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Commissioner of the Environment and Sustainable Development
Office of the Auditor General of Canada
240 Sparks Street
Ottawa, Ontario
K1A 0G6 Canada

Dear Commissioner Gelfand and Auditor General Ferguson:

RE: Request for an Examination of Canada's Failure to Protect Endangered Pacific Salmon and Anadromous Trout Species under the *Species at Risk Act*

Introduction

On behalf of the B.C. Wildlife Federation, we request that you undertake an examination of the systematic refusal of the Department of Fisheries and Oceans (DFO) and Environment and Climate Change Canada (ECCC) to protect endangered Pacific salmon and anadromous trout species under the *Species at Risk Act* (*SARA*).[1] We make this request pursuant to s. 7(2), s. 21.1 and s. 23(1) of the *Auditor General Act*.

In February of this year, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) concluded an emergency assessment of the Chilcotin and Thompson Steelhead and found that they are at imminent risk of extinction. The situation for these fish is dire, since their population has plummeted 80 per cent over the past 18 years, with only 58 and 177 fish returning to these respective rivers last year.[2] On March 20th 2018, the Tsilhqot'in National Government recognized this emergency by announcing a full closure of the Chilcotin River steelhead fishery despite the infringement on their Aboriginal right to fish for food.[3] Their priority right to a food and ceremonial fishery will become a hollow right in the absence of fish they have depended on for generations. The Tsilhqot'in have acted decisively to protect these endangered fish -- but previous federal government actions raise grave doubt whether the Canadian government will take commensurate action and follow COSEWIC's recommendation to list these steelhead for protection under SARA.

The steelhead's decline has drawn public attention to the related plight of Pacific salmon species, which Government too often has refused to protect under SARA – in the face of catastrophic declines. For example, in the early 2000s, COSEWIC conducted emergency assessments for three species: Okanagan Chinook Salmon (2005), Sakinaw Lake Sockeye (2002), and Cultus Lake Sockeye (2002).[4] Despite multiple intervening COSEWIC assessments confirming that these species are at risk, government has never listed these species under *SARA*. As a result, these species remain poised on the brink of extinction. In fact, the population of Cultus Lake sockeye has dropped 40 percent since COSEWIC first identified them as endangered in 2002.[5] Similarly, government has refused COSEWIC's advice to list Sakinaw Lake sockeye – even during a three-year period when zero or one wild fish returned.[6] COSEWIC has considered Okanagan Chinook endangered or threated since 2005, with the total population hovering between 19-112 individuals from 2013-2017. Yet government has failed to act under SARA – and now projects that it will not make a decision about whether to list Okanagan Chinook under *SARA* until around October 2020.[7]

The problem is that government appears to have a strong bias against listing marine fish species under *SARA*, as demonstrated below. Government authorized scientists at COSEWIC to conduct statutory assessments of endangered species in 2002. Since then, COSEWIC has concluded that 62 marine fish species were "at risk," but government has only listed 12 for *SARA* protection.[8]

Instead of receiving proper protections under *SARA,* many at-risk marine fish species are managed through the *Fisheries Act* by DFO. Scientists have found this alternative approach to be flawed and concluded that it provides inadequate protection for the endangered fish. DFO developed the 2009 *Sustainable Fisheries Framework* to manage commercial fisheries using what is described as a precautionary and ecosystem-based approach. This framework requires that stocks in the 'critical zone' be managed for recovery.[9] DFO management of species is implemented through Integrated Fisheries Management Plans (IFMPs), which are intended to incorporate science and industry data to manage the harvest of species. Unfortunately, as seen above, this approach of using IFMPs instead of *SARA* protections for Pacific salmon fails to protect imperiled species. IFMPs can include many elements of *SARA* recovery strategies and action plans; however, they have not been shown to be an effective alternative.[10] The IFMPs have not resulted in the effective and efficient management of these stocks, or protection of the fish.[11]

In fact, a 2016 audit by the Office of the Auditor General and the Commissioner of the Environment and Sustainable Development found that DFO had no timelines or plans to develop rebuilding plans for 12 of the 15 major fish stocks that were in the 'critical

zone.'[12] With respect to these species, the Commissioner said "we are still at risk of having another stock potentially go into collapse, similar to what happened to the cod."[13] Tragically, under the status quo approach of avoiding the listing of at-risk anadromous fish, we are facing a possible collapse of Pacific salmon and anadromous trout stocks.

Therefore, we urge you to undertake an examination of the failure to protect endangered Pacific salmon and anadromous trout species under *SARA* pursuant to the following sections of the *Auditor General Act*:[14]

- S. 7(2), under the Auditor General's authority to report on whether government is operating efficiently and reporting in a satisfactory manner on the effectiveness of programs;
- S. 21.1, under the Commissioner of the Environment and Sustainable Development's purpose of monitoring and reporting on the progress of category I departments (including DFO) towards sustainable development; and
- S. 23(1), under the Commissioner's power to make examinations and inquiries to monitor the extent to which category I departments (including DFO) are meeting targets and objectives, and implementing the plans set out in their own sustainable development strategies as laid before the Houses of Parliament.

