

Commission of Inquiry into the Decline of
Sockeye Salmon in the Fraser River



Commission d'enquête sur le déclin des
populations de saumon rouge du fleuve Fraser

Public Hearings

Audience publique

Commissioner

L'Honorable juge /
The Honourable Justice
Bruce Cohen

Commissaire

Held at:

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Federal Courthouse
701 West Georgia Street
Vancouver, B.C.

Thursday, March 3, 2011

Tenue à :

Salle 801
Cour fédérale
701, rue West Georgia
Vancouver (C.-B.)

le jeudi 3 mars 2011

APPEARANCES / COMPARUTIONS

Brock Martland Kathy L. Grant	Associate Commission Counsel Junior Commission Counsel
Tim Timberg Geneva Grande-McNeill	Government of Canada
Boris Tyzuk, Q.C.	Province of British Columbia
No appearance	Pacific Salmon Commission
No appearance	B.C. Public Service Alliance of Canada Union of Environment Workers B.C. ("BCPSAC")
No appearance	Rio Tinto Alcan Inc. ("RTAI")
No appearance	B.C. Salmon Farmers Association ("BCSFA")
No appearance	Seafood Producers Association of B.C. ("SPABC")
No appearance	Aquaculture Coalition: Alexandra Morton; Raincoast Research Society; Pacific Coast Wild Salmon Society ("AQUA")
No appearance	Conservation Coalition: Coastal Alliance for Aquaculture Reform Fraser Riverkeeper Society; Georgia Strait Alliance; Raincoast Conservation Foundation; Watershed Watch Salmon Society; Mr. Otto Langer; David Suzuki Foundation ("CONSERV")
No appearance	Area D Salmon Gillnet Association; Area B Harvest Committee (Seine) ("GILLFSC")

APPEARANCES / COMPARUTIONS, cont'd.

No appearance	Southern Area E Gillnetters Assn. B.C. Fisheries Survival Coalition ("SGAHC")
No appearance	West Coast Trollers Area G Association; United Fishermen and Allied Workers' Union ("TWCTUFA")
Keith Lowes	B.C. Wildlife Federation; B.C. Federation of Drift Fishers ("WFFDF")
No appearance	Maa-nulth Treaty Society; Tsawwassen First Nation; Musqueam First Nation ("MTM")
No appearance	Western Central Coast Salish First Nations: Cowichan Tribes and Chemainus First Nation Hwlitsum First Nation and Penelakut Tribe Te'mexw Treaty Association ("WCCSFN")
Anja Brown Crystal Reeves	First Nations Coalition; First Nations Fisheries Council; Aboriginal Caucus of the Fraser River; Aboriginal Fisheries Secretariat; Fraser Valley Aboriginal Fisheries Society; Northern Shuswap Tribal Council; Chehalis Indian Band; Secwepemc Fisheries Commission of the Shuswap Nation Tribal Council; Upper Fraser Fisheries Conservation Alliance; Other Douglas Treaty First Nations who applied together (the Snuneymuxw, Tsartlip and Tsawout) Adams Lake Indian Band Carrier Sekani Tribal Council ("FNC") Council of Haida Nation

APPEARANCES / COMPARUTIONS, cont'd.

No appearance	Métis Nation British Columbia ("MNBC")
Tim Dickson	Sto:lo Tribal Council Cheam Indian Band ("STCCIB")
No appearance	Laich-kwil-tach Treaty Society Chief Harold Sewid Aboriginal Aquaculture Association ("LJHAH")
Lisa Fong Ming Song	Heiltsuk Tribal Council ("HTC")

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1 Vancouver, B.C./Vancouver
2 (C.-B.)
3 March 3, 2011/le 3 mars 2011
4

5 THE REGISTRAR: Order. The hearing is now resumed.
6 MR. MARTLAND: Mr. Commissioner, Ms. Grande-McNeill,
7 for Canada.
8

9 CROSS-EXAMINATION BY MS. GRANDE-McNEILL:
10

11 Q I just have a short series of questions, mostly
12 for Mr. Tadey, approximately 20 questions, and
13 I'll try to move through them as quickly as
14 possible.

15 Now, Mr. Tadey, you've explained to us what a
16 creel survey is, but what is a creel?

17 MR. TADEY: Good morning. A creel, people do ask what
18 a creel survey is, and the word creel, and a creel
19 is the wicker basket that anglers would hold their
20 catch in, you know, that classical wicker basket,
21 and our survey is surveying what's inside that
22 basket.

23 Q And we've heard a lot of terminology around that
24 and I'm just wondering if you can explain to us
25 what "catch monitoring" means?

26 MR. TADEY: And that is another term -- sometimes catch
27 monitoring, fisheries monitoring, the projects
28 that we conduct and my program conducts on
29 recreational catch monitoring, they can get a
30 little confusing and I think people do sometimes
31 misunderstand, the public, misunderstand what the
32 projects we conduct are trying to do out there.
33 And words like "monitoring" sometimes give a
34 flavour of supervision. They sometimes give the
35 idea that we are out there making judgment with
36 consequences about their activities, and that is
37 not the case. We are a survey.

38 Catch monitoring refers to the catch, not the
39 fishery. The monitoring, yes, you can say that we
40 are catch monitoring. We are determining what is
41 caught in the fishery, but certainly when it comes
42 to our creel survey, and this is one of the
43 reasons why I use that term more than any term
44 that has the word "monitoring" in it, we're out
45 there just surveying. It's a voluntary survey
46 that we conduct. People do not have to
47 participate. There's no recourse at all for us

1 should they choose not to participate.

2 Q And you've already touched on the distinction
3 between enforcement and catch monitoring, and I'm
4 just wondering if there are other reasons why it's
5 important to maintain a distinction between
6 enforcement and catch monitoring, in your mind?

7 MR. TADEY: Yeah, and I guess I touched on that
8 yesterday. We certainly want anglers to be open
9 and honest with us without any fear of
10 repercussions. We do have anglers, and we touched
11 on this, I think, yesterday a bit, with one
12 example in one particular year where there was
13 zero sockeye retained. We did not detect anybody
14 that had retained a sockeye in this fishery that
15 was closed to the retention of sockeye.

16 But certainly there are times, it's rare,
17 where we do get the retention of an illegal
18 species in our survey. And we want those people
19 to report that. They do it unknowingly, but we
20 want people to be open and honest with us without
21 fear of repercussion. And so we do try to keep an
22 independence, a distance, from the enforcement end
23 of us.

24 Our creel surveys, as well, it's difficult,
25 the public sometimes find it very difficult to
26 make that distinction between -- they see a DFO
27 representative out there asking them questions.
28 We try very hard to provide anglers with
29 information on where they can go. The
30 Observe/Record Report, I think, was highlighted
31 yesterday in the fishing guide. We provide them
32 that information so they can report their any sort
33 of -- oh, step back, actually. To make it clear,
34 we get approached by anglers that think we are
35 enforcement out there. I should have made that
36 clear. And we do not have that enforcement
37 capability or mandate, whatsoever.

38 So we do provide them with information,
39 though, on where they can go to report anything
40 they see. And sometimes anglers have a hard time
41 with that. They see a DFO representative and they
42 think that we should be able to not only survey
43 but also be enforcement, but certainly that's not
44 part of our function.

45 Q All right. Now, how does catch monitoring relate
46 to stock assessment, because I understand you are
47 part of stock assessment at DFO?

- 1 MR. TADEY: Yes, so I am part of stock assessment; I am
2 not part of fish management. I'd be part of
3 Science Branch. Stock assessment, you know, maybe
4 to say it's -- in order to make informed
5 decisions, fishery management decisions, stock
6 assessment plays a huge role in that it's the
7 backbone of many of the things we do, and
8 certainly catch is part of that stock assessment
9 information we provide. Escapement would be
10 another piece. You'd need the complete picture in
11 order to make an informed, I think, in order to
12 make an informed decision. And that's why it is
13 important and that's the link.
- 14 Q Okay. And what term do you use to describe what
15 you do?
- 16 MR. TADEY: The term would be we survey. We conduct an
17 organized study, an organized survey on the
18 recreational fishery, in this example we're using
19 the Fraser main stem, to provide accurate
20 information for fish managers to respond to.
- 21 Q And we've heard evidence already that Fraser
22 sockeye are caught by recreational fishers in
23 tidal and non tidal waters. Can you explain to us
24 who, at DFO, is performing catch monitoring of the
25 recreational fishery and tidal waters?
- 26 MR. TADEY: In tidal waters, catch monitoring in, say,
27 the Strait of Georgia, southern B.C., catch
28 monitoring is stock assessment, is assessing that
29 in the marine areas. In the tidal waters of the
30 Fraser River, that would be myself, as well.
- 31 Q All right. And then in freshwater, who at DFO is
32 conducting catch monitoring?
- 33 MR. TADEY: In freshwater in the Fraser there's two
34 groups. Our group does it, my group does it in
35 the freshwater Fraser up to Sawmill Creek, and
36 then I think it was indicated yesterday as well
37 that the B.C. interior has the administrative
38 jurisdiction over -- above Sawmill Creek, and that
39 is resource management that actually conducts the
40 recreational surveys in that area.
- 41 Q All right. So you've mentioned that you are
42 conducting creel surveys as part of science. Who
43 do you report to?
- 44 MR. TADEY: Myself, I report to Timber Whitehouse.
- 45 Q And who is he?
- 46 MR. TADEY: Timber is the area chief for Fraser Stock
47 Assessment. His office is up in the B.C. interior

1 office.

2 Q And we've previously heard some evidence about
3 Science's role in the provision of advice to
4 fisheries managers. Can you explain your role as
5 advice provider to fisheries managers in the
6 context of your work on the creel survey?

7 MR. TADEY: Besides the results of our studies, which
8 is probably the primary concern of the managers,
9 like Deb here, you know, they want to know how
10 much has been caught and released by certain time
11 periods and so on, we provide that. They may want
12 to peel back a couple layers and see a little bit
13 of the dynamic and the characteristic of the
14 fishery as well, to gain some insight into what's
15 occurring out there.

16 Some of the advice, you know, might be
17 related to the example in 2009, when the river was
18 -- there was a notice, and maybe Deb can speak a
19 little bit better to this, but she was looking for
20 information on a component of our survey, our over
21 flights, where we, at a particular time of the
22 day, survey the entire study area and we can make
23 a distinction between the type of gear, the type
24 of method that the angler is using, and back in
25 2009 fish management had requested that anglers
26 use more selective methods in fishing for sockeye.
27 Deb wanted to see some of our in-season
28 information on that, whether or not the anglers
29 were responding to that request on the fisheries
30 notice and the like, so that's one example.

31 MS. GRANDE-McNEILL: And on that example, Mr. Lunn,
32 maybe we could have number 30 from the
33 commission's list? I do have a CAN number.

34 Q Do you recognize this document, Mr. Tadey?

35 MR. TADEY: Yes, I do.

36 Q And what is this?

37 MR. TADEY: This is an e-mail to Timber, my supervisor,
38 that updated an e-mail that was sent earlier from
39 one of the biologists in my program, and it gets
40 to the -- it's the example I was referring to
41 where we were looking at the technique used by the
42 recreational community in our study area through
43 time, and we were making the distinction between
44 two types; one was a bar fishing method and the
45 other was the bottom bouncing method.

46 Q And those are the two fishing methods that were
47 discussed yesterday; is that correct?

1 MR. TADEY: That's correct.

2 MS. GRANDE-McNEILL: And Mr. Lunn, maybe we can just
3 scroll down a bit. Keep going, sorry. Yes, I
4 believe there's an attachment as well.

5 Q And so this is, I understand, the attachment to
6 that e-mail. And what is this telling us?

7 MR. TADEY: Yeah, so this is really busy and, you know,
8 you collect a lot of data and there's lots of
9 different ways to look at the information, and
10 some of it's intuitive; some of it's not. So
11 really what this is showing, there's three figures
12 here, and they all are with the same information,
13 just displayed slightly differently. One may work
14 better for you. But what it was trying to show
15 was, and maybe we'll go to Figure 2, which is the
16 line one, it's one more up. There. Figure 2, the
17 one to the right there with the coloured -- the
18 orange and yellow and black.

19 What that was showing was the technique used
20 in two different sections of the Fraser River
21 through time.

22 Q And by "technique" you're referring to the two
23 fishing methods; is that right?

24 MR. TADEY: Right. A bar setup and a bottom bouncing
25 setup. So what we have is we have date along the
26 bottom access and we have the percent of anglers
27 that we counted that were fishing that technique.
28 And it's fairly stable up until about August 11th,
29 and what you see there, and that's when the
30 fishery notice went out by fish managers for
31 people to be fishing selectively.

32 What you notice is you notice a drop in the
33 bottom bouncing technique, percentage-wise, over
34 the total, and you also notice an increase, you
35 know, a reciprocal increase in the bar fishing
36 technique. But they're both fishing at about 50
37 percent there at around the 11th, you know, 40 to
38 60 percent, right around there.

39 Then what you show, I think the regulation
40 was a change -- there was a change in the
41 regulation where you could not fish in section 2.

42 Q What's section 2?

43 MR. TADEY: Oh yeah, sorry. When we do our study, we
44 break the lower Fraser up into two sections. One
45 is from Mission Bridge upstream to Rosedale
46 Bridge, and the other is from Rosedale Bridge up
47 to the mouth of the Coquihalla, in this particular

1 year.

2 Q All right. And maybe I'll just ask Ms. Adams and
3 Ms. Sneddon, in looking at this information, were
4 there any management decisions taken as a result
5 of this?

6 MS. SNEDDON: Yes, so on August 11th we sent out a
7 fishery notice asking folks that are going to
8 continue to -- fishing for Chinook, because we
9 closed the fishing for sockeye; we said, "No
10 fishing for sockeye. If you want to fish for
11 Chinook, we would prefer you to fish with a more
12 selective method, like bar fishing." There was a
13 list on the fishery notice of the types of methods
14 we would like to see. So that was August 11th.

15 And between August 11th and August 18th,
16 there was a definite shift in the fishing
17 behaviour, mainly in the lower section that Joe
18 mentioned, section 1, which went from the Mission
19 Bridge to the Agassiz/Rosedale Bridge. Not so
20 much in a change in the area above that. And so
21 on August 18th we closed the river from the
22 Agassiz/Rosedale Bridge to the Hope Bridge to
23 fishing for salmon.

24 Q All right. Thanks very much.

25 MR. TADEY: And actually, maybe I'll just add to that,
26 too, because this is a busy figure, and I think
27 the one, now that I look at this, you know, for --
28 and again, is the one to key in on is the black
29 line, the black circle line up top and the square
30 circle line below -- square line below. The top
31 one with the black circles, that's the bottom
32 bouncing in the top section that Deb referred to.
33 And you can see, prior to the 11th of August, you
34 know, it was pretty -- that section was pretty
35 much predominated, the technique was bottom
36 bouncing, and it's up near 100 percent.

37 And on August 11th, it dipped down to about
38 the 80 percent, but it was still the predominant
39 fishing method in that section. And even at the
40 request of fishing selectively.

41 MS. GRANDE-McNEILL: Okay. And Mr. Registrar, can this
42 be marked as the next exhibit?

43 THE REGISTRAR: The document will be marked as Exhibit
44 Number 538; the attached spreadsheet is 538A.

45
46
47

1 EXHIBIT 538: E-mail dated August 17, 2009,
2 from J. Tadey to T. Whitehouse, re: Early
3 August Lower Fraser Rec Methods
4 EXHIBIT 538A: Excel spreadsheet titled,
5 Early August Fraser Recreational Angling
6 Method Breakdown, dated August 17, 2009
7

8 MS. GRANDE-McNEILL: All right. And Mr. --

9 MR. MARTLAND: I may be wrong on this, I understood
10 that this document may have been marked yesterday
11 in the course of my entering it through this
12 witness.

13 THE REGISTRAR: Not that I'm aware of.

14 MR. MARTLAND: All right, I'm wrong. Thank you.

15 MS. GRANDE-McNEILL: And Mr. Lunn, if we can have
16 number 4 from Canada's stock assessment list?

17 Q So Mr. Tadey, you've described for us some of your
18 in-season advice to managers, and you described a
19 little bit, yesterday, some of your annual
20 reporting. Do you recognize this document?

21 MR. TADEY: Yes.

22 Q And what is it?

23 MR. TADEY: It's actually a document -- it's actually
24 our web page, it's our internet web page available
25 to anybody, where we post our results from our
26 studies. It goes back to 2001 here, on the yearly
27 studies, and it's up to present, to 2010, and
28 actually have results, some results, from 2010
29 already there. On the top part there are
30 historical summaries. There's three highlighted
31 blue. We have 1999 lower Fraser River Coho catch
32 and release study that was mentioned yesterday by
33 Devona, I believe. And then there's some
34 historical tables showing Chilliwack River and
35 Fraser River historical summaries of effort and
36 catch from 1984 to present.

37 Q And this is available to the public?

38 MR. TADEY: Yes.

39 MS. GRANDE-McNEILL: Can that be marked as the next
40 exhibit?

41 MR. TADEY: And I should add, this is where we will
42 post not only our in-season estimates but our
43 post-season estimates, which is what this page is
44 showing.

45 THE REGISTRAR: Exhibit 539.
46
47

1 EXHIBIT 539: DFO website snapshot titled,
2 Post-Season - Recreational Fisheries
3 Assessments - Creel Survey Results 2001 to
4 Present
5

6 MS. GRANDE-McNEILL:

7 Q And outside of these annual reports, what are some
8 examples of annual processes where your creel data
9 is used?

10 MR. TADEY: Some examples would be the PSC, the Pacific
11 Salmon Commission, their post-season report on
12 treaty-limited fisheries, our catch information
13 would go into that. There's a domestic southern
14 B.C. regional post-season report, our information
15 would go into that. Our catch information is fed
16 into Chinook information document -- Fraser River
17 Chinook information document that's produced on an
18 annual basis.

19 Our information, as well, is rolled up in
20 presentations that are provided to the Sport Fish
21 Advisory Board. They're, I think it's November or
22 December -- no. Devona may know the meeting; I'm
23 not sure if it's December that the meeting is at.
24 So our results would be rolled up into those
25 presentations. You know, pretty much anywhere,
26 anything that people are looking for information
27 in Fraser recreational fishery catch information.

28 Q Okay. Now, I just want to ask you some questions
29 about the methodology and criticisms around the
30 methodology. Mr. Frank Kwak's witness summary,
31 and I'll read you a paragraph from that summary.
32 I don't think we need to go to the document. He
33 states that he:
34

35 ...will express some concern that creel
36 survey data, especially in respect of caught
37 and released fish, may be inaccurate due to
38 over-reporting and misidentification by
39 fishers, noting that most fishers cannot tell
40 the difference between a Chinook and a
41 sockeye when the fish are still in the water.
42

43 Do you have any comment on that?

44 MR. TADEY: Yeah, I guess there would be a couple
45 things there. The over-reporting part, certainly
46 when it comes to harvest and when it comes to

1 release, we touched on, yesterday, the harvest
2 component of it, there is a verification process
3 for that. So we survey a number of anglers. On
4 the Fraser there could be, this past year and in
5 years when there's a sockeye opening, it could be
6 approaching or over 10,000 interviews we conduct.
7 Of the people that said they've harvested fish in
8 those interviews, it's 75 to 95 percent of the
9 people will allow us to inspect their catch. And
10 as indicated yesterday, there's not much -- I have
11 not ever seen someone over-report or under-report
12 their catch on that verification.

13 So I think there's a case where you could
14 argue that we get a taste of that sort of
15 over/under-reporting on the harvest number. On
16 the release number, no, that is problematic.
17 There's nothing to verify. You are going by
18 angler recall. And certainly angler recall, and I
19 can speak from personal experience, it's difficult
20 sometimes and there are certain situations where
21 the recall, it's going to be problematic.

22 I know, myself, personally, if I'm fishing
23 for a long time and I get up around the six or
24 seven or eight fish number, I tend to wonder what
25 I have caught, unless I'm recording it. And some
26 anglers do record. Certainly, if you're out there
27 fishing for just an hour and a half and you only
28 caught one fish, you're going to remember that.
29 You're not going to forget that one fish. Or if
30 you caught zero, you're not going to forget that
31 you didn't have a fish. I find that hard to
32 believe.

33 So his comment is a valid one when it comes
34 to the release numbers; there could be problems
35 with recall. I think one of the things that I'll
36 comment, he assumes that it's an overestimate. I
37 would argue that it could easily be an
38 underestimate as well.

39 Q All right. Now --

40 MR. TADEY: And sorry, then the second part of that was
41 species identification.

42 Q Yes.

43 MR. TADEY: So again, on that one, the harvest, we do
44 have the ability to get a flavour of whether or
45 not people are making mistakes out there in
46 species ID, and I think, as indicated earlier
47 today, it does happen. We do have sockeye harvest

1 and people think they're Coho. We have chum
2 harvest and they think they're Chinook. It is
3 very rare. It is very rare that I've seen in the
4 most recent data where people make species ID, and
5 there is a way where we do have the ability to
6 test it, to test people's ability for species ID
7 in the harvest number.

