

Fraser River Salmon Conservation and FSC Management Approaches meeting

Richmond, BC – April 3, 2008

Part 1: Minutes/Record of Meeting – by Dawn Steele

(Posted on DFO Internet Site – linked to FRAFS Website)

Part 2: Participant Comments Pertaining to the Record of Meeting

(Part 2 will be updated if and when participants wish to have corrections or clarifications noted. The DFO Contact for participants to have Part 2 Updated: Barry Huber – email- Barry.Huber@dfo-mpo.gc.ca)

Part 2-Last Updated: _____

Attendance

(See appendix 2)

Welcome

Paul Kariya welcomed DFO participants joining the meeting, acknowledging the traditional territory of the Coast Salish and the Musqueam, Following a round of introductions, Kariya noted that First Nations had proposed changing the agenda to hear from a delegation appointed to brief DFO reps on key messages from the First Nations meeting.

Key messages from First Nations

Marcel Shepert read out the agreed group statement (see Appendix 1) then invited other designated speakers to add their comments.

Ken Malloway: First Nations don't feel DFO's handling of the response re early-timed chinook has been adequate or respectful, with decisions regarding recreational fisheries that did not seem to respect First Nations priority rights and that were announced before consultations were done. Monitoring and catch reporting of the sport fishery is still not adequate (the creel relies on interviews with about 7,000 of the 350,000 anglers). DFO should not open fisheries in the approach to the Fraser without adequate information. First Nations reviewed CWT data showing chinook were caught by sport anglers from Campbell River to Victoria in the approach fisheries, but DFO only closed a few small areas despite this study. This does not seem consistent with the Sparrow decision and the priority for conservation and First Nations, since First Nations on the Fraser still haven't fished and are still discussing their fishing plans. Meaningful consultation, as defined by

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the Supreme Court of Canada, does not appear to be occurring if other fisheries are being opened before consultations are concluded, and when First Nations' recommendations have been ignored. The honour of the Crown is at stake.

Chris Cook: The message to DFO reflects what was heard in the series of meetings. First Nations are concerned that the sport fishery has superiority over all our fisheries coast-wide and all along the rivers, with reports of First Nations families being attacked by sport anglers for trying to use their traditional fishing spots on the Fraser. There is animosity and anger and concern that the sport fishery has an open book—they can fish for all species, 24/7, snagging or whatever—while others must pay dearly for each species. A fleet of 20 boats can leave Vancouver and fish for 365 days for all species for the cost of a \$30 annual licence each. There were proposals that sport anglers should pay separately for each species and area, with the revenues going towards conservation and restoration in each area. Stocks are down everywhere and the sport sector should be held to conservation, the same as others. There were strong messages from all First Nations at these meetings that the current situation was not acceptable and must stop today. When will DFO deal with it? We'll deal with it in the media. Another major concern was the advertised sport derbies being planned. You're hurting us! We want another meeting where DFO staff report what you heard before reporting to the Minister.

Jeff Thomas: We were brought together to address getting food fish to our communities. Our community was in shock over last year's food fish, compared to the plentiful resources of past years. Long discussions were held over the recent meetings, though First Nations have been working together much longer than that. There is great frustration over the lack of progress in efforts to gain a say in resource management. It always seems the decision has already been made, even when we're at the table. How it will work under treaties is another huge issue to be tackled. We have always sought to protect the resources. We take flack for closing the river to our people, while sport anglers are allowed to sit right at the mouth of the river taking those stocks. We're in crisis. Our fishery was a dismal failure. It's not just FSC but commercial—the only sector that benefited was recreational. We don't see anyone monitoring the sport fisheries, and we don't see reporting. When will DFO start regulating them? They should be required to report like everyone else.

First Nations should be doing the test fishery, Thomas continued. It's one way to alleviate pressures regarding food fisheries. The extensive case law (e.g. Sparrow, Gladstone, Haida Taku, etc) is not being implemented on the ground. We're watching the sport fishery taking our key food staples and industry being allowed to pollute the clam beds. There is much to be done and we're angry about many things, but there is room to work together and we need your support to address the work to be done (e.g. re habitat and logging practices).

