspective as to what's happening here. As far as I'm concerned, the money that would be spent on a judicial inquiry would be better spent in terms of looking after the capacity requirements of DFO Pacific region.

With that, I'll turn it over to Kenny Malloway.

Thank you.

The Chair: Thank you.

Mr. Malloway.

Mr. Ken Malloway (Interior Co-Chair, B.C. Aboriginal Fisheries Commission): Thank you.

My proper name is Wileleg, and I am one of the hereditary chiefs of the Chilliwack tribe.

In 1992 there were missing fish, and everybody and their dog was blaming the Stó:lō Nation for those missing fish. The report that eventually came out couldn't say exactly where the fish ended up, but people still blamed the Stó:lō for those missing fish. Nobody had any proof.

In 1994 there was more of the same, missing fish, but they couldn't blame the Stó:lō that year because the fish disappeared before they made it to the river, so they blamed the Kwakiutl, another tribe. The B.C. Fisheries Survival Coalition was doing the blaming in 1992 and 1994; and in 2004, it's blaming first nations again for missing fish.

Those missing fish in 1994 are not missing anymore. The Pacific Salmon Commission took six months but finally found those fish. Those fish were caught by the commercial fishermen at Johnstone Strait. That was raised at a meeting that Fraser was at. The person who raised it was in the survival coalition. He said that there were no missing fish; the commercial fishermen had caught them at Johnstone Strait. The commercial fishermen caught them, but it took six months before they found out that this was where they went.

That's the difference between the commercial fishery and our fishery. Our fishery is monitored to death. There's more money being spent on monitoring our fishery than on any other area. When our fishery ends on a Sunday, on Monday they know how many fish we took. It took them six months to find out where those fish went in Johnstone Strait. They went to the commercial fishery. When those fish went missing, fingers were pointed at first nations. When those fish were found, nobody said a bloody word.

In 2002, 2.5 million extra sockeye showed up in the Adams River, and the commercial fishermen were in an uproar over it. They were outraged. They said, those fish went to waste, those fish are overspawning, which is ludicrous. I heard it again here today—overspawning.

When the white people came here and there were over 100 million sockeye in the river, what was going on then? What was going wrong? Overspawning, I guess. How many fish are we left with today? There are fish of all kinds and types in my area alone that have gone extinct in my lifetime, just since I was a boy. Now, the Cultus Lake sockeye are going to go extinct.

I just wanted to thank Mr. Keddy for his remarks earlier when we heard about the socio-economic factor. He reminded the speaker that this was the way they managed the cod fishery, the socio-economic factor, and the cod was managed almost into extinction and the fishery collapsed. Right now, that's what's happening here. They're not going to list Cultus and Sakinaw because they're worried about jobs.

There was a wise old Cree elder who once said, "Once the last tree is cut down, once the last fish is caught, only then will you realize that you can't eat money".

If you read the report Cummins put out, you'd believe that the fishery was cod in the Stó:lō area. The Stó:lō people agreed to a fishing plan last year, as we have in other years, and we fish to that plan. The Cheam people are going to be making a presentation. They also agreed to a plan and fish to that plan, and virtually all of their people agreed to that plan and fish to it.

Only a handful of people who disagreed decided not to go along with the plan. If you listen to what the B.C. Fisheries Survival Coalition is saying, those half-dozen people caught two million fish and snuck them away somewhere or stored them somewhere. It doesn't make any sense to me, but that's a thing we've become accustomed to, hearing from the survival coalition since it was first put in to effect. The Cheam fishery was monitored as well, just as ours was.

● (1500)

One of the things I think we need to do is return to risk-averse management. After fish were almost going extinct, the Department of Fisheries and Oceans embarked on what it called risk-averse management. So if it set an escapement goal, it would put a buffer in to make sure it reached that goal. But after two and a half million sockeye ended up on the spawning grounds, more than DFO expected, the commercial fishermen were outraged and demanded flexibility. So last year we had flexible management—not risk-averse management, not cautious management, but flexible management. What we ended up with was the commercial fishery taking almost two million extra fish this season.

One of the things I heard was that there were no dead fish. Well, there were all kinds of dead fish. If you catch a fish on your net or on a line and you drop it overboard, it doesn't float; it sinks. And that's what was happening. Fish were dying, and they were sinking. It takes a while for them to get bloated up and start floating, but when they do they start floating. Every time I went to check my net I took 40 or 50 fish away from it that had been floating there.

They were floating downstream and nobody counted them. Nobody knows how many there were, but they were there. They were floating downriver, and if you didn't see them and you were some kind of a fisherman or fisheries manager, then there was definitely something wrong with your eyesight.

Thanks.

● (1505)

Chief Doug Kelly (Political Executive, B.C. Aboriginal Fisheries Commission): Thank you, Mr. Chair.

My name is Doug Kelly. In addition to being the elected chief of the Soowahlie Indian Band, I'm also a member of the First Nations Summit. It represents 150 of British Columbia's first nations engaged in treaty-making. We were not invited. We were disappointed. I'm grateful to Arnie and his colleagues for inviting me along.

There are a couple of issues I wanted to address. The first is this notion that the sky is going to fall. It has been falling for 44 or 45 years. This isn't new. There are people around this table, local, municipal, MLAs and MPs, who have had themselves elected on a single issue concerning fisheries. They've elected themselves by promoting and inciting racial hatred towards first nations. They continue to get themselves elected on that basis. That's a crying shame, when what we should be doing is what committee member Roy was talking about. He was talking about bringing people together, moving away from this paradigm of confrontation and conflict to one of cooperation, one where first nations leadership, industry leaders, recreational leaders, and others interested in the conservation and protection of salmon and other fishery resources would work together for the interest of future generations. We don't have that. We haven't had it.

We've had one example of it. I'd like the committee to give some thought to informing itself about the West Coast Vancouver Island Aquatic Management Board. The Nuu-chah-nulth Tribal Council, when faced with confrontation with its neighbours, got together, in response to the Mifflin plan, and decided to come together and cooperate. They brought together members of the union, they brought together gillnetters, they brought together trollers and seiners and first nations leaders. They came together and they worked together. They cooperated on the development of an approach to resolve the crisis in their community. Unfortunately, those bureaucrats, the same ones who hold that reign of terror today, have minimized the authority and the ability of that aquatics management board to properly manage the resources within that area of the west coast of Vancouver Island. There's an opportunity there to change the way fisheries are managed in British Columbia. There's an opportunity to move away from crisis management to the creation of cooperation. But there are some folks who have vested interests in their political careers and continue to get themselves elected by promoting hatred and conflict. That's a shame.

I want to speak very quickly on Cultus Lake sockeye. Soowahlie is at Cultus Lake. It's on Sweltzer Creek. It's on the Chilliwack River. I have to disagree very strongly with previous speakers who have talked about how the ministers's decision was the right decision, not to list Cultus. It's wrong in so many ways. The fact of the matter is that Cultus is suffering from a wide range of challenges and threats. The only way we're going to move ahead and protect the endangered species is to cooperate and to work together.

This summer I asked DFO to manage fisheries that threatened the safety of Cultus in a different way. I worked together with the Sierra Club of Canada, I worked together with some lower Fraser gillnet fishermen, I worked together with other Stó:lō, and we were prepared to pull out of the system when Cultus sockeye were in the river. We were prepared to cooperate on creating fishing opportunities in another part of the Soowahlie and Chilliwack tribe traditional territory. We were ready to harvest from another run that was healthy. DFO refused. Why? Because it was change. Why? They'd rather have us fighting amongst ourselves. Why? Because they don't want to change. It's human nature. That's the challenge we're facing, that's the challenge you're faced with.

I agree with my colleagues, a judicial inquiry isn't going to do much, other than give lawyers more money and create the

opportunity for more finger pointing. I think we ought to be investing in cooperative approaches to stewardship, cooperative approaches on what management changes need to take place, not two years from now, but now. We need to change the way we're managing the resource. That's really crucial.

I do appreciate the opportunity to speak. Thank you.

● (1510)

The Chair: Thank you.

I'm exercising flexible management by going beyond the 10 minutes. We'll give Mr. Newman his opportunity.

Chief Edwin Newman (Coastal Co-Chair, B.C. Aboriginal Fisheries Commission): Thank you, Mr. Chairman. I'm the oldest one on this panel, so I guess you have to give me some leeway.

I'm 74 years old. I started fishing when I was 14. I'm a commercial fisherman, and I've been a commercial fisherman all my life. I've seen the good times and the bad times come. As well as being the coastal co-chair for the B.C. Aboriginal Fisheries Commission, I'm the chairman of the Native Fishing Association. I'm a member of the Native Brotherhood of British Columbia, and I'm a member of the Aboriginal Fishing Vessel Owners Association.

I've been before this committee on a few other occasions, I've also been before the Senate Standing Committee on Fisheries on a couple of occasions, and each time we seem to come here with the same issues. Nothing seems to change. Once again this committee is reviewing what happened to the Fraser River sockeye. In 1994 a review board was created to find out why there was a discrepancy in the expected and actual number of sockeye arriving at the spawning grounds. The accuracy of the Pacific Salmon Commission's method of estimating run sizes in the Fraser River and the systems that were used were challenged. In 2002 we had another review on the Fraser River, and more recommendations were made.

Mr. Chairman, what I'm wondering is where the information is from all these reviews. Did DFO or the federal government pay any attention to the recommendations made by all the reviews on the Fraser River sockeye stocks? Are they sitting on a shelf in Ottawa somewhere gathering dust, where nobody pays any attention to them? Will anybody pay any attention to what you are going to hear during this review? I look at the estimates of what it costs to send a standing committee to look at what the quotas and privatization of the fishery would do, and it's a very high price.

The aboriginal people are always being blamed when something goes wrong in the fishery. The Fraser River people aren't the only ones who have been blamed for the disappearance of the sockeye. About 20 years ago there was a crisis in the herring fishery; the herring disappeared. Again the aboriginal people were blamed for that; they were told they were eating too many of the herring eggs from the food fishery.

I feel that the standing committee has to review DFO's ability to manage all the marine resources on the B.C. coast. The Department of Fisheries and Oceans has a shameful record in managing the marine stocks on the coast. The aboriginal people have been the victims of all the DFO management plans that have been put in place. Limited entry was the first one. All these management plans are designed to push somebody out, and the aboriginal people are the ones who are pushed out. The quota system puts a lot of our people out. I heard it said it had created wealth, it had brought the fish prices up. Well, it brought wealth for the few people who own those licences. If you review the licensing system that's in place today, you'll find that very few people control those licences. They're controlled by the big corporations and investors, and some of those investors are very wealthy people today, and they never leave their living rooms.

The other systems that have been put in place have been area licensing and the buy-back. The buy-back created devastation for the coastal communities. It took away economic opportunities to make a decent living. There are serious social problems in our coastal communities because of those management plans that were put in place by the Department of Fisheries and Oceans. Yet as a government—and you are the representatives of the government here today—you have a fiduciary responsibility to make sure the aboriginal peoples' well-being is taken care of.

I feel the standing committee should hold hearings on the coastal aboriginal communities to find out who really suffers because of DFO's bad management. A new government system has to be put in place. DFO is not protecting the fisheries resources in accordance with their mandate the way they did in the past. They need to focus on protecting the wild salmon stocks, preserving the marine environment, and securing native involvement in the fisheries.

Those are my issues, Mr. Chairman, I felt I was wasting my time coming here today, because I've gone through this before, as I've said, but I hope someone will listen to the concerns aboriginal people have, because the well-being of our aboriginal communities depends on what you do.

Thank you.

• (1515)

The Chair: Thank you, gentlemen.

It's kind of depressing to hear that nobody has any confidence in what our committee may be able to do—including some of our members. Mr. Hearn earlier today referenced what I think is quite a victory for our committee—namely, the focus, or at least the beginning of one, by the current government on foreign overfishing on the east coast. Quite frankly, I don't think that would have been the case had our committee not pushed it all the way to the halls of the European Commission in Brussels.

I'm not as pessimistic as some. And I'm not crazy—I don't think we're going to be able to change the world—but I do think people will listen to this committee and its report. Nobody has a magic wand. We've heard how many problems there are and how many disparate views there are. We'll do our part. We'll do our best. Hopefully, we'll make a difference. I don't think any of us around the table think we're wasting our time.

I'm grateful that you came here, that hope springs eternal, that you still have enough faith to at least give us a little bit of your time for your evidence. So thank you very much.

With that, we'll go questioning.

Mr. Kamp, for ten minutes.

Mr. Randy Kamp: Thank you, Mr. Chair.

Thank you, gentlemen, for appearing before us. I appreciate the way you've made your case.

In reference to the fishery, Mr. Newman, you made a comment, if I heard correctly, that aboriginal people are being pushed out. If that's what you said, I just wonder if you can expand on that a little bit more, on what you meant by that, and how that's happening.

Chief Edwin Newman: On the limited entry, both the quota systems and the buyback of our salmon licences were designed to take people out of the industry, and aboriginal people were the ones pushed out of the industry. Many of the aboriginal people ran company boats. When the companies sold their licences through the buyback, it was aboriginal people who lost their jobs.

On the quota system, I'll use myself as an example. I ran a company boat for halibut. I caught the halibut. When the quota system was put in place, B.C. Packers got the quota, I didn't. That happened in a lot of cases. We're worried it's going to happen with the salmon, and we're worried about what that's going to do to the coastal communities.

The Senate Standing Committee on Fisheries and Oceans did a review of what the quota system has done in other countries, such as Iceland, Norway, and New Zealand. They found that it created problems for the little people, and the rich got richer. They made ten recommendations to the government on things to happen before the fishery was privatized any more. One of those recommendations was to go into the coastal aboriginal communities to see what effect the privatization of the fisheries was having on those communities.

• (1520)

Mr. Randy Kamp: In terms of the halibut fishery that went to the quota system, that's the fishery you're referring to as—

Chief Edwin Newman: Herring is another example of how the quota system took Indian people out of the industry. It created quite a problem for aboriginal people who have licences. The fisheries department changed the rules on how the AI and HI licences operate. Originally, they were supposed to be operated by Indian people only.

I have in my briefcase a document that contains the names of 300 Indian people who own licences. Those 300 licences are now controlled by non-Indian people because of the changes that were created by the fisheries department. That took away economic opportunities for 300 people.

Mr. Randy Kamp: I asked that question because I'm not sure that most, shall we say, uninformed observers would have thought that was the case. In fact, I think many would have thought the opposite was the case, that the buyback program and so on was to integrate aboriginal people into the commercial fishery.

Do you have a comment on that?

Chief Edwin Newman: On salmon, the Pearse-McRae proposal to put the salmon on a quota system is of real concern to aboriginal people right now. That's why we're trying to put a stop to it, to put a hold on it, until somebody finds out what it's going to do to the communities.

About 75% of the Canadian fish fleet is operated by Indian people. The Canadian Fishing Company is owned by companies that are pushing for quotas. They want to reduce their fleet to cut their costs. Those Indian people will lose their jobs, because to the Canadian Fishing Company, why would they send out 100 boats when they only need 40? And if that happens, it will create more devastation for aboriginal communities.

Mr. Randy Kamp: How do you suggest, then, that the department...? Obviously, conservation is its primary concern, or it should be; if we don't have the resource, then I guess we can just turn out the lights and send the department home. How do you control the fishing effort?

Chief Kelly, I think you talked about the need to change the way we're managing the fisheries. It's a pretty broad question, but what are these changes that you think need to be made?

Chief Doug Kelly: With respect to Cultus sockeye, there are fisheries, where the Chilliwack enters into the Fraser, in which a number of Stó:lō communities have all agreed that they would cooperate with Soowahlie and others on the basis that their right to harvest, their aboriginal rights, would not be diminished but accommodated in a way other than their usual fisheries.

We have a commitment from a number of lower Fraser gillnetters who are quite interested in conserving and protecting Cultus. They'd be interested. And we're not the only community. In other communities on the coast you could create new ways of managing the ongoing conduct of fisheries. But it requires the Department of Fisheries and Oceans to be prepared to do business differently, and it isn't.

I listened to the debate about the blame game. There really is only one person responsible, and that's the Minister of Fisheries and Oceans. It doesn't matter the political stripe, there have been problems. Whether you look back at the Conservatives, whether you look back at the Liberals, it doesn't matter; the problems are inherent in the Fisheries Act and they're inherent in the way the process is managed. You can name names if you want to, in terms of bureaucrats who people don't particularly care for, but at the end of the day, it's the Minister of Fisheries and Oceans who has the responsibility.

We need to find a way to work with the industry, with recreational fisheries, and with aboriginal fishermen to find those opportunities. Where there are species at risk, or where there are concerns about the run, we need to harvest selectively and in other ways that would protect those endangered runs.

Mr. Randy Kamp: Thank you for that. I think many of us would agree with you on a lot of that.

Let me just go to the core of why we're here. Maybe Mr. Narcisse can lead off with this one.

What happened? What is your view of what happened on the Fraser this summer? Do you have an opinion? Were there no missing fish? Were there missing fish, and if so, where did they go?