8 When it comes to the release number, again,
9 it's slightly problematic; however, in order for
10 an angler to make the determination of whether or
11 not he's going to keep it or not, he does have to
12 know the species. So I would think that if there
13 is a greater mis-ID error when it comes to the
14 release numbers, or if there is a problem with ID
15 error when it comes to the release numbers, I
16 would think we would get some taste of that in the
17 harvest numbers.

18 So if people are really prone to make species
19 ID error in the release numbers, you would think
20 that would spill over, absolutely, to a degree in
21 the harvest numbers. And like I say, it's rare
22 that we do get a -- it does happen, but it is rare
23 compared to the whole number of surveys we do on
24 harvest. It's small.

25 Q Thank you. And Mr. Kwak also suggests that the
26 catch per unit effort numbers from the data
27 collected in the mortality study, which was
28 discussed yesterday, could be used to check the
29 accuracy of the creel surveys. And do you have a
30 comment on that?

31 MR. TADEY: It's a good idea, but I don't think it
32 would be something that would be a good way of
33 testing the accuracy. First off, it's a survey
34 and a sample as well. So there are other people
35 fishing at Grassy Bar, and it's a survey and
36 sample of that area.

37 Secondly, I would think, on the Grassy Bar
38 study, I don't have the demographics, but it's
39 something you would have to check out, arguably
40 that's a study that a lot of the more avid anglers
41 would be interested in, and it might attract a
42 more experienced angler to that study. Our
43 fishery is made up of not only experienced
44 anglers, but it's also made up of a lot of
45 inexperienced anglers. And you certainly don't
46 want to bias -- I would want to take a look at, I
47 would possibly think that that could be a biased

1 sample for more of the experienced anglers, which
2 would have arguably a higher catch rate. So that,
3 to me, would be one area that would not make it a
4 necessarily valid comparison.

5 The other is that, you know, Grassy Bar is
6 only one angling site in the entire Fraser, and
7 there are many, many angling sites. Comparing
8 Grassy Bar and the catch that's done at Grassy Bar
9 and extrapolating that to the total fishery
10 wouldn't be appropriate, in my idea. And so a
11 comparison there, again, wouldn't necessarily be
12 valid.

13 Q Okay. And you've mentioned to us that you have a
14 high participation rate in your survey and why you
15 inspect the catch of anglers that you do survey.
16 Do anglers generally allow you to inspect their
17 catch?

18 MR. TADEY: Oh yes. Yes. You know, 75 to 95 percent
19 of the anglers will allow us, that say they've
20 harvested something, will allow us to inspect
21 their catch.

22 Q Okay. Now, you've also described for us issues
23 around accuracy, precision and confidence
24 intervals. And how does a confidence interval
25 relate to precision?

26 MR. TADEY: Confidence interval and how it relates to
27 precision. The confidence interval is a measure
28 of how tight -- a confidence interval is a measure
29 of the variation around your estimate or result.
30 If your confidence interval is -- and that's where
31 you -- you generally, with a confidence interval,
32 you'll see a plus or minus. It will be plus or
33 minus five percent, plus or minus 10 percent. So
34 the confidence interval is that range, and the
35 more precise you are the smaller that range will
36 be. So you'll see plus or minus five percent.
37 That confidence interval is less and it's tighter,
38 it's more precise, than something that would be
39 plus or minus 15 percent.

40 Q And do you generate confidence intervals for your
41 creel estimates?

42 MR. TADEY: The answer to that would be a yes and no.
43 The old DPA software did generate confidence
44 intervals; the new CREST software we're developing
45 will generate confidence intervals; currently,
46 we're working in an Excel, so for 2008/9 and '10,
47 these last three years, while we've been waiting

1 for the development of CREST we haven't -- no, we
2 have not generated confidence intervals. They
3 could be generated and they will be generated once
4 CREST is fully developed. Our information will be
5 in CREST and we will generate final estimates that
6 will have confidence intervals. That's one of the
7 reasons why, currently, the estimates from 2008/9
8 and '10, because they're being done in an Excel
9 version, they're only preliminary, they're not
10 final yet. But at that time, when they are final,
11 confidence intervals will be generated, yes.

12 Q Thank you. And how does the current methodology
13 used address issues of precision?

14 MR. TADEY: The current methodology, well precision is
15 really related to -- in order to get a more
16 precise result, it can be really driven by sample
17 size. So the more samples you get, the tighter
18 your precision is going to be. It's really driven
19 by sample size. And so we have, you know there's
20 a value associated with our project, we have so
21 many dollars to spend on our project. We hire so
22 many people and they conduct as many interviews as
23 they can, making sure that we are not, in any way,
24 biasing the accuracy, making sure their accuracy
25 is there. So we do not want to necessarily go to
26 just the high traffic areas, because there could
27 be -- that could be biasing a result. We do, as
28 well, have to go to areas that are of low effort
29 to get a taste of what's occurring in those areas
30 as well, because the fishery is dynamic and over a
31 large area.

32 So how our survey addresses precision, in
33 some ways the precision ends up to be what it is.
34 The primary goal for our program would be the
35 accuracy and making sure that our study design is
36 sound, and then the precision will follow.

37 Q And you've described how your creel methodology
38 uses both instantaneous rod counts and angler
39 interviews to generate your estimates. Is that a
40 common approach to creel surveys?

41 MR. TADEY: In the Pacific region, yes. And Deb
42 touched on that yesterday. The study design that
43 we use that uses -- and there was -- a third piece
44 would be sort of an activity profile. You know,
45 those three components, an interview; an activity
46 profile; and some sort of instantaneous effort
47 count, those -- that study design is used

1 throughout the Pacific region. It's period --

2 Q Sorry, what's an "activity profile"?

3 MR. TADEY: The activity profile, I went through that
4 with Brock yesterday, and that's where certain
5 locations along the river we conduct what we call
6 an hourly rod count. So we have a surveyor that
7 will survey, if he's there at 7:00 in the morning,
8 how many rods are fishing. Then how many rods are
9 fishing at 8:00, and then 9:00 and 10:00, all the
10 way through his shift, and we will generate what
11 we call an activity profile of the proportion of
12 anglers fishing at each hour of the day.

13 Q And what are some other possible approaches to the
14 survey, apart from doing the instantaneous rod
15 counts and angler interviews?

16 MR. TADEY: I think certainly there are other
17 approaches. One of the ones, and Devona touched
18 on it yesterday, would be some sort of mail or
19 telephone survey. The one thing that we do with
20 our surveys that's not necessarily unique, because
21 it is used throughout the region, but we have
22 pretty much two independent surveys. We have
23 something that -- a survey that people are
24 interviewing, and then we have this independent
25 survey with over flight counts and the hourly rod
26 counts. That's a little bit unique.

27 There have been, it's a hybrid survey, it's a
28 complimented survey. Those are terms used to
29 describe what we do. There are other ways to get
30 complimented surveys, and one could be we could
31 interview at access sites, don't do the over
32 flights, and save money there, and then conduct a
33 telephone interview in-season or after the fact.
34 That may reduce costs. It wouldn't necessarily --
35 you'd have to look at whether or not that would
36 increase the accuracy. It might increase the
37 precision; it might not. Telephone interviews,
38 you'd still have problems with recall on release
39 numbers and, you know, so there are other ways to
40 do it.

41 I think one of the things that is good about
42 what we do that's beneficial to the type of
43 project we run in the Fraser River is that we're
44 on the ground and we're actually assessing and
45 it's not done -- it isn't done over the phone.
46 We're on the ground assessing, and that's one of
47 the benefits.

1 Q And is there anything that would increase the
2 precision or accuracy of your creel estimates?

3 MR. TAHEY: Certainly the precision is related to
4 sample size, so certainly more resources to hire
5 more staff to get more interviews, that will
6 increase the precision. That won't necessarily
7 affect the accuracy, though. So the accuracy is
8 maintained by, or the accuracy is -- our study
9 design is important for the accuracy in
10 maintaining a random sample, maintaining
11 stratification of some of the data. Those are
12 some of the things that we do for the accuracy.

13 Q And as it relates to Fraser sockeye, would you
14 expand your sampling geographically?

15 MR. TAHEY: To include areas -- certainly, I mean, more
16 money for the projects we conduct to do more,
17 yeah, I wouldn't say, "No," but we have shown
18 within the Fraser there are certain areas in the
19 Fraser that probably don't give much juice for the
20 squeeze, for the dollar value it would cost to
21 survey that. And the example we talked about
22 yesterday was downstream of Mission Bridge. So
23 certainly there is angling occurring downstream of
24 Mission Bridge, but when we have looked, and we
25 looked in 2010, we did this year and in previous
26 years we looked, we've noted that the effort in
27 those areas is extremely low. And the example
28 yesterday was one percent of the total for the
29 total area.

30 So, yes, we could expand in those areas. I'm
31 not sure if it would be good bang for the buck.
32 Certainly, spatially in other areas there are some
33 terminal fisheries that -- on Fraser sockeye that
34 probably are not assessed to the degree they could
35 be, so terminally may be a way to go.

36 Q Okay. And also for Fraser sockeye, would you
37 expand your sampling temporally?

38 MR. TAHEY: For Fraser sockeye, again, in the Fraser
39 main stem I think we're pretty good there. So my
40 quick answer would be, "No." I think we capture
41 the Fraser sockeye in the Fraser main stem. But
42 an example would be the Chilliwack River fishery
43 that does encounter Cultus sockeye. The focus of
44 that survey is Chinook, and we get there in mid
45 September and there are people angling in that
46 river prior to mid September that would be
47 encountering sockeye. And, you know, with the

1 Fraser sockeye focus, sure, that would be
2 something -- an area that would be nice to be able
3 to get in their a little bit earlier and address
4 some of the sockeye concerns.

5 Q Okay. Now, you've already touched on this, but I
6 wanted to give you a further opportunity to tell
7 us what changes, if any, you would make to the
8 current creel survey as it relates to Fraser
9 sockeye.

10 MR. TADEY: One of the challenges we've had over the --
11 with the increase in the sockeye fishery over the
12 last while and the turn on/turn off nature of the
13 fishery, there's this huge pulse that we get of
14 recreational anglers when there's all of a sudden
15 a sockeye retention fishery in the Fraser.

16 We've been fortunate, in the last couple of
17 years, to access PICFI money - and I don't quite
18 know the acronym -- what the acronym stands for;
19 PICFI, Pacific Integrated Fisheries -- Commercial
20 Fisheries Initiative - where we've gotten
21 additional money to supplement our core assessment
22 to hire additional staff during the sockeye
23 retention period. That's something that PICFI is
24 sunset and I'm not sure where we will be able to
25 get those resources to hire those additional staff
26 during that really busy time.

27 So something that would, on the Fraser
28 sockeye focus, that would certainly be an
29 improvement to solidify and secure funding for
30 that increase, and from a Fraser sockeye
31 perspective.

32 Q Anything else? It's possible you touched on these
33 yesterday, so I just wanted to give you an
34 opportunity --

35 MR. TADEY: I might have.

36 Q -- to expand.

37 MR. TADEY: I might have. I'm drawing a blank right
38 now.

39 Q That's fine.

40 MR. TADEY: Yeah.

41 Q Yes?

42 MS. ADAMS: Some of the other tools for catch
43 accounting we're looking at, or as I mentioned
44 yesterday, using sub samples of licensing systems
45 to do that via the internet. We've spoken to
46 colleagues in Washington State and looked at the
47 options of having mail surveys or using enhanced

1 mail surveys or phone surveys, and the reports
2 we've got back from colleagues in Washington State
3 and other jurisdictions across Canada is that the
4 public, in general, has a lowering appetite
5 towards phone surveys and mail surveys, and we're
6 seeing an increase in people wanting to use the
7 internet just to provide information. So I think
8 that's really an area that we need to develop and
9 look at to augment, like as Joe says, the folks
10 that are on the ground, seeing things firsthand,
11 but it would be good to do some comparative work
12 or some additional work to add on through
13 electronic means.

14 MR. TADEY: And I have one more. When we touched on
15 this, is angler recall on release numbers.
16 Certainly we could do observational studies,
17 something dedicated to the Fraser and the sockeye
18 retention fishery at certain times. Observational
19 studies on angler recall that we could then look
20 at and compare to what we're seeing at the
21 interview for release estimates, and something
22 independent that we can assess and compare to see
23 if there are any differences there.

24 Q And what do you mean by "differences"?

25 MR. TADEY: Differences in the release rates between
26 the two samples.

27 Q And so, sorry, if I'm understanding you, you would
28 compare the observational studies, what that's
29 telling you --

30 MR. TADEY: Yeah, and maybe --

31 Q -- about what's being released, compared to what
32 the anglers are telling you?

33 MR. TADEY: Thanks, Geneva. Yeah, I guess when I said
34 "observational studies", I guess I assumed you
35 knew what I meant. So the idea would be that
36 there would be an independent study going on
37 concurrently to our regular assessment where we
38 would have people out there just observing anglers
39 and seeing what they were doing. They wouldn't be
40 interviewing them; they'd just be observing them
41 and recording what they see. So they'd be looking
42 at how many fish they had on, how many fish they
43 actively released and that sort of thing. And
44 then we can do some -- that's an independent
45 sample that we can compare to the sample we're
46 getting on interviews.

47 You know, that may provide insight into if

1 there's anything there; it may also help manage,
2 in the future. It will certainly answer some
3 questions that people like Frank Kwak have on
4 recall. So that's an area that certainly could be
5 looked at.

6 MS. GRANDE-McNEILL: And those are my questions.

7 MR. MARTLAND: Mr. Commissioner, I have Mr. Tyzuk next
8 on the list.

9 MR. TYZUK: For the record, Boris Tyzuk, for the
10 Province of British Columbia.

11
12 CROSS-EXAMINATION BY MR. TYZUK:

13
14 Q I just have a couple of questions for the panel,
15 and the first one I would direct to Ms. Adams, and
16 it was -- my notes indicate when you had the
17 discussion about user fees and the potential of an
18 increase in user fees, you said that there was a
19 group that was looking at possible ways to get
20 more funds to programs, including maybe making an
21 application under the **User Fees Act**. Do you have
22 any sort of a timeframe for that?

23 MS. ADAMS: I don't have a specific timeframe. I know
24 that a colleague of mine, there wasn't a group of
25 us, there was just myself and a colleague here on
26 fisheries management and Pacific that have been in
27 discussion with some colleagues in Ottawa around
28 how we -- what's required in terms of putting a
29 package forward to the **User Fee Act** process. So
30 we're really in our exploratory stage.

31 But I think there is a sense of urgency to
32 try and get additional funds to support catch
33 monitoring, possibly salmon enhancement, that's
34 been something that the recreational fishing
35 community has been wanting to fund, provide
36 additional funding towards, and also the Sport
37 Fishing Advisory Board process.

38 Q Thank you. You also made the passing comment, and
39 I don't know if it was more out of frustration or
40 not, but you indicated that if you wanted to get a
41 change to the regulations it could take up to
42 three years?

43 MS. ADAMS: I think it is a frustration that's shared
44 certainly by government staff that are on the
45 frontline, and it's also a frustration that the
46 recreational fishing community has. The circle
47 hook sample program that we did in the Fraser in

1 the late 1990s and early 2000, I mean, that's 10
2 years ago and for various reason the proposal for
3 regulatory change has been stalled, and it has
4 been a frustrating situation for members of the
5 recreational fishing community as well as
6 government, Federal Government, staff.

7 Q All right. And I just want to follow up on this,
8 because if we're looking at recommendations that
9 may come from this commission, is three years sort
10 of a normal response time for the government to
11 reply to suggestions like this? Is it longer; is
12 it shorter, because that would be of some concern?

13 MS. ADAMS: My understanding, and I'm not certainly the
14 person that takes these forward to our regulations
15 group in Ottawa, but my understanding from my
16 colleagues is three years is a good timeframe,
17 like that's the best. There certainly have been
18 exceptions to that with emergency regulatory
19 proposals; they go in in less time than three
20 years, but three years is about the average.
21 Sometimes it takes longer.

22 Q Thank you. Just a couple more. I've heard from
23 the testimony you made references to selective
24 fishing techniques. Would you consider that the
25 recreational fishery, as a whole, and maybe in
26 specific regard to Fraser River sockeye, is able
27 to fish in an acceptably selective manner?

28 MS. SNEDDON: Well, I guess it depends on what area
29 you're looking at, and whether or not sockeye's
30 open for retention. So in the marine waters you
31 would be fishing for sockeye with trolling gear,
32 with usually a bear hook, the fish actively bites
33 it, and can be released if it's not a sockeye and
34 it's not open for that other species. So I would
35 say that that is very selective.

36 If you're fishing in the Fraser River,
37 whether it's tidal or non tidal, with the poor
38 water quality conditions, a hook and line using a
39 bottom bouncing gear is not as selective. It is
40 selective in that it's a hook and a line and it's,
41 you know, minimal damage, it's hooked on the
42 outside of the mouth, but it's not -- doesn't meet
43 the first criteria for selective fishing, which is
44 to avoid non target species, because it's an
45 indiscriminate method, similar to trawl gear or
46 seine gear. It is not as selective as in the
47 marine waters.

1 Q Not as --

2 MS. SNEDDON: Not as selective.

3 Q -- selective, but given the evidence we heard,
4 there's still the ability to release those fish,
5 and we talked about the mortality rates yesterday?

6 MS. SNEDDON: Yes, that's correct. There is ability to
7 release them and to release them with minimal
8 mortality rates, according to the three years of
9 the study we've conducted so far.

10 Q Thank you. And just one question for Mr. Tadey.
11 Could you see the recreational fisheries sector as
12 taking a greater role in improving the quality and
13 quality of catch monitoring data?

14 MR. TADEY: I think they have a huge role in it
15 already. Without their involvement we don't get
16 the information to do anything. We interviewed
17 10,000 anglers on the Fraser main stem this past
18 year, and that's, to me, a huge involvement
19 already in the recreational fishery.

20 So improving it, I think by continuing to
21 participate, by continuing to be open to
22 participate, and I think that's probably where I'd
23 go with that.

24 I'm not sure if that gets at what you're
25 asking there.

26 MR. TYZUK: No, that's fine. Thank you. Those are my
27 questions.

28 MR. MARTLAND: Mr. Lowes.

29 MR. LOWES: J.K. Lowes for the B.C. Wildlife Federation
30 and the B.C. Federation of Drift Fishers. Good
31 morning.

32 I'm going to be asking some questions of Ms.
33 Adams and Ms. Sneddon, but from where I sit, I
34 wasn't able to see who gave what evidence. So it
35 should probably be obvious from the questions who
36 I'm directing the question for.

37 I'd like to start out by -- could you call up
38 Exhibit 526, please? No, that's not the right
39 one. It's the Decision Guidelines, Memorandum for
40 the Regional Director.

41 MR. LUNN: There's an A, B, and C with that.

42 MR. LOWES: That's it.

43

44 CROSS-EXAMINATION BY MR. LOWES:

45

46 Q And I missed who was the author of that document,
47 was it Ms. Sneddon?

1 MS. SNEDDON: It was actually, in 2006, drafted by a
2 colleague of mine, Linda Stevens, and Devona
3 Adams, but this is the 2009 version as I forwarded
4 at the line to see whether it was still
5 applicable.

6 Q All right. It was authored by someone at the
7 level of you two as --

8 MS. SNEDDON: Yes, my predecessor --

9 Q -- I think you said, frontline staff managers?

10 MS. SNEDDON: Yeah, my predecessor in this role.

11 Q My questions are really a follow-up to some of the
12 questions that the Commissioner asked, and they're
13 really focused on the one big question that
14 intrigues me, and perhaps I could give you that
15 question and then maybe use the exhibit as a case
16 study.

17 The big question is this: Is how, when and
18 by whom are high level, general, broad policies or
19 concepts articulated as specific fisheries
20 management decisions? And when I say "decisions"
21 I mean both fishing plans and in-season changes.
22 And as I was looking at this Exhibit 526, it
23 seemed to be a bit of a case study as to that
24 question.

25 So perhaps I can start with this. Ms. Adams,
26 I think you've referred, two or three times, to
27 the dearth of regulations. Is it correct that
28 your directions are essentially through policies
29 and policy documents as distinct from regulations?

30 MS. ADAMS: I wouldn't say they're separate. The acts
31 and the regulations are absolutely critical to the
32 work we do and the development of the Integrated
33 Fisheries Management Plan as well as the **Sport**
34 **Fishing Guide Regulations**, but we do, underneath
35 that, have policies and then we have operational
36 decision guidelines, the ones that you referenced
37 here.

38 Q Yes. And those policies are, to a large extent,
39 set out in the kinds of documents that the
40 Commissioner referred to yesterday, vision
41 statements and Selective Fishing Policy and
42 Aboriginal Fishing Policy, and Decision-Making
43 Policy, those kind of documents; is that correct?

44 MS. ADAMS: Yes, that's correct.

45 Q And do those get to people at your level? And if
46 so, how do they get to you? How do you get those
47 documents?

1 MS. ADAMS: Many of the documents have been around for
2 several years, and so we -- I think, certainly at
3 my level and Deb's level, we're fishery managers,
4 both regionally and in areas. Those documents,
5 we're familiar with those as part of our course of
6 work. In-season we may receive directions through
7 a decision note, like the one that you have in
8 front of you. We may also receive some direction
9 on various court cases decisions that have come
10 out throughout the season, and we will discuss,
11 amongst our staff, our team, both in the areas and
12 region, the interpretation of how we would apply
13 those directives or themes that come from those
14 documents.