The government has failed to meet its obligations under *SARA* and has implemented it in a biased way that thwarts the very purpose of the Act – and in a way inconsistent with the *Federal Sustainable Development Strategy*. Relevant to sections 21.1 and 23(1) above, DFO's current approach will not allow them to meet the goals set out in their own 2017-2020 *Sustainable Development Strategy*: to prevent the extirpation and extinction of aquatic species, effectively regulate harvesting and end destructive fishing practices to restore fish stocks.[15] Nor will it allow them to meet the goal set out in DFO's Wild Salmon Policy: restoring and maintaining the genetic diversity and habitat of salmon populations, to manage the fishery sustainably.[16] Relevant to s. 7(2) above, the current approach fails to fulfill DFO's obligation to manage Pacific salmon and anadromous trout stocks *efficiently*, given the evidence of the continued decline of unlisted species under the approach of using IFMPs instead of *SARA.* Further, the government has failed to adequately report on the *effectiveness* of this approach in meeting Canada's sustainable development objectives.

As is demonstrated below, there is a clear and compelling need to examine government decisions regarding the use of IFMPs in lieu of required *SARA* protections. The argument for why the Auditor General and Commissioner should investigate this matter is presented below as follows:

1. Biases in the *SARA* Listing Process
2. Use of Integrated Fisheries Management Plans in Lieu of *SARA* Protections
3. Impacts of the Failure to List Pacific Salmon and Anadromous Trout Species Under *SARA*
4. Conclusion

Biases in the *SARA* Listing Process

The Listing Process

COSEWIC is an independent scientific body which assesses the status of species and recommends them for listing when appropriate. After the Minister of the Environment receives a COSEWIC assessment, she has 90 days to post a Response Statement on the Public Registry (see Figure 1 for a timeline of *SARA* listing decisions for aquatic species with extended consultations). Following receipt of the COSEWIC assessment, section 27 of *SARA* sets out a 9-month timeline for the Governor-in-Council (GIC) to make a decision whether or not to list the species.[17] However, *SARA* does not specify when the COSEWIC assessment has been 'received' by the GIC, so 'receipt' is deemed to occur by publishing an order in Part II of the Canada Gazette after a consultation period.

These consultations take place before the Minister of the Environment forwards the COSEWIC assessment to the GIC.[18] The government has committed to a policy allowing many months (up to 27) of consultation and analysis for aquatic species, before the assessment is forwarded to the GIC.[19] However, the government's policy of only deeming the assessment to be received when it is *forwarded* to the GIC has been framed as unlawful; Ecojustice has noted that the appropriate interpretation is that the 9-month timeline begins when the Minister receives COSEWIC's assessment.[20] They suggest that use of this 'loophole' undermines the purpose of the Act by allowing the indefinite delay of listing decisions. Some *SARA* listing decisions have been delayed a decade or more.

DFO works closely with the Minister of Environment on listing decisions for marine species. According to the DFO *SARA* Listing Policy, the default position is that the list be amended to add species unless government can provide a 'compelling rationale' not to list a species based on a comprehensive analysis through the consultation process.[21] DFO's policy directive notes that regulatory impact analysis must incorporate: opportunities for consultation; need for intervention; public policy objectives; assessment of a mix of government instruments to achieve the policy objectives, including listing and not listing the species; legal implications; international obligations; benefits and costs; coordination with other departments, agencies, and jurisdictions;

implementation, compliance, and enforcement plans; and measurement, evaluation, and review of the regulatory frameworks.[22]

Once a species is listed, it is protected through *SARA* prohibitions on killing or harming individuals of the species, the identification and protection of that species' critical habitat, and the creation of a recovery strategy and an action plan for recovery.

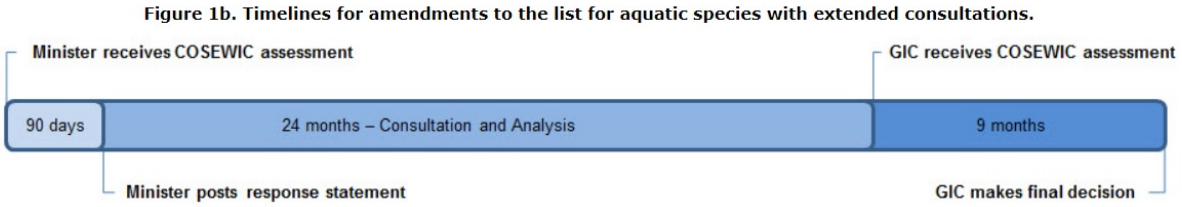

Figure 1. Timeline for Amendments to Schedule 1 of the Species at Risk Act. Available from http://registrelep-sararegistry.gc.ca/default.asp?lang=En&n=367595D1-1

The Key Problem -- Biases in the Listing Process

Studies have demonstrated a bias against listing marine fish species in the *SARA* process.[23] Since government authorized COSEWIC scientists to conduct statutory assessments of endangered species in 2002, COSEWIC has concluded that 62 marine fish species were "at risk," but government has only listed 12 for *SARA* protection.[24] At-risk marine fishes that are not listed are supposed to receive comparable protection under the *Fisheries Act*.[25]

One study found that Endangered and Threatened marine fishes face the greatest bias in the *SARA* listing process and are unlikely to be listed.[26] Species which receive these designations typically spend longer under consideration by the Minister, during which time they receive no additional protections. Management of these species by DFO under the *Fisheries Act* provides fewer protection measures than management under *SARA* could provide.[27]

