

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:**

Room 801  
Federal Courthouse  
701 West Georgia Street  
Vancouver, B.C.

Monday, March 7, 2011

**Tenue à :**

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

le lundi 7 mars 2011

## APPEARANCES / COMPARUTIONS

Brock Martland Kathy L. Grant	Associate Commission Counsel Junior Commission Counsel
Tim Timberg Geneva Grande-McNeill	Government of Canada ("CAN")
Boris Tyzuk, Q.C.	Province of British Columbia ("BCPROV")
No appearance	Pacific Salmon Commission ("PSC")
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 c 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")
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; Council of Haida Nation ("FNC")
No appearance	Métis Nation British Columbia ("MNBC")

**APPEARANCES / COMPARUTIONS, cont'd.**

Tim Dickson	Sto:lo Tribal Council Cheam Indian Band ("STCCIB")
No appearance	Laich-kwil-tach Treaty Society Chief Harold Sewid, Aboriginal Aquaculture Association ("LJHAH")
No appearance	Musgamagw Tsawataineuk Tribal Council ("MTTC")
No appearance	Heiltsuk Tribal Council ("HTC")

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1 Vancouver, B.C. /Vancouver  
2 (C.-B.)  
3 March 7, 2011/le 7 mars 2011  
4

5 THE REGISTRAR: Order. The hearing is now resumed.

6 MR. MARTLAND: Mr. Commissioner, today we have a panel  
7 of people testifying on the recreational fishery  
8 from the perspective of anglers. What I'll do is  
9 take a few moments at the outset to offer a few  
10 comments in advance.

11 What I'll be doing with this panel, as I've  
12 done with other panels, is to direct questions to  
13 one of the panel members to begin, and I'll rotate  
14 through the three gentlemen who are here today so  
15 they each get a chance to go first, and such.  
16 I'll ask the witnesses not to interrupt each  
17 other, or I don't expect them to argue with each  
18 other, but not to do so, and instead to answer  
19 questions put by counsel and to respond to the  
20 Commissioner. As counsel for participants ask  
21 questions, again I'll just request they please  
22 direct them to particular panel members, rather  
23 than posing them generally where that is possible.

24 We are in a position where Mr. Maynard, in  
25 particular, is not available after today. So we  
26 will be moving along through the day. I don't  
27 think we'll have a problem, but we do need to  
28 conclude this evidence today.

29 For my part, with a couple of exceptions that  
30 I'll address momentarily, I don't plan to take  
31 these panel members to particular documents.  
32 Instead I'll be trying to elicit their evidence on  
33 a topical basis on the various subject matters  
34 I'll be asking about. We do have, of course, the  
35 Policy and Practice Report and the various  
36 documents that have been made available for the  
37 panel members, and they can be brought up on the  
38 screen.

39 If I might request at the outset, Mr.  
40 Registrar, that these witnesses please be  
41 affirmed.

42 THE REGISTRAR: Good morning. Could you just turn the  
43 microphones on, please.  
44

45 GERRY KRISTIANSON, recalled.  
46

47 THE REGISTRAR: Dr. Kristianson, your oath is still in

2  
PANEL NO. 24  
In chief by Mr. Martland

1 effect.

2 DR. KRISTIANSO: Yes, thank you.

3 THE REGISTRAR: Mr. Maynard and Mr. Kwak, I'll read the  
4 affirmation for you.

5  
6 JEREMY MAYNARD, affirmed.

7  
8 FRANK KWAK, affirmed.

9  
10 THE COMMISSIONER: Would you state your name, please.

11 MR. MAYNARD: Jeremy Maynard.

12 THE COMMISSIONER: Thank you.

13 MR. KWAK: Frank Kwak.

14 THE REGISTRAR: Thank you. Counsel.

15 MR. MARTLAND: Thank you.

16  
17 EXAMINATION IN CHIEF BY MR. MARTLAND:

18  
19 Q Mr. Lunn, I'll ask you to please draw up number 36  
20 on the exhibit list, which is already Exhibit 376.  
21 Dr. Kristianson, you previously testified here.  
22 You'll recognize this as your biography.

23 DR. KRISTIANSO: Yes, it is.

24 Q Thank you. And Mr. Maynard, Mr. Lunn, on the  
25 exhibit list for recreational hearings should be  
26 Mr. Maynard's resume specifically as relevant to  
27 fishing, I think it's entitled "Fish/Fishing  
28 Resume". Mr. Maynard, you'll recognize that as  
29 your resume?

30 MR. MAYNARD: I do.

31 MR. MARTLAND: I'd ask that please be marked as an  
32 exhibit.

33 THE REGISTRAR: It will be marked as Exhibit number  
34 546.

35  
36 EXHIBIT 546: Fish/Fishing Resume of Jeremy  
37 Maynard

38  
39 MR. MARTLAND:

40 Q And number 38, please, Mr. Lunn, on the list of  
41 exhibits. Mr. Kwak, I expect next you'll see your  
42 biography, which is from the witness summary that  
43 Commission counsel prepared; is that correct, sir?

44 MR. KWAK: Yes, that looks correct.

45 MR. MARTLAND: And I'd ask that please become the next  
46 exhibit, Mr. Registrar.

47 THE REGISTRAR: Exhibit 547.

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1 EXHIBIT 547: Bio of Frank Kwak  
2

3 MR. MARTLAND:

4 Q Having said I'm not taking you to documents,  
5 there's one further exception, which is a document  
6 that I will suggest offers some background and  
7 context for the Commission's work. It's not a  
8 document I'll be going to in any detail. This was  
9 a late addition to our list of documents, and it  
10 is the report prepared in 2006 by Dr. Kristianson,  
11 co-authored with Dean Strongitharm, for the  
12 Pacific Fisheries Resource Conservation Council.  
13 Dr. Kristianson, you recognize that; you were a  
14 co-author?

15 DR. KRISTIANSON: Yes, I do, and I was the co-author.

16 MR. MARTLAND: I'd ask that please be marked as an  
17 exhibit.

18 THE REGISTRAR: Exhibit 548.  
19

20 EXHIBIT 548: The Evolution of Recreational  
21 Salmon Fisheries in British Columbia, Report  
22 to the PFRCC by Kristianson and Strongitharm,  
23 June 2006  
24

25 MR. MARTLAND:

26 Q Gentlemen, what I'd like to do, and Dr.  
27 Kristianson, I'll start with you. We have your  
28 biography or c.v. in evidence, but what I'd like  
29 to do is ask you to spend one or two minutes  
30 summarizing your involvement and your work in  
31 recreational fishing, and in particular as  
32 relevant to Fraser sockeye.

33 DR. KRISTIANSON: Yes, thank you. Well, I am by  
34 avocation an angler, having grown up in a small  
35 British Columbia community, and angled from the  
36 time I was old enough to hold a fishing rod. That  
37 led in my later life, when I retired from my  
38 active business, to a more active involvement as a  
39 volunteer in the recreational sector. I was  
40 appointed then to the North Pacific Anadromous  
41 Fish Commission as a Canadian representative, and  
42 to the Pacific Salmon Commission, and it's in my  
43 capacity as a Pacific Salmon Commissioner, which  
44 then both entitles me and obliges me to be part of  
45 the Sport Fishing Advisory Board. I have served  
46 then on the board since the mid-1990s, and I  
47 currently am the elected chair of the Sport

1 Fishing Advisory Board.

2 Q And there's a description of the Sport Fishing  
3 Advisory Board and I'll ask one or two questions  
4 about it later. When you say you're the chair,  
5 that's the chair of -- and there's a description,  
6 I should say, is in the Policy and Practice  
7 Report, you're the chair of the main board; is  
8 that right?

9 DR. KRISTIANSO: I am the chair of the main board, as  
10 distinct from the two regional Committees, north  
11 and south, and then the, I think, now 24 local  
12 committees that exist.

13 Q Thank you. Mr. Maynard, if I could put to you,  
14 please, the same question to provide a summary of  
15 your background and involvement.

16 MR. MAYNARD: With Fraser sockeye?

17 Q Yes, and salmon, recreational salmon fishing  
18 generally.

19 MR. MAYNARD: Well, I'm a lifelong keen angler myself,  
20 and since the mid-1970s I've been a self-employed  
21 fishing guide. And so specific to Fraser sockeye,  
22 I seek them in-season, you know, when they're open  
23 for retention, both in the Campbell River in the  
24 Straits above town, and also at times on the West  
25 Coast of Vancouver Island when I'm over there.

26 Q And in terms of the processes, whether it's the  
27 SFAB or DFO consultative processes, could you give  
28 us a sense of your involvement in this subject  
29 matter and on these issues.

30 MR. MAYNARD: My own involvement is relatively limited  
31 because the Sport Fish Advisory Board in the areas  
32 that I fish are not actively involved, they're not  
33 real issues to be discussed and resolved, as it  
34 were, in the marine waters. The marine water  
35 recreational catch of Fraser sockeye is relatively  
36 small compared to, for example, the in-river  
37 catch.

38 I follow the discussions because for quite  
39 some time I've been a member of the executive of  
40 the main Sport Fish Advisory Board, and I'm a  
41 predecessor of Gerry's as the chairman. And in  
42 my involvement in the Southern Panel of the  
43 Pacific Salmon Commission, we don't have any  
44 discussions or involvement at all with Fraser  
45 sockeye, so that's not part of the discussions at  
46 the PSC level that I'm involved in.

47 Q And I'm just looking, and Mr. Lunn, if I could ask

1           you to please pull up the biography for Mr.  
2           Maynard. But in a brief way I'll just confirm you  
3           chaired the SFAB for ten years leading up to 2007?

4   MR. MAYNARD: Yes. To early 2007, that's correct.

5   Q    You've also been involved in the Pacific Salmon  
6           Commission, the IHPC, Integrated Harvest Planning  
7           Committee, and the Allocation Implementation  
8           Committee?

9   MR. MAYNARD: That's correct.

10   Q   And I understand that you instruct a fishing  
11           course at the North Island in Campbell River?

12   MR. MAYNARD: Yes, it's a small week-long "How to be a  
13           Fishing Guide" course as part of a broader school  
14           year long Coastal Adventure Tourism Program.

15   Q    Thank you. Mr. Kwak, if I might put to you,  
16           please, the same request for an overview of your  
17           involvement on these issues.

18   MR. KWAK: Yes, I can do that. I am currently the  
19           president of the Fraser Valley Salmon Society,  
20           which is a smaller club that meets in the Upper  
21           Fraser Valley, and have been for six years. I was  
22           also the vice-president for one year, and I was a  
23           director four years prior to that. From that I  
24           currently sit on the Sport Fishing Advisory Board,  
25           Upper Fraser Valley local committee, and I  
26           currently co-chair that with one of DFO's  
27           recreational coordinators. From there I sit on  
28           the Sport Fishing Advisory South Coast Board, and  
29           then on to the main board, and this year for the  
30           first time I was elected to the executive of the  
31           Sport Fishing Advisory Main Board.

32           I am also a member and director of the BC  
33           Wildlife Federation's Inland Fisheries Committee  
34           and Tidal Waters Fishery Committee, and I sit on  
35           the Fraser Gravel Ad Hoc Committee, now called the  
36           Fraser River Gravel Stewardship Committee. I am  
37           also currently a director of the Fraser River  
38           Salmon Table Society. That society was formed in  
39           conjunction with the Sto:lo when they put together  
40           an MOU to catch some extra sockeye in order to use  
41           that money for freshwater work in order to try and  
42           restore Cultus Lake sockeye. As a director there,  
43           I am there on my own. I do not represent the  
44           Sport Fishing Advisory Board. However, I do  
45           report out to them and the reason for that is it  
46           is a society and the Sport Fishing Advisory Board  
47           does not have the capacity for them to pay for a

1 membership for myself.

2 I think that's probably good. Oh, I also sit  
3 on the Integrated Salmon Dialogue Forum,  
4 especially the Monitoring and Compliance  
5 Committee, and I've been involved in restorative  
6 justice cases several times.

7 Q Thank you. My first topic to ask you about and  
8 what I'll do, rotating through our list, Mr.  
9 Maynard, I start this question with you. A number  
10 of these questions, I'll tell you in advance, are  
11 quite broad. So rather than trying to ask you a  
12 lot of detailed questions, I'll be asking more  
13 general questions and inviting you to take that  
14 where you'd like and, where we can, being relevant  
15 to salmon and Fraser sockeye.

16 The question is about allocation. And as  
17 context for the questions about allocation, we  
18 have the context here of some evidence including  
19 witnesses such as Jeff Grout, Devona Adams and  
20 Deborah Sneddon, and the Policy and Practice  
21 Report, or PPR. So you can assume some level of  
22 familiarity with the 1999 Salmon Allocation  
23 Policy, and in particular the 95/5  
24 commercial/recreational split for sockeye, amongst  
25 other species.

26 With that as background, what I'd ask you to  
27 please do is to comment on allocation and on the  
28 framework in the Allocation Policy, what works,  
29 what needs improvement.

30 MR. MAYNARD: So we're talking specifically the Salmon  
31 Allocation Policy here.

32 Q The Salmon Allocation Policy.

33 MR. MAYNARD: Well, the Salmon Allocation Policy since  
34 it came into effect in 1999 has been, I would say,  
35 fundamental to sustaining the recreational fishery  
36 through challenging times. And that belief is  
37 based squarely on the priority access to chinook  
38 and coho salmon for the recreational fishery after  
39 conservation and First Nations food, social and  
40 ceremonial needs, but before directed commercial  
41 harvest of those two species.

42 As the two species of salmon that are most  
43 frequently sought after by recreational anglers,  
44 having that priority access has been very  
45 important, particularly in the inner South Coast  
46 where abundances of chinook and coho salmon are  
47 very low, relative to the past. And you know, the

1 reality is, is that if the recreational fishery  
2 had to compete with commercial harvests for the  
3 same species, it's likely that the recreational  
4 fishery now would be, you know, much less than it  
5 is. So from that perspective the Salmon  
6 Allocation Policy has been a real success.

7 The Allocation Policy as it relates to  
8 sockeye salmon, well, you know, the recreational  
9 fishery gets retention opportunities, they're  
10 usually keyed at the same time when the commercial  
11 fishermen start. We don't have any specific  
12 allocation preference, as it were, for sockeye.  
13 And of course we have this, you know, theoretical  
14 cap of five percent of the combined recreational  
15 and commercial harvest.

16 Q And in practice, how does the 95/5 cap or  
17 proportion work, in your view?

18 MR. MAYNARD: That I'm aware, it's not been a  
19 constraining factor on any recreational  
20 opportunity in any given year. So from that  
21 perspective it's a success.

22 Q Thank you. Mr. Kwak, I'll ask for your views,  
23 please, on the allocation process and the  
24 Allocation Policy framework, please.

25 MR. KWAK: Okay, thank you. I can't really answer too  
26 much on that. In 1999 I was basically just coming  
27 to Chilliwack and getting involved at that point.  
28 So I have not been all that involved from at the  
29 beginning.

30 However, I would add that speaking on behalf  
31 of the in-river fishery, we certainly would deem  
32 sockeye to be a fishery that really attracts  
33 large, large numbers of recreational anglers.

34 Q Mm-hmm.

35 MR. KWAK: Yes, we certainly are interested in chinook  
36 and coho, as well, and we want to seize on every  
37 opportunity, and they would be regarded much more  
38 as a sport fish. However, when it comes to the  
39 eating of fish flesh, we would want to catch a  
40 sockeye and we do have that opportunity. And when  
41 the opportunity is there, we have as many as 5,000  
42 recreational anglers fishing a relatively small  
43 area that would go from Mission to Hope, because  
44 that's where the gravel bars are and that's where  
45 these fish are easily caught.

46 Q Dr. Kristianson.

47 DR. KRISTIANSO: Well, I don't have much to add. I

1 mean, Jeremy has provided the history. The fact  
2 is, the securing of a Salmon Allocation Policy was  
3 an enormous step forward for relationships between  
4 the fishing sectors in British Columbia, between  
5 the commercial and recreational harvest sectors  
6 and it ended many years of antagonism in public  
7 and other forums as we argued our respective  
8 positions. And frankly, having along with Jeremy  
9 been part of the committee that worked with Judge  
10 Sam Toy in bringing about what really was the  
11 document that led to the government policy, I  
12 still consider it one of our great achievements.  
13 And frankly I have no desire to ever go back from  
14 there.

15 The issue, though, of Fraser River sockeye is  
16 one that deserves perhaps a bit more attention. I  
17 mean, when the government set the five percent cap  
18 in 1998/1999, it did so on the basis of the  
19 historical documents that showed that there was  
20 absolutely no possibility of the recreational  
21 fishery ever catching five percent of Fraser  
22 sockeye, if you looked at all previous records.  
23 We had always been down in the half percent kind  
24 of level of total catch. But of course that  
25 reflected two different things. One was abundant  
26 years of Fraser sockeye, and aggressive commercial  
27 fisheries, and secondly, that sport fishermen  
28 hadn't yet actually caught on as to how to catch  
29 these fish, and particularly after they entered  
30 fresh water and had stopped being aggressive  
31 pursuers of lures.

32 And so what happened, the five percent I  
33 think was viewed as kind of a giveaway, and if you  
34 look at pink and chum you'll find it's the same.  
35 We've never come anywhere near five percent cap on  
36 pink and chum. We have on sockeye, and that has  
37 reflected both (a) us learning how to catch them.  
38 But more particularly it was a result of the  
39 problems the Fraser River encountered in terms of  
40 the so-called early entry of Late Run sockeye.

41 And so in my capacity as a Salmon  
42 Commissioner, we got into this terrible period  
43 where Late Run fish were not holding in the Strait  
44 of Georgia as they traditionally had, were  
45 entering the Fraser early, including Cultus, which  
46 of course were a problematic stock. That led to  
47 curtailment of commercial fisheries. Because in

1 order to try to protect those stocks, you had to  
2 curtail ocean fisheries for sockeye. The problem  
3 was, or what happened is, of course, as those fish  
4 entered the Fraser in abundance now, abundances  
5 that had never before got through the ocean  
6 harvest, as those fish got past the entrance to  
7 Cultus Lake, they were now available for harvest,  
8 because the most problematic stock, Cultus, was no  
9 longer a constraining factor.

10 And so it was an opportunity for recreational  
11 anglers to catch fish. And in the abundances that  
12 were there, particularly this technique called  
13 flossing, which is somewhat controversial, really  
14 worked. And went from years where our catch of  
15 Fraser sockeye in the river was probably not  
16 measurable to years where we were catching over  
17 100,000, up 200,000 fish. And that along with  
18 other thing pushed us up against the cap. And  
19 ironically it wasn't because -- we weren't pushing  
20 against the cap because of the total number of  
21 fish we were catching.

22 Q Mm-hmm.

23 DR. KRISTIANSO: We were pushing against the cap  
24 because the commercial harvest had been reduced  
25 dramatically.

26 Q I wonder if I can just ask you a question to make  
27 sure I understand your point, your last point,  
28 which is I take it then because the 95/5  
29 formulation is based on the combined commercial  
30 and recreational TAC, so that from year to year  
31 recreational fishers catching the same number of  
32 fish can have obviously different impacts, it's a  
33 proportion. So if there's a low commercial TAC,  
34 am I right to say that means that the recreational  
35 proportion could exceed five percent. It could  
36 spike in a given year?

37 DR. KRISTIANSO: Well, I need to correct you slightly.  
38 The five percent allocation is not based on the  
39 combined commercial/recreational TAC. If it was,  
40 this would not be a problem. It's based on the  
41 total combined commercial/recreational catch.

42 Q Catch, thank you.

43 DR. KRISTIANSO: And so even though the TAC may be  
44 large, the commercial catch unfortunately has been  
45 truncated and that's not a good thing. It's not  
46 in our interests that it happened. But it did  
47 lead to us moving up against the cap.