15 Q Yes. Well, that's what interested me about
16 Exhibit 526. First of all, if I could ask you
17 this: What precipitated that document, 526? Or
18 documents like that?

19 MS. SNEDDON: Right. So initially, when it was first
20 written in 2006 by my colleague, Linda Stevens, it
21 was around the Allocation Policy and the
22 guidelines we were looking at with the
23 recreational fishery to provide them with stable
24 and predictable opportunities, and we were trying
25 to come up with some decision guidelines we could
26 use in-season -- or pre-season that we could put
27 in place that would provide that stable and
28 predictable opportunity to the recreational
29 angler.

30 Q And the thrust of my question was: Is that
31 something that your colleague thought would be a
32 good idea, or is that something that your
33 colleague was directed to do by someone else?

34 MS. ADAMS: I was one of the original authors with
35 Linda Stevens, and it was self-directed. And the
36 reason it was, was it was very difficult for us,
37 as frontline managers, and also for the
38 recreational fishing community, to understand what
39 rules or what kind of triggers would be used in a
40 fisheries management decision, and this document
41 was prepared, it was also shared with the
42 recreational fishing community, and it was also
43 shared with the Fraser River Panel and anybody
44 else who had an interest in it. It was trying to
45 make some sense of a very high level policy and
46 how we actually could apply it in our day-to-day
47 management.

1 Q Yes, and that's really the thrust of my
2 questioning, and I'm not -- please don't take me
3 as being critical of the document or the process;
4 I just want to open up, if I can, from your
5 perspective, from the perspective of one manager
6 in one department, how they deal with these
7 policies.

8 Now, I take it from looking at 526 that once
9 you decided that it would be a good idea to come
10 up with some guidelines you looked at a number of
11 things, for one thing, the Allocation Policy. So
12 was that your decision? Was that your notion of
13 where you would go to find direction on those
14 guidelines?

15 MS. ADAMS: Well I think it's safe to say a lot of
16 policy documents are very high level, and then
17 it's up to staff and stakeholders, harvesting
18 groups, to try and interpret or to make it work,
19 and so definitely we took the Salmon Allocation
20 Policy and we said, "There's a number of
21 principles in here where it talks about the
22 recreational community having predictable and
23 stable opportunities, it talks about the
24 recreational community having a five percent cap
25 on sockeye access, but how do we actually go about
26 doing that throughout the coast in all the
27 different areas where sockeye are being taken in a
28 given year.

29 Q Absolutely. And in your thinking process, at some
30 point you realized that one of the concepts that
31 you would have to deal with was the priority to
32 First Nations' food, social and ceremonial
33 fishing; is that correct?

34 MS. ADAMS: That's correct.

35 Q And so where did you go, or what did you look at,
36 to flesh out the notion of a priority? When is a
37 priority -- has a priority been given and when
38 hasn't it?

39 MS. ADAMS: Well, that's exactly what that document
40 outlines, is how we will meet our conservation
41 objectives and how we will meet obligations for
42 First Nations FSC fisheries and then, once those
43 have been taken care of, when would it be
44 realistic to have recreational fisheries in areas
45 where there's a low impact and areas where there's
46 a higher impact or a moderate impact.

47 Q No, I understand that, but how -- where did you go

1 to find out what those obligations were?

2 MS. SNEDDON: Could you go to the next page of this
3 exhibit?

4 Q Yeah.

5 MS. SNEDDON: Okay, so under Analysis, I think it's
6 here -- no, sorry, under the Decision Guidelines.
7 So the department's decision-making around First
8 Nation food, social, ceremonial fishery is that in
9 relation to sockeye and the recreational fishery,
10 is we want to make sure that First Nations have an
11 opportunity to meet their food, social, ceremonial
12 needs. And in order to provide that opportunity,
13 what we're looking at is, in marine waters, that
14 they're fishing, that they've already started
15 fishing and that the recreational fishery in the
16 marine waters is not going to impact their
17 opportunity.

18 In the lower Fraser area, in the medium to
19 high impact area, we determine that not only do
20 they need to be fishing, they need to be fishing
21 at their full and normal limits which, in a set
22 net fishery was Thursday night at 6:00 p.m. to
23 Sunday night at 6:00 p.m. If they were only
24 having limited opportunities, we felt that that
25 wasn't meeting the priority. So we wanted to make
26 sure that they had their full opportunity. It
27 didn't mean necessarily that they'd caught their
28 FSC needs, but we were likely to meet their needs.

29 Q No, I understand the substance of the document.
30 What I'm focused on, really, is the process and
31 what I'm taking from your evidence, and please
32 correct me if I'm wrong, is it's really you people
33 in your level that are pulling together the notion
34 of a priority, the notion of the allocation, these
35 high level policy documents, and actually
36 integrating them into a real life management
37 guidelines. You're distilling them into what's
38 been called, in other evidence, reference points
39 or decision reference points; am I correct there,
40 that that's the level at which that practical work
41 gets done, is your level?

42 MS. SNEDDON: I think that for the purposes of this
43 document, the decision rules that we put in here
44 were discussed between Devona, as the regional
45 recreational coordinator, Linda Stevens, the lower
46 Fraser recreational manager, in conjunction with
47 other managers in the lower Fraser office that

1 dealt with First Nations fisheries.

2 Q Yes.

3 MS. SNEDDON: But from here it went to that integrated
4 group, the Fraser River Integrated Management team
5 that had all levels, including the Canadian chair
6 of the Fraser River Panel, who sign off on it.

7 Q Yes.

8 MS. SNEDDON: So it's a recommendation from the lower
9 level, yes.

10 Q Okay. But the ideas are generated from your
11 office?

12 MS. SNEDDON: For this memo, yes.

13 Q Yes. And is this kind of standard? Is this the
14 way that your colleagues in the other departments
15 also work? I mean, is --

16 MS. ADAMS: I'm not sure what other departments --

17 Q All right.

18 MS. ADAMS: -- you're referring to.

19 Q Well, you're talking about the recreational
20 fishery. I was really talking about other
21 fisheries, people that manage other fisheries. Is
22 it essentially colleagues at your level that are
23 really bringing the abstract policies and the
24 general concepts down into nuts and bolts
25 fisheries management decisions?

26 MS. ADAMS: I mean, you're well aware of the
27 consultation processes that we have. There is no
28 shortage of consultation processes in Fisheries
29 and Oceans, and many of our fishery managers, like
30 Deb and myself, attend various levels of meetings,
31 so we would be meeting with local First Nations,
32 local recreational harvesters, local commercial
33 harvesters, and we bring issues to them, we
34 discuss the issues that are important to them and
35 are important to government and we make
36 recommendations. So yes, that is a key part of
37 our job as fishery managers. But there's also a
38 decision-making process in our organization, that
39 area level, regional level, and nationally.

40 Q Yes. Well, I'm interested in the intellectual
41 process that goes into a document like that, and I
42 take it that that's yours. I mean, I'm not
43 criticizing a lack of consultation or that you've
44 got too much consultations, but it's your thinking
45 that went into this document?

46 MS. ADAMS: I would say we're certainly the persons
47 that are threading it all together.

1 Q Yes.

2 MS. ADAMS: But I don't know if it's intellectual, but
3 we do it in consultation with the communities,
4 First Nations, recreational, commercial fishing
5 communities that we work with.

6 Q Yes. And the input with respect to the law, where
7 did that come from in this particular instance?
8 The reference to the **Douglas** case.

9 MS. SNEDDON: Sorry, did we reference the **Douglas** case
10 in this?

11 Q Yes, you referenced it under cons, arguments
12 against possible -- the recommendation was that
13 First Nations will not -- I'm at page 2, under the
14 cons, the first bullet:

15
16 First Nations will likely not agree with the
17 recommendations due to the recent **Douglas**
18 court decision.

19
20 MS. SNEDDON: Sorry, I'm not seeing that on this
21 document.

22 MR. MARTLAND: And maybe Mr. Lunn can help us. It may
23 not be page 2, and I don't have the printed
24 version. It may be the third page.

25 MR. LOWES: Sorry, it's page 3, Pros and Cons.

26 MR. MARTLAND: Mr. Lunn, I'm just reading over Mr.
27 Lowes' shoulder and it's the -- if you can help us
28 to reference it, if we're on the same ringtail
29 number, CAN012736. It seems he may have a
30 different document here.

31 MR. LUNN: The current document is 056591.

32 MR. MARTLAND: That's a different document.

33 MR. LOWES:

34 Q Sorry, I was cross-examining you on a different,
35 but I think the substance of the questions is
36 really the same. I think the general question
37 that I had, or the point that I was trying to
38 establish was that the real articulation, if I can
39 put it this way, the practical articulation, at
40 least in this instance of the Allocation Policy
41 and the First Nations priority into a recreation
42 fishing guideline was yours?

43 MS. SNEDDON: I think only as written in the document.
44 It is not ours, per se; it is the department's
45 policy. I mean, the **Sparrow** decision, the
46 department's management of Aboriginal fishery
47 strategy, I mean, we're all well aware of the

1 priority.

2 Q Okay. And how are you made aware of the priority
3 and how do you implement your understanding of the
4 priority into a document such as 526? That's
5 really the thrust of my question. I get the
6 impression, perhaps I can just be very blunt, that
7 it's you who take these big policy ideas and
8 concepts, such as priority and the allocation, and
9 put numbers and dates and how you're going to work
10 that into a fishing plan; it's your level of DFO
11 people, in consultation with users and everybody
12 else?

13 MS. ADAMS: Well, we certainly have input into it and
14 it goes to a number of different forums from the
15 individual First Nations groups we interact with
16 to the same for recreational and commercial, and
17 that goes to the Integrated Harvest Planning
18 Committees as well, which is a multi-stakeholder
19 group, and there's comments on different
20 perspectives and aspects of this.

21 And Deb mentioned yesterday, we did a review
22 of where are we at with this five percent cap with
23 the recreational fishery as a whole, and we met
24 with the commercial fishing community and the
25 recreational fishing community earlier in January
26 this year to see, you know, after -- since 1999,
27 when this policy went into effect, to current
28 closure of this year's fishery, where did we
29 actually end up in the big scheme of things?

30 Q Mm-hmm.

31 MS. ADAMS: So there's a number of different processes.
32 Yes, we put together some recommendations because
33 we felt we needed some clarity.

34 Q Yes. And I think that's really the thrust of my
35 question. That's what generates this kind of on-
36 the-ground practical thinking; is that fair to
37 say?

38 MS. ADAMS: We certainly provide recommendations to our
39 senior decision-makers. This is a note going up
40 to our director of fisheries management. We have
41 ones that go to the regional director general, to
42 the fisheries minister, to the deputy minister. I
43 mean, we have a chain of command and
44 authorization. So we're putting forward what we
45 think are reasonable suggestions for interpreting
46 a policy, and that's based on consultation with
47 the different stakeholder groups as well as staff

1 that are on the frontline.

2 Q All right. Thank you. You mentioned that you
3 described the Fraser River sockeye non tidal
4 fishery as medium to high impact. I take it that
5 the word "impact" refers to the size of the
6 ultimate catch?

7 MS. SNEDDON: Right.

8 Q Catch is a lot of fish, or catch is medium to high
9 amount of fish?

10 MS. SNEDDON: It's a combination of the number of
11 anglers that can be out there in a given day and
12 the resulting catch. Because you can have a
13 number of anglers out there in a given day and not
14 necessarily have a lot of catch because not enough
15 -- not many fish are going through. But if
16 there's a big pulse of fish, the catch could be
17 significant.

18 Q Yes. And it's so that virtually all of the
19 fisheries, certainly in the lower Fraser River,
20 the sockeye fisheries are moderate to high impact?

21 MS. SNEDDON: In the non tidal waters of the Fraser
22 River, particularly between Mission and Hope, that
23 is the area we would consider medium to high
24 impact.

25 Q Yes. Well, I wasn't talking about just the
26 recreational fishery, I'm saying the fisheries,
27 generally, for sockeye in the Fraser River are
28 medium to high impact? Commercial; Aboriginal.

29 MS. SNEDDON: I think there's a range. I mean, it
30 depends on whether you're looking at by an
31 individual First Nation or whether you're looking
32 at the entire one. And they could be high, they
33 could be low. They could be low if you have a
34 limited opportunity, like say four hours. So it
35 depends on the decision you make when you open
36 that fishery.

37 Q You can catch fish faster with a net than with a
38 hook and line?

39 MS. SNEDDON: Well, depends on the time of year. If
40 we're talking sockeye and there's an abundance of
41 sockeye in the river, then yes.

42 Q Assuming the same amount of fish.

43 MS. SNEDDON: Yeah, yeah.

44 Q The recreational fishing community is an extremely
45 large one?

46 MS. SNEDDON: Yes, it is.

47 Q Yeah. And would you agree with me that, given its

1 size, it's, relatively speaking, pretty well
2 organized in terms of its ability to communicate
3 with the managers?

4 MS. ADAMS: The recreational fishing community, I
5 think, through the Sport Fishing Advisory Board,
6 is very well represented. We have been
7 criticized, and it's certainly legitimate
8 criticism, that we often do not have the views of
9 independent anglers that aren't part of an
10 organization, like the Wildlife Federation or the
11 Federation of Drift Fishers, or other large
12 organizations. And part of that, I think,
13 certainly is a challenge that we need to address,
14 but fishermen, by nature, sometimes don't want to
15 belong to any organization; they're independent
16 people, so we have to try and find a balance as to
17 what's our responsibility to communicate and
18 inform independent anglers versus those who don't
19 want to belong.

20 Q Yeah. And I notice that each one of you referred
21 to both Mr. Ottway, and I can't remember his name,
22 the writer of the letter from the lodge, the
23 owner, by their first names. I take it there's a
24 pretty good communication between the
25 representatives of the recreational fishery and
26 the department?

27 MS. SNEDDON: Yes, I would say that over the years -- I
28 think in one of the presentations or one of the
29 witness summaries it talks about the longstanding
30 volunteerism of the recreational community, and so
31 they've been around generally a lot longer than
32 us, and they're very familiar with fisheries, so
33 we've learned a lot from them and we've developed
34 very good relationships, for the most part, with
35 most of them, and yes, we're on fairly friendly
36 terms as well.

37 MS. ADAMS: And I would just like to add that that's
38 not just with the recreational fishing community.
39 We also are on a first-name basis with many First
40 Nations and commercial fishers as well, and
41 conservation groups, and at times it seems like
42 our relationship is that of a family; we attend
43 one another's funerals and weddings and we do have
44 a very strong relationship with the people that we
45 interact with.

46 Q Yes. And in fact, many, many departmental people
47 attended the late Mr. Ottway's memorial; is that

1 right?

2 MS. ADAMS: Yes, that's correct.

3 Q And there was even a colour guard of uniformed
4 fisheries officers?

5 MS. ADAMS: Yes, that's correct.

6 Q Yeah. A great deal of respect for him?

7 MS. ADAMS: Yes, very much.

8 Q The management changes that you suggested, and I'm
9 talking about this circle hook and the length of
10 leader on the bottom bouncing gear, and that sort
11 of stuff, that's essentially to provide you with
12 the ability to do a little more fine-tuning and
13 not just have to hit the on and off switch; is
14 that a fair way of putting it?

15 MS. SNEDDON: Yes, that is correct. So right now, if
16 you want to limit opportunity on sockeye, but you
17 want to still allow that opportunity for anglers
18 to fish for Chinook in the Fraser River when
19 they're more abundant. We don't have that
20 opportunity right now.

21 Q Yes. Thank you very much.

22 MR. MARTLAND: Mr. Commissioner, this may be a good
23 opportunity for the break.

24 MR. LOWES: Mr. Commissioner, I don't want to leave a
25 confusion on the record, so what I will do is try
26 to track down what the document that I was
27 referring to was and perhaps have that document
28 marked through my learned friends, the commission
29 counsel, at some point, so that it's -- we don't
30 have a mess. Thank you.

31 THE REGISTRAR: The hearing will now recess for 15
32 minutes.

33

34 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)

35 (PROCEEDINGS RECONVENED)

36

37 THE REGISTRAR: Hearing is now resumed.

38 MR. MARTLAND: Mr. Commissioner, there's just one item
39 of business to resolve a point that Mr. Lowes was
40 asking about. I'll ask Mr. Lunn to pull up the
41 document Ringtail CAN02 -- sorry, 012736. This is
42 the document that Mr. Lowes had in front of him as
43 he was asking questions. I'll ask Mr. Lunn if he
44 can to zoom in on the small print at the bottom in
45 the middle which shows the source of this document
46 and just by way of assistance, if I can take a
47 moment, I may be able to try to assist with this

1 document. It shows as being from Deborah
2 Sneddon's computer system and if we look at the
3 document itself, there are some parts that are
4 incomplete sentences and the like, which suggest
5 that it was a draft, as opposed to the final
6 version of the document.
7

8 RE-EXAMINATION BY MR. MARTLAND:
9

10 MR. MARTLAND:

11 Q Ms. Sneddon, I haven't shown this or asked you
12 about this today, although I may have done that.
13 My copy has highlights that suggest I may have
14 shown you in the course of an interview possibly
15 but do you recognize that document?

16 MS. SNEDDON: Yes. There -- when looking through the
17 binders over the course of the day, I noticed that
18 there's several versions of this and I believe
19 this is an early draft.

20 Q All right. And then my understanding is that 526A
21 is the final version. Mr. Lowes is nodding "yes"
22 to that, so this suggests this is a draft. And on
23 that footing, I'd suggest it may be appropriate,
24 given the questions that were put, to have this
25 marked. Mr. Registrar has indicated it may be
26 helpful to mark it as 526D, so it's paired with
27 the other documents. And that's the one item I
28 wanted to address. If I could ask that be marked,
29 please.

30 THE REGISTRAR: That will be marked as 526D in sequence
31 with the others.
32

33 EXHIBIT 526D: Draft Memo to RDFAM - Decision
34 Guidelines for the Recreational FRS Fishery
35

36 MR. MARTLAND: And, Mr. Commissioner, in place of
37 Brenda Gaertner for the First Nations Coalition,
38 Anja Brown, A-n-j-a is her first name, is
39 appearing with questions next.

40 MS. BROWN: Thank you, Mr. Commissioner. With me is my
41 colleague, Crystal Reeves, and with the leave of
42 the commission, I would ask that I cover the bulk
43 of the questions this morning and if -- if Mr.
44 Commissioner agrees, Ms. Reeves would attend to a
45 few questions at the end of my cross-examination.
46 Thank you.

47 Since it's my first time before the

1 commission, I do ask for a bit of latitude in
2 terms of timing; however, I have told my friend,
3 Mr. Martland, that I expect to be -- that we
4 expect to be approximately one hour and will
5 endeavour not to go beyond that, but depending on
6 the responses to our questions, it may be that we
7 will spill over into the afternoon session, but
8 we'll do our best.

9 Mr. Lunn, if you could please pull up our
10 document Tab 9.

11
12 CROSS-EXAMINATION BY MS. BROWN:

13
14 Q This is an article written by Russ Jones and
15 Terri-Lynn Williams-Davidson and it's called
16 Applying Haida Ethics in Today's Fishery. And
17 it's an article that's excerpted from a book that
18 was published in January 2000 called *Just Fish:
19 Ethics and Canadian Marine Fisheries*. And I'm
20 wondering if anyone from the panel is familiar
21 with this article?

22 MS. ADAMS: This was the first I have seen it in the
23 materials for the commission.

24 MS. SNEDDON: And the same with myself.

25 Q Thank you. I only have one question with respect
26 to that and it's at page 110 of the article. Now,
27 my question is probably directed to Mr. Tadey
28 because the reference in the article that I'm
29 going to take you to, it's simply one line that
30 talks about the Haida Watchman program and what
31 the article says is that the Haida fisheries began
32 a Watchman program in 1990 and that over the past
33 three years, they'd been conducting detailed creel
34 surveys in cooperation with a majority of the
35 fishing lodges that are operating within Haida
36 territory.

37 And what I was wondering, Mr. Tadey, was
38 whether there's any First Nations involvement with
39 the creel surveys that take place on the Lower
40 Fraser River?

41 MR. TADEY: So I've not seen this article either.
42 Direct -- no, the project itself, when it comes to
43 the creel surveys that I conduct, there's no
44 partnership or anything of that nature with any
45 First Nations group in the lower river. When -- I
46 do know, though, there has been some -- through
47 AFS funding there was some in the Douglas area

1 where there were -- I wouldn't necessarily call it
2 a creel survey, like how I defined it, but
3 certainly there was First Nations -- the Lil'wat
4 Nation that was conducting angler interviews along
5 the upper -- the Lower Lillooet River and I think
6 that's -- you were talking about relationships
7 with certain First Nations groups, right?

8 Q That's right.

9 MR. TADEY: Okay.

10 Q What I was wondering was whether your department
11 had any working relationship with any of the Lower
12 Fraser First Nations in terms of staffing and
13 having First Nations individuals assisting with
14 the creel surveys.