● (1525)

Mr. Arnie Narcisse: I'd state that a good deal of it was caught by the commercial fleet. The Pacific Salmon Commission, a joint Canada-U.S. body that administers the treaty, showed that by mid-September Canadians had caught 890,150 more fish than they should have, while the Americans had caught 57,300 more, for a total overharvest of 950,000. That speaks to the lack of adherence to precautionary principles and risk-averse management measures.

Basically, if you don't know what the hell's out there, leave it alone.

Mr. Randy Kamp: That's before they got to the river, though. We understand that. What about those ones that apparently are missing between the—

Mr. Arnie Narcisse: As I stated earlier, the jury is still out. We won't know that until January, when the Pacific Salmon Commission, PSARC, and all the other stock assessment and science bodies have had adequate opportunity to look at what reached the spawning grounds. I stated earlier that there may have been problems with the calibration of that split-beam echo sounder at Mission. I stated earlier that the thing was out of whack for a whole week. I also stated earlier that there were environmental conditions. These are some of the issues we need to deal with.

We also need to deal with the high exploitation rates, in the 65% or 75% range, that have been going on for 40-plus years.

So I would say that what's required is greater adherence to the precautionary principle and risk-averse management measures.

Mr. Randy Kamp: Any others want to get in on that one?

Mr. Ken Malloway: Thank you.

One of the things I've been hearing—and I saw it in a report I was looking at yesterday from Cummins—is reference to a wall of death, meaning the nets we have in the river, up to 560 nets. There were about 1,300 licences issued in the Stó:lō Nation territory, and there may have been 560 nets in the water at the peak of our fishery, but you could hardly consider it a wall of death. The people who fish in the lower part of our territory use 100-foot nets, compared to the 1,200-foot nets the commercial fishermen are allowed to use in the Fraser River. Over 100 of our fishermen and fisherwomen who fish in the canyon use 30- and 40-foot nets, because the eddies are so small they couldn't use a 100-foot net.

There is no wall of death. Our efficiency, when we're all out there fishing for the brief sockeye fishery, is 20% to 30%. If we had a wall of death I wouldn't be able to catch as much fish as I do. If you talk to anybody on the river who knows anything, they'll tell you I'm one of the best fishermen on the Fraser, of the first nations. But I fish within two miles of the top of our territory. So for over 100 miles below where I fish, there are nets in the water. If there's a wall of death, how come I'm still catching fish?

There are two people who fish on the left bank of the river above me: Norm Commodore and Gary Commodore. They catch as much as I do or more, but they're above me. So if there's a wall of death, they wouldn't catch any fish. I've got some acquaintances who are from the Lakahahmen Nation, from the Spuzzum, which is above Yale, and that guy catches more fish than I do. If the wall of death were there, he wouldn't catch anything. But the fish are making it through our territory, and he's catching them in really good numbers. So on the term "wall of death", if you saw that report, you'd look at it and figure they must be catching everything. Well, there are fish making it through our territory, but the report points a finger squarely at the Stó:lō Nation.

The Chair: Thank you.

Mr. Murphy.

Hon. Shawn Murphy: Thank you very much, and again, I want to thank the witnesses for appearing here.

I just want to follow up and get your views and comments on the whole area of fisheries management. Again, this is a very complex, difficult subject. I'm from the east coast, and we have the very same issues there. In some ways it's not as complicated, and in some ways it's more complicated, because down there we have five provinces and one territory, so that in and of itself adds a whole layer of complication to the fisheries management.

You're quite right—I believe it was Chief Kelly who made the point—that under our antiquated Fisheries Act, which hasn't been amended for many years, the ultimate responsibility rests with the Minister of Fisheries and Oceans. It's his responsibility to manage the fisheries.

According to the way we do business now, he's got a number of tools at his disposal. He can do it by quota, which has been talked about. He can do it by effort, whether that's season, days fished, eliminating small fish, or year type. Also entering into that is the aboriginal fisheries strategy. The intent of that is for access provisions and, of course, acknowledgement of the right of every aboriginal to fish for food, social, and ceremonial purposes.

But it seems to me that system will not work unless there's enforcement. Whatever you see, whatever fishing village you go to, whatever community, whatever fleet, there's always going to be a small minority, a small number of people who have no trouble violating the rules that are established. I've seen that everywhere. I've never seen a fishery yet where I didn't see that—aboriginal, and non-aboriginal.

There has been evidence given here, and I'm not suggesting it's true or untrue, but if you accept 25% of it as being truthful, it appears that the levels of enforcement in certain areas of the Fraser Valley above Mission are not being adhered to by DFO in the way they should be. Again, it's always a very small number that can cause so much harm to the majority of legitimate fishers out there. Somebody made the comment that there might be only five or six people, but if those five or six people are going down there 24 hours a day with a drift net, they can cause some big problems.

Perhaps I'll start with you, Mr. Narcisse. On this whole issue of enforcement in some of the areas we talked about, do you see the need for increased enforcement by DFO? I'm not pointing a finger at

any group; I just want to ask the question, because that allegation has been raised.

• (1530)

Mr. Arnie Narcisse: What I will tell you, Mr. Murphy, is that I was intimately involved in discussions with people like Mr. Reg Reeves. He was the liaison from the RCMP, sent over to DFO to look at the enforcement issues and questions. We were involved in the development of safety and interaction protocols that would ensure, first of all, the safety of all the fishermen and the DFO agents who had to deal with them.

If 25% is true, again I will respond by saying that truth is in the eye of the beholder. In terms of enforcement above Mission, I will tell you it's everywhere. I fish in St'at'imc territory, which is Lillooet, and our fish are literally counted three times: once by the Indians, and twice by DFO. So I don't see a lack of enforcement. It's everywhere. We see it all over our fisheries.

What we would like to see is some greater validation in the hails used in the commercial fishery. The DFO guy goes up beside John Cummins' boat and asks him how many fish he's caught that day. John, being the honest man he is, tells him 200. There's no way of verifying that until the end of the year.

You've heard time and again that our fisheries are verified two days later, and this information is sent directly to DFO week after week. So we can verify all of the fish we have caught, and account for them.

• (1535)

Hon. Shawn Murphy: Okay, Mr. Narcisse. I want to follow up something else to it that was discussed in the last committee report in June 2003, and that involved the Cheam Band. It was this protocol that I find a little troubling, to be quite honest, and the committee recommended that it not be followed.

Mr. Arnie Narcisse: Cheam will be speaking specifically to that issue after—

Hon. Shawn Murphy: But I'm asking for your opinion on it. You agreed with it and you commented last time. You agreed that the fisheries officers should not go near the Cheam Band property without notice, and they should not, in any way, shape, or form, confiscate any illegal gear that's unattended.

From my experience of the fishing industry and what I see on the east coast, that is a totally unworkable situation, and it allows a very small number of people to violate legitimate rules and regulations.

Do you still agree that this is the proper way for DFO to enforce the regulations, to not go onto band property without giving notice saying that they're going to come; and secondly, that if they do find a drift net or a gillnet that's totally illegal, they just leave it in the water?

Mr. Arnie Narcisse: The intent of the Cheam protocol was to ensure safety, as I stated earlier, first and foremost, and it's only good manners to notify people that you're coming into their territory. Basically that was the vein of the discussion that was going on there. It was an effort to develop goodwill between the Cheam community and DFO enforcement under the leadership of Mr. Greg Savard, and I think they went a long way toward achieving that.

We have not seen the violence or any of the nonsense that was going on previously, since the implementation of this safety and interaction protocol.

Thank you.

The Chair: Chief Kelly.

Chief Doug Kelly: I just want to add to the discussion, to Mr. Murphy. I want it to be really clear. Nowhere in that agreement does it say that DFO is not permitted to do its job. I want to put it into a context that may help you understand some of the terms of that particular safety agreement that you raised.

Number one, provincial social workers or aboriginal social workers working for a first nations child welfare agency are obliged to contact chief and council before they apprehend a child. It's simple protocol. In some instances, chief and council are aware and they support the apprehension so that it's carried out in a good way, and so that the family can be provided support and that the community is able to come together and deal with the fallout from the apprehension in a good way.

For that matter, most RCMP also contact the chief or a member of council when there's an issue or a concern that needs to be addressed. It's again a way of managing the community. It's a way of managing safety. It's a way of managing information. It's a way of making sure that issues are properly dealt with.

So with respect to that agreement, it didn't say that DFO was going to allow Cheam fishermen to do whatever they damn well please. What it says is that there's going to be effective communication between fishery officers and the Cheam council.

Cheam, as I've understood it, has always been in favour of fisheries plans. They've always been in favour of making sure there's a clear understanding of what the fishing opportunities are, when they should be in the river and when they should be out, and they've advocated and promoted those kinds of things with their own members. It doesn't mean that every single member would agree with the ultimate plan, the one that's agreed upon between the department and the Cheam council, but they go along with it and that's what it's intended to do.

The history—and you should know this—is a violent one between fishery officers and Stó:lō fishers. It's one that's a cause of concern for our community members and for our leadership.

Thank you.

[*Translation*]

The Chair: Mr. Blais, you have five minutes.

• (1540)

Mr. Raynald Blais: Thank you, Mr. Chairman. I thank the witnesses for their words of welcome, especially since they were spoken in French.

I would just like to make a comment in view of what Mr. Newman said right at the beginning. In fact, his presence here is reassuring since it demonstrates in some way that you trust this committee. I am from Quebec, from the riding of Gaspésie—Îles-de-la-Madeleine. This area has had its share of problems and they are still ongoing. We always feel forgotten and even ignored. In view of what you said

and of the fact that you are here today, I conclude that you place your trust in us and I want to thank you for this.

I have some difficulty believing that a royal commission of inquiry would be a good solution. Because of the delay and everything that is involved in a royal commission of inquiry, I am not an enthusiastic supporter of the idea. To me, it would only be a last recourse.

The problem exists. The consequences are with us and we have a disaster on hand. I would like you to talk more about the solutions that could be adopted today and tomorrow, in other words right now. Remember what Mr. Roy said about the possibility of getting an agreement among all parties if they show some good will. Are you confident that you could come up with some solutions right now, without necessarily going through a royal commission of inquiry?

The question is directed to Chief Kelly or to anyone who wishes to answer.

[*English*]

Chief Doug Kelly: I'm used to our longhouses. We don't have this modern technology; I could actually stand and you'd hear me. But I'll respect your house and your process.

I appreciate the question, and yes, sir, I do believe solutions could be found today. Solutions could be found through cooperative effort.

I mentioned earlier that the Nuu-chah-nulth Tribal Council and their chiefs, their hereditary chiefs, their leaders who are responsible for the land and the resources on that land, their leaders who are responsible for the ocean and all that's in the ocean within their homelands—they worked together with members of the fishermen's union. They worked together with gillnetters, seiners, trollers, and recreational fishers. They also brought in local, municipal, and regional officials, and they brought them together because they recognized the economic crisis that hit their communities as a result of the Mifflin plan several years ago. They wanted to make certain that those communities on the west coast of Vancouver Island were able to generate and reap the economic benefits from the resources in their homelands, not just for the Nuu-chah-nulth but for all their neighbours living in Port Alberni, Tofino, Ucluelet, and all those other communities on the west coast of Vancouver Island. They worked together and agreed that they had more in common in terms of interests. They had more to share for the future than they did to fight about, so they were able to change their whole view of fisheries and resource management and they were able to come together.

That's what's required if we're going to save salmon in British Columbia and in the Pacific. There needs to be a significant change, a sea change, in terms of how all those people who benefit from that resource look at it. It means that it's no longer “Gimme, gimme, gimme”. It means that if I'm going to benefit from a resource, I have to put something back.

So there are those opportunities, but it requires a level of cooperation that we have not seen, except on the west coast of Vancouver Island.

• (1545)

The Chair: Merci, Monsieur Blais.

To be mindful, it is now approximately quarter to four. We have our next group ready to go. We have three members of Parliament, never mind me, who want to ask some questions, so can we be very focused in our questions, please? No statements, just questions.

Mr. Cullen, for five minutes.

Mr. Nathan Cullen: That's unfortunate, Chair. I had a beautiful statement ready to go. It was going to clarify the whole situation for everybody.

The Chair: Put it in writing.

Mr. Nathan Cullen: Yes, I will. I'll submit it later.

Thank you for the presentations.

I have one small concern with respect to enforcement. I hear that enforcement might not be the issue. I'm hearing real discrepancies in terms of the numbers. Are fish that are caught by first nations being counted? I've heard three times that we don't know, and by other groups, I've heard none. I've heard also from DFO folks in the field that they don't know. I need that clarified a little.

I have two specific questions outside of that.

One is that we haven't spoken much on fish farms, with respect to the threat they pose to wild stocks today. We were looking at what happened to the fish. I'm not hearing a lot, although I'm reading a lot right now, about the effects of fish farms and the promotion of fish farms along the coast.

The other question is this. Is it possible for DFO to play the role of an honest broker in terms of the forum that a number of groups that have spoken today have mentioned on the various stakeholders coming together to do proper fish management on the west coast?

It has been suggested by almost every group that we've had in front of us that we need to come together to make decisions locally that affect the local fishery. Is DFO is going to be the format for that, with the inherent lack of trust and confidence that most groups have expressed?

The Chair: Mr. Malloway, following up on Mr. Cullen, in your evidence you said that your fishery is monitored to death. Mr. Cullen is asking about that. Could you describe for us what you mean by "monitored to death"? Exactly who monitors you and how often?

Mr. Ken Malloway: DFO has enforcement people who go up and down the river, and they talk to people.

The Chair: We heard that there were only 13 enforcement people for the entire river. Do you know whether that's true?

Mr. Ken Malloway: Well, I certainly see more than that around.

I was answering the question until you interrupted me.

The Chair: I have to interrupt you to focus. You said that you're monitored to death. Who is monitoring you to death?

Mr. Ken Malloway: DFO and our own monitors. DFO has people enforcing and monitoring, and we have our own monitors. We have a lot of monitors. Every landing site in the Sto:lo Nation territory that has significant people landing there has a monitor. There are three or four monitors on the Yale beach throughout the entire fishery. On other beaches and other landing sites up and down

the Fraser River, there are monitors 24 hours a day during our fishery.

There's nothing like it in British Columbia or in Canada. We have monitors monitoring our fishery day and night. As soon as I hit the beach, somebody's there counting my fish. It's like that not only when our sales are on, but every week. Every time we go fishing there are monitors. It's from March until November. Every time we fish, there are monitors fishing out there. There are DFO people monitoring our monitors. Our fishery is heavily monitored by us and by DFO, who keep track of our monitors and keep an eye on them to make sure that the fish are counted properly.

The Chair: Could you answer the rest of Mr. Cullen's question?

Mr. Nathan Cullen: Yes. To remind folks, one was with respect to the fish farms, and the other one was with respect to DFO playing the role of an honest broker in this stakeholder group that people keep mentioning.

The Chair: Chief Newman.

Chief Edwin Newman: Mr. Chairman, I did mention in my statement that we're concerned that DFO is not focusing on protecting the wild salmon and protecting the environment. That was in reference to the development of the fish farm industry on the coast. As far as we're concerned, the Department of Fisheries and Oceans is now a promoter of the fish farming industry in British Columbia. They are not living up to the mandate they have to protect the wild salmon, and we are very concerned about that on the coast.

They tell us the rule was put in place by Parliament in the throne speech, and that unless Parliament changes that rule, DFO has to continue to promote farm fish. It's the government that has done that through Dhaliwal and Anderson, who were promoters of the fish farm industry. The people who own these farms have big offshore multinational corporations. They have huge funds behind them, and I guess they're able to buy support through the government system, so we are very concerned about the economic opportunities we are going to lose through fish farming.

I went to look at the sea lice concerns in the Broughton Archipelago. I damn near cried when I saw the chum fry that were covered with sea lice from head to tail. It was a real crime to see that, and nobody's ever talked about the millions of pink salmon that disappeared in the Broughton Archipelago. Nobody cried for an inquiry or a review about what happened to those pink salmon that disappeared, and the fish farm industry is paying for that, so there is a threat to the wild stocks and the environment. The bottom fish are being threatened by the fish farm industry from the crap that falls down from those pens.

We don't support the fish farm industry under its present way of operating. There have to be some drastic changes, but unless Parliament changes their position on the promotion of fish farms, DFO has to continue to promote that.

• (1550)

The Chair: Thank you.

There was one other question. Mr. Narcisse.

Mr. Arnie Narcisse: Thank you for that.

I would prefer that a body like the Pacific Fisheries Resource Conservation Council undertake this task as they are a group of people with not so many vested interests in the outcome. Indeed, their role is to be the watchdog in terms of the state of the salmon stocks and their habitat; this naturally falls within the mandate of the PFRCC. I would have more trust in them convening this sort of inquiry than DFO. In terms of being an “honest broker”, it's almost an oxymoron.

Thank you.

The Chair: Thank you.

Mr. Keddy is next. I'd really appreciate succinct questions from both you and Mr. Hearn because we're over our time and we have another panel ready.