Saul Terry: Our people were among the richest in the world. We needed for nothing, except to work to harvest the resources in our homelands. We are all speaking for our people, as one. We view these homelands as our banks and someone's been stealing from them—relegating us as poor people in our own territory. Our peoples came together because of the unprecedented losses and the need to do something about it, and we are determined to work towards resolving the issues. Our people are distinct but we are

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prepared to work together to rectify the damage we are witnessing on our lands. We are prepared to manage the resources on our territories and to govern. We have determined through these meetings that we need to act. We've established a political resolve that something must be done and stated this collectively. Our governing systems have the necessary technical expertise to do the work to bring back the richness in our lands.

The federal government's refusal to sign the convention on the rights of indigenous peoples says a lot, Terry continued. We're being asked to compromise once again on what is left—which in the eyes of many people is our share. We must facilitate the means by which our respective nations will work together for the future—that's the message from the meetings. And the common project is to restore the richness of our lands, so that we can address the political, economic, social and cultural condition of our people and address the stolen richness from our home banks. There has been too much evasion regarding our right to our resources.

DFO response

Barry Rosenberger thanked the Coast Salish people for allowing the meeting on their territory. He commended the presenters, participants and all the work done in recent meetings. He acknowledged that the situation has changed regarding the richness of the land and the work needed, noting efforts in recent years to develop capacity for a new way of doing business.

The reason for these meetings is to determine how best to respond to the lower levels of abundance [Fraser salmon stocks]. Now that we are here, what does it mean for us and how are we going to deal with it moving forward? Projected returns for 2008 are unfortunately low. The messages/ proposals heard today will be helpful in terms of determining how this Working Group will function. DFO has the obligation to consult bilaterally and there are questions of how to do that and about what can be done through other ways. Unfortunately, the fish don't wait for us to work it all out. Rosenberger recognized the frustration regarding chinook, noting the complexities of dealing with multi-year classes. First Nations feedback has guided the DFO response, which includes looking at data in areas where DFO hadn't been looking before. Staff recognize that DFO hasn't got it right yet, but are looking at a three-year plan to improve management. The complexity of the data presents challenges, because it's hard enough for people in the Fraser Panel to review and decide what it all means.

The actions being taken are trying to respect Sparrow, in terms of the greatest reductions being in non-native fisheries, and DFO is looking at what must be done overall to halt and reverse stock declines. Regarding closures, it is really hard to determine when someone is fishing and where are those fish going. First Nations' concerns about the number of stocks in trouble today highlight the need for action to avert further problems. Rosenberger acknowledged how important these issues are to all those present, and said their message is coming across clearly to the Department.

It's important to have a clear collective understanding about how to move forward and about the concerns regarding distribution of available returns and not being able to meet all needs in the watershed. If returns are lower, there will be more consequences and there

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is still the need to address conservation concerns relating to some stocks within the overall allocation, as well as defining what conservation means, SARA listing aspects, etc.

Taking up Cook's challenge to report back on what was heard, Rosenberger offered a preliminary synopsis of the key messages he heard:

- DFO is not taking all the appropriate actions regarding sport fishing, and chinook in particular, and is not listening to comments made in meetings like this.
- The need to recognize priority rights from the court cases and for a process of meaningful consultation: DFO took some actions on the sport fishery while in discussion with First Nations, but there was a need for prompt action, which can be the reality in trying to manage stocks. DFO's consultations may not be what everyone hopes for but the Department has moved further ahead than many others and is trying to make it meaningful. While all parties may not always agree with the outcomes, DFO does take this seriously and is trying to work on it.
- Concerns re priority access for sport fishing over commercial to chinook: It is understood that many First Nations people are also commercial fishermen, but DFO has an allocation policy on recreational/commercial allocation. Revisiting that is not a DFO objective at this stage, though there has been considerable discussion recently.
- Reporting back: There will be detailed notes but Rosenberger will circulate via FRAFS a copy of the report he intends to send to the RDG. Many of these processes are iterative, so the actions to date aren't all that will be done. We will continue to work together on management processes. It will take two to three years to work out a better process for chinook and we may also need to look at other stocks. Sometimes decisions will have to be made before discussions are concluded but there will be efforts to improve things over time.
- Comments regarding depleted bank account: These are huge issues. There are broader issues and objectives that DFO is working under and does not have control over.