15 MR. TADEY: With regards to staffing for the projects
16 that we conduct on the creel survey, I honestly
17 couldn't tell you if I have any First Nations
18 working for us or not. There's a -- for our
19 staffing, there is an external process that people
20 that want to work for Fraser stock assessment can
21 apply to and there's -- you know, we have to
22 follow the staffing rules and regulations and so
23 on. They have to meet certain qualifications in
24 order to become available to be staffed on our
25 project.

26 Q Right. And Ms. Sneddon, do you have something to
27 add to that?

28 MS. SNEDDON: Yes. In the Lower Fraser area we have
29 what's called a charter patrol program and it
30 assists the department and particular resource
31 management in gathering information around the
32 recreational fishery. And this patrol happens
33 during the week and on weekends, whenever we have
34 fishing, recreational fishing going on that we'd
35 like information about.

36 And it's -- there's two operators, one in the
37 area below the -- it's Mission area and one above.
38 The one above is a contract with a First Nations
39 individual from the Skwah First Nation.

40 Q No, the Haida -- or the Haida article, rather,
41 made reference to working with some of the lodges
42 and we know that there are many lodges operating
43 in Haida territory. I'm wondering if anyone on
44 the panel can comment on the number of lodges that
45 are operating in the Lower Fraser and we heard
46 yesterday about the Fraser River Lodge and the
47 owner, Frank Staiger, I believe his last name was,

1 so can anyone comment on the number of lodges
2 operating in the Lower Fraser?

3 MS. SNEDDON: That's actually the only one that I know
4 of. It's Fraser River Lodge and it's just about
5 opposite from Island 22.

6 Q And are there any charter operations or guides
7 that operate on the Lower Fraser that you're aware
8 of?

9 MS. SNEDDON: Yes, there are. There's a fairly large
10 guiding operation. I think there's two different
11 organizations that have lists of who the guides
12 are in the area. It's not something the
13 department is necessarily privy to. In the
14 guiding operations, they do have representatives
15 at the local Sport Fish Advisory Committee
16 meetings, but the province is responsible for
17 guides and guiding operations.

18 Q And are those operations involved at all in a
19 formal sense with the creel survey or is the
20 obligation or responsibility or involvement
21 perhaps really with respect to the individual
22 anglers?

23 MS. SNEDDON: Well, it's actually both at this time, so
24 Joe was mentioning earlier about the PICFI,
25 Pacific Integrated Commercial Fisheries
26 Initiative, and improvements to catch monitoring,
27 so one of the things we're testing is electronic
28 log books. And some of the guides within the
29 Fraser River are participating in that program and
30 they're provided with hand-held devices and they
31 provide real-time catch information to our catch
32 program. It's not necessarily at this point being
33 incorporated into the creel program as far as I
34 understand. It's still in the testing phase, but
35 it is something we are looking forward to
36 expanding.

37 MR. TADEY: And I'll maybe just add, yeah, there's --
38 they are part of our random samples, but there's
39 nothing formal with any sort of tackle shop or
40 guiding outfit. One thing that we do use these
41 organizations for is with tackle shops and with
42 guides, as well, is to help get messages out on
43 the recreational fishery. So certainly it's a
44 tool, because you tend to see these guides on a
45 regular basis, so we make sure that they are --
46 it's a good source for us to make sure that they
47 understand what we are doing and some of the ways

1 that they can help us collect information.
2 There's biological sampling that goes on in our
3 creel survey, as well, the mark recovery program,
4 it's a coded wire tag program that's used quite
5 extensively. It's a foundational piece of coho
6 and chinook management.

7 Tackle shops are head depots in a lot of
8 cases for the collection of this information and
9 guides, we make sure and we encourage the guides
10 to become familiar with this and from what I've
11 heard, they do participate and make sure that
12 these sorts of messages are delivered to the
13 anglers, I think very similar to the way lodges in
14 the marine areas participate in those sorts of
15 programs.

16 MS. BROWN: If I may, I'd like to have that document
17 entered as an exhibit, please?

18 THE REGISTRAR: Exhibit 540.

19
20 EXHIBIT 540: Jones and Williams-Davidson,
21 Applying Haida Ethics in Today's Fishery -
22 Chapter 6 of *Just Fish: Ethics and Canadian*
23 *Marine Fisheries 2000*
24

25 MS. BROWN: If I could have, Mr. Lunn, please turn up
26 our Tab 18.

27 Q This is a document that was prepared by the First
28 Nations Fisheries Council and as you can see it's
29 a draft for consideration and it has to do with a
30 proposed sports fishing lodge certification
31 program, and I'm wondering if anyone on the panel
32 has seen this document before?

33 MS. ADAMS: I have not seen the document before and I
34 don't believe my colleagues have either.

35 MR. TAHEY: I have not.

36 MS. SNEDDON: I have not.

37 Q Have any of you been involved in any discussions
38 with the First Nations Fisheries Council about the
39 issue of having sports fishing lodges certified?

40 MS. ADAMS: I've had one very minor conversation with a
41 First Nations Fisheries Council member, Mr.
42 Wright.

43 Q And was that in relation to the Lower Fraser or
44 the entire Fraser or perhaps some other part of
45 the B.C. Coast?

46 MS. ADAMS: We spoke about B.C. in general. And I
47 would just add that the conversation we had was

1 that the fisheries -- Fisheries and Oceans Canada
2 does not licence businesses, of which lodges are
3 considered to be. We encourage the First Nations
4 Fisheries Council and I believe some members of
5 Heiltsuk First Nation to engage with the business
6 operators themselves, as well as the Province of
7 B.C. on any type of certification program or
8 protocols within their respective areas.

9 Q Does DFO have any view on whether this sort of
10 certification program - not this specifically, but
11 a certification program in general would be
12 beneficial?

13 MS. ADAMS: Yes, we have had discussion with the
14 Province of B.C., the Sport Fishing Institute of
15 B.C. and we have been a contributor to the CTAG
16 program, which is a Certified Tidal Angling Guide
17 program, which has been led by the Sport Fishing
18 Institute of B.C. which contributions from the
19 Province of B.C. and ourselves, and some -- just
20 quickly looking at this, there's some very similar
21 principles that are part of the CTAG certification
22 program.

23 Q Do you agree that certification programs may be a
24 way to help build relationships between DFO and
25 First Nations and recreational fishers?

26 MS. ADAMS: I think it could be. Several elements of
27 the CTAG certification program talk about respect
28 for other users, understanding the importance of
29 our resources and also important elements of First
30 Nations communities throughout the coast. It's
31 very high level, though, and encourages them to
32 engage with the communities in their respective
33 areas. So, yes, I think it could be an important
34 element. I think there's also many other elements
35 that are important, as well.

36 MS. BROWN: Could this be marked as an exhibit, please?

37 THE REGISTRAR: Exhibit 541.

38
39 EXHIBIT 541: Draft for Consideration - Sport
40 Fishing Lodge Certification Program

41
42 MS. BROWN:

43 Q Now, Ms. Adams, you had spoken in your -- or you
44 had given testimony yesterday with respect to an
45 accreditation program that guides on marine waters
46 were subject to, and I'm wondering, is that a
47 mandatory program or is it currently voluntary?

1 MS. ADAMS: It's currently voluntary and it's being, I
2 guess, launched and administered through the Sport
3 Fishing Institute of British Columbia. The
4 program is an official accredited program through
5 a Province of B.C. post-secondary process.

6 Q And you'd indicated yesterday that the program was
7 for marine guides. And I'm wondering why is it
8 only for marine guides? Why wouldn't it be -- or
9 perhaps it is available to guides that operate on
10 the Fraser, as well, if they're targeting salmon.

11 MS. ADAMS: Yeah, just to be really clear, the Province
12 of B.C. is the government agency responsible for
13 businesses, of which guides and lodges are a part
14 of. The federal government does not licence
15 businesses. I am aware that there is a licence
16 requirement in non-tidal waters that the Province
17 of B.C. has with charter operators and I believe
18 there are training and reporting requirements
19 associated with that, but I'm not familiar with
20 the details.

21 Q So in terms, just to make sure I have it right,
22 the accreditation program that you spoke of
23 yesterday, is that a program that's offered by
24 DFO?

25 MS. ADAMS: No. DFO does not licence or run a
26 certification program for businesses.

27 Q All right. Thank you. Now, we've heard yesterday
28 and also today and also seen in some of the
29 documents a discussion about electronic log book
30 monitoring and that this may be a way to improve
31 catch monitoring overall. Do I have that right?

32 MS. ADAMS: It's one of the tools that we're looking at
33 to complement catch monitoring programs or get
34 real-time data. It's certainly not the only one.
35 As Joe mentioned earlier, there's lots of
36 different ways of collecting information.

37 We also in some of our marine areas, where we
38 don't have sufficient funding or perhaps we have
39 poor weather days, we may also do boat trailer --
40 trailer counts in key parking lots where people
41 launch their boats. So there's a number of
42 different techniques that we use.

43 Q And with the electronic log books, would the guide
44 enter information for each of the anglers that are
45 in his or her boat or how exactly does it work?

46 MS. ADAMS: Yes, it's quite a good system. It actually
47 -- I think it started with some of our test

1 fisheries and then has been used in a number of
2 First Nations fisheries, particularly commercial
3 fisheries. But for recreational fishers, they
4 would -- they have a process where as soon as a
5 line goes into the water it starts recording that
6 and it records it for each participant that's on
7 that vessel, that's on that recreational fishing
8 vessel.

9 Q Now, yesterday Mr. Martland took you to PPR number
10 7 and I'm not going to turn that up, but the
11 particular paragraph that was referenced to was a
12 2007 draft paper that was prepared by the
13 Chilliwack River Watershed Society and there was a
14 bit of discussion about that yesterday. So Mr.
15 Lunn, if you could please turn up our Tab 11. And
16 I just would like to take the panel to that paper
17 and ask some questions. If we could go firstly to
18 page 19.

19 Just to lay out a bit of the context, in my
20 understanding this was a paper that was prepared
21 by this particular group and was really to discuss
22 what was taking place on the Chilliwack River and
23 which was described as unethical or illegal
24 fishing activities. And one of the things that
25 this group attributed some of the problems on the
26 Chilliwack River with was the sockeye fishery on
27 the Fraser and the fact that it was a fairly new
28 fishery as we've heard, that began in around the
29 mid-1990s. And the paper goes on to discuss some
30 of the ways in which the problems could be
31 alleviated, including some of the things that we
32 heard yesterday, such as decreasing leader length
33 and on page 19 one of the suggestions that are
34 made was to close the sockeye fishery on the
35 Fraser altogether and in this particular group's
36 view, one of the problems was that sockeye could
37 not be caught in a sporting way. And one of the
38 concerns that they raised was that by closing the
39 sockeye fishery, it would in a sense eliminate
40 what they described as a gold rush mentality. And
41 I'm leading up to a question here. There is a
42 question attached to it.

43 What I'm wondering is were these concerns
44 formally brought to DFO's attention by this
45 particular group and what was the response?

46 MS. SNEDDON: I would say that I'm not a hundred
47 percent sure they were formally brought to the

1 department's attention. Certainly I've seen them.
2 The Sport Fish Advisory Board, I think, were the
3 people that brought it to my attention. If you
4 look at the acknowledgements on the second page
5 there, it lists a number of different individuals
6 that were involved in the development of this
7 document. There are a couple DFO employees on
8 there. But it was not a DFO-driven document, nor
9 a Sport Fish Advisory Board document. So we do
10 have it and we have read it, but it's not -- not
11 been a formal document for us.

12 Q And some of the recommendations that this group
13 made there may be relevant to some of the issues
14 that we've heard or are concerns on the Fraser
15 River and so I'm going to ask the panel to comment
16 on some of the suggestions that were made by the
17 society. For example, in the bottom of 19 they
18 talk about the possibility or the reasonableness
19 of implementing an annual catch for all species of
20 salmon and they say that that might be a way to
21 help ensure that the stocks aren't being abused
22 and that it might address problems with people
23 cheating on daily or possession quotas. Do you
24 see that as being a possible -- do you see that as
25 a reasonable option for a management tool?

26 MS. SNEDDON: Well, I guess I'd like to start with I'd
27 go back to the list of people who wrote this
28 document. You need to understand who these people
29 are and what their interests are. For example,
30 Chris -- the anglers, Chris Gadsden, Gord Gadsden,
31 Gwyn Joiner, Ken Peters and I believe Rod Toth,
32 are not sockeye fishermen. They are avid, avid
33 bar-fishing fishermen. They do not support the
34 sockeye fishery in any way, shape or form. So
35 their recommendations are phrased in such a way in
36 order to get to that goal that they said close the
37 fishery.

38 Are these, some of these, valid
39 recommendations that could potentially help us?
40 Certainly, you know, the circle hook, the leader
41 length, absolutely. Would an annual catch help in
42 managing the fishery? I'm not sure if it would
43 help us in managing the fishery. It's still a
44 fishery that you go out and participate in.
45 Generally as an angler, you're only taking what
46 you eat, what you personally eat, and it's -- you
47 know, the annual catches we see in other fisheries

1 are generally fairly high. I think in the chinook
2 fishery on the tidal licence it's 30. I don't
3 know anybody who's ever caught that. So I'm not
4 sure that an annual catch is going to make any
5 difference in how we manage that fishery.

6 Again, it also comes down to how do they
7 report that? Currently we have a creel program
8 that assesses it, but we don't have a creel
9 program that would allow us to determine whether
10 or not they've caught their annual limit.

11 MS. ADAMS: If I could also just add, it talks a lot
12 about the ethics of gear and as Department of
13 Fisheries employees, we enforce the legal and
14 illegal methods. And the current methods that Deb
15 and Joe were speaking of yesterday, the bottom
16 bouncing, is a legal method. And within each
17 respective harvesting group that we have, there's
18 always ethical debates on gear and fishing
19 practices, for instance. As Deb mentioned
20 yesterday, I used to work -- I spent over 13 years
21 working with ground fish trawl fisheries and there
22 was always ethical debates on whether government
23 should allow trawl fishing gear.

24 And we have those same discussions amongst
25 the recreational fishing community. There's
26 elements who feel that fly fishing is the most
27 sporting way of catching a fish and we have other
28 people that use gear methods like Deb was
29 describing and showing yesterday, the bottom
30 bouncing technique. So we try and -- it's a bit
31 of a fine line to walk on the ethics of different
32 gears, but we try and stick to managing what is
33 legal and what is illegal.

34 MR. TADEY: Maybe I'll, if I could add as well, just to
35 make the separation between any sort of creel
36 survey we would conduct, that wouldn't be
37 something when it came to annual limits, that's
38 more of an enforcement issue. So again, it's not
39 something that I would welcome to be part of our
40 survey because then there would be that monitoring
41 function and we really try to maintain the
42 separation between the science and the data
43 collection and the enforcement of any regulations.

44 And a comment, too, on the ethics and I
45 think, you know, I'm a -- I've angled, as well,
46 and I still angle and, you know, ethics is not a
47 stationary thing. It evolves and changes through

1 time and I think it's something that certainly I
2 hear a lot of, as well, in the work that I do, but
3 it is something that like, as Deb said, we tend to
4 avoid certainly because -- and in my view it is
5 something that will change and evolve over time.
6 I'm sure there were angling techniques that are
7 currently considered ethical today that were
8 considered unethical 50 years ago, and vice versa.

9 So, you know, things do change over time and
10 I think that's one of the difficulty with us
11 getting involved in the ethics.

12 Q Now, one of the other suggestions that was made,
13 and this is actually towards the bottom of page
14 20, is whether mandatory licensing for
15 recreational anglers might be one of the ways to
16 deal with this -- what this particular group
17 identified as a problem. And my question is
18 whether training for first-time recreational
19 anglers or applicants for such licences is
20 something that the department has turned its mind
21 to.

22 MS. ADAMS: Licences are mandatory for most of the
23 participants. In fresh water, I don't believe
24 they have a juvenile licence, but certainly in
25 marine waters we require that. There used to be,
26 and I think there is still variations of a CORE
27 program, which is a Conservation Outdoor Research
28 Education training program for all resources,
29 birds, fish, large mammals, that anglers and
30 hunters were required to get certified under and
31 that was run by the Province of B.C.

32 I know that a number of the fishing clubs up
33 in the Chilliwack area and Abbotsford area, as
34 well as clubs that belong to the Wildlife
35 Federation, they do have training programs that
36 they administer, but we federally do not do that
37 and I'm not sure of the province's involvement
38 still in the CORE program. Deb might be able to
39 add to that.

40 MS. SNEDDON: Not specifically on that, but back to the
41 licensing issue, so I believe in fresh water you
42 do not have -- if you're a juvenile, so under the
43 age of 16, you do not have to have a licence, but
44 you are required to follow the limits. You are
45 not allowed to take more than the daily limit,
46 even if you don't have that licence.

47 But I don't have anything to add on the CORE

1 program per se, but there are certainly areas
2 around where people can get additional
3 information. One of the community members within
4 the recreational community, his name is Rodney
5 Hsu, he runs an internet site that's called
6 "Fishing with Rod" and it's all about how to fish
7 and how to identify fish and it's actively used by
8 many recreational anglers in the community. And I
9 mean, it's a very useful tool for new and repeat
10 anglers. He puts lots of information about the
11 rules from DFO, as well as how to identify species
12 and excellent resource for anglers.

13 MS. BROWN: Could this document be marked as the next
14 exhibit, please?

15 THE REGISTRAR: Exhibit 542.

16
17 EXHIBIT 542: Draft Issues and Alternatives,
18 Sport Angling Behaviour, April 18, 2007
19

20 MS. BROWN:

21 Q Now, I have a few more questions for the panel,
22 specifically on the issue of training and Ms.
23 Adams, yesterday you compared the recreational
24 angling licence loosely to a driver's licence and
25 that was really in response to Mr. Martland's
26 questions about whether there's some sort of a cap
27 on the number of licences that can be issued each
28 year. But in order to get a driver's licence one
29 needs to undergo some testing, and the same thing
30 is true for, for example, operating a small boat.
31 And it used to be that anyone can do that, but as
32 a result of probably safety concerns there's now,
33 I believe, an online test, a fairly simple one but
34 one that requires the applicant to demonstrate
35 some knowledge of small boat operation and the
36 rules on the water and that sort of thing. And
37 when one passes that test, then one can
38 conceivably apply for the licence.

39 So my question is whether the department has
40 considered doing that as a requirement for
41 anglers. And I would think that with your
42 seasoned anglers, there would certainly be a
43 backlash for doing that sort of thing, but has --
44 is it something that's been considered for new
45 applicants?

46 MS. ADAMS: Fisheries and Oceans Canada has not run
47 angler education programs. We work closely with

1 the fishing clubs and organizations and certainly
2 an element is part of the CTAG program, the
3 Certified Tidal Angling, is around educating.
4 There are participants that they're taking out on
5 the water around species identification, around
6 current government regulations and around
7 releasing fish in the least-harmful manner.

8 We've generally worked with the community
9 groups to try and deliver that and not come from
10 government directly.

11 Q Now, we saw yesterday the angling guide, which is
12 about 80 pages and we've also heard that the
13 regulations are very complicated and one of the
14 purposes of the guide is to put the regulations
15 into an understandable format. So when one
16 applies for a licence each year, is the guide part
17 of the package that comes with the licence or how
18 do anglers obtain the guide?

19 MS. ADAMS: The guide is available online and the guide
20 is also just -- well, the guide that the federal
21 government produces, our distribution is to all of
22 our vendors who issue licences, so Army & Navy,
23 Walmart, Canadian Tire, independent tackle stores,
24 they all receive copies of the Sport Fishing Guide
25 to accompany the issuance of a licence. It's not
26 stapled to the licence, but it's certainly
27 available at those distribution centres, as well
28 as our DFO offices and it's available online.

29 Q Now, we've heard about some of the critical issues
30 and the problems that arise for recreational
31 anglers or that give rise to certain concerns and
32 that especially with respect to sockeye it's a
33 fishery that can change very quickly from year to
34 year and during a particular season, sometimes
35 from day to day and we've heard about selective
36 fishing and the different types of gear types that
37 need to be used and that being able to act as a
38 responsible angler on the Fraser also requires
39 knowledge of being able to identify the fish.

40 So do you agree that there might be some
41 benefit in having some mandatory testing taking
42 place as a prerequisite to obtaining a licence so
43 that the applicant can show that he or she has at
44 least looked at the guide and familiarized
45 themselves with the rules that they need to fish
46 under and that they can act responsibly on the
47 water, whether on the Fraser or in the marine

1 waters?

2 MS. ADAMS: I don't think there's a question that
3 people having that kind of training would be
4 helpful. We tend to rely on the organizations
5 that we work with to deliver those programs. I
6 was involved back in the late '90s and early 2000s
7 working with the B.C. Federation of Drift Fishers
8 and Wildlife Federation members in doing something
9 a bit informal called Fish Smart. And that
10 program was an add-on to our Salmonids in the
11 Classroom program that the department implements
12 and it was about education and awareness and
13 species identification and the rules of the road.
14 And we tend to also use the Sport Fishing Guide
15 that we looked at yesterday in terms of species
16 identification and rules and regulations as
17 another piece of that.

