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## Standing Committee on Fisheries and Oceans

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**Thursday, October 19, 2006**

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**Chair**

Mr. Gerald Keddy

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•(1110)

[English]

**The Chair (Mr. Gerald Keddy (South Shore—St. Margaret's, CPC)):** I call the meeting to order, pursuant to Standing Order 108 (2), on the study of the matters relating to the Cheam First Nation.

I want to welcome our witnesses here, and I'd like to tell my colleagues on the committee that our witnesses were all here at a quarter to, and they were ready to begin. So I appreciate the rest of our members making it here in a timely fashion.

We still have two members who I expect will come along, but just to make sure we have lots of time, I would introduce our witnesses: Chief Sidney Douglas; Chester Douglas; councillor; Ernie Victor, K and L Contracting; Lincoln Douglas, K and L Contracting; Mike Staley, a biologist with the Cheam Fishing Authority; and Robert Janes, legal counsel.

Gentlemen, go ahead with your presentation.

**Chief Sidney Douglas (Cheam First Nation):** Honourable members of Parliament...[*Witness speaks in Salish*].

Leaders, friends, my name is Sru-ets-lan-ough. I come from Cheam and I thank you for having us here today. On behalf of the council of the Cheam First Nation, I also would like to thank you for the opportunity to speak to you today.

We would also like to acknowledge the Algonquin people of this area, in whose traditional territory we meet today.

For over 20 years, Cheam has struggled to gain real and effective recognition of our aboriginal rights and title. The struggle has been focused largely on the fishery, where we have faced political and legal fights to see real change. The basic change that we have fought for in recent years and have begun to see is the real respect being given to our people and their desire to make a better life for themselves while continuing to carry on their aboriginal way of life. This struggle has involved all levels of society and has taken place in the boardrooms of DFO, the courtrooms of British Columbia, and on the waters of the Fraser River.

Our people have paid a steep price in these struggles. We have incurred significant costs, and in some cases our people have faced serious legal consequences, in trying to advance the cause of the recognition of our rights and way of life. But if you ask our people, they will tell you that the fight was worth it.

What we want you to hear and understand, as the most important part of our message today, is that because of this hard work, change

is now happening where it can do the most good for both Canada and for Cheam, as well as the other Stó:lō people.

Where before we saw our mutual issues being fought out exclusively in the courtrooms, in recent years we have finally found DFO to be a willing partner, ready to come to the table to work out issues in the spirit of cooperation. We have been able to work through difficult issues through give and take on both sides to find agreed-upon solutions to our long-standing problems. These solutions have not been unprincipled or thoughtless. These solutions have taken into account not only the needs of Cheam, but also the needs of other sectors, including the commercial and the recreational fisheries.

Most importantly, we have worked with the Department of Fisheries and Oceans to develop solutions to our common problems on the Fraser that protect the fish and advance the cause of conservation, and even the regrowth of the stocks.

What we hope to do today is dispel some of the myths about Cheam and present to you a clear picture of how Cheam, the other Stó:lō nations, DFO, and truly representative industry groups have been working together to create a Fraser River fishery that works for everyone and preserves the stocks for future generations.

What we ask is that this committee support the efforts being made by the minister and his officials, Cheam, the Stó:lō, and the industry to move away from confrontation and litigation as the means for working out the rules for the Fraser River, towards a more cooperative, respectful relationship.

•(1115)

I would like to take a few minutes to give you a picture of how relations between Cheam and the Department of Fisheries and Oceans have changed in recent years. One area of serious contention for many years was the question of whether or not it was appropriate for Cheam members to use drift nets to harvest salmon. This has become an issue as accretion and sediment build-up in our river has rendered many traditional harvesting areas unusable. And our opportunities to harvest in other parts of the river have been limited by increased commercial and recreational use of the river.

For many years, certain special groups campaigned against the use of drift nets, making all sorts of unfounded claims against both Cheam and the equipment. Over the last few years, Cheam has worked with the department to create a regulated and monitored drift net fishery, which is being subjected to rigorous scientific scrutiny by DFO scientists. Cheam is working closely with DFO to make sure these scientific studies are carried out effectively and that the results are used to ensure a science-based approach to the management of our traditional fishery.

So far the results of these efforts have been positive. Our members have had a chance to fish, the department has achieved a meaningful level of cooperation in regulatory and monitoring activities, and a true scientific program has been put in place to protect the fish.

Another area where we have worked closely with the department to change what had been a poor history is in the area of enforcement. Historically relations between Cheam and the department around enforcement issues can be best described as strained. The department's actions were viewed as heavy-handed and unfair, and the department viewed the whole Cheam community as being opposed to it. This led to an unsatisfactory situation for everyone. Cheam members were being needlessly arrested and charged, resulting often in acquittals, while the department was not getting the cooperation from the community and the council, which is essential to effective enforcement and management.

In recent years, Cheam and the department have entered into enforcement agreements that have focused on enhancing communication between the parties on a range of issues. These agreements have allowed the department and Cheam to develop approaches to enforcement that do not pit the department against the community or inflame innocent bystanders. Instead we now see situations where the department is able to respect and protect lawful Cheam fishers, while Cheam is actually able to assist in controlling persons, both aboriginal and non-aboriginal, who are acting outside of the law.

Where a few years ago the presence of a department officials on the Cheam beach would be an act of incitement, for the last few summers department officials have been working on our beach and in our community to monitor salmon harvests, protect lawful fishers, and work to enforce the law against individuals working outside of the rules.

• (1120)

Another development that has been critical to this improvement of relations is the efforts that the Cheam and the Department of Fisheries and Oceans put into developing a fishing plan. Each year, Cheam has attempted to work with the department, subject to limits placed on the local officials by Ottawa, to develop a fishing plan for Cheam. This plan was designed to let both Cheam members and the department know and understand which fisheries are sanctioned by the band and which ones are not. The reality of the fisheries in the modern context is that without close cooperation between DFO and the first nations, neither side knows the rules of the water.

Just as there are cases where Cheam members have been found guilty of fishing unlawfully, so too have there been cases where DFO has been found to have breached its constitutional obligations and to have acted unlawfully in managing the fisheries.

The only way these kinds of problems will be avoided is for DFO and Cheam to work together to develop plans and management regimes that work for everyone. In the end, we ask this committee to encourage and support efforts to create a cooperative and local approach to the management of the fishery. We ask you to help an approach that values the input of local people and local officials, and that is not driven by bureaucrats in Ottawa.

We ask particularly that you not allow your agenda to be driven by special interest groups that promote racial division by throwing around false and misleading labels. We are not here asking for race-based or segregated fisheries. What we are here asking for are fisheries that recognize the uniqueness of aboriginal communities and our legal system and history. We are asking for fisheries management that is sensitive to the complex local needs of both aboriginal and non-aboriginal fisheries.

What we have to leave you with is this. Cheam and the Stó:lō people are committed to protecting and restoring our communities and way of life. There is much that cannot be recovered, that is lost beneath Chilliwack, Vancouver, Surrey farms, and highways—things that have made the non-aboriginal communities rich. We need to know that in the Government of Canada we will have a willing partner that will stand up for and defend our rights, and that will work with us to develop new, modern solutions to age-old problems in the fisheries. Without that partner, we will all face the old ways of confrontation and judicial intervention. Is it not better for us to choose a new and better path?

Thank you.

• (1125)

**The Chair:** Thank you, Chief Douglas. We certainly appreciate your comments, and we certainly appreciate the idea of cooperation versus confrontation. That works better for everyone.

The other issue that was to be discussed, and I don't know if you have a presentation on that, was the gravel extraction. Was there a separate presentation on that?

**Mr. Robert Janes (Legal Counsel, Cheam First Nation):** One of our team members is actually prepared to address the issue of Cheam's involvement in the gravel extraction. I take it this is specifically focused on the issues around the incident involving the fry.

Lincoln Douglas, a mining consultant involved in the gravel extraction business, is prepared to speak directly to that, if you wish.

**The Chair:** Okay. Mr. Douglas, do you have a presentation, or do you want to wait and take questions?

**Mr. Robert Janes:** I think we could treat that as a question. If you'd like him to explain what Cheam's involvement was, he'd be happy to do so. It's very brief.

**The Chair:** Do we want to hear that before we go to witnesses or before we go to our questions?

Yes, go ahead, Mr. Douglas.

**Mr. Lincoln Douglas (K and L Contracting, Cheam First Nation):** The Cheam Band has been active in the gravel business for many years. However, on this particular project, Cheam did not do the work at the Big Bar site. That work was done by the province, DFO and the City of Chilliwack, and supervised by DFO and the province. The contractor was a non-aboriginal.