Mr. Gerald Keddy: Thank you, Mr. Chairman, and thanks to our witnesses for appearing here today.

I speak for myself and, I think, for most of the committee members when I say we are not here to point the finger at aboriginal bands, first nations, seiners, gillnetters, or any one group. Perhaps Mr. Narcisse is right, that the evidence isn't in yet on what happened to the fish. I'm not pretending to have the answer.

I would like to ask a question based on gear types and conservation and the ability of DFO officers to seize illegal gear types. I think it would be in the best interest of everyone—first nations, the non-aboriginal fishery, the recreation fishery, everyone—that illegal gear types, monofilament and that, would not be used. There are alternatives; they may not fish as well.

We've seen on the east coast what happens to capacity. You guys have the same capacity out here. We only need half a dozen fishermen to catch all the fish in the water. Somehow or other, we have to limit the ability. I realize the tenderness of the quota subject and I am not trying to say that's the answer, but somehow or other we have to limit what individual bands and what individual fisherman are allowed to catch based on conservation, and part of that plan needs to be about gear types. I just want to know if you agree.

That's a real generalization, but do you see what I mean about gear types?

• (1555)

Mr. Ken Malloway: Monofilament is not illegal. The commercial fishermen voted twice on monofilament and voted not to use it, but no one ever came to the first nations to say, look, we want to vote on whether or not you can use monofilament net. It's not illegal for us to use monofilament net. We do use it; some of us do, but not everybody. Not everybody can afford it.

The monofilament net is not any more lethal in catching fish in the Fraser River than anything else. The Fraser River is so dirty that fish can't see it at all. Some of our elders say they think the fish can hear a monofilament net but can't see it. It's not illegal and it doesn't catch any more fish than any other kind of net. I use all kinds of nets. It's not any more lethal; it's just that compared to the multi-strand it lasts longer, but it's not any more lethal in catching fish.

Conservation is our number one concern; it always has been. The Supreme Court of Canada in Sparrow says conservation comes first and then first nations right after that. Well, that's just not the way it

is. We come right after that, but almost everybody fishes in front of us. All the approach fisheries have the chance to catch fish before we do, so even though we're supposed to be a priority, we really aren't.

The Chair: Is that it, Mr. Keddy?

Mr. Gerald Keddy: You said to keep it short.

The Chair: Thank you.

Mr. Hearn.

Mr. Loyola Hearn: Thank you very much, Mr. Chair. I'll be very brief also.

Let me also thank the witnesses for coming, Mr. Newman in particular. He's been before us before.

Don't despair, sir; we have accomplished things, I think, on this committee. With a number of our reports, whether it be on the coast guard, the infrastructure, or the overfishing, we did get results; it took time and it took a lot of pushing. So hopefully our trip here won't be all in vain.

We've heard a lot of witnesses; we have seen a lot of finger pointing. To be fair, I believe many groups pointed the fingers inwardly also. They also blame themselves for being part of the problem. Some perhaps pointed more than others at certain groups on certain parts of the river, etc., but generally there was an accusation of self.

Mr. Newman said DFO has a shameful record for management. Just about every group, if not every group, we had before us said the same thing. In light of that, Chief Kelly said—and I agree with him—that a cooperative approach is the one that can solve our problems.

You people have lived on the river or near the river and on the coast longer than any of the rest. You know the value of protecting the resource better than anybody else. You depend upon it, undoubtedly, more than anybody else.

But to solve our problem, we all recognize the fact that the mismanagement can't go on. If DFO in particular has a shameful record, if they're not trusted, not appreciated, and not respected, who is going to take the lead in bringing together this cooperative approach? Unless some event focuses attention on the situation so some report or study makes a pointed recommendation setting out a direction, how do we ever get there?

Mr. Arnie Narcisse: I would hope, Mr. Hearn, that you would take the time to read this report we put together. There are seven specific recommendations that deal with some of the issues you've pointed out here. I will just isolate the one that deals with management issues: “Canada immediately recognize in policy, and implement through negotiated agreements, the Aboriginal right to manage fisheries”.

I think part of the answer lies there. Also, part of the answer lies in bringing in parties without vested interests in terms of arbitrating and adjudicating hearings such as this.

What I would like to do for the entirety of the committee is to invite each and every one of you to come to B.C. next summer and witness for yourselves, first-hand, the fisheries that our people undertake to feed and sustain themselves, up and down the coast of British Columbia and up and down the Fraser River. This is what we can do to give you the perspective that we have, to show you that first and foremost is conservation, the sustainability of the salmon stocks. Without the salmon, our rights are worthless.

We have the most to gain and we have the most to lose. I think it would benefit all of us if the Standing Committee on Fisheries and Oceans would take us up on this offer. I am very serious about it. We can work with the regional DFO office, or my good friend Bilal Cheema here, the minister's assistant, to facilitate this.

That would be my response. Thank you.

•(1600)

The Chair: Thank you.

Mr. Hearn, is that it?

Yes. Mr. Newman.

Chief Edwin Newman: Thank you. I am happy to hear you have made some progress, but the aboriginal people haven't seen it yet. We hope that some day we will see something that will benefit the aboriginal people.

It is not from lack of trying. We have tried in many ways to create ways to work with the Department of Fisheries and Oceans to protect those resources that are very important to aboriginal people. We depend a lot on those resources for our livelihood, and for our food fishery. We put a very high value on the food fishery. We put a higher value on the food fishing than we do on the commercial fishery because our people have been living off the land for a long time. It is important that we protect that.

A lot of the programs and plans that were put in place by the Department of Fisheries and Oceans infringe on our title and rights. We have to live with that. Abalone was a delicacy to our people. The Department of Fisheries and Oceans commercialized abalone. They issued 22 licences to 22 white people. Indian people didn't get one. They wiped out that resource. A moratorium was placed on the harvest of abalone, and that has continued for a long time.

For the first time yesterday I walked into the Department of Fisheries and Oceans and finally saw documents saying that it's illegal to harvest abalone. It's been illegal for a long time. That's the first time I've ever seen a document. Yet there's a wholesale poaching operation going on in abalone on the coast. There's a wholesale poaching operation going on in halibut on the coast, and a wholesale poaching operation going on in geoduck. Those things are happening out there and there's no enforcement. In answer to my friend, there is absolutely no enforcement out there. Yet we see it.

That's why we want to try to look for ways to work together with the Department of Fisheries and Oceans, to manage that resource, to protect it, not just for the use of aboriginal people but for the use of all the people who use it. We are still optimistic that some day DFO will agree to work with us, to help us so we can help them save that resource.

Thank you.

The Chair: Thanks very much.

I have a couple of quick questions myself.

Mr. Narcisse, do you agree with the statement that drift net fishing is illegal from Mission upriver?

Mr. Arnie Narcisse: It's in the agreement that was spelled out between the Stó:lō Nation and the Department of Fisheries and Oceans. Mr. Malloway attempted to elaborate upon that by pointing out to you that the length of these nets is about 200 yards as opposed to the 1,200-yard ones that the all-Canadian fleet uses.

In terms of illegal drift nets, there are no such things.

The Chair: What does that mean?

Mr. Arnie Narcisse: It means it was in the agreement between Stó:lō Nation and the Department of Fisheries and Oceans.

•(1605)

The Chair: Has the Stó:lō Nation claimed all the territory upriver from Mission to the source of the river?

Mr. Arnie Narcisse: Sorry, I've—

The Chair: Mr. Malloway.

Mr. Ken Malloway: The Department of Fisheries and Oceans and the Cheam First Nation—

The Chair: I'm not talking about Cheam. I'm asking, is the statement that "drift net fishing is illegal from Mission upriver" a correct statement?

Mr. Ken Malloway: No.

The Chair: What is a correct statement?

Mr. Ken Malloway: The correct statement that I was trying to make is that the Department of Fisheries and Oceans and Cheam Band had an agreement that dealt with the drift fishery.

The Chair: That's one band out of 97.

Mr. Ken Malloway: Other bands have also asked for the same access, but have been denied.

The Chair: I'm not getting an answer, but I guess that's an answer.

Finally, I didn't quite get what you said, Mr. Narcisse, about the amount of, I think you were saying, over-catch or too many fish caught. The Fraser River Panel indicates that their commercial catch was 1,326,000 approximately. What did you say was your figure that was over what should have been allowed?

Mr. Arnie Narcisse: It was 890,150.

The Chair: Should not have been caught?

Mr. Arnie Narcisse: Yes, in the Canadian fleet.

The Chair: Out of that 1,326,000.

Mr. Arnie Narcisse: In addition to that—that were caught in addition to that.

The Chair: In addition. So that figure is incorrect.

Is this what you're saying, that the figure should really be over two million?

Mr. Arnie Narcisse: Yes, that's what it should be. These are the points that I'm trying to point out in terms of the lack of adherence to precautionary principle and risk-averse management measures.

The Chair: So you're saying that the Fraser River Panel Sockeye Review figures are off by almost a million fish in the Canadian commercial catch figures?

Mr. Arnie Narcisse: Damn true.

The Chair: All right, thank you.

Your testimony is very much appreciated, gentlemen. Thank you very much.

We will go right to our next presenter, who is Mr. Jim Webb, please.

We will take a five-minute break for necessities, no longer than five minutes.

• _____ (Pause) _____

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• (1610)

The Chair: We're ready to go again.

For the benefit of committee members, Chief Irving Charlie Boy is not here, but we do have Mr. Jim Webb, fisheries manager, representing the Tl'azt'en Nation.

Sir, welcome, of course. You have up to 10 minutes to make an opening presentation and then we'll have questions for you.

• (1615)

Mr. Jim Webb: I'm sure I won't be taking up your 10 minutes, because I'm pretty well straight to the point.

My name is Jim Webb and I'm a fisheries manager for Tl'azt'en Nation, which is at the terminal end of the early Stuart sockeye run. The people up in Tl'azt'en Lake this year...they haven't been able to actually fish the early Stuart in the last few years. This year was an exception. We were able to fish it, but because of low numbers and so forth they were expecting 90,000 fish to come back to the spawning grounds, when only 9,200 showed up.

We had fishers on the lake. We only have two spots that we do fish and those are on Stuart Lake and also on Trembleur Lake. People who would set nets during this time, and sit all night long, would only catch one or two fish. So I was constantly getting questions during the year about where all the fish were. They heard about lots of numbers going by Mission, but they weren't ending up in the spawning grounds.

It's the feeling of our chief and the people that DFO doesn't seem to be managing the stocks in the river. They manage it out in the approach area, and by the time it does hit the river these different variables happen that account for fish not getting there.

I'm not here to point fingers at anybody in particular. There are a number of variables, such as high water temperatures, lack of enforcement maybe within the river, and so forth.

The DFO don't really use traditional knowledge when it's presented to them and so forth. This is something that we'd like to see a little more of. They should talk to the elders, talk to the people

who have been there when the fish were numerous there and find out what used to happen when they used to use weirs and so forth. They made sure that the spawning grounds were full before they started fishing for food purposes.

The Tl'azt'en Nation also feels that DFO isn't adhering to their own policies where conservation is the first priority and then first nations. As I said, we're at the terminal end of the fisheries, so everybody gets a crack at the fish before we do.

This year I think on the early Stuart we only had 700 fish, or something like that, that were caught by the three bands that I represent. Prior to that, before the river was closed down, our chief had approached DFO about getting a licence with the Yale Band to come down and fish down in the river so we could get some fish for the people up there. The licence was finally approved. It was a day after the river was closed. They gave us a special permit. We went down to Yale Band and fished and got about 1,500 pieces and transferred those back up to the Tl'azt'en people.

Even then, with those fish there was still not enough to feed everybody. It was approximately a little over 2,200 fish that they had altogether for food and ceremonial purposes, and that equals out to be about one fish per person within the Tl'azt'en Nation. This is what is supposed to put them through for the whole year.

As I say, for the early Stuart sockeye there are 37 streams that hold spawning habitat for these salmon up in the Tl'azt'en and Takla territories. Out of those 37 streams, only 24 had any salmon at all in them this year, and 62% of those spawning salmon were all within Tl'azt'en territory.

So of the 62% of the spawning salmon that come out of Tl'azt'en territory for food and ceremonial purposes, we only got back 700-some-odd, not counting the 9,200 that were put onto the spawning beds.

• (1620)

I happened to be here in the room when Mr. Narcisse invited the panel and the committee here to observe the fishing activities on the river. I'd also like to extend that invitation and bring you up to Tl'azt'en to show you where the terminal areas are and to see how these people fish up there, if they do get any fish, as opposed to what happens down this way.

That's the end of my statement.

The Chair: Thank you very much.

I guess what you're saying is there's not much point in us as a committee accepting your invitation to come up to your area to watch you fish, because we're not going to see you catch much.

Mr. Jim Webb: That's my point.

The Chair: Who'd like to start off?

Mr. Hearn, and then Mr. Cummins. Is that the idea? Okay.

Mr. Loyola Hearn: Thank you very much, Mr. Chair. I'll be very brief.

I was just wondering about this when I was listening to the concerns you expressed about the stock. Most of the people who've been here over the last couple of days, regardless of their individual perspectives, regardless of where they pointed the fingers, whether they were in or out, or whatever, all of them expressed concern about how the fishery generally was being managed—and I could go beyond the Fraser.

Is that your concern also?

Mr. Jim Webb: Yes, it is. My concern is how they manage it. They'll come along with a piece of paper and then put it in front of you and say, well, this is what's basically going to happen during the year. There's not really any cooperation. No, they're not asking for any input from the first nations people.

Mr. Loyola Hearn: You mention that the amount of salmon you had this year equates to less than one per person. We hear stories of some bands who are catching so many...the question is, what do they do with it? Is there an uneven number in the allocations given? Is it just poor planning? Is it lack of understanding, or do some take advantage of the run more than others because of geography, illegal fishing, or whatever? The same holds true of all groups.

Mr. Jim Webb: Well, I can't really comment on that because I haven't seen anything like that with my own eyes. There are always rumours and so on, but do you adhere to those rumours? I'm based on facts.

Mr. Loyola Hearn: You're basically saying that from your own perspective and your own group's perspective you are just not getting enough to survive. I guess those are the words used.

Mr. Jim Webb: Well, if there wasn't an Overwaitea down the street, we'd be in dire straits, for sure.

Mr. Loyola Hearn: I'll pass, Mr. Chair.

The Chair: Thank you.

Mr. Cummins.

Mr. John Cummins: Thank you, Mr. Chair.

Mr. Webb, this question is just for the benefit of the committee, because you're the first person from well upriver to speak to the committee. Could you perhaps make it a little clearer to the committee just where the traditional territory of Chilcotin is, and give us some idea of the stocks that you fish there?

Mr. Jim Webb: I'd like to clarify that for you. I'm from Tl'azt'en. I represent Tl'azt'en. Sorry, I'm not a Chilcotin.

Mr. John Cummins: All right.

Mr. Jim Webb: Tl'azt'en is at the terminal end of the early Stuart run. The salmon spawn was in the streams within our traditional territory. We are approximately 60 kilometres northwest of Fort St. James, which is also another 150 kilometres north of Prince George. We are situated on the eastern side of Stuart Lake. I'm sorry to say the only stocks that we get to fish are the early Stuart and the late Stuart.

Just to add to that, our neighbours to the north, the Takla Lake Band, only have the early Stuart salmon to actually access. As it is now, they don't have any. From the last report I had from one of my colleagues up there there was actually only one fish caught in a set net.

Mr. John Cummins: So you said you're on the east side of Stuart Lake.

Mr. Jim Webb: The east side of Stuart Lake, approximately 50 kilometres to 60 kilometres up. There are three reserves within the Tl'azt'en Nation, one being Binche, which is approximately 40 kilometres on the east side of Stuart Lake, and there's Tache, where our main offices are. Then there's also Middle River, which is at the mouth of Middle River, which would be on the north side of Trembleur Lake.

• (1625)

Mr. John Cummins: So again, you fish the early Stuart stocks?

Mr. Jim Webb: The early Stuart stocks and also the late Stuart stocks.

Mr. John Cummins: And also?

Mr. Jim Webb: Also the late Stuart stocks that spawn within our territories.

Mr. John Cummins: What is primarily, then, your method of fishing in that area? Are you fishing in the lake or in the approaches there?

Mr. Jim Webb: It's just right in the lake.

Mr. John Cummins: Right in the lake?

Mr. Jim Webb: Right in the lake for the early Stuart run.

Mr. John Cummins: And what's your method of fishing in the lake?

Mr. Jim Webb: With gillnets.

Mr. John Cummins: You fish not with set nets, but from a drift net or—

Mr. Jim Webb: No, with set nets.

Mr. John Cummins: So are you restricted to a 10-fathom set net in the lake?

Mr. Jim Webb: It's actually shorter than that, I think.

Mr. John Cummins: Is it?

Mr. Jim Webb: I think so, yes. Well, preferably because the area that they do fish in is quite shallow, so 10 fathoms would drag it along the ground.

Mr. John Cummins: I see. So basically your fishery, then, would take place in early June?

Mr. Jim Webb: We start seeing fish actually in early July.

