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Monday, March 29, 2010

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Chair

Mr. Rodney Weston

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● (1535)

[English]

The Chair (Mr. Rodney Weston (Saint John, CPC)): Order.

We have set aside 15 minutes at the end of today's meeting to deal with Mr. Donnelly's motion.

Before we begin I'd like to say thank you to Mr. Wallace and his colleague for coming here today. We really appreciate your coming to meet with the committee. As I said to you beforehand, the committee has been anxiously awaiting your appearance here. I'm sure you'll find the questions very poignant and relevant.

Mr. Wallace, we generally allow ten minutes for our guests to make opening comments. Before we begin I'll ask you to introduce yourself and your associate. Then please proceed.

Mr. Brian Wallace (Senior Commission Counsel, Cohen Commission): Thank you, Mr. Chairman.

My name is Brian Wallace. I'm the senior commission counsel to the Cohen commission, the commission of inquiry into the decline of sockeye salmon in the Fraser River, and with me is one of our junior counsels, Lara Tessaro.

Thank you very much for inviting us here to appear today. I'd like to take this opportunity just to tell you where we are in this process.

I'm going to learn about Mr. Ladouceur's beeper, and in fact I think I may well want to get one for myself for the conduct of our hearings because of the great amount of interest and the very short time in which Justice Cohen has been asked to conduct this inquiry.

I'm sure I'm not telling anybody anything they don't already know, but just for context, the mandate of the commission is twofold; it is looking into the decline of sockeye in the Fraser, first of all, from the perspective of DFO's policies and management, and secondly, from a much broader view of the assessment of the causes of that decline, an assessment of the current state of that fishery, and a prognosis and recommendations for its future.

This is a very broad task, and what I hope to do in the next few minutes is to just explain how we hope to go about it, but at the end of the day Justice Cohen is intent that this inquiry should be conducted thoroughly and fairly, and be completed in a timely way. The time limits have been set by the order in council that appointed him, as an independent justice, to inquire into this issue, but quite apart from that we are all aware of the real-world time limits that are at play here.

We provided a short briefing paper late last week, which perhaps you may have had an opportunity to read; if not, you can if you wish. In it we start off by setting out some of the administration issues to explain how we have gone from November 6, when Justice Cohen was appointed, to today, and what we have achieved in that period of time to where we are in the process.

I'd just like to comment on a couple of the broader issues as to how we intend to engage the public in this process and how we intend to make the inquiry thorough and fair.

The first step in the public part of the process was to invite applicants who wished to be participants in the process to apply for standing. We had what we believe is a record number of people showing an interest in this inquiry, and there were 49 applications for standing. Those 49 applications already included a number of groups that had come together for the purpose of their application. At a rough assessment, there appear to be more than 60 organizations and groups, and some individuals, who have sought standing.

Over the past couple of weeks we have been engaged with these applicants to try to determine if some of them can be persuaded to cooperate even more, so that we have a smaller number of people and make this hearing process work effectively.

● (1540)

The standing applications process came to a conclusion, except for the decision, with a hearing last Friday in the large federal courtroom in Vancouver. We had about 30 or 35 participants there, who engaged in further discussions and made some submissions with respect to how they might work together. The outstanding issue is for Justice Cohen to make a decision on to whom he is going to grant standing.

The next piece of that puzzle is funding. Justice Cohen doesn't have a right to award funding to anybody, but he can make recommendations. Once the decision is made on standing, he will consider the issue of funding for those participants.

Also, with respect to public participation, we have our website up and running, and as of today we have opened it to receive public input on the issues before us. From the website, any member of the public can make a submission. They will be reviewed for appropriateness and relevance by commission staff, and if found to be appropriate and relevant, they will be posted on the website. Others can then comment on those submissions. We hope to get an open public dialogue on some of the issues before the commission.

Down the road we expect to have public meetings that are focused on some of the issues taken to various parts of the Fraser River watershed, and other places where the Fraser River sockeye are important, such as Vancouver Island.

With respect to the more formal part of the hearing for which participants will be engaged, we expect the first step of that to take place in June. I think we will have a short set of hearings without the hearing of evidence to hear submissions that will inform the commissioner on his interim report, which is due on August 1. The interim report is a preliminary assessment of the recommendations that DFO has received over the years from various inquiries and investigations, and on DFO's responses to those reports. As I said, there will be short hearings in June, when participants will be asked to make submissions on the interim report issues.

The process to date has also involved obtaining access to DFO documents. So far we have received some 80,000 pages of documents, and we anticipate that number will grow appreciably, just from DFO. We expect there will be documents provided by other participants as well, so we have a serious evidence gathering process under way to analyze the documents.

We also have begun to interview witnesses. You can appreciate that there are a lot of people who have strong views on this issue and who wish to meet with the commission. We're meeting with some of those people. We also will be interviewing people within DFO.

There's an interview process that will go into the beginning of our evidentiary hearings. The evidentiary hearings we expect will take place later this year. I'm not sure how long they will take. It depends on where the documents and the witnesses lead us.

• (1545)

So we have a public input process and a formal hearing process.

The other aspect of the mandate directs us to a scientific investigation, in a way. The commission doesn't anticipate that it will do any primary scientific research—it just doesn't have the resources or the time to do that, and I think it would be the wrong sort of body to do so—but we do have a scientific program in place. We have a fisheries research consultant who will chair a science advisory panel; that panel will contract some scientific reviews that will be subject to public exposure through the website and perhaps through some round-table public meetings where differing views will be aired, all to the result of getting evidence before the commissioner so that he can make his independent findings in a fair and thorough way.