Cheam thought—I'm actually a Cheam band member, as well as a local contractor, and a nephew of both Sid and Chester—that the project was too risky at the time, and it was going to be too costly. There was no funding available then for a crossing. At that point, we had a three-year permit that we were going to be able to exercise if we didn't feel it fit this year, and this year we weren't considering it. At the time, the province saw that the gravel budget wasn't being met. I think they saw that it was important to move ahead on it, and they took it upon themselves to do so.

So at this particular time we are not involved in that project.

**The Chair:** Thank you, Mr. Douglas.

We'll go to our first questioner, Mr. Matthews, for ten minutes, please.

**Mr. Bill Matthews (Random—Burin—St. George's, Lib.):** Thank you very much, Mr. Chairman. I don't know if I'll go 10 minutes. Some of my colleagues may want to jump in if I finish before that.

I want to welcome Chief Douglas and his delegation here this morning. It's nice to see you here. Welcome to Ottawa.

Chief, in your June 2006 letter to the committee, you referred to a need to rebuild and restore relationships with three levels of government, and you also said that one of the hardest relationships to rebuild and restore was the relationship with the Department of Fisheries and Oceans.

I'm wondering if someone could inform the committee what led to a deterioration of relationships with government? And particularly, are there still unresolved and contentious issues with DFO, and if so, what are they?

**Chief Sidney Douglas:** I guess that one of the things is that most of the B.C. first nations have not signed treaties or given up resources in any agreements with the federal or provincial governments. A lot of our people feel that because of this, the resources still belong to the first nations. With both governments also claiming ownership of the resources, the federal and provincial laws conflict with our thoughts about aboriginal rights.

Further, the last couple of councils felt that there was a better way than fighting in the courts and having confrontations on the river. We felt that neither side is going to be leaving their country, so we have to start negotiating for a better path for all of us.

We have made positive steps in the right direction on both sides, and there will probably still be a few more struggles in the future. But if the government realizes that rather than having unilateral decisions from Ottawa, they go back to our first nations and work with our first nations people to try to create solutions that will be better for everybody, I think we could all advance in a good way.

• (1130)

**Mr. Bill Matthews:** Thank you very much.

I understand there is a Fraser River aboriginal economic opportunities program. Do members of your first nation participate in that?

**Chief Sidney Douglas:** Some of our members did participate, but as a band we declined to sign on because it infringed on some of our rights. Some of our members who have spouses in other communities were designated by the other communities to fish under the economic program.

**Mr. Bill Matthews:** Why don't you participate now?

**Chief Sidney Douglas:** I just mentioned that some of our members felt that was infringing on our rights. Some of the clauses in there looked more toward the treaty clause, and we're not a treaty band per se.

**Mr. Bill Matthews:** Was marketing of the fish that were caught an issue for your first nation's people? Is that why you left the program? Or was there any marketing of the fish for people who participated in the program? Let me ask you that, then, because I don't know.

Was there a marketing program? Were there requirements to market the fish if you participated in that program? Did that cause some concern for your people?

**Chief Sidney Douglas:** I'll go back to the original question. We did not sign on to the economic fishery or the pilot sales agreement because we felt the document was too cumbersome and that it did infringe on our section 35 rights. It contains too much dialogue that would better form part of a treaty document. We are not in a treaty process, and we felt the document for a one-year agreement was just too cumbersome and infringed on our rights too much.

**Mr. Bill Matthews:** Thank you very much.

Mr. Chair, I'd like to switch now to the gravel removal issue, if I could.

There are those who say the gravel removal plan really responds to pressure from the aggregate business to provide economical sources of aggregate for the construction industry. Do you agree that this may be what happened here, that this program of removal went ahead as a result of pressure from the construction industry?

**Mr. Chester Douglas (Councillor, Cheam First Nation):** I believe there was considerable pressure from the aggregate industry, but there was also considerable pressure to meet a budget that provides safety for the city of Chilliwack, which was basically built on a flat plain and is a high-risk area for flood. That is the main reason it was fast-tracked. There were other bars that were considered upriver and downriver; however, I guess it was more impossible to deal with those ones at that particular time, so the province viewed this one as maybe a more attractive one to get done in this year's annual budget.

**Mr. Robert Janes:** If I could just add a little bit to that, it's very important to understand that there are a number of layers to this question. One question is whether there should be gravel removal, and undoubtedly the aggregate business has a role in that. Behind that, it's actually the fact that aggregate is needed for construction, and there's a real shortage of aggregate in the Lower Mainland.

But the bigger question for Cheam, on a day-to-day basis in dealing with DFO and what used to be called Land & Water B.C., is where particular operations should be carried out at particular times. Frankly, that is driven as much as anything by the flood considerations.

In other words, from Cheam's perspective, it would prefer one of two things: either that the aggregate removal happen closer to Powerline Island, closer to its reserves, where there has been historical gravel removal, but where the government doesn't see the same benefits in terms of flood protection; or that there be less gravel removal, because frankly, it creates a large-scale competitor for its dryland aggregate business.

I just want to get across that the Cheam aggregate business is not driving this process. The real issue is that for Chilliwack and other communities in the gravel reach of the Fraser River, there is a real flood control issue. It comes down to either lowering the bottom of the river, raising the top of the dykes, or doing a bit of both. Of course, the Department of Fisheries and Oceans then has a raft of habitat issues attached to it.

I was counsel in their long gravel case in which Lincoln Douglas was charged with respect to a gravel removal operation and acquitted of any charges of destruction of fish habitat. I was involved in that case, and I can tell you that the amount of paper generated around the management of gravel removal and balancing these flooding issues is immense.

•(1135)

**Mr. Bill Matthews:** Thank you very much.

Just as another question on that, the Big Bar project only received environmental screening. Do you think that because of the potential damage to fish habitat, there should have been a full environmental assessment before that project proceeded?

**Mr. Robert Janes:** I know that, at the time, Cheam made submissions to people at the Department of Fisheries and Oceans that they had environmental concerns around a number of these proposed gravel operations. Whether a full environmental assessment would have made a difference or not is a bit of an open question. There has been a lot of study of the environmental effects in this area.

**The Chair:** Thank you, Mr. Matthews.

Monsieur Blais.

[*Translation*]

**Mr. Raynald Blais (Gaspésie—Îles-de-la-Madeleine, BQ):** Thank you, Mr. Chairman. Good day, gentlemen.

My first question is directed more specifically to Chief Douglas, as I'm trying to gain a better understanding of the situation. So then, if I understand correctly, the problem basically stems from the fact that no one is admitting to a dialogue taking place between nations. The fact that this isn't acknowledged from the outset creates a relationship in which one party is the dominant player.

Am I off base when I say this fundamental relationship creates a host of conflicts or problems at this point in time?

[*English*]

**Chief Sidney Douglas:** The non-recognition of a lot of our titles and rights does lead to strained relations, and because the points of view from both sides are different, sitting down at the same table and coming to a solution is difficult. But a solution is probably what we need, because our people feel one way and the governments feel another way, which really puts us at different ends of the table per se.

[*Translation*]

**Mr. Raynald Blais:** Which particular area is the source of the conflict, or confrontation, although perhaps that's not the right word I should be using? In your opinion, what's stopping the whole process from moving forward? How could the impasse be broken?

[*English*]

**Chief Sidney Douglas:** There have been a few steps over the last couple of years. We have been working with the department.

One of the biggest issues that our people used to face is the fact that our people would be closed to our fishery, yet our neighbouring sectors, recreational and commercial, were allowed to target it. Other first nations outside of our area were also allowed to target the same fish that we were not.

Over the years, you can go back and look at how many times the Stó:lō people were closed off to the fishery, yet all the fisheries around them remained in operation. That started to create a lot of confrontation, because our people were getting frustrated at being blocked out of the waters and not being able to access our food and fish to sustain our people.

•(1140)

**Mr. Robert Janes:** Monsieur Blais, perhaps I can just add a few little points here, because I get a lot of the frustrations expressed to me as their regular legal counsel.

On a practical level, there are two things that constantly come up. One is that even when there are particular government officials who reach out and say they'd like to do something, it requires accommodating a right, and they're not going to do so unless a court tells them to do it first. This happened around the issue of enforcement, for example, and an accord was reached on certain matters. I think it was embodied in the protocol agreement.

And then there are communications that come down from higher up, saying that this is contrary to some sort of overarching policy and they don't want any deviation from policy. At a policy level, then, there's this problem of trying to fit everybody into one box.

One thing that systematically could change—and this is what we were trying to say at the opening—is allowing more flexibility at the local level to accommodate. They're really unique problems that you get almost along each reach of the Fraser River.