1           The other factor that affects us, though,  
2           that you should understand, it's not related to  
3           the Fraser, is that one of the other South Coast  
4           opportunities for sockeye is in the Alberni Canal.  
5           This is the so-called Somass sockeye, sockeye  
6           returning to the Alberni Canal. Traditionally  
7           there, the recreational sector catches upwards of  
8           30 percent and higher of those returning fish.  
9           And when we negotiated the Allocation Policy, that  
10          is when we and the commercial sector were  
11          literally negotiating it, we understood that you  
12          couldn't impose a cap as low as five percent  
13          unless you did it coast-wide. Because you needed  
14          to take account of the fact that proportionately  
15          there was this higher catch in Alberni.

16          And so that's again been part of the issue  
17          is, you know, how do you balance off a place where  
18          we do catch more than five percent against other  
19          places where our catch is much lower, and that's  
20          where the cap has worked. Frankly, from our  
21          perspective it would be better if the cap was  
22          expressed in terms of TAC, not of harvest.

23          Q       Just to pick up on a point you were making, I take  
24          it that you described the background or history  
25          leading up to the Allocation Policy, and I take it  
26          that from those comments that you may say one of  
27          the merits in the Allocation Policy and in the  
28          framework is at least every single year you're not  
29          waging the same battle or having the same  
30          difficult process to set the ground rules.

31          DR. KRISTIANSO: That's right. I mean, the priority  
32          access policy that Jeremy referred to was a key  
33          component for the recreational sector. And at  
34          that period when this was happening, it was  
35          recognized by the commercial sector, chinook and  
36          coho were paramount importance to us, and we  
37          recognized that the primary species for commercial  
38          harvest were sockeye, pink and chum. And so in a  
39          sense they got priority access to sockeye, pink  
40          and chum, and we got priority access to chinook  
41          and coho.

42          And indeed that priority on sockeye has one  
43          other element to it, and that is in years where  
44          chinook are low abundance, we agreed that we would  
45          actually be closed on chinook first if they needed  
46          those chinook mortalities to prosecute their  
47          sockeye fisheries, recognizing that there's mixed



1 stock implications, bycatch and so forth. And so  
2 it was an attempt to find that balance and, you  
3 know, we sat down. I mean, we met and perhaps I  
4 should tell the story.

5 I mean, we met in front of Judge Toy, having  
6 been appointed by Minister Anderson, and he said  
7 to us, "If you guys," - recreational and  
8 commercial, and in fact First Nations in the  
9 original portion, but First Nations subsequently  
10 decided they did not wish to be part of that  
11 process for other reasons, which we understood -  
12 "If you guys can reach agreement, then I will  
13 recommend it. If you can't, then I'm listening  
14 carefully and I'm going to propose what I happen  
15 to believe or think at that point." And so he put  
16 us very cleverly in a position where we had more  
17 to lose by not working together to find an  
18 agreement than we did by potentially handing over  
19 to someone else to make a decision.

20 And I have to say it has worked well. There  
21 is, in fairness, there are commercial trollers,  
22 who target chinook salmon, are not as happy with  
23 the Allocation Policy as are the people, the  
24 commercial people who target sockeye, pink and  
25 chum.

26 Q Mr. Kwak, I'll ask a further allocation type of  
27 question, which is do you think the Allocation  
28 Policy should be affirmed or revised or  
29 jettisoned? Those are on a spectrum of things  
30 that could happen with allocation moving forward.  
31 What do you think should happen?

32 MR. KWAK: Well, it seems to me that Gerry just said  
33 that he didn't want to see any changes to it, so I  
34 would agree with that.

35 Q Dr. Kristianson?

36 DR. KRISTIANSON: Yes.

37 Q Is that your position; is that right?

38 DR. KRISTIANSON: Yes. I mean, I think that  
39 fundamentally the policy works and has worked.  
40 There are issues related to it, that to be frank  
41 we did not understand at the time that we put --  
42 there were details, for example, the issue of one  
43 of the things that had not been made clear was the  
44 distinction between bycatch, which is the harvest  
45 of another species, and incidental harvest when  
46 you're encountering stocks of the same species,  
47 but of different origin.

1           And so, you know, we created what you've  
2           referred to as the Allocation Implementation  
3           Committee. We met and we've hammered out a number  
4           of those issues. And the most recent meetings, as  
5           I'm sure you're aware, have been to try and  
6           massage forward the issue of how the five percent  
7           cap works. Because it was based originally, in  
8           the original announcement, it's on a set period.  
9           That period is long behind us. There was some  
10          thought at the time that there may be a future  
11          committee or an allocation tribunal that would  
12          work things out. But at that point we and the  
13          commercial sector both agreed we would rather work  
14          these out between us --

15          Q     Mm-hmm.

16          DR. KRISTIANSO: -- than hand them over to some third  
17          party. And so we've continued to meet together to  
18          try and work out how the five percent will operate  
19          in the future in a way that doesn't disadvantage  
20          either of us, and I think we're having some  
21          success in moving there. Helped enormously by  
22          last year's Fraser return, which of course made  
23          the five percent cap recede into the future a bit,  
24          because our total harvest last year was well below  
25          five percent.

26          Q     Mm-hmm. Mr. Maynard, anything to add on that  
27          point?

28          MR. MAYNARD: On the very last point?

29          Q     Or generally on allocation.

30          MR. MAYNARD: Generally on allocation. No, I would  
31          just add that one of the fundamental agreements  
32          that the recreational fishery through the Sport  
33          Fish Advisory Board entered into in terms of  
34          securing this priority access for chinook salmon  
35          was the fact that we agreed to a lower daily limit  
36          in perpetuity for chinook salmon relative to the  
37          other salmon species. So for us and, you know,  
38          for some of the people that we represent through  
39          the Sport Fish Advisory Board, that was not an  
40          easy sell. But we felt that a limit of two a day  
41          sustained opportunity and was very sellable for  
42          those interests that are in the business of  
43          marketing chinook salmon fishing opportunities  
44          through the recreational fishery, and we knew that  
45          going down to one would definitely limit interest.  
46          And so we felt that that was an important bargain  
47          to be entered into. So it's probably worth

1 recognizing that difference in daily limits for  
2 chinook relative to the other salmon species.  
3 Q My next question is about the licensing process,  
4 in particular licence fees. As I understand it,  
5 I'll begin, Dr. Kristianson with you for this  
6 question, the current fees, in particular the  
7 federal tidal fees have been in place for a number  
8 of years unchanged. The question is should  
9 licence fees be increased. If so, in what manner  
10 or on what conditions, and what are the issues  
11 arising there, please.  
12 DR. KRISTIANSON: Well, and I am to some extent  
13 repeating testimony that I gave earlier.  
14 Q And I'm aware of that, because I had a note about  
15 the **User Fees Act**.  
16 DR. KRISTIANSON: Yes.  
17 Q But I think for the sake of the folks in the room,  
18 even if it's mildly repetitious, why don't you do  
19 that.  
20 DR. KRISTIANSON: I'm happy to repeat it. It's an  
21 important message. The reality is that the  
22 recreational licence fee was last raised in the  
23 mid-1990s. It was a substantial increase at the  
24 time, but there has been no change in it since.  
25 Even though that money actually covers a higher  
26 proportion of the total costs of the Department of  
27 Fisheries and Oceans related to recreational  
28 fishing than does any other harvest group in the  
29 fees that it pays, somewhere between 40 and 50  
30 percent of the total costs spent by the Department  
31 are covered by the current fees.  
32 But it is the position of the Sport Fishing  
33 Advisory Board that we should make a larger  
34 contribution. We have been trying to move in that  
35 direction for a number of years now, and we have  
36 placed on it only some fairly obvious conditions.  
37 Those conditions were that any money that is  
38 raised through an increase in the fees should come  
39 back to the region for expenditure on recreational  
40 fishing-related issues; that we should be  
41 consulted on the size of the increase in terms of  
42 how it hits particular categories.  
43 It's not a single fee. There are fees for  
44 different categories that people, foreigners and  
45 Canadians, for one-day, two-day, three-day  
46 licences or annual licences, and the way in which  
47 you set those levels have potential impacts on the

1 economic importance of the recreational fishery.  
2 Obviously place a one-day fee too high, you  
3 discourage people from going out and spending much  
4 more money renting a boat, going fishing, et  
5 cetera. So we feel it's important to find the  
6 right level.

7 But frankly, we have been enormously  
8 frustrated by the Department's apparent inability  
9 to charge us more money. And we are happy to sell  
10 to our constituency the need to do that. We think  
11 that because the 300,000 people go angling with  
12 tidal water licences each year, that that's our  
13 greatest strength is the opportunity to take  
14 advantage of that large base, and but for reasons  
15 that I have not fully understood.

16 And I have urged at my previous appearance,  
17 the Commission to look into this apparent  
18 roadblock caused by the **User Fees Act**, a private  
19 member's bill, not a public bill, that was  
20 accepted by Parliament because it said before you  
21 can impose user fees you ought to go through more  
22 hoops, and who could object to that. But I don't  
23 think anybody contemplated that it would lead to a  
24 situation where the desire of a large constituency  
25 represented by a very effective representative  
26 process is unable to have government collect more  
27 money from it. And so, you know, we would like  
28 that roadblock to end in some way.

29 And, frankly, we will probably talk later  
30 about catch monitoring issues, and in the current  
31 catch monitoring document from government it says  
32 that, you know, the sector must find a way to  
33 raise this money. Well, the reality is the only  
34 way the sector can raise money is if government  
35 collects it from individual anglers. Because  
36 clearly as an advisory board, or as individual  
37 businesses, we have no ability to tell people that  
38 they have to contribute an annual amount to offset  
39 government's expenditures on recreational fishing.

40 Q I take it the concern is that the licence fees and  
41 perhaps, not all, but much of the conservation  
42 stamp fees that are collected disappear, if you  
43 will, into general revenue instead of, and I think  
44 you described it as going over the recreational  
45 issues. Is that the concern? And then secondly,  
46 where should that money go if it's to be earmarked  
47 for a particular use, what should be done with it.

1 DR. KRISTIANSOSON: Well, I mean, we would not object if  
2 government found a way to ensure that the fees  
3 that were collected went directly back to the  
4 purpose for which they're intended. I mean, I  
5 think that was part of the purpose of creating the  
6 **User Fees Act**. But frankly, it doesn't matter to  
7 us. We're not arguing, I mean, I understand the  
8 principle of the Canadian government financial  
9 process, which is government collects money from  
10 taxpayers and other people that goes into general  
11 revenue and it's then apportioned out to various  
12 uses. And I don't consider that the money that we  
13 pay now disappears into general revenue. When you  
14 do a full cost accounting, as I've already said,  
15 between 40 and 50 percent of all the revenue  
16 collected from anglers in British Columbia is  
17 reflected in the budget of the Department of  
18 Fisheries and Oceans spends on fishing. Should it  
19 be 100 percent? That would be unique compared  
20 with other sectors. But to be frank, that  
21 wouldn't, you know, if there was twice as much  
22 money available for catch monitoring, and all the  
23 other things that government needs to be doing in  
24 order to ensure effective recreational fisheries,  
25 the accountability of those fisheries, then we've  
26 been saying we should be moving in that direction.

27 Q Mr. Maynard, do you have comments on that issue.  
28 MR. MAYNARD: Well, I would agree with every word that  
29 Gerry's said on this topic. I would add that one  
30 of the frustrations in the recreational fishery,  
31 and this may well be shared by others, is that one  
32 of the concerns is that relative to what appears  
33 to be the increasing demands on the Department of  
34 Fisheries and Oceans in managing in the sense that  
35 it's the salmon resource, there seems to be less  
36 money available to do that. And so a concern is  
37 not only the management of the fish resource in  
38 general, successful management of the fish  
39 resource in general, but I think a case  
40 increasingly at times and places can be made that  
41 fishing opportunities, and not just in the  
42 recreational fishery, but obviously that's who I'm  
43 speaking about now, are foregone because there  
44 isn't the knowledge to allow a fishery to take  
45 place.

46 And so in addition to catch monitoring, which  
47 is an issue that you've heard from Dr. Kristianson

1 both today and earlier, but also stock assessment,  
2 is a great concern to the recreational fishery  
3 right now. And if we start to see a continuing  
4 erosion in the capacity of the Department staff to  
5 properly exercise that function, it may very well  
6 be that, you know, recreational fishing in times  
7 and areas cannot take place simply because there's  
8 not the knowledge to all it to happen even though  
9 it may very well be that there are fish that, you  
10 know, prudent management would allow for harvest.

11 Q Mr. Kwak, do you have comments on licence fees?

12 MR. KWAK: Yes. I would have a somewhat different  
13 position in the sense that where I fish, which is  
14 in the above-Mission area, we require a freshwater  
15 fishing licence.

16 Q Which is issued by the province.

17 MR. KWAK: Pardon me?

18 Q Which is issued by the province.

19 MR. KWAK: Yes.

20 Q Thank you.

21 MR. KWAK: This licence also gives you the ability to  
22 buy a stamp, which then allows you to retain  
23 salmon, but also the province wanted a coast-wide  
24 stamp for sturgeon, and that was enforced in  
25 freshwater but not enforced in marine water at  
26 this time. So as long as a person fishes above  
27 the Mission Bridge and captures a sturgeon, he  
28 needs to release it. It's a catch and release  
29 fishery only. He requires a stamp above the  
30 Mission Bridge and not below the Mission Bridge.  
31 So certainly the province is wanting to increase  
32 some fees, too, so that they can use some of this  
33 money in things like the sturgeon fishery.

34 So we have a lot of fishermen that never ever  
35 buy a marine licence and we're talking during the  
36 sockeye fishery of 5,000 or upwards of 5,000  
37 fishermen a day, that in fact really only require  
38 a freshwater licence and a stamp in order to  
39 retain salmon.

40 So I would agree that the people in our area,  
41 we've talked about it a lot, are quite keen on  
42 increasing fees in order to facilitate a whole lot  
43 of these things that are currently underfunded.  
44 And certainly one of the biggest ones, which has  
45 already been talked about, is the whole concept of  
46 catch monitoring and enforcement, which seems to  
47 be, you know, really at the low end of things

1 right now because there just isn't money.  
2 Q Let me move to catch monitoring as a topic, and  
3 I'll do so, Mr. Maynard, beginning with you,  
4 please, by specifically asking you about the creel  
5 survey, which is the predominating method of  
6 assessing the impact to the recreational fishery  
7 on salmon. Could you offer us your views on the  
8 creel survey approach, how well does it work,  
9 where is there need for improvement. You, I  
10 think, used the words, some words about the  
11 eroding capacity for catch monitoring. Could you  
12 please address us on that.

13 MR. MAYNARD: Well, the creel survey initially started  
14 just in the Strait of Georgia in the early 1980s.  
15 And at that time that's where the overwhelming  
16 amount of recreational fishing, certainly salmon  
17 fishing, took place, closest to the, you know,  
18 largest population base in British Columbia. And  
19 the infrastructure on the outer coast, both of  
20 Vancouver Island and the central and north coast  
21 was significantly less than it is now. So and in  
22 those days there appeared to be a larger amount of  
23 federal funding for fisheries management in  
24 general. And I think that, my understanding of  
25 the history of the Strait of George creel survey  
26 is that it was considered a real success, and it's  
27 my understanding that other jurisdictions have  
28 looked at the Strait of Georgia creel survey over  
29 the years and used it as a role model, if you  
30 will, for implementation in their own areas.

31 As time has gone forward, the recreational  
32 fishery has significantly expanded its geographic  
33 scope on the coast of British Columbia, and so now  
34 also in part so the infrastructure has expanded,  
35 and so knowledge of the fishing opportunities has  
36 expanded in those other areas that were relatively  
37 lightly fished recreationally prior to the early  
38 1990s. And of course the actual stocks of the  
39 different salmon species in the Strait of Georgia  
40 have declined significantly for different reasons.

41 So as a result of all of that, a lot more, a  
42 lot higher percentage of the total Pacific Region  
43 recreational fishing effort in marine waters takes  
44 place outside the Strait of Georgia now. And as a  
45 result the Department has implemented creel survey  
46 programs in other areas. Sometimes in partnership  
47 with other groups, sometimes not, but obviously

1 the demand for budget for these different creel  
2 survey programs is increased significantly at the  
3 same time as it appears the budget has declined.  
4 And so there's a real challenge there.

5 The recreational fishery interests, and  
6 certainly as represented through the Sport Fish  
7 Advisory Board, feel that we have a very viable  
8 fishery that brings very strong social and  
9 economic benefits and we're keen to tell our story  
10 and provide the statistics that support that. And  
11 in the absence of good and consistent creel  
12 surveys, it's increasingly difficult to do so.  
13 And different interests frequently challenge the  
14 recreational fishery over catch numbers and  
15 participation and other information that could be  
16 derived from creel surveys, and it's a real  
17 frustration for us to find ourselves having to  
18 defend what we believe is a very positive fishery  
19 in the absence of credible information that, you  
20 know, should be gathered on a consistent basis in  
21 all areas of the coast.

22 Q Is the concern that you're identifying one about  
23 underfunding or under-resourcing for creel  
24 surveys, as opposed to a concern about or a  
25 problem with the methodology of creel surveys.

26 MR. MAYNARD: Well, I have no expertise in this, other  
27 than, you know, I participate as an angler and a  
28 guide, in the logbook program. I'm a real  
29 believer in good creel surveys and encourage my  
30 fellows to participate to the greatest degree  
31 possible. But in thinking about this topic, my  
32 mind is cast back to with Dr. Kristianson as a  
33 member of the South Coast Salmon Integrated  
34 Harvest Planning Committee, we were participants  
35 in the Williams Inquiry and this subject came up  
36 in those discussions.

37 And I remember clearly a gentleman by the  
38 name of Karl English, who is the owner or  
39 certainly the operator of one of the leading catch  
40 monitoring companies here in the Pacific Region,  
41 and he was central to helping the Department  
42 design the Strait of Georgia creel survey. And he  
43 felt very strongly that it is a very meaningful  
44 program, and it holds up under any comparison.  
45 Could it be improved? I seem to remember him  
46 saying, surely. But it's simply a function of  
47 resources. And maybe not very much more in the



1 way of fiscal resources. But he felt as a  
2 professional catch monitor, he felt that the  
3 fundamentals of the program were very sound. That  
4 was the central message, and I'm sure that those  
5 comments can be found in the transcript from that  
6 Williams Inquiry hearing.

7 Q Mr. Kwak.

8 MR. KWAK: Yes, thank you. When it comes to creel  
9 survey, we are told by the Department that these  
10 numbers are very defensible, and I think the most  
11 part they probably are. However, I do need to say  
12 something about that. Even though they are  
13 defensible can be understood with "Creel Survey  
14 101" that has been put forward to the recreational  
15 angler and shown to First Nations and other  
16 sectors, I would say that First Nations in our  
17 areas still do not accept the creel survey as an  
18 accurate way of counting the number of fish that  
19 the recreational angler takes in-river. I don't  
20 know about the marine fishery. So that creates  
21 some friction that could be overcome.

22 Then to add to that, I personally from time  
23 to time question its accuracy because of the fact  
24 that the recreational angler tends to exaggerate.  
25 And although I have not been involved in putting  
26 this creel survey together, and I don't know if  
27 the SFAB has had any input into it, it appears to  
28 me to be a DFO process that's been put out and we  
29 are to agree or disagree with it. And like I say,  
30 generally I agree.

31 But for instance, there are over-flights, and  
32 I have on several occasions asked if I could go on  
33 an over-flight, and because of insurance problems  
34 or whatever, that hasn't happened, although I  
35 believe the Department is working on trying to  
36 allow that to happen. That would give me  
37 personally, as a representative of the sport  
38 fishing community in our area, the opportunity to  
39 say, yes, these over-flights can accurately count  
40 and distinguish who's fishing what. Because there  
41 are people, for instance, that would be fishing  
42 sturgeon and not chinook, and yet using a similar  
43 gear tactic with a rod just hanging out over the  
44 end of the boat, and it's only the bait that  
45 determines really what's being caught. And also  
46 distinction between areas, because in some areas  
47 you would fish sturgeon, other areas you would

1 not.