Thank you.

The Chair: Thank you very much, Mr. Wallace.

Go ahead, Mr. Byrne.

Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.): Thank you, Mr. Chair, and thank you, Mr. Wallace and Ms. Tessaro.

Is it correct that we're looking at the final wrap-up for phase one around August 1, 2010?

Mr. Brian Wallace: That's right.

Hon. Gerry Byrne: Are you on schedule for that? I know you had some hiccups in the beginning.

Mr. Brian Wallace: I think it will be a challenge. There are some clerical issues in getting things produced, and so on, that are hard to figure into the timing, but it'll be a challenge to make the August 1 deadline.

Hon. Gerry Byrne: In terms of the final report, if you're off schedule on phase one, would you have an anticipation at this point in time of what will happen with phase two ?

Mr. Brian Wallace: Mr. Byrne, let me put it this way: we're already working towards things that are germane only to the final report and not to the interim report. Getting the science work under way and beginning the work on the website and preparing for the evidentiary hearings is all to inform the final report; it isn't germane to the preliminary report. I think it too will be a challenge, but it's not a stepwise process.

Hon. Gerry Byrne: I want to step into that scientific analysis, then. How much of this will actually be production of new research or commissioning of new research?

Mr. Brian Wallace: I'm not the science adviser, but I don't anticipate any new research. It will be a matter of analyzing, reviewing, and subjecting to peer review the science that's already available. That in itself is a massive task.

Hon. Gerry Byrne: Yes, that's actually where we run into some conflict, not with the commission, but with your capacity or ability to actually generate a final report that meets the expectations and needs of the salmon and the people of B.C.

We've already heard that there are some significant holes and scientific gaps in the science surrounding this. In particular, one of the main questions posed by stakeholders from B.C. and elsewhere is on the interaction between aquaculture—maritime cage culture in particular—and wild salmon stocks.

I'll have to rephrase it, because you haven't analyzed the data as of yet, but what we've heard already is the lead source of that scientific data, presumably, is the Department of Fisheries and Oceans. We're already heard from expert witnesses within the Department of Fisheries and Oceans that from DFO's point of view, fish farms are not a major factor in the decline of wild salmon populations in British Columbia right now.

If we're just simply using existing scientific databases and literature, do you have any concerns that you're going to be able to provide a proper analysis or is that decision that's already been taken by DFO the only basis on which you'll be able to make a conclusion and it'll be exactly the same conclusion?

• (1550)

Mr. Brian Wallace: I anticipate that there are other sources of research beyond DFO that we will be looking at. As you point out, we're just at early stages here, so I don't know what they are or where they come from, but a number of academic organizations have conducted research. Whether they have on this particular subject, I don't know. I'd be very surprised if the only source of information were to come from DFO. Whether the matter can be determined definitively, I again can't say at this point.

Hon. Gerry Byrne: It's probably more a question of the volume than the cost of doing an analysis of a problem with which you've been tasked and for which there are terms of reference. You have a big job ahead of you and on your hands. The Department of Fisheries and Oceans, I think it would be fair to say, would be the depository and the source of scientific analysis of the magnitude that would be required for this particular type of study.

That being said, if there are gaps that you identify in the scientific capacity or analysis of the existing stock of scientific evidence that's available and its conclusions, will your terms of reference allow you to point this out and suggest or recommend specific scientific initiatives to close the gaps?

Mr. Brian Wallace: Justice Cohen's terms of reference do allow this on the science side, as I call it. He is asked to try to determine the reasons for the decline, to assess the current state of the stock, to look at its future, and to make recommendations. So it would be open to him, I think, to recommend that further work needs to be done in a particular area. But with the benefit of everything that DFO knows—because we've asked them to provide it, and they're required, under the terms, to provide us with all of the research that we seek from them—but also from other sources.... A number of parties have expressed direct interest in the aquaculture issue, so I anticipate that there will be other science provided. I also anticipate that commission counsel and the participants' counsel will have questions in cross-examination for DFO witnesses on this issue. I suspect the aquaculture will be a focus here.

Hon. Gerry Byrne: Thank you very much.

Do you anticipate that the change in jurisdiction brought on by the Supreme Court of B.C. ruling will impact upon the commission's work in terms of what will be available to you, its timeliness, or whether it has now changed? Has something about it left certain issues potentially out of the terms of reference, or are there any issues you'd like—?

Mr. Brian Wallace: The aquaculture decision of the B.C. Supreme Court made it clear that this all fell within the federal jurisdiction and therefore within DFO's mandate. So I don't think it impacts what we're allowed to look at, and indeed the province itself has applied for standing at the hearings.

Hon. Gerry Byrne: Those are my next questions. And obviously the federal government has also applied for standing.

Mr. Brian Wallace: We didn't require the federal government to apply; we gave them standing before they asked.

Hon. Gerry Byrne: Okay. They didn't apply for standing in the B.C. Supreme Court decision, so I thought it might be helpful to at least ask that question.

Mr. Brian Wallace: No, we weren't giving them that out.

• (1555)

Hon. Gerry Byrne: Good for you; I guess experience is a good gauge.

Basically, if I'm reading it correctly, there are no roadblocks whatsoever that you anticipate, from the province or elsewhere, to getting information or data as a result of that decision.

Mr. Brian Wallace: There's nothing that we've come up against yet.

Hon. Gerry Byrne: Do you have any questions?