The other thing to remember is that, frankly, some of these things are personal. I have to say that if you look at the court cases—and I know they're too dry for you to actually look at—you'll get the clear message that some of this boils down to the fact that there are fingers to be pointed both ways. I'll point in the direction my client would prefer to point, though.

You can find cases in which judges are extremely critical of officials in the Department of Fisheries and Oceans who really—I'll put it bluntly—are not with the plan. They just do not accept the idea that there has to be accommodation of first nations and they're somewhat contemptuous of them. The gravel case is a prime example of that. The judge threw out vast quantities of the Crown's evidence, saying that the investigating officer in that case just basically ran over Cheam's rights, just ignored them. He just didn't bother to listen to them, didn't bother to listen to what they said, didn't bother to tell them what DFO was considering doing. That officer just assumed that this was the way it was going to be.

The thing is that those personal issues actually have improved. There are people in the Cheam community who are not happy with what the council is doing. I'm sure there are people inside of DFO who are not happy with what the people who are reaching out to Cheam are doing. But it's the policy issues that I think are the bigger problems now, and they're the ones that I think are going to cause those obstacles, along with the inability to say there can be flexibility to deal with Cheam's unique situation, their unique rights, their unique problems.

[Translation]

**Mr. Raynald Blais:** In light of the gravel issue, regarding this flexibility, do you feel the impasse is likely to drag on if no agreement is reached between your band council and DFO? Otherwise, you're likely to proceed with legal action or some such thing. Is resolving the gravel issue the key?

[English]

**Chief Sidney Douglas:** One of the things on the gravel issue is that it's not only the Department of Fisheries that's involved. You have the Province of B.C. and also the local communities, the municipalities, the City of Chilliwack and the Fraser Valley Regional District. They're all involved in the gravel business in one way or another as well.

Looking at the gravel within the river, a majority of what they call the gravel reach of the Fraser is within the Pilalt traditional territories. We feel those resource are a part of us because they're within our traditional territory.

We have gone to court once already. I guess we're not afraid to do it again if need be.

I think Chester has a few words to say.

● (1145)

**Mr. Chester Douglas:** On your original question on the source of confrontation over the gravel removal, by no means do I or a lot of members of our community and other communities within our nation feel our rightful place has been achieved within the fishery and within the other resources of B.C. The gravel is a prime example.

The types of arrangements that we've been making over the last few years with the Department of Fisheries and Oceans and with the other ministries, the RCMP, and everybody else we've been trying to come to arrangements with and develop working relationships with can only get better. At some point, we hope to achieve our rightful position within the fishery. A lot of people may not like it, but they have to get used to it. I am optimistic that it will prevail, and then we

can get on with developing better programs and means of protection and conservation.

**The Chair:** Thank you, Mr. Douglas.

Thank you, Monsieur Blais.

I apologize to Chief Douglas and our committee members. Unfortunately, I have to leave early to go back to Nova Scotia. Our vice-chair, Mr. Matthews, will take over the committee. Before I leave, I just have a couple of quick questions that I would like to ask if I have time and the committee is in agreement with that.

Thank you.

We will then go on to our next questioner, which will be Mr. Stoffer.

First of all, for the record, I would like to make it clear that the whole salmon fishery on the Fraser River, the greater British Columbia area, the aboriginal fishery, the commercial fishery, and the recreational fishery have been studied and discussed at this committee for some time. I will therefore speak on behalf of this committee and other committees. I think we've tried to be fair and non-discriminatory in our deliberations, and we've tried to come down on the side of the resource.

As someone who has been on the river and understands the river and the resource, you can appreciate the fact that with all the individuals, all the first nations, all the commercial fisheries, all the recreational fisheries, and all the users of the salmon on the Fraser River, we find ourselves constantly challenged to try to make recommendations to government on the resource and how it should be divided up. But I don't think the committee has ever been challenged on the issue that all the stakeholders deserve a fair portion of the resource, and certainly you have a strong traditional claim.

After that prelude, I really want to ask if any members of the Cheam Band or other bands of the Stó:lō people—and the Cheam are part of the Stó:lō people, as I understand it—participate in the commercial fishery or in the recreational fishery.

● (1150)

**Chief Sidney Douglas:** I'm not too sure if any of them do. We used to have people participating in the commercial industry probably twenty or thirty years ago, but not today. In the recreational fishery, I don't think there are too many. There might be one or two members who participate in it.

**The Chair:** The reason I ask is that you made the comment that other stakeholders on the river were participating in the fishery and the Cheam Band had been restricted. That's where I'm headed with my question. Has the Cheam Band tried in the past to get a commercial licence or participate in the recreational fishery, or was this a legal matter because you have not signed a treaty and were using that as leverage?

My clear question is whether you have ever been prevented from participating in the commercial fishery if you desired to. And I do realize that's separate from your aboriginal right. I am not mixing the two up.

**Mr. Robert Janes:** Aside from certain aboriginal economic opportunities, there is no commercial fishery above the Mission Bridge, which is where Cheam is. The practical reality would be to say, have you engaged in fishing elsewhere? Who knows where it is, but the reality is that there isn't a commercial fishery upstream, so for them that isn't a practical reality. It's to say to go out to the ocean, which is a different thing from trying to accommodate their traditional way of life.

Obviously that brings up all kinds of issues of capitalization for individuals and such things like that. The reality, though, is that the economics just wouldn't work for likely all but one or two members of the band if those individuals were inclined to move away from Cheam. That's the practical issue around the commercial fishery.

I stand to be corrected, but I gather that except for the economic opportunity at Yale, there really isn't anything upstream of the Mission Bridge. Back in the fifties or maybe even the thirties, there might have been something above the Mission Bridge, but not in modern times.

**The Chair:** Thank you very much, Mr. Janes.

Again, I'd just like to thank our witnesses before I leave. It has certainly been a very interesting discussion. I can frankly tell you that it's encouraging to hear that it has moved along in a more progressive and non-confrontational manner. That takes some goodwill and some motivation from both sides. One person can't do it all and one group can't do it all. It's a matter of give and take.

I now ask Mr. Matthews to take over the chair.

**The Vice-Chair (Mr. Bill Matthews):** Thank you.

Mr. Stoffer, for five minutes.

**Mr. Peter Stoffer (Sackville—Eastern Shore, NDP):** Gentlemen, thank you for coming before us today.

Chief Douglas, how many people do you represent?

**Chief Sidney Douglas:** Our community right now has a membership of just under 500. About 60% live off reserve.

**Mr. Peter Stoffer:** You have under 500.

Do you now have a recognized right to fish food, social, and ceremonial purposes?

**Chief Sidney Douglas:** Yes.

**Mr. Peter Stoffer:** Is that done on a yearly basis? Do you do it three or four times a year? How does that process work?

**Chief Sidney Douglas:** Most of our fishermen would probably fish eight to ten months of the year.

**Mr. Peter Stoffer:** Eight to ten months.

**Chief Sidney Douglas:** But not consistently.

**Mr. Peter Stoffer:** And how many people would actually do the fishing, including crews, hands, or whatever?

**Chief Sidney Douglas:** It's up to the individual members. We don't designate any individuals to do the fishing for everybody.

**Mr. Peter Stoffer:** Technically, then, all 500 could if they wanted to.

**Chief Sidney Douglas:** Yes.

**Mr. Peter Stoffer:** And for food, social, or ceremonial purposes, do you have any records to show how much fish was caught, either by pieces or by pounds, say, over the last couple of years? If you don't have those figures now, perhaps you could send them to us.

The question would be on the figures that you would produce in the future. Have they been peer-reviewed or have they been looked at by an outside source like DFO, for example? For example, when a Cheam fisherman goes out and brings fish back into the community, is there someone else who looks at that catch to determine the amount of fish or the weight of the fish that were caught?

• (1155)

**Mr. Mike Staley (Biologist, Cheam Fishing Authority, Cheam First Nation):** A monitoring program has been in place for the last couple of years. Each of the fishers is observed on the water, and a large sample of them are interviewed as they offload the fish.

**Mr. Peter Stoffer:** By whom?

**Mr. Mike Staley:** By Cheam members of the fisheries program.

Last year, there were DFO staff on site probably at least half the time, if not more. They were associated with the study we've been doing on the relative effectiveness of drift nets versus set nets. So there have been DFO staff on site, on the beach, observing and assisting in these monitoring programs.

There's a large amount of cooperation between the Cheam staff and DFO staff. My discussions with both sides have indicated that a working relationship, trust and understanding, and trying to do the best job to produce the best information are what both sides are after.