18 Q So right now the -- right now the responsibility
19 is completely on the individual angler to
20 familiarize him or herself with the guide or the
21 regulations and to ensure that they are in
22 compliance with everything that they need to be
23 and also acting ethically on the river; and on top
24 of that, to keep themselves informed of openings
25 and closures and that sort of thing; is that
26 right?

27 MS. SNEDDON: Yes, that is correct.

28 MS. BROWN: Mr. Lunn, if you could please turn up
29 Exhibit 526A. And if we could go to page 2,
30 please.

31 Q And I have some questions arising from the section
32 of that document under Existing Decision
33 Guidelines, which talks about the notice period
34 that's provided to anglers and we've heard about
35 some of the reasons for doing that and we've
36 heard, I believe, from Ms. Sneddon that that's to
37 try and find some way to provide a stable fishing
38 opportunity on the Fraser. And you've also
39 indicated and it says there in the document before
40 us that where possible the department would try to
41 avoid implementing closures on short notice, on
42 weekends and stat holidays because conceivably
43 that's when the most people are out fishing,
44 correct?

45 MS. SNEDDON: I would say that this wasn't about the
46 stable and predictable opportunities. This was
47 about ensuring that we -- if we do implement a

- 1 closure, that we reach the entire audience that we
2 want to reach and because it's a wide geographic
3 area, lots of people out camping on beaches,
4 people in travel status trying to get to a fishing
5 area, that's why we wanted to provide the 48 hours
6 and avoid closing on the weekend.
- 7 Q Right. And I believe, Ms. Sneddon, earlier this
8 morning you indicated to us that typically the
9 food, social and ceremonial fisheries on the
10 Fraser are open from Thursday to Sunday. Did I
11 hear that correctly?
- 12 MS. SNEDDON: I said the set-net fishery in the Mission
13 to Hope area. And it's actually the Mission to
14 Sawmill Creek area.
- 15 Q All right.
- 16 MS. SNEDDON: It's quite different downstream of that.
- 17 Q Okay. Now, what I'm wondering is because it says
18 that this 48-hour window and not advising of
19 closures on the weekend wherever possible, that
20 that's something that the department is committed
21 to following, subject to conservation. But I'm
22 wondering, what would the department's response be
23 if you received information, say late in the week,
24 that the forecast had been significantly
25 downgraded such that the FSC requirements could
26 not be met? What would the response be in that
27 case?
- 28 MS. SNEDDON: In the past if this has happened, we have
29 closed the fishery with very short notice, much
30 less than 48 hours and on a weekend.
- 31 Q And how would that be -- that notice be
32 disseminated?
- 33 MS. SNEDDON: That's definitely our challenge. I mean,
34 it would be out through our fishery notice system
35 which goes out through the internet, goes to all
36 the tackle shops, all the people who issue
37 licences, it goes to people who have signed up to
38 receive fishery notices, it goes to DFO staff,
39 particularly enforcement officers, and other staff
40 like Joe's creel staff who are out on the river.
41 In some cases, we've actually gone out to boat
42 launches and put copies of the notice on all the
43 cars parked in the lot. We do our best to get
44 that information out to as wide an audience as we
45 can as quickly as we can.
- 46 Q And it may be that you can't speak to this because
47 it's an enforcement question, and if you can't

1 answer it, I'm sure you'll let me know. But are
2 any one of you able to tell us what the potential
3 penalty is for a recreational angler who continues
4 to fish during a time that's closed or that's been
5 declared as closed by DFO?
6 MS. ADAMS: I don't have the schedule in front of me.
7 I know there is an exhibit of the **BC Sport Fishing**
8 **Regulations** and the penalties are listed in that.
9 Q Is it a ticketable offence then?
10 MS. ADAMS: My understanding is officers can issue a
11 ticketable offence, but they may also issue a
12 court appearance. It's their choice. Can we just
13 have a minute to find it in the **Sport Fishing**
14 **Regulations**?
15 Q Of course. Thank you.
16 MS. ADAMS: We've just found it in -- which exhibit is
17 this, Deb? The **BC Sport Fishing Regulations**.
18 Look under Canada -- Canada Tab 2. And it's on
19 page 45 and it's listed under Item 62 and fishing
20 for salmon during a closed time, the ticketable
21 offence is \$250.
22 Q Thank you.
23 THE COMMISSIONER: Do we have this document on the
24 screen?
25 MR. LUNN: No, actually, I'm still looking for it, Mr.
26 Commissioner.
27 MS. GRANDE-McNEILL: Mr. Lunn, the CAN number is --
28 MR. LUNN: Can you tell me what list it is on?
29 MS. GRANDE-McNEILL: It is Canada's Recreational
30 Fishery Management list number 2.
31 MS. SNEDDON: Page 45. Right. So Item 62 near the
32 bottom there, Fish for Salmon During Closed Time.
33 MS. BROWN: Thank you.
34 THE COMMISSIONER: Can we mark this, Ms. Brown?
35 MR. MARTLAND: Mr. Commissioner, this is the
36 Regulations and I think we're generally treating
37 law regulations and Acts in a separate category,
38 so if that's correct, I don't know that we need to
39 mark it.
40 MS. BROWN: And that's the reason for my hesitation in
41 asking that it be marked, but I'll certainly
42 follow what the practice has been so far.
43 THE COMMISSIONER: I was just thinking that --
44 MR. MARTLAND: I see some wisdom to that, so perhaps
45 the page 45 from this version, Ringtail CAN002461,
46 could be marked as an exhibit. Thank you.
47 THE REGISTRAR: Exhibit number 543.

1 EXHIBIT 543: Page 45 Excerpted from **BC Sport**
2 **Fishing Regulations** 1996
3

4 MR. MARTLAND: And just because I want to -- I always
5 like to have as clean a record as we could, if Mr.
6 Lunn, if you could go to the first page and this
7 is excerpted, as we'll see from the first page,
8 from the **BC Sport Fishing Regulations 1996**, a
9 Canadian regulations. Thank you.

10 MS. BROWN:

11 Q Ms. Adams, in response to Mr. Lowes' questions
12 from earlier this day, and it was in relation to
13 the exhibit previous to this one, the guideline
14 piece, and you'd indicated that one of the ways
15 that documents such as that one were generated was
16 by engaging in consultation with a number of
17 different groups, including First Nations and I
18 believe you indicated that that was something that
19 you did and I'm wondering if you can advise which
20 First Nations you would ordinarily consult with as
21 part of your position?

22 MS. ADAMS: In the creation of this document, it was
23 not -- we did not consult with individual First
24 Nations. My understanding, this document was
25 shared I think after it was approved, with the
26 Fraser River Integrated Management Team, as well
27 as the Fraser River Panel, which includes broader
28 First Nations representatives, but not individual
29 First Nations.

30 Q Now, yesterday one of the documents that was
31 entered as an exhibit - and I won't ask Mr. Lunn
32 to turn it up - but it was, I believe, a document
33 that Mr. Martland canvassed with Mr. Tadey, and it
34 was the 2004 recreational fishery monitoring and
35 catch reporting consultation document and I
36 believe you indicated that you'd seen it for the
37 first time yesterday.

38 MR. MARTLAND: I'll just -- I think the evidence was
39 that he'd seen it for the first time through the
40 commission, as opposed to for the first time
41 yesterday.

42 MS. BROWN: All right. Thank you for clarifying that.

43 MR. TADEY: Yeah, that's correct.

44 MS. BROWN:

45 Q In any event, Mr. Tadey, my question isn't
46 directed to you specifically. I'm just trying to
47 lay the backdrop for the document, but that

1 document was created in 2004 and one of the things
2 that it states in there is that one of DFO's over-
3 arching projects is to review fees and, in
4 particular, fees for tidal recreational anglers,
5 and we've heard from Ms. Adams today that that
6 continues to be an ongoing issue. And we've also
7 heard that there's a significant cost attached to
8 monitoring.

9 One of the questions that I have with respect
10 to licensing and fees is we've talked about a
11 potential for an increase in fees and the reasons
12 why that might be appropriate. My question is
13 whether there has also been given any thought to
14 having different fees for residents as opposed to
15 non-residents?

16 MS. ADAMS: Sorry, I wasn't sure if that was directed
17 to Mr. Tadey or myself, but I can certainly add my
18 comments is that we already have different fee
19 structures for residents and non-residents and
20 depending on tidal versus tidal, we also have
21 different fees for other Canadians, so we have a
22 British Columbian fee and then other Canadians.
23 So that's already in effect.

24 Q All right. And I don't want to have you turning
25 to any document, but are you able to tell us how
26 much the difference is in the fees right now?

27 MS. ADAMS: In tidal waters the fee for non-residents
28 is five times the amount for residents and --
29 approximately, and I don't recall the non-tidal
30 fees, the difference, but there is -- there is a
31 difference. And just to also add and be clear
32 that there are a number of different licences
33 available and what we see for residents is that
34 most residents in tidal waters and in non-tidal
35 waters, so marine and fresh water, will generally
36 purchase an annual licence because that affords
37 them opportunities throughout the year, depending
38 on the various fish available and their own
39 personal plans.

40 We also have licences available one-day,
41 three-day and five-day licences and the bulk of
42 the non-residents purchase the licences under --
43 well, from one to five days, in that range,
44 because it's part of their holiday package.

45 Q And does DFO currently charge any fees to those
46 persons who operate lodges or guiding operations
47 and who essentially derive an economic benefit

1 from the recreational fishery?

2 MS. ADAMS: Once again, just to be clear, the
3 Department of Fisheries, we only licence fishers,
4 so people who fish. We don't licence businesses.
5 That's done by the Province of British Columbia.

6 MS. BROWN: Mr. Registrar, if you could turn up,
7 please, our Tab 18 -- I'm sorry, the commission's
8 Tab 18, which has not yet been entered as an
9 exhibit.

10 Q This is a briefing note that was prepared for the
11 deputy minister in 2007 and the title is Fraser
12 River Recreation Fisheries for Sockeye. And it
13 summarizes at the top the situation on the Fraser
14 in 2007 where there was a problem with the run.
15 They'd been downgraded to 1.6 million, whereas the
16 initial pre-season forecast was at 6.3 million.
17 And one of the reasons for the briefing note as
18 identified is that there was a concern that First
19 Nations had advised that their food, social and
20 ceremonial needs would not be met. And one of the
21 concerns identified on page 2 and summarized on
22 page 1 is that various measures to reduce
23 encounters with recreational anglers hadn't
24 worked.

25 On page 2 it indicates there that what had
26 been observed - and this is at the second bullet -
27 was that there had been little to no cooperation
28 from the recreational community to utilize
29 selective methods of fishing designed to avoid
30 sockeye. And the next bullet talks about some of
31 the things that the department was engaged in in
32 trying to consult with the recreational community
33 about the problem and to encourage selective
34 methods.

35 I'm wondering if anyone on the panel was
36 aware of this concern in 2007?

37 MS. SNEDDON: Yes, I was. I was actually the Acting
38 Area Chief of resource management this summer.

39 Q And as we can see, there were various options that
40 were considered by the department, the first one
41 which was to close the recreational fishery for
42 salmon on the Fraser between Mission Bridge and
43 Highway 1 at Hope, starting on a particular date.
44 The second option was to close a section of the
45 fishery and that by doing so, the targeted area
46 that the department was thinking of closing was an
47 area where sockeye encounters have been high and

1 that it would reduce the number of encounters with
2 sockeye. So does that mean encounters with
3 recreational fishers?

4 MS. SNEDDON: Right. That's referring to -- when Joe
5 talked about his creel program, he did mention
6 that there was two specific areas that the creel
7 program operates in. One he calls Section 1, one
8 is Section 2, so Section 1 was from Mission to the
9 Agassiz Rosedale Bridge and Section 2 was Agassiz
10 Bridge -- Agassiz Rosedale Bridge to Hope. And in
11 that Agassiz Rosedale Bridge to Hope area, there's
12 a lot of walk-in anglers and bottom bouncing was a
13 predominant method in that area.

14 MR. TADEY: Yeah, just to add to that, that I wasn't
15 actually in my position in 2007 but certainly the
16 information we showed when I looked at the 2009
17 information confirms what Deb indicated there,
18 that the predominant -- bottom bouncing is pretty
19 much the only fishing technique -- you know, it's
20 -- was approaching a hundred percent in that one
21 graph in that area of the river; whereas,
22 downstream you get more bar fishermen that fish
23 down there.

24 Q Then if we could turn to page 4 of that document,
25 which at the top says Appendix 1 and it's a
26 summary of the consultations that the department
27 took place to try and deal with this particular
28 issue. It talks about the issuance of fisheries
29 notices, enforcement staff at the second bullet,
30 on the water engaging with anglers, and then the
31 third bullet says that staff had met with both
32 upper and local Fraser Valley Sport Fishing
33 Advisory Committee members and that the meeting
34 ended with members of that organization agreeing
35 to reinforce the no fishing for sockeye and to
36 take all measures possible to avoid sockeye
37 encounters.

38 Then it says enforcement continued their work
39 educating anglers, handing out brochures, et
40 cetera, but that on an enforcement patrol that
41 took place on August 15th and 16th, apparently 95
42 percent of the anglers between Agassiz Rosedale
43 and Hope were still out on the water using non-
44 selective fishing measures.

45 Are either -- are any of you able to respond
46 to that and to tell us what response, if any, the
47 department took at that point?

1 MS. SNEDDON: Yes. The information there talks about
2 the over-flight conducted by the stock assessment
3 program that Joe is now part of and it did on the
4 over-flights account for 95 percent of the anglers
5 in that area using the bottom bouncing method,
6 which is definitely not as selective. After that
7 notice, I think it actually in the conclusions
8 tells us that the action we took - and I believe
9 we closed the river - might have been the entire
10 river but it might have just been that section to
11 fishing for salmon.

12 Could you go to the conclusions part of that?
13 It might be page... Where are we? It's certainly
14 in there.

15 MR. TIMBERG: It's page 3.

16 MS. SNEDDON: Page 3? Okay. Yeah, Option 1 so page 2
17 will tell you what Option 1 was. Yes, closed to
18 salmon fishing from Mission to Highway 1 Bridge.
19 So in 2007 that was the measure that we took.
20 This is similar to what happened in 2009 as we
21 talked earlier.

22 The difference in 2009 was on August 11th
23 when we put that fishery notice out asking them to
24 fish more selectively, there was a significant
25 change in behaviour, at least in the lower Section
26 1. So 2007 was a challenging year, but it did
27 change the behaviour for recreational anglers in
28 the sockeye fishery in subsequent years.

29 THE COMMISSIONER: Ms. Brown, I'm going to stop you
30 there for the lunch break. I understand we have
31 about another hour of questions left; is that
32 right, Mr. Martland?

33 MR. MARTLAND: Yes, that's premised on my friend being
34 finished by lunch. I don't know how much more she
35 has, but...

36 THE COMMISSIONER: Well, we'll resume at two o'clock.
37 I intend to adjourn, in any event, and to have
38 this panel completed by 3:30 at the latest, so for
39 those counsel remaining in the room who have
40 questions, if you could make sure that you divide
41 up the time so that nobody loses out with this
42 panel, I would appreciate that very much.

43 MS. BROWN: I'll be mindful of that, Mr. Commissioner.

44 THE REGISTRAR: Hearing is now adjourned until 2:00
45 p.m.

46
47 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

1 (PROCEEDINGS RECONVENED)

2
3 MS. BROWN: Thank you, Mr. Commissioner. Could we
4 please enter as an exhibit the document that I was
5 referring to just before the break which was the
6 2007 briefing note for the Deputy Minister.

7 THE REGISTRAR: Exhibit number 544.

8
9 EXHIBIT 544: Briefing Note for Deputy
10 Minister: FR Recreational Fisheries for
11 Sockeye 2007
12

13 MS. BROWN: Thank you. I just have a few more
14 questions.
15

16 CROSS-EXAMINATION BY MS. BROWN, continuing:
17

18 Q Ms. Sneddon, we heard this morning from you about
19 a situation in August of 2009 where you indicated
20 that, as a result of a downgrade in the forecast,
21 it was necessary to change the gear type that the
22 recreational fishers were engaging in.

23 MS. SNEDDON: Yes, that's correct.

24 Q And then we saw Exhibit 538A which was the Excel
25 spreadsheet that showed the breakdown between the
26 use of the various gear types before and after
27 August the 13th. It appeared by looking at that
28 graph --

29 MS. BROWN: And perhaps Ms. Lunn could pull it up,
30 please. It's 538A.

31 Q I just want to ensure that I've interpreted Figure
32 2 correctly, and Mr. Tadey, perhaps you can
33 confirm this. Is it correct that after August
34 11th, the figures show essentially an 80 percent
35 non-compliance rate with the change in gear type?

36 MR. TADEY: If you're referring to the top line. Is
37 that what you're referring to?

38 Q Yes, I'm just trying to understand what we see
39 happening and what the response was to the change
40 in regulation after August the 11th.

41 MR. TADEY: After August 11th, what you see is there is
42 a change in pattern, but what you see is that in
43 -- again, it's broken up into two sections there.
44 In section 2, which is that top black line with
45 the circles, the predominant fishing technique is
46 still the bottom bouncing technique. Yes, I mean,
47 I'm looking at it and it looks like it's around 85

1 percent, right after -- around August 11th.

2 Q Right.

3 MR. TADEY: After August 11th.

4 Q So, Ms. Sneddon, would you agree that the
5 situation in August 2009 was similar to what was
6 seen and responded to by the Department in 2007
7 which we were discussing just before the break?
8 So there was a variation to the regulation, and
9 then there was an observation by the Department
10 that the regulation was not being complied with
11 and that there was still a prohibited gear type
12 being used.

13 MS. SNEDDON: Okay. So in both years, the Fraser River
14 non-tidal waters in early August were open to
15 fishing for salmon which included fishing for
16 sockeye. They could catch and release them. That
17 was the legal -- that was what was legally allowed
18 at that time.

19 In the middle of August in each year, when
20 the run size estimates came in low, there was a
21 request to change their methodology of fishing.
22 It was not a regulation change at that point
23 because we don't have the ability to regulate
24 bottom bouncing versus bar fishing.

25 Q Right.

26 MS. SNEDDON: So we requested they use a more selective
27 method of fishing. When we saw a change in
28 behaviour in one area versus the other, we made a
29 decision that one area should be closed to fishing
30 for salmon and the other area could remain open
31 for fishing for salmon with allowing retention of
32 chinook but non-retention of sockeye.

33 Q Right. And, sorry, are we talking about 2007 or
34 2009?

35 MS. SNEDDON: 2009.

36 Q All right.

37 MR. TADEY: And to add to that, this figure shows the
38 difference as well in the lower section that
39 remained open. So if you look at the yellow
40 lines, that top yellow line with the circle shows
41 bottom bouncing technique in the lower section and
42 the square yellow line shows the bar rig gear in
43 the lower section.

44 After August 11th, you'll see in fact that
45 the proportion of anglers using -- on our next
46 survey, the proportion of anglers using the bar
47 rig actually was slightly higher than the

1 proportion using the bottom bouncing. So there
2 did seem to be a more stronger response in the
3 section 1 over section 2. Section 2 was
4 subsequently closed and section 1 remained open.

5 Q So the response in 2009, then, was ultimately the
6 same as in 2007, which was to close a portion of
7 the river; is that right?

8 MS. SNEDDON: It was. In 2007, it was a larger portion
9 of the river.

10 Q All right.

11 MS. ADAMS: If I could just add something to this as
12 well in a more context way. Our practice with
13 fisheries in general with different harvesting
14 groups is if we're seeing non-compliance, we bring
15 it forward to their attention. We ask for
16 possible solutions to get compliance and we then
17 ask the communities to implement those measures
18 and, if they don't, we take action. So we've done
19 that with commercial fisheries as well.

20 Q And when you "take action", do you mean get
21 enforcement involved?

22 MS. ADAMS: No, we may implement closures. If I could
23 use an example, for instance with the Area F troll
24 operating in northern B.C., the Department had a
25 requirement for them to report certain information
26 and certain biological samples like DNA, and we
27 weren't getting the compliance that we had
28 expected, or were committed to with the fishing
29 community and we brought that forward to them. It
30 continued to be poor and the Department closed it.

31 Q So if there was non-compliance from the
32 recreational sector, at what point would the
33 Department's response be to involve enforcement?

34 MS. ADAMS: Yeah, I think what we're talking about here
35 is management approaches. The enforcement
36 officers will enforce illegal activity in any of
37 the fisheries how they see fit within their
38 jurisdiction.

39 Q All right. Just a few questions on licensing. To
40 pick up on what was testified to yesterday, that
41 currently about 80 percent of the licences are
42 issues as paper licences with about 20 percent
43 online. I believe Ms. Adams yesterday testified
44 that a move towards 100 percent electronic would
45 be a step in the right direction.

46 Can either of you, Ms. Sneddon or Ms. Adams,
47 indicate whether the Department is moving towards

1 100 percent electronic licensing?