Mr. John Cummins: Early July, I mean, yes.

Mr. Jim Webb: Approximately two weeks after they pass by Mission.

Mr. John Cummins: That's two weeks past Mission.

Mr. Jim Webb: That's correct.

Mr. John Cummins: This is important information, I think, Mr. Chairman. Mr. Webb's people fish in early July.

These fish would have passed Mission, what, in late June, then?

Mr. Jim Webb: Approximately there, yes, depending on conditions and so forth, but that's usually the norm, about 10 days to two weeks.

Mr. John Cummins: And it takes about two weeks for the fish to get from Mission to Stuart Lake?

Mr. Jim Webb: Approximately, yes, depending on conditions.

Mr. John Cummins: Okay. And the conditions as far as water temperatures and so on by early July were not a problem?

Mr. Jim Webb: Not at the terminal end, no.

Mr. John Cummins: What were the water conditions like? Was the water high or was it normal or was it low?

Mr. Jim Webb: This year actually the waters were in good condition.

Mr. John Cummins: So the waters were suitable for the passage of fish—

Mr. Jim Webb: Yes, they were.

Mr. John Cummins: —and the temperatures were suitable for the passage of fish?

Mr. Jim Webb: That's correct.

Mr. John Cummins: Thank you, Mr. Chairman.

The Chair: On that very issue, then, what numbers of fish would you have been expecting, given what you just told us?

Mr. Jim Webb: Well, the numbers of fish we were expecting this year to be up in that area were well over 90,000 fish, and those were from the numbers and percentiles that we had from DFO.

The Chair: Okay, and in fact you had 2,000.

Mr. Jim Webb: Well, that was supposed to be on the spawning beds. With that amount being on the spawning beds, it gave the opportunity to the Tl'azt'en for the first time in five years to fish at early Stuart time.

The Chair: Okay, so 90,000 on the spawning beds...?

Mr. Jim Webb: That was what was predicted, and what actually got there was totally different.

The Chair: How many actually got there?

Mr. Jim Webb: It was 9,244.

The Chair: Can you offer any explanation as to what happened?

Mr. Jim Webb: As I mentioned earlier on, there's a multitude of variables, such as water temperature, mainly lack of enforcement, mismanagement—

The Chair: Yes, but water temperature doesn't affect it apparently, because it's early in the season and you say the water conditions are good.

Mr. Jim Webb: At the terminal end. What happens in the river I don't know. I'm 400 to 600 kilometres away.

The Chair: Okay, thank you.

Sorry, Mr. Murphy.

Hon. Shawn Murphy: Thank you, Mr. Chairman.

Thank you, Mr. Webb.

I have just a few questions. You're quite a way up from where we're normally talking about, but do you see much DFO presence up in your territory?

Mr. Jim Webb: A little bit of history previous to my position at Tl'azt'en...I was an employee at DFO in enforcement.

Hon. Shawn Murphy: You were employed with DFO?

Mr. Jim Webb: As an aboriginal enforcement officer.

Hon. Shawn Murphy: All the way down the Fraser River?

Mr. Jim Webb: No, I was based out of Prince George, and that's the closest CMP office, which is 200 kilometres away from where I am.

Hon. Shawn Murphy: In the area where you live, do you see much DFO presence in the way of enforcement?

Mr. Jim Webb: No.

Hon. Shawn Murphy: Do you see them at all?

• (1630)

Mr. Jim Webb: To be honest, within the last year I've been with Tl'azt'en I've had one person come up from DFO.

Hon. Shawn Murphy: On a boat?

Mr. Jim Webb: No, he drives up.

Hon. Shawn Murphy: And what did he do?

Mr. Jim Webb: He came in and had coffee with me and that was about it.

Hon. Shawn Murphy: You're a previous enforcement officer.

Mr. Jim Webb: That's correct, a fisheries guardian.

Hon. Shawn Murphy: A fisheries guardian in the fisheries guardian program, so you have first-hand experience in the whole issue of enforcement.

We're getting some divergent views here, and we're trying to sort them out. But one of the allegations that has been made by a number of people, and I'm not going to assign any truthfulness to it, is that in certain areas of the Fraser River—certainly not near where you live, but in other areas—the enforcement by DFO is extremely weak. Because of that, overfishing or unauthorized harvesting by aboriginal bands is rampant.

Do you agree with that?

Mr. Jim Webb: I can't really comment on something without actually seeing it with my own eyes. You hear rumours.

Hon. Shawn Murphy: But from your experience as a guardian, were you not in these areas at all?

Mr. Jim Webb: No, I didn't go south of Prince George.

Hon. Shawn Murphy: Never went south of Prince George. Okay.

Mr. Jim Webb: Mind you, that it's not to say there isn't a poaching problem around Prince George.

Hon. Shawn Murphy: Let's just probe a little deeper here.

You've been involved in the guardian program. You represent three bands, I understand, and you know yourself that if there is a serious poaching problem, you're the band that is actually suffering the most because you're at the terminal end.

Do you consider it a serious problem?

Mr. Jim Webb: Yes, it's one of the problems, I would say.

Hon. Shawn Murphy: What do you think is the answer to the problem?

Mr. Jim Webb: Maybe manage the fishery from the terminal end and make sure the spawning grounds are filled up, so we can have fish for the future generations.

Hon. Shawn Murphy: But if DFO aren't going to enforce the rules and regulations in a way they should, there are always going to be a few minority people who are going to take advantage of that and go upriver, so the fish aren't going to reach the terminal end.

Do you agree with that?

Mr. Jim Webb: I wouldn't say it would just be minority people, but anybody can poach.

Hon. Shawn Murphy: I'm sorry, I probably should have worded that differently than I did. I'm talking about a minority of every group. There's a minority of commercial fishers that poach in the Johnstone Strait; there's a minority of commercial fishers that poach below Mission; and it sounds like there are a number of aboriginal poachers as we go upriver too—if you believe what we're hearing here.

Do you have anything to suggest to this committee as to what we could recommend to DFO?

Mr. Jim Webb: Probably not to cut back so much. I would like to see a few more fishery officers out there. You know, it's not just the poaching problem; there are the habitat issues, logging issues, and so forth that have to be addressed. Like I say, I worked out of the Prince George office for three years, and I was basically one of the only ones who was going up into the Stuart and Casdeded area, Takla area, and so forth.

Hon. Shawn Murphy: The other enforcement officers would not go up?

Mr. Jim Webb: They would, but you have to realize that for the five officers you have in Prince George, you have an area of probably well over the size of Vancouver Island. In the interior they have to go from Prince George all the way up to the top end of the Driftwood, which is at the top end of Takla Lake, and it goes as far west as Burns Lake, as far east as McBride, and as far south as halfway to Quesnel. That's for five officers, and it's a heavily industrialized area with lots of logging. It's mainly habitat work that is done up in that area.

Hon. Shawn Murphy: It's a habitat issue rather than a poaching issue?

Mr. Jim Webb: Yes.

Hon. Shawn Murphy: I have nothing further, Mr. Chairman.

•(1635)

The Chair: Thank you.

Monsieur Blais.

[Translation]

Mr. Raynald Blais: I defer to Mr. Roy.

The Chair: Mr. Roy.

Mr. Jean-Yves Roy: I have a short question. What is the distance between Takla Lake and Vancouver, over land?

[English]

Mr. Jim Webb: That would be in kilometres from the top end of Takla Lake to Vancouver, as the fish swim?

[Translation]

Mr. Jean-Yves Roy: Yes.

[English]

Mr. Jim Webb: We're probably talking about at least a thousand kilometres, if not more.

[Translation]

Mr. Jean-Yves Roy: This answers my question. Thank you.

The Chair: Mr. Blais.

Mr. Raynald Blais: No, I pass.

[English]

The Chair: Mr. Cullen.

Mr. Nathan Cullen: I appreciate your testimony, in terms of its straightforwardness.

I have two questions for you. First, when you describe bringing fish into the nation, you average it out to about one per person. Just what are the real implications of that, both culturally and on a basic level? What is the experience of people to have so few fish in the community?

Mr. Jim Webb: Well, culturally, you have elders who like to teach the younger ones how to do certain things. If there are no fish there, the elders can't teach them how to fish, what to do with the fish, about first-fish ceremonies and so forth—things that are inherent to the culture. If you don't have the fish there, how can you practise it?

Mr. Nathan Cullen: A second question I have is on what format you have as a first nation to deal with other first nations up and down the river. Is there a forum where influence can go back and forth? Is there a place where discussion happens to say you're at the end and you need some more fish coming up the river, or is there no place where that discussion goes on right now?

Mr. Jim Webb: There are actually a couple of forums. In the upper Fraser we have a forum called the Upper Fraser Fisheries Conservation Alliance, which we are a member of. We go there. We have 20 bands in the upper Fraser. They all go there, and we talk about issues and so forth.

Mr. Nathan Cullen: I'm wondering if through the first nations governance you're able to exert any influence about the number of fish that show up in a lake.

Mr. Jim Webb: That's a political issue, and I'm the technical...

Mr. Nathan Cullen: I'm gathering, by the evidence, that it's "no", just with respect to how few fish are showing up.

Mr. Jim Webb: Not to date, anyway.

Mr. Nathan Cullen: I have one last one.

I think you're in a unique position, having worked in DFO. Was that program cut? I forget the name of it. Was it stewardship?

Mr. Jim Webb: No, it was guardianship.

Actually, I wasn't in the actual guardianship program. It was a little side thing I was doing.

Mr. Nathan Cullen: Okay.

Does that guardian program still exist, to your knowledge?

Mr. Jim Webb: To my knowledge, no.

Mr. Nathan Cullen: I've put this to other witnesses, and I'll ask it of you. In any forum where we would have multi-stakeholders making decisions about the management of fisheries, in your opinion would DFO have the legitimacy to be the one guiding that process?

Mr. Jim Webb: Guiding it outright, or sitting beside somebody else and guiding it together?

I would like to see first nations and DFO be able to sit down together at the same table and come up with a good plan.

Mr. Nathan Cullen: So in a sense, co-chairing something with stakeholders around the table.

Thank you.

The Chair: Mr. Webb, just so I understand, were the fish that were caught this year caught under food, social, and ceremonial? They were all under that, right?

Mr. Jim Webb: Yes.

The Chair: So there is no commercial fishery up there in the terminus?

Mr. Jim Webb: No commercial fishery at all.

The Chair: Are there any other questions?

Mr. Keddy.

Mr. Gerald Keddy: I just want to question your numbers. You expected 90,000 fish. There were 90,000 fish actually counted that went past Mission?

• (1640)

Mr. Jim Webb: No, actually, I think 90,000 was at the 50 percentile level. I'm not too sure on that right now. But that is how many they were expecting to get up to the spawning grounds through the run.

Mr. Gerald Keddy: That was 90,000 after the recreational fishery, the aboriginal fishery, and the food and ceremonial fishery on the river?

Mr. Jim Webb: That's right.

Mr. Gerald Keddy: Okay. Of that—I just want to make sure the numbers are correct—10% actually arrived—9,244.

Mr. Jim Webb: Ten percent, yes.

Mr. Gerald Keddy: Those were actual fish counted?

Mr. Jim Webb: Those were actually fish counted.

Mr. Gerald Keddy: What was the method for counting those fish?

Mr. Jim Webb: Recoveries, aerial flights, and so forth, stream walks in all these different streams. The people I employ do this work.

Mr. Gerald Keddy: Is it fairly accurate? You might have missed some.

Mr. Jim Webb: Oh yes, we might have missed some, a couple of hundred.

Mr. Gerald Keddy: But you didn't miss 80,000.

Mr. Jim Webb: No, sir.

Mr. Gerald Keddy: Okay. Thank you.

The Chair: Thank you.

Thank you very much for your testimony today, and thanks for the precise nature in which you gave it. It is very much appreciated.

We're going to panel 10 now. We had invited, and I believe received confirmation from, the Sto:lo Nation, and they're not here.

They're here? Whoever is here, please come forward.

We have Mr. Tony Jacobs and Ms. Nikki Jacobs from the Tsawwassen First Nation, and Mr. Darwin Douglas, Mr. Lincoln Douglas, and Mr. Saul Milne from the Cheam First Nation.

We did ask the Musqueam Band to be here, and they're not here.

Mr. Ken Malloway (Member, Sto:lo Nation): Excuse me, my computer was down for a while, and I'm on the fisheries management board for the Sto:lo Nation. I corresponded with the lady who sent me the invitation and told her that I would be representing the Sto:lo Nation and the B.C. Aboriginal Fisheries Commission.

The Chair: We didn't get that. Do you want to come back down again and join in this panel?

Mr. Ken Malloway: Okay.

• (1645)

The Chair: Please do.

We'll get some name cards. We'll suspend for a couple of minutes.

•

_____ (Pause) _____

•

The Chair: We're back on the record. So we're clear on who's here and are sure the record is clear, we have the name tags up now.

As we've done with previous panels, we'll give each group, in this case each nation, an opportunity to give us an opening statement of up to ten minutes, and then we'll move into questions from the members.

Let's start with the Cheam First Nation, Mr. Douglas.

Mr. Lincoln Douglas (Councillor, Cheam First Nation): My name is Lincoln Douglas, and I'm a Cheam First Nation councillor. I returned to council in November of last year after being away for two years.

One of my goals was to try to reduce the tension between DFO and our members in the fisheries sector. The support of the chief and council on this was very hard. Some felt that they were betraying their people when they were trying to do certain things. It has been a violent history, but I did sit with DFO at many meetings, trying to resolve how we were going to approach the year coming in 2004 by developing fishing plans, monitoring plans, communications streams, and yes, enforcement and compliance.

We didn't sign a safety protocol agreement this year with DFO. Instead, we supported the fishing plan that we signed, which had these components in it. Many of our members supported this. However, there were still a few who didn't, and they faced the consequences. Apparently, there are charges at Cheam on members, and gear and fish have also been seized. Chief and council never stepped in the way of the enforcement and compliance.

It was done in a different method in some ways. There were some ways that were non-confrontational. DFO was a little leery of council, whether we were still supporting it or not. We reassured them by telephone calls and by having meetings that we were serious about being involved in the plan. But even after we signed the plan and had many meetings, we still found ourselves targeted through the media, structured through other things by the Bill Otways of the world and other groups that followed. We didn't return that kind of thing; we went fishing and tried to support our plan.

In the attempt to coexist, we invited them and attended meetings with them, but at the end they were dissolved and it was never followed through. We tried to resist the bitterness that has been going on among the other groups, among DFO and the sport fisheries sectors and other fishing sectors. We still want to maintain it and invite that to happen.

I'm actually here today because our chief was away today and he had asked me to be here in his place.

After all this, I can't see us spending the kind of money that's being talked about on a judicial review. I think there has to be some other system of review, such as what has been talked about already today, an integrated harvest committee or some way of saying there is a problem, but let's figure out a way to work together with less bitterness.

Fishing is about our culture. We are Sto:lo, meaning people of the river, and that's who we are. We don't intend to stop this part of our culture. However, we are willing to be involved in a management plan system that works for our needs and the needs of the fish.

With that, I'd like to pass the mike on to Darwin so he can comment more on this.

• (1650)

The Chair: Go ahead.

Mr. Darwin Douglas (Aboriginal Rights Title Coordinator, Cheam First Nation): Thank you, Mr. Chairman.

I also spoke with our chief. He was here yesterday and heard some of the testimony by the other sectors. He passed on a couple of things to me that he wanted me to pass on to the committee here.

As Lincoln has said, traditionally Cheam is one of the main villages of the Pilalt people, which is part of the Stó:lō Nation. We are Stó:lō, although this year we had an agreement that was outside of the Stó:lō agreement.

One of the main points I'd like to raise is I am a fisherman, and my family have been fishermen for thousands and thousands of years. The fishing we do, despite what some of you have heard, is incredibly heavily monitored. Every day that we're fishing there are enforcement officers there. At the time our fishing is to stop, the officers make a point of being there. I'll tell you that at times there are more fisheries officers in our little stretch of the river than fishermen. It may be hard for you to believe.

I heard it pointed out that 13 officers patrol the river. I know there are more than 13 officers. There may be 13 in a certain area, such as Chilliwack, but often they borrow officers from the areas down river and bring them up for added enforcement.

The other thing we've seen this year is RCMP joining in on the enforcement of our fishery. It's monitored. There have been charges laid. As my councillor said, we did have a fishing plan this year. In previous years there wasn't a fishing plan, and there were disagreements. That was one of the reasons for the safety protocol.

I can't say the amount of enforcement I've faced in my lifetime. I had an incident, just to shed some light on it. Last year there was a confrontation between our chief and three officers. Some of you may be aware of it. He was beaten up, pepper-sprayed, handcuffed, and treated in an ill-mannered way. All he was doing was asking them to follow another protocol we had. When they come onto our reserve lands we ask them to check in with chief and council, or into the administration office, so we might be able to assist them in the work they're doing.