Hon. Lawrence MacAulay (Cardigan, Lib.): No.

Hon. Gerry Byrne: We're good?

Thank you.

The Chair: Thank you, Mr. Byrne.

Monsieur Blais.

[*Translation*]

Mr. Raynald Blais (Gaspésie—Îles-de-la-Madeleine, BQ):

Ladies and gentlemen, the first point I would like to clarify is the difference between your work and ours. We studied this issue already in 2005, and I hope that your team will examine our report. I think that the report would be a fairly valuable contribution to today's discussion.

When we examined this matter, we heard testimonies in committee and we went to Vancouver, where we met with witnesses. If I remember correctly, there was a run-related problem at that time as well. Among the various causes that we identified, one seemed very vague—I do not see it in the analysis—, that of poaching and trafficking.

I was wondering if you mean to consult our report as part of your mandate. Do you intend to do that? Is this possible explanation or cause already a source of concern or interest for you?

[*English*]

Mr. Brian Wallace: Thank you, Mr. Blais.

I have read the report of this committee from 2004, and indeed the Department of Fisheries response to that report as well. Part of the terms of reference of the Cohen inquiry is to look at that report and the others that have been received by DFO over the years and to review how DFO has responded to their recommendations and to apply them to the sockeye in the Fraser.

The answer to your question is that I have read it. I can't comment on how the terms of that report have been brought into place by DFO, because I haven't seen a full analysis yet, but that is something that will be under consideration by Justice Cohen.

[*Translation*]

Mr. Raynald Blais: Could you provide us with some preliminary comments on this aspect of the issue or on the causes of poaching?

[*English*]

Mr. Brian Wallace: The interim report from Justice Cohen will be the place where the preliminary comments on those recommendations and responses will be provided.

[*Translation*]

Mr. Raynald Blais: I was reading the report you have provided us with, and I would like to thank you for it. It states that phase two will investigate and make findings on “[...] the causes for the decline of [...] including, but not limited to, the impact of environmental changes [...], marine environmental conditions, aquaculture, predators, diseases [...]” etc.

A set of possible causes has already been identified in the report, but there is no mention whatsoever of poaching. Do you talk about this issue somewhere or is it among the “other” causes we dare not identify? Is the subject perhaps taboo?

[English]

Mr. Brian Wallace: At the moment, our scientific people are looking at that question. This has not been formulated yet, and I frankly don't recall whether there are more than the issues that are enumerated.

• (1600)

[Translation]

Mr. Raynald Blais: Do you concede that poaching could be one of the identifiable or identified causes? Yes? Maybe? No? You cannot...?

[English]

Mr. Brian Wallace: I really can't comment on where it might go. It could be all, or some, and there could be others.

[Translation]

Mr. Raynald Blais: I do not want to pressure you. I do not wish to offend my Liberal friends, but I cannot help thinking about the Gomery Commission on the infamous sponsorship scandal, and I have a feeling that we have not solved all the problems, as we now have the Cohen Commission.

I think it is important to let you know that problems with salmon runs in the Fraser River are long standing. A report is to be published in May 2011, and I won't get into what is probably going to happen after that. I do not want us to cloud the issue, that is, to end up with a commission that examines and observes the situation, but ultimately does not eliminate the problem. That is what I am worried about.

When I think about the work you will do and the work that we could do, that we have already done, I wonder if there is possibly something else we could do to help you out in the coming months or years. That's all. It's not that you necessarily need our help, as you are perfectly capable of managing things on your own. However, I would like you to reassure me a little bit, or a lot, or not at all.

[English]

Mr. Brian Wallace: I don't think there's any reason for this committee to stop looking at the issues on the west coast and the Fraser River, and at sockeye in particular.

The terms of reference for the commission are very broad. It's looking at things beyond just the enumerated causes. This committee clearly has done some important and substantive work on this issue in the past, and that's something we will be looking at. It's specifically part of the mandate.

[Translation]

Mr. Raynald Blais: I have one last question. Could you clarify the difference between your work and ours so I can understand it better?

[English]

Mr. Brian Wallace: It would be presumptuous of me to comment on your work, and I won't do that.

This commission has been given a very broad mandate. It has powers of subpoena, as a court does, so it has the resources and a mandate to do a very exhaustive inquiry here.

The Chair: Thank you, Mr. Wallace.

Mr. Donnelly.

Mr. Fin Donnelly (New Westminster—Coquitlam, NDP): Thank you, Mr. Chair.

Thank you very much, Mr. Wallace and Ms. Tessaro, for coming out today. We appreciate you coming to the committee and answering some questions and presenting information.

I had a couple of questions.

You clarified some things for me at the beginning with your opening remarks. I just wanted to go back, because we've had a number of questions and comments in my office from the public, who are very interested in the inquiry, and keen to participate.

With that in mind, can people still participate through the website? Will that be ongoing, or is there a timeline in which they have to get their comments or their submissions in?

Mr. Brian Wallace: No, there certainly has been no timeline set at this stage. I anticipate that as we get near the end, we will have to draw the line, but I don't know when that is, and it won't be for some time yet.

There will be at least two ways in which any member of the public can offer his or her views and can comment on the views of others. One is through the website. As I said, that is up and running as of today, so one can go to the website, and make a comment on the home page. That will be reviewed by members of the staff to make sure the comments are appropriate and relevant. Aside from that, we will post them, and then others will have the opportunity to comment on those views.