2 MS. ADAMS: Our goal has been to increase electronic
3 licensing and it's for a number of reasons. One
4 is cost, the other is better service delivery. We
5 have a green agenda with federal government
6 policies in trying to reduce paper. We see it as
7 a better database for us to be able to do sub-
8 samples, for instance, a survey. It's an option
9 for a number of different aspects including
10 enforcement, but we're also mindful and regulated
11 by the **Privacy Act**. It's certainly an option.

12 The provincial government, as I mentioned
13 earlier this morning, they have gone to a near-100
14 percent for fresh water, for non-tidal waters. I
15 think it's something -- we've implemented a
16 voluntary approach to it and that was about five
17 years ago, and we're at 20 percent now. We see an
18 increase.

19 But the demographics of our fishery have been
20 older males that don't have access to computers or
21 don't even know how to turn them on. And the
22 communities, some of the remote areas like the gas
23 station in Boston Bar might not be able to get
24 access to a computer at a certain time, and they
25 felt that they wanted to have a back-up of a paper
26 copy in their possession, and I believe the
27 province still offers that back-up option in case
28 electronic systems go down.

29 Q I believe the other thing you indicated yesterday
30 and you touched on just now as well is that it may
31 be a means -- if there is electronic licensing, it
32 may be a means to enhance enforcement strategies
33 and that with a paper licensing, the Department is
34 unable to see if someone has unpaid fines or track
35 that in any way if for whatever reason, they're
36 prohibited from fishing, correct?

37 MS. ADAMS: I think it would be more accessible in a
38 timely manner. Our enforcement officers have
39 copies or have access to all of the copies of
40 paper licences. There's, I think, three carbon
41 copies that are available. There's the original
42 that goes to the licence holder, and then we --
43 the vendors retain a copy and the Fisheries and
44 Oceans offices get a copy of that licence as well.

45 So time-wise, yes. In terms of catch-
46 monitoring, I think it could be a good audit tool.
47 We prefer to have the on-ground folks, the face-

1 to-face interviews. There's a lot of benefits to
2 doing that rather than having anonymous
3 submissions or not being able to ask follow-up
4 questions through electronic means.

5 Joe may be able to add a few more bits to
6 that as well.

7 MR. TADEY: Only that certainly when it comes to the
8 estimation of catch or harvest in a recreational
9 fishery, any method or any technology -- sometimes
10 technology you use has pros and cons. Things cost
11 -- you know, it may be more -- it may be cheaper
12 to run an electronic survey of anglers, but you do
13 lose certain components, certain flavour to that
14 sort of survey. It is good to have -- we have
15 found in instances it's been good to have on-the-
16 ground observers there observing things that are
17 occurring in the fishery. You get a proper feel
18 for the fishery that way.

19 So that would be something that would be lost
20 going to -- I feel it would be lost going to an
21 electronic system. I think with these sorts of
22 things, it's just another tool in the toolbox. I
23 think you have to apply the tool appropriately in
24 order to get the best benefit from that tool.

25 MR. MARTLAND: Mr. Commissioner, I'm just going to
26 point out for my friend's benefit we're at about
27 65 minutes of this in the 30 to 60-minute
28 estimate.

29 MS. BROWN: And I'm at my last set of questions. If we
30 could just turn up Exhibit 445, please. It's the
31 2010/2011 Integrated Fisheries Management Plan,
32 and if we could please go to page 56. At the
33 bottom of the page, I'm looking at the section on
34 recreational fisheries, and in particular the last
35 paragraph that states that in certain situations,
36 recreational fisheries with a non-retention
37 restriction may stay open while First Nations FSC
38 fisheries are closed, provided that the
39 recreational fishery isn't targeting the stock
40 that's of conservation concern.

41 My question is this: Would you agree that
42 that's a situation that has arisen from time to
43 time on the Fraser River and caused a fair amount
44 of conflict between First Nations and DFO?

45 MR. TIMBERG: Mr. Commissioner, before the witness
46 answers the question, my friend has not read the
47 full sentence in because the sentence -- it says:

1 FSC fisheries directed on stocks of concern
2 are closed --
3

4 I think that's an important part of the sentence,
5 so perhaps, for the record, I'll just read the
6 whole sentence.
7

8 In some cases, recreational fisheries with a
9 non-retention restriction in place will
10 remain open while First Nations FSC fisheries
11 directed on stocks of concern are closed,
12 provided the recreational fishery is not
13 directed on the stock of concern, nor is the
14 impact on the stock of concern significant.
15

16 MS. BROWN: Thank you, Mr. Timberg, and I certainly
17 wasn't intending to mislead the witness. I was
18 trying to paraphrase, so if I created the wrong
19 impression I apologize there.

20 MS. SNEDDON: Right, okay. I think that this type of
21 situation has happened in the past, and I don't
22 think it's just First Nations/recreational thing.
23 I think what we're talking about here is selective
24 fishing, and if one group or sector can fish
25 selectively in a time period where there are
26 stocks of concerns, those fisheries can proceed
27 while others may be closed or limited.

28 MS. BROWN:

29 Q And the appropriateness of that management
30 approach depends completely on the ability of
31 recreational anglers to engage in selective
32 fishing properly and to be able to identify the
33 species of fish that's of conservation concern.
34 It's also dependent upon the existing
35 understanding of mortality of fish that have been
36 caught and then released, correct?

37 MS. SNEDDON: I would say that not just in recreational
38 fisheries but in other fisheries as well. For
39 example, the beach seine fishery for chum for the
40 First Nations in the Mission to Hope area, it's a
41 fishery that takes place when other fisheries are
42 closed, because it is a much more selective
43 fishery than a drift gillnet, so it takes into
44 account what's the impact on the stock of concern,
45 can people avoid the stock of concern if possible.
46 And, if not, can they release it unharmed, and
47 what would be the potential impact in total from

1 the fishery on that stock of concern.

2 MS. BROWN: Thank you. Those are my questions, and Ms.
3 Reeves has a few questions and then we will be
4 completed.

5 MR. MARTLAND: Mr. Commissioner, I believe Ms. Brown
6 canvassed at the outset of her questions whether
7 her colleague might ask questions as well. We've
8 been, as Commission counsel, just so the message
9 we've sent on is clear, discourage that unless
10 there's some reason for it. With Mr. Timberg and
11 Ms. Grande-McNeill, there was some reason for it
12 because we'd combined the panellists. I think
13 they had addressed with you and may have
14 understood you to have agreed with that. I don't
15 know if you're -- I think the other difficulty we
16 now have is one of timing.

17 MS. BROWN: I did seek leave of Mr. Commissioner at the
18 outset.

19 THE COMMISSIONER: I think this is really
20 straightforward. We have about an hour and ten
21 minutes left, and if all the counsel who are here
22 who are left to ask questions can divide that up
23 fairly, then I'm content with your proposal.

24 MS. FONG: I don't think it'll be a problem.

25 MS. REEVES: Thank you, Commissioner. For the record,
26 Reeves, R-e-e-v-e-s, initial C., for the First
27 Nations Fishery Council.

28

29 CROSS-EXAMINATION BY MS. REEVES:

30

31 Q Ms. Sneddon, this question I think is for you. If
32 I recall correctly from yesterday, you briefly
33 mentioned mortality from improper hooking in a
34 catch-and-release fishery; is that correct?

35 MS. SNEDDON: I'm sorry, I don't quite understand.

36 Q Yesterday, you just briefly mentioned that from
37 improper hooking, that can cause mortality in a
38 catch-and-release fishery on a fish? I believe
39 you just mentioned that yesterday, if it swallows
40 the hook, and hooking is an impact on mortality.

41 MS. SNEDDON: Okay. I wouldn't call that improper.
42 It's just how the fish is taking the hook, whether
43 it's biting it or whether it's being, as we talked
44 about yesterday, flossed through the mouth. So I
45 wouldn't call it improper.

46 Q Okay. Besides hooking as a factor, would you
47 agree there's other factors that can affect

1 mortality in a catch-and-release fishery?

2 MS. SNEDDON: I would say, yes, there are other
3 factors, and not just in a catch-and-release
4 fishery, but in all fisheries where there's
5 release of non-target species. There are other
6 factors. Some of those were listed in the report
7 from the catch-and-release study.

8 Q Right. And such things as air exposure, time and
9 angling duration and these kinds of things?

10 MS. SNEDDON: Yes, that is correct, as well as
11 handling, how you handle the fish.

12 Q Right. And so given the potential number of
13 factors that could impact materially in a catch-
14 and-release fishery, you'd agree that it's kind of
15 complicated to assess these factors and consider
16 how they would affect mortality.

17 MS. SNEDDON: I wouldn't be the expert to answer that
18 question. There are studies going on, one of
19 which is our catch-and-release study where there's
20 a biologist working on that information as well as
21 from the National Science and Engineering Research
22 Council, the NSERC study that is looking at all of
23 those types of things, the air exposure, the
24 handling practices, the time it takes to play a
25 fish. That's all in there.

26 Q Okay, thank you. My next set of questions, very
27 briefly, and then I'll complete my questioning is
28 for more directly at Mr. Tadey.

29 Yesterday and today you talked about the
30 difference between precision and accuracy and this
31 morning you talked about how an increasing
32 precision could come from an increased sampling
33 size; is that correct?

34 MR. TADEY: Yes, that is.

35 Q And today you also mentioned the challenges
36 associated with gathering, I guess, data on
37 release numbers when in a catch-and-release
38 fishery, the numbers that are released. You
39 discussed, I believe, challenges with that?

40 MR. TADEY: No, not a challenge in collecting the
41 information. We collect a lot of information on
42 released fish. It's not a challenge, it's more
43 just -- it is a recall issue. So there will be
44 error associated with people recalling how many
45 fish they released in certain situations. I think
46 I highlighted that, arguably, in some situations
47 if you've caught zero fish and released zero, it's

1 not going to be something you're going to have a
2 problem recalling. So there's a situation where
3 it's not in issue. One fish might not be an
4 issue, but certainly if you've been out there
5 fishing for a day and you've landed and released
6 ten fish over the course of a day, or 15, unless
7 you're recording it, I could see where that might
8 be a recall problem where you may say that I've
9 released 12 when really it was 14, or that you
10 released 14 when really it was 12.

11 So it's not a challenge with collecting the
12 information on catch-and-release, it's just that
13 on that particular type of data, there can be a
14 recall error associated with the collection of it.

15 Q Okay, with respect to the --

16 MS. SNEDDON: Can I add to that?

17 Q Sorry, go ahead.

18 MS. SNEDDON: I just wanted to say, and I think Joe has
19 pointed it out before - I hope he had and I didn't
20 miss it - that the primary goal of the creel
21 program is to assess catch, the number one goal.
22 The secondary is the release information.

23 Q Okay. You did mention this morning when you were
24 talking about the recall issue, that some anglers
25 record the number of catch and release in a
26 logbook or themselves, they -- you mentioned that
27 this morning.

28 MR. TADEY: Yeah. You know what? That was where I do
29 know some anglers that record very specific
30 details about when they went fishing, what the
31 conditions were like, what sort of gear they used,
32 what they caught, but, you know, as to the degree
33 that that occurs in the fishery, I have no idea.
34 It's not something that we ask anglers or measure
35 or assess.

36 Q Right. So I guess that leads nicely into my next
37 question, and I'm thinking that would you agree
38 that one way or one tool in your toolbox that you
39 could increase, say, precision in sample size on,
40 say, release numbers, would be to ask anglers to
41 log their catch-and-release numbers and submit
42 these logs to your Department for survey data
43 purposes. Would you agree with that?

44 MR. TADEY: It wouldn't help with precision, because
45 the precision is just necessary -- it's the sample
46 size. The sample size would remain the same.

47 What it might affect would be the accuracy on

1 the recall. So if they are -- certainly if
2 someone is recording the number of fish they
3 release and then they can report that to us, in
4 certain situations I would think that might be
5 beneficial. Certainly there's errors associated
6 with that sort of data-recording as well to make
7 sure they actually tick it off and to make sure
8 that they can add and the like.

9 So it wouldn't have anything to do with the
10 precision, no, but certainly it could help with
11 the recall, and again, that's on the release
12 numbers.

13 MS. REEVES: Okay. That's all my questions. Thank
14 you.

15 MR. MARTLAND: Thank you. Mr. Dickson is next.

16 MR. DICKSON: Thank you, Mr. Commissioner. Yes, for
17 the record, it's Tim Dickson and I represent the
18 Sto:lo Tribal Council and the Cheam Indian Band.
19

20 CROSS-EXAMINATION BY MR. DICKSON:
21

22 Q I'd like to start by asking the panel, and
23 probably Mr. Tadey, some questions about the
24 growth of the recreational fishery for sockeye in
25 the Lower Fraser. Mr. Tadey, as we'd heard
26 yesterday, a retention recreational fishery for
27 sockeye was opened on the Fraser for the first
28 time in 1995?

29 MR. TADEY: You know what? I'm just going from memory
30 and I think that's more of a management question.
31 Certainly the Fraser was assessed in 1995, the
32 recreational fishery was, but...

33 MS. ADAMS: Yeah, I can just add to that. I moved out
34 to the lower Fraser area in late 1996, and the
35 fishery had just commenced on or around 1995.

36 Q Very well. Thank you, Ms. Adams. Since it was
37 first opened, it has grown, I think it's fair to
38 say, rapidly. It's gone from being closed in 1994
39 to 125,000 fish being taken in 2002; is that
40 correct, Mr. Tadey?

41 MR. TADEY: Excuse me, what year again?

42 Q 2002. Mr. Commissioner, I don't know if the -- I
43 don't believe that the Technical Report number 7
44 is in evidence yet, but -- yes, but in case it's
45 at all helpful, there is a table on page 50 of
46 that report that sets out that figure.

47 MR. TADEY: Okay. I can't recall, but it would be --

1 and what I have in front of me doesn't go back to
2 2002.
3 Q And what you have in front of you, does it go back
4 until 2006? I believe the number there is
5 134,000; is that correct?
6 MR. TADEY: That's correct.
7 Q Yes. And that --
8 MR. TADEY: That's the estimate of sockeye retained in
9 our study area for study duration, yes.
10 Q And, for the record, I believe you're probably
11 looking at Exhibit 532 at page 21.
12 MR. DICKSON: I don't need you to go there, Mr. Lunn.
13 Thank you.
14 Q Mr. Tadey, how many fish were retained in 2010 in
15 the recreational fishery in the lower Fraser?
16 MR. TADEY: That one is in my memory.
17 Q How many sockeye?
18 MR. TADEY: I'm sorry?
19 Q How many sockeye?
20 MR. TADEY: In sockeye, that's a preliminary estimate
21 right now and it's roughly 200,000.
22 MR. TADEY: Yes.
23 Q Ms. Sneddon, I believe you said yesterday that at
24 peak times when there's a high abundance of
25 sockeye, there may be as many as 1500 anglers on
26 the river. And I just want to clarify that point.
27 Is that at any one time?
28 MR. TADEY: Maybe I can answer that. Is with our over-
29 flights that we do during the day, we try to hit
30 the peak of that activity profile and it's right
31 around eleven o'clock, ten o'clock. It can vary.
32 In years where there's a sockeye retention fishery
33 and it has, in the last couple of years -- well,
34 not in 2009 'cause it was closed -- but this past
35 year, yeah, it can approach 1500 anglers that we
36 will count actively fishing in the hour it takes
37 to do that over-flight.
38 Q Right. That's 1500 anglers in one hour, and per
39 day, it's obviously going to be more.
40 MR. TADEY: Yeah.
41 Q Per day --
42 MR. TADEY: Haven't worked out the calculation, but,
43 yes, it's --
44 Q It's in the thousands.
45 MR. TADEY: Yes, I wouldn't imagine those anglers are
46 the only anglers that are fishing during the day.
47 Some would fish for shorter durations and some

1 longer.

2 Q And when we're speaking of the area here, it is
3 essentially Mission to Hope; is that correct?

4 MR. TADEY: That's our study area, yeah. Mission to
5 Hope, mouth of the Coquihalla is actually our
6 upper bound (sic).

7 Q And that is where the Sto:lo bands are located; is
8 that correct? You agree?

9 MS. SNEDDON: That is where some of them are located,
10 yes.

11 Q Yes. And you'll agree that the Sto:lo have a
12 large and active FSC fishery?

13 MS. SNEDDON: Yes, the Sto:lo do in that area for sure.

14 Q With this rapid influx of recreational fishers
15 into the lower Fraser, into this area, one of the
16 things that we've seen is some conflict between
17 anglers and First Nations on the river. Is that
18 correct, Ms. Sneddon?

19 MS. SNEDDON: Yes, that is correct.

20 Q And I believe, Ms. Adams, you spoke of this
21 yesterday that -- you described some of that
22 conflict and the most heightened example is Chief
23 Willie Charlie of the Chehalis band being shot in
24 the face, and I don't want to rehash that, but
25 will you agree with me that the conflict is at
26 times quite serious?

27 MS. SNEDDON: That was actually me. I mentioned that.

28 Q Oh, I'm sorry, Ms. Sneddon, yes.

29 MS. SNEDDON: Yes. You know, what happened in 2009
30 with Chief Willie Charlie was an anomaly. It was
31 certainly not the norm of the conflict that is
32 going on in the Fraser River. It was an extreme
33 action by a fisherman that I wouldn't call a
34 recreational angler, and an unfortunate incident
35 that has actually, in the long term, really
36 changed the relationship between recreational
37 anglers and the First Nations in that area now
38 with a really good working group that has a lot of
39 dialogue and is working together to try and
40 educate each other around their own fisheries and
41 their own interests.

42 Q Yes. And I will ask you about some of those
43 efforts in just a moment. But my clients regard
44 some of the conflict as troubling and, at times,
45 serious. Would you agree with me that it is a
46 cause for concern?

47 MS. SNEDDON: I think any time there's conflict or the

1 potential for conflict between any sector, it is
2 cause for concern. We've had similar conflicts
3 down in the lower river in the Musqueam and
4 Tsawwassen fisheries with commercial fishermen.
5 The Department takes that very seriously.

6 Part of our management strategy is to have
7 orderly and safe and manageable fisheries and so
8 we take that information that's going on out in
9 the river into account when we're planning our
10 fisheries.

11 Q Yes. My clients, the Sto:lo have expressed other
12 concerns in relation to the recreational fishery.
13 Those include garbage being left along the river
14 and human waste from the recreational fisheries as
15 well, and anglers trespassing on band lands. Will
16 you agree that you have heard some of those
17 concerns expressed by First Nations?

18 MS. ADAMS: Probably just taking a bigger picture look
19 at this. When you have a large group of people in
20 a small area over a very short period of time,
21 whether it's fishing or having the PNE or the
22 Olympics down here on Granville Street, there are
23 social issues. There are also illegal activities,
24 and we work closely -- our enforcement staff work
25 closely with the RCMP in enforcing illegal
26 activity or physical conflicts, those types of
27 things. In certain scenarios, the Department has
28 taken action for closing areas until we address
29 trespassing issues, until we address waste issues.

30 I worked closely with a group up at Hope on
31 the Landstrom Bar when there were similar issues
32 as you describe. The Department asked the
33 community to work with us. We closed the area, we
34 worked with the District of Hope, the CN Rail, a
35 number of residents in the area and we cleaned it
36 up and re-opened once measures were in place.

37 We also, in working with the recreational
38 community, we were concerned about management and
39 enforcement and assessment capabilities during the
40 sockeye fishery in the Fraser at night-time. We
41 implemented probably - I don't recall the exact
42 dates, but somewhere around eight years ago - we
43 implemented night-time closures for salmon fishing
44 on the Fraser. So you're not allowed to fish one
45 hour after sunset, and not until one hour before
46 sunrise.

47 Deb, you may want to answer some more.

1 MS. SNEDDON: I guess just that - I know you were going
2 to ask a question shortly - but to resolve some of
3 these problems, like we're talking about human
4 waste and garbage. If you get in a boat and you
5 drive from Mission to Hope, there's one place
6 where there's a public washroom, and that's at
7 Island 22.

8 Q Yes.

9 MS. SNEDDON: There's one place where there's garbage
10 and that's Island 22. So anglers and other --
11 anybody who's out on the river needs to take care
12 of the environment and needs to take care of their
13 garbage and be respectful of people's private
14 property.

15 I know that the First Nations Rec Fish
16 Dialogue Group that's working is looking at a
17 proposal to build some facilities on the river to
18 address some of these situations.

19 Q Yes, and I intended to ask you about this a little
20 later on, but we'll go to it right now. Yes,
21 First Nations and the angling community, I
22 understand, are working together to try and
23 address some of these issues, and it is true that
24 in -- recently they are having some positive
25 dialogue and taking some good steps forward.

26 But what is DFO doing to help these measures
27 being addressed?

28 MS. SNEDDON: Well, I guess, first off, the group is a
29 subsection of the Fraser River Salmon Table which
30 is getting funding through the Department so --

31 Q Yes.

32 MS. SNEDDON: -- we are providing funding for those
33 meetings. We are attending those meetings and
34 participating in the discussion and, where we can,
35 we're supporting them when they're putting forward
36 proposals to get funding to move -- from other
37 agencies to move forward on these proposals.

38 Q Yes, we'll come back to that. Now, when the
39 Department opened up the retention recreational
40 fishery for sockeye on the lower Fraser back in
41 the mid-'90s, I'm advised that DFO did not consult
42 with the Sto:lo. Would you accept that, Mr.
43 Sneddon or Ms. Adams?