Rosenberger proposed focusing further discussion on what is expected in terms of the four actions in the group statement. For example, how does the proposed process relate to bilateral processes? Where do First Nations foresee working together vs. working with DFO? Discussing these questions in person provides a better understanding than just receiving letters.

Q & A

Stan Hunt: Many of us are in the treaty process. We want assurance that whatever comes out of this process does not impact treaty talks.

Gerald Roberts: How are we supposed to live? Why is there no compensation when we are cut off from commercial fishing and our traditional food fishery, while DFO allows sport fishermen to fish from the Queen Charlottes right up the Fraser River, snagging fish from stocks that are in trouble? Why aren't coastal First Nations communities getting INAC funding?

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Stan Hunt: INAC is not doing a good job, but the focus is on fisheries today, so that's a different meeting.

Andy Webster: Will there be an Area F troll fishery this year? They have significant impact on WCVI chinook. One of our indicator streams only had three springs. High-grading is occurring in the Queen Charlottes. More monitoring is also needed for commercial sport vessels.

Dan Smith: Regarding treaties, how will the government of Canada reconcile the positions being taken on allocation, with respect to modifying our right to the resources? We know the government wants to modify and extinguish our traditional right. What is meant by sharing principles? All the principles are already in the Fisheries Act. Will DFO shut down sport fisheries to respect the obligation to accommodate FSC rights? There are many questions about the allocation model that government is trying to push us into.

Jim Billy: We have not been allowed to use our traditional nets for three years because there were no fish. We had to bring fish from the Skeena to feed our family last year. When there is discussion about quotas, we want a place at the table, so we don't find out after the fact. We've never relinquished our rights to the resources, but they are being depleted. After six meetings, we had hoped DFO would come with more concrete answers about our fishery this year, not a promise of more talk. I'm hoping to hear that my net won't have to sit in the shed again this year.

Stan Hunt: Government has been attacking us for a long time. Now you're taking our basic food away. The health of our people is at issue. We're not coming cap in hand any more—it's not about allowing us to fish. After all these problems that have been created by others, DFO sends us off to meetings to come up with a fix. Be honest with us. You're killing us. We're fighting for our very existence.

Arnie Lampreau: The last few days have been hard work because this is about dividing our share. Despite the difficulties, our chiefs have made great effort to get here. Last year we didn't get our fish, so we made an effort to get our political and technical people here. Issues were raised about the commercial and recreational fisheries occurring and infringing on our livelihood. We're hearing it's about conservation, but the way it's being handled is wrong and First Nations are taking the biggest hit. Sport fishers don't even have to report their catch. We were willing to share from Day One. Now it's about dividing the last share that's left—our FSC share. Now we're dictated to and we need a communal licence to fish on our traditional grounds. We've never been on the same playing field. Now our people have to die to get the right to fish for the funeral. I'm ashamed and disappointed about how things have evolved to today.

Gord Sterritt: Is DFO prepared to entertain a First Nations role for test fisheries?

DFO (Rosenberger): The Area F troll should be having a fishery. They have had some chinook fishing already. There is a recalculation of the chinook TAC regarding the 10% maximum impact on WCVI chinook.

- Re allocation and sharing and not hearing about plans, there are seats for First Nations on the IHPC. There are also separate processes in line with the obligations to consult.

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- Re test fishing, the person who does it owns the fish. We don't get to take those fish and use them for FSC needs. So it's not an option, although we are looking to change that. The meeting objectives today were to focus on sockeye. Some changes were already made to address chinook issues.
- Re no fishing plan from DFO, it was not the intention to deliver a plan today but to hear from First Nations.
- Re the planning process for chinook, DFO is looking for First Nations input on how to manage it. For sockeye, sharing was done proportional to allocations on licenses last year. There were also conservation issues that precluded some people from accessing their allocations. People also requested more clarity on the rules that guide in-season management.

DFO is looking for guidance on how to manage sockeye for 2008, Rosenberger continued, since it will be just for First Nations. No one appears to be challenging the escapement targets but we are also hearing that people will fish to their needs. If outside people fish to their needs, at some point we will run out of fish. The 75% probability forecast leaves about 600,000 sockeye, so we will likely run out of fish before get too far above Chilliwack. This means that DFO will probably have to divide up allocations based on licences. Without further direction, we can't go back to your communities and propose other compromises—that's what all these meetings were for. Maybe we can have a final meeting after the bilaterals to report back on the plan. Other questions include what happens if your share goes by—Can someone else catch them for you? We have heard often that the licence allocations don't meet needs, but we welcome comments on how we should adjust them.