Critically important studies have noted that fish species are less likely to receive endangered species status if they are part of – or associated with – a commercial fishery or bycatch.[28] One study has interpreted the policy as denying *SARA* listing to *all* marine fish that have a socio-economic value above zero.[29] These studies demonstrate that, during the consultation phase (after the Minister's receipt of the COSEWIC assessment and before it is forwarded to the GIC), regulatory analyses undertaken do a poor job of quantifying the actual benefits of species *recovery*.[30]

Tellingly, the Chairman of COSEWIC has stated that the federal government has a "poor record" of protecting fish deemed to be endangered, especially where it could interfere with commercial fisheries.[31] The cavalier failure to provide *SARA* protections to species associated with a commercial fishery is alarming and needs to be investigated. Such a pattern of decisions would be contrary to the very purpose of *SARA*. Incidentally, it also compares poorly with the administration of the US *Endangered Species Act*. The US Act explicitly prohibits government from allowing socio-economic factors to trump science when deciding to protect endangered species.[32]

Use of Integrated Fisheries Management Plans in lieu of *SARA* protections

As described above, there is a demonstrated bias against listing marine fishes under *SARA*. In lieu of *SARA* protections, DFO manages fisheries under the *Fisheries Act*. The primary mechanism used by DFO for managing commercial fisheries is the creation of IFMPs, which set out harvesting amounts, conservation measures, and management of the fishery of a specific species within a region.[33] Under the *Sustainable Fisheries Framework*, when stocks are at-risk DFO is required to make plans to recover and rebuild the species; however, these plans are not binding, are subject to change at any time, and are considered supplementary to the IFMP.[34] Most important, as noted in the Commissioner's 2016 report, DFO did not even have rebuilding plans in place for most at-risk stocks (12 of 15 fish stocks considered to be in the critical conservation zone).[35]

Although IFMPs can include elements of *SARA* recovery strategies and action plans, they have not been shown to be an effective alternative.[36] Listing under *SARA* triggers automatic prohibitions that protect fish from commercial fisheries. IFMPs can include many elements that could be comparable to listing under *SARA*, *but they are unlikely to include more stringent measures unless a species is actually listed.* In a comprehensive study of at-risk marine fishes, IMFPs for listed species were found to have significantly more conservation measures than those for unlisted species.[37] Thus, the use of IFMPs instead of *SARA* protections typically means that unlisted species will not receive the additional protections they need to recover.

McDevitt-Irwin *et al.* (2015) described three key problems with IFMPs in comparison with *SARA*: a) they lack clear recovery targets and timelines, which species under *SARA* would have; b) there is no capacity to identify information gaps (such as critical habitat or life-history gaps) for at-risk species that are unlisted; and c) they do not offer adequate habitat protection measures for at-risk species.[38] If Canada is to make progress toward rebuilding at-risk fish stocks, both IFMPs and *SARA* protections need to be fully implemented, enforced, and assessed.

Impacts of the Failure to List Pacific Salmon and Anadromous Trout Species under *SARA*

A review of Pacific salmon species on the *SARA* registry documents a tragic history of government failing to list those species that COSEWIC scientists have assessed as Endangered – leaving those fish teetering on the brink of extinction. Below, we examine three species which the government has declined to list multiple times: Okanagan Chinook Salmon, Cultus Lake Sockeye, and Sakinaw Lake Sockeye. For these fishes, using IFMPs in lieu of *SARA* protections has not led to recovery; all three species continue to be endangered.[39]

Okanagan Chinook Salmon

The Chinook Salmon was designated as Endangered in an emergency assessment in May 2005. The status was re-examined and designated Threatened in April 2006, based on the possibility that the species could be rescued from fish elsewhere in the upper Columbia River basin. In April 2017, there was another status assessment and the Chinook were re-designated as Endangered. Rescue of this species is considered unlikely, and the population varied between 19-112 individuals from 2013-2017. Key threats to the Okanagan Chinook include habitat degradation, invasive species, climate change, and high exploitation rates (>69% for upper Columbia River summer migrating Chinook Salmon since 2003).[40] Fishing is considered the highest impact threat for this species.[41] Yet the anticipated date for government (GIC) making a decision about whether to list the species under *SARA* won't be until October 2020 – a full 15 years after this species was first designated as Endangered by the COSEWIC scientists.[42]

Sakinaw Lake Sockeye

In 2002 COSEWIC assessed the Sakinaw Lake Sockeye as Endangered. The population had experienced a significant decline due to over-fishing and low ocean survival in the 1980s and 1990s.[43] This status was re-examined and confirmed Endangered in May 2003, and then again in an emergency reassessment in April 2006. The government declined to list the species under *SARA* although it drafted a recovery plan to protect and rebuild the population, which was partly implemented.[44] However, between 2006-2009 almost no adults returned to the lake (zero or one) and the population became extirpated in the wild. Despite this three-year period in which the population became extirpated, the Sakinaw Lake Sockeye still was not listed.