44 MS. SNEDDON: No, I don't think -- and I'm pretty sure
45 Devona nor I can say that that's the case. We
46 were not in a position that would have been
47 consulting with the First Nations in that area at

- 1 that time. It's someone else from DFO.
2 Q You did not -- oh, I see. You did not occupy a
3 position --
4 MS. SNEDDON: So we don't know whether or not it was --
5 there was consultation or not.
6 Q You cannot -- you cannot say one way or the other
7 whether there was --
8 MS. SNEDDON: That's correct.
9 Q Very well. In 1999, through the Salmon Allocation
10 Policy, the Department decided to allow the
11 recreational fishery for sockeye, for Fraser
12 sockeye to harvest up to five percent of TAC. I'm
13 again advised that the Department did not consult
14 with the Sto:lo at that point.
15 MS. SNEDDON: I would vehemently disagree with that.
16 One of my very first jobs when I worked in the
17 Aboriginal Fishery Strategy section in our head
18 office, was to take the draft allocation policy
19 out on a road show, and I met with First Nations
20 throughout the watershed. I was on the road for a
21 month. I went to many communities including
22 Sto:lo Nation offices in Chilliwack and met with
23 them, went through the document, asked for advice
24 and then we followed up later, again, asking for
25 advice on the document.
26 Q In 2006, that five percent allocation was
27 continued as we've seen earlier today, and I
28 understand that, at that point, the Sto:lo were
29 not consulted. Would you agree with that, Ms.
30 Sneddon or Ms. Adams?
31 MS. ADAMS: I can't speak to that specifically. I know
32 the allocation policy that was implemented in 1999
33 continues to this day. As I mentioned earlier
34 today, we did speak with the commercial fishing
35 organizations and recreational fishing
36 participants about where we were in a continuum of
37 the five percent cap from 1999 to 2010, and those
38 discussions happened in January.
39 Q Very well. You cannot confirm that the Sto:lo
40 were consulted?
41 MS. ADAMS: I don't have any knowledge of that.
42 Q I want to return a little bit to the conflict that
43 sometimes has arisen between First Nations and
44 anglers on the Fraser. Some of that arises when
45 they get in each other's way. From the First
46 Nation perspective, they get upset because they're
47 trying to exercise their constitutional right to

1 fish for FSC purposes, and they're fishing in
2 their traditional territory where their people
3 have fished forever, and the anglers have -- it's
4 relatively recent phenomenon that all these
5 anglers are in the area, and so they get
6 frustrated.

7 Would you agree that that is one of their
8 frustrations that is expressed?

9 MS. SNEDDON: Well, I think that the conflict between
10 First Nations and recreational is -- it's not just
11 there. Again, it's between recreational and
12 recreational. It is a lot of people in a small
13 area. There is definitely some conflict between
14 First Nations and recreational that has begun in
15 the last number of years.

16 More particularly, in more recent years,
17 there's been a bit of a shift in the gear type
18 that is being used by First Nations in that area.
19 Prior to -- I think it was 2005, the majority of
20 First Nations that fished in the Mission to Hope
21 area used what's called a set net, a set gillnet.
22 It was tied to the shore and then anchored out in
23 the river.

24 With the change of -- a bit of a change of
25 the river bottom, a bit of a change in mentality
26 about what people wanted to use as a preferred
27 method, the Department and First Nations came to
28 agreement to allow drift gillnetting. So instead
29 of just stationary nets, now they're going to move
30 down the river.

31 So now we've got two groups of people
32 competing for the same fish in the same area. So
33 we have drift nets actively fishing in areas where
34 recreational fishermen are fishing. I mean,
35 they're both looking to catch fish. The fish
36 migrate in the same area where they're trying to
37 fish. And on weekends or when the First Nations
38 FSC fisheries open, they're both out there at the
39 same time, and it does, at times, cause conflict.
40 But, as I said, it's definitely decreasing in the
41 late 2009 and 2010.

42 Q And one of the reasons it's been decreasing a
43 little bit, I think you were touching on a moment
44 ago, Ms. Sneddon, and that's the Salmon Table
45 Society fostering discussions between First
46 Nations and the recreational community.

47 MS. SNEDDON: Yes, that is correct.

- 1 Q And DFO is providing some funding for the Table
2 Society. And First Nations in the area and B.C.
3 Wildlife Federation made that video "River
4 Manners" and that was trying to encourage --
5 promote better etiquette on the river; is that
6 right?
- 7 MS. SNEDDON: That's correct. It wasn't just B.C.
8 Wildlife. It was B.C. Federation of Drift Fishes.
9 It was the entire group of people that I don't
10 have all the names of, but the entire group put
11 that together, including actually the RCMP and
12 DFO, DFO enforcement staff and all the First
13 Nations in the area that are party to that table.
- 14 Q Yes. Am I right in thinking that DFO supports
15 these efforts to develop greater respect between
16 the two different sectors?
- 17 MS. SNEDDON: Yes, absolutely. And when we have our
18 meetings, particularly that I'm aware of, at the
19 Sport Fish Advisory Committee meetings, we do our
20 best to educate people about First Nation fishing
21 practices and rights and continue to do that.
22 I know that when I worked in the Aboriginal
23 Fisheries side of things, I did the same on
24 educating them about the other fisheries.
- 25 Q And I wanted to ask about any efforts that DFO is
26 making directly, on its own part, to promote
27 greater respect in the angler community for First
28 Nations when they're exercising their FSC rights.
29 I want to take you to a document just to put this
30 into context.
- 31 MR. DICKSON: Mr. Lunn, it's number 5 from the
32 Commission's list. That's now Exhibit 517.
33 Thanks. And if you could go to page 8, please.
34 This is the "Tidal Waters Sport Fishing Guide".
- 35 Q Ms. Sneddon, I believe you held the pen, as it
36 were, on this document; is that right?
- 37 MS. SNEDDON: Yes, I've been the recent penholder for
38 this version that's up here and the next one, but
39 not the Code of Conduct, just to be clear. The
40 Code of Conduct was developed and endorsed by the
41 Sport Fishing Advisory Board as themselves, to
42 police themselves, to say what's the best
43 behaviour we should be presenting.
- 44 Q Very well. And it was the Code of Conduct that I
45 wanted to ask you about, because -- if you'll see
46 in that top paragraph underneath the heading,
47 "Code of Conduct", it says that fishing

1 responsibility not only means protecting the
2 environment and the resource, but also practising
3 safe fishing habits and respect towards others.

4 Down at point 4, it states -- it advises
5 anglers to respect the rights of property owners
6 and other outdoor enthusiasts.

7 I turn to this Code of Conduct, and I'd hoped
8 to see a statement that anglers should respect
9 First Nations people on the river or elsewhere
10 when they're exercising their rights to fish, and
11 I don't see that. I want to ask you is there
12 anywhere else I might see that?

13 MS. SNEDDON: I don't think it's missing from here. I
14 think it's part of that first statement: It's
15 respect towards others. You know, this Code of
16 Conduct I think was developed a number of years
17 ago, quite a while before there was the conflict
18 on the river. It was -- the Sport Fish Advisory
19 Board is a provincial body. You know, it's marine
20 waters, it's fresh water and it's everywhere. I
21 think that they currently have great respect for
22 First Nations. You can see that at the meetings
23 that we go to.

24 Although it's not specifically identified
25 here in this Code of Conduct, this Code of Conduct
26 wasn't here to address the problem that's going on
27 in the Fraser right now. That's why the brochure
28 that was done up -- I don't know if you've brought
29 a copy of the brochure --

30 Q No, I didn't.

31 MS. SNEDDON: -- and the video that the group put
32 together last year. It specifically talks about
33 First Nation rights and being respectful of that.

34 Q Yes, and I'm wondering if -- I mean, this is the
35 Sport Fishing Guide that's going out with
36 licences, and it's communicating from DFO to
37 anglers a number of things including how to
38 conduct oneself while angling. I'm wondering --
39 you know, I expected to see here DFO making some
40 effort to advise anglers how to act to reduce any
41 level of conflict between them and First Nations
42 and I don't see it.

43 Is there any other communication that I might
44 look at from DFO - not from other groups - but
45 from DFO that is aiming at reducing conflict in
46 that way?

47 MS. ADAMS: Quite often we put notification in our

1 fishery notice system which is the in-season
2 communication device about respecting a number of
3 different participants in the fishery including
4 First Nations. I think the point is -- it's not
5 explicitly stated here, but we can certainly add
6 suggestions to it and add any comments that people
7 have in terms of suggestions for better improving
8 education and awareness.

9 Q Yes. Would you agree that it is important to
10 communicate to anglers that First Nations are
11 exercising constitutional rights to fish when
12 they're fishing FSC at least?

13 MS. ADAMS: We -- oh, sorry, I thought you were --

14 Q No problem at all.

15 MR. LOWES: Well, I rise because there's a premise in
16 that question that I think is controversial, that
17 First Nations are exercising constitutional rights
18 when they're fishing, and some First Nations are
19 and some First Nations aren't. It's a question of
20 law involved in there and I have a problem with
21 that.

22 MR. DICKSON:

23 Q Yes. And I said when fishing for FSC purposes, at
24 least. And, Ms. Sneddon, Ms. Adams, do you think
25 that, I mean, do you draw a distinction? Do you
26 say, well, oh, some First Nations may be fishing
27 according to Constitutional Rights and some may
28 not?

29 MS. ADAMS: Your start of the question was
30 communication of First Nations fishing activities
31 and rights, and I would say on an ongoing basis
32 with all of our engagement we have with the
33 various stakeholders, we make known that, you
34 know, First Nations FSC fisheries have priorities,
35 and it's a regular part of our dialogue. It's in
36 our Integrated Fisheries Management Plan. It's
37 spoken about often at the Integrated Harvest
38 Planning Table discussions. It's spoken about at
39 Round Table, where we have First Nations and
40 recreational fishers and commercial fishers and
41 community folks sitting at the table. So it's
42 something that is always communicated when our
43 staff are engaging.

44 Q Yes. What you're speaking of there is priority
45 and allocation, is it not? And what I'm asking
46 about is communicating to anglers when they're out
47 actually fishing to respect and share the river

1 with First Nations.

2 MS. SNEDDON: I'm not 100 percent sure how to answer
3 that question. I mean, as Devona said, when we
4 work with our other stakeholders, we're clear to
5 them about the First Nations priority. When we
6 put on my other hat, when I work with First
7 Nations and we met with them and they always
8 wanted us to acknowledge rights, that our
9 statement is, is that the Department isn't about
10 acknowledging rights. We're about providing
11 opportunities to fish. And so that's why we, when
12 we're talking to recreational anglers, we're
13 saying we're recognizing that First Nations have a
14 priority, not a right. That's the Department of
15 Fisheries' stance, as I understand it.

16 Sorry, I'm going to just be a little bit
17 clearer. That it's the role of the courts to
18 determine whether or not a right exists and in
19 some cases that has happened, like the *Sparrow*
20 case determined there was an aboriginal right with
21 Musqueam. But right now DFO, when we're having
22 our discussions, we say we recognize that you have
23 priority.

24 Q Let me just ask you again about some of the other
25 concerns that I raise, which is garbage, trespass,
26 lack of washrooms. The only washrooms are at
27 Island 22, as you noted, Ms. Sneddon. And are
28 these concerns for DFO? Are these -- are these
29 issues that the Department is making efforts at
30 addressing? And, Ms. Adams, I believe you were
31 speaking a little bit earlier about this.

32 MS. ADAMS: We've tried to work with different, other
33 governing agencies in the respective fishing
34 areas. I gave an example earlier about us working
35 with the City of Hope. There was a problem in
36 Hope area, we went to them. The Department of
37 Fisheries doesn't manage toilets. We don't manage
38 boat launches. We don't manage trespassing across
39 the CN Rail. There's other organizations that are
40 involved. We bring them to the table and we try
41 and look at the solutions together. And we have
42 provided some funding for different groups to do
43 signage around waste, and trespassing. We have
44 worked with the municipalities. The Fraser Valley
45 Regional District has worked at Island 22 in
46 putting in better boat launches.

47 So it's a multi-agency approach to it. It's

1 not just the Department of Fisheries looking at
2 garbage and waste and a lack of toilets and
3 fishing line. The Sport Fishing Advisory Board
4 and the Chilliwack Watershed Group that was spoken
5 about earlier today, they're also actively
6 involved in picking up fishing line and garbage
7 and Bouncing Bettys and fish guts on the river to
8 try and clean up the activity that's going on. So
9 we've participated in it. We continue to
10 participate in it as one of the players at the
11 table.

12 Q And I take it, then, that the Department is
13 committed, going forward, to supporting those
14 efforts, including through funding. Is that
15 right, Ms. Adams?

16 MS. ADAMS: We provide minimal funding towards this.
17 We try and work with other organizations, and I
18 know, for instance, there's a group up at Hope
19 that has applied to a different funding pot to
20 help them do beach cleanup, as has the Chilliwack
21 River action group. So we only get so much money
22 allocated to us, and we have to make the best
23 choices, based on our mandate around meeting our
24 objectives. So spending money on a toilet or a
25 boat launch, I mean, those are priority budget
26 decisions, but we provide some minimal funding to
27 it, but it's certainly not the area -- I think
28 where we would rather see it is in catch
29 monitoring programs, and in developing the
30 Integrated Fisheries Harvest Plans.

31 Q Yes, because these issues are important to my
32 clients. They're living in the area, and they're
33 seeing these impacts all around, and there hasn't
34 seemed to be very much funding in order to address
35 them. And it is the Department that has opened up
36 this fishery and there's a bit of gold rush feel
37 to it in a year like 2010, and that's why I raise
38 the questions. And will the Department take those
39 concerns more seriously, going forward, if there's
40 going to be this recreational fishery on the Lower
41 Fraser.

42 MS. ADAMS: Well, just to reiterate, the Department
43 does take them seriously, and we look at all of
44 the different programs and objectives that we're
45 asked to work on, and we develop a plan to try and
46 do that. And as I mentioned, our preference with
47 dealing with some of the social issues around

1 garbage and lack of toilets and lack of boat
2 launches is to work with other agencies to try and
3 make improvements there. And I think we have and
4 we'll continue to do so.

5 Q We've seen this rapid growth in the recreational
6 fishery on the Lower Fraser, and I'm wondering at
7 what point does it become rational and important
8 to limit the number of licences issued for the
9 area. And I think those licences are issued by
10 the province; is that correct, Ms. Sneddon?

11 MS. SNEDDON: Yes, they are issued by the province, and
12 it would be a decision from them about whether or
13 not to limit them.

14 Q Yes. And so DFO is opening, is allowing for the
15 recreational fishery to go on, but it's actually
16 the province who is issuing the licences. We've
17 got a bit of a division in jurisdiction there.

18 MS. SNEDDON: Yes, that is correct.

19 Q And at what point will DFO work with the province
20 to consider limiting the number of licences for
21 the Lower Fraser for the recreational fishery. I
22 mean, is there a point at which that would begin
23 to be considered?

24 MS. SNEDDON: Well, there's two parts to that, I think.
25 First off, the province does have a policy in
26 place right now, or program in place to actually
27 increase licence sales and increase the people
28 fishing in the freshwater environment within the
29 province. That is definitely part of their goal.
30 I think that the fishery gets limited somewhat by
31 the 95/5 percent cap, which is why last year in
32 2010 we had the discussion around whether or not
33 we should increase catch limits in that area and
34 how that might potentially affect that 95/5.

35 If there was a situation where the fishery in
36 the Mission to Port Mann area was going to affect
37 that 95/5 percent, then the Sport Fish Advisory
38 Board itself would probably be making some
39 recommendations about the fishery, however they
40 may do that. It may not be limited participants,
41 but it might be limited in some other way.

42 Q And another concern that my clients have is, you
43 know, just the number of people out on the river,
44 and I take it that part of that is because not
45 only are they participating in a retention
46 fishery, but there's also the catch and release
47 aspect of recreational fishing. And I believe I

1 heard yesterday that one option, one management
2 tool that is available to the Department is to
3 limit fishing to the bag limit. I guess, you
4 know, when you reach your daily limit, the rod has
5 to come out of the water and there's no more catch
6 and release at that point. Is that a tool
7 available to DFO?

8 MS. ADAMS: Not at the current time. It would require
9 a regulatory proposal.

10 Q I see.

11 MS. ADAMS: And as I mentioned yesterday it's something
12 that the province uses with steelhead management.

13 Q Right.

14 MS. ADAMS: When a person catches their steelhead, then
15 they must cease fishing for steelhead. I also
16 observed it in person being used in Lake
17 Washington during a sockeye fishery there where
18 folks were only allowed one sockeye per day in
19 Lake Washington, and there were thousands of
20 anglers out there. And when they caught their
21 sockeye, the line had to come into the boat.

22 MS. SNEDDON: And also I'd just like to add, you asked,
23 you made a statement that anglers are going out
24 there for retention and also for catch and
25 release. But what our information shows is that
26 if it's only open for catch and release, there's
27 minimal effort out there, very minimal. When it's
28 open for retention, people are out there, and lots
29 of people during a sockeye fishery. But when it's
30 just open for catch and release, it's not.

31 People, I mean, although it's somewhat cheaper to
32 fish in freshwater, people don't want to just go
33 out there and catch and release fish all day long.
34 They want to take something home to eat. It's a
35 social thing. It's also a food issue for them..
36 They like to go and get something to eat, as well.

37 Q Yes, and I'm wondering whether the human impact in
38 the area could be reduced by this management tool
39 that we've been discussing. Would you expect
40 there to be any result if there was a retention
41 aspect but no catch and release after you've hit
42 your daily limit, or are people just going home
43 anyways now when they reach their daily limit?

44 MS. ADAMS: I don't know the answer to that. I think
45 what I'd suggest is it would be important to speak
46 with the Province of B.C. about how that
47 management tool works with their steelhead

1 fishery. There's a lot of division within the
2 recreational community about that type of a
3 regulation and whether or not it works. So I
4 think we'd have to do more analysis on it and find
5 out from our colleagues in the province if it's an
6 effective tool.

7 Some people, their idea of recreational
8 fishing is to go out and be away from people and
9 have a very peaceful experience. Other people in
10 the recreational community, they don't mind being
11 shoulder-to-shoulder and crossing lines and
12 getting their gear tangled up. So it's not really
13 the Department of Fisheries staff's position to
14 say what a quality experience is. It might be on
15 a remote lake, or a remote river, or it might be
16 shoulder-to-shoulder on the Fraser during a
17 sockeye fishery.

18 THE COMMISSIONER: Mr. Dickson, I just wanted to ask
19 how much longer you might be.

20 MR. DICKSON: I would expect to be three or four
21 minutes longer, Mr. Commissioner.

22 THE COMMISSIONER: I just want to make sure, Ms. Fong,
23 I think you also have some questions?

24 MS. FONG: Yes.

25 THE COMMISSIONER: What's your time estimate?

26 MR. SONG: Ten or 15 minutes.

27 THE COMMISSIONER: Right. Because as I mentioned, we
28 have till 3:30, so I want to make sure everybody
29 gets their chance.

30 MR. DICKSON: Yes, thank you, Mr. Commissioner.

31 Q My last set of questions, I just want to ask you
32 about the role of First Nations in the sport
33 fishery, and I'd like to take you to a document to
34 provide the context, and that's the First Nations
35 Coalition's document number 23, Mr. Lunn. Yes,
36 and if you could go to page 4, Mr. Lunn. And as
37 you can see from the -- hopefully you saw just
38 flashing on the first page there, that this is a
39 document called "Exploring Ways to Improve Our
40 Understandings Around Monitoring and Compliance",
41 and it's a Fraser River Salmon Table workshop
42 discussion.

43 And, Ms. Sneddon, I believe you were at this
44 workshop that was held in November of last year?

45 MS. SNEDDON: Yes, actually, Joe and I both were at
46 this workshop.

47 Q Oh, yes.

1 MS. SNEDDON: And I believe that this is a draft
2 report.

3 Q Yes.

4 MS. SNEDDON: Okay.

5 Q Yes, that's correct. And if we could go to page
6 4, Mr. Lunn, right at the bottom. The last full
7 sentence says:

8
9 The panel pointed out that there are limited
10 safe/secure launching areas along this
11 stretch of river, only a few camping
12 facilities, and trail access points to the
13 more remote sites are poorly kept and over-
14 used. This represents real opportunities to
15 develop facilities for these fisheries, and
16 to enhance economic benefits from the local
17 fisheries in ways that engage First Nations
18 who own lands along the shores of the lower
19 Fraser gravel reaches.

20
21 And, Ms. Sneddon, is DFO making any efforts to
22 promote First Nation businesses and opportunities
23 related to the sport fishery in the Fraser River?

24 MS. SNEDDON: I would say that the short answer would
25 be no. The Department's role is to manage
26 fisheries. But by being involved in this process
27 and working with the First Nation dialogue group,
28 First Nation/Rec Fish dialogue group, we are
29 supporting stewardship and co-management
30 processes, and we're providing funding for that
31 group. And we're supporting proposals they're
32 putting forward to other funding agencies to get
33 funding to move forward with these types of
34 activities.