Besides that, there are some other notes he passed on to me. On the sports fishery, our council and some of our people met twice with the sports fishermen last year at the beginning of the season. The third meeting was cancelled due to the attitudes the sports fishermen came in with. DFO cancelled the meeting; we didn't cancel the meeting. We've been trying to meet with sports fishermen who fish in our territories. Their numbers greatly exceed those of our fishermen.

•(1655)

Our fishing force is made up of probably 10 boats, 8 of which are 12- to 14-foot skiffs. I believe the wrong picture has been painted about our fishery. I know a gentleman mentioned a flyover he did. On the amount of river we take up with our nets, our drift nets are from 20 feet to 200 feet in length. They take up probably at the most one-eighth of the river, at the parts of the river we drift, and we only have three spots that we drift. There's a portion on the beach that we drift, and there's seven times that portion that the fish have to travel through, including the other side. Fish travel up both sides of the river.

As far as the drifting goes, I know, Mr. Chairman, you mentioned it and posed the question to some of the other witnesses. The court decision in Sparrow identifies that first nations are to be able to fish using their preferred method, and drifting isn't a new thing. I've been told that as far back as people can remember, drifting has been happening. It hasn't always been accepted by the department, but it's been done. I think people are recognizing that.

Our fishing is done openly, and as people have mentioned, our main fishing is done in about a two-kilometre stretch. It's right above the Agassiz-Rosedale Bridge. We're not trying to hide anything. Some of our fishermen may not have complied with the fishing plan, but the majority did. The process the department took in enforcement was that if someone was caught fishing outside of our times they were warned, and the second time that person was caught fishing outside of the times, they were charged. I believe there were 11 charges.

I am a fisherman, and I spend probably two months of my year living on the river and fishing. I didn't see the 1.9 million fish that are estimated to have gone past Mission. The water temperatures were warm this year and there was some mortality. Like my good friend Kenny mentioned, we saw fish coming down, floating, but not the 1.9 million that I heard mentioned.

I know there are some issues with the Mission echo sounder. I'm not going to point fingers. I believe we all need to look at what we're doing, and the fishery is evolving. But the Mission echo sounder does have issues regarding counting fish. I know when I visited it about three years ago, the scientists who operate it talked to me. They said they weren't sure if fish were travelling upriver or downriver when they went past the echo sounder. There are milling effects that happen in that area of the river due to the tides. There are a lot of issues.

We'd like to be involved in the overall management. We'd like to be involved in the testing that takes place, and incorporate some of what we know about the fishery. We're trying to continue our relationship with the fish in the river, and do our part to look after them. We do fish; we have always been strong fishermen, and we will continue to do so. We will continue to protect our fishery, because we have to do it for our generations to come. We have a great concern about conservation, and we want to work with different sectors. We've made some efforts to do that, and we will continue to do that.

Just as my friend Arnie Narcisse invited you all, as part of that visit we'd be more than happy to have you come and observe our

fishery. If you want to do like DFO does, you can sit in the bush in camouflage and take pictures of us all week. You know, they watch us. I can't stress that enough.

I think that's all for now.

•(1700)

The Chair: Thank you very much. I appreciate that.

We'll now have the Tsawwassen First Nation, please, for ten minutes.

Mr. Tony Jacobs (Fisheries Manager Negotiator, Tsawwassen First Nation): Thank you, Mr. Chairman.

I'm Tony Jacobs and my daughter here is Nikki Jacobs. We have an executive summary. Nikki is going to read from the executive summary. We have a fuller document that we've handed in—seven copies.

We appreciate the time here, although ten minutes is not very much time to deal with the issues of fisheries. We believe fisheries is a major issue, and it's going to take a lot of work to deal with a lot of the issues we have to deal with here over the next years.

I'm a fisherman for the Tsawwassen First Nation. I work for the Tsawwassen First Nation fisheries department, and so does my daughter Nikki. We have a lot of issues.

It's good to be here with my friends from Stó:lō. The Musqueam First Nation is, I'm sure, on their way.

Just to give everybody an idea of our fishing area, we share the river with the Musqueam First Nation from the mouth of the river up to New Westminster. That is the area we fish.

At this time, I'd like to ask Nikki to share our executive summary with you.

Ms. Nikki Jacobs (Fisheries Assistant, Tsawwassen First Nation): The purpose of today's public hearing is to discuss the 2004 Fraser River sockeye harvest. However, Tsawwassen First Nation is deeply concerned about the future of policy respecting the fisheries. Current policy is in a state of flux, with a real risk that policy will be established with little regard for TFN interests. Although TFN had a sales fishery in 2004, the aboriginal fishery is under threat as politics receives an ever-increasing importance in fisheries management.

This submission is made in a spirit of reconciliation and hope for a better future. TFN supports the sharing of resources in a way that is respectful of all who have an interest and a history of participation in the fisheries. TFN interests have a unique and special character, not the least of which is that TFN users predate all other non-aboriginal users. This means that they are based on Canadian ethical, political, and legal traditions that respect interests in resources based on use and occupation. The rule of law and the recognition of the unique place of indigenous people in Canadian society, based on their use and occupancy of lands and resources at time of settlement, creates the need for special measures to recognize and protect first nations interests.

When one regards the 2004 Fraser River sockeye harvest, it is apparent that we are at a crossroads regarding fisheries policy on the Pacific coast. Strong pressure is being mounted to deny TFN and other first nations their rightful claim to fish in order to contribute to the livelihood of their people. This is morally and legally wrong. Economic participation in the fisheries is obviously an effective way to support first nations economic development. TFN people have a deep and unique cultural connection with their fisheries, and that connection needs to be sustained and built upon. Governments should work to facilitate and support TFN participation in the fisheries, to support the people and the community. Participation must be sustained and encouraged, and policy is needed to accommodate and support that participation.

Government policy development and management practices must not be formed based on special interest groups whose sole objective is to ensure that aboriginal people do not have access to an economic fishery. Some argue that increased enforcement will solve fisheries management issues, but when you look at the long struggle that first nations have had in accessing a fishery, you begin to understand that there are other policy development and management priorities necessary to take some pressure off the resource.

TFN fishing is largely undertaken with a small-boat fleet operating at traditional sites in the mouth and tidal waters of the Fraser River, using gear appropriate for such a fishery. Fishing has been a long tradition in many TFN families, and the ability and capacity to catch salmon under sometimes difficult circumstances has been clearly evident in the results. The small pilot sales allocations provided a small but meaningful livelihood for a number of families, notwithstanding the problems and difficulties in adhering to requirements that have not been conducive to effective participation.

TFN has undertaken a review of fisheries issues, based on its experience with the aboriginal fisheries strategy and Canada's approach more generally to aboriginal fisheries matters. The following is a summary and brief explanation of TFN's concerns:

—The allocation of allowed catches into separate food, social, and ceremonial and sales components, and the limited size of the allocations.

—Under-resourcing of TFN participation in management activities, making it difficult for TFN to be fully involved in management and conservation.

—Little certainty and limited opportunities for advance planning, investment, and meaningful commitment of human and other resources.

—Limited recognition of the continuing importance of the fisheries to the social, cultural, spiritual, and economic sustenance of the TFN society.

—Limited recognition that the history of the TFN in the fishery creates a legitimate right to a meaningful harvest consistent with that historical resource use, and that accommodation of first nations' historic use is both a moral responsibility and a legal obligation of the government.

—Limited recognition that experience of TFN fishers and the location of the TFN community makes the fishery an opportune resource to support the realization of TFN economic self-sufficiency.

● (1705)

—Little recognition that there is a need for long-term commitments to fair allocations that cannot be altered or limited at the whim of politics and legal harassment strategies. The arbitrary handling of allocations and the ease with which other interests can use political and other strategies to interfere with the participation of TFN is evident to any observer. Legally protected and secure arrangements are essential to any workable future.

—Failure to provide stable and adequate funding and other resources for participating first nations.

—Failure to recognize a full partnership role for first nations.

—Absence of an explicit acknowledgement of co-management principles, including the adoption of fisheries management guidelines and annual fishing plans in which first nations have a recognized role.

—Absence of recognition and strong support for regulatory and management framework responsive to the needs and realities of small-boat communal fisheries.

Some important principles for the future are a larger, more important role for fisheries in the economic development of first nations such as TFN; greater and more secure participation of TFN in the fishery on the basis of historic interests and entitlements; harvests exercised and managed in ways that support the unique TFN role and history and that do not undermine the successful participation of TFN; the elimination of the artificial division between FSC fisheries and commercial fisheries in first nations allocations; the creation of cooperative management arrangements with first nations that ensure that cooperation rather than conflict is the principal basis of the relationship between sectors; and a meaningful role of TFN and other first nations in all aspects of regulation, management, and planning of fisheries and fisheries habitat.

TFN acknowledges that there are some positive features of the AFS but still is concerned about the short-sighted nature of the program. The AFS, however well-intentioned, in fact fell far short of the original expectations and commitments.

When the 2004 sockeye season is examined, TFN's sales fishery yet again seems to be an ad hoc initiative, and it is difficult to know where the status of our fishery will be from year to year.

If fisheries policy is to be successful in the future, fundamental restructuring is essential. Allocations must be consistent with a continuing meaningful presence of first nations in the fishery, including in the commercial fishery, on an equitable basis that confirms the historical presence in the fishery and the contemporary need for economic resources.

In addition, there is a need for fishing arrangements that recognize the distinct nature of the small-boat communal fisheries. DFO has recently exhibited a reluctance to confirm that the future of these fisheries will be secured through a suitable regulatory regime. Such a regime requires an explicit recognition that first nation fisheries are unique and different and cannot be sustained if subjected to a standardization of approach based on the industrial fishery.

Recent calls to remove the special identity of first nation fisheries must be resisted. First nation fisheries are different and need to be subject to separate management provisions that ensure that first nations can successfully fish with their traditional fleets in their traditional fishing areas.

In conclusion, it is clear that the fishery is better managed when a sales agreement is in place. TFN's fishery was an orderly fishery, fished in accordance with all related rules and regulations. Every fish from the sales allocations was physically counted. Even though the aboriginal fishery was peaceful and orderly, we were still subjected to claims and allegations about being responsible for missing fish.

This yet again shows the need for a long-term solution for dealing with TFN's future fishery. Ultimately, a long-term solution will be the only way to get to a sustainable and well-managed fishery. An investigation into the last season will not fix what we view to be a systematic issue within DFO management regimes. Long-term solutions based on recognition of aboriginal rights are required.

TFN is trying to reach this long-term solution through treaty negotiations. The provisions that will apply in the TFN treaty must be negotiated in accordance with the AIP provisions. The TFN negotiations are far too advanced to be frustrated by developments away from the table.

• (1710)

TFN has a commitment in the AIP that the final agreement will contain provisions that protect and preserve its fishery and permit it to operate successfully. Any approaches that undermine the ability of TFN fishers to be successful and to operate in their traditional fisheries with their existing fleet, if that is their choice, will not be contemplated.

The time is right for moving forward to complete the kinds of agreements contemplated in the TFN AIP. TFN has negotiated in good faith to reach the point it is at now. Anything that undermines expectations for meaningful TFN fisheries that operate with the support of governments would constitute a major setback.

TFN asks this committee to support the approach being taken by TFN and to add its voice to those asking governments to get on with the treaty negotiations. Successful settlements are badly needed in

the province for a good overall economic and investment climate. Now is the time.

Thank you.

The Chair: Thank you.

Mr. Malloway from the Stó:lō, you're welcome to make an opening statement.

Mr. Ken Malloway: I'll be short—almost all the Stó:lōs are short. And I'll back up before I'm told to.

I just wanted to touch on a couple of things.

The judicial review that's being called for—I'm opposed to that. I don't see how spending \$30 million on a judicial review is going to help anything. It'll just drag on and on for a couple of years, and meanwhile we'll still be arguing and fighting over it.

The integrated harvest management committee: I don't see how they could do a good job of it either. There are about thirty of them on there. We haven't appointed our people to that board yet. We have one person there, but we haven't appointed the other people yet. We don't see how that committee is going to be able to come up with any kind of cohesive document because of the disagreements that are going to be at that table. You have commercial, sports, first nations, and DFO people there, and even the ones from DFO don't all agree. There needs to be some kind of smaller process to do that job.

I just wanted to clear up one of the things that was asked earlier. When I made my opening statements, I mentioned the fact that Cheam did negotiate an agreement with DFO and that there were five or six people in the band who disagreed with it and who went out fishing. I thought the chairman understood, when I said that, that I thought we had some kind of understanding, but I guess we didn't. I was pushed to say there is illegal fishing above Mission; maybe the chairman wanted me to say there's illegal fishing above Mission. The representative from Cheam said that they had an agreement but that some of the people disagreed with it and were charged. Eleven charges were laid. Those people who decided to fish outside of the agreement were charged with illegal fishing.

The last thing I wanted to mention is the Fraser panel. I've been on the Fraser panel for a little over a year; I was appointed in March 2003. The Fraser panel is an advisory body that makes recommendations to DFO, but as was mentioned earlier, the minister has the ultimate say because of the Sparrow decision. The Supreme Court of Canada says he does have the ultimate say, and his delegate at the Fraser panel makes the ultimate decision.

There was a circumstance that happened in 2003, when I and Marcel Shepert disagreed with a commercial opening they were calling for. Representatives from DFO, the fisheries biologists, were in agreement with us. They said no, there shouldn't be another fishery, but the commercial fishermen called for it and the chairman at the time said, "I'm sticking my neck out; it might get chopped off, but I'm going to open the fishery."

The minister has the ultimate authority, and his delegate at the Fraser panel has the ultimate authority to open and close fisheries. Even though almost all of the people were opposed to it except for the commercial fishermen, the opening happened. He was very lucky that year, because we were looking at an en route mortality of over 80%, but what happened was en route mortality of about 45%, so he rolled the dice and he won. But he rolled the dice again last year and he lost, and he's gone now.

There is so much power vested in one person to either open or close fisheries. All of these advisory bodies are only that: they're just advisory. We go there and we give advice to the Department of Fisheries and Oceans, and it's disregarded and they do what they want to do.

Thanks.

• (1715)

The Chair: Thank you, sir.

We give advice to the Department of Fisheries and Oceans and it's ignored, so welcome to the club—or maybe we're being welcomed to your club; I don't know.

Secondly, under no circumstances do I want to have any witness say what I want them to say. I want them to say what they want to say, and I want to try to understand it. Any questioning I do is to try to get me to understand issues I do not understand. I don't live on the river; I don't even live here, so I want to try to understand as best I can. We're having divergent views and divergent evidence, and I just want to make sure I'm clear on where everybody stands. Don't take my questioning as coming from one place or another. I'm attempting to remain as neutral a chair as I possibly can.

We'll begin the questioning with Mr. Kamp for ten minutes.

Mr. Randy Kamp: Thank you, Mr. Chair.

Thank you, lady and gentleman, for appearing before us. I appreciate your presentations, particularly Ms. Jacobs', the well-written presentation there.

I don't know that I have ten minutes of questions.

You fish at the mouth of the river. If there's a problem, it appears to be beyond that. What was your fishers' impression of the size of the run this year?

Mr. Tony Jacobs: We understood in the beginning that it was going to be a small run.

Mr. Randy Kamp: I'm asking, in terms of what it was predicted to be by the powers that be, the DFO biologists and so on, did it seem smaller than what they were predicting?

Mr. Tony Jacobs: No, the prediction numbers we heard were somewhat larger than what we thought they might be. Generally they are; they do come out larger. Through the management process the

amount of the fishery is down-scaled. Ken was mentioning that... there are always problems when the fishery is open. Then all of a sudden we have to slow down the fishery, and sometimes that doesn't happen.

• (1720)

Mr. Randy Kamp: You mentioned a little bit about the treaty process. If I understand correctly, you've reached stage four, your agreement in principle. A question would be, how close are you to stage five? You referred to this a little bit, but I wasn't quite clear on it. Is there a harvest agreement already being negotiated as an accompanying document to this treaty?

Mr. Tony Jacobs: Well, presently we're at stage four with our treaty negotiations: we have an agreement in principle. We do have a long way to go. In treaty negotiations a lot of the tough stuff is left to last. The fisheries chapter is the toughest issue in our treaty negotiations, and that's been left to last.

Presently the treaty negotiations had slowed down for a number of reasons politically. As I mentioned earlier, we share the river with the Musqueam nation from the mouth of the river up to New Westminster, and it's an area the area E fishermen fish also. I think we've gone through years of protest, fishing alongside commercial fishermen protesting against our fisheries. It is politically a very volatile part of the river when we have our fishing. It has slowed down the negotiations incredibly because there's a lot of interest in that part of the river.

That's where we're at now. We've come to a place now where we're at a crossroads within our treaty negotiations. A harvest agreement is really not looked at very well by the provincial government, and we're looking at that right now. We're at a stalemate right now within our treaty negotiations, and we hope the treaty negotiators will have some movement from the provincial and federal governments.

Mr. Randy Kamp: Thanks for that clarification.

You've heard the suggestion or the allegation that a lot of fish are unaccounted for, and the figures go as high as close to two million. I realize you're in a different place in the river, but do you have an opinion on that allegation?