2 We also do what's called rod counts, and  
3 hourly, if the creel surveyor is there that day  
4 and happens to be at Island 22, which is a creel  
5 survey area which is where I fish a lot. The  
6 creel surveyors, two of them, and there's usually  
7 two there, get in a boat and they go downriver  
8 about maybe two or three kilometres and they count  
9 the rods that are actively fishing on Wellington  
10 Bar, Grassy Bar, and wherever else these fishermen  
11 are, and that comes back and is part of the  
12 information that's put together for the creel  
13 survey. Again, I have asked to go along, just to  
14 see how easy it is to distinguish who's actually  
15 fishing and who's standing on the side, and how  
16 that works. I've not been able to do that, but  
17 again I think the Department is working on that  
18 and I would love to be able to participate.

19 Then the last part, which is the most  
20 difficult part, is the creel surveyor himself or  
21 herself, we have both men and women working as  
22 creel surveyors, and they come to your boat as it  
23 comes back in out of the river. You're finished  
24 fishing for the time or for the day, and the creel  
25 surveyor will come over and ask you how many fish  
26 did you catch.

27 Now, first off, they don't catch all, they  
28 don't get to all of the boats. Quite often around  
29 3:00 p.m. in the afternoon, the guide boats, which  
30 could be as many as 30 or 40 of them are coming in  
31 at once, and so you cannot get to all of the  
32 boats.

33 However, that said, my bigger concern is that  
34 myself personally often take quasi-recreational  
35 anglers onto the river to fish. I belong to a  
36 church and the church that I belong to has a lot  
37 of men that like to golf and fish, but they're not  
38 real good at fishing, and so they like to convince  
39 me that I ought to take them out as a friend.  
40 Which of course I want to do. And even though  
41 these folks are church folks and God-fearing  
42 folks, they are also human and we tend to  
43 exaggerate. And so when the creel surveyor comes  
44 and asks "How many fish did you catch and  
45 release?" I generally am on my way to get my truck  
46 and boat trailer, but I'm still close enough to  
47 hear the replies, and I often get replies of,

1 "Well, I caught 15 pinks," and "I caught 12  
2 pinks," and "I caught 20 pinks," and the reality  
3 is I was on the boat showing them how to do that,  
4 and in my estimation they didn't catch 15 or 12 or  
5 20 pinks at all. They had 15 or 20 or 12 or 20  
6 pinks on line, but they didn't release them. It's  
7 called a quick release, but they ultimately wind  
8 up counting those as fish that have been caught.

9 Now, there's probably a way that the creel  
10 survey takes that into account, but I'm not sure  
11 sometimes that it's that accurate. Because we  
12 have had situations, especially in the Vedder  
13 River with coho, even this year I think that we're  
14 kind of questioning the numbers of chum that  
15 recreational anglers maybe took, and we will be  
16 discussing that with DFO at our local committee  
17 meeting that's coming up in the near future. But  
18 sometimes it appears that the numbers, even for  
19 us, are higher than what we thought we caught. So  
20 that is somewhat of a difficulty.

21 Q And from those comments I take it your concern is  
22 that it over-represents or overestimates the  
23 impact of recreational effort.

24 MR. KWAK: Yes, I would say generally that would be my  
25 comment. However, working closely now with First  
26 Nations folks, because we're doing our best to get  
27 along and we're doing very well at that, they in  
28 turn would argue that we're underestimating.

29 Q Mm-hmm.

30 MR. KWAK: So we have a problem. Because we can't go  
31 further until we believe one another's numbers.

32 Q Dr. Kristianson.

33 DR. KRISTIANSON: Yes, thank you. Well, I mean, I  
34 think the fundamental issue here is that what  
35 needs to be understood is that the measurement of  
36 recreational harvest and effort is a survey  
37 technique, because it's very hard to count.  
38 Commercial fisheries are traditionally monitored  
39 on the basis of a census. In other words, each  
40 commercial harvester has to account for the fish  
41 he catches. He passes them on to a commercial  
42 buyer, they're counted individually. With 300,000  
43 recreational licences, many of them not going out  
44 as part of an organized effort in terms of a lodge  
45 or a guide, and so forth, it simply isn't  
46 possible, in my view, to ask each angler to  
47 individually account for the fish they've caught.

1           There are some efforts to do that.

2           Washington State has tried. They have a  
3           system where you have to punch on your licence the  
4           fish you've caught and send it in at the end of  
5           the year. But of course that has two problems.  
6           One is whether you get the information sent back,  
7           but more particularly it doesn't come back in any  
8           time allowance that allows you to use it in-season  
9           for management activity, because you really do  
10          need up-to-date information. And so, I mean, I  
11          think the creel survey or the survey approach to  
12          collecting angling data is valid. It needs to  
13          have the appropriate effort applied to it.

14          I think that there's some very important  
15          initiatives being pursued by the Department of  
16          Fisheries and Oceans at the moment to improve  
17          that. Jeremy mentioned logbooks, in addition now  
18          electronic logbooks, so that, you know, you're  
19          keying in the data, to get away from the issue  
20          Frank raised, which is right, recall. How  
21          effective is our recall of something that  
22          happened.

23          And so in addition the incorporation of the  
24          data from lodges. Well, lodges, often there's  
25          this criticism, of probably the best data we have  
26          on catch comes from lodges and resorts. Because  
27          if you've ever visited a fishing lodge, there is a  
28          big board up with the name of every angler and  
29          every day they're putting up there how many fish  
30          each angler retained, and what size they were, if  
31          you're talking about the prime species like  
32          chinook and coho. All of that data is capable of  
33          being collected and sent into the Department, and  
34          increasingly that is happening.

35          So I happen to think that we're actually  
36          doing a pretty good job. I think we could improve  
37          it dramatically if we could find a way to collect  
38          more revenue to devote to that activity.

39          And I guess that's where I did want to -- one  
40          of the documents that's been introduced in  
41          evidence, and I don't have the number, but it's  
42          the New Strategic Framework for Fisheries  
43          Monitoring document that the Department has  
44          produced. And on page 11 of that document it  
45          says:

46  
47                    DFO and harvesters are both challenged to pay

1                   their respective shares of monitoring and  
2                   reporting costs. In addition, the  
3                   recreational sector currently has no  
4                   functioning mechanism for collecting the  
5                   funds to cover these costs. The Department  
6                   must work with sector representatives to  
7                   develop and implement a practical self-  
8                   funding mechanism for cost recovery.  
9

10                  And I have to tell you, that terrifies me.

11                  Q     Mm-hmm.

12                  DR. KRISTIANSO: Okay. The fact is we have a very  
13                   good way to collect that money, government  
14                   collects it and government has overall  
15                   responsibility for the monitoring, because then  
16                   it's an impartial entity that is doing that.  
17                   We've indicated our willingness to pay that. But  
18                   if what we're talking about here is somehow  
19                   forcing the recreational sector to create a  
20                   private society which would, I guess, if  
21                   government gives that private society the right to  
22                   collect money from every angler, that might work.  
23                   But to be frank, I think that would be the  
24                   creation of a monster that might not do us all any  
25                   good. Because you would be then, revenue which  
26                   would be collected by the society would be under  
27                   less control in terms of how it is spent, than it  
28                   is if it's government revenue, flowing into  
29                   government coffers for public policy  
30                   implementation purposes.

31                  Q     And indeed, Mr. Lunn, I think, has overachieved,  
32                   even on his standards, if he has the right  
33                   document. He's pulled up a document which I  
34                   understand may be an exhibit. Is that what you  
35                   were referring to?

36                  DR. KRISTIANSO: Yes, that's the document.

37                  MR. MARTLAND: And, Mr. Lunn, the exhibit number for  
38                   our reference?

39                  MR. LUNN: Four-twenty-nine.

40                  MR. MARTLAND: Four-twenty-nine, thank you.

41                  DR. KRISTIANSO: Yes.

42                  MR. MARTLAND:

43                  Q     Was that in evidence when you testified  
44                   previously? Is that, or you're aware it was --

45                  DR. KRISTIANSO: No, it was not. It had not been  
46                   entered in evidence at that point, as far as I'm  
47                   aware.

1 Q Thank you.

2 DR. KRISTIANSO: I assume it came up during the  
3 commercial sector presentation. This is a very  
4 important document, but it's also a very tentative  
5 one in the sense that it was only made available  
6 to us within the last month or so. I, on behalf  
7 of our sector, as chair of the Advisory Board,  
8 have been working on our draft response to it.  
9 It's an important document. It has important  
10 issues in it. But I wanted to single out that  
11 particular issue because it's the one that the  
12 notion that somehow you should have the sector  
13 become the collector of its catch monitoring  
14 revenue, is frankly one that I simply disagree  
15 with.

16 THE COMMISSIONER: Mr. Martland, I wonder if I could  
17 just ask the panel just arising from their  
18 evidence so far, just a couple of a quick areas  
19 they might cover for me. One is techniques. I  
20 think Dr. Kristianson referred to the flossing  
21 technique as one. But between the marine and  
22 freshwater areas for anglers, over the course of  
23 time, I mean, I've heard a lot of evidence about  
24 significant changes in the commercial fishery  
25 around fishing techniques over the last 15, 20 or  
26 30 years. But within the recreational fishery,  
27 what changes have you experienced.

28 Secondly, between the freshwater and marine  
29 angling for recreational fishery, insofar as catch  
30 monitoring is concerned, what are the differences  
31 there or the similarities? If you're talking  
32 about surveys, if you're talking about other  
33 techniques that might be used, can you identify  
34 for me what similarities or distinctions might be  
35 made so I understand where the challenges might be  
36 that face some of the points you've raised around  
37 the survey.

38 And I believe the DFO witnesses last day  
39 mentioned the emphasis that the creel survey is  
40 not enforcement. In other words, it's a friendly  
41 person asking information. It's not combined with  
42 enforcement. But in your views, with your  
43 experience, is that a good thing necessarily?  
44 Sometimes people's recollection gets a little  
45 stronger if someone in authority is asking the  
46 question for purposes that go to enforcement,  
47 other than just tell me something you might

1 recall. But I'm just curious as to where you see  
2 the strengths and weaknesses of that system. But  
3 also the techniques that are used for anglers  
4 currently in freshwater and in the marine areas  
5 that may be different from what you experienced  
6 years ago.

7 DR. KRISTIANSO: Well, I'll perhaps answer in reverse  
8 order and then I may punt the fishing techniques  
9 one to Jeremy, who I think is probably better  
10 equipped to answer it. But the issue of the  
11 relationship between enforcement and creel  
12 surveys, I mean, I understand the Department's  
13 position on that, and I think I can understand  
14 that it may not be desirable to totally combine  
15 the two. But the difficulty at present, as I  
16 understand it, is that the people who are given  
17 the responsibility for creel survey have no  
18 authority to demand information. And so you do  
19 get this sometimes, and I've experienced it  
20 personally, a kind of hesitant, "Gosh, would you  
21 mind telling me what you caught today," and I  
22 think that's inappropriate.

23 I mean, I think that under the **Act**, the  
24 government has the right to ask every angler for  
25 information on their catch. I mean, that's a  
26 statutory power, and I think that it would be good  
27 if creel surveyors were somehow better able to  
28 reflect that authority. Not to combine it with  
29 trying to enforce rules on people who are  
30 cheating, that sort of thing, but in order to get  
31 the data. Creel surveyors ought to be able to  
32 examine the fish, look at them, all of that. I  
33 don't think there's an issue there that people  
34 would object to. It may have to do with union  
35 rules in government and the powers that you give  
36 the people and those kinds of things, and I don't  
37 profess to understand that.

38 On your question about I think there are  
39 differences between, or the challenges in  
40 freshwater may be a bit different than in tidal  
41 waters, with which I'm actually more familiar.  
42 But not dramatically, in the sense that again  
43 you're talking about a large population of people,  
44 particularly in our environment, able to get to  
45 streamside or on the ocean without necessarily  
46 encountering officialdom, or going through some  
47 organized point of access, and so the ability to

1 contact each angler each day that they're fishing  
2 and ask them how many fish they're catching, or to  
3 provide them mechanisms by which they provide you  
4 that information. I noticed one of the documents  
5 that was circulated to us talks about, you know,  
6 each angler at night would sit down at his  
7 computer and send in the data. I mean, I think  
8 these things are impractical.

9 And I think that the creel survey  
10 methodology, the survey methodology of gathering  
11 angler information is used all over North America  
12 and in other jurisdictions. It has a good  
13 statistical base if you apply the appropriate  
14 number of resources to collecting the data. And  
15 so it would seem to me odd that in a society  
16 where, you know, we make a whole lot of decisions,  
17 like our Prime Minister is probably deciding now  
18 whether to call an election or not, based on  
19 survey data, but we're distrustful about survey  
20 data in the context of fishing. And so I would  
21 rather improve the survey collection method than  
22 say that you're going to discard it and try to  
23 move to some other system, which I think would be  
24 more costly and which would make it difficult to  
25 collect information in a timely way that could be  
26 used.

27 As just one example, as a Salmon  
28 Commissioner, I'm responsible for allocating the  
29 harvest off the West Coast of Vancouver island of  
30 chinook. Under the Allocation Policy, we cut off  
31 a chunk for First Nations food, social,  
32 ceremonial. We then decide what the recreational  
33 harvest is likely to be, and then the remainder is  
34 made available for commercial harvest of chinook.  
35 And the season ends at the end of September in the  
36 case of chinook harvest under the Treaty. If, for  
37 example, we know at the beginning of September  
38 that the recreational sector has caught fewer fish  
39 than had been anticipated, then those fish should  
40 be made available to the commercial sector for  
41 harvest. They're part of Canada's entitlement  
42 under the Treaty, based on an abundance-based  
43 assessment system. And if we don't collect data  
44 in-season that allows us to know what the  
45 recreational harvest is, then we can't do that.  
46 And those are the kinds of reasons why for  
47 everyone's benefit it would be better to improve



1 the system.

2 As for changes in fishing technique, I'm not  
3 nearly as good a fisherman as Jeremy, and he's the  
4 professional that takes people out, so I really  
5 would punt that question to him.

6 THE COMMISSIONER: Mr. Kwak would say you're  
7 exaggerating, Dr. Kristianson.

8 MR. MAYNARD: So first of all, my knowledge is related  
9 to the marine environment. I do virtually no  
10 salmon fishing in freshwater, so here's the  
11 expert. I would say as regards to sockeye, there  
12 has essentially been no meaningful new technique  
13 in saltwater for catching sockeye. Overwhelmingly  
14 the technique for sockeye, to fish for sockeye  
15 deliberately is with what's known as a flasher and  
16 hoochie. So a flasher is a rectangular device  
17 that beats backwards and forwards. It both  
18 attracts the fish to your lure, and in the case of  
19 the small pink hoochies that we use to fish for  
20 sockeye and pinks and chums, primarily they're a  
21 small little rubber lure that has no action of its  
22 own. If you tie the right length of leader, it's  
23 following along behind, and so hopefully it's  
24 attractive to the fish. That's been the technique  
25 that's been used for, you know, relatively  
26 speaking, decades in marine waters. Maybe new  
27 colours, maybe shorter length of leaders, but the  
28 basic technique itself is trolling with these  
29 flasher and hoochie rigs through the water, and  
30 that's how the commercial trollers harvest their  
31 sockeye, as well.

32 Could I respond to your other question about  
33 creel surveys and the linkage with enforcement, if  
34 I may?

35 MR. MARTLAND:

36 Q Before you do that, I'd just like a very clear  
37 record if we can. You were indicating that the  
38 flasher size would be about a foot. Does that  
39 sound fair?

40 MR. MAYNARD: Yeah, they're about 15 inches long and  
41 maybe four or five inches wide, one-third the  
42 depth of the length.

43 Q And the hoochie would be a few inches, three or  
44 so?

45 MR. MAYNARD: The pink ones we use for sockeye, pinks  
46 and chums, are usually quite small, about an inch  
47 long. They're a little, little rubber mini-squid,

1 so to speak, and they're placed on the leader, the  
2 length of line and the hook.

3 Q Thank you. Carry on.

4 MR. MAYNARD: I agree with Dr. Kristianson's comments  
5 around there probably isn't a role for enforcement  
6 explicitly by creel survey people. At the same  
7 time, I think there's an opportunity that might at  
8 times be missed by creel survey people if they see  
9 rules being broken as a result of their  
10 observations, either undersized fish or species  
11 that can't be kept for whatever reason. And if  
12 there is a persistent continuation of, you know,  
13 one or more rule breaking, either deliberately or  
14 inadvertently - probably inadvertently - I think  
15 that there could be more linkage between the creel  
16 survey people and the enforcement people to alert  
17 them.

18 And my following comment, I think also  
19 reflects another example of where insufficient  
20 resources to creel surveys are showing up, and  
21 I've been surprised as an angler and a guide  
22 myself several times to find out that a creel  
23 survey person interviewing me is not aware of the  
24 current regulations. And so it seems to me that  
25 there needs to be perhaps more emphasis on making  
26 sure that the creel survey people are totally up  
27 to date on what the regulations in a particular  
28 area are. It's always been a bit of a surprise to  
29 me, but it's happened on more than once. So I'm  
30 not saying that that's a wide-scale problem, but I  
31 think if there were more resources available for  
32 creel surveys, then I think that that's a  
33 situation that would almost certainly not occur.

34 And if I could just offer one more thought on  
35 creel surveys, and a comment of Mr. Kwak's  
36 prompted this. He talked about flying along in an  
37 airplane, which he hasn't been in, of course, but  
38 then looking down at and seeing people fishing for  
39 sturgeon and counting them as fishing for salmon,  
40 for example. We have the same issue in saltwater,  
41 where people, and we've through the Sport Fish  
42 Advisory Board process, we've run into this on  
43 several occasions in recent years, trying to deal  
44 with chinook conservation issue off the southern  
45 end of Vancouver Island in the Victoria area. And  
46 the local Sport Fish Advisory Board Committee  
47 there, of course they're very knowledgeable about

1 what's taking place in the Victoria and eastern  
2 Strait of Juan de Fuca area, and have found that  
3 the estimates of chinook salmon are not reliable  
4 through the creel survey, simply because the creel  
5 survey has been enumerating effort. And they're  
6 counting every single boat on the water, but  
7 they're assuming that all those boats are fishing  
8 for salmon, and it turns out that there can be a  
9 very productive and popular halibut fishery there.  
10 And so these boats are fishing for halibut and not  
11 for salmon at all. Very different techniques and  
12 highly unlikely to catch a chinook salmon.

13 So in any event, I guess my comment would be  
14 that it's probably worth remembering that creel  
15 surveys in the Pacific Region were almost  
16 completely oriented to salmon, recreational salmon  
17 fishing, and the complexity of the recreational  
18 fishery on the West Coast has increased  
19 significantly. Not just in geography, but also in  
20 species. So species that we relatively speaking  
21 infrequently fish for now are very popular, and  
22 it's the same with sturgeon, for example, in  
23 freshwater, where, you know 20, 25 years ago, the  
24 freshwater sturgeon fishery didn't exist, and now,  
25 you know, it's a real popular fishery with strong  
26 participation.

27 So again if there more resources devoted by  
28 government to creel surveys, they could account  
29 for this complexity which is important in figuring  
30 out exactly what the real results are. Thank you.

31 MR. MARTLAND: Mr. Commissioner, we're moving close to  
32 the time for a break, but I wonder if it makes  
33 sense to ask Mr. Kwak to address these points, and  
34 also help us understand a little bit more about  
35 techniques of in-river salmon fishing.

36 MR. KWAK: Sure, I can do that. The fishery for  
37 sockeye, pink and chum varies quite a bit in the  
38 type of gear that is being used. Generally  
39 speaking, we have fishermen that really consider  
40 themselves as, well, next to fly fishermen purists  
41 or real sport fishermen, and I don't know who has  
42 the right to determine that.