**Mr. Peter Stoffer:** Sir, would it be possible for your organization to send to the committee the number of fish, either in pieces or pounds, that have been caught by the Cheam in the last two years, so that we can have those records for ourselves? Obviously, I assume someone's keeping records of these.

**Mr. Mike Staley:** DFO keeps those records, and the Cheam staff have those records.

**Mr. Peter Stoffer:** Would it be possible to get a copy of them?

**Mr. Mike Staley:** No problem.

**Mr. Peter Stoffer:** Thank you, sir.

Also, sir, you talked about cooperation with other groups. Someone once told me that there are over ninety first nations along the Fraser River. Is that correct?

**Chief Sidney Douglas:** Yes.

**Mr. Peter Stoffer:** I'm just throwing this out there, but if all ninety wanted to have an agreement with DFO on sharing of the fish stocks, do you think that would even be feasible to do, to have ninety different plans?

**Mr. Robert Janes:** Well, the reality—

**Mr. Peter Stoffer:** Sorry, but the reason I say this is that I have a lot of discussions with the Native Brotherhood on the coast. They're quite concerned about what's going on within the river.



So I have a two-part question. First, is it at all feasible? If you want to have a plan or a dialogue with DFO to set up some sort of arrangement for yourselves, would that not then say that each and every first nations group along the river would be able to say, "Well, me too", in that sense?

Also, the Native Brotherhood operates mostly on the coast. Have you had discussions or arrangements with them to discuss their issues as well?

**Mr. Chester Douglas:** When you talk about the, I think, 97 individual bands that are located in the Fraser River reach, those 97 individual bands belong to probably eight tribal groups. They would generally come to agreements within their tribal groups, so you would only look at probably eight agreements along the reach.

If you want to know the history, there are four tribal groups right in the Chilliwack area, the Stó:lō territory. Cheam are the survivors of the Pilalt tribe. There's the Tait tribe above us, the Chilliwack tribe, and the Sumas Tribe. That's the reason we feel we have our own distinct needs and requirements, as opposed to the Tait or the Ch-ihl-kway-uhk.

**Mr. Peter Stoffer:** Thank you, but the essence—

**The Vice-Chair (Mr. Bill Matthews):** I have to stop you, Mr. Stoffer. Your time is up. We'll have time to get back to you again.

On the information that Mr. Stoffer has requested, could you please forward it to the clerk of the committee so we all get it, please?

We now switch to the government side, and Mr. Kamp, for ten minutes.

• (1200)

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

Thank you, Chief Douglas and gentlemen, for coming. I appreciate your taking the time.

I need to start with some clarification on the gravel issue, but I don't want to spend much time there.

You seem to be saying that although you've had a contract to be involved in the gravel removal, you weren't involved this year. My understanding was that the Cheam Band was still the overall contractor, although they didn't do the actual work. Of the gravel that was removed from Big Bar, for example, was the Cheam Band not involved in that in any way? Did it not receive any compensation for that gravel?

**Mr. Lincoln Douglas:** There were actually three permits this year that were issued to Cheam for two other gravel bars, Gill East, Gill Central, and Big Bar. They were issued over a three-year term, with discussions with the province to try to achieve at least two of them. The band did that. We did Gill East, we did Gill Central, and they were successful. There were good reports from there.

However, as I said, on the third one, the province did initiate an idea that they had to make Big Bar go. The band, as Peter said, saw it as just too risky for us to do the project. The province said they would look after it by going to the city, where they found some money. That's basically how it transpired. The money was never

transferred to the band to do the causeway; it basically went right to the non-aboriginal contractor. So there were a bunch of complications that happened there.

**Mr. Robert Janes:** As I understand it, there was an arrangement with respect to the issue of royalties to be paid on the gravel that was removed. As a purely financial matter, those did flow to Cheam because they were part of a larger accommodation arrangement. But in terms of the operational issues, in terms of doing the engineering, building the causeway, doing the digging, doing the timing, Cheam really did have nothing to do with those things.

In fairness to everyone, the thing you have to understand is that the province is feeling very driven around the issue of flood protection. When Cheam says they're just not going to do it, the province says it's not going to leave Chilliwack submerged, so it wants someone to go in there.

I think it's fair to say that these arrangements get worked out more or less on the fly, but that's what happened. It's unfortunate that Cheam got plastered with that, but the reality is that if Cheam had had its way, it wouldn't have happened.

**Mr. Randy Kamp:** I appreciate that clarification, because there is some confusion surrounding that.

How do you assess the flooding risk? You spend a lot of time on the river and live near the river. Do you think it's a problem and that the gravel removal program is going to have a significant impact on that risk?

**Mr. Lincoln Douglas:** I think we both have something to say about that.

**Mr. Robert Janes:** There are a few studies indicating that the bed of the river is aggrading and that there is an increased flood risk. Certainly, at Cheam itself, on its second reserve, it has encountered exactly that problem. Some of the channels have filled up and their second reserve has been threatened with flooding.

I don't think there's a dispute that there's a flooding issue and that something is going to have to be done about it. It's a question of how it gets managed and the choices that are made between dyke raising, the timing of certain gravel extractions, and such like that.

**Mr. Randy Kamp:** Do you have the same perspective, Mr. Douglas?

**Mr. Lincoln Douglas:** I would say that the amount of gravel isn't going to significantly do anything for the river. It's the ways and areas in which you extract it that have the ability to control flood issues. That's what the engineers have all worked on—along with the Department of Fisheries with regard to the protection of habitat—to try to achieve the areas that they feel are most attractive to that concept.

**Mr. Randy Kamp:** I'm not sure I understand the concept.

**Mr. Lincoln Douglas:** The amount of gravel that's coming out wouldn't significantly lower the river. It's where they take it out that helps in the effect of water not breaching the banks of the river.

• (1205)

**Mr. Robert Janes:** In terms of flow.

**Mr. Randy Kamp:** It's not changing the bottom of the river.

**Mr. Robert Janes:** Except for very local changes. It creates a new channel where previously there might not have been a channel.

**Mr. Randy Kamp:** Let me change directions a bit. On the monitoring program that you have, you have your own monitors. I'm not quite clear on what their relationship is to the DFO monitors.

The other question is a general one of how that has worked. Do your monitors encounter violations of fishing regulations, either your own that you've set up or the DFO regulations? What do they do when they encounter people breaking the rules? I assume that must happen from time to time.

**Mr. Chester Douglas:** In terms of the relationship between our staff and the DFO staff, they were brought together down there to carry out a monitoring program. The DFO staff were validators, but they were also doing other studies, like scale samples, weighing and measuring fish, and determining the species of fish or the races of sockeye that were going to different areas.

As far as encountering infractions goes, there were infractions on the part of some individuals. What the monitors do is contact our fishery coordinator and the council, and all we do is deliver the message to the violators that this is not part of our agreement and that we can't support them in that activity. If they were fishing outside an authorized fishery, we would deliver the information that we would not support them financially or legally if they were charged for that fishing. They would have to suffer the consequences.

And just in addition to that, this year I think there were only going to be three to five charges laid, whereas in the past there have been anywhere from 40 to 100 or even 150 charges laid on an annual basis for fishing infractions.

**Mr. Randy Kamp:** On the charges that were laid, did they happen because DFO monitors or officers just happened to be in the area at a particular time to observe violations, or did they happen because the Cheam monitors were involved in reporting to DFO?

**Mr. Chester Douglas:** I can't answer that. I don't know.

I don't know how many charges will be laid for sure, but I know it's not very many. But they take time. I think the Department of Justice scrutinizes the information very carefully now, because usually we don't get much notification that we're to appear in court on fishery charges. If the alleged infractions occur in, say, July and August, we may not know if we have to attend court until October, November, December, or sometimes even later.

**Mr. Robert Janes:** There may be a bit of talking at cross-purposes about the monitors. I can be corrected on this if I'm wrong, but the monitors don't really act as overall enforcement agents. They primarily function during the authorized openings. They are more landing monitors, because the openings—and I was corrected on this just this morning when we were doing a bit of preparation—don't say they can catch so many fish. They are openings that say there will be an opening from this hour to this hour, starting this day and continuing to this day.

The monitors aren't armed monitors. They're not peace officers. They're nothing like that. They're not expected to be out on the water patrolling for out-of-bounds fishing. Their role is really more in

assisting DFO and creating parallel databases for the fish that are being landed during the authorized fishery.

It would be kind of surprising if the monitors were in fact having a role at out-of-bounds times, because that's not really their job. That's not what DFO expects them to do and that's not what they're paid to do. Chances are that they're at home in bed if something like that's going on.