While a captive breeding program has been introduced for Sakinaw Lake Sockeye, threats from fishing, low ocean survival and habitat degradation continue. Most recently, in April 2016 COSEWIC re-examined their status and confirmed it as

Endangered. COSEWIC's most recent report stated that "given their very low abundance, even modest fishing mortality jeopardizes the viability of the population."[45] The anticipated government (GIC) listing decision date of October 2019 will be 17 years after this species was first designated as Endangered.

Cultus Lake Sockeye

COSEWIC assessed Cultus Lake Sockeye as Endangered in 2002, which was re-examined and confirmed in May 2003. The fishing exploitation rate of this species was very high in most years from the 1950s to the late 1990s, then declined and remained relatively low until 2010; however, the exploitation rate in the past two years was over 40%.[46] In November 2017, COSEWIC scientists re-examined and confirmed the Endangered status of Cultus Lake Sockeye.[47] Their population has dropped almost 40% since 2002.[48] The spawning population has declined steadily in the past 70 years and the current population continues to be small. Regardless of this, the small population has continued to experience high exploitation rates (as bycatch in other salmon fisheries).[49] The anticipated GIC decision date of October 2021 will be 19 years after this population was first designated as Endangered.

Chilcotin and Thompson Steelhead

Chilcotin and Thompson River steelhead trout populations have plummeted 80% over the last three generations. Only 58 fish returned to the Chilcotin River last year, and 177 to the Thompson.[50] In January 2018 this species was assessed Endangered by COSEWIC scientists in an emergency assessment. The species faces multiple threats which include habitat degradation and bycatch mortality from salmon fisheries.[51] Although the management of steelhead is delegated to the province, DFO decisions related to salmon IFMPs have serious impacts on this Endangered species. Correspondence between DFO and the Province of BC (in February 2017 and October 2017) revealed that the chum salmon gill-net fisheries strategy for 2017 was to protect 80% of the steelhead, by opening just for 1-2 days in October when most were anticipated to have passed the lower Fraser.[52] Commercial fisheries have also been required by DFO to take measures to minimize harm to steelhead incidentally caught. However, given the small population of remaining steelhead, even the few fishes caught up in other commercial fisheries are essential to recovery. To allow up to 20% of the remaining handful of fish to be commercially killed is questionable management of an important Canadian resource.

Conclusion

In light of the above, we request an examination of government's current approach of using IFMPs in lieu of *SARA* protections to protect endangered Pacific salmon and anadromous trout species from extinction. The Commissioner has the authority to examine the effectiveness and efficiency of this approach. We contend that the government's current approach does not meet DFO's and ECCC's obligation to manage these stocks efficiently, given the failure to act in the face of continued decline of these species. The approach fails to meet the goal set out in DFO's Wild Salmon Policy: restoring and maintaining the genetic diversity and habitat of salmon populations, to manage the fishery sustainably.[53]

The approach is also clearly contrary to the *Federal Sustainable Development Strategy*, where Fisheries and Oceans Canada lists sustainable fisheries as a key priority.[54] DFO's 2017-2020 Sustainable Development Strategy sets a goal to effectively regulate harvesting in order to restore fish stocks, have recovery plans in place for all depleted species, and to prevent the extinction of known threatened species by 2020.[55] It seems clear that DFO will not meet these goals for the Pacific salmon or steelhead. Further, the government has failed to adequately report on how ineffective their approach has been in meeting Canada's objective of sustainable fisheries.

The failure to protect Pacific salmon and trout species from extinction is in direct conflict with Canada's commitments to protecting biodiversity and achieving sustainable fisheries. The record on Endangered Pacific salmon species is clear: there is a bias against listing these species under *SARA*, and there has been no recovery for these important species under the current policy of using IFMPs that lack rebuilding plans. With the recent COSEWIC assessment of the Thompson and Chilcotin Steelhead and Fraser Sockeye, we have an opportunity for species recovery, before it is too late.

Yours sincerely,

"Rebecca Whitmore"

Rebecca Whitmore, Law Student

Calvin Sandborn QC, Barrister and Solicitor

Table 1. Endangered Pacific Salmon and Trout Species – SARA Status

Chinook Salmon	Oncorhynchus tshawytscha	Okanagan population	No schedule, no status	• **May 2005** - Designated Endangered in an emergency assessment • **April 2006** – Status re-examined and designated Threatened • **April 2017** - Status re-examined and designated Endangered[56]
Sockeye Salmon	Oncorhynchus nerka	Sakinaw population	No schedule, no status	• **October 2002** – Designated Endangered in an emergency assessment • **May 2003** – Status re-examined and confirmed Endangered • **April 2006** – Status re-examined and confirmed Endangered • **April 2016** – Status re-examined and confirmed Endangered[57]
Sockeye Salmon	Oncorhynchus nerka	Cultus-L population	No schedule, no status	• **October 2002** – Designated Endangered in an emergency assessment • **May 2003** – Status re-examined and confirmed Endangered[58] • **November 2017** – Status re-examined and confirmed Endangered[59]*
Sockeye Salmon	Oncorhynchus nerka	Bowron-ES population	No schedule, no status	• **November 2017** – Designated Endangered*
Sockeye Salmon	Oncorhynchus nerka	Harrison (U/S)-L population	No schedule, no status	• **November 2017** – Designated Endangered*
Sockeye Salmon	Oncorhynchus nerka	Quesnel-S population	No schedule, no status	• **November 2017** – Designated Endangered*
Sockeye Salmon	Oncorhynchus nerka	Seton-L population	No schedule, no status	• **November 2017** – Designated Endangered*
Sockeye Salmon	Oncorhynchus nerka	Takla-Trembleur-EStu population	No schedule, no status	• **November 2017** – Designated Endangered*
Sockeye Salmon	Oncorhynchus nerka	Takla-Trembleur-Stuart-S population	No schedule, no status	• **November 2017** – Designated Endangered*
Sockeye Salmon	Oncorhynchus nerka	Taseko-ES population	No schedule, no status	• **November 2017** – Designated Endangered*
Steelhead Trout	Oncorhynchus mykiss	Thompson River population	No schedule, no status	• **January 2018** – Designated Endangered in an emergency assessment[60]
Steelhead Trout	Oncorhynchus mykiss	Chilcotin River population	No schedule, no status	• **January 2018** – Designated Endangered in an emergency assessment[61]