43 But there are quite a number, especially of  
44 elderly folks that like to get away from the house  
45 for the day, and they will sit on the river all  
46 day with an umbrella, either to keep out the rain  
47 or the sun, and a newspaper, and they will cast a

1 relatively heavy weight, 15, 16 ounces, into the  
2 river with a spin and glow on it, and that spin  
3 and glow will sit there and spin around and  
4 around, make a bit of a noise, and also, you know,  
5 have this reflective action. And as a salmon  
6 comes by it may very well grab it. That sets off  
7 a bell that they have put up at the top of their  
8 rod that they can hear, and they quickly run to  
9 their rod, which they then set the hook and fight  
10 the fish.

11 However, bottom bouncing or flossing has  
12 become very popular, and when it comes to sockeye  
13 fishery in-river, although a sockeye can be caught  
14 with that method of a spin and glow, it's not very  
15 common. So of all the fishermen that I know,  
16 there might be ten or 15 sockeye caught in-river,  
17 in the Fraser River main stem on a spin and glow  
18 over the course of the year. So generally  
19 speaking these people that are fishing with this  
20 method are not fishing for sockeye. They're  
21 fishing for chinook or some other species.

22 The sockeye fishery generally, which has  
23 become extremely popular, is the flossing method.  
24 Where you take a weight that would be anywhere  
25 from one ounce to four ounces, and tie it to your  
26 main line. From there you would stretch out a  
27 leader that would be from six feet to 20 feet, and  
28 at the end of that 20 feet you would tie a hook.  
29 The hook needs to be barbless, of course, and the  
30 hook needs to have an object on it that is  
31 considered bait. It is absolutely not necessary  
32 for the fishery. The bare hook will do the trick,  
33 just like the little what's called a corkie or a  
34 piece of wool that's being used. But because of  
35 the fact that we require some kind of bait, we do  
36 clip them on. What it also does is the corkie or  
37 the whatever is being used, tends to lift the hook  
38 off the bottom just a very little bit.

39 And so what happens is we have thousands of  
40 sockeye salmon moving through the river in unison  
41 with one another, all opening and closing their  
42 mouth and going upriver like that, and as you  
43 cast, that six- to 20-foot leader sort of swings,  
44 and as it swings, the fish opening and closing its  
45 mouth gets that line in its mouth. You feel that,  
46 and there is a technique to that. Not everybody  
47 can just do it, although it can be quickly

1 learned. But we found in the mortality study that  
2 some people are a lot better at it than others, of  
3 course. And so you then set the line, as well,  
4 and you immediately rip that hook into generally  
5 the left or the right, depending on which side of  
6 the river you're fishing, into the maxillary bone  
7 on the side of the mouth.

8 The fish is then fought, in the very same  
9 manner that you would use or would happen if you  
10 were using a corkie, a spin and glow, or a lure or  
11 something like that. The fish is still in the  
12 mouth, and it has that same capacity to fight and  
13 get off and win or lose, depending on what  
14 happens.

15 So that's the major difference in the  
16 fishery. We have some other methods of catching  
17 chinook, but generally those are the main methods.

18 THE COMMISSIONER: Thank you. Just on that, I think  
19 you've been talking about bar fishing, if I  
20 understand you correctly.

21 MR. KWAK: Correct.

22 THE COMMISSIONER: What about trolling in freshwater?

23 MR. KWAK: There is some backwater trolling that's  
24 become popular in the last few years. It wasn't  
25 really popular before. But generally it is guides  
26 that do that kind of fishing. It's not a system  
27 that's being used by most generally recreational  
28 anglers because you need specialized equipment to  
29 be able to do that.

30 THE COMMISSIONER: Right.

31 MR. KWAK: What happens is you need a pretty good sized  
32 jet boat to take you upstream, and then when you  
33 take your --

34 THE COMMISSIONER: You're talking about salmon fishing  
35 now.

36 MR. KWAK: Yes, salmon fishing, mainly chinook. And  
37 more in the Harrison River than in the main stem.  
38 And so then what happens is you take your boat out  
39 of gear, or turn it off, and then you start your  
40 little back-troll motor, which is maybe nine or  
41 ten horsepower, and you keep it steady in the  
42 current going downstream way slower than it would  
43 naturally go if it was turned off. And so  
44 generally the average recreational angler doesn't  
45 have the capacity to do that. Although there are  
46 some that do. I've never done it, but it has  
47 become somewhat popular among guides.

1 THE COMMISSIONER: I see. Thank you.

2 MR. MARTLAND: This may be a good time for the break.

3 THE COMMISSIONER: The hearing will now recess for 15  
4 minutes.

5

6 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)

7 (PROCEEDINGS RECONVENED)

8

9 THE REGISTRAR: The hearing is now resumed.

10

11 EXAMINATION IN CHIEF BY MR. MARTLAND, continuing:

12

13 Q Before we broke, Mr. Kwak, you were answering some  
14 questions and telling us a bit about bottom  
15 bouncing and flossing, but were there some other  
16 points you wish to raise or touch on?

17 MR. KWAK: Yes. Thank you. I would add one more thing  
18 and that is in regard to the creel survey and  
19 although I agree that it's generally pretty good,  
20 I have thought that maybe one way of testing that  
21 - and maybe it's already been done, I'm not sure -  
22 is that over the past three years, Jim Thomas has  
23 been doing a catch and release short-term  
24 mortality study and we have completed three years.

25 I've been involved with the study each year  
26 and we have gone for three five-day weeks each  
27 time, so we have quite a bit of data. Every fish  
28 that is caught is recorded. Every species is  
29 recorded and the effort is recorded, so he knows  
30 hour-by-hour how many people are actually fishing  
31 for him so he can come up with catch estimates.

32 So it would be my recommendation if it isn't  
33 already being done that one of the easy ways that  
34 we could see just how accurate the creel is based  
35 on that four-year three weeks each time of  
36 fishing, compare it to what the creel survey  
37 people saw in that same timeframe. Wouldn't cost  
38 a lot of money and that information is readily  
39 available, so that would be my recommendation if I  
40 could make one.

41 Q And I'll just, for your information, as well as  
42 for the record, confirm we've had some evidence on  
43 the catch -- I think it's called formerly the Hook  
44 and Release Mortality Study that J.O. Thomas and  
45 Associates have conducted, that's what you're  
46 referring to?

47 MR. KWAK: That is what I am referring to, correct.

1 Q And you've been involved in the --

2 MR. KWAK: I have.

3 Q Thank you. What I'd like to do is to move to a  
4 general question about the management the  
5 Departments, in particular the DFO's management of  
6 the recreational salmon fishery and on  
7 consultation with the recreational sector, which I  
8 think brings into play the SFAB in particular.  
9 Mr. Kwak, my note is that you're the person I  
10 should ask first and to move through the sequence  
11 of witnesses. So I'd ask for your views on how  
12 well the Department does on managing the  
13 recreational fishery, how consultation works and  
14 where you see a need for particular improvements  
15 or changes.

16 MR. KWAK: Kind of a difficult question for me. When  
17 it comes to the SFAB process I'm certainly very  
18 much in favour of that and I think that we are  
19 well-covered off in the sense that we have the  
20 local committee that meets and we can meet more  
21 often than twice a year, but generally we meet  
22 twice a year. And certainly the Department does a  
23 pretty good job in bringing along somebody from  
24 enforcement to kind of give us an update of what's  
25 happening in enforcement, also to get us  
26 information from the different hatcheries that are  
27 in our areas, specifically. We have opportunity  
28 to then discuss issues and the Department takes  
29 notes and carefully records any motions that we  
30 might make and put them forward.

31 They then go to the South Coast and at the  
32 South Coast these motions are then further  
33 discussed and some clarity is given as to how they  
34 might impact other regions or areas. And then  
35 when those motions are passed and go on, we then  
36 put them forward at the main board where the North  
37 Coast and South Coast together will vote on the  
38 motion and sometimes make minor changes, sometimes  
39 strike it altogether, but then it goes for  
40 consultation as SFAB thoughts. So I think that  
41 process works really good.

42 When it comes to the in-river effort, I have  
43 to say that in the last couple of years things  
44 have improved greatly but mainly because of the  
45 efforts of the integrated salmon dialogue form  
46 with Sigurdson and Stuart.

47 Q Mm-hmm.

1 MR. KWAK: And, in fact, the Fraser River Salmon Table  
2 Society. We have consultation dialogue like we  
3 never ever have had in the past. It's been tried,  
4 but ultimately it has failed. And I'm not  
5 suggesting that it will continue on forever. It  
6 might still fail at some point. We need to  
7 realize that this last year we had a tremendous  
8 fishery, so everybody was basically happy and  
9 there was nothing really to argue over, at least  
10 not in any seriousness.

11 But that said, we do have issues on the  
12 river. I think you're all aware of the fact that  
13 Willie Charlie was assaulted with a pellet gun by  
14 supposedly a recreational fisherman. I wouldn't  
15 call him a recreational fisherman, but that  
16 apparently is what he was. We don't even know if  
17 he had a licence. So, you know, but we are  
18 assuming that he's a recreational fisherman. And  
19 that created some, you know, real tension but  
20 thankfully, again, with the support of the Fraser  
21 River Salmon Table Society and the Integrated  
22 Salmon Dialogue Forum, we have been able to  
23 resolve those issues.

24 So would I like to see more of that? Yes, I  
25 would. I would like to see more of it locally,  
26 because of the fact that we live in a unique area.  
27 We have lots of recreational anglers that fish  
28 mostly freshwater, but are still fishing for  
29 salmon, and so it would be really nice if there  
30 was more involvement from DFO in some of these  
31 processes as there is.

32 That said, Paul Sprout, who put this together  
33 originally, did say that if the sectors, and that  
34 would be First Nations, the commercial, the rec  
35 and the ENGOS could agree on something together  
36 in-river and then bring it forward as a proposal  
37 that has been signed on by all four parties, it  
38 would have made his life a whole lot easier and I  
39 imagine that Sue Farlinger is probably in the same  
40 position.

41 So in some senses, in some cases, it's  
42 probably best that we have opportunity to talk  
43 these things over without DFO, but we still have  
44 to have funding from DFO or elsewhere in order to  
45 make this happen. And then once we have consulted  
46 with one another and come to some constructive  
47 conclusions, we can then bring them forward to DFO



1 where they would then oversee, you know, what  
2 we've put together and come to some conclusions on  
3 their own.

4 Q Just to pick up on one of the things you were  
5 addressing, the Fraser River Salmon Table, amongst  
6 other groups, was involved - and I'm going to be  
7 old-fashioned and hold up a piece of paper instead  
8 of an electronic document - but this is a pamphlet  
9 called River Manners - Getting Along on the River.  
10 I have copies I'll provide as well. And I'll  
11 just, Mr. Kwak, if I might confirm, you brought  
12 this with you today. I've provided it to counsel  
13 here in the room. Could you tell us just very  
14 briefly about this?

15 MR. KWAK: Yes, I can. The Fraser River Salmon Table  
16 in cooperation with the RCMP and recreational  
17 anglers, as well as First Nations, have been  
18 meeting for quite some time and there was several  
19 proposals that were put forward. One was to make  
20 a video to deal with this getting along on the  
21 river, which we in fact did and it went onto You  
22 Tube and it explained and showed visually via a  
23 video what you would do in an encounter situation  
24 where a recreational angler is positioned in a  
25 river, a drift net is coming downriver. Now what?  
26 How etiquette is involved and what you need to do  
27 to cooperate with one another.

28 And so that video was very successful and we  
29 then put together a pamphlet, as well. We made up  
30 thousands of them and on a tour that was co-  
31 sponsored by the Fraser River Salmon Table, the  
32 Integrated Salmon Dialogue Forum, funded I think  
33 in part by DFO and the Fraser Salmon Watershed  
34 Program, we had a group of about 30 people get on  
35 a couple of big guide boats and proceed upriver  
36 from Mission and stop wherever there were people  
37 fishing in numbers and talk to these folks and  
38 hand them this pamphlet. As you can see, within  
39 the pamphlet in the very middle in the green is  
40 Sport Fish Advisory Board statements on etiquette  
41 and that was adopted.

42 Once we put this thing together, although the  
43 Sport Fishing Advisory Board was not directly  
44 involved, nor was SFI, once I presented this  
45 information to them, they said they would be more  
46 than willing to sign on and so as you can see,  
47 their logos also appear, giving even more

1           credibility to this process. But initially it was  
2           the Province, the Department and the folks  
3           locally, first couple of First Nations bands and  
4           the recreational community.

5           Q     And indeed from that list of logos, at least, the  
6           Sto:lo Tribal Council, the B.C. Federation of  
7           Drift Fishers, we've mentioned the Fraser River  
8           Salmon Table, B.C. Wildlife Federation, the  
9           Province, the Sto:lo Nation, the Chehalis Indian  
10          Band, Fraser Valley Angling Guides Association,  
11          SFIBC, DFO, Fraser Valley Salmon Society, Fraser  
12          Salmon and Watersheds Program, those are the main  
13          -- and the RCMP is listed. They don't have their  
14          logo, but those are all different bodies that were  
15          involved in this?

16         MR. KWAK: That is correct.

17         MR. MARTLAND: I'd ask this be marked as an exhibit,  
18                 please. And I apologize, Mr. Lunn, for not  
19                 thinking ahead to having you a copy beforehand.

20         THE REGISTRAR: Exhibit 549.

21  
22                 EXHIBIT 549: Pamphlet entitled River  
23                 Manners: Etiquette for a Changing Fishery  
24

25         MR. MARTLAND:

26         Q     Thank you very much. Dr. Kristianson, I had asked  
27                 a fairly perhaps dangerously broad question, but a  
28                 general question about how the Department is doing  
29                 at managing the recreational salmon fishery and  
30                 about consultative processes with the recreational  
31                 sector?

32         DR. KRISTIANSON: Well, I mean, I think as I said in  
33                 previous testimony, I mean, I can only give credit  
34                 to the Department for the extent to which it tries  
35                 to consult with the harvesters of fish and other  
36                 interests. I think it does a better job of that  
37                 than any other department of government of which I  
38                 am aware.

39                 In the case of the SFAB, you know, the SFAB  
40                 is the longest established of all of the groups  
41                 that provide input to the Department in a formal  
42                 way, really was the first advisory process. It  
43                 has been frequently cited by the Department as  
44                 sort of the paradigm, that if we could replicate  
45                 this in other sectors, the system would work more  
46                 effectively. And I think that's because, you  
47                 know, it is -- it's a democratic process in the

1 sense that it's based at the grassroots. There  
2 are local committees in local communities, most of  
3 which allow any angler to be a participant. It is  
4 representative in that it tries to balance or it  
5 is required in its terms of reference to balance  
6 what we term primary interests, that is, the  
7 interests of people who just like to go fishing  
8 and don't have an economic stake in doing that,  
9 and what we term the secondary side, which are  
10 individuals or groups or entities that are -- that  
11 do derive economic benefit from the recreational  
12 fishery, and so they -- we are required as part of  
13 our terms of reference to always have a majority  
14 in effect of the primary interest in the room.

15 Now, it's a little hard to do that in any  
16 kind of formal way, but certainly in my period as  
17 -- of involvement, I cannot recall a single time  
18 when that was an issue, where the board was  
19 divided between what were perceived as primary and  
20 secondary interests. And so in that sense, it --  
21 and then it's effective. I mean, we make  
22 decisions, we're able to convey those decisions to  
23 the Department with obviously the obligation to  
24 support them once we have conveyed them, which  
25 means that if the Department takes their advice,  
26 it does so knowing that it has at least that  
27 process to cite as the source of the information.  
28 And frankly, we have always been at some pains to  
29 try and avoid that being fractured, to be in a  
30 situation where there are competing -- where the  
31 SFAB has not done a good enough job of straddling  
32 that diverse group 300,000 people and the  
33 interests that are composed in it in a way that  
34 puts the process at risk. And I think we've done  
35 that successfully.

36 The -- you know, the Department overall in  
37 terms of the answer to your question, has moved a  
38 very long way, at least during the period that  
39 I've been directly involved, and that goes back to  
40 the early 1980s and writing a brief to the Pearce  
41 Commission on the fishery, in the sense that --  
42 Peter Pearce's report recommended that the  
43 Department pay a lot more attention to  
44 recreational angling. Peter pointed out that the  
45 value to the economy of recreational angling was  
46 much greater than people had thought, that the  
47 participation rate was much larger than had been

1 understood until there were licensing of anglers,  
2 'cause till you licensed recreational anglers,  
3 didn't know how many there were.

4 And so, you know, that came to the Department  
5 at a time when really, it was a department of  
6 commercial fishing and most of the people in it  
7 were focused on commercial fishing and had a  
8 predilection to think that well, recreational  
9 angling is sort of out there on the edge and it's  
10 not really important and, in fact, we don't -- we  
11 didn't bother counting many of the fish that  
12 recreational anglers caught, like halibut and  
13 others. We had the creel survey for salmon.

14 Those days are long gone and, in fact, the  
15 Department, I think, has made a genuine real  
16 effort to try and understand the recreational  
17 fishery to ensure that members of the Department  
18 understand it, and that it pays appropriate  
19 attention to the issues that relate to  
20 recreational fishing. Does it always make the  
21 right decision? Well, of course not. Nobody  
22 does. But at least in our case, we have the  
23 comfort of knowing that when -- I think I can say  
24 in fairness that the Department, when it doesn't  
25 take the advice of the SFAB, it's usually very  
26 clear why that has been the case and those reasons  
27 are given and explained.

28 Now, I'm talking primarily about salmon here,  
29 because if we could have this commission suddenly  
30 start talking about halibut, I'd be a very happy  
31 man and I'd give you a somewhat less positive  
32 approach, but not in terms of management by the  
33 Department. Because in the case of halibut, we're  
34 faced with a serious problem that is a question of  
35 political decision-making and that's a different  
36 -- something that isn't necessarily directly  
37 relevant.

38 Q And I'm anticipating a little bit, but I have  
39 saved for my last question a question about share-  
40 based management and ITQs that may provide you a  
41 chance to pick up on the halibut theme.

42 DR. KRISTIANSO: Right.

43 Q Mr. Maynard?

44 MR. MAYNARD: So the question specifically is my views  
45 on salmon management and particularly the  
46 recreational fishery?

47 Q Yes, that's right.

1 MR. MAYNARD: Well, I would say overall the management  
2 is positive. Obviously the Sport Fish Advisory  
3 Board and many individual recreational fishermen  
4 don't agree with some of the decisions made by the  
5 Department, but that, you know, in the big picture  
6 that's the nature of things. I think the  
7 Department is afforded through the Sport Fish  
8 Advisory Board - which Gerry has noted earlier is  
9 the longest-standing recreational -- or the  
10 longest-standing fisheries advisory body to the  
11 Department of Fisheries and Oceans anywhere in  
12 Canada - the opportunity to work through a number  
13 of very substantive issues.

14 So, for example, the salmon allocation policy  
15 discussions in the 1990s, more recently the  
16 development of what's known as the Vision document  
17 as a series of principles agreed to by both senior  
18 levels of government and the Sport Fish Advisory  
19 Board around the way that the recreational fishery  
20 should be managed and fostered in the future. I  
21 mean, these are -- this is very important stuff in  
22 our view.

23 The Sport Fish Advisory Board process also,  
24 as Dr. Kristianson has indicated and Mr. Kwak,  
25 generally works very well. It's a volunteer-  
26 driven process, so particularly for the core  
27 group, it can become burdensome because of the  
28 very large number and diversity of issues that  
29 we're asked to consider. On the other hand, we're  
30 all grown-ups, so I guess if we didn't want to be  
31 there, we didn't feel it was important, then those  
32 of us that participate in the SFAB process  
33 wouldn't do so. So for many of us, it's become  
34 almost a way of life, but we think the results are  
35 very important to an important activity on the  
36 West Coast of Canada.