We also anticipate that we will go to areas along the Fraser and along the coast where the Fraser River sockeye are important, and hold public meetings in those various areas. We'll invite comments from the public in those forums as well.

• (1605)

Mr. Fin Donnelly: Just to clarify, the window for granting standing is closed?

Mr. Brian Wallace: Yes, it is.

As a logistics matter it's important to know who is participating in a timely way, because participants have the opportunity to review the documents that have been produced by DFO and also by other participants. So there's an education process, which—if they're going to participate effectively in the formal evidentiary hearings—they need to start on. The deadline has passed for people to apply for standing and we have a very broad, as you can tell, cross-section of participants as a result.

Something I forgot to mention in my opening is that of the 49 original applicants, some 20 were first nations groups and organizations. So there's a very large interest in that community as well, and I anticipate that there'll be a large number of participants from that community.

But it is open to the commissioner to amend his rules. So if somebody had a compelling case to be added, there's a process whereby they could do that.

Mr. Fin Donnelly: Can it be individuals?

Mr. Brian Wallace: We have had some applications from individuals, so I wouldn't rule out anyone. The rule for standing under the terms of reference is that to be a participant, you must have a direct and substantial interest in the issues before the commissioner.

Mr. Fin Donnelly: That was the reason a number of people were contacting our office, asking what that means. Some individuals feel they do. Obviously organizations that work on fisheries matters do, first nations do. But individuals who have been doing work, maybe in a voluntary capacity for decades.... That's a concern, whether they would. But it sounds like if they don't get standing to provide evidence, they can at least make submissions to the website.

Mr. Brian Wallace: We intend to expose the submissions from the public in a way that they can be used safely by the commissioner in his decision-making. So they will be exposed to public scrutiny and anyone who's affected will have an opportunity to comment on them as well. We don't want this to be unfair to anybody. We encourage the public to get involved that way.

When the applications for participation have been determined, which I expect will be in the next week or two, individuals, in particular, may well find that there are organizations that have standing with which they are already involved, or with which they could become involved. They could perhaps use one of these parties that already has standing as a vehicle for becoming involved as well.

Mr. Fin Donnelly: Thank you.

The Chair: Thank you.

Mr. Kamp.

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

Thank you, Mr. Wallace and Ms. Tessaro, for coming. I appreciate the information. I think that's primarily what we're here for today, so that we understand what your work is and how it might affect ours. But also, primarily, we want to know what's going to be happening there as the commission does its work.

I assume you've got a fair number of staff already. Can you just tell me what the structure is?

• (1610)

Mr. Brian Wallace: Certainly. We have an administrative staff of half a dozen, policy counsel who is a lawyer, and I'm the senior commission counsel. There are then three associate commission counsel who will have direct hearing preparation responsibility, as will I, and we have four junior counsel who are assisting both with the legal research and with the hearing preparation.

We also have a fisheries research consultant who is putting together the scientific research, which will be done not in-house but by academics and others with expertise on a contract basis rather than as a full-time commitment.

We are just in the process of establishing a science advisory panel, which will work with the fisheries research advisor on scoping out that research, reviewing it, and being part of a peer-review process in that.

So that's the complement.

Mr. Randy Kamp: Just help me to make sure I understand what "standing" means and how it relates to the more general notion of participation. When someone applies for standing and let's say they're given standing, that gives them the right to participate in all the evidentiary hearings by way of cross-examination and so on. Am I correct so far?

Mr. Brian Wallace: That's absolutely correct. This is not like a court case. It's an inquiry, and all evidence will be put before the inquiry by commission counsel. So because you are a participant doesn't mean you have a right to call witnesses. The process is controlled a little more than that.

We will seek the input from participants on whom they think we should be calling as witnesses, because our job is to get all the relevant facts before the commission. We don't have a point of view here.

Mr. Randy Kamp: So by participant you mean this group of people that have standing?

Mr. Brian Wallace: We've defined the word "participant" to be the people with standing.

Mr. Randy Kamp: Will these participants, those who have standing, also give evidence? Are they witnesses as well as participants?

Mr. Brian Wallace: I think it is quite likely that probably not all, but some participants will provide witnesses we will call.

Mr. Randy Kamp: They will suggest witnesses but they themselves will not—

Mr. Brian Wallace: The applicants for participation tend to be organizations or groups, as opposed to individuals. There are a couple of exceptions, but I'm sure we will have representatives of the participants as witnesses.

Mr. Randy Kamp: Of these 49 or so applications—and I realize no decision has been made on those yet—you've said it's a broad cross-section. Is that the case, or are they mostly environmental NGOs, for example? You've mentioned 20 first nations out of 49, if I heard that right. So do we find industry...?

Mr. Brian Wallace: I can tell you by broad categories that we have representatives of a number of different commercial fishery groups, including the union involved in the fisheries. Among the first nations it's not just individual first nations but also associations of first nations. There is the fisheries secretariat and various groups from that community but who represent the members of more than one first nation. We have representatives of the aquaculture industry who have applied for standing. The Province of British Columbia has applied for standing. Industrial users have also applied and a number of NGOs and environmental groups.

• (1615)

Mr. Randy Kamp: I have just a couple more questions, then if I have some time I'll pass it over to my colleague Mr. Weston.

The Pacific Salmon Commission themselves, do they have standing?

Mr. Brian Wallace: They have applied for standing.

Mr. Randy Kamp: Is there any American involvement that we expect in the process?