*All Fraser Sockeye Salmon Species were assessed in the same COSEWIC report, from November 2017.

References

[1] Species at Risk Act, S.C. 2002, c. 29.
[2] COSEWIC 2018. Technical Summaries and Supporting Information for Emergency Assessments on the steelhead trout Oncorhynchus nerka (Thompson River and Chilcotin River populations). Committee on the Status of Endangered Wildlife in Canada. (http://www.registrelep-sararegistry.gc.ca/virtual_sara/files/cosewic/Ea-SteelheadTrout-v00-2018Feb-Eng.pdf).
[3] Monica Lamb-Yorski. Mar. 20, 2018. "BC First Nation announces full closure of Chilcotin River steelhead fishery." https://www.wltribune.com/news/b-c-first-nation-announces-full-closure-of-chilcotin-river-steelhead-fishery/
[4] Documents related to these assessments are available on the *SARA* public registry online. Available from: http://www.registrelep-sararegistry.gc.ca/sar/index/default_e.cfm
[5] Eric Taylor, Chair of COSEWIC (personal correspondence) February 19, 2018.
[6] COSEWIC. 2016. COSEWIC assessment and status report on the Sockeye Salmon Oncorhynchus nerka, Sakinaw population, in Canada. Committee on the Status of Endangered Wildlife in Canada. Ottawa. xii + 39 pp. (http://www.registrelep-sararegistry.gc.ca/default_e.cfm).
[7] See Appendix A. DFO's January 9th 2018 letter in Appendix A sets out planning priorities for the development of 2018-19 Salmon IFMPs for British Columbia. In the letter, they set out the dates by which they anticipate *SARA* listing decisions for various salmon species.
[8] J.M. McDevitt-Irwin, J.K. Baum, S.D. Fuller and C. Grant. 2015. "Missing the safety net: evidence for inconsistent and insufficient management of at-risk marine fishes in Canada." *Can J Fish Aquat Sci* 72: 1-13, https://doi.org/10.1139/cjfas-2015-0030
[9] Fisheries and Oceans Canada. 2009. A Fishery Decision-Making Framework Incorporating the Precautionary Approach [online]. Available from http://www.dfo-mpo.gc.ca/reports-rapports/regs/sff-cpd/precaution-eng.htm
[10] *Supra* note 8.
[11] Further, there has been inadequate reporting on the effectiveness of this approach.
[12] Office of the Auditor General of Canada. Fall 2016. Report 2 – Sustaining Canada's Major Fish Stocks – Fisheries and Oceans Canada [online]. Available from http://www.oag-bvg.gc.ca/internet/English/parl_cesd_201610_02_e_41672.html#hd2d
[13] Office of the Auditor General of Canada. 2016. Video – Sustaining Canada's Major Fish Stocks – Fisheries and Oceans Canada [online]. Available from http://www.oag-bvg.gc.ca/internet/English/parl_vid_e_41733.html
[14] Auditor General Act, R.S.C. 1985, c. A-17.
[15] Fisheries and Oceans Canada and the Canadian Coast Guard. 2017. 2017-2020 Departmental Sustainable Development Strategy [online]. Available from http://www.dfo-mpo.gc.ca/sds-sdd/2017-2020/pdf/sds-sdd-2017-2020-eng.pdf
[16] Fisheries and Oceans Canada. 2004. A Policy Framework for Conservation of Wild Pacific Salmon [online]. Available from http://waves-vagues.dfo-mpo.gc.ca/Library/285006.pdf
[17] Timeline for Amendments to Schedule 1 of the Species at Risk Act. Available from http://registrelep-sararegistry.gc.ca/default.asp?lang=En&n=367595D1-1.
[18] *Ibid.*
[19] *Ibid.*
[20] See Appendix C. Ecojustice's November 2016 letter offers comments on the draft listing policies set out by Environment and Climate Change Canada. They argue that the 9-month timeline is triggered by the Minister's receipt of COSEWIC's assessment, not the deemed receipt that follows an extended consultation period.
[21] Fisheries and Oceans Canada. Species at Risk Act Listing Policy and Directive for "Do Not List" Advice [online]. Available from https://www.registrelep-sararegistry.gc.ca/virtual_sara/files/policies/policy-politique-eng.pdf
[22] *Ibid.*
[23] J.A. Hutchings and M Festa-Bianchet. 2009 "Canadian species at risk (2006-2008), with particular emphasis on fishes." *Environmental Reviews* 17:53-65, DOI:10.1139/A09-003; A. O. Mooers, L.R. Prugh, M. Festa-Bianchet, and J.A. Hutchings. 2007. "Biases in Legal Listing under Canadian Endangered Species Legislation." *Conservation Biology* 21 (3): 572-575. DOI:10.1111/j.1523-1739.2007.00689.x; K. Dorey and Tony R. Walker. 2018. "Limitations of

threatened species lists in Canada: A federal and provincial perspective. *Biological Conservation* 217: 259-268. DOI:10.1016/j.biocon.2017.11.018

[24] *Supra* note 8.