Mr. Tony Jacobs: As I was saying earlier, in our area of the river, when we go fishing we're sometimes fishing with the commercial fishermen. Four years ago we had some major competition within the river, with the Musqueam and Tsawwassen fishermen against the commercial fishermen. It became a situation where it was unsafe; there were boats hitting each other. So for the past three years we've signed a safety protocol agreement with DFO, with the RCMP, so that kind of situation doesn't happen again.

When you talk about missing fish, the allegations, it's simply another part of what happens in our part of the river. We really haven't given much thought as to whether there are actually two million fish missing. I know we've heard different problems with the Mission counter. I know this year they've gone to the split beam now. I don't know why they hadn't done that years ago. I understand that was started this year. We want to go up and take a look and see how that works, but looking at it, it works ten times better than the old system.

The way we've watched the management of the fisheries, sometimes there are openings that take place out in the gulf that shouldn't take place. It starts out there and it works up. That fish comes from a long way and it's tough to manage.

Mr. Randy Kamp: Thank you very much. That's perhaps a different issue.

Mr. Douglas, you said that the Cheam had negotiated a separate agreement from the Stó:lō. Is that unique to this year, or is that an ongoing arrangement, and if so, what's the history there? Why do you do that?

• (1725)

Mr. Lincoln Douglas: Yes, it just started. This year was our first year of the agreement. Our people said we would like to look out for the interests of our own band. There are quite a few members there. We're a large band in the Stó:lō area. Basically, we supported that as a different regime from the violent history that it's had. I felt it went well; DFO felt it went well on its first year of operation. We plan to meet again to try to see where to go in 2005.

Mr. Randy Kamp: Was it that agreement that allowed for drift net fishing?

Mr. Lincoln Douglas: Yes, it was.

Mr. Randy Kamp: Some have suggested there has been drift net fishing for a number of years, without that agreement or without it being authorized in any such agreement. Is that true?

Mr. Lincoln Douglas: Yes, it is, but through Sparrow we've said the preferred method would be the way we fished. Eventually we got that, and maybe that's why the violent history has been there.

We've eventually come to an agreement now and there's an acceptance on both sides about what to do. We agreed to fish split-fishing during the day. I believe the hours were from 5 a.m. to 11 a.m. and 5 p.m. to 11 p.m. As Darwin has mentioned, they monitor that very closely. Darwin admits there have been charges as well. The ones he mentioned were the ones that had already been laid. There were some in process as well that I was made aware of within the last month. There's been enforcement there, but it's been in a non-violent way. There have been warnings to people and they did pull their nets. The people that did get charged, they pulled their nets as well or they lost them. There was gear taken, boats taken, and fish taken.

Mr. Randy Kamp: Go ahead.

Mr. Darwin Douglas: In the past, we have been involved in the Stó:lō agreements as well. Different communities within the Stó:lō Nation have different dynamics and there are different issues surrounding the fishery.

You talk of a wall of death. There's always been a hole created when there's a commercial fishery at the mouth of the river. Some of the fishing times were to try to compensate for some of that hole. Basically, you'll see a bunch of fish coming, then all of a sudden you'll see no fish. You know from the timing within the window that there's been a commercial fishery, so there are some different dynamics that have led to the agreement this past year.

I wanted to clarify that some of the eleven charges that were laid didn't necessarily involve eleven different people. Some of the people carried more than one charge.

Mr. Randy Kamp: Yes, I wanted clarification on that as well, so thank you for that.

You said, I think, that some may not have complied. I wondered if you can say what that number is. You said some were warned and others were charged, or some of those were charged. How big a problem are we talking about there in regard to some who may not have complied?

Mr. Darwin Douglas: I'd say the number of individuals who were charged was probably half a dozen. I don't think we have the exact numbers in front of us. But, you know, charges were laid within an hour after the closing times, too. I mean, there's an order that we do with the fishing, and if there are six boats, sometimes in the five-hour fishery each boat will only get a set. That's the reality of it. They'll get one set out of that six hours, due to the lineup that's created with the drift fishery.

You have to be there to actually witness it to understand it.

• (1730)

Mr. Randy Kamp: You said there are ten boats in your fleet.

Mr. Darwin Douglas: Roughly, yes, ten to twelve probably.

Mr. Randy Kamp: And how many of those would have been operated by people who would not have complied? I mean, you said some chose not to comply and I guess I'm wanting to know a number, how big a problem that was. Does "some" mean a lot, does "some" mean the majority, does "some" mean a very small percentage?

Mr. Darwin Douglas: Two to three.

Mr. Randy Kamp: Would they have consistently fished whenever and wherever they wanted, or what?

Mr. Darwin Douglas: Not necessarily, no. I can't speak for the non-compliance amount, but I can speak... I live at the river in the summertime. My family moves down there. For the most part, the fishing plan that was agreed to by our council was followed by our community. And even though some of those who followed it may not have 100% agreed with it, it was followed. And there are issues within our community that we're working on.

Mr. Randy Kamp: I'm sure some of my colleagues will have more detail.

The Chair: Thank you, Mr. Kemp.

Mr. Douglas, you said the Cheam is a large band. What is the population?

Mr. Lincoln Douglas: We have 450 members.

The Chair: Did you say 450?

Mr. Lincoln Douglas: Yes, 450 plus—there are babies born every day.

The Chair: Of course.

How many fish did you land in 2004?

Mr. Lincoln Douglas: I don't have those numbers.

Mr. Darwin Douglas: For the monitoring program, I talked to one of the people who helped us with the numbers. Between July 31 and August 21, I believe, it was just over 9,000 fish.

The Chair: What are those dates?

Mr. Darwin Douglas: July 31 and August 21. There were 9,000 fish, and there have been some catch estimates done. I haven't seen the formulas yet, but there were formulas put together that estimated what some of the numbers might have been if there was fishing 24/7.

The Chair: And is that the only time the band fished?

Mr. Darwin Douglas: No, but those are the numbers I've seen. Just yesterday I was.... I've only been aboriginal rights title coordinator for two weeks, by the way, so I'm only starting to catch up on this stuff.

The Chair: Okay, so that's something—

Mr. Darwin Douglas: But I am a fisherman from Cheam.

The Chair: I'm sorry, colleagues, but let me go on to this. On the issue of fairness, we heard from Mr. Jim Webb from the Tl'azt'en Nation, at the terminus of the river, and he says his people get one fish per person per year. How does that compare to what you caught?

Mr. Darwin Douglas: Well—

The Chair: Does that matter to you? Do you communicate with that band? Is there communication between bands in terms of the sharing of the resource, that sort of thing?

Mr. Darwin Douglas: It does matter. Obviously there needs to be more communication, I think. The department has been a messenger between us and them for a number of years, and I don't think the messaging system works all that well, to tell you the truth.

We've always caught a lot of fish where we live, and we've maintained that. We're fishermen; we're fisher people. We don't have the moose and the deer and the elk to hunt like they have up there. We do have some other resources in our territory, but not the other things those people rely on heavily up there. We rely on fish and we eat fish every day.

Some of their people have come down and fished with us, and preserved fish on our beach and taken it up to their elders. That happened again this year and it's been happening for the last few years.

• (1735)

The Chair: Mr. Malloway, did you want add something?

Mr. Ken Malloway: I've talked to people up in Tl'azt'en; I have friends up there. When I talked to one of the fellows up there and asked him how many fish he got, he said he got 18, and that was a good year for him.

I don't know why the Creator put us where he put us and I don't know why he put them where he put them, but virtually every sockeye that enters the Fraser River swims through our territory. We've always caught a lot of fish and we've always sold a lot of fish.

We've traded among ourselves and with other people. When the Hudson's Bay Company set up here in 1827, the first day they were here we sold them a sturgeon. Then we sold them chinook; then we sold them sockeye. In 1849 we sold them 239,000 sockeye from our area. That's the Chilliwack area. It outstripped fur as a trade item. For whatever reason, we're placed in a strategic place on the Fraser River. Who will question the Creator, "Why did you put the Stó:lōs there anyway?" We are here; we were born here.

We do work with those people in Tl'azt'en and other areas. One year when they came to us and said, "We don't want anybody to fish the early Stuart", we agreed not to fish the early Stuart. But the Lummi Tribe said, "We're going to go fish the early Stuart". They're from Washington State, but they're our relatives. So we went over to meet with them and we said, "Look, these guys have asked us not to fish the early Stuart, and we've agreed, but you guys are going to go". We asked them to travel to Prince George with us, and we did. Some of the commercial fishermen called me a traitor for talking to Americans, for talking to my cousins. However, we brought the people from the Lummi Tribe up to Prince George to meet with the Tl'azt'en people, the Carrier-Sekani people, and they agreed not to fish the early Stuart.

We have met with them at times and agreed to curtail our fisheries, to cut our fisheries back, and some years we don't fish them at all. Some years when they're expecting fish, then we send our dry-rod fishers out to catch maybe 5,000 fish that are going by. This year we had maybe a day- or a day-and-a-half opening on them, because they thought there were fish there, but most years we're not allowed to fish the early Stuart sockeye.

We do talk to those people. When they come to ask us not to fish, we agree. We sit down, and if we can agree with them, then we agree not to fish or to cut our fishery back.

A lot of people don't understand our fishery. A lot of first nations don't understand our fishery. For a good part of the season, when the chinook are in the water, we only fish 24 hours a week, one day a week, and then they bump it up to two days a week, and then they shut us down. Then we're allowed to go for sockeye. When we go for sockeye, and you look at our calendar, you'll see it's two days a week or maybe three days a week.

Above us, people fish seven days a week. That's why you were having a hard time getting your question answered about poaching. How can you poach when there's seven days a week of fishing? You can't. It's open every day. But they fish differently than we do. We've always fished hard. We were put here in this territory and we've always relied on our fishery.

When the government laid out our Indian reserves, they gave us tiny little reserves. I am on the council for Yakweakwoose, a 40-acre reserve. The Tzeachten Band has 700 acres. There are other bands. The Aitchelitz have 50 acres. When you go to the Blackfoot reserve in Alberta, it's 50 miles wide and 80 miles long. The government told us, "You'll always have the fishery; you don't need lots of land." So they put us on these postage stamp reserves, because "You'll always have the fishery", they told us. Now our fishery has gone from seven days to five, to four, to three, to two, to one, and to none, where I fish. Six months out of the year, my fishery is shut down. Why fish in a canyon? Six months out of the year, I'm not allowed to fish. People don't understand that.

• (1740)

They think it's out of control down here and that everybody's fishing 24/7. Well, it's not.

Sixty percent of the enforcement from the Department of Fisheries and Oceans is spent in Sto:lo territory, but people say there's no enforcement.

The Chair: Thank you.

Mr. Murphy.

Hon. Shawn Murphy: Thank you, Mr. Chair.

Thank you to all the witnesses for being here on a Friday evening. We certainly appreciate your assistance in helping us with this issue. Certainly it's extremely complex.

Mr. Malloway mentioned the Creator. I don't even know, if the Creator were here, whether he could solve this problem. I find it very complex.

The Chair: Maybe he could multiply the fish.

A voice: He's done it before.

Hon. Shawn Murphy: That may be the only answer, but even then, I don't know if it would work.

My first question is to Mr. Douglas, or Messrs. Douglas, and perhaps to you, Mr. Jacobs. Given that the Minister of Fisheries has, through his area directors, signed the management agreement, which I guess has been signed—there have been a number of management agreements signed—the only way this thing is going to work in the long run is if people live within the management agreements. There has been evidence that this has not been the case.

My question to you, and I ask this from an aboriginal cultural point of view, is what onus is there on the band leadership to enforce compliance with the management plan? You have given evidence—I believe you did, Mr. Douglas—that a number of your brothers did not comply with the management agreement that was signed by your chief in council. Such being the case, what obligation is there on your chief in council to enforce the terms of the management agreement with all members of the band?

Mr. Lincoln Douglas: I will respond to that. We do not stand in the way of the enforcement. They phone us or communicate with us. We communicate with the members that there is a plan and that they should support it, and follow it, and bring up any issues about why they don't, and we'd convey them to DFO.

So we do not stand in the way. We do not have an enforcement regime at Cheam. DFO has that.

Hon. Shawn Murphy: Does the chief in council just sit back...? When they see blatant violations of the management agreement the chief in council has signed, is there no obligation on the chief in council to try, through whatever means are at their disposal, to see that all their band members comply with the written agreement that was signed by chief in council?

Mr. Lincoln Douglas: Yes. Sid made many a trip to the river, and I talked to many members as well. He did what he could in his power. He doesn't carry a badge to do what he was doing there. We signed an agreement. He met with many of the members and said, "We've signed an agreement. Are you aware of it?"

If he had reports of it, he would go down there. He didn't stay at the river. He has a lifestyle too; he has family at home. But when he got a call from DFO, he'd go down to see if there was activity happening, and if there was, he approached the individuals and said, "Are you aware that the fishing is closed?"

Hon. Shawn Murphy: Do you have anything to add, Mr. Jacobs, or Nikki?

Mr. Tony Jacobs: Mr. Murphy, on your question about our chief in council in relation to our fishermen, every time we put out a notice after we negotiate with DFO—we negotiate a time when we can fish with all the restrictions—on the bottom line we put that the fishermen are on their own: if they break the law, then they're on their own. That's the case in Tsawwassen.

Concerning a management agreement—in this case it has been called an AFS agreement, and this year it's a new kind of agreement, our sales agreement—when we go into a sales agreement, there are a lot of restrictions. The fish have to be counted, probably up to three times. There are a lot of rules.

That's a major issue in comparison with what happens in the area E fishery. There is no counting of fish. What you do is pick up a phone and phone it in. There is a big difference there, and that causes issues out on the river.

For example, in 2003 we never had a management agreement. The pilot sale was taken off the river in 2003 through a court case, on a temporary basis. In 2004 it was brought back in a different way. So every year is different.

What is 2005 going to be like? We're not sure. Our chief and council bring our people together. We call a meeting to discuss what we are going to do this year, what's happening; we talk to DFO; we get an understanding of what's going to happen in 2005. We hope to be talking about it in January.

We're not sure whether in 2005 we're going to be fishing under an AFS agreement, a management agreement, or whether we're going to be fishing under our aboriginal rights, which came from Sparrow. That's what we deal with on a year-to-year basis.

•(1745)

Hon. Shawn Murphy: You don't know what the 2005 management plan is right now?

Mr. Tony Jacobs: No.

Hon. Shawn Murphy: Mr. Douglas, your fishery would be under the traditional aboriginal food, social, and ceremonial right. Is that correct?

Mr. Lincoln Douglas: Yes.

Hon. Shawn Murphy: You make the statement that according to Sparrow the aboriginal has the right to fish by whatever means he or she deems appropriate in the circumstances.

Mr. Lincoln Douglas: It's "preferred method".

Hon. Shawn Murphy: "Preferred method" is the legal terminology?

Mr. Lincoln Douglas: Yes.

Hon. Shawn Murphy: And the preferred method, in your case, is a drift net?

Mr. Lincoln Douglas: Yes. I would like to expand a bit on some of the reasons for that.

We have quite a few members who like to fish. The activities with the railway and for bank protection straightened out the river quite a bit. There aren't as many set areas as people think there are. The inability of fishermen to fish has been there, so people are drift fishing and sharing the fish amongst their families, with the drift nets to compensate for the area that's not there any longer, with the gravel bars building up and things like that.

Hon. Shawn Murphy: Will you agree with me that it would restrict the minister in his ability to reduce effort or curtail effort, if everyone...? What you're saying is every member, that all 450 of your band members have the right to go out with a drift net.

Mr. Lincoln Douglas: This year, what we did is look at how many we had, and there weren't that many, and it really didn't grow in any part of the year. Basically, there was a little bit of growth, but not a lot, in the number of people who were willing to go drift fishing. Then there's the cost and expense of boats and gear, as well. What levels of fishing would be there is actually being discussed with DFO, and it's closely monitored.

Hon. Shawn Murphy: You said there were 9,000 caught in a period there at the end of August, around the 22nd of August. Your evidence is that all the fish that were caught were distributed to members of your band, is that it?

Mr. Lincoln Douglas: I'm not sure what people did with their fish. I didn't ask them or anything. They were monitored caught, as Kenny said, when they landed at the site. The people who caught them took them. What they did with them, I don't know. I know I got some. I'm not a fisherman; I haven't been for about five years.

Hon. Shawn Murphy: Go ahead.

Mr. Darwin Douglas: Those are the figures I was just sent last night on e-mail. It was on a daily basis, for the days we were fishing. I'm not going to say whether all those fish were distributed to band members or not. As Kenny said, Cheam fishermen, just like any other aboriginal fishermen, sell part of their catch.

Hon. Shawn Murphy: Who do they sell their catch to?

Mr. Darwin Douglas: As was stated yesterday by one of the gentlemen in the other sectors, fish are getting to people who would not otherwise be able to get fish or have ever eaten fish. Fish is being sold to British Columbians and other Canadians who will enjoy the resource. A majority of the fish that's caught in a commercial fishery is sent out of the country, from what I understand.