37 Could there be improvements? Possibly. And  
38 again, one of the concerns right now and it's kind  
39 of counter to the comment I just made about the  
40 demands on many of the core volunteers, but at the  
41 same time, we're finding our ability to  
42 participate is constrained because of diminishing  
43 resources. The expenses of the volunteer  
44 participants in the Sport Fish Advisory Board are  
45 paid for under, you know, federal guidelines and  
46 the money available to do that is diminishing and  
47 so we're starting to see on the horizon where

1 meeting the ability to participate in meetings and  
2 not just in the recreational fishery, but with  
3 other different interests, is diminishing because  
4 of the inability for the Department, through the  
5 Recreational Fisheries Division regionally to  
6 support those activities. And so it's not been a  
7 huge concern so far, but it might become more so  
8 in the future.

9 Q Just to pick up, Mr. Maynard, on the point you  
10 make about a process that relies on volunteerism  
11 and people putting in their free time, and could  
12 you -- maybe I'll ask each of the panellists to  
13 just give us a quick sense of how big of a  
14 commitment this is for you personally?

15 MR. MAYNARD: Well, I personally have never added it  
16 up, but I'm involved in two local committees as a  
17 member of the executive now for close to 20 years.  
18 You know, I participate in any number of  
19 discussions. So I would think that at some  
20 portion of possibly a hundred days a year are  
21 involved by myself in the Sport Fish Advisory  
22 Board process. It might be just 20 minutes and  
23 might be full days and everything in between, but  
24 it's a reasonable commitment, for sure.

25 Q And that is you may have some meetings where you'd  
26 have your travel costs defrayed, but your time is  
27 all volunteer time?

28 MR. MAYNARD: The Sport Fish Advisory Board, yes, and  
29 many of its associated processes, like the  
30 Integrated Harvest Planning Committee, that's not  
31 compensated. Our time as representatives on the  
32 Pacific Salmon Commission is compensated.

33 Q Mr. Kwak?

34 MR. KWAK: Yes, thank you. Recently there was an  
35 opening in the Fraser Panel for a position there  
36 and a number of people approached me and asked me  
37 if I would be willing to stand, so I did. And so  
38 I had to put together a kind of a statistics sheet  
39 as to where I was involved and what I was involved  
40 in, and so my wife and I did that and I believe  
41 that we came to the conclusion on paper that I was  
42 involved or indirectly involved in close to 25  
43 different committees.

44 So I would say that I spend increments of  
45 time on different committees almost full-time, if  
46 you consider a 40-hour week. If it's not the BC  
47 Hydro Water Use Plan, it's the Sturgeon Technical

1 Committee or something else.

2 Now, one of the reasons for that is  
3 unfortunately in the area I live in, apparently  
4 there isn't enough people around that are willing  
5 to give of their time freely, and so again, each  
6 process that I go to I am entitled to my out-of-  
7 pocket expenses; however, one has to sometimes  
8 wonder if that is sufficient. I just recently  
9 caught a rock in my windshield. I've lost a tire,  
10 you know, in travelling. And so the 50 cents a  
11 kilometre you get looks good on the day that you  
12 get it, but when those kinds of things happen you  
13 wonder.

14 It used to be that when you stayed in a hotel  
15 room generally speaking you could book it on your  
16 own and so ultimately if you stayed in a hotel  
17 enough times you'd get a free stay, so you'd get a  
18 little bit of something. But now the Department  
19 has kind of changed that a little bit too and they  
20 pre-book most of the rooms and so you don't get  
21 that credit. It wasn't a lot, but it was  
22 something.

23 The only process that I am entitled to claim  
24 for is in the Integrated Salmon Dialogue process  
25 which is, of course, run by Sigurdson and Stuart  
26 and they came to the conclusion a long time ago as  
27 professionals that you can't get people to  
28 meetings if you're constantly asking them to come  
29 on their own dime or their own time, and so they  
30 did put forward a stipend.

31 On the Fraser River Salmon Table Society as a  
32 director, I am entitled to claim, as well, but  
33 because of the fact that I am indirectly reporting  
34 out to the Sport Fish Advisory Board, I do not  
35 claim. And so there are -- every other person in  
36 that process, I think, and I happen to sign the  
37 cheques 'cause I'm the treasurer, does claim  
38 significant amounts of money or minor amounts.  
39 Some take less than others, but mine is still zero  
40 and that gives me the capacity to be totally free.  
41 There is no one can ever say to me, "Well, you're  
42 beholding to this group because of..." I can say,  
43 "No, I don't get any money."

44 So it does take a substantial amount of my  
45 time. The wonderful thing that I have is my wife  
46 likes to travel with me and I wouldn't do this  
47 without her and she does come along and she's here

1           today and comes to everything that I go to unless  
2           it happens to be just a day meeting where I can go  
3           that it's not very far away. But that's what  
4           makes it acceptable to me and I quite enjoy most  
5           of it, but maybe I would be better suited if I  
6           geared down into certain categories and gave some  
7           of the other ones away. But I don't know anybody  
8           that's willing to say, "Oh, I'll volunteer to do  
9           that." So I continue to push forward.

10           I am retired and so I enjoy it.

11           Q     Dr. Kristianson?

12           DR. KRISTIANSON: Yes. Well, thank you. I mean, like  
13           my colleagues, I'm a volunteer and happily one. I  
14           have no regrets about that. I'm in that fortunate  
15           position of life where I don't have to earn a  
16           living, so I can donate my time to things that I  
17           think make a difference and I mean I was forced by  
18           my wife at one point - I'm about to have my  
19           fiftieth wedding anniversary, so I know when the  
20           pressure's on to account for things - and they --  
21           I do -- in recent years I've devoted about 200  
22           days a year to volunteer activity related to the  
23           recreational fishery and I don't regret a moment  
24           of that. But I do think it points up the dilemma  
25           which is, of course, that we have a process. It  
26           works well because a lot of people are prepared to  
27           devote their time to it. And, you know, whether  
28           it would be better if it were converted to some  
29           different paradigm, a non-profit society funded,  
30           you know, in some way in which instead of those of  
31           us who are volunteers representing the sector, we  
32           had hired guns who were doing that, I frankly  
33           don't like that approach. I think that the  
34           representativeness of a volunteer-based body gives  
35           credibility to the SFAB that it would not have if  
36           it wasn't based in that way.

37           But, as I think Frank alluded to, it's  
38           becoming -- it's increasingly difficult where  
39           volunteers, who admittedly their expenses are  
40           being compensated and I value that and it wouldn't  
41           work without that, are in rooms where the great  
42           majority or, in fact, all of the rest of the  
43           people there are being compensated for their time  
44           and so that is a bit of a dilemma of our process,  
45           but, look, it's one we've chosen to be involved in  
46           and so I don't think it's one we should complain  
47           about.



1 Q All right. Dr. Kristianson, I will pick up on  
2 something. You were describing the Pearce process  
3 and some of the background. The exhibit we  
4 entered this morning, number 548, I won't go to  
5 any particular part of it, but that report gives  
6 us some of that background. One of the things  
7 that comes out of this document a bit more  
8 generally is some discussion of the background and  
9 the perspective of some in the recreational  
10 fishery that they dislike the Department managing  
11 through the tackle box. And there's a reference  
12 in the report which I won't take you to  
13 specifically but it talks about the Department  
14 attempting and then backing down from banning  
15 downriggers in the 1980s.

16 So with that as sort of a preamble, I don't  
17 know if it's a helpful one, but I'd like to ask  
18 you about selective fishing and on its  
19 applicability and relevance, in particular  
20 anything that brings us back to the sockeye,  
21 selective fishing in terms of how the Department  
22 is managing gear, techniques and openings and the  
23 like.

24 DR. KRISTIANSON: Well, as I recall from when I was  
25 preparing this document, I mean, they --  
26 particularly through the 1990s, the issue of  
27 selectivity in fishing for all sectors --

28 Q Mm-hmm.

29 DR. KRISTIANSON: -- was becoming more important as we  
30 were facing changes in stock status in a number of  
31 ways. And so, you know, it has been an obligation  
32 on us to be able to demonstrate that in times when  
33 you are trying to avoid particular species and  
34 harvest others, that you are using tackle that is  
35 appropriate to that effort and that you're using  
36 techniques which don't do gratuitous damage to --  
37 in particular to non-target species if the  
38 fisheries open for chinook and you're encountering  
39 sockeye or vice versa. And so, you know, there  
40 have been an -- we've encouraged research by the  
41 Department in those areas.

42 The mortality study that Frank has been  
43 involved in is an excellent example, where the  
44 understanding of the mortality rate of an  
45 encountered fish was being based on a different  
46 species harvested in a different environment,  
47 namely chinook caught in the ocean. And so that

1 was generally -- has been assumed to be around 15  
2 percent. Well, as the study has shown, it's  
3 really more down around two to three percent. And  
4 so if you're trying to decide what is the  
5 mortality impact on Fraser River sockeye that may  
6 be encountered in a low status year or you're  
7 trying not to harvest those animals, but you would  
8 like to catch other fish that are available, you  
9 need to be using accurate data, because otherwise  
10 you were saying we need to close this fishery  
11 because it's having an impact when, in fact, it  
12 was not having an impact at the level that had  
13 been assumed.

14 The downrigger example, though, to come back  
15 to your specific question about getting into the  
16 tackle box, which is that, you know, we've found  
17 it generally unhelpful when proposals are made  
18 which seem to be aimed at trying to - the  
19 downrigger one was a good example - to reduce the  
20 ability of people to actually catch a fish. And  
21 so the argument was chinook abundance in the  
22 Strait of Georgia is decreasing. We'd like to --  
23 this is in the context of signing the Salmon  
24 Treaty. We'd like to reduce Canada's impact on  
25 chinook. So instead of putting on changing the  
26 possession limits, for example, which are another  
27 mechanism that's available or closed periods when  
28 stock status -- or closed areas when fish are  
29 vulnerable because particular stocks are  
30 vulnerable, they said look, we'll ban this  
31 downrigger, which was an adaptation to  
32 recreational fishing of a very effective harvest  
33 technique that had been developed by the  
34 commercial fishery.

35 And so it was on a different size and scale,  
36 but what it does is you attach your lure to a line  
37 with a heavy weight on it. It takes it down to  
38 the preferred depth. When the fish takes it, it  
39 pops it off that device and you then play the fish  
40 on the normal fish line. And so the department  
41 said we're going to ban downriggers, getting way  
42 too efficient, you guys. I notice they didn't  
43 propose banning them in the commercial sector, but  
44 that's a different issue.

45 But what happened immediately, and I remember  
46 being at meetings where people were standing up  
47 with their way around this one, right? It didn't

1 take five minutes for someone to figure out hey,  
2 if the object of the exercise is to get a heavier  
3 weight to take the lure down deep and then it pops  
4 off, there may be other ways of doing this. And  
5 so guys that built fishing rods that were made out  
6 of two-by-fours with, you know, a great big crank  
7 on the side which technically was now a rod,  
8 right? But it wasn't a downrigger. And I simply  
9 use that example to make the point that we've felt  
10 that it's better to bring the real issue, namely,  
11 what is the conservation issue you're trying to  
12 pursue, bring it to the Sport Fish Advisory Board,  
13 let us work through based on our both -- our local  
14 knowledge and our technical knowledge and the  
15 advice the department can give, to find a better  
16 way of achieving the actual objective as opposed  
17 to moving to a technique which some people favour  
18 and others don't.

19 And Frank mentioned this early on, about, you  
20 know, the purist approach. Well, you know, nobody  
21 should -- one of the documents that's been entered  
22 as an exhibit is one in which -- which asserts  
23 that it's immoral to catch a fish if you haven't  
24 actually enticed it or tricked it into grabbing  
25 your line, and somehow that's unethical if it  
26 hasn't done that, and therefore, you shouldn't  
27 either fish that way or attempt to catch that  
28 fish. Well, I'm not sure that that kind of debate  
29 is very helpful, frankly, and so the SFAB has  
30 tried to stay out of those sorts of debates.

31 In the case of flossing, if the department  
32 wants to change the law to say that that technique  
33 is illegal, then everybody will obey the rules.  
34 But when the law says that a fish that's hooked in  
35 the vicinity of the mouth is a legal hook, then  
36 it's hard for us -- for the board to take sides on  
37 behalf of a -- what really becomes a morality or  
38 ethical argument, which then is simply based on  
39 personal preference.

40 Q Mm-hmm. Mr. Maynard? The question had to do with  
41 selective fishing and its relevance for Fraser  
42 sockeye in particular.

43 MR. MAYNARD: Well, in terms of the marine environment,  
44 which is the environment that I'm most familiar  
45 with, as I said earlier, there's basically only  
46 one technique and this is this flasher and hoochie  
47 technique and it can be very selective to sockeye,

1 but there are all different kinds of salmon  
2 species will bite at one time or another a little  
3 pink hoochie, even though you're not specifically  
4 fishing for them. But generally speaking, when  
5 you're allowed to keep sockeye in the recreational  
6 fishery, it supposes that there's a decent  
7 abundance of them in general and so it's most  
8 likely that you're going to catch sockeye on that  
9 flasher and hoochie technique.

10 If there are other salmon species that you're  
11 not allowed to keep and you happen to catch one,  
12 hopefully the angler and the guide is well-  
13 informed about that. Generally speaking, with  
14 pink hoochies, we only fish a single hook, not  
15 multiple hooks, because you're trolling along,  
16 you're going, you know, in this case moderately  
17 fast. Generally speaking the fish are hooked  
18 right on the outside of the mouth. Because we're  
19 required now since 1998 to fish for salmon with a  
20 barbless hook, the ability to release that  
21 incidentally caught fish that you're not allowed  
22 to keep, it can be released very easily, most  
23 often without even taking it out of the water.

24 We see that it's a wild coho, you're not  
25 allowed to keep it, a pair of pliers or a gaff  
26 hook just to back the hook in the fish's mouth  
27 out, and I think the survival rate is very, very  
28 high.

29 Q Mr. Kwak?

30 MR. KWAK: Yes, thank you. In the river, getting into  
31 the tackle box has actually been tried in the  
32 recent past, but generally with the approval of  
33 the local committee. I think one of the  
34 distinctions that we need to make here that maybe  
35 hasn't been made before is that the in-river  
36 fishery where I fish has a relatively high number  
37 of fishermen that are what we term catch-and-  
38 release fishers, and they come from all over the  
39 world to fish on guided trips and even from all  
40 parts of the world to fish with other recreational  
41 anglers. For example, I have a friend who is a  
42 retired 747 captain with British Airways and he  
43 comes and spend at least a month at my house every  
44 year and his object is to catch fish and release  
45 them. He's not going to take them back to  
46 England.

47 So what happens is if there is chinook in the

1 river, for instance, and we're not really supposed  
2 to catch them because they're in short supply and  
3 we have people bottom bouncing, then the warning  
4 has come out from the Department, if I can use  
5 that term - maybe that's too strong - but the  
6 suggestion, at least, that we not floss these  
7 fish, that we fish strictly with the bar fish  
8 method of using a spin and glow or something  
9 similar.

10 What that then does is it certainly reduces  
11 the take and, of course, reduces the mortality so  
12 in that sense, that's helpful. And when we're  
13 basically out of gas and not really allowed to  
14 fish until the middle of July, the concept of at  
15 least being able to go out there and attempt to  
16 fish and release what we catch is then bought and  
17 we agree that this needs to be tried.

18 And so what has happened is we have tried  
19 that and as the creel surveyor moves downriver  
20 with his boat or over-flight and determines that  
21 there's a lot of people that are bottom bouncing,  
22 the suggestion has been made, and I think it was  
23 even enforced once, where they just closed the  
24 river down.

25 Q Mm-hmm.  
26 MR. KWAK: That doesn't happen that often, but it has  
27 happened. And so, you know, that's the situation  
28 that we're in. But we need to understand that  
29 catch-and-release fishing is something that is  
30 practiced by many, many fishermen. Most people,  
31 even from Vancouver area, do not come from  
32 downtown Vancouver, taking two and a half to three  
33 hours to get to the river in the Chilliwack area,  
34 to catch two sockeye on two casts and go home.  
35 They want to fish for the day. So they will catch  
36 their two -- and when I say two sockeye on two  
37 casts, I'm not saying that that happens all the  
38 time, but I certainly, over the course of a month  
39 of fishing, will do that on several occasions.  
40 And so these folks then want to stay longer and  
41 they will release the fish.

42 One of the problems, of course, we have with  
43 that then is improper handling and so again, we  
44 need to be stepping up our enforcement opportunity  
45 to make sure that these people that are catching  
46 these fish do exactly as safe handling practices  
47 suggest, and that is leave the fish in the water,

1 unhook it as Jeremy just said, in a very easy  
2 manner with a pair of pliers or a gaff hook or a  
3 tool for that, but often these people wind up  
4 dragging the fish up onto the shore and they get  
5 over-handled, although the mortality study would  
6 show that the mortality isn't near as high, at  
7 least in the short term as what was previously  
8 thought.

9 Q Thank you. My last question and, Mr. Maynard, I  
10 have you first on the list. Given the time  
11 constraints, will be -- I'll ask basically for  
12 your basic position on this and we'll address it  
13 that way.

14 The topic is share-based management,  
15 including ITQs or individual transferable quotas.  
16 Should they be used for the commercial -- should  
17 they be used for the salmon fishery and I suppose  
18 there's different angles to this. One of them is  
19 that there's a question of whether they might be  
20 used for the commercial salmon fishery or across  
21 other sectors, including the recreational sector.  
22 What's your view on that from a recreational  
23 perspective, please?

24 MR. MAYNARD: Well, I would say first of all I don't  
25 believe that share -- fixed, defined shares  
26 between different elements of one common fishery  
27 has a place for the recreational fishery. That  
28 said, I understand a number of the benefits for  
29 its application for the commercial sector. And  
30 we're aware that the -- for example, Dr. Peter  
31 Pearce again in his report with Mr. McRae has  
32 recommended to the government that quota-based  
33 management be implemented for commercial fisheries  
34 for all fin and shellfish species more broadly.  
35 And we're starting to see that applied at an  
36 increasing rate. And we understand a number of  
37 the benefits involved around that.

38 The question for us in the recreational  
39 fishery is how the recreational fishery is, to use  
40 an expression, saved harmless from some of the  
41 impacts of quota-based management. And we're  
42 seeing that most explicitly in halibut right now.  
43 We think that the average Canadian's access to the  
44 halibut resource is now becoming significantly  
45 compromised as a result of the quota-based  
46 management regime which has resulted in this  
47 allocation framework of 2003 that right now is

1 seriously constraining for no conservation benefit  
2 but at significant social and economic loss to  
3 Canada, the ability of the recreational fishery to  
4 fish for halibut.

5 But anyway, I just use that as an example.  
6 So I think it's fair to say that the Sport Fish  
7 Advisory Board is not philosophically opposed to  
8 quota fisheries, quota fishery management for the  
9 commercial sector, but the recreational fishery  
10 has to be saved harmless from the impacts of that  
11 and there are different impacts and, you know, it  
12 depends a bit on exactly the kind of quota  
13 management that's taking place for a particular  
14 species.

15 Q Thank you. Mr. Kwak?

16 MR. KWAK: Yes. Thank you. I would respond first of  
17 all by saying that in a sense some of the fishery  
18 that I am involved in already has quota in that I  
19 am allowed if I buy a retention stamp or a  
20 conservation stamp to retain ten chinook a year.  
21 That's it. Once I've caught ten, I can't kill any  
22 more.