[25] *Ibid.*

[26] *Ibid.*

[27] *Ibid.*

[28] K. Dorey and Tony R. Walker. 2018. "Limitations of threatened species lists in Canada: A federal and provincial perspective. *Biological Conservation* 217: 259-268. DOI:10.1016/j.biocon.2017.11.018; Favaro B, Claar DC, Fox CH, Freshwater C, Holden JJ, et al. (2014) Trends in Extinction Risk for Imperiled Species in Canada. PLoS ONE 9(11): e113118. DOI:10.1371/journal.pone.0113118; J.M. McDevitt-Irwin, J.K. Baum, S.D. Fuller and C. Grant. 2015. "Missing the safety net: evidence for inconsistent and insufficient management of at-risk marine fishes in Canada." *Can J Fish Aquat Sci* 72: 1-13, DOI:10.1139/cjfas-2015-0030

[29] Schultz, J.A., Darling, E.S., and Côté, I.M. 2013. What is an endangered species worth? Threshold costs for protecting imperiled fishes in Canada. Mar. Pol. 42: 125–132. DOI:10.1016/j.marpol.2013.01.021.

[30] *Ibid*; A. O. Mooers, L.R. Prugh, M. Festa-Bianchet, and J.A. Hutchings. 2007. "Biases in Legal Listing under Canadian Endangered Species Legislation." *Conservation Biology* 21 (3): 572-575. DOI:10.1111/j.1523-1739.2007.00689.x According to scholars, the current approach has three major flaws: a) it overlooks the benefits of biodiversity and public willingness to pay to recover endangered species, b) the cost estimates are largely uncertain and are not adequately scrutinized or subject to external review, and c) the emphasis is only on short-term and regional impacts, rather than longer-term benefits.

[31] Randy Shore. February 13, 2018. "Two BC steelhead runs at imminent risk of extinction." http://vancouversun.com/news/local-news/two-b-c-steelhead-runs-at-imminent-risk-of-extinction

[32] Robin S. Waples, Marta Nammack, Jean Fitts Cochrane, Jeffrey A. Hutchings; A Tale of Two Acts: Endangered Species Listing Practices in Canada and the United States, BioScience, Volume 63, Issue 9, 1 September 2013, Pages 723–734, DOI:10.1525/bio.2013.63.9.8

[33] Fisheries and Oceans Canada. 2014a. Integrated fisheries management plans [online]. Available from http://www.dfo-mpo.gc.ca/fm-gp/peches-fisheries/ifmp-gmp/index-eng.htm

[34] Fisheries and Oceans Canada. 2013. Guidance for the Development of Rebuilding Plans under the Precautionary Approach Framework: Growing Stocks out of the Critical Zone [online]. Available from http://www.dfo-mpo.gc.ca/reports-rapports/regs/sff-cpd/precautionary-precaution-eng.htm

[35] *Supra* note 12.

[36] *Supra* note 8.

[37] *Ibid,* p. 11

[38] *Ibid,* p. 11

[39] These three species as managed through IFMPs for salmon in BC, as per Appendix A.

[40] COSEWIC. 2017. COSEWIC assessment and status report on the Chinook Salmon Oncorhynchus tshawytscha, Okanagan population, in Canada. Committee on the Status of Endangered Wildlife in Canada. Ottawa. xii + 62 pp. (http://www.registrelepsararegistry.gc.ca/default.asp?lang=en&n=24F7211B-1). At page v.

[41] *Ibid,* at page ix.

[42] See Appendix A, p. 2 for all anticipated listing decision dates.

[43] *Supra* note 6.

[44] Withler, R.E., D.S. O'Brien, N.M. Watson, and K.J. Supernault. 2014. Maintenance of genetic diversity in natural spawning of captively-reared endangered sockeye salmon, Oncorhyncus nerka. Diversity 6: 354-379.

[45] *Supra* note 6. At page v.

[46] COSEWIC. 2017. In Press. COSEWIC assessment and status report on the Sockeye Salmon Oncorhynchus nerka, 24 Designatable Units in the Fraser River Drainage Basin, in Canada. Committee on the Status of Endangered Wildlife in Canada. Ottawa. xli + 179 pp. (http://www.registrelepsararegistry.gc.ca/default.asp?lang=en&n=24F7211B-1). At page 63.

[47] *Ibid.*

[48] *Supra* note 5.