The idea of the Cheam monitor is not to create a parallel police force or a parallel enforcement branch to DFO. It's more to assist in the scientific program that's ongoing to find out, look, if we have these openings this long with this kind of equipment, how many fish are being brought in? What is the catch per unit effort? It's that sort of role rather than being focused on whether some members decide to disobey the rules and fish at some other time, without the sanction of the council and without the sanction of DFO, and then going out and catching those individuals.

That's why I think we're talking a little bit at cross-purposes, because that's not really the role of the Cheam monitors as DFO or Cheam envisages them. The more important message that Cheam is going to send is that it's the message that's being sent to the community.

I'll tell you, they get a lot of political heat from the community. These folks are political actors just as you are, because they're saying to members that they're not guaranteeing to those members that they're going to be sending legal counsel to defend them if the play outside the rules.

• (1210)

**The Vice-Chair (Mr. Bill Matthews):** Excuse me, but you're time is up now.

We'll go to the second round, which is five minutes, and we'll begin with Mr. Cuzner.

**Mr. Rodger Cuzner (Cape Breton—Canso, Lib.):** I have two quick questions. Are the Cheam monitors on the band's payroll or are they part of a program that's jointly funded with DFO?

**Mr. Mike Staley:** They're on the band payroll. The DFO program is under the aboriginal fisheries strategy funding program of DFO. The band receives funds, but they're on the band payroll.

**Mr. Rodger Cuzner:** Is there's a structured reporting protocol that comes along with that?

**Mr. Mike Staley:** A supervisor and coordinator work for the band, and I'm asked to come in and review some of the information, assist in design...[*Technical difficulties—Editor*]...and scientific questions.

**Mr. Rodger Cuzner:** And that's been in place for how long now?

**Mr. Mike Staley:** Last year was the second full year. There were some initial attempts the year before that.

**Mr. Rodger Cuzner:** And how long was the partnership for? How long was the project for?

**Mr. Mike Staley:** These are done on an annual basis. They're on a year-by-year basis.

**Mr. Rodger Cuzner:** Do you do an evaluation each year?

**Mr. Mike Staley:** We're just starting the process of that right now. There's a fishery under way right now for chum salmon. Once that's finished, then we'll be in a position to review the entire season's program.

**Mr. Rodger Cuzner:** Has there ever been an instance in which, if the fish stocks are in question, if the fish stocks drop, the band has imposed a moratorium? Is there any history of that happening in past years, even prior to the agreement?

**Mr. Chester Douglas:** Yes. We didn't authorize a fishery for the Early Stuart sockeye this year. Our community didn't fish for their Early Stuart sockeye because the stocks were in jeopardy.

**Mr. Rodger Cuzner:** So what you would have done was the assessment on the science you would have received from your own monitors and DFO, and the recommendation would have come forward and been fully complied with.

**Mr. Chester Douglas:** I don't know if there were any infractions by individuals, but we didn't authorize a fishery.

**Mr. Rodger Cuzner:** And you're aware of none either.

**Mr. Chester Douglas:** No.

**The Vice-Chair (Mr. Bill Matthews):** Thank you, Mr. Cuzner.

Mr. Asselin.

[Translation]

**Mr. Gérard Asselin (Manicouagan, BQ):** Good day and welcome to the Standing Committee on Fisheries and Oceans.

I represent the Quebec region, more specifically the North Shore of the St. Lawrence. My riding is home to several Montagnais aboriginal communities.

You've stated on more than one occasion that the aboriginal community that you represent and DFO are at odds over several issues. Dialogue between the parties is more or less good. According to a letter that you sent to the Standing Committee on Fisheries and Oceans last June, you'd like to restore relations and work out a sound agreement.

The community and DFO are therefore locked in a dispute. DFO is mainly responsible for managing the resource and ensuring regulatory compliance. However, you've stated on several occasions that you would like DFO to show more flexibility.

Flexibility is hard to assess, because it's not clear where it begins, or where it ends. Can one be too flexible or not flexible enough? How will flexibility affect resource management? How will DFO enforce regulations if it demonstrates flexibility?

What exactly do you mean when you call for greater flexibility on the part of DFO?

• (1215)

[English]

**Chief Sidney Douglas:** One of the things we bring to the table about more flexibility is that our people have always felt that the best way to get somewhere is through co-management. Flexibility means having the department realize that a lot of their unilateral decisions weren't good for anybody, and having them be a little more flexible in accepting the fact that there are communities that live right in the local areas.

These communities know the local areas—not only our people, but our brothers and sisters upriver. They're all striving to develop better fish habitat in order to sustain our resources in the future, and we're all part of that. With that flexibility, we're asking the department to look at more co-management strategies not only with us, but with other interests along the river and also out in the marine waters.

[Translation]

**Mr. Gérard Asselin:** I have another brief question. Perhaps you can fill in the details. Despite the good will of your community's band council, do you feel that relations between the community and DFO are improving, or deteriorating? Has the situation improved, or deteriorated, over the past year?

[English]

**Mr. Chester Douglas:** We've been in conflict with the fishery department and the fishing industry for well over a hundred years, since we've been stripped of the right to partake economically in the fishery. We've fought for it. Our community never did stop fighting, and a lot of our members never did stop selling fish.

I think a lot of the changes that have been made in the last ten or fifteen years within the Department of Fisheries and the fishery program have been a direct result of a lot of the conflict that Cheam has entered into with the department over changes that we see as necessary in the fishery program. There isn't one fishery official who will deny that the changes that were made haven't improved the fishery, haven't provided benefit for all sectors of the fishery. In what we have struggled for, the changes that have been made have benefited everybody.

You talk about flexibility. We're not looking for flexibility. We're looking for equity in the fishery. We feel we deserve a part of that fishery.

• (1220)

**The Vice-Chair (Mr. Bill Matthews):** Thank you very much. We're over time here. I've been lenient.

Mr. Stoffer, are you going for a second round?

**Mr. Peter Stoffer:** Thank you, Mr. Chairman.

Gentlemen, as you know, the Prime Minister has indicated that he wishes to have an inquiry on the Fraser River. Do you support the call for an inquiry?

**Chief Sidney Douglas:** We probably don't support an inquiry.

**Mr. Peter Stoffer:** May I ask why?

**Chief Sidney Douglas:** We feel that in order to have an inquiry into any subject, a lot of funds must be involved. We feel that funds spent in bettering the management and developing better habitat would be more wisely spent.

**Mr. Peter Stoffer:** Okay.

I'll serve this question to you, Mike. As a ballpark figure, how many pounds of fish were caught last year?

**Mr. Mike Staley:** The sockeye catch for Cheam was on the order of roughly 20,000 pieces, or 100,000 pounds.

**Mr. Peter Stoffer:** It was 100,000 pounds.

Again, I had asked Chief Douglas before, and he said fish for food, social, and ceremonial right are already there. Are you aware, sir, of anybody taking some of those fish—as I myself have witnessed from both sides when I lived in B.C., from aboriginal and non-aboriginal people—and going to the back of a Legion or the back of a store and selling some of them out of a plastic bucket and getting two or three dollars apiece for them? Are you aware of any of those transactions happening?

**Mr. Mike Staley:** I've heard of them, but I have never witnessed them.

**Mr. Peter Stoffer:** As a biologist, would that be something you would support, or would you oppose it?

**Mr. Mike Staley:** As a biologist, it doesn't really matter. I'm worried about the survival of the fish. Once they're out of the water and dead, they're not going to be able to reproduce.

**Mr. Peter Stoffer:** You work with the Cheam Band, is that correct?

**Mr. Mike Staley:** As well as others, yes.

**Mr. Peter Stoffer:** I don't want to put words in your mouth, but I would assume that as a person employed by the Cheam Band, if they're catching  $x$  number of pounds of fish for food, social, and ceremonial purposes, and if there are individuals who are not sanctioned by the band but who are circumventing that particular rule, that would be of concern to everybody. What happens then is that you have DFO and non-aboriginal groups and other aboriginal groups, like the Native Brotherhood, saying to back the truck up here because we have a bit of a problem.

If this fish is intended for a certain purpose, then it should not be sold. If there is an opinion about getting into the commercial fishery, then that is a debate that needs to happen, as Chester Douglas indicated. If the Cheam Band wishes to get into the commercial fishery, as he had indicated, then that is something that is debatable. But right now, if individuals are selling fish out of the back of a truck illegally, be they aboriginal or non-aboriginal, shouldn't DFO do everything they can to stop that activity?

**Mr. Mike Staley:** I don't need to answer that question. That's not a biology question, so I think others should answer that question.