23 I can also tell you that over the years that  
24 I've fished as a resident of Chilliwack which is  
25 about 12, I have only ever caught ten chinook  
26 once. Most years I might get two or three. And  
27 based on a really good friend that I have that  
28 works in a tackle shop when people, back in the  
29 days when licences were bought in tackle stores,  
30 he used to ask for the person's licence and one of  
31 the main reasons was so that he could copy the  
32 information onto the new licence, but he also  
33 wanted to have a quick look on the back and see  
34 just how many people were naming dates of fish  
35 that they had caught. And he reports that rarely  
36 did he find people that had their full ten fish of  
37 chinook.

38 We have the same thing with steelhead. Where  
39 steelhead are allowed to be caught, for instance,  
40 in the Vedder River, we are allowed ten steelhead  
41 a year. You're allowed to kill one fish. The  
42 minute you kill it, you're off the river, you're  
43 no longer allowed to fish. So in a sense, we have  
44 a kind of a quota already.

45 When it comes to changing that up now so that  
46 we do wind up with a total quota fishery, I, like  
47 my colleague Jeremy and I'm sure Gerry, as well,

1 would be concerned of the implications of that.  
2 One of the big concerns that I would have is that  
3 our local angling guides, which I speak for on a  
4 lot of these tables, I'm afraid might very well  
5 turn around and buy licences from recreational  
6 anglers and they would then turn around and stack  
7 them up and be able to give opportunity to some of  
8 the fishermen that do kill fish that, you know,  
9 maybe are customers from the United States and  
10 that could become a huge issue.

11 When it comes to the commercial sector, hey,  
12 have at it. Do whatever you like. But when it  
13 comes to the recreational fishery, currently I  
14 would not support it.

15 I can also say that the Fraser River Salmon  
16 Table, which consists of the four groups, not just  
17 two, has been sort of promoting some of that, this  
18 share-based fishery, and I keep reading, you know,  
19 information and although that's not the stand  
20 they've taken, it appears that there would be more  
21 agreement from other sectors than there is from  
22 the recreational sector. We continue to say no.

23 THE COMMISSIONER: Mr. Martland, we'll take the lunch  
24 break. We have until 4:00 so if before everybody  
25 leaves, you could divide up the time as equally as  
26 possible, that would be -- I'd be grateful for  
27 that.

28 MR. MARTLAND: Thank you.

29 THE COMMISSIONER: Thank you.

30 THE REGISTRAR: Hearing is now adjourned until two  
31 o'clock.

32  
33 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

34 (PROCEEDINGS RECONVENED)

35  
36 THE REGISTRAR: Order. The hearing is now resumed.

37 MR. MARTLAND: Mr. Commissioner, I'll ask my last  
38 question. I don't even know if I need to ask it  
39 again. I'd completed my questions but Dr.  
40 Kristianson had yet to speak on the topic of SBM  
41 or ITQs and I'll ask him to do so and to  
42 appreciate we're within the confines of trying his  
43 best to do so in a compressed way given the time  
44 we're under.



1 EXAMINATION IN CHIEF BY MR. MARTLAND, continuing:  
2

3 Q Dr. Kristianson?

4 DR. KRISTIANSON: Well, thank you very much and for the  
5 opportunity because I think this is an important  
6 issue. Frankly, the recreational sector, while  
7 it's sympathetic to the aspirations of both the  
8 department and commercial fishermen to find better  
9 ways to manage commercial fisheries, are very  
10 uneasy about what the development of individual  
11 transferable quotas or assured shares or however  
12 you wish to define it, what that means for public  
13 access via the recreational fishery, the ability  
14 of ordinary Canadians through a fishing licence to  
15 have access to fish. We're concerned about this  
16 because it's very clear that the holders of  
17 individual transferable quota at the present time,  
18 whether that be in halibut or other groundfish or  
19 in salmon where it's been increasingly used,  
20 believe they own a form of property. It's  
21 property which is traded in advance of harvest.

22 And so we now have a situation in the case of  
23 halibut where there are 435 quota holders but only  
24 140 fishing boats. So a majority of the quota is  
25 traded in advance of the season, leased in a  
26 private, unregulated marketplace. It's relevant  
27 to us because we have been told and we assume the  
28 same would be true in salmon, that if we wish to  
29 have any portion of that, in other words, if  
30 there's to be an allocation change, that has to  
31 take place through an arm's-length transaction  
32 between commercial quota holders and recreational  
33 fishermen somehow represented in a private  
34 marketplace not facilitated by government.

35 And so they -- it seems to me that it raises  
36 some fundamental issues and, in particular, in the  
37 context of a recent Supreme Court decision, 2008,  
38 by Justice Binnie, the *Saulnier* case,  
39 S-a-u-l-n-i-e-r. And Justice Binnie, in what he  
40 properly did, a narrow judgment, said look for  
41 certain limited purposes fishing licences are  
42 property when it came to bankruptcy and debt  
43 proceedings but in fact he had been asked by the  
44 Attorney General not to go beyond that because  
45 presumably if you broaden that definition of  
46 property, you may be in fact infringing on the  
47 Minister's absolute discretion over allocation.

1           And in fact, he says in his judgment:  
2

3                   If the question were whether a fishing  
4                   licence is a profit à prendre, the answer  
5                   would almost certainly be no. But that is not  
6                   the question.  
7

8           He wasn't asked that question. But he then went  
9           on to say, and it's clear why he said the answer  
10          would be no because a profit à prendre is usually  
11          defined, as I understand it, and I'm not of legal  
12          training, but it's the right to take something  
13          such as trees or fish from property owned by  
14          someone else. Now, in the case of fish, you know,  
15          the Supreme Court has said these are common  
16          property resources belonging to all the people of  
17          Canada. How is that consistent? And one other  
18          point I should make is that on a dozen occasions  
19          in his judgment, Justice Binnie says the property  
20          right to fish only occurs when you catch them.  
21          Prior to harvest, you do not own a fish.

22          So we're troubled by the fact that government  
23          is creating a situation in which people are  
24          assuming that they have property rights and  
25          they're acting as if they do in the way in which  
26          they trade them where we are being told you can't  
27          acquire those rights except through a private  
28          transaction at arm's-length and yet these are all  
29          transactions about fish that take place before  
30          harvest. And so in the situation where you have a  
31          small number of boats now accessing halibut but a  
32          large number of quota holders. And so I mean I  
33          think that's an issue that deserves some attention  
34          because it would be unfortunate if, for example,  
35          as a Commission, you propose that there ought to  
36          be greater defined shares given but that those  
37          defined shares have not taken into account what I  
38          think is a serious issue.

39          There are two other reasons, though, why we  
40          would like the Commission to think about this.  
41          One is that there is now and there has been  
42          introduced into evidence a paper called "The  
43          Elephant in the Room" and another document from  
44          ecotrust Canada, which comes to the conclusion  
45          from academics that the current quota management  
46          system is, and I'm quoting, "Limiting efficiency,  
47          stifling innovation and causing financial

1 hardship," the argument being that what's happened  
2 is the ownership of the resource and the greatest  
3 ability to benefit from it is being transferred  
4 from harvesters to speculators, whose only role in  
5 life is to lease out their ownership of these fish  
6 at the greatest benefit to themselves and  
7 obviously at the highest cost to the harvester,  
8 who has to pay that back cost.

9 The issue also, I think, deserves attention  
10 because of what appears to be a fundamental  
11 difference between the policy being pursued by  
12 government on the west coast of Canada and on the  
13 east coast. And again, the fisheries Minister and  
14 her predecessor have both made clear that it is  
15 the policy of the new Government of Canada and I'm  
16 quoting, "to support the owner/operator/principal"  
17 and, "to end policies that move the wealth  
18 generated from the fishery from those who actually  
19 fish." And yet, in another document that was  
20 tabled with the Commission a couple of weeks ago,  
21 and this is the fisheries Minister's press  
22 statement with respect to halibut allocation that  
23 was entered into. I have the number but I'm sure  
24 you can find it quickly.

25 Q 496.

26 DR. KRISTIANSO: In that one, part of the information  
27 document asks the question, "Is the Government of  
28 Canada concerned that a quota is owned by people  
29 who don't fish?" There isn't an explicit response  
30 to the question the government posed itself but  
31 since the purpose of the document is to say that,  
32 the only way that halibut can move from one sector  
33 to the other is if the sectors at arm's-length  
34 conduct a private marketplace arrangement to let  
35 that happen. And so in fact the department is  
36 approving the ownership of quota by non-fishermen  
37 and telling us that the only way that we could  
38 actually increase our share is by buying it from  
39 presumably those non-fishermen into our sector.  
40 So I mean I'm troubled by that difference but, you  
41 know, this is a big country and policies often are  
42 not the same on each coast.

43 But I do think that there is an issue here  
44 which, if the Commission, given that you have the  
45 ability to look at this in more detail and  
46 certainly, Commissioner, from your own background,  
47 I think that you would be doing a service were you

1 to satisfy everyone that the basis upon which  
2 these assured shares are now being developed and  
3 defined was one that is defensible within the  
4 statutory realm over the long run because it does  
5 seem to me that if the Minister herself is saying  
6 that the only way allocation can change is by  
7 private transactions between third parties at  
8 arm's-length from government in an unregulated  
9 marketplace, then the Minister may in fact be  
10 confessing that her allocation authority under  
11 section 7(1) of the **Fisheries Act** has been  
12 fettered because certainly that's the way it  
13 appears to us. And I don't want to abuse this  
14 process by one that has relevance to us in other  
15 context but I do think that it's a key question  
16 because it is clearly the current policy of  
17 government to try and move as many commercial  
18 fisheries as possible into the paradigm that now  
19 exists with respect to halibut.

20 MR. MARTLAND: Thank you for that perspective. Mr.  
21 Commissioner, that concludes my questions. Mr.  
22 Lowes is next on the list, please.

23 THE COMMISSIONER: What his time estimate, please?

24 MR. MARTLAND: I have it as 20 to 30 and I'm hoping  
25 that of these estimates people are at the lower  
26 end. I think we'll be okay if we're on that  
27 premise.

28 MR. LOWES: Twenty or under. J.K. Lowes for the B.C.  
29 Wildlife Federation and the B.C. Federation of  
30 Drift Fishers.

31  
32 CROSS-EXAMINATION BY MR. LOWES:  
33

34 Q Each one of you gentlemen at the outset described  
35 yourself as an enthusiastic angler. What is it  
36 that you get out of angling?

37 DR. KRISTIANSO: Well, speaking personally, I believe  
38 that angling, like gardening and hunting, is  
39 somehow connected to my genetic background as a  
40 hunter/gatherer. This is my ability to gain  
41 satisfaction from the acquiring of food. I am  
42 primarily an angler who fishes to catch something  
43 to eat. I am not a practitioner. I recognize  
44 other people take a different view but for me  
45 angling is partly that and it's partly the  
46 opportunity in an environment that's unparalleled  
47 anywhere in the world to get out on the water and

1 be part of that natural environment. And that's  
2 what we tried to say in our vision document.

3 Q Yes. And Jeremy?

4 MR. MAYNARD: Well, much the same. I do, more than  
5 Gerry, like being on or by the water simply for  
6 the ability to be out in that environment and to  
7 go fishing, the act of fishing, whether I'm  
8 successful or not, and whether I keep anything or  
9 not but it's just a wonderful place to be for me.

10 Q And Mr. Kwak?

11 MR. KWAK: I think my position has probably changed  
12 some over the years. When I lived in Alberta and  
13 was still working, I came to British Columbia  
14 every year for a minimum of six weeks and we would  
15 fly fish for pinks either in the Campbell River  
16 area when it was a dominant year there or then in  
17 the Harrison system when it was a dominant year on  
18 this side of the ocean. And I never ever killed a  
19 fish. It was strictly the fun of being able to  
20 put a fly in front of a fish so that it would  
21 bite, I thought, and I would catch it and gently  
22 release it, sometimes take a picture, although I  
23 never even took very many pictures. My wife hates  
24 fish to eat so although I kind of enjoyed them it  
25 was decided that I probably wouldn't keep any.

26 Then when I moved to Chilliwack some 12, 13  
27 years ago now, I quickly discovered that it wasn't  
28 really an art; it was actually pretty easy to do.  
29 The fish, generally sockeye, weren't really biting  
30 and in actual fact I was probably flossing the  
31 fish with my sinking tip fly line and I also  
32 discovered that people were real keen to eat these  
33 salmon. So I got to the point where I did about a  
34 180-degree flip and my object was to come home  
35 with the limit as quickly as I could and as often  
36 as I could, which would put a few fish in my  
37 freezer, which in turn would give my neighbours  
38 and my friends that I invited over for dinner a  
39 wonderful meal than they enjoyed better than a  
40 baron of beef or a T-bone steak and it didn't cost  
41 me a whole lot. And I also enjoyed, of course,  
42 being out on the river and communicating with  
43 others and striking up some camaraderie and that  
44 kind of thing.

45 Q And does that kind of thing, in your experience in  
46 the non-tidal portion of the Fraser River, is that  
47 experience shared by the sockeye fishers in the

1 Fraser notwithstanding the fact that they're in a  
2 large group in a small place?

3 MR. KWAK: Well, let me illustrate that with two  
4 examples. This last summer, of course, with the  
5 sockeye fishery being so wonderful, one of my  
6 provincial friends that, you know, I deal with a  
7 lot, decided that he would like to come fishing in  
8 the Chilliwack area a number of times. And the  
9 first time he came out, he came out with three of  
10 his friends and he asked me to take him fishing.  
11 And being his friend, I gladly would share that  
12 experience with him. So I took him and his three  
13 friends fishing. Their goal was to come home with  
14 eight sockeye. Their secondary goal was to have a  
15 fun day. And their third goal was to do it  
16 without spending a huge amount of money.

17 They fulfilled that first goal in the first  
18 15 or 20 minutes of the fishery but they'd driven  
19 out all the way from Richmond to way up river from  
20 Island 22 and would have been done in 15 or 20  
21 minutes. Now, they didn't really want to go home  
22 right away but they also, with this conservation  
23 idea, had sort of a sense of, well, we can't keep  
24 doing this all day. So what we did was I put my  
25 fishing rod away because I had my two fish as  
26 well. And I stood alongside of them and as they  
27 caught a fish I would immediately glad the leader.  
28 We increased the leader strength so that I could  
29 do that. And then we would release the fish back  
30 into the river so it never ever touched dry land.

31 My second friend, which I referred to earlier  
32 as well, was a fellow who is from England and he  
33 comes over here for a month at a time to go  
34 fishing and his intent is not to go fishing for  
35 five minutes. His intent is to fish all day and I  
36 have a hard time dragging him off the river  
37 because he just loves it. And although he's a  
38 well-to-do man and gets to fly over here for free,  
39 he spends substantial dollars in renting cars and  
40 buying fancy fishing rods and all that kind of  
41 stuff and he wants to fish from sun up to sundown.  
42 And his object is not to catch a fish to bring  
43 home to eat, although he likes to do that, too;  
44 his goal is to beat me or to beat others that are  
45 fishing alongside of him. What he wants to do is  
46 be the top fisherman. And so when he was involved  
47 in the mortality study, and he has been for three

1 years, he was the one that very carefully  
2 documented every fish that he entered into that  
3 net pen. And at the end of the day, he could say  
4 guess what? I caught more fish than anybody here  
5 today.

6 Q So the essence of my question is really whether  
7 the fact that the space on the river is  
8 constrained and the crowds are big, whether it  
9 diminishes the enthusiasm for the recreational  
10 fisher. And I'm taking it from your answer that  
11 the answer is no.

12 MR. KWAK: Well, for some people, absolutely it does.  
13 When I go fishing just by myself, my idea is to  
14 catch two fish and get home as quickly as I can.  
15 I'm done for the day because I don't have a great  
16 deal of joy in standing around, you know, two  
17 metres from the next guy fishing. However, there  
18 are lots of people that are more than willing to  
19 do that, by the thousands, and really enjoy that.

20 Q Yes. I won't take you to it but Exhibit 548, Mr.  
21 Kristianson, is a report that you wrote of some 30  
22 pages called "The Evolution of the Recreational  
23 Salmon Fisheries in British Columbia". It was  
24 written for the Pacific Fisheries Resource  
25 Conservation Council in June of 2006. What was  
26 the purpose and the process of writing that  
27 document?

28 DR. KRISTIANSON: Well, I guess it originated because a  
29 similar document had been written for the  
30 commercial sector. It was felt by the Council and  
31 by people not on the Council that it would be  
32 appropriate to do a similar background document on  
33 the recreational fishery and I was asked if I  
34 would do that. I did it in conjunction with Mr.  
35 Strongitharm, who has a great deal of background  
36 in the economic value of the recreational fishery  
37 and those kind of issues. But the purpose was to  
38 try and document where recreational fishing was  
39 now and where it seemed to have come from. That's  
40 the way I approached it.

41 Q Yeah. And that document provides essentially a  
42 snapshot of the recreational fishery in 2006 and,  
43 in particular, its economic contribution and its  
44 demographics; is that correct?

45 DR. KRISTIANSON: That's correct.

46 Q And one of the documents that you relied on for  
47 some of the numbers is a document I believe called

1           "The Final Report - British Columbia Seafood  
2           Sector in Tidal Water Recreational Fishing, A  
3           Strengths, Weaknesses, Opportunities and Threats  
4           Assessment Prepared for the B.C. Minister of  
5           Agriculture, Food and Fisheries," prepared by Mr.  
6           Gislason in February 2004; is that correct?  
7   DR. KRISTIANSO: That's correct.  
8   Q    And I think it's number 4 on Canada's list of  
9           documents.  
10   MR. LOWES: I wonder if that might be marked as an  
11           exhibit.  
12   Q    You relied on that document in part for some of  
13           your numbers?  
14   DR. KRISTIANSO: I certainly did.  
15   MR. LOWES: Thank you.  
16   THE REGISTRAR: That will be Exhibit Number 550.  
17  
18                   EXHIBIT 550: Gislason, B.C. Seafood Sector  
19                   and Tidal Water Recreational Fishing, Final  
20                   Report, February 2004  
21  
22   MR. LOWES:  
23   Q    And the two documents then, the 2004 document and  
24           the --  
25   MR. MARTLAND: Sorry to interrupt. I just want to make  
26           sure we have the right document at hand because I  
27           think number 4 of Canada's documents for this  
28           panel may relate to the Certified Tidal Angling  
29           Guide. It may be from a different list or one  
30           that was for the Recreational Management Panel.  
31           It may be the list for the Management Panel.  
32   MR. LOWES: I've got February 23rd --  
33   MR. MARTLAND: I just want to make sure we have the  
34           right document here.  
35   MR. LOWES: A February 23rd letter.  
36   MR. LUNN: I think that's their Management Panel.  
37   MR. TIMBERG: Mr. Lunn, it's Recreational Fisheries  
38           Management Panel.  
39   MR. LUNN: Thank you. Number 4?  
40   MR. LOWES: Four. That's it.  
41   MR. LUNN: That's Exhibit...?  
42   THE REGISTRAR: Exhibit Number 550.  
43   MR. LOWES:  
44   Q    Now, on an order of magnitude basis, has there  
45           been any substantial change in either the  
46           demographic or the economic information since June  
47           2006?



1 DR. KRISTIANSO: I don't believe so. I think that  
2 this, of course, was a SWOT analysis so it wasn't  
3 specifically aimed primarily at the economic  
4 question. However, since 2004, this same part of  
5 government has been preparing regular updates of  
6 economic value of fisheries in British Columbia  
7 and, in fact, moving them from an expenditure  
8 basis, which was the traditional way of judging  
9 the value of recreational fisheries, to a gross  
10 national product basis. And all of those reports  
11 in recent years have come to the same conclusion,  
12 that is, the recreational fishery in both its  
13 saltwater and freshwater environments in British  
14 Columbia constitutes around 40 percent of the  
15 total economic value of all fisheries to British  
16 Columbia, including aquaculture.

17 Q Mr. Kwak, you described in general terms your  
18 participation in I believe it's called the Salmon  
19 Table Committee and the like dealing with  
20 conflict, real or potential, on the river. Could  
21 you just flesh that out a little bit so that we  
22 can get a picture of what the conflict was about,  
23 what it was like, what the process is and its  
24 impact in dealing with that conflict?