Participants continued with the following questions and comments to DFO:

Q: Does DFO plan to require on-board cameras to address high-grading in Area F troll and on sport vessels?

DFO: There are no plans for cameras but discussions are going on now regarding monitoring standards. For recreational lodges, DFO has introduced electronic logs, where they report species caught and released daily.

Gerald Roberts: What about the question to INAC about compensation? Why were East Coast fishermen compensated but not us? Is it because we are First Nations people? It's not just vessel owners but also crew.

DFO: There have been some compensation measures over the years. The concern that they have not been adequate can be discussed elsewhere but we want to focus here on the food fishery

Q: What is the status of the adjacency policy?

DFO: We want to focus on how to manage the sockeye fishery for this summer.

DFO (McEachen): There have been discussions with the NTC [Nuu-chah-nulth T.C] and it was agreed to write a Memorandum of Understanding on fishing out of territory, but it's still in the discussion stage.

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Ken Malloway: The test fishery will deliver some 42,000 fish as private property to non-First Nations before First Nations priority needs are met. Since Larocque, DFO has tried to be creative to maintain test fisheries. We propose allowing First Nations in the approach fishery to become the test fishery, and counting those fish as their allocation, and with DFO paying them to provide the necessary data. That would then free up an additional 42,000 fish from their allocation that could go upriver instead. The Sparrow decision says we have the first right after conservation, but in reality we don't if non-First Nations people do the test fisheries and get to go before us. The Fraser Panel is like an old boy's club where members approve each others' test fisheries. Some assessment fisheries are so close they can see each other. Test fisheries are also needed in-river, and those too should be done by First Nations who can keep those fish for FSC needs. Is it the official position that DFO is using the 75% probability forecast for 2008 planning?

DFO: Test fishing is considered part of the conservation aspect as it provides information needed to address conservation. The Minister does not have the authority to use fish to pay for test fisheries. The fish are the property of the person who does the fishery. We have reduced test fisheries to a minimal number but we need to do them or we will be stuck with a number for the season instead of being able to adjust. Forecasts are done at a number of probability levels. The official position is that the 50% probability forecast is taken into account but that it's very likely to overestimate the abundance and so the 75% forecast should be used as more likely to reflect what actually comes back. Staff will still model opportunities at different run size levels.

INAC (Marion Lightly): I want to express empathy but can't speak on the issues raised earlier, though I can provide appropriate contacts to pursue the questions.

Proposed action items

Shepert reviewed expectations regarding the four action items to ensure clarity:

Action Item #1: DFO wanted more clarity on sharing principles—without those, DFO will make the decisions. The Upper Fraser and mid-Fraser people put forward proposed principles, which the larger group did not address. The expectation is that the Working would meet and discuss principles for sharing at some point. Another issue for the group is how to manage in season, and there is also a suggestion to have another plenary meeting in May. Shepert asked if this was clear and if there were any objections (None noted)

Action item #2: This is about results-based management and it was an issue that generated a lot of discussion within the group. First Nations emphasized that the numbers used in the communal licences are DFO's numbers and do not represent actual needs.

Action item #3: The focus is on windows of opportunity in-season and this also encompasses the idea of shaping fisheries.

Action item #4: First Nations don't feel that DFO is fully respecting case law, including JJJ, etc. Interpretation of priority access is a really sticky point and requires discussion.

Shepert noted the intention is to eventually release detailed notes from all the sessions but these were the key points overall.

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Discussion

Chris Cook: Did DFO say they would make the decisions if we didn't? / (DFO: Yes)

Also, who is DFO going to come back to, Cook asked. We want to hear back from the RDG. Compensation is key—we're just fishing for unemployment stamps now. DFO is asking us to figure out how to do the impossible, now that it's an impossible task. We don't want to fight with our brothers. We've been asking for 40 years how to get First Nations together and we've done it, so don't lose the window of opportunity.