**Mr. Peter Stoffer:** All right, I'll pass it on to Chief Douglas.

**Chief Sidney Douglas:** I'll answer that question from a first nations point of view and how we feel about our rights to the resources and everything once we have the resources at home.

Our people were a bartering people and a fish commodity was part of our bartering trade with the nations neighbouring ours. With the evolution of time, the bartering came to a money system. We feel there might be sales among some of our members. They might go and sell fish. None of those sales would be sales sanctioned by the Department of Fisheries, but under our mind of aboriginal rights and title, we feel that because we are a bartering people, we have the right to sell the fish after they've come home to our community.

• (1225)

**Mr. Robert Janes:** Sir, just to answer the last part of your question, DFO has a choice about how to deal with it. One way would be to prosecute, which could play out a bunch of ways. It could play with a ruling that there is aboriginal title and they're

entitled to sell. Or it could play out like Vanderpeet, with a ruling that there's no commercial sale. Who knows?

The question is whether the money is better spent saying that the better way to deal with it is to work something out going forward. The minister's power is limited ultimately by the constitutional rights, and if they haven't accommodated a right that's out there, then they may find that some court is sorting it out for them.

So to answer your question on the appropriate approach for DFO, that's a really big internal policy debate for DFO.

**The Vice-Chair (Mr. Bill Matthews):** Thank you, gentlemen.

Thank you very much, Mr. Stoffer. Your time is up.

Mr. Lunney.

**Mr. James Lunney (Nanaimo—Alberni, CPC):** Thank you, Mr. Chair.

I appreciate everybody being here today. I find that the discussion is interesting. I know it is of concern to you. That's why you've come.

I think everybody is concerned about the management of the fishery. Over the years, this committee has had a lot of hearings related to it and has written some reports. I've been on the committee for some of that time and absent for other parts.

On the climate we're in today, though, I was curious about something. Earlier, my colleague Peter was asking about the relationship between the Stó:lō and Cheam. I'm from Vancouver Island and I have a lot of first nations in my community. For those of us who aren't knowledgeable, we hear those terms used interchangeably, so I was glad to hear you start to explain that there are numerous tribes or bands in the area. Cheam is one of the bands, as part of Stó:lō, is that right?

**Mr. Chester Douglas:** Four tribes are considered Stó:lō. The Tait, the Ch-ihl-kway-uhk, the Pilalt, and the Sumas are all part of the Stó:lō. For ease of relationships, they're all dealt with collectively as a nation.

**Mr. James Lunney:** It's helpful to understand who and exactly where you are in there. We have gravel issues that are going by, and of course the fishery issue is important to this committee, as is maintaining stocks.

I think we all recognize that we're facing some significant challenges with those stocks. There's evidence that with climate change, those fish are coming back stressed. They're having trouble getting up to the spawning grounds. They're not waiting to gather strength at the mouth of the river. A whole range of issues is challenging those stocks today.

I was glad to hear you use language like “protection”, “conservation”, and “harvest objectives”. Collaboration is also part of the language you're working with here. Ultimately, we recognize and I think you recognize that you have neighbours who have an interest as well. This resource is being challenged by a whole range of issues, so if we're going to be successful for long-term management, we have to collaborate and work together.

From where I sit, we have a number of treaty tables that are moving ahead. I'm trying to work closely with our first nations communities on Vancouver Island, where I'm from. That's incumbent upon us, because I think the province wants to see things move ahead treaty-wise. Federally, I think we certainly would like to see some long-term solutions found.

We're actually dealing with a delicate issue here that's obviously a sore point for you people, but if we're going to move ahead successfully, we all have to look for a way to grab hold of something that's going to work successfully for the future. I would hope that out of the dialogue and the new relationship you're developing with DFO, we recognize that we're going to have to collaborate for the protection of the resource and for a long-term solution.

So here's one of the questions that I have. When you're talking about food, social, and ceremonial purposes, those are constitutional rights. People accept that your people have a right to those fish for those purposes. But when we're talking about commercial fisheries, there's a delicate balance here. If you're going to have a commercial fishery as part of a treaty right at some point in the future, and if it is recognized legally— people aren't doing things that are considered illegal and selling fish off the back of a pickup truck—would you be willing to consider doing something you used to do in time past? If you're taking fish for food, social, and ceremonial purposes, would you be willing to somehow mark those fish so that you can determine a commercially caught fish from a fish that's taken for some other means?

There obviously has to be some way of quantifying and assuring the numbers that are actually taken so that we can regulate this fishery for everybody's management sake. Is that something you would be willing to consider?

• (1230)

**Chief Sidney Douglas:** There was a time when we were actually sanctioned to mark our fish as native fish. That was fought in the courts and it was found to be unconstitutional for our people to mark our fish while nobody else marked their fish.

**Mr. James Lunney:** Okay.

**The Vice-Chair (Mr. Bill Matthews):** Have you finished?

**Mr. James Lunney:** I guess I have to carry it on a little bit.

**The Vice-Chair (Mr. Bill Matthews):** It's just about time. You have time for a very quick one, because a couple of other people want to ask questions.

**Mr. James Lunney:** I appreciate that we're looking for a way to manage this thing. If you want to find a way to move into a commercial fishery successfully, there has to be a way to quantify, to measure, and to be accountable. That's ultimately something none of us can escape. We're all being held accountable. You're politicians and we're politicians at the table.

Counting and measuring are things that are going to be necessary. I'm wondering if you have some suggestions on how you can meet those objectives to be able to quantify and to work with DFO and other officials to make sure we're not exploiting the resource.

**Mr. Chester Douglas:** Personally, I have an issue with the term “food, social, and ceremonial”. I find that to be a colonial term that was forced upon us. We were forced to accept it because of pressure from other sectors of the fishery that wanted to take more away from us than they already had. We had to fight in the courts to protect a bit of it.

But as I said at the start of this, in no way, shape, or form is our fishery defined yet. Once every treaty is signed and every *t* is crossed and every *i* is dotted, then everybody will know where we are with this. Until then, though, it's up in the air.

I don't think I can really qualify your question as to marking the FSC fish, as they call them, or not marking the commercially caught fish. I just don't see any reason for qualifying or quantifying them.

**The Vice-Chair (Mr. Bill Matthews):** Thank you, Mr. Douglas.

Mr. Cuzner, please.

**Mr. Rodger Cuzner:** I want to get back to the gravel extraction part again. I know you don't have a crystal ball, but do you see that there remains a risk of flooding currently? Would the Cheam territory be at risk of flooding? Are there lands there that would be at risk?

**Chief Sidney Douglas:** We have two parcels of land. One's on the north side of the river and one's on the south side of the river. We actually did build a pony dyke to protect the north side of the river, because it's left in the flood plain. When we did that, we built it on our own in 1972. We bought from some of the neighbouring communities because they said they wanted to save that land for flood purposes. They didn't want us to protect our land because if the river came up, at least it would flood the reserve but not the municipality of Kent.

We do have flood problems in some of our other communities. First nations communities have been left outside of the dykes on the Fraser River.

**Mr. Rodger Cuzner:** Are you comfortable with where DFO is? Are you included in any planning that goes forward, with any type of remediation that might be proposed? Are you guys an integral part of that planning process?

• (1235)

**Mr. Robert Janes:** The answer is that there's an invitation for Cheam to participate. There's a huge process that goes on, and there are issues about where the priorities are. Lincoln can expand that, but one of the issues is with respect to IR #2, for example.

There is a concern that gravel extraction is now being allowed there, increasing the risk of flooding on IR #2. Because the priorities are placed elsewhere, that's a political decision that's being made. Cheam is invited to comment on that, but I don't think it's happy about how its comments are treated, but such is life.

Maybe Lincoln can expand a bit more on that, but that's my understanding of where things stand. There is a flooding issue.

**Mr. Lincoln Douglas:** There's definitely a flooding issue. Along with its neighbouring communities such as Chilliwack and Agassiz, Cheam doesn't have the representation that those communities have with the province and the federal government. The Department of Indian Affairs doesn't come and assist us in flood protection issues that well, whereas the city of Chilliwack has the province. The province actually does most of the engineering and modelling of what should be done, and then it's reviewed later through a CEEA process by the Department of Fisheries and Oceans.

On our properties, we're kind of left out in the whole evaluation system. I've been directly involved with the province in discussions like that in the past, when I was on the council for our band.

**The Vice-Chair (Mr. Bill Matthews):** Thank you, Mr. Cuzner.

Mr. Blais, I understand you have a quick question. In the interest of time, we do have other committee business to do after we've heard our witnesses. We're pretty close to time, so if you could, please make it quick.