Mr. Brian Wallace: I don't know the answer to that, but certainly I hear a lot of research has been done in the U.S. involving the same fishery, and I wouldn't be surprised to find witnesses from the U.S.

Mr. Randy Kamp: And for my last question, obviously you don't expect things to grind to a halt while the commission is doing its business, and there is going to be a run of some kind this year and so on. But also, let's say an organization like Simon Fraser University, or even the Pacific Salmon Commission, should decide to hold a kind of science-based forum to try to answer some of these questions themselves. What would the commission's participation be in that?

Mr. Brian Wallace: Well, Simon Fraser is doing that next weekend. Three members of the commission are going to be there.

Mr. Randy Kamp: Just attending?

Mr. Brian Wallace: Attending. Our fisheries research adviser and two of our junior counsel, who also have post-doctoral science degrees, will be there as well.

Mr. Randy Kamp: Okay, good. Thank you very much.

Mr. Weston.

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): Thank you.

Merci, monsieur le président.

It's no coincidence that three of your first questioners are from B. C. I think it's safe to say that this is going to be a very high-profile process in British Columbia, and we wish you great success. Since we're dedicated to the preservation of the fisheries, we hope that there will be some good results that come out of it.

As you've been clear, we don't know what the results are. One of the things that could happen is it could become a plebiscite on aquaculture. There are so many people in British Columbia certainly contacting MPs' offices on that issue.

Have you given any thought to what the inquiry is not, as opposed to what it is?

Mr. Brian Wallace: Well, it's not about anything but Fraser River sockeye. Now, that may well mean it is about some issues that are

more general than that, as long as they have a relationship to the Fraser River sockeye, among others.

Mr. John Weston: I think it is safe to say that as opposed to other committees on the Hill, this is one that tends to have had a history of being not terribly partisan but dedicated to that task of preserving the fisheries.

I'm wondering, is the litigious nature of the forum, the fact that there's a judge who has subpoena powers, and lawyers—a profession in which I participate myself, or at least did—going to help or hinder, do you think, the gathering of evidence in terms of the overall objective here?

Mr. Brian Wallace: Perhaps it's the best of all worlds, in the fact that the commission does have the power to require people to give evidence. On the other hand, all of the evidence will be put in, at first instance, by the commission itself. Our job is to get as much information properly before the commissioner as we can in the public interest.

We don't have any point of view to bring to this, in terms of any one part of the community or another. I think a lot of that will fall to us to create an atmosphere where it's an inquiry rather than, as we lawyers say, a *lis*. It's not a contest between two parties but rather a seeking after the truth and learning what we can.

Mr. John Weston: Thank you.

The Chair: Thank you very much.

Mr. MacAulay, we'll move into our second round of questioning now, which will be a five-minute round.

Hon. Lawrence MacAulay (Cardigan, Lib.): Thank you, Mr. Chair.

Welcome.

This committee is considering initiating a study on aquaculture, and also across Canada and looking at the Pacific salmon issue. If we do that, do you feel that it will create any difficulty? We're looking at a lot of people from the west coast asking where we are, that we should be there, it's a major problem. I'd just like you to respond to that. Would the committee cause any problems by having hearings on the west coast at the same time as the commission?

• (1620)

Mr. Brian Wallace: No, I don't look at it as being competitive. The commission is going to gather the information it can to deal with its mandate. If others are investigating the same issues from other perspectives, there could be a synergy that would be helpful. I don't see it as being inconsistent in any way.

The question was asked about Simon Fraser University, for example, holding a different forum—

Hon. Lawrence MacAulay: It's the same thing.

Mr. Brian Wallace: They have done that. Their focus is a little different, but they attract very good people. We will be there and will learn what we can from that event. It may be part of the final result here.

Hon. Lawrence MacAulay: Thank you very much.

In 2005 this committee presented a report on the disappearance of sockeye salmon in the 2004 run. Now, of course, with the disaster that's taken place, we have heard from a number of people on the West Coast that the difficulty could be with the fish farms and the sea lice.

Looking at the information that DFO has, will the commission go a lot further than DFO has to find out exactly what are the difficulties with the fish farms, where they're located, and these types of things? Obviously the salmon died.

Mr. Brian Wallace: Certainly the issue of aquaculture is something this commission will look at with all of its resources.

Hon. Lawrence MacAulay: Okay. As you're aware, in the certification process it's viewed as a sustainable fishery on the west coast by the Marine Stewardship Council, and that's being challenged.

How would you respond to that, and do you expect the commission of inquiry to look at that?

Mr. Brian Wallace: It's an issue that's been raised, but at this stage I can't anticipate how it will factor into the commission's work.

Hon. Lawrence MacAulay: You have an interim report and a final report. Am I correct?

Mr. Brian Wallace: That's correct.

Hon. Lawrence MacAulay: After the interim report comes out, will there be any hearings with any effect on the final report?

Mr. Brian Wallace: Yes, indeed, the evidentiary hearings will take place after the interim report comes out. There'll be a great deal of public involvement and formal hearings after—

Hon. Lawrence MacAulay: After the interim report.

Mr. Brian Wallace: After the interim report.

Hon. Lawrence MacAulay: Thank you very much.

The Chair: Thank you.

Monsieur Blais.

[*Translation*]

Mr. Raynald Blais: Thank you very much, Mr. Chair.

I will continue in the same vein as my colleague, Mr. MacAulay.

Considering our work and yours—I understand somewhat better or I am able to grasp better the differences between the two—there are still some aspects that worry me. I have had a look at Commissioner Cohen's resumé. Earlier, you mentioned in one of your responses that some people are working with you and that a fisheries adviser is among them.