Shepert: We now have an interim group and some energy going so don't give up; but it's also important to take it one step at a time.

Gerald Roberts: Boats in Alaska are catching all the Fraser River fish. Can DFO do anything about that, and about all the chinook being caught by Alaskan pollock trawlers. Regarding compensation, we don't have access to all the resources, which are being taken away and nothing is being put on the table in return. We're not giving up our rights.

Presentation: 2008 Fraser sockeye

Les Jantz

Total predicted run size is 2.9 million at 50% probability, which is about half of the typical return for this cycle, and 1.85 million at 75% probability.

He outlined the process and method for setting escapement goals. The guiding principles involved a long-term strategy based on protecting component stocks and stability of harvest for each of the aggregates, achieving conservation and sustainable harvest into the future and also long-term performance of biological, social and economic indicators. The draft escapement strategy was included in the draft IFMP released March 20.

The 50% probability forecast shows available numbers for Canadian harvest after all deductions (Early Stuart: 0; Early Summers: 129,700; Summers: 900,600; Birkenhead-type Lates: 163,900; and True Lates: 61,800; for a total run of 1,256,000).

For the 75% probability forecast, the most significant change is for early summers. (Early Stuart: 0; Early Summers: 16,800; Summers: 571,600; Birkenhead Lates: 92,000; and True Lates: 38,700; for a total run of 719,100) The usual allocation for FSC harvest is around 1 million, so the returns would not meet those allocations at the 75% forecast level.

The other key issue relates to fishery implications of stocks of concern (Sakinaw, Cultus, and Early Stuart sockeye, Interior Fraser coho and Interior Fraser steelhead) as management plans also have to protect these stocks. The proposed exploitation rate for Cultus sockeye is 20%, which might reduce FSC opportunities later in the season.

Next steps include bilateral consultation in coming weeks for the final IFMP, which goes to the IHPC by May 6/7, and with the final IFMP to the Minister in June.

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Discussion

- Teresa Ryan: How is the draft IFMP being provided to First Nations? Is the draft escapement strategy different to what is in the IFMP?
- DFO: Yes, it is a separate document. The IFMP is distributed through the Fraser Panel and through managers to First Nations. A letter is going out tomorrow regarding the deadline for comments

ACTION: DFO will send out the FRSSI document to participants

- Dick Williams: This is not just about salmon but about other food fish like herring and eulachan. It's not just something out in ocean, there are vacuums in the coastal areas and inlets since the introduction of new predators and lights and fish farms.
- Fred Fortier: What are the social indicators referred to in developing escapement strategies? Is DFO going to appoint a rep for the mid-Fraser to the Fraser Panel from the names put forward?
- DFO: The 2007 process did look at some social indicators and those should be documented in the report, but they are probably not consistent with First Nations' objectives.
- DFO: The RDG will review all appointments for the fall, including First Nations and other appointments to the Fraser Panel.
- Q: Why so late?
- DFO: The appointments coincide with the planning cycle at present.
- Mike Staley: If we were to meet all FSC needs, it would likely mean fishing into the escapement targets. It would be helpful to know what will be the relative priorities.
- DFO: There is no final answer. Cultus has been one of the higher priorities. The next two objectives – maximizing surplus while meeting escapement objectives – are in tension. At some point, it's necessary to decide which is more important. In previous years, achieving harvest has been seen as more important but we haven't had that discussion yet. First Nations can identify their own priorities in responding to the IFMP, and the feedback will help guide the plan. There are also more overlapping runs, so this raises additional questions of which is more important: catching all the summers at the expense of early summers or meeting targets for early summers?

Closing comments/next steps

Chris Cook: It's time to start looking at compensation. What if DFO staff had to go without salaries? I never thought I'd see such a situation. How do you bring back those runs? This is our life. It's like being the last people on earth. This is a historic occasion.

Jeff Thomas: We can make changes if we work together on the issues we raised. We need to have the written records to report on the progress achieved and the discussions. We haven't had a good enough answer on the sport fishery. The measures so far are not good enough and many of us are ready to go to war about that. We don't have good enough

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stats to show that chinook are returning in sufficient abundance to specific streams to have those fisheries. In Nanaimo, the returns are not strong enough to permit sport fisheries or derbies, and if we keep allowing them the fish will never come back.