[Translation]

**Mr. Raynald Blais:** Thank you, Mr. Chairman.

During the second round of questioning, I'd like to get a better understanding of your relationship not only with DFO but with the province of British Columbia as well. I had mentioned that one of the problems was that negotiations were not strictly between you and DFO. However, work was approved.

I'm curious as to the timeline in the instance. Which departments approved this work? What was the extent of your involvement? Were you consulted by British Columbia? Which department consulted with you? Were you consulted on more than one occasion? I'm interested in the chronology of events in order to gain a better understanding of how the province acted on, or responded to, this issue.

[English]

**Mr. Robert Janes:** To fully answer your question about the chronology would take a good two hours, because the chronology really starts back in the mid-nineties. There was a very large process put in place through the province, the Fraser Basin Council—

[Translation]

**Mr. Raynald Blais:** You have about four minutes.

[English]

**Mr. Robert Janes:** I know, and this is the problem.

You saw a large approval process that identified certain critical areas and general approaches. There was then a series of steps that started probably around 1998 and identified areas that were of more concern for fish reasons, and there was some consultation around that. There were areas where they would have liked to see gravel taken up, and there was less consultation about that.

With respect to Big Bar, essentially the province came—and I was involved in those talks, as were Lincoln and the chief—and it said these were the projects it was doing this year. DFO came and said it was doing a CEEA assessment and wanted to hear about Big Bar, and then there was some back-and-forth with the province.

That back-and-forth was not about whether it was going to happen or not. The province's view was that unless DFO blocked it, it was going to happen. However, there were issues about whether there were economic opportunities for Cheam, whether there could be Cheam work involved in it. There was a list of issues like that, but it was more of the nature that it was going to happen and what you had to say about it in terms of potentially getting involved.

One of the issues this year that DFO and the province have both actually said they will try to fix is that it came in very quickly. It came in in a matter of a couple of weeks, really, or maybe more like a couple of months.

**Mr. Lincoln Douglas:** Big Bar was actually fast-tracked from February 20 onward, in order to meet a deadline of March 15.

**Mr. Robert Janes:** So there were those meetings, and then it was implemented.

[Translation]

**Mr. Raynald Blais:** Therefore, you were faced with a fait accompli, in that you took part in discussions about work that would eventually be carried out. But it really was a fait accompli, and there was little more you could do.

Was that in fact the case?

• (1240)

[English]

**Mr. Robert Janes:** In terms of the work being done, yes, it was a *fait accompli*, and the reality was that it was going to be done by Cheam. Ultimately, if Cheam opted not to do it, it was going to be done by Jakes Contracting or Lafarge or somebody. It was going to be done unless DFO said there was too much of a fishery issue. Fundamentally, however, that was unlikely to happen.

**The Vice-Chair (Mr. Bill Matthews):** Thank you very much, gentlemen.

Mr. Stoffer, do you have a two-second question? We can then get a two-second answer.

**Mr. Peter Stoffer:** This two-second question is for Mr. Janes, as legal counsel for the Cheam.

Would you be advising them that they would have a legal right to commercially sell the fish that they catch?

**Mr. Robert Janes:** My advice to them is privileged, but what I would say is that there is obviously the Vanderpeet hurdle that they have to get over. But I do think there's a very large open issue—and Cheam has an outstanding claim about this—and that's the question of title to the Fraser River and title to the fisheries attached to it. That issue is in the public domain.

**The Vice-Chair (Mr. Bill Matthews):** Thank you very much.

Is there is someone from the government side who wants a quick answer, in the name of fairness? I'll be a fair chair. If not, we'll thank our witnesses for coming.

Thank you very much for coming, Chief, gentlemen. We enjoyed the exchange. Happy travels.

**The Vice-Chair (Mr. Bill Matthews):** If I could have the attention of committee members, please, we'll try to conclude the meeting.

We have an item of business to deal with. It's a notice of motion from Mr. Stoffer that I think everyone has seen.

Mr. Stoffer, do you have something to say before we put this to the committee?

**Mr. Peter Stoffer:** The motion that is there is what we have presented, but I understand Monsieur Blais wishes to put forward an amendment, so I thought I should give him the time to explain that amendment.

**The Chair:** Mr. Kamp.

**Mr. Randy Kamp:** This is the first time I've seen the actual proposed motion in both official languages. Can we be assured that this meets the Standing Orders in terms of having it in our possession at least 48 hours before debate? Was it distributed in both official languages to each member?

**The Vice-Chair (Mr. Bill Matthews):** The clerk tells me it's in order.

**Mr. Peter Stoffer:** Mr. Kamp, with great respect, this was done in both official languages well in advance of 48 hours. We referred the motion from the last committee hearing, which gives you even more ample time. I gave it to the clerk and to the chair of the committee in both official languages and well in advance of 48 hours.

**Mr. Randy Kamp:** The question is whether he distributed it on time, not whether what you did met the Standing Orders.

I'm willing to debate this. I would just like to be assured that we know what the Standing Orders are and that we follow the rules, because they will be used by someone else at another time if we're not very clear on this.

**The Clerk of the Committee:** Monsieur Kamp, I am going to speak in French.

•(1245)

[*Translation*]

Two weeks ago, Mr. Stoffer tabled his motion to the committee in both official languages. There were two separate pages. As is customary, we distributed the motion in the Member's language. Thus, the English version was handed out to English-speaking MPs, while francophone Members received the French version.

[*English*]

**The Vice-Chair (Mr. Bill Matthews):** Thank you very much for that explanation, Mr. Clerk.

In listening to what has been said, I don't think there's any doubt the requirements have been met. Hopefully that satisfies your concern, Mr. Kamp, and I appreciate your raising it.

Mr. Blais, please.

[*Translation*]

**Mr. Raynald Blais:** Indeed, proper procedure was followed. Of course, had that not been the case, we would, understandably, have been the first ones to protest.

I would like to move an amendment. Given the proposal on the table, I think it would be appropriate and interesting for the committee to examine the issue of marine fees. We could go with the motion that has been tabled, one with which I agree. However, it

might also be interesting to go a step further and examine practices elsewhere in Canada with respect to marine fees. Accordingly, I'm asking that the committee undertake a study of all marine fees charged by the Government of Canada in all regions of the country.

[*English*]

**The Vice-Chair (Mr. Bill Matthews):** Mr. Lunney.

**Mr. James Lunney:** I find the recommendation of Mr. Blais to be very interesting. It seems to me that if we're going to make a recommendation to the minister or to the House about changing fees, it makes sense to me that we might want to study the subject first and examine what fees are being applied in all areas of the country before we make a recommendation to specifically eliminate fees in one part of the country.

I don't think members have really had an opportunity to determine the extent of the fees, what they're applied for, or how they relate to other fees in other areas. It would probably be valuable for us to examine those issues before we make recommendations in an ad hoc manner.

**The Vice-Chair (Mr. Bill Matthews):** Mr. Lunney, Mr. Stoffer's motion has been properly put to the committee in both official languages, with advance notice. After a discussion with the clerk, my interpretation is that what Mr. Blais is doing is really a separate motion. It's really not an amendment to Mr. Stoffer's motion. That's the clerk's advice to me as vice-chair.

I don't see that we have any choice, but I'm again guided by the wishes of the committee that we deal with Mr. Stoffer's motion today, since it is in order. He gave adequate notice, and I think we have to deal with this motion. Whether or not we entertain notice of another motion by Mr. Blais is what we have to decide today.

**Mr. James Lunney:** Along the same track, Mr. Chair, my appeal to the members is to say that if we want to make a recommendation, let's get some information on the subject material before we make that recommendation.

Mr. Stoffer seems to have examined the issue and is satisfied that this is an appropriate recommendation, but I would ask the committee to consider, before we make a recommendation, that we follow Mr. Blais' advice and find the time to at least have a couple of hearings with officials as to what fees actually are applied, how they're applied, what they're there for, and how they relate to fees in other areas, before we make such a recommendation.

Mr. Stoffer's recommendation may in fact be a very good one, but I don't think the committee is actually informed well enough on the issue to make that decision today.

**The Vice-Chair (Mr. Bill Matthews):** I don't want to pre-empt Mr. Blais' intent or what he has to say, but I clearly understood from him that he was in no way trying to upstage or not have Mr. Stoffer's motion dealt with. But I'm not speaking for Mr. Blais. He can very well speak for himself. If he wants to respond to that he can.

Mr. Blais first, and then Mr. Cummins.

• (1250)

[Translation]

**Mr. Raynald Blais:** If I could just clarify my position, my proposal or amendment is neither meant to be a stalling tactic nor designed in such a way as to have the motion on the table set aside.