I was wondering how the objectives of a commission like that are carried out. We are also sometimes faced with subjects we are less familiar with. The Fraser River salmon is a long way from my home, and I know much less about it. I know about Atlantic salmon and about aquaculture and fishing issues in this area, but I only became familiar with the Fraser River salmon recently. We have consulted experts, and people have come to help us get a better grasp on the subject, but, at the end of the day, we are still just learning about the issue.

My intention is not to question the proficiency of the commissioner or the people who are working on this matter, but I would like

to get a better understanding of the dynamics of an issue as specific as this. The matter also involves rather scientific aspects, since there are all kinds of likely causes. Earlier, I talked about poaching, but there are also climate changes, diseases, bacteria, and so on. There is also the pollution in the Fraser River. I have never seen a river in such a dire condition. It really did appear extremely polluted, at least at its mouth. I am used to rivers where I can see the bottom, the salmon spawning grounds, and that is not what I saw at all. I would like to better understand the dynamics of your work on this issue.

• (1625)

[*English*]

Mr. Brian Wallace: If I understand you, Monsieur Blais, your question is why are lawyers looking at scientific questions.

The commission is very sensitive to the fact that there is a significant scientific component to this. We went to a great deal of trouble to find a well-regarded fisheries research advisor to direct that part of what we're doing. We have a robust plan in place.

The number is not out yet, but the research advisor will be advised by about six members of a panel, all of whom are well-regarded fisheries scientists from academic institutions around British Columbia. They will help to direct the nature of the research. They will establish the terms of reference for the research and then help us find the right contract researchers to do the research, then assist in reviewing the work and establish a process whereby all of the research can be exposed to public criticism and the views of other scientists.

So we're trying to put together a process with the best people we can find, to take advantage of the science, even though we're lawyers.

[*Translation*]

Mr. Raynald Blais: In any case, this is not an actual problem. I have learned that, when it comes right down to it, one is able to manage even the impossible in politics. We will now have to lay the groundwork and understand the scientific aspects to get a better grasp of the dynamics.

[*English*]

Mr. Brian Wallace: As I mentioned before, we're not going to engage in primary scientific research but have our experts look at what has been done from every possible corner they can find. We are under way now in getting this process going. So we're very sensitive to the time limits we're dealing with here.

The Chair: Thank you very much.

Mr. Donnelly.

Mr. Fin Donnelly: Thanks, Mr. Chair.

Mr. Wallace, there have been a number of panels and studies and reports over the years. Since 1992 there have been at least four others. In 1992, when half a million sockeye went missing, Minister Crosbie looked at it. In 1994, when over a million and a half went missing, Minister Tobin looked at it. In 2002, Minister Thibault pulled a panel together, and in 2004, when one and a half million to two million sockeye missing, Minister Regan looked at it.

In your opinion, what will be different about this inquiry under Minister Shea and Justice Cohen? Specifically, there have been all of these recommendations made by previous panels and studies. One could probably argue that had those been implemented, they may have prevented this problem.

I have a two-part question. First, is that the case? In other words, had the recommendations of previous panels been implemented, could we have avoided this problem?

Secondly, how will this inquiry be different from the previous ones, in terms of getting to the root of the problem and ideally avoiding it in the future and putting us on a path of protecting our wild salmon?

• (1630)

Mr. Brian Wallace: Thank you, Mr. Donnelly.

The answer to the first part of the question is that it's specifically part of the terms of reference of this commission to look at the recommendations and the responses from DFO from all of these previous reports. I see that not just being whether or not DFO said they were doing this or that, but whether or not that actually happened.

That takes us to the second part of the question. I can't anticipate the results here as to whether it will be different, but it may be that given the ability of Commissioner Cohen to subpoena evidence, which is already under way, in effect, by us having made a demand for discovery of documents from DFO, we will learn more about the responses, including whether or not things are followed through on, whether they were consistent, and so on.

The tools are there for a detailed analysis of the policies and the application of those policies within the Department of Fisheries and Oceans.

Mr. Fin Donnelly: Thank you.

As has been previously mentioned, aquaculture has been raised as a definite hot topic and possible link to the disappearance of all or some of this run last year.

I'm also curious that if, for instance, at the end of the study there's a link to aquaculture, and habitat loss, and pollution, but let's say perhaps also to ocean conditions, do you anticipate a recommendation that would say we need to put resources into scientific research in terms of determining what happens to salmon when they migrate into the ocean?

Mr. Brian Wallace: I can't anticipate, obviously, what recommendations will be made. But you suggest some that might be possible if it's simply an area in which there isn't enough information, perhaps.

Mr. Fin Donnelly: Finally, you mentioned this will be fairly specific to Fraser River sockeye, and I just want to clarify, would evidence on other river basins, either in the province or in other jurisdictions, be considered? And will other runs of salmon be looked at?

Mr. Brian Wallace: Again—

Mr. Fin Donnelly: Sorry, types, runs and types of salmon species.

Mr. Brian Wallace: If it's relevant to Fraser River sockeye and perhaps it may be in terms of comparison, why did something happen there and not here, I could see it, but I haven't heard that suggested yet. There are other sockeye runs on other rivers, for example, that have had different results. So that might engage a comparison. I can't anticipate.

I think we have to be careful that this doesn't take on a mandate creep or something where it gets too far away.

The Chair: Thank you.

Mr. Weston.