25 MR. KWAK: Sure. The conflict was actually a catalyst  
26 that made it move faster. The whole concept was  
27 there prior to the incident that was the catalyst.  
28 And the incident was the fact that Chief Willie  
29 Charlie from the Chehalis Band had been shot in  
30 the face with a pellet gun by somebody that was  
31 called a recreational fisherman. And I suppose  
32 that might be what he was. That person has never  
33 ever been discovered. They've never found out who  
34 did it yet it was done in the daytime. And I'm  
35 not questioning that. I mean I assume that it  
36 happened and that's all real. But what I do  
37 question is the fact that was this guy really a  
38 recreational fisherman? It's possible the guy  
39 didn't even have a fishing licence. If he didn't  
40 have a fishing licence, maybe he wasn't a  
41 recreational fisherman.

42 Q But there were some disagreements or some conflict  
43 between recreational fishers and Aboriginal  
44 fishers on the river in or around that time; is  
45 that correct?

46 MR. KWAK: That is correct.

47 Q Yeah. And without going into detail and without

1           picking at old scabs, just give us a general  
2           description of what that was about. What were the  
3           issues?  
4   MR. KWAK: Well, the conflict centres around  
5           accessibility and overcrowding or two sectors  
6           fishing in the same location at the same time.  
7   Q       Okay. And is that the subject that's been  
8           addressed by the Salmon Table and the other  
9           committees? Is that essentially the subject of  
10          the discussion groups?  
11   MR. KWAK: It is one of the main subjects that we are  
12          talking about. We're currently talking about new  
13          access locations, opportunities to go to the same  
14          access site to let the monitors know what we're  
15          catching. And yeah, that is one of the big things  
16          that we're talking about.  
17   Q       Practical solutions to practical problems; is  
18          that...?  
19   MR. KWAK: Yeah, I would say yes.  
20   Q       And those discussion groups are resolving those  
21          practical problems, by and large?  
22   MR. KWAK: From my perspective, they are, yes, very  
23          much so.  
24   Q       And what about the general relationship between  
25          the two groups? Do those discussion groups help  
26          that relationship mature, if I can put it that  
27          way?  
28   MR. KWAK: They most certainly have. In the past, we  
29          have tried it before and the group didn't last for  
30          more than a couple of meetings. For some reason,  
31          this time it's worked out way better and we have  
32          very good First Nations participation, as well as  
33          participation from the groups you represent, the  
34          B.C. Wildlife Federation and the B.C. Federation  
35          of Drift Fishers, along with the angling guides  
36          and a number of other local sporting committees.  
37   Q       Yes. And is it your position, and by you I mean  
38          the recreational community as you understand it  
39          and to some extent represent it, is it your  
40          position that the fishery should be inclusive?  
41   MR. KWAK: I'm sorry. I don't really understand  
42          "inclusive". What do you mean by "inclusive"?  
43   Q       Shared.  
44   MR. KWAK: Yes, absolutely.  
45   MR. LOWES: Thank you. Those are my questions.  
46   MR. MARTLAND: Thank you. I have Mr. Timberg next,  
47          please.

1 THE COMMISSIONER: And the time estimate?

2 MR. MARTLAND: Six questions and I don't know that I  
3 pressed him on the time for each. I assume that  
4 means six minutes.

5 MR. TIMBERG: And for the record, Tim Timberg,  
6 appearing for the Government of Canada, with my  
7 colleague, Geneva Grande-McNeill. I do have five  
8 questions.  
9

10 CROSS-EXAMINATION BY MR. TIMBERG:  
11

12 Q Mr. Kwak, you spoke about the creel survey earlier  
13 this morning and the inability to discern the  
14 difference between a sturgeon fisher and a salmon  
15 fisher during the hourly rod count. You recollect  
16 talking about that this morning?

17 MR. KWAK: Yes, I did, but it wasn't really in line  
18 with the creel -- was it creel survey you were  
19 talking about or...?

20 Q Yes, I guess my question is, you said that it was  
21 difficult to discern the difference between a  
22 salmon fisher and a sturgeon fisher. I think you  
23 were talking about them from the air because you  
24 can't make the difference. Do I have your  
25 evidence correctly?

26 MR. KWAK: Well, I don't know if you can or not tell  
27 from the air. What I was saying is I've never  
28 been privileged to be on an over flight before and  
29 I do know that a number of years ago there was  
30 some concern in our local area that when the over  
31 flights were occurring that there was quite a  
32 number of sturgeon fishermen in the area at the  
33 time and they were actually fishing sturgeon, not  
34 salmon, and so there was some concern that these  
35 sturgeon rods were actually being counted as  
36 salmon rods when in fact they weren't. And  
37 whether that is a fact or not, I don't know, but  
38 I'd like to see for myself.

39 Q Okay. And I just wanted to clarify that when  
40 you're going fishing for sturgeon you do that from  
41 a boat; isn't that correct? You don't do it from  
42 the shore?

43 MR. KWAK: You can do it from shore, too, but it's  
44 generally done by boat, yes.

45 Q And so my understanding is between Island 22 and  
46 Grassy Bar, the mass majority of the sturgeon  
47 fishing is by boat. Would you agree with that?

1 MR. KWAK: No, not at all.

2 Q Okay.

3 MR. KWAK: The sturgeon fishery goes on from right at  
4 the estuary in the marine waters right up to the  
5 Coquihalla and further, up Hope, past Hope.

6 Q Okay. And so you're saying that it's done by boat  
7 and from the shore?

8 MR. KWAK: And some from shore.

9 Q All right. Dr. Kristianson, could you assist the  
10 Commissioner and explain the activities that the  
11 Sports Fishing Advisory Board provides to educate  
12 licence holders on issues relating to the  
13 recreational fishery thinking about the work that  
14 you do with respect to explaining salmon  
15 allocation, First Nations priority and safe fish-  
16 handling techniques just so that the Commissioner  
17 understands the work you do educating the licence  
18 holders?

19 DR. KRISTIANSON: Well, certainly the board, you know,  
20 views that as one of its responsibilities. I mean  
21 we try to help the department develop the  
22 appropriate documentation to educate people.  
23 Earlier there was a reference to a standard of  
24 care that we had developed as what is responsible  
25 recreational angling. We try to carry the message  
26 to our local communities and others on changes in  
27 the regulations, those kind of things. I mean it  
28 is, obviously, a dilemma for an advisory process  
29 who probably has an involvement of three or 400  
30 people to be in contact and responsible for  
31 advising 300,000 people. We do our best. We help  
32 with development of the Angling Guide, with ways  
33 of improving it so that you don't have to create a  
34 new one every year but I think, yes, we view that  
35 as a responsibility. Whether we do it well enough  
36 is another question.

37 MR. TIMBERG: Okay. Thank you. And again, Dr.  
38 Kristianson, you spoke about the vision document.  
39 Could you explain the significance of the vision  
40 document to the recreational community? What's  
41 the importance of it?

42 DR. KRISTIANSON: Well, what's important about it, and  
43 I think this is the point that my colleague,  
44 Jeremy, made earlier, I mean this is a unique  
45 document in the sense that the vision document was  
46 the result of a collaboration between the Sport  
47 Fishing Advisory Board, the Province of British

1 Columbia, and the Government of Canada is the  
2 Department of Fisheries and Oceans. And the final  
3 document was formally signed off by all three. So  
4 in our context, this is a pretty significant  
5 difference. I mean normally the Advisory Board is  
6 giving advice, some which gets accepted, some  
7 which doesn't. This was two governments saying to  
8 us, we accept this as our policy and us saying we  
9 accept this as our policy.

10 It put us on a level that we had not been on  
11 before and, frankly, from our perspective, we view  
12 it as an obligation now on the part of those two  
13 governments to honour their policy. One of the  
14 interesting fallouts of it was a complaint from  
15 the commercial sector that doesn't have a vision  
16 yet. And I would simply applaud that they could  
17 do the same as we do and develop this. We drafted  
18 it, it went to public consultation, it was allowed  
19 out for First Nations input and it was eventually  
20 formally approved by both levels of government, as  
21 well as ourselves.

22 Q All right. Thank you. Now, I'll direct this  
23 question to Dr. Kristianson and to Mr. Maynard.  
24 What additional DFO resources would be of  
25 assistance to improve recreational fishery  
26 management?

27 DR. KRISTIANSON: I think as we've all talked this  
28 morning --

29 Q Sorry. Just to help. You spoke about catch  
30 monitoring this morning.

31 DR. KRISTIANSON: Right.

32 Q And I was wondering if there was anything else  
33 besides catch monitoring?

34 DR. KRISTIANSON: Well, I think catch monitoring was at  
35 the top of the agenda because it is directly  
36 related to what we do. I mean if we're catching  
37 fish, they should be accounted for. So we believe  
38 that more resources need to be placed in that  
39 direction and we think we should make a  
40 contribution to making that happen.

41 Stock assessment is critical to us as well.  
42 Obviously, you cannot predict future harvests of,  
43 whether it be sockeye or chinook or some other  
44 species, unless you're doing adequate catch  
45 monitoring. And again, we believe that that's  
46 something to which we should be making a  
47 contribution. And I guess the third leg for us

1 that's very important is the production of fish,  
2 namely, hatchery operation and other enhancement  
3 techniques, which help ensure there are more fish.  
4 And we think there should be more resources for  
5 those. We see the department being steadily  
6 compressed in terms of the resources available to  
7 it for those. We believe that we should take  
8 advantage of the large size of our community to  
9 provide resources for that. All we want to do is  
10 have some say in how it gets spent.

11 Q Okay. Thank you. Mr. Maynard, do you have  
12 anything to add to that as to additional DFO  
13 resources that would assist the recreational  
14 fisheries?

15 MR. MAYNARD: No, I think Dr. Kristianson has described  
16 the four areas of specific interest. I'll provide  
17 an example in the stock assessment, for example,  
18 if that was helpful. Coho used to be described  
19 particularly when the Strait of Georgia  
20 recreational fishery was very strong through the  
21 '80s into the early '90s, as the bread-and-butter  
22 fish. That was the fish that more than anything  
23 that got people out on the water. We understand  
24 that for a variety of reasons, coho abundance,  
25 particularly in southern British Columbia, is not  
26 what it was. Since 1998, for the most part,  
27 anglers and commercial fishermen have not been  
28 allowed to keep wild coho. There are several what  
29 are called "wild coho indicator streams" where the  
30 Department of Fisheries and Oceans has  
31 historically run counting fences to try and  
32 enumerate adult coho salmon coming back and out-  
33 migrating juvenile coho in the springtime. There  
34 used to be two in the Strait of Georgia, one on  
35 the Salmon River in the lower Fraser River area  
36 was eliminated several years ago as a result of  
37 loss of funding, and the remaining one is on Black  
38 Creek, which is between Campbell River and  
39 Courtenay on the east coast of Vancouver Island.  
40 We're now told that the funding for the Black  
41 Creek wild coho indicator facility is very much in  
42 jeopardy.

43 The point I want to make is, is that that is  
44 the single indicator stream now on the inner south  
45 coast upon which DFO does stock assessment on wild  
46 coho. And if that's lost, then it's going to be  
47 very difficult to assess how the wild coho

1 resource in the Strait of Georgia, for example, is  
2 doing. And down the road when abundances rebuild  
3 the fishing opportunities may never occur as they  
4 did in the past for recreational fishermen, for  
5 commercial fishermen, First Nations fishermen  
6 even, if we don't know what that abundance is.  
7 And so it's a real concern. I mean we're seeing  
8 incidences like this all over the landscape.  
9 There's this steady erosion of less and less  
10 activity. And those kind of things are  
11 fundamental to the good management of the fish  
12 resource and the fisheries that depend upon it.

13 Q And could you tie that example then of the need  
14 for information on coho back to how the bycatch of  
15 coho may affect the sockeye fishery in the Fraser  
16 River?

17 MR. MAYNARD: I'm not sure I understand the question.  
18 I mean I think I do but I want to be clear.

19 Q Well, I'm just wondering if there's a connection  
20 as to a lack of information with respect to the  
21 coho, how that may have an impact with respect to  
22 fishing for Fraser River sockeye salmon if there's  
23 bycatch concerns for coho when you're conducting  
24 your sockeye salmon fishery?

25 MR. MAYNARD: Well the recreational fishery for Fraser  
26 River sockeye, as I explained earlier, is  
27 generally with this trolling technique with these  
28 flashers and hoochies. You may catch coho, both  
29 hatchery origin and wild coho, as an unintended  
30 consequence of fishing for sockeye. I think where  
31 the bycatch issue of coho and sockeye fisheries is  
32 more of a concern is in the larger commercial  
33 fisheries. But like all fishing activity,  
34 fishermen of all kinds are being encouraged to be  
35 more selective. And so I know that from watching  
36 commercial fishing boats and their activities on  
37 the water, they spend much more time sorting  
38 through their fish, for example, and have revival  
39 boxes, as a condition of licence and that kind of  
40 stuff.

41 Q All right. Thank you. I've got one final  
42 question then for Mr. Kwak and Mr. Maynard.  
43 Earlier today you were asked about consultation  
44 efforts with DFO with respect to the Fraser River  
45 sockeye fishery. And the Fraser River panel had  
46 not been raised as part of that consultation of  
47 information. I'm just wondering if you care to

1 comment on the recreational fisheries connection  
2 with the Fraser River panel?  
3 MR. MAYNARD: I'd be prepared to do that. Well, there  
4 is one recreational representative on the Fraser  
5 River panel.  
6 Q That's Brent McCallum right now; is that correct?  
7 MR. MAYNARD: Brent McCallum, yes.  
8 Q Yes.  
9 MR. MAYNARD: That's correct. So he is a part of the  
10 Sport Fishing Advisory Board process in the  
11 broader picture and his representation on the  
12 Fraser panel is supported fully the Sport Fishing  
13 Advisory Board process. But as I understand it,  
14 the ongoing management discussions that take place  
15 within the Fraser panel in-season, Brent doesn't  
16 necessarily link, certainly on a day-to-day basis  
17 with a Sport Fishing Advisory Board. The Sport  
18 Fishing Advisory Board has a number of standing,  
19 what we call, working groups. And we have a  
20 sockeye, pink and chum working group and it meets,  
21 I think, once a week by conference call in the  
22 summertime.  
23 Q So that's the in-season Sockeye Working Group? Is  
24 that what that's called?  
25 MR. MAYNARD: Yes.  
26 Q And perhaps you could just --  
27 MR. MAYNARD: And Brent's co-chair.  
28 Q And Brent's the co-chair?  
29 MR. MAYNARD: Yes.  
30 Q Perhaps you could just describe the information  
31 that you receive at the weekly Sockeye Working  
32 Group?  
33 MR. MAYNARD: I'll defer that to one of my colleagues  
34 here --  
35 Q Okay.  
36 MR. MAYNARD: -- because I'm not part of the working  
37 group usually.  
38 Q Okay. Mr. Kwak?  
39 MR. KWAK: Yeah, I do sit on that and we do have a  
40 weekly conference call, although as things get  
41 more tight or as things loosen up, we may have  
42 even more than just a call once a week. And we  
43 have a number of people on the call. Generally  
44 all of the chairs on the Fraser River that sit on  
45 the river as chairs for the south coast. And  
46 there would have been a panel called earlier in  
47 the day or on Fridays and they would have



1           discussed a number of issues and those issues  
2           would then be brought forward for us to look at  
3           and have some input and then decisions are made  
4           then based on what's being said and how it's being  
5           interpreted. And of course, where I sit, we're  
6           always wanting to get an opening so DFO, on the  
7           other hand, is also wanting to make sure that we  
8           don't overfish so we have these active discussions  
9           and ultimately we come to a reasonable conclusion.  
10          MR. TIMBERG: All right. Thank you. Those are all my  
11           questions.  
12          THE COMMISSIONER: Mr. Timberg, what's the exhibit  
13           number for the vision document that you referred  
14           to earlier?  
15          MR. TIMBERG: Yes, Mr. Commissioner, one moment,  
16           please.  
17          MR. MARTLAND: I think Ms. Grant will have that in just  
18           one moment.  
19          THE COMMISSIONER: Is that the one up on the screen?  
20          MR. TIMBERG: Yes.  
21          MR. MARTLAND: 527.  
22          THE COMMISSIONER: 527. Thank you very much.  
23          MR. TIMBERG: Thank you.  
24          MR. MARTLAND: Thank you. I have Mr. Tyzuk for five  
25           minutes.  
26          MR. TYZUK: Boris Tyzuk for the Province of British  
27           Columbia.  
28  
29          CROSS-EXAMINATION BY MR. TYZUK:  
30  
31          Q       Mr. Kwak, I just have a question to you. And you  
32           raised it in your testimony and in the questioning  
33           from Mr. Lowes and that relates to the tensions on  
34           the river and these different fora that were used,  
35           the ISDF. And when you referred to that in your  
36           testimony, you made a reference to Mr. Sigurdson  
37           and Mr. Stuart. Those were the two leaders of the  
38           ISDF process?  
39          MR. KWAK: That is correct.  
40          Q       Now, would you consider that it would be positive  
41           for future relations between recreational fishers  
42           and the First Nations that that sort of a process  
43           continue?  
44          MR. KWAK: From my perspective, in-river, yes.  
45          MR. TYZUK: Thank you. Those are my questions.  
46          MR. MARTLAND: Thank you. I have Ms. Reeves for 30  
47           minutes.

1 MS. REEVES: Yes, for the record, Reeves, R-e-e-v-e-s,  
2 initial C., for the First Nations Coalition.  
3

4 CROSS-EXAMINATION BY MS. REEVES:  
5

6 Q My first set of questions is directed towards you,  
7 Mr. Kwak. You talked a lot today about your work  
8 with the Fraser River Salmon Table. And I'm  
9 wondering what DFO's role or involvement was in  
10 that process of the Fraser River Salmon Table?

11 MR. KWAK: Okay. Initially, the directive came from  
12 Paul Sprout, who was the regional director general  
13 at the time, that if the sectors could get  
14 together and agree on something it would make life  
15 a whole lot easier for him because if we were  
16 asking for some resolve on something or wanting to  
17 do something constructive, if we had already  
18 bought in as a group, then it would be much easier  
19 for him to make a decision. So that's what kind  
20 of started it.

21 And initially, it started with just First  
22 Nations and actually Sto:lo and the commercial  
23 sector wanting to get a higher exploitation rate  
24 on Late Run sockeye and then have the commercial  
25 sector sell a number of these fish, I think  
26 100,000, and generate about \$600,000 worth of  
27 money and that money would then go into freshwater  
28 habitat and trying to find out what was going on  
29 in Cultus Lake and the related freshwater systems.  
30 And that was successful. But then **Larocque** came  
31 along and froze the money. But that money has  
32 since been freed up in the right proportion or in  
33 a right fashion so that the Fraser River Salmon  
34 Table can use it and that created other interests  
35 and so the Fraser River Salmon Table Society  
36 spawned from that.

37 Q Okay. And earlier today when you were talking  
38 about both the Fraser River Salmon Table and the  
39 Integrated Salmon Dialogues, you indicated it  
40 would be nice to have more involvement from DFO.  
41 And I'm just wondering what you meant by that.  
42 How would you like to see their involvement  
43 increase?

44 MR. KWAK: Well, I think one of the key things that we  
45 would like to see is more funding from DFO.

46 Q Okay. Thank you. My next set of questions is for  
47 Mr. Maynard. And we've heard this morning and

1 previous to this, last week, about the growth of  
2 the recreational fisheries in B.C. and that it  
3 includes novice anglers or, as Mr. Kwak also  
4 referred to some of them, as quasi-rec anglers.  
5 Would you agree that a large proportion would be  
6 novice anglers or some percentage?