[49] *Ibid.*

[50] *Supra* note 2.
[51] *Ibid.*
[52] See Appendix B.
[53] *Supra* note 16.
[54] Government of Canada. Achieving a Sustainable Future: A Federal Sustainable Development Strategy for Canada [online]. Available from http://fsds-sfdd.ca/index.html#/en/detail/all/goal:G06
[55] *Supra* note 15.
[56] *Supra* note 40.
[57] *Supra* note 6.
[58] COSEWIC 2003. COSEWIC assessment and status report on the sockeye salmon Oncorhynchus nerka (Cultus population) in Canada. Committee on the Status of Endangered Wildlife in Canada. Ottawa. ix + 57 pp.
[59] *Supra* note 46.
[60] *Supra* note 2.
[61] *Ibid.*

Appendix A

Fisheries and Oceans Canada
Pêches et Océans Canada

Pacific Region
Suite 200 – 401 Burrard Street
Vancouver, British Columbia
V6C 3S4

Région du Pacifique
Piece 200 – 401 rue Burrard
Vancouver (C-B.)
V6C 3S4

January 9th, 2018

To First Nations and Stakeholders,

Re: Planning Priorities for Development of Salmon 2018/2019 Integrated Fisheries Management Plans (IFMPs) for Northern and Southern British Columbia (BC)

This letter is intended to communicate the Department's key planning priorities for developing the 2018/2019 Northern and Southern BC Salmon IFMPs. Specifically, these key planning priorities reflect areas where potential fishery management changes are under consideration for the 2018 season. Further discussion with First Nations and advisory groups on these priority areas will be required during the consultation process to develop the 2018/19 salmon IFMPs and further details on specific changes will be identified in the draft IFMPs that will be released at the end of February. If you wish to provide feedback on these key areas or other areas where you seek to propose changes for the IFMPs, you are requested to provide feedback in writing by **February 5, 2018** to Ashley Dobko at Ashley.Dobko@dfo-mpo.gc.ca. The Department intends to share all feedback received with First Nations and stakeholders during upcoming meetings to support development of the draft IFMPs.

Key planning priorities for the 2018 season include:

1. COSEWIC and SARA Process

Five salmon and one anadromous trout species have been or will be assessed by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC). COSEWIC's submission of its species assessments to the Government of Canada, via its annual report, initiates the Species at Risk Act (SARA) listing process to inform the decision by Governor in Council (GiC) on whether or not to amend Schedule I of SARA (the "List" of Species at Risk under the Act). The GiC's decision is based on the recommendation of the Minister of Environment and Climate Change Canada vis-à-vis the Minister of Fisheries and Oceans. This recommendation is informed by an extensive process led by DFO which includes development of a Recovery Potential Assessment; potential management scenarios for if the species is, or is not listed; a Socioeconomic Analysis, and consultations with First Nations and Stakeholders. Expected timelines are outlined in the table below. More details on timelines and opportunities for engagement will be provided at a later date.

Salmon	COSEWIC Assessment	# of DUs*	COSEWIC Annual Report Date	Anticipated GiC Decision Date**
Sakinaw Sockeye	EN	1	Oct 2016	Oct 2019
Okanagan Chinook	EN	1	Oct 2017	Oct 2020
Interior Fraser Coho	TH	1	Oct 2017	Oct 2020
Fraser Sockeye	8 EN, 2 TH, 5 SC, 9 NAR	24	Oct 2018	Oct 2021
Interior Fraser Steelhead (Thompson & Chilcotin)	Assessment not yet performed***	1	Early 2018	TBC
Southern BC Chinook	Assessment not yet performed	27	Expected Oct 2019	Oct 2022

EN – Endangered
TH – Threatened
SC – Special Concern
NAR – Not at Risk
*DU refers to "designatable unit" or population. DUs and Wild Salmon Policy Conservation Units are similar, and in most cases, the same
** Timelines as per new 36 month timeline for complex aquatic species –
(http://registrelep-sararegistry.gc.ca/default.asp?lang=En&n=367595D1-1)
***undergoing an Emergency Assessment, as per SARA S.28(1).
Further information on the SARA listing process can be found at:
http://www.dfo-mpo.gc.ca/species-especes/publications/sara-lep/policy-politique/index-eng.html

The Department continues to implement fishery management actions to reduce impacts on these populations. Additional fishery management actions to protect these populations may be considered in 2018; further details are outlined in the sections below.

2. Skeena River Sockeye

The 2018 return of Skeena River sockeye is expected to be poor based on poor contributions of age-5 sockeye from the lowest return on record in 2013; weak returns of age-4 sockeye from the 2014 brood year; and only modest age-3 jack returns in 2017. Return rates have become more uncertain in recent years, with greater variability among the Skeena stock components and brood year survival rates. The preliminary 2018 pre-season forecast abundance for a range of probability levels is identified below:

	2018 Forecasts for reference probabilities				
Model	10%	25%	50% (median)	75%	90%
5 year Average Model	3,827,453	2,266,863	1,388,639	850,655	503,812
Sibling Model	1,466,874	990,741	645,112	420,059	283,712

Source: S. Cox-Rogers and S. Carr-Harris, Preliminary 2018 Skeena Sockeye Forecast Memo, Nov. 14, 2017

Based on the pre-season sockeye forecast in 2017 season, the IFMP included a number of changes to address an expected poor return of Skeena sockeye. The Department accepted the recommendations from the Skeena First Nations Technical Committee and feedback from consultations to increase the management trigger for initiating First Nations Section 35(1) fisheries for Skeena River sockeye from a 400,000 to 600,000 total return to Canada and supported Skeena First Nations in their plans to start the season with a closure for sockeye directed fisheries. Further discussion will be required to identify the appropriate management actions for the coming season and considering the lessons learned from 2017.