• (1635)

Mr. John Weston: Mr. Wallace and Ms. Tessaro, in case there's any possible sense that there's any doubt about our confidence in the legal profession, may I just quote Neil Young and say "long may you run".

We've talked about the mandate here and Mr. Donnelly was referring to past inquiries and commissions. He said something about do we have any reason to believe that under Minister Shea things will be different from previous ministers. As someone who called for an inquiry based on what people in my riding wanted, and there were several round tables in my riding and people came to the conclusion we needed an inquiry, I had the honour to ask the Prime Minister in the House of Commons what was he going to do, and he responded with the announcement of this very commission.

I'm intrigued by your sense of this power to subpoena. Is it not true that the power of subpoena means that you'll be able to bring department officials before you who may say things that are embarrassing to the department or not? Is it not a courageous thing to arm the inquiry with such sweeping powers of subpoena, and doesn't it enable you to do things that might not have been anticipated otherwise?

Mr. Brian Wallace: I'm not sure it's up to me to comment on how the terms of reference were established, Mr. Weston. We work with the tools we have, and that's one of them.

Mr. John Weston: Is it not a strong one in terms of getting at the truth?

Mr. Brian Wallace: The commissioner only gets to make recommendations. At the end of the day, the result will be whether or not anything happens with those recommendations.

Mr. John Weston: Thank you.

Mr. Allen.

Mr. Mike Allen (Tobique—Mactaquac, CPC): Thank you.

I have two quick questions.

From a different tack, assuming this committee went into this in a little more depth and looked at aquaculture or something of that nature, presumably we would end up potentially calling some of those witnesses who are part of your standing list, if you will, and maybe some of the individuals. First, do you see that as potentially confusing to those who may testify to two perceived government inquiries that are going on?

Second, if we choose to go ahead and do that anyway, and we hear evidence, I'm assuming the commission would put a process in place whereby it would pick up the information from the publicly available testimony and incorporate that into its findings. Is that true?

Mr. Brian Wallace: Mr. Allen, I don't think I can comment on how others might perceive those two things going on at the same time.

In terms of use of evidence, there may be some restrictions on our ability to use evidence given before a parliamentary committee. I haven't looked into that. As a practical matter, we're trying to get whatever evidence we can before the commission, as long as it's put before it in a way that is fair to everybody.

Mr. Mike Allen: Okay, thank you.

Thank you, Chair.

The Chair: Mr. Kamp.

Mr. Randy Kamp: Primarily I want to thank you for the work you're doing. I know it's going to be a challenging task.

I acknowledge that I tend to be a "glass half empty" kind of a guy, but at the end of the day it's possible you will come to the conclusion that either you don't know what's causing the decline—and I guess that is a logical possibility—or you'll find that it's something we can't control. Those are possibilities. We hope not. As one who lives there, we hope you come up with some strong recommendations that will revolutionize our sockeye salmon fishery on the Fraser. But I guess those other things are possibilities too.

Mr. Brian Wallace: I don't think that was a question.

Mr. Randy Kamp: It was a comment.

The Chair: Thank you very much.

Mr. Wallace and Ms. Tessaro, on behalf of the committee, I'd like to thank you for taking the time out of your busy schedules to provide us with some insight into the commission and how you intend to proceed. You may hear more from us in the future. It is an interesting process, and we certainly wish you all the best.

Thank you very much.

• (1640)

Mr. Brian Wallace: Thank you very much for the invitation.

The Chair: Thank you.

We'll take a five-minute break, and then we'll return to discuss Mr. Donnelly's motion.

Thank you.

- _____ (Pause) _____
-
- (1645)

The Chair: We'll bring this meeting back to order.

We'll now convene to consider the motion brought forward by Mr. Donnelly at our previous meeting:

That, in response to information presented to the committee by Trevor Swerdfager, Director General for Fisheries and Aquaculture Management at the Department of Fisheries and Oceans, the committee ask Alexandra Morton to appear before it at the next most convenient possible occasion in order to speak on the issue of sea lice and their impact on the salmon stocks as well as to respond to the testimony given by representatives from the Department of Fisheries and Oceans.

That motion was brought forward on March 22, 2010.

Are there any questions or comments on the motion?

Go ahead, Mr. Kamp.

Mr. Randy Kamp: My only comment—and I may have an amendment as well—is to ask if we are going to do the eco-certification study, or are we transitioning into something else? That would be my only fear.

We decided we were going to go ahead with that and we heard some good testimony, mostly to get up to speed on the regulation-making process. Some other issues were raised with Trevor. I haven't heard the motion defended yet by Mr. Donnelly, other than what I see here, but I'm guessing that what happened was that Alexandra Morton heard the testimony and asked, through Mr. Donnelly, to appear before us. I'm guessing she plans to correct the record on something she heard; otherwise, I'm not sure what the point of this is. You can correct me if I'm putting words in your mouth, Fin.

Before I perhaps move an amendment to it, could I get some clarification on the point of this motion?

The Chair: Go ahead, Mr. Donnelly.

Mr. Fin Donnelly: Thank you, Mr. Chair.

I think the point is that some direct questions were asked of Mr. Swerdfager, and he offered the department's view and position. From what I understand, there is certainly an alternative view or concern from the public that seems to be of a higher degree than what the department is presenting.