Hon. Shawn Murphy: Hold it, I'm just not following. Your evidence is, today, that part of the fish that's caught by your band pursuant to the food, social, and ceremonial right, which everyone here acknowledges, is then sold to other people within the province of British Columbia?

Mr. Darwin Douglas: There's an economic component to part of the fishery we and other Sto:lo communities have. I don't think anyone has ever said there isn't.

I don't know exactly how the fish is being classed, but to part of the fishery, there's an economic component. The Sto:lo agreement relayed that. It wasn't added on to make the part for the sales. A portion of the allowable catch was made into an economic sale.

•(1750)

Hon. Shawn Murphy: Have you yourself sold fish to anybody?

Mr. Darwin Douglas: I don't know whether I am going to get incriminated here, but yes, I have.

Hon. Shawn Murphy: You have?

The Chair: If there's no problem with selling the fish, then why would you be incriminated?

Hon. Shawn Murphy: Would you sell it to a dealer or distributor?

Mr. Darwin Douglas: Friends, neighbours, and people who are hungry for fish will come and get fish from you at times. It has been going on since the Hudson's Bay Company was here, as Kenny said.

Hon. Shawn Murphy: Your evidence is the same, I take it, Mr. Malloway, that this is permitted. Again, you're going to have to excuse my ignorance, because I don't know all the nuances on the legal rights and the non-legal rights. But your evidence is that this is a legal right within the aboriginal food, social, and ceremonial right that's set out in the Sparrow decision. The right is there to sell it for money.

Mr. Ken Malloway: The reason the Department of Fisheries and Oceans entered into agreements with us, first in 1992, was because we had been trying to get agreements with them for years and years to sell a portion of our catch, as we had before it was outlawed in 1878. We always traded, bartered, and sold fish. We never ever stopped.

We sell fish to white people who want to buy fish. For years and years, I sold fish. The RCMP used to come to my house in a patrol car and throw fish in the trunk. The justice of the peace would phone me and say that he and a friend needed some fish, and his friend was a judge, and I'd deliver fish to his house. I sold fish to the mayor. I sold fish to MLAs. I sold fish to all sectors of society, the people who wanted to buy fish.

Hon. Shawn Murphy: Did you ever sell any to Mr. Cummins?

Mr. Ken Malloway: No. I would if he paid enough.

The Chair: Thank you.

I think we all have similar stories, but not necessarily with fish.

We're now going to Monsieur Roy.

[Translation]

Mr. Jean-Yves Roy: Thank you, Mr. Chairman. I would like to follow up on the presentation of Ms... [Editor: *Technical difficulties*]

[English]

Mr. Tony Jacobs: We talk about allocations and we talk about political differences. I think I mentioned earlier that we share the river with the Musqueam First Nation. We're at the mouth of the river, where we fish along with area E fishermen. In the past three years we've signed a safety protocol agreement, because safety is an issue. We've had protests in the river for the past four or five years, whether it be area E commercial fishermen or whether it be the Tsawwassen or Musqueam first nations. It's a section of the river that is very political, as our friend John Cummins will know. We've drawn the battle lines, and we'll continue to draw the battle lines in that part of the river.

That's the reference behind what we talk about with regard to this part of the river. There's always something in the newspaper about the Tsawwassen First Nation and our fishery. It is a very big concern when it comes to our nation. We've talked to our chief and council. It's a very sensitive issue. Fishing is very personal for our people.

As well, it affects us deeply because our children are fishing with us. They go to school, to the public schools, as I did when I was a kid. I went to Ladner, and Ladner is a fisherman's town. We have three different sectors. We have fishermen, we have the Tsawwassen First Nation, and we have farmers. Back then, that was a problem. Fishing is political. It's a personal issue. It's something that affects every household within our reserve. When we talk about issues like that, it stems back years here.

And it's there today. Whether it comes out in the paper or comes out in the public schools, it's public. The differences are there within the fishery between first nations and the commercial fishery. It's in the papers. It's quite public. Sometimes it gets on the news. It's there. I don't like to see it, and I'm sure John doesn't like to see it.

I don't think this committee is going to deal with that, but it's something we need to deal with. It's not good for all the nations along the river and it's not good for the public sector.

So when we talk about sentences like that, that's where it comes from.

• (1755)

[Translation]

Mr. Jean-Yves Roy: You partly answered my question. I understood you were talking about an arbitrary allocation of the resource according to political considerations. You answered that you defend your views and your access to the resource, which is only natural. However, when you talk about arbitrary allocation of the resource for political reasons, I do not quite understand what you mean. If some other first nations group applied more political pressure, would it be granted better access to the resource?

[English]

Mr. Tony Jacobs: As I was explaining earlier, just to give you an idea of the differences—and I think that's where it starts, the differences of opinion on the fishery—it's my belief that we have an aboriginal right, and we have an aboriginal right to fish in our area. We hold to that strongly.

When we deal with DFO, we have to deal with agreements. They give us a number. That's a major concern. It's a number, and it doesn't take into account our aboriginal right and how many fish our nation is going to need.

So when I talk about allocation, that's where it comes from. If a major announcement came from, for example, the Pearse-McRae report, that said we should get at least 50% of the fishery, we would be celebrating, yes, but it wouldn't mean that issue was resolved. We would like our allocation to be doubled, sure, but if that happened, I think we'd certainly see that in the paper the next day.

• (1800)

[Translation]

Mr. Jean-Yves Roy: I do not want to interrupt, but as I told other groups this afternoon, 50% of nothing is not much. At the present time, we have a problem with escapements and we need to correct the problem at its source. Of course, you could fight to obtain more, but 50% of zero is still zero.

[English]

Mr. Tony Jacobs: Yes. What happened down in the States is a prime example. We're well aware of that.

As was stated here earlier, for the nations, conservation is first on our list. Management is a concern, because the fish passing through our area are coming from the gulf, and many fisheries happen prior to the fish coming into our area. That's the management of the fishery. This year, there never should have been as many fisheries as there were out in the gulf.

That's where the problems begin. It comes down to the management. That's why, when we talk about our fishery, we talk about our treaty. We want to preserve our fishery for our people. We are very concerned. You may be right, ten years from now there may be no fish if this continues. We cannot continue to see what we saw happen in 2004. Something has to change.

If there is a decision to make some changes based on fairness, and if the politics are pushed aside and we can deal with this, then great. But it's a major issue, as I think has been stated. It's a big problem. I don't know if we're going to resolve it here.

[Translation]

Mr. Jean-Yves Roy: Thank you.

[English]

The Chair: Mr. Cullen.

Mr. Nathan Cullen: Thank you, Mr. Chair.

I want to return to the fundamental question of why the committee is here—these missing fish, or what we perceive as missing fish, and the report that there's this thing going on. As I mentioned earlier to other panellists, I represent the Skeena area. We look at what is happening on the Fraser as something that may happen to us, if it is not already happening, in terms of these allocation questions right now.

To anyone on the panel, with respect to these missing fish, is there a way that we can determine whether it is through mismanagement or through poaching? Is it through the proper direction of the fishery in terms of how many fish are taken from the mouth or at various points on the river? How much of it is going through people just taking fish when they're not meant to, illegally poaching fish? I would extend this even to the international fleets, but all the way through the mouth.

In your perception, is it 50-50? Is it almost all because poaching came in and took these fish out, or is it because bad decisions were made 90% of the time, and that's what caused most of these fish to be gone?

The Chair: Mr. Milne.

Mr. Saul Milne (Member, Cheam First Nation): I'll just give you guys some numbers from the Fraser River sockeye report of 1994. I don't think I'm going to be able to answer your question on the amount of variables involved in the missing fish.

On page 21—I'll make this available to you guys later—the Mission estimates, they say, have a positive bias result, an overestimation of fish in the range of 20% at a minimum. There's 20% immediately. Now, they say "or higher yet", so one can imagine that this may be 20%, 30%, or 40%, we don't know, in terms of an overestimation at Mission.

That starts to answer the question of where the missing fish are. They may simply have been overestimated at Mission.

The Chair: Just on that, are the panellists agreed that there are missing fish this year?

Mr. Milne.

Mr. Saul Milne: If this is going to be a systemic problem from 1994, and as I understand it there was a problem again this year of overestimating the run size itself at Mission, then it's very hard for us to come to terms with whether there are actually fish missing. It may be in the range of 50%. If that is the overestimation, then there are no fish missing.

The point, it seems to me, is that we need to clarify how we do escapement at Mission Bridge, because 20% off is simply not acceptable.

•(1805)

The Chair: What about at the terminus, where they were expecting 90,000 and got 9,000?

Mr. Saul Milne: Yes, I wanted to speak to that earlier as well. I think the representative from Tl'azt'en said that the water conditions in his territory were good for fish, but of course that's at the terminus. At the mouth of the Fraser, again, the temperature was an issue.

The Chair: At the end of June?

Mr. Saul Milne: As I understand it, yes.

The Chair: Okay. Thank you.

Sorry, I didn't mean to interrupt.

Mr. Nathan Cullen: Not at all.

To be clear on that, from what you've said, the insinuation is that there could well be no missing fish and the reports have it wrong; that if there are any, it's because of water temperature.

Mr. Saul Milne: Again, I can't speak to specific variables that would have an impact because there are simply too many. I'm saying that we need to be more clear on the numbers we're using. If we're 20% off, at a minimum, in an estimation at Mission, we're already in deep trouble. It doesn't seem to follow that we can then logically conclude there are fish missing if we simply can't get the numbers right from the beginning.

Mr. Nathan Cullen: There was a comment made earlier with respect to how decisions are made on when the fisheries open and when they close.

Mr. Malloway, I think that you talked about one person essentially making the decision at the end. Would you have a suggestion for an alternative process if that's not working?

You said there are advisory bodies and they advise. Sometimes it's heard and sometimes it's ignored, in the example that you raised. A decision has to be made at some point in the fishing season as to when and where a fishery is open and when it isn't. If not resting in one person, but another person, what would you suggest?

Mr. Ken Malloway: In the way it's done in Washington, in the United States v. Washington, the United States took Washington to court to protect the tribal fishing rights and treaty rights that they had. The United States won. It's the Judge Boldt decision. People might know it as the Judge Boldt decision, but it's actually the United States v. Washington.

After that case, after the decision was made, there were about 14 more court cases trying to determine what the case meant. In Washington, you have tribal representatives, state representatives, and federal representatives managing the fishery. The tribes actually have veto power. They're not there as window dressing, and they're not token Indians. They have veto power.

For a couple of years, they'll have a chairman or chairperson. It was a lady last time, a first nations tribal member on their side of the Fraser River panel. On our side, it's always somebody from DFO. Over there, if the tribes don't agree with the management plan, they can veto it. If the government doesn't agree with the fisheries plan, they can veto it. They have to come to an agreement on a fishing plan or it can be vetoed by either side.

We don't have that here. As I said, there were discussions in 2003 about a planned opening that we were mostly opposed to, but DFO went ahead and did it anyway because they have the ability to do so.

Mr. Nathan Cullen: Are you imagining something similar here, where there are three players at the table, all with the power to stop it?

Mr. Ken Malloway: Yes.

Mr. Nathan Cullen: Okay.

I have one quick further question. Within your nations, do you sense that there is any resistance in general to the concept of the federal government having the power and discretion to open, close, and stop fisheries?

Mr. Douglas, I ask that in reference to your response on the capacity to sell. I can sense the confusion over your right to do that. Is there a sense within the nations of whether the federal government has the right to do these things? Is there resistance to the fundamental concept that we see in Ottawa?

Do you understand my questions? I'm not sure if I'm being clear.

Mr. Saul Milne: Are you asking whether we respect the federal government's jurisdiction over the fisheries?

Mr. Nathan Cullen: Yes.

Mr. Saul Milne: That's your question.

Mr. Nathan Cullen: Yes.

Mr. Darwin Douglas: No, I don't think we agree with it. There isn't any confusion within me. I was brought up knowing that it's my right to support myself and my family through the fishery.

● (1810)

Mr. Nathan Cullen: The reason I comment on that is because where I live in the north, first nations do sell in various ways on the side of the road, and people are often confused. They don't know if that's legal.

Within B.C.—for other members on the panel—there's still an overarching confusion about the capacity of first nations to catch and

sell fish. It strikes me as unbelievable that this still remains unclear, even with panellists who sit on this particular committee. I wonder if it speaks to something larger, about how we're viewing first nations rights and title with respect to fish, fundamentally, and just the exchange that I watched.

I have one last question. What would you advise the minister to do to show clear and strong leadership in the direction in which we go forward? I'm hearing reservations about going ahead with any sort of full judicial inquiry and the cost of that. If the minister were to take a bold and progressive look at this file and come out with real definitive leadership on it, what would you suggest he do?

Mr. Lincoln Douglas: In our view, we have to be involved in the process. So I agree with what Kenny said, that if we don't have a place at the table to protect what we think is our right, and we know it's a right....

The confusion is really between DFO and other things, about selling fish, and so on. We're not in confusion about it. We feel we have the right to do it. It's the way we go about it, because there's pressure saying we can't do it. So we continue to do it and we feel it's still a right.

We would like to see that in our fishery more actively. There was a part of it this year agreed with the Stó:lō Nation and the department. Our band didn't agree to it, but some of the members did fish within it. I think that was a step forward to doing something. But to be at the table, a lot closer than we are, is where we need to be. We have a lot of history, as Kenny said. So that's my advice, to bring us a lot closer to the action than we are.

Mr. Darwin Douglas: I think if we look at all sectors, not just the first nations sector....

I sat in the room and listened yesterday to the testimony, and a lot of it I found really circumstantial, but I've never felt so many fingers pointed at me regarding the problem. I really don't think we're the majority of the problem.

I think we need involvement. There has been discussion about a committee—I know it has been spoken of, with 30 different interest groups. First nations need to be represented strongly in that group and be part of the process that takes place.

The Chair: Mr. Milne.

Mr. Saul Milne: It's actually a pretty timely question, given that the Haida case was just decided. So it seems to me that the courts have already deemed what's appropriate for government to do in this situation, and that's to consult and accommodate.

Of course, there are going to be different definitions of what it is to consult and accommodate. We'd actually like to see the federal government put teeth to accommodation and consultation rather than just lip service.

Mr. Nathan Cullen: Just to be clear on “teeth”, do you mean a clear definition of what those things mean?

Mr. Saul Milne: Exactly—clear legal implications on what it means to consult and accommodate first nations.

The Chair: Thank you.

We'll go to Mr. Keddy in a moment, and he'll have as much time as he needs.

But just to illustrate from my perspective how difficult I consider it is to manage this fishery, I'm looking at the second release of the Fraser River panel dated July 16, and they say the following: the escapement of early Stuart sockeye past Mission is estimated at 133,000 fish as of July 15.

Later on they say:

Fraser River water temperature (at Qualark Creek) is presently 18.2°C. Although present conditions in the Fraser River mainstem are generally satisfactory for sockeye migration, Fraser River water temperature is forecast to increase....

Now that was July 16. According to the testimony we heard today, the fish were already at the terminus by that time, so from what I can read there's no water temperature issue with respect to the early Stuart.

Then we look at the final panel numbers, and they have an estimate of 187,000 early Stuart salmon going past Mission. The total escapement, in their opinion, was about 191,000 fish. Our witness, I believe, discounted that by 50%, for whatever reason, just to say that it was bad counting or whatever, and came up with 90,000 fish instead of 190,000, with good water and good temperature downriver. And they ended up with 10% of that.

So what happened to the fish, and how do you manage a fishery with numbers that vary so widely in such a short period of time?

I'm not asking for an answer; it's a rhetorical question.

I'll go to Mr. Keddy.

•(1815)

Mr. Gerald Keddy: I'm going to try not to ask a rhetorical question.

I have a couple of points of clarification. I think there's some discrepancy between our witnesses here and our panel members. Just for clarification, I think it's important that...we understand, certainly, the rights under Sparrow for food, social, and ceremonial purposes, and I think most of us understand how the aboriginal fishing strategy that allows the sale of fish is supposed to work.

Obviously, the sale of fish has gone on for years. I'm not questioning that. I'm not pointing any fingers at anyone, and I'm definitely not saying it's the wrong thing to do. But I will say if we're going to have rights under Sparrow and under the AFS, there has to be some type of umbrella where the total number of fish is still based on conservation, there's still enough escapement to get to the headwaters to spawn, and there's still use for all of the user groups out there.

It's sounding like a rhetorical question, isn't it?

The government has a responsibility to negotiate and to deal with first nations, but it also has a responsibility for conservation. Without some type of very close, introspective look at the fishery—and I'm including everybody, the big overall picture—I don't know how they can come up with recommendations to avoid results like this year's. Whatever happened this year, we know what the results were: 9,000 fish got to the headwaters. That's not good in four or five years' time,

when those fish return, because you're not going to be able to catch them again, obviously,

So besides wanting that place at the table, which is an absolute necessity if we're going to move forward on this issue, how are we going to reconcile it? If we don't, as a committee, ask for a closer look at what happened, without blaming first nations, without blaming seiners, without blaming catches on the high seas, and without blaming DFO, because we all blame DFO for everything....