35 Q Yesterday I heard you speak about what the
36 recreational fishery adds to the economy, and you
37 painted that picture of Joe's Tackle Shop in
38 Chilliwack and how it looks during an opening of
39 high abundance. And I think you were speaking, I
40 read it anyway, as being a fact that the sport
41 fishery adds economic benefits and that being a
42 point in its favour. And I want to know if I
43 could, where do we see DFO's commitment to making
44 sure that local First Nations are sharing in the
45 economic benefits of the sport fishery?

46 MS. SNEDDON: Well, I guess what I'd say is that I
47 don't think DFO in its role today in managing the

1 recreational sockeye fishery is managing the
2 economics of the fishery, and as such that's not
3 our role is to manage the economics of it. It's
4 to manage the fishery of which it has economic
5 benefits similar to commercial and similar to
6 First Nation economic fisheries. There are
7 numerous First Nation economic opportunities in
8 the Fraser River on sockeye, particularly in 2010.
9 But nothing that I know of directed at
10 recreational, integrating with recreational
11 opportunities.

12 MS. ADAMS: I would just add that not specific to the
13 Fraser, but in other areas, First Nations have
14 come to the Department and asked us to facilitate
15 discussions and arrangements with private
16 businesses like lodges and charter operators. And
17 our view is that those are discussions to happen
18 between First Nations and private businesses if
19 they want to engage in some business ventures and
20 business relationships.

21 Q Your position is that you will not become involved
22 in order to support those discussions and with
23 First Nations.

24 MS. ADAMS: I think it depends on the particular
25 proposal that's coming forward. I mean, we
26 certainly work with First Nations on doing some of
27 our assessment work. A number of folks work up in
28 the Squamish-Lillooet watershed helping us with
29 stock assessment work. But private business
30 ventures, no, that's not the Department of
31 Fisheries' role. That's a business community role
32 with a separate partner.

33 MR. DICKSON: Thank you, Mr. Commissioner. Those are
34 my questions.

35 MR. MARTLAND: Mr. Commissioner, I have Ms. Fong next,
36 and I should point out Mr. Timberg thought he had
37 two additional questions. And, sorry, Mr.
38 Registrar.

39 THE REGISTRAR: Do you wish that last document to be
40 marked.

41 MR. MARTLAND: I think that's appropriate it be marked.

42 MR. DICKSON: Thank you very much, Mr. Registrar, I do.

43 THE REGISTRAR: It will be Exhibit number 545.
44
45
46
47

1 EXHIBIT 545: Exploring Ways to Improve Our
2 Understandings Around Monitoring and
3 Compliance, Draft, November 17, 2010 Fraser
4 Salmon Table workshop discussion
5

6 MS. FONG: Lisa Fong for Heiltsuk Tribal Council and
7 with me is Ming Song, my co-counsel.
8

9 CROSS-EXAMINATION BY MS. FONG:
10

11 Q I will probably be substantially less time,
12 because I think Mr. Dickson asked you a question
13 which will assist me, and you answered that. I
14 just want to pick up with Mr. Dickson's question
15 regarding the Code of Conduct. So I'm counsel for
16 Heiltsuk and we're not in the Fraser River, as I'm
17 sure you're aware. Yes.

18 And their experience, like in terms of the
19 conflict, my clients tell me that the main
20 conflict that they encounter with respect to FSC
21 fishing and recreational fishermen is that
22 recreational fishermen will
23 intentionally/unintentionally block their boats in
24 being able to conduct their fishing, and they ask
25 them to move aside, to let them conduct their
26 fishing, and that's when conflict arises. And I'm
27 advised that sometimes it can be very serious and
28 it can be instead of just a verbal altercation, it
29 can be a physical altercation causing damage to
30 gear or to the boat itself.

31 Are you, Ms. Adams or Ms. Sneddon, aware of
32 this type of conflict arising in the Central
33 Coast?

34 MS. ADAMS: I'm aware of it in very general terms and I
35 would say that I also see that conflict between
36 commercial fishers and recreational fishers in
37 other areas, as well. And that we have been
38 working with the Sport Fishing Institute under the
39 Certified Tidal Angling Guide Program to address
40 issues such as you're raising.

41 Q Okay. And when I was listening to the testimony
42 about the code of conduct, what I was wondering
43 was this, because the code of conduct, as pointed
44 out by Mr. Dickson, sits in a document, which I
45 understand is widely distributed to recreational
46 fishers and is a document that's currently being
47 redrafted by Ms. Sneddon and her fellow staff

1 members and other supporters.

2 So what I wondered was, isn't one of the easy
3 solutions to the conflict, which, for example, my
4 clients are experiencing, is a more detailed
5 roadmap, so to speak, for these recreational
6 users. And I'm going to focus on recreational
7 because we're in the recreational section of the
8 hearing, and we've already gone past the
9 commercial section. But a roadmap specifically
10 for this particular situation, and it might be as
11 simple as, when asked by a First Nations person
12 conducting their First Nations fishery to move
13 aside so they can conduct their fishery, do so.

14 So is that something that's possible in
15 redrafting this code of conduct, this particular
16 document?

17 MS. ADAMS: I think the code of conduct, although this
18 was developed in the late 1990s or early 2000,
19 they're not static. If the world has changed and
20 there's important things that are missing there
21 from whatever perspective, we would consider
22 making amendments to that and working with the
23 recreational community to do that. I know there's
24 also a code of conduct in the provincial
25 government's freshwater fisheries regulations.
26 There's codes of conduct that apply to the
27 commercial fishing community, and so we would take
28 those kinds of suggestions for improvement, for
29 sure, absolutely.

30 MS. SNEDDON: I'd just like to add that, you know,
31 we've been talking about the next version of this,
32 and I'm in the middle of writing it. It's
33 actually gone to print two days ago, thank
34 goodness. It's behind schedule. But so this is
35 also something we would want to talk quite a bit
36 with the Sport Fish Advisory Board process group
37 about before we, you know, just unilaterally make
38 changes. Because they were the ones that
39 developed this. So there would be a process to go
40 through. We're certainly open to it, and I think
41 it's a very good idea. And as I pointed out
42 before, we do amend this guide in-season, in the
43 first year of the guide because we usually don't
44 print enough for the entire time period.

45 Q Great. And as I understand the SFAB does not have
46 a First Nations representative on the board; is
47 that correct?

1 MS. ADAMS: No, that's not entirely correct. The Sport
2 Fishing Advisory Board, there's a terms of
3 reference which you have in your documents, and it
4 reflects the composition of the advisory board --
5 or, sorry, of the recreational fishing community.
6 But in certain areas we have First Nations
7 participate when and where they want to, and some
8 of them are members. And our processes are open
9 to the public. We have commercial fishermen
10 attending them. We have other interested
11 community groups attend them. So they're open.
12 It's not a closed venue.

13 Q So, for example, if there were to be modifications
14 to the code of conduct to provide for reduction of
15 conflict and specifically to the conflict between
16 First Nations FSC fishing and recreational, what
17 I'm hearing you say is that First Nations people
18 can participate in those discussions at the SFAB.

19 MS. ADAMS: Yes. I think all of us want to minimize
20 conflict where and when we can, and if having
21 participation from First Nations or any other
22 folks that are in conflict, it might even be
23 property owners in Hope, or CN Rail, they're
24 welcome to come to us and we'll consider making
25 some improvements to our current process.

26 Q Yesterday you talked about a phrase -- I'm sorry,
27 Mr. Tadey.

28 MR. TADEY: Just maybe an observation, something to add
29 on this. You know, when I read the code of
30 conduct here with regards to this, usually with
31 code of conducts for myself, and I've been
32 involved in children's sports and a lot of code of
33 conduct there with not only the participants but
34 the coaches and the parents and the like, the code
35 of conducts usually are meant to address --
36 they're written in such a manner that they aren't
37 very specific to individual events, but they're
38 meant to address pretty much broad scope anything
39 that might come up. So they're written in such a
40 sense.

41 So I mean, I'm reading this and I'm seeing
42 number 9 on code of conduct, and I read:

43
44 Respect the space of others.

45
46 And to me that means everybody. I think you can
47 interpret that, leave room for everyone to fish.

1 So I think when it comes to code of conducts,
2 at least from my perspective, there's a benefit to
3 being broader, because it encompasses everybody's
4 interests. Anyways, that's my observation there.

5 Q Great. And, Mr. Tadey, you'd agree with me that
6 one can be broad and specific at the same time,
7 right?

8 MR. TADEY: I'd have to see it. I would imagine you
9 could be, but I'd have to see it. I mean,
10 certainly with this one here, like I say, the
11 number 9 there, you know, it's something that when
12 I read that, I'm inclusive, that's my perspective.
13 That's what I look at. And First Nations fishing
14 for FSC, whether it's a recreational/First
15 Nations, commercial/recreational, any of those,
16 this to me encompasses it all.

17 Q Let's move on to Exhibit 527, which is the Vision
18 for Recreational Fisheries in British Columbia --
19 or sorry, it's 517.

20 MR. LUNN: That's actually what I have.

21 MS. FONG: That's the guide. I'm talking about the
22 Vision for Recreational Fisheries, I have it
23 marked as --

24 MR. LUNN: That's 527.

25 MS. FONG: Five-twenty-seven that would be. Thank you.

26 Q I just want to understand a bit more about where
27 this document is going, and I don't know if as a
28 panel you're able to tell me, because I know it's
29 a work in progress, what's going to happen with
30 this document. As I understand it, in the
31 introduction it says that it's intended to create
32 a common understanding, common basis for the
33 management and development of the recreational
34 fishery. So it's not an allocation document.

35 And then on the backside of it, and we don't
36 need to go there, there is an indication that the
37 list of participants in the Visions working group,
38 and in the working group, I don't see First
39 Nations representatives. But I do see under
40 paragraph I, under "Next Steps", and maybe you can
41 assist me with that, Mr. Lunn, "Next Steps",
42 paragraph I, page 13. There is an indication that
43 the Vision document was reviewed by First Nations'
44 organizations and other organizations and there
45 were comments and submissions that were received
46 which were, if I understand this, properly
47 incorporated into this document. Is that right?

1 MS. ADAMS: Yes. I was involved in this, as I mentioned
2 yesterday. This Vision document work was
3 complementary under the Pacific Fisheries Reform
4 process, where Pearse/McRae had a joint task force
5 looking at mostly First Nation and commercial
6 fisheries. And then there was a subsequent
7 process where First Nations put together a
8 document called "Our Place at the Table". And
9 both those documents focused mainly on First
10 Nations and commercial fisheries for the future,
11 what the vision would be.

12 Q Mm-hmm.

13 MS. ADAMS: The recreational community came to the
14 Department, as I mentioned yesterday, expressing
15 concerns that they didn't see themselves in either
16 of those documents in terms of where their vision
17 was. And we considered that, and agreed that we
18 needed to work with the recreational fishing
19 community on developing a vision for recreational
20 fisheries. Through that process, as I mentioned
21 yesterday, once we developed a draft document, we
22 took the document through a number of consultative
23 processes, as Deb mentioned earlier today.

24 We have a fall consultation road show that
25 goes around the province where we talk to a number
26 of groups, and specifically First Nations in major
27 areas. We did not consult with every individual
28 First Nations in British Columbia, but we
29 certainly put the offer forward to the First
30 Nations Fisheries Council, Brenda McCorquodale,
31 that we were willing to meet with any groups that
32 were interested to meet with us and have any
33 further dialogue and specific dialogue on any of
34 the issues.

35 So part of your first question is, well,
36 what's next, and what's going on. And as I
37 mentioned yesterday, I mean, we just basically
38 have got the horse out of the barn here, and we're
39 trying to figure, okay, how do we actually take
40 action on this Vision. And there's a couple of
41 key areas, principles within the Vision around
42 building relationships and shared stewardship and
43 some of the initiatives that we are on the fringe
44 of and encouraging the recreational community are
45 initiatives as Deb was mentioning earlier, the
46 Fraser Salmon Table, the Fraser group that works
47 in Chehalis, so we're trying to work with groups

1 to build relationships.

2 We're also working on catch monitoring.
3 We're working on access and allocation. So
4 there's a number of items in the document that
5 we're trying to make some traction on. And they
6 will involve First Nations and have involved First
7 Nations.

8 Q Is there a timeline for this, for the completion
9 of the action and implementation?

10 MS. ADAMS: No.

11 Q Okay. I just have a question about "Strategic
12 Goal #2" which is over on page 11, and this might
13 have been responded to, or you might have
14 responded to this in relation to Mr. Dickson's
15 question, but I just want some clarification on
16 this. "Strategic Goal #2" is:

17
18 Realize the full social and economic
19 potential of the recreational fishery.
20

21 And then it goes on and it talks about how
22 "Recreational anglers from all around the world
23 come" and concludes that it generates "wealth and
24 employment" for our province. Is there a
25 dimension of this strategic goal that involves
26 creating economic opportunities for First Nations
27 when recreational fishery happens on their
28 territory or in their waters?

29 MS. ADAMS: This particular strategic goal has not been
30 actioned yet. It's something that I know the
31 recreational community and the Department are
32 looking at approaches on how we might move this
33 forward. But I do know that there's a number of
34 recreational fishery participants that are working
35 on private arrangements with First Nations in
36 respective territories, which we're not privy to.
37 Those are separate business relationships, but
38 they are recreational fishing components.

39 Q And I heard you say to Mr. Dickson that the line
40 that DFO draws in terms of the economic
41 opportunities for First Nations, is that where
42 it's private, or it's a private enterprise, such
43 as a First Nations with a lodge, DFO doesn't get
44 involved; is that correct?

45 MS. ADAMS: Yes. As I've mentioned a few times, the
46 Department of Fisheries licenses fishers. We
47 don't license businesses, and we're not involved

1 in the business transactions. That would be our
2 colleagues, the Province of B.C.

3 Q But does DFO collaborate with the province so as
4 to be able to use a combination of the powers to
5 license and to provide fishery licences and
6 business licences so as to benefit the First
7 Nations. Is there that level of collaboration to
8 create economic benefits through sports fishing?

9 MS. ADAMS: Well, I'm aware, and I've seen in the
10 documentation here just on Monday that there were
11 some discussions going on in Haida Gwaii between
12 the Province of B.C., and DFO and Haida Gwaii
13 around opportunities as you're suggesting. But
14 I'm not aware of any other, and I was not involved
15 in that process so I don't know the depth or the
16 scope of what was being discussed at that table.

17 Q Okay. And in your position as the head of
18 Regional Recreational Fisheries Coordinator, would
19 that be something that you'd be aware of if it
20 were happening now, a collaborative process with
21 the province, or is that better asked of somebody
22 else?

23 MS. ADAMS: It's not a given that I would be aware of
24 it.

25 Q Okay. That's my question with respect to this
26 document. And my last question is going to be
27 taking us back to the IFMP South, Exhibit 445,
28 page 56, and the same paragraph that Ms. Brown
29 referred to, page 56.

30 So my question is this paragraph, which has
31 been read into the record already, I want to make
32 sure I understand sort of the scenario that could
33 arise under this paragraph. So my understanding
34 of this, of a scenario that could arise, is that
35 First Nations FSC fishery could be closed for, for
36 example, sockeye salmon, but the recreational
37 fishery for a different stock, different type of
38 salmon, could be open and that's allowable because
39 the recreational fishery is not retaining the
40 catch, but also is not somehow impacting the
41 sockeye significantly. So is that a possible
42 scenario under this operational guideline?

43 MS. SNEDDON: No, I think you're reading it wrong. so
44 what it's saying is that in some cases the
45 recreational fishery might remain open, let's say,
46 in the Fraser River and we have a conservation
47 concern for Early Stuart sockeye.

1 Q Mm-hmm.

2 MS. SNEDDON: And the fishery may remain open for
3 chinook fishing, because they can fish with a hook
4 and line. They can release any sockeye that they
5 might catch, with minimal mortality. The First
6 Nation fishery would be closed on that stock of
7 concern because their gear type is less selective.
8 It's a gillnet that generally has, if you look in
9 the IFMP on one of the pages, I think we have a 60
10 percent mortality rate.

11 Q Right. But this section also recognizes that the
12 recreational fishery, there's no guarantee that
13 there won't be any effect on that stock of concern
14 because it does say:

15
16 ...nor is the impact on the stock of concern
17 significant.

18
19 So it could be the scenario that First Nations
20 fishers are sitting there not being able to do
21 their FSC fishing, while recreational fishers are
22 affecting that stock of concern, albeit, from
23 DFO's point of view, in an insignificant fashion.

24 MS. SNEDDON: No, I think more likely the case is that
25 First Nation fishery is given the opportunity to
26 fish selectively and if they can, they are
27 authorized to fish.

28 Q So you're saying it's absolutely impossible, the
29 scenario which I've suggested, which is that there
30 could be a situation where the First Nation
31 fishery is not permitted to fish that particular
32 stock but the recreational fishery is affecting
33 that stock, albeit insignificantly.

34 MS. SNEDDON: I don't think I want to be as definitive
35 as it's completely impossible. In my
36 understanding of the fishery and how we've managed
37 it currently, that's not happened in recent years.
38 The fishery for First Nation would be open if they
39 were able to fish selectively. If they want to
40 use gear that is selective enough to have the same
41 type of minimal impact, their fishery would remain
42 open.

43 So, like, for example, in that exact
44 situation I was just talking about, where the
45 recreational fishery is open for hook and line for
46 chinook when there's a concern for Early Stuart,
47 the First Nation fishery has been open using a

1 large mesh gillnet. So a large mesh gillnet, it's
2 bigger, it allows more fish, they can go through
3 the mesh without being gilled, although it still
4 does have an impact on that stock of concern. But
5 it is a larger mesh. It's more selective and they
6 are open. But they're not open to keep those
7 sockeye, because that's the stock of concern.

8 Q Right. And the significance, then, who decides on
9 the significance? It's DFO that decides whether
10 it's a significant impact or not on that stock of
11 concern, correct, not the First Nations.

12 MS. SNEDDON: Yes.

13 MS. FONG: Okay. Thank you. Those are my questions.

14 MR. MARTLAND: Mr. Timberg had questions.

15 MR. TIMBERG: I have one question for redirect.

16
17 CROSS-EXAMINATION BY MR. TIMBERG, continuing:
18

19 Q Earlier Mr. Lowes asked the panel about the
20 development of the Fraser Sockeye Decision
21 Guidelines for the Recreational Fishery, and you
22 spoke about the approval process to the area, to
23 the region and nationally. If you could just
24 explain how that approval process works by area,
25 region and nationally, and whether you get any
26 feedback or comments from process.

27 MS. ADAMS: As I'm sure you're well aware, sockeye
28 management is complex and we work as a team. And
29 so for Fraser sockeye we manage under the Fraser
30 River Integrated Management Team, which consists
31 of Enforcement staff, Management staff, and also
32 Stock Assessment staff, and we involve team
33 members from all of the areas of interest.

34 So we'll have team members from Southern
35 British Columbia comprising Vancouver Island,
36 Lower Fraser, B.C. Interior, and we will look at
37 what's unfolding, what the revised estimates of
38 abundance are and TAC that's available, and we'll
39 look at our salmon allocation policies. We'll
40 look at our international obligations as well as
41 First Nation, and our own domestic allocation
42 arrangements within the commercial fishing fleets,
43 and we'll put forward some recommendations to be
44 considered by the Fraser Panel.

45 And we'll also be putting forward
46 recommendations to our senior decision-makers in
47 the region, which would be the Regional Director

1 of Fisheries Management, as well as our Regional
2 Director General.

3 Q And what happens to those recommendations?

4 MS. ADAMS: They consider them, and they either
5 support, modify or reject the recommendations that
6 we put forward.

7 MR. TIMBERG: Those are all my questions.

8 MR. MARTLAND: Mr. Commissioner, I think today we've
9 illustrated the principle that the sponge will
10 expand to the size of the space it's given. We've
11 run right to the 3:30 point with less people in
12 the room than commercial. But we have completed
13 the evidence for today.

14 What I'm going to suggest is at this point
15 the recreational component of our hearings will
16 resume on Monday morning at 10:00 a.m. The
17 hearings themselves resume tomorrow morning, I
18 understand, for the completion of the RDG panel,
19 and we can be adjourned. Thank you.

20 THE COMMISSIONER: Thank you very much, Mr. Martland.

21 I just wanted to thank Ms. Adams, Ms.
22 Sneddon, and Mr. Tadey for your being here and for
23 answering the questions and for taking the time to
24 assist the Commission. I'm very grateful and I
25 thank you all three very, very much. Thank you.

26 We'll adjourn until tomorrow morning.

27 THE REGISTRAR: The hearing is now adjourned until ten
28 o'clock tomorrow morning.

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(PROCEEDINGS ADJOURNED AT 3:27 P.M. TO MARCH
4, 2011 AT 10:00 A.M.)

1 I HEREBY CERTIFY the foregoing to be a true
2 and accurate transcript of the evidence
3 recorded on a sound recording apparatus,
4 transcribed to the best of my skill and
5 ability, and in accordance with applicable
6 standards.

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34 Diane Rochfort

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38 and accurate transcript of the evidence
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42 standards.

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46 Pat Neumann
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