However, I'm not saying that Ms. Morton wants to come to correct anything. I have no idea. She may very well want to do that, but I think it's providing an alternative. It would only require one meeting to get the full perspective on what's happening on the west coast. It would be another scientific perspective. She's done a fair amount of work on this subject, and I was very specific to have her come and present information. It might be of interest, although if we start to look at other perspectives, such as Marine Harvest Canada or others, we would probably start to get into the concern that you raised, Mr. Kamp, with turning this into a work plan item.

My intent with the motion is to have a perspective from a scientist who will offer a different view on the testimony that we heard on a very key issue on the west coast regarding salmon.

●(1650)

The Chair: Thank you, Mr. Donnelly.

Go ahead, Mr. Byrne.

Hon. Gerry Byrne: Thank you, Mr. Chair.

While the certification exercise is probably worthwhile as well, it's my understanding that the committee has not finalized its work plan for this session. We've got some good ideas, but it's still open to amendment or addition. It's my understanding that the B.C. study was still very much in play.

I view having Ms. Morton appear before us like a grand jury exercise. It's to help the committee decide whether or not there's enough meat on these bones to continue with the study. I'd like to hear from her, and, based on what we do here, determine for myself—and hopefully with the committee—whether there's cause for a more elaborate or extensive study.

We just heard the senior counsel for the Cohen commission, and asked them whether they thought a study by this committee into the Fraser River sockeye or salmon stocks on the Pacific coast would generally be an intrusion into their mandate or their work plan. The answer I thought we heard was that they didn't really see it as an intrusion—that the two are separate beasts.

The question would be, why would that question be asked if we weren't still considering it as a potential course of study? So I'll be supporting this motion.

I look forward to hearing what she has to say in open and transparent dialogue, so that we can use it to determine whether there are grounds to flesh out this as a major piece of business for the committee to work on in this particular session of Parliament.

The Chair: Thank you, Mr. Byrne.

Are there any others?

Mr. Randy Kamp: I understand that point of view.

This motion is about sea lice, I think, and not aquaculture in a broader study. That's why I thought if we wanted to go in this direction.... Yes, she is a scientist and she has her particular agenda or involvement, I think, in this.

I wondered whether, in addition to Alexandra Morton, it would be helpful to also ask Dr. Mark Sheppard, the senior aquatic animal health veterinarian for the province of B.C., who is responsible for controlling and monitoring sea lice, and all that stuff. As I understand it, he is a provincial individual, but I think it would be interesting to have both of them here. It has been provincially managed up until now—well, largely, with some federal involvement there as well.

I'd be happy to amend the motion to include him after Alexandra Morton, and have them both appear, maybe on the same day for an hour each, or something like that if we wanted to. That would be up to the chair.

So my amendment would be to add the words “and Dr. Mark Sheppard, senior aquatic animal health veterinarian for the province of British Columbia” after the words “Alexandra Morton”.

●(1655)

The Chair: Do you have a copy of that?

There has been an amendment moved by Mr. Kamp that the words “and Dr. Mark Sheppard, senior aquatic animal health veterinarian for the province of British Columbia” be added after the words “Alexandra Morton” in the original motion.

On the amendment, we have Mr. Weston.

Mr. John Weston: I'll be supporting the amended motion.

I think it's important, in the spirit of getting to the bottom of this, for us to hear from both persons. I've heard from Ms. Morton informally, and I look forward to hearing from her formally in this committee. I think it can only help us to hear from this other expert on an issue that is of great concern to my constituents, and I would say to all Canadians, based on the importance of the salmon to the country.

I think the amended motion is a good one, and I will be supporting it.

The Chair: Thank you, Mr. Weston.

Mr. Byrne.

Hon. Gerry Byrne: I too will supporting it. I think we'll get a good sample as to whether there are competing or conflicting ideas and views related to Pacific salmon. Albeit this is just an issue on lice per se, it gives the committee a sampling of whether there's unanimity or solidarity on these kinds of things. If there's not, then obviously it's a good indicator that maybe this is something the committee should delve into; if there is unanimity on this, this is probably an indication the committee could use its talents or time elsewhere.

So I'd heartily support this and see what the witnesses have to say.

The Chair: Any other comments on the amendment?

(Amendment agreed to)

(Motion as amended agreed to)

The Chair: Thank you very much, members.

I will instruct the clerk to contact the two individuals mentioned as to their availability, and we will advise in due course when they're available.

Mr. Donnelly, you wanted to make a comment.

Mr. Fin Donnelly: Just a final comment, more to Mr. Kamp's concern about the work plan. Perhaps at the next committee meeting, or soon, we can address the work plan. At some point we'll need to revisit this. When is this—

The Chair: The work plan was adopted by this committee, and we'll proceed with that work plan. As for the comments from the discussion during the motion here, if the committee deems it necessary to review that after hearing from the witnesses, we'll do so in due time, once the committee has the opportunity to hear from the witnesses and to determine if they want to amend the work plan to take a different course.

So we will continue with our plan for our meeting on Wednesday and we will hear from DFO officials on eco-certification.

Mr. MacAulay.

Hon. Lawrence MacAulay: I think it's fair to say that we were waiting for the two officials to come to determine whether the committee should or should not or if it was a difficulty for them to go to the west coast. I think that's been resolved today. If you check the minutes of the meeting, you will find that was the main reason why these witnesses were here today. Now it's the committee's decision whether we will or will not go to the west coast.

The Chair: I think that will be determined after hearing—

Hon. Lawrence MacAulay: Over the next...right.

The Chair: —the next series of witnesses. I think that will be determined, and the committee will have to reconvene after that point to determine what its next course would be.

Thank you.

The meeting is adjourned.

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