Notes: Barry Huber said minutes of the first plenary on January 10 were sent to everyone. There were some issues, but notes for the other meetings are being worked on, and FRAFS is trying to set up a web site where they can all be posted. DFO will share the notes for this portion of the meeting. Detailed notes were also done for the First Nations portion of the meeting, but it is up to the participants what to do with those. Shepert added that those too will be posted on the web site.

If we get to that point, Shepert added, the principle statements worked out at these meetings will be very helpful. As an Upper Fraser person, the progress at this meeting has been very encouraging. Conservation is recognized as the most important principle and there is a dynamic group, so there is optimism for the future.

Shepert commended Kariya for his role as facilitator on both days, a sentiment echoed with a round of applause.

Meetings: Another meeting is proposed to discuss principles and then a final plenary in May.

Teresa Ryan: Most of us haven't had confirmation yet regarding our funding for the next year. Given the complexity and importance of the dialogue and engagement needed to move forward, it merits ensuring that funding is in place in a timely manner.

Chris Cook: Participation has been funded by First Nations. We would like to see sub-regional meetings again with DFO but we need to hear what was heard and how DFO will address recreational. We want our people to fish first in our territorial waters.

Kariya thanked all participants, remarking on the humour and respect displayed and at how everyone dug in to address the tough issues. Regarding compensation, he suggested it would be interesting to do a comparative analysis of fishery adjustment programs on the east coast and the west coast and he closed by urging the large group to monitor progress and to keep the small group's feet to the fire.

Jeff Thomas was asked to close the day with a prayer

Appendix 1: Joint statement [First Nation's]

DRAFT – FOR DISCUSSION ONLY WITHOUT PREJUDICE.

Opening Comments:

The group has been meeting since January 2008 originally because DFO made a request that the First Nations discuss the issues that come up around FSC fish when the abundance of fish is low.

One of the key issues which DFO brought to this group is the problems around Chinook and sockeye management during a year of low abundance.

DFO's response on chinook management to date has not been satisfactory to those who hold rights to fisheries and is considered by many as disrespectful. These ACTION POINTS have been developed by this Interim Working Group on Fraser Fisheries which will be continuing to work on these issues.

Preamble : The Interim Working Group on Fraser Fisheries has agreed on the following Basic Statements:

- Made a declaration together of Unity for Aboriginal and Treaty title and Rights, from the approach to the headwaters
- Working together on conservation, restoration and recovery through whole area. (including coastal and Fraser)
- Planning of First Nations access to Fraser Fish
- Will work together on resource management plans, including First Nations economies, with each other - FN to FN plans only: We already have our own sharing and access arrangements, affirmed by both Canadian and customary law; these are an inter-tribal responsibilities.
- First Nations have priority over all other fisheries. DFO is not applying the priority affirmed by the SCC. There cannot be any fisheries open which could compromise the stocks or our fishing rights.
- DFO issues communal licences with arbitrary numbers; these do not meet needs.
- These discussions are **without prejudice** to other processes underway

Actions from these Meetings:

1. First Nations' Working Group on Fraser Fisheries: (WGFF)

Formation of Working Group on Fraser Fisheries (WGFF) which will be engaged in the political and practical process for management: in-season, pre-season and post season – Requires adequate administrative support and funding.

2. Performance Measure Required:

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FN will harvest to their needs: **Need is Not a Number**. It includes the health wellbeing and preservation of our culture. Nevertheless DFO is failing to fulfill their imposed numbers and must be held accountable.

At a minimum DFO should be accountable for delivering the FSC targets they impose. (Has DFO been able to accomplish what they said they would do?).

2.a Communal licensing regulations should be reformed.

3. Windows of Opportunity:

First Nations are here to discuss windows of opportunity, not dividing up the fish or other resources.

4. Discussion Paper on Case Law on First Nations Fisheries: Comparison

Develop a 'Discussion Paper' on case law and how well DFO policies follow the directions given by the Courts. – to be used as the basis for future resource management.

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Appendix 2: attendance

Name	Affiliation	E-mail/contact
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Fraser River Salmon Conservation and FSC Management Approaches meeting Richmond, BC – April 3, 2008: Minutes/Record of Meeting – Dawn Steele

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