7 MR. MAYNARD: Well, certainly some percentage. I'm not  
8 sure I'd agree that a large portion of them are.  
9 And one of the initiatives the Sport Fishing  
10 Advisory Board has been involved in over the years  
11 is trying to encourage more participation by young  
12 anglers because I think it's true to say that, to  
13 a large extent, there are fewer younger people  
14 entering into the recreational fishery than in  
15 decades past. And you know, you talked about the  
16 growth in the recreational fishery.

17 I'm not sure that the numbers have so much  
18 grown in terms of participants. In fact, I think  
19 licence sales will show that at times there are  
20 some significant dips. However, the geographic  
21 spread of the recreational fishery, more  
22 accurately, has changed. So whereas, as I said  
23 earlier this morning, a very high percentage up  
24 until about the 1980s took place in the Strait of  
25 Georgia. Since that time, the amount of effort  
26 has increased significantly in other areas. But  
27 the absolute numbers of participants is not  
28 necessarily growing by leaps and bounds at all.  
29 And in fact, in some years and, in fact, for  
30 several years, sometimes has declined measurably.  
31 So effort is, you know, up and down but it's not  
32 on a perpetual growth pattern by any stretch.

33 Q Okay. And you also teach, I understood from your  
34 evidence this morning, an angling guiding course;  
35 is that correct?

36 MR. MAYNARD: Yeah, you know, I mean it's just a one-  
37 week program.

38 Q Right. And so you'd agree then that educational  
39 programs are of benefit to not only new but all  
40 anglers, helps with fish identification, use of  
41 gear and that kind of thing?

42 MR. MAYNARD: Yes, education programs of all kinds,  
43 whether they're in a formal program like that or  
44 whether it's just good quality information that's  
45 readily at hand to anglers, particularly beginning  
46 anglers.

47 Q And as I understand, and if you could say if this

1 is correct or not, there is no mandatory  
2 requirement, though, for a recreational angler to  
3 undertake any sort of education or testing before  
4 they acquire a licence?

5 MR. MAYNARD: That's correct.

6 Q Okay. And can you tell us whether an angler who  
7 buys either a marine -- well, I guess in your case  
8 you probably know most about the marine or an in-  
9 river licence is required to receive a copy of the  
10 Tidal Water Fishing Guidelines? Is that a  
11 requirement?

12 MR. MAYNARD: I don't believe it's a requirement, no.  
13 They're readily available, though. The government  
14 prints lots and lots of them and there's piles of  
15 them in tackle stores, which is where most angler  
16 buy their licences. So if they don't have one,  
17 it's not because they're not available.

18 Q Right. But it's not a requirement?

19 MR. MAYNARD: No.

20 Q Okay. Thank you. Mr. Kristianson, you were  
21 talking about the rec vision document just  
22 earlier. And you talked about that the rec vision  
23 document went out to consultation with First  
24 Nations. Were you made aware of some of the  
25 concerns that First Nations had with that  
26 document?

27 DR. KRISTIANSO: Yes, I was.

28 Q And what were some of the concerns that you recall  
29 being raised?

30 DR. KRISTIANSO: Well, there were concerns of which I  
31 was personally aware, both from attending some of  
32 the public fora in which First Nations expressed  
33 their views but also some that were done in  
34 writing. I guess, as one example, and I believe  
35 it's in one of the evidence documents, probably  
36 the one that you circled, was that First Nations  
37 took issue with our use of the term "common  
38 property resource" to describe fisheries in  
39 Canada. And as I recall, the department's  
40 response to that, which we supported, was that  
41 that's the view of the Supreme Court of Canada and  
42 so that's why the phrase had been used. I don't  
43 recall any substantive objections to the  
44 principles that were in the document. And I think  
45 we tried very hard in articulating the principles  
46 to be very sensitive to what we at least  
47 understood and have been exposed to as the

1 concerns and interests of First Nations. We have  
2 made clear in the vision that this is a vision  
3 about recreational fish that are only available  
4 after the conservation requirements and the  
5 constitutional rights of First Nations have been  
6 taken into account.

7 Q Right. And do you know, though, that if any  
8 changes were made to drafts of the rec vision that  
9 incorporated some of the concerns or comments of  
10 First Nations?

11 DR. KRISTIANSO: Yes, yes, there were changes.

12 Q Okay. Thank you. The other question I have is  
13 also for you, Mr. Kristianson. And I think there  
14 was brief mention of the Code of Conduct for  
15 Recreational Fishers. And that's encompassed in  
16 the Fishing Guidelines for Tidal Waters, correct?

17 DR. KRISTIANSO: Mm-hmm.

18 Q And last week, a recommendation or a question was  
19 put to DFO whether the rec Code of Conduct should  
20 be more explicit with respect to respecting First  
21 Nations FSC rights and whether that would assist  
22 in overcoming conflict if the Code of Conduct was  
23 updated or could incorporate that. Would you  
24 agree with or would you be opposed to such a  
25 change to the Code of Conduct?

26 DR. KRISTIANSO: It sounds to me like an interesting  
27 subject for discussion. I mean I have to confess  
28 I guess my instinct is, this would be a very  
29 tricky thing to try and articulate in that at the  
30 present time the Code of Conduct is based on the  
31 assumption that recreational anglers are only  
32 harvesting fish when the department has exercised  
33 its responsibility to deal with the issues of  
34 First Nations. But if First Nations have some  
35 language to suggest that would make the document  
36 more sensitive as to what they view as their  
37 concerns, that's the sort of thing that we would  
38 welcome. In fact, we have tried. A number of our  
39 local committees, I can particularly mention the  
40 one in Squamish, has First Nations representatives  
41 on the local Sport Fishing Advisory Board. We  
42 have encouraged that on the part of other Sport  
43 Fishing Advisory Boards and I think as Frank has  
44 talked about in the Fraser. I mean if there's any  
45 lesson we have all learned it's that life is  
46 easier when we work together.

47 And so while Frank talked about the efforts

1 on the river itself, I would point out that the  
2 Sport Fishing Institute, which represents the  
3 economic side of the recreational sector at its  
4 annual meeting the year before last had several  
5 senior members of the First Nations community come  
6 to address these issues. The lodge and resort  
7 owners are very sensitive to the fact that they  
8 are operating in areas that constitute the  
9 traditional territories of First Nations and that  
10 they want to try and develop ways in which their  
11 activity is compatible with the wishes and needs  
12 of local people. So if you're offering to bring  
13 something forward to us in the future, or First  
14 Nations are, that's the sort of thing the Advisory  
15 Board would be delighted to discuss.

16 MR. MAYNARD: I would like to respond to that.

17 Q Oh, yes.

18 MR. MAYNARD: Well, maybe in typical fashion I could  
19 give a more concise answer to your question.

20 Sorry.

21 DR. KRISTIANSO: I don't get no respect, Mr.  
22 Commissioner. Could you protect me, please?

23 MR. MARTLAND: Is that an objection?

24 MR. MAYNARD: I would simply point out that the Sport  
25 Fishing Advisory Board Code of Conduct for  
26 Recreational Anglers, recommended Code of Conduct,  
27 was a product of our work several years ago,  
28 probably four or five years ago now, and the  
29 vision is much more recent than that. But it's  
30 hard for me to imagine why having an agreed as  
31 principal number 4 to recognize after conservation  
32 and before the recreational fishing harvest rights  
33 that the rights of First Nations to first right of  
34 harvest for food, social and ceremonial needs, why  
35 we would not want that in a revised Code of  
36 Conduct.

37 MS. REEVES: Thank you. That's all my questions for  
38 the panel. Thank you.

39 MR. MARTLAND: Thank you. Mr. Commissioner, I have  
40 last on our list, subject to Mr. Lowes looking to  
41 re-examine on anything, Mr. Dickson, 15 minutes.  
42 Thank you.

43 MR. DICKSON: Thank you, Mr. Commissioner. For the  
44 record, Tim Dickson for the Sto:lo Tribal Council  
45 and Cheam Indian Band.

1 CROSS-EXAMINATION BY MR. DICKSON:  
2

3 Q I have only a few questions and I'm going to  
4 direct them, if I can, to you, Mr. Kwak, since  
5 they relate to the recreational fishery on the  
6 lower Fraser. The Commissioner has heard, Mr.  
7 Kwak, how the sockeye recreational fishery on the  
8 Fraser has grown quite rapidly in recent years and  
9 some conflict has arisen and you were asked about  
10 that by Mr. Lowes earlier. In the Fraser Table  
11 Society and the ISDF and the River Manners video  
12 are in part directed to addressing that problem of  
13 conflict; is that correct?

14 MR. KWAK: That's correct.

15 Q And that's an ongoing issue that will hopefully be  
16 addressed through ongoing engagement by the two  
17 sectors; is that correct?

18 MR. KWAK: I would say. And there's other issues that  
19 are coming forward that have to be discussed.

20 Q Yes, and some of the other issues that First  
21 Nations have addressed to me, my clients have  
22 address to me, are problems with garbage being  
23 left behind by anglers on the side of the river  
24 and the lack of washroom facilities available to  
25 anglers and trespassing over First Nations lands  
26 by anglers and in general the lack of access,  
27 secure and contained access to the river. Do you  
28 agree that those are ongoing concerns with the  
29 recreational fishery?

30 MR. KWAK: Yes, I would say they are but I would like  
31 to comment on them, not just with a yes.

32 Q Certainly.

33 MR. KWAK: Just last month, my wife and I were tasked  
34 with looking after eight children that live on a  
35 farm just outside of town. And the reality is  
36 that when we drove up that gravel road for a  
37 kilometre, invariably we found garbage along the  
38 roadside. So the reason I bring that up is that  
39 garbage is not necessarily and always put out  
40 there by recreational anglers. We need to  
41 understand that we live in a society today where  
42 everyone is doing what is right in their own eyes  
43 and they don't really care for the rest of the  
44 world, generally, in an overview, and so if it's  
45 easier to just roll down your window and fire your  
46 Tim Horton's cup out, it's done whether it's an  
47 angler or not. And so in the event of your

1 finding or First Nations finding garbage along the  
2 river, that is probably put there by fishermen,  
3 but not necessarily by recreational anglers. I  
4 would say for sure recreational anglers are adding  
5 to that problem but it could also be other people,  
6 including First Nations people, that might have  
7 bought a Tim Horton's coffee and left their cup  
8 sitting behind.

9 Q And do you feel it is important that anglers play  
10 their role in addressing that problem of garbage?

11 MR. KWAK: Absolutely, yes.

12 Q And I take it that dealing with the garbage,  
13 having clean-up crews, perhaps having garbage  
14 cans, facilities of that kind, and addressing the  
15 other problems that I mentioned, the lack of  
16 washrooms, perhaps more boat launches and access  
17 trails and the like, all of that requires money;  
18 is that correct?

19 MR. KWAK: That is correct.

20 Q And the panel has spoken some in favour of  
21 increasing licence fees so as to generate more  
22 funding that they would like to see put to the  
23 regulation of the sport fishery. And the  
24 geographical focus of what we're speaking of, of  
25 the lower Fraser, that's in the freshwater portion  
26 of the river and --

27 MR. KWAK: Okay.

28 Q -- that's under the provincial licensing scheme;  
29 is that right? Is that your understanding?

30 MR. KWAK: Once you get above Mission, yes, that's  
31 correct.

32 Q And I raise that because the **User Fee Act** problem  
33 was noted, the federal **User Fee Act** problem, and  
34 I'm wondering whether the recreational fishery  
35 sector would support an increase in the provincial  
36 licence fees so as to generate more funding to put  
37 to problems such as the ones I've been raising.

38 MR. KWAK: Well, I can't for sure speak about that  
39 because I haven't consulted with everybody. But I  
40 would guess and guess pretty strongly that there  
41 would be support for an increased fees in  
42 provincial licences as well. As a matter of fact,  
43 there was a request to increase licence fees so  
44 that more money could be put towards sturgeon and  
45 that was readily accepted by the fishing community  
46 at large.

47 Q And I want just to take you for one more question



1 to Exhibit 545, Mr. Lunn, and that is this  
2 document called "Exploring Ways to Improve Our  
3 Understandings Around Monitoring and Compliance".  
4 You see that on the screen, Mr. Kwak?

5 MR. KWAK: I have it here, yes.

6 Q Oh, yes. And so this is a draft report from a  
7 Salmon Table workshop from November of last year;  
8 is that right?

9 MR. KWAK: If you say so. I'm not sure but yes  
10 (indiscernible - overlapping speakers).

11 Q Have you not seen this document before?

12 MR. KWAK: I have but I don't remember whether it was  
13 in November or October or...

14 Q Very well. It was in the fall of last year?

15 MR. KWAK: Right. In the fall of last year for sure.

16 Q And this was a workshop that you attended?

17 MR. KWAK: Yes.

18 Q And I just want to take you to one passage and ask  
19 you for your view on it.

20 MR. DICKSON: It's at page 4, Mr. Lunn, at the bottom.

21 Q And it starts off with the words, "The panel" in  
22 the third line up from the bottom.

23  
24 The panel pointed out that there are limited  
25 safe/secure launching areas along this  
26 stretch of river, only a few camping  
27 facilities, and trail access points to the  
28 more remote sites are poorly kept and over-  
29 used. This represents real opportunities to  
30 develop facilities for these fisheries, and  
31 to enhance economic benefits from the local  
32 fisheries in ways that engage First Nations  
33 who own lands along the shores of the lower  
34 Fraser gravel reaches.

35  
36 And I'm wondering whether you agree with that  
37 statement and, more broadly, whether you agree  
38 that it's important that the sport fishery in the  
39 lower Fraser engage with local First Nations so  
40 that they share in some of the economic activity  
41 that the recreational fishery does bring?

42 MR. KWAK: Yes, if I take my wife fishing, I would like  
43 her to be able to go to a proper bathroom rather  
44 than to try and do it in the bush sort of thing.  
45 So I think that that would be the general view and  
46 I would agree that there are very few places where  
47 there are proper washroom facilities along the

1 river. There are some but they're precious few.  
2 And even the ones that there are tend to be biffy-  
3 type facilities that are maybe not cleaned as  
4 often as they should be.

5 I can tell you that my wife and I actually  
6 ran the Island 22 boat launch one year a number of  
7 years ago, not for the money but specifically so  
8 that I could find out what was actually happening  
9 at that location and to discover what the deal  
10 was. And we had just one bathroom there at the  
11 time and there wasn't a biffy-type thing there but  
12 I can tell you that invariably we would be left  
13 with a horrible mess where somebody would be sick  
14 or intentionally defecate somewhere even within  
15 the bathroom facility but not using it in a proper  
16 fashion and that was no fun for us. So those kind  
17 of things happened. There seems to be vandals  
18 everywhere. They write on trains, they write on  
19 walls and they poop in places where they  
20 shouldn't. So yes, we need more facilities and I  
21 would agree that we need to share in that  
22 responsibility.

23 Q Yes, and I guess the focus of my question was  
24 trying to get at whether there is commitment  
25 within the recreational fishery at engaging local  
26 First Nations so that they are being part of the  
27 economic activity that is being generated by the  
28 recreational fishery?

29 MR. KWAK: Yes, I believe there is. Within the Fraser  
30 River Salmon Table, we're currently working at  
31 access on the Hague Highway and looking after  
32 garbage and increasing opportunities for access  
33 and those accesses would include proper toilet  
34 facilities.

35 Q Yes, and you see that engagement with First  
36 Nations as important in reconciling issues between  
37 the two sectors?

38 MR. KWAK: It would be helpful, yes.

39 MR. DICKSON: Thank you. Those are my questions.

40 MR. MARTLAND: Mr. Commissioner, that concludes today's  
41 evidence. I had one or two remarks on scheduling,  
42 as we wrap up, but otherwise that concludes today.

43 THE COMMISSIONER: Mr. Kristianson?

44 DR. KRISTIANSO: Mr. Commissioner, if I could, and I  
45 had signalled some intent to do this. There is  
46 one issue which I would like to briefly raise in  
47 my context as a member of the Pacific Salmon

1 Commission. And I raise this somewhat reluctantly  
2 but after a certain amount of frustration.

3 At the last two meetings of the Pacific  
4 Salmon Commission, it was made clear to me by my  
5 American colleagues that they are feeling very  
6 frustrated by the fact that they have not had an  
7 opportunity to express any opinions before this  
8 Commission. And these are people, many of whom  
9 have spent very many years in the co-management of  
10 the Fraser. And I think I understand part of the  
11 difficulty. We are talking about people who are  
12 not Canadians in a Canadian quasi-judicial process  
13 and so forth. I think that it would be helpful  
14 from the point of view of someone who will have to  
15 take responsibility down the road for the re-  
16 negotiation of the Fraser annex of the treaty,  
17 which had to delay because of the Commission, it  
18 would be helpful if we were not facing colleagues  
19 who have felt that they didn't have any input into  
20 this process.

21 And so I simply appeal to you to try and deal  
22 with that in some way. I partly raise it because  
23 I think it would be helpful. In my last  
24 appearance under cross-examination, Pat Matthews,  
25 in answering the First Nations Coalition, for  
26 example, suggested that it would be good if Canada  
27 replicated the American provisions whereby the  
28 tribes and the states are given vetoes within the  
29 process. So nothing goes forward unless they have  
30 all agreed. And he thought that it would be  
31 helpful if Canada was to do so the same.

32 And I would simply encourage you to ask if  
33 there is some way found to bring testimony from  
34 the United States, that you ask them that  
35 question, as to whether they think it would be  
36 helpful to replicate that on the Canadian side.  
37 And I say that because it has been my strong  
38 experience that one of the reasons the Commission  
39 process works is because Canada does not have  
40 those vetoes and thereby is in the position of  
41 having to find the common ground between the  
42 sometimes at-odds entities on the U.S. side. But  
43 in any case, I apologize for having raised it sort  
44 of out of context, but as now the longest serving  
45 member of the Pacific Salmon Commission, I think  
46 it would be very helpful if that opportunity was  
47 available.

1 MR. TIMBERG: And Mr. Commissioner, I note that John  
2 Hunter is counsel for the Pacific Salmon  
3 Commission before you. And perhaps we can have  
4 this portion of the transcript provided to him.

5 MR. MARTLAND: We'll do that, Mr. Commissioner, thank  
6 you.

7 THE COMMISSIONER: Yes, thank you, Dr. Kristianson, for  
8 those remarks. And particularly thank you for  
9 your attendance here more than once. We are  
10 grateful that you're willing to do that. And to  
11 Mr. Maynard and Mr. Kwak, thank you very much for  
12 attending today and being willing to answer the  
13 questions of counsel. I'm very grateful that you  
14 took the time to do so given the amount of time  
15 that you already devote on your own dime, as it  
16 were, to matters pertaining to the fishery but  
17 you, more than many, know the importance of the  
18 time that you spend on these matters. So thank  
19 you very much. Mr. Martland, are we adjourned  
20 until...?

21 MR. MARTLAND: Yes, Mr. Commissioner, just briefly by  
22 way of update, the recreational fishing hearings  
23 are now concluded. The commercial fishing  
24 hearings, as a brief update, we have been working  
25 on the question of the second commercial fishing  
26 panel. I'll just indicate that we expect at this  
27 point that that evidence will be led not via  
28 written questions but instead via live questions  
29 in the conventional format but with some time  
30 limitations on those questions and answers.  
31 That's scheduled to take place on March the 15.  
32 We now have witnesses confirmed. We'll be in  
33 touch further on the timing of it. And Lisa  
34 Mijacika, the last remaining commercial witness,  
35 will also be on March 15. With those few remarks,  
36 yes, we can be adjourned at this point till  
37 tomorrow 10:00 a.m., I understand.

38 THE COMMISSIONER: All right. Thank you very much.

39 MR. MARTLAND: Thank you.

40 THE REGISTRAR: The hearing is now adjourned till ten  
41 o'clock tomorrow morning.

42  
43 (PROCEEDINGS ADJOURNED AT 3:10 TO MARCH 8,  
44 2011, AT 10:00 A.M.)  
45  
46  
47

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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