I support this motion. There have already been enough delays on this issue. Matters have been up in the air for several years. I think we can easily vote in favour of the main motion and I invite my Conservative party colleagues to do just that.

I simply thought that we could take advantage of the situation, go one step further and examine other cases. Should we be looking at other situations to understand what's really happening here? For instance, I'm thinking about the St. Lawrence with which I'm more familiar. I think we need to look at other cases.

Let me say again that I'm in favour of the main motion. We could have another discussion about the possibility of doing an in-depth study, or not, or talk about the study's terms of reference, and so forth. I don't have a problem with that. To facilitate matters and for the sake of expediency, I'm willing to withdraw my amendment. In any event, I don't think I'll have to do that because my amendment is not in order.

The Chair is therefore at liberty to call for debate on the main motion, since my amendment is out of order.

[English]

**The Vice-Chair (Mr. Bill Matthews):** Thank you. I understand that you are withdrawing that, Mr. Blais.

(Amendment withdrawn)

**The Vice-Chair (Mr. Bill Matthews):** Mr. Cummins.

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

I am a little troubled by the motion. Perhaps the problem is mine as much as it is anybody else's.

To be quite honest, Mr. Chairman, I don't know what the Canadian Coast Guard's cost recovery policy is with respect to the north. We've had a couple of weeks to investigate that; perhaps I should have, but I haven't. I don't know how those costs would compare to the costs elsewhere in the country either. I simply don't know what they entail.

There may be some at the table who can fill me in on this, and I'd be happy if they were to do it now, because I certainly don't have the information. But I can't vote in favour of something when I don't know what I'm voting for or what I'm voting against.

There is the issue of what these costs are, how they compare to the rest of the country, and if these costs that are imposed in this respect are somehow compensated for elsewhere. I don't know that. The issue deserves a better look before we have the vote on it.

**The Vice-Chair (Mr. Bill Matthews):** Thank you, Mr. Cummins.

Ms. Karetak-Lindell, did you have something to say on this?

**Ms. Nancy Karetak-Lindell (Nunavut):** I just want to be put on the speaking list. I think there's someone ahead of me.

**The Vice-Chair (Mr. Bill Matthews):** Mr. Kamp was indicating that he wanted to speak again.

**Mr. Randy Kamp:** Mr. Cummins and Mr. Lunney both raise a very valid point. I have a problem with part of the substance of this motion, and I want to comment on that in just a moment.

We know that industry is part of a broader framework in looking at marine services fees across the country. I've spoken to the person who is chairing that effort. He realizes that, within this broad framework, there will be six or seven areas that need to be addressed, anomalies within that, and this would be one of them.

But it seems odd to me that, as a committee, we would launch out here and make a pronouncement without knowing how this would fit into the overall broad picture. And to suggest that the committee should go ahead and do some sort of study on marine services fees while having already made a decision on what we think part of that answer should be, without knowing all of the information; what the implications of this are, say, on the rest of the country; what the coast guard's position is on this and the rationale that they have for that position, seems very odd and somewhat irresponsible to me. I therefore wouldn't be in a position to support this.

That being said, on the substance of this motion, on number three, for example, maybe somebody could interpret—maybe Mr. Stoffer, whose motion it is—what this means: “Whereas the Marine Service Fees collected by the Canadian Coast Guard on the provision of sealift services to the Eastern Arctic is not consistent with the current exemption...”. What current exemption are we talking about here? I think the motion is calling for an exemption, so what is this “current exemption based on the socio-economic conditions of the North”? And then it goes on. I'm a bit confused by that. Maybe it's just me, but I don't understand what that means.

• (1255)

**The Vice-Chair (Mr. Bill Matthews):** Mr. Stoffer, do you want to quickly comment, so that we can move this along?

As chair, I have no choice but to put this motion to a vote. I respect everyone's opinion and concerns about it all, but proper procedure has been followed.

Give us a brief explanation, Mr. Stoffer, and then I'm going to call the vote.

**Mr. Peter Stoffer:** Very quickly, and with great respect, in 1997 there was a northern exemption for marine service fees that was never enacted properly. If Mr. Kamp carefully reviews—and you've had two weeks to do this, so I find it astonishing that the Conservatives say they don't understand the situation—and just goes back to 1997 and the coast guard backgrounder, he'll get all the information he needs, sir—which you, by the way, had ample time to do in the last two weeks.

**The Vice-Chair (Mr. Bill Matthews):** Thank you very much.

Anyway, colleagues, I've listened respectfully to all opinions, so we're going to go to the vote.

Quickly, Nancy, if you don't mind, please.



**Ms. Nancy Karetak-Lindell:** Just very quickly, to clarify some of the statements, we're not trying to eliminate fees. We're looking for an exemption to the marine fees that apply currently. There is already a backgrounder here from Fisheries and Oceans and it's not being implemented.

The high cost of living is definitely an issue with the people in the north. We do pay more times than once on services for goods going up north, because we have to pay freight on top of absolutely everything that goes up. We feel we're being charged unfairly on top of the real cost of goods already, and this just adds more to the top of the cost of living. All we're asking for is that the exemption be applied as it was introduced in 1997.

**The Vice-Chair (Mr. Bill Matthews):** Thank you.

Mr. Epp, quickly, please.

**Mr. Ken Epp (Edmonton—Sherwood Park, CPC):** Thank you very much.

As a newcomer to this committee and as a temporary substitute, this motion is incoherent to me because of the fact that the whereases are at the wrong place. I don't know whether we want to amend that or not.

Basically, if you read the thing, paragraphs 3, 4, and 5 leave you hanging. Always when you say "Whereas", you conclude by saying, therefore, we recommend this, or we do this. In this particular case, the whereases comes at the end and there's really no conclusion to them.

This is a technical point, but I think the whereases should be one, two, and three, and then there should be the words, "Therefore, the committee recommends that the government not apply". It's just a technical thing, but it's incoherent in its present form.

**The Vice-Chair (Mr. Bill Matthews):** Thank you, Mr. Epp.

I've heard enough. I'm going to call for the vote. All those in favour of the motion, raise their—

**Mr. James Lunney:** On a point of order, Mr. Chair, members have a right to debate the motion. There's a motion on the floor, and if they have something they want to say, then I have something I'd like to contribute to the debate before the vote.

**The Vice-Chair (Mr. Bill Matthews):** But how long do we entertain interventions, Mr. Lunney? I am willing to hear you, by the way, but what's occurring here is very obvious to me as chair. It's not my first day here and I'm losing my hearing, but go ahead.

**Mr. James Lunney:** We've only had a few minutes to discuss the issue, Mr. Chair. I just want to make this point to my colleagues, and it is this.

A motion like this, if it were adopted and if it were implemented immediately, might have unintended consequences. You might think

you can go in and simply eliminate these costs, but what if you found then that the services that are provided by the coast guard suddenly were diminished in accordance with the reduction in the funding available? That's not outside the realm of possibility, and I think the public would not be served in the manner you're hoping if that were the consequence.

• (1300)

[Translation]

**Mr. Gérard Asselin:** On a point of order, Mr. Chairman.

[English]

**The Vice-Chair (Mr. Bill Matthews):** Go ahead, Mr. Asselin.

[Translation]

**Mr. Gérard Asselin:** Mr. Chairman, the notice of meeting indicates that a meeting is scheduled for between 11 a.m. and 1 p.m. in this room. We received the notice of motion and we had time to familiarize ourselves with it. All the Conservatives are doing, in my opinion, is trying to justify their opposition to the motion.

I have a question: is the vote on the motion scheduled to take place between 11 a.m. and 1 p.m.? If so, then I suggest you call the vote.

[English]

**The Vice-Chair (Mr. Bill Matthews):** I thank you for your point of order, but I'm going to let Mr. Lunney finish, out of respect, and then we're voting, regardless of who else wants to speak.

Go ahead, Mr. Lunney.

**Mr. James Lunney:** Thank you, Mr. Chair. I appreciate that, and I've basically made my point.

We've had a collegial relationship at the table here. Mr. Asselin is an experienced member, and he knows that when you bring forth a motion, members do have a right to discuss the motion and be satisfied that their views have been heard.

I simply wanted to present that issue to you. I don't think the motion is particularly well worded. I think it's not well advised that we would make such a motion, having not actually examined the issue. We haven't heard any witnesses here at the committee, and I'm repeating myself in saying so now.

I can't support the motion as it sits, and I would encourage members to put it off until we've had time to review the issue and make an appropriate decision.

(Motion agreed to [See *Minutes of Proceedings*])

**The Vice-Chair (Mr. Bill Matthews):** Thank you, gentlemen. The meeting is adjourned.





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