Give me a door to open here that says we can find a solution. If we don't have the big picture, look at it.

Go ahead, Mr. Douglas.

•(1820)

The Chair: Mr. Douglas, and then Mr. Malloway.

Mr. Darwin Douglas: One of the things that was talked about in our community was helping to determine some of the.... They count the fish at Mission, and we work to try to count the fish when they come past us. Our saying what's happening is never taken seriously. I think it's probably the same all the way up with the other first nations.

There are a lot of people who know.... My uncles talk to me about the runs of fish that come up, the different distinguishing features on the fish. I think that work to try to identify...I don't know exactly if that fish is a Chilco or what exact system.... We know what the early Stuarts look like, but we don't know exactly which system they're going to, whether it's the Drift Pile or another system.

I think there can be a lot done in working with what we know, putting it into the equation to solve some of the problems. We're being totally overlooked in that.

Mr. Ken Malloway: You say you understand food, social, and ceremonial, but I don't think very many people understand what food, social, and ceremonial means. I think you may understand what food means and you may understand what ceremonial means, or have an idea, but do you really understand what social means? If you look it up in the dictionary....

When Sparrow said you need to meet the social needs of the first nations, what do you think the social needs were? Do you think it means we have a right to make a living? Do you think it means we might have the right to have an economy?

The Micmac, when they went to court to try to determine what the social needs of their people were, instead of saying let's look in a dictionary and look up "social needs", they brought their own word to court—the Micmac word *netukulimk*—to the Simon case. It actually means "to make a living". They won their case in the Supreme Court of Canada. They had the right to make a living.

So the social needs of our people are to exist and to thrive, not just survive.

To sockeye salmon, 18.2 degrees Celsius is lethal. It is not good. On July 16 the temperature was already there. The Fraser panel knew that the temperature was going to hit that, and they knew it was going to climb, because we'd been preparing for it all year. They tested those fish; they sampled them. Not only do they look at the scales, but they DNA sample fish every day. There were early Stuart going through at that time.

Another thing is, getting parachuted in here to try to deal with this is not fair to us, it's not fair to the fish, it's not fair to you. I don't believe you understand what an early Stuart sockeye is, or a late Stuart sockeye, for that matter.

I talked to a fisheries biologist when we started dealing with early Stuarts and late Stuarts, and I asked him what's the difference between a late Stuart and an early Stuart, which systems do they go to, because there are all those different streams and rivers up there. He said the difference between an early Stuart and a late Stuart is the date they're caught. The fish might be going up the river and be classified as an early Stuart, but the next calendar day that same fish, still en route to wherever it's going to spawn, becomes a late Stuart because the calendar has flipped over another day.

Fish that were being caught and sampled on the lower part of the river on July 16 may very well have been early Stuarts, but they might have turned into late Stuarts because they were a little bit tardy getting up to their spawning grounds.

Water at 18.2 degrees is not good for sockeye. And it climbed rapidly—it was 18 degrees, then it was 19 degrees, then it was 20 degrees—and the river level kept dropping off. I'm privy to this because I sit on the Fraser panel and I'm on conference calls and meetings almost every day. I went to 67 Fraser River panel meetings last year.

• (1825)

The Chair: Mr. Malloway, the Fraser River panel on which you sit does not say that 18.2 degrees is lethal for sockeye. So why do you say that?

Mr. Ken Malloway: They used to say it was and then they decided not to any more. When we first got involved, it was lethal, but because they're flexible now, not risk-averse, people started saying, "Oh, we had our scientist who said maybe it's not lethal." So everybody jumped up and said, "Right on, then it's not lethal."

The Chair: Okay, good. Thank you.

Mr. Ken Malloway: The other thing is on the Mission counter that you have heard about. There was a Qualark counter before, and Qualark is almost up in Yale, just at the mouth of the Fraser Canyon. There was a counter there that was the latest technology. That counter could tell how big a fish was—whether it was a big fish or a small fish—they knew if it was a sockeye or not, and that counter could tell if the fish was going upstream or downstream.

One day they counted a huge school of 250,000 fish that went up river. Those same fish turned around and went back down again for some reason, and then they went up and they never saw them again. Those 250,000 fish, if they did that at Mission, would have been 750,000 fish because they would have been counted three times.

For political reasons, they shut that down. They shut it down because there was a squabble between the Stó:lō Nation and the Yale Band over who would do the test fisheries to calibrate that. Rather than do it and make a decision, they shut it down altogether and then said they shut it down because of funding, but they shut it down and they shouldn't have.

There needs to be some kind of Qualark sounder. It doesn't have to be at Qualark, it could be in Spuzzum or some place handy. But there needs to be something there to calibrate how many fish are going by and to calibrate the Mission sounder.

Mr. Gerald Keddy: Thank you.

I appreciate your clarification on the food, social, and ceremonial. I'm not pretending to be the expert on the social parts, so I will accept your clarification.

I wouldn't know the difference between an early Stuart and a late Stuart if one slapped me upside the head, but I do know what conservation is and I have seen the results of a lack of it. I'm sure Loyola can say the same. If you visit the outports of Newfoundland, the boarded up houses and the outward migration are there because there are no fish.

I'm not trying to oversimplify the problem and I'm not trying to blame first nations. What I am trying to say is that we have a very serious issue here. Whether it's miscounting, whether it's 1.8 million fish, 800,000 fish, or 100,000 fish, at the end of the day the only fact I'm certain of is that very few fish have reached the headwaters.

I'm not laying blame. What I'm trying to say is that we need to find out why. I think that's the job this committee has taken on. I don't know the answer to that, and I don't know what we're going to recommend yet, but I would like to be very clear, without laying blame, that at the end of the day, whether it's food, social, or ceremonial, a native fishery that sells fish, or the commercial fishery that sells fish, there are only so many fish. Somehow or another, someone has to put a number on how many fish are going to be taken out of the system and how many are going to be allowed to remain in it for escapement for spawning purposes.

I guess that's more of a statement than anything else, but I would hope you folks understand what responsibility we have in this process as well.

The Chair: Thank you, Mr. Keddy.

We will have Mr. Hearn speaking now.

Mr. Loyola Hearn: Thank you very much, Mr. Chair.

Let me thank the panel for coming and giving us an insight into their way of trying to survive. As we in Newfoundland have found out when we depend on fish, it isn't easy, and many of our people have paid the price. Many of them had to give up and move elsewhere because there were just no fish left.

First of all, let me try to get my head around the various bands. I understand we probably have 97 bands on the Fraser, of comparable size. Mr. Douglas, I believe you mentioned that there are 450 in your band. Do you have extremely large ones and a number of small ones, or is this average? What would the range be, generally?

• (1830)

Mr. Lincoln Douglas: As in age groups?

The Chair: He means for all the bands.

Mr. Lincoln Douglas: Populations. There are bands that only have 10 in them. There are bands that have 3,000 to 4,000 in them. So it's quite variable. I wouldn't know exactly the average.

Mr. Loyola Hearn: Okay. Let's zero in on the area where you live. How many people in your band would depend entirely on the fishery for a living?

Mr. Lincoln Douglas: Chief Sid Douglas and I sat back and we looked at it. There are probably 50 active fishermen, but they're not active all the time. There are ones who fish one day out of the five; there are some who fish on all five days—that we agreed to in our plans. There are some who don't fish at all in those five days. They only fish perhaps every two weeks or once a week. But the force of fishing is controlled by the fishermen on the drift fishery by a system that's within our own internal...and it's so that they all get an opportunity to do it during the day.

Mr. Loyola Hearn: This is what I'm getting at when I ask how many of them make a living at it. If I say the word "fisherman" in Newfoundland, I'm basically talking about somebody who fishes and that's it. He makes his living from fishing, whether it be a crab fisherman who might only fish for five or six weeks, but who will probably make \$1 million, or a groundfish fisherman who has to scrounge from April until November and perhaps just makes a very meager income.

That was it. These people fished, they did nothing else, and if they were doing anything else now they couldn't get the fishing licence.

So my question is this. Out of your population of 450, how many people fish, and is this their source of living? Or is it a combination of this plus other work that helps you survive?

The Chair: Mr. Douglas.

Mr. Darwin Douglas: I think probably 95% of our community relies on the fishery to help support them. It's impossible in this day and age for a person from our community to rely solely on the salmon for an income or for a living. We have to do other things to make it through the year. At least a half of our community, I'd say, really depends on the fishery in the summertime as a major source of their income or their livelihood.

Mr. Loyola Hearn: The food and ceremonial aspect I can understand; it's what your people have done for years, and our people also certainly. From a commercial point of view or a sales

point of view, are there people involved in the fishery who will catch fish, sell fish for extra income who perhaps don't need it, and that effort could be better used by others who depend on the fishery?

Mr. Darwin Douglas: I can't really answer that. It's hard for me to answer that question.

Mr. Loyola Hearn: It's fairly hard for any of us to determine how well off somebody else is or how much they need.

Again, I'm not 100% sure of what I'm getting at, Mr. Chairman. I'm trying to determine how many people we have involved in the fishery for whom perhaps it's a sideline rather than a need.

• (1835)

The Chair: Well, is that question understood? How many people in the fishery have it as a sideline rather than as a need? And you're restricting your question to the Cheam Band, 450 people.

Can anybody answer that?

Mr. Darwin Douglas: I'm sorry, can you repeat that?

The Chair: I'll try.

How many people in the Cheam Band need to fish in order to survive and how many use it as a supplement?

Is that about right, Mr. Hearn?

Mr. Loyola Hearn: Well, that could be true for perhaps any of the other bands, but certainly Mr. Malloway has been involved in the fishery. Do we have people involved in the fishery just because they can take advantage of the situation, perhaps depriving you, who depends upon fishing for a living? Do we have much of that going on?

The Chair: I'll let Mr. Douglas think about that.

Mr. Malloway, do you want to give it a crack?

Mr. Ken Malloway: It would be virtually impossible for anybody in the Sto:lo Nation to depend on the fishery to make a living for the entire year. Two hundred years ago we could have. Two hundred years ago we would go and fish for perhaps two months and we'd have enough to live on for the rest of the year. But the fish aren't there any more and our access to them is not like that any more, so our people have to go out and try to make a living.

If I could make a living off the fishery, that's all I would do—but I can't. As my eight-year-old son said, when you're not fishing, you're talking about fishing. That's what I do for a living. People pay me to talk about fishing.

In our territory, in our society, when people talk about the communal right to fish, we don't think about it like communism. When you hear that word "communal", perhaps you might think we're communists, but before the Europeans got here there were different classes of people in our territory. There were the hereditary chiefs, then there was the middle class, then there was the lower class, and then there were prisoners of war who were sometimes called slaves, because we did war with one another from time to time.

My uncle Seeimchs' name literally means "one who gives big potlatches", and if you want to have big potlatches, you'd better be rich, right?

Some of our people were wealthy and some of them weren't. Some of our people were really ambitious and some of them weren't. And to say, well, God, you're making \$35,000 to \$40,000 a year at your other job, you shouldn't be allowed to fish, would you say that to area 29 commercial fishermen? Would you tell John Cummins, you're an MP, you don't have to fish? Forget it.

Many of the area 29 commercial fishermen have to do something else for a living because they only have three or four days a year to fish.

So I'm not too sure exactly what you're trying to get at, but it's a tough question to answer. We don't have the ability to support ourselves solely on the fisheries as we used to, so now people have to go out and find work and do work when they can. So what are you going to do? Are you just going to give licences to fish to people who are on welfare?

Mr. Loyola Hearn: I think that answers my question, Mr. Chair. That's probably exactly what I was trying to get at, the fact that the fishery has changed so much. Your story, really, is not entirely unlike what you would hear in any outport in Newfoundland. It is fairly much the same. Those who have always depended upon the fishery for a living can no longer make a living on the fishery and they have to do other things. But they were born and brought up in the boat and they want to continue to do that as long as they can. Our rules are somewhat different, however.

First of all, I have to draw attention to the two younger people we have here. Well, actually, most of you are very young. I am extremely impressed with your presentations and your involvement in an issue like this, and it bodes well for the future to see young people take such an interest.

In light of the fact that some of you have been perhaps the target of a lot of conversation over this last couple of days, rightly or wrongly, and in light of the fact that every group we have had, regardless, blamed a number of factors.... Even though perhaps some of you were singled out occasionally, you were just a part of many problems, of many groups saying "within our own groups we have problems, environmental, predation"—and we haven't touched on that issue at all and we should perhaps.

In light of that, where you are the target, though, perhaps more so than others, you are the only ones who say you don't think a full comprehensive inquiry that would bring out the facts is necessary. I thought perhaps if you wanted to clarify what really happened and

clear your name as such, you'd be only too delighted to get an inquiry that would bring out the truth.

Why wouldn't you support some kind of a formal inquiry? If that's not the way to deal with the problem, how are we going to get to the bottom of the issue and perhaps clarify what is wrong, if anything, number one, and perhaps set a new direction for the future? You just can't keep going the way you're going, certainly from our perspective.

● (1840)

The Chair: That will be the last question for this panel.

Mr. Malloway.

Mr. Ken Malloway: Thanks for the question.

I'm not opposed to an inquiry, but I don't see how the integrated harvesting management committee is going to be able to do it with 30 people on that judicial inquiry.

If you want to spend \$30 million on a judicial inquiry, have at it. But I think this job could be done by a handful of people who represent commercial, sport, first nations, and the government, with an independent chair. I think it can be done. I worked for years and years at the joint task force that put together Bill C-6, on specific claims reform, and the people on that committee were people from Justice, Indian Affairs, and first nations. We came up with a report that we agreed to, and we sent it to Parliament. It didn't look the same when we got it back, but the committee itself came up with a report that we agreed on.

We compromised and we talked to each other. We took five or six years to put that together. I'm not saying we have five or six years, but I know it's possible to put some kind of a task force together to deal with this, and the sooner the better.

If people want a judicial inquiry, if they want to spend \$30 million on it, and if they want it to drag on for years and years, then maybe that's the way to go. But I don't think that's money wisely spent. I think we could do it in a quicker time, with full cooperation from all sectors.

The Chair: Thank you.

Mr. Jacobs.

Mr. Tony Jacobs: I look at the Fraser River, and 97 nations have been talked about. I have been at meetings where we've had a lot of our nations come to a meeting and we talk amongst ourselves and try to look at these issues.

On the question of a judicial review on 2004, as an individual from Tsawwassen First Nation, I think there are a number of issues. It's not just on 2004; it all comes back to the issue that we have an aboriginal right to fish in our area.

We are constantly dealing with the Department of Fisheries and Oceans on the rules and on different programs, and every year there's always something different, as it was in 2004. If there is no management agreement, if there is no AFS through a court case because that took place in 2003, then we fish under our aboriginal right, and that's the way we fished in 2003. That's the way every nation in the Fraser River fished in 2003, from the mouth of the river up to Tl'azt'en Nation. And that's the way it is; that's the way it works.

Just to have a judicial review dealing with the words "missing fish"...well, they may not be missing. Spending \$30 million on that is not the place to put all the energy. I think it has to be recognized that there are 97 nations along the Fraser River. We are there, and we're all fishermen. We want to be able to fish every year, and we want to be able to deal with our economic stability. On the question of whether I fish or whether someone on welfare fishes from our nation, that's the way it is.

We have fishermen out there who are on welfare, and they go fishing out there. They fish, and the money they make from the sale of their fish—it might be 200 fish and it might be 50 fish—is taken off. They can't go on welfare for the next two or three months because they made some money, but they feel good about that. They're out there fishing, and they're doing it; they're out there with their family.

It's not about what we can do with our fish. It's not about the sale of the fish. For our nation, it's about being out there and practising what we've been taught from our fathers and so on. It's not about 2004; it's about many years of the struggle we've had as nations dealing with the many rules and different policies.

• (1845)

The Chair: We'll leave it at that.

Did you want get the last word?

Mr. Lincoln Douglas: I might as well.

Fishing is a culture to us, and as well it's been handed down for many generations. That's why we do it; we're people of the river.

Being involved in the process...we've talked many times with DFO about this. We've lived along the river and our ancestors have. We'd like to be involved in doing the data collection and things like that. We know the areas; we know the areas of better fishing and the areas that have problems. We watch.

We live in probably one of the widest areas where the river can flow. As one of my colleagues said, gravel accumulates quite high in the river, which reduces it and makes it very shallow in our area. Because of the 200-year flood plain, they have set-back dikes, and this could have contributed to a lot of the warmer temperatures. There are things we know because we live there every day, and we can be part of management.

And collecting it...instead of spending \$30 million to review where fish went, they could have spent the money far better on scientific information and involving us in that process to come up with a solution for managing fish.

The Chair: Thank you. I'm glad you had the last word there.

Now I have the real last word. It's just to say thank you very much for coming, for listening, for taking part, for giving us your opinions, and for answering our questions, however convoluted they may have been or seemed.

We do not have another panel tonight. It's been cancelled—not by me but by them—and we'll reconvene at 9:30 tomorrow morning with our scientific panel, and that should be fun.

Thank you. We're adjourned.

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