3. Nass and Skeena River Chinook

Below average returns are expected for Nass chinook as well as summer and spring timed Skeena chinook. The 2018 return is highly uncertain after record low escapements in 2017 and generally low productivity among stream type stocks in the north-west. Declining trends in smaller Skeena CU's were evident after 2016. This low productivity was also observed in 2017 for more abundant CU's such as the Nass and large lake components of the Skeena watershed. As a result, additional management actions to protect returns of chinook returning to both the Nass and Skeena Rivers will likely be required in 2018. These measures will likely include a broader suite of management actions across north coast fisheries. In addition, given the potential for poor returns of Skeena River sockeye, discussion will be required to identify the appropriate management actions for the coming season considering the lessons learned from management actions that were implemented in 2017. In 2017, recreational fishing for salmon in the Skeena River watershed was closed, from June 15 to July 14 to provide First Nations food, social and ceremonial harvest opportunities given low forecast returns of Skeena sockeye; recreational fishing for chinook, coho and pink salmon re-opened on July 15. In addition, a number of additional management measures were implemented for Skeena chinook in the Skeena River main-stem and tributaries.

4. Southern Resident Killer Whales (SRKW)

The Southern Resident Killer Whale (*Orcinus orca*) population was listed as Endangered under the *Species at Risk Act* (SARA) in 2003. Resident Killer Whale (RKW) populations in British Columbia are presently considered to be at risk because of their small population size, low reproductive rate, narrow prey selection, and the existence of a variety of anthropogenic threats that have the potential to prevent their recovery or to cause further declines. The SRKW population is small and declining, experiencing a decline of 3% per year between 1995 and 2001, and since then has shown little recovery, with 76 individuals in the wild as of 2017. Due to this small population size and low birth rate, threats affecting only a few individuals have the potential to impact their recovery. Even under the most optimistic scenario (human activities do not increase mortality or decrease reproduction), the species' low intrinsic growth rate means that the time frame for recovery will be more than one generation (25 years).

General Approach to Recovery: Key threats to recovery identified in the SARA *Recovery Strategy for Northern and Southern Resident Killer Whale (*Orcinus orca*) in Canada* (DFO 2008, 2011), include decreased availability and quality of prey, environmental contamination, and both physical and acoustic disturbance. This SARA recovery document describes these key threats and five broad strategies for recovery, while the complementary *Action Plan for Northern and Southern Resident Killer Whale (*Orcinus orca*) in Canada* (2017), identifies 98 recovery measures required to implement the broad strategies within a five year time frame.

The SARA RKW Recovery Strategy defined the population and distribution objective for the Northern and Southern Resident Killer Whale as:

Ensure the long-term viability of Resident Killer Whale populations by achieving and maintaining demographic conditions that preserve their reproductive potential, genetic variation, and cultural continuity[1].

The SARA RKW Action Plan outlines measures that provide the best chance of achieving the population and distribution objectives for the species, including the measures to be taken to address the threats and monitor the recovery of the species. Measures to be taken are identified under the following broad strategies:

1. *Monitor and refine knowledge of Resident Killer Whale population and distribution in Canadian Pacific waters*
2. *Ensure that Resident Killer Whales have an adequate and accessible food supply to allow recovery*
3. *Ensure that disturbance from human activities does not prevent the recovery of Resident Killer Whales*
4. *Ensure that chemical and biological pollutants do not prevent the recovery of Resident Killer Whale populations*
5. *Protect critical habitat for Resident Killer Whales and identify additional areas for critical habitat designation and protection*

Many of the recovery measures identified in the RKW Action Plan have been ongoing for many years and/or are currently underway. The Department is currently working on an implementation plan for all identified recovery measures, including specific actions to abate the identified threats.

Proposed Critical Habitat Expansion: During the summer and fall, Southern Residents are primarily found in the transboundary waters of Haro Strait, Boundary Pass, the eastern portion of the Juan de Fuca Strait, and southern portions of the Strait of Georgia. This area was identified as Critical Habitat, the habitat required for survival and recovery of the species, in the SARA RKW Recovery Strategy, and was protected via a Ministerial Order in 2009. Identification of Critical Habitat is informed by Science, and based on consistent and prolonged seasonal occupancy and use of the area by SRKW. Additional habitat of special importance for SRKW off southwestern Vancouver Island was identified by DFO Science in 2017, and is an extension of the existing identified Critical Habitat for SRKW. Work is underway to amend the Recovery Strategy to include this area as Critical Habitat, and subsequently protect it. Consultations will be undertaken for both the amendment and the Ministerial Order to protect this proposed Critical Habitat.

Fisheries Management Measures to Support SRKW Recovery: The seasonal distribution and movement patterns of Resident Killer Whales are strongly associated with the availability of their preferred prey, chinook salmon (*Oncorhynchus tshawytscha*), and secondarily, chum salmon (*O. keta*). During the summer and fall, the principal prey of SRKW appears to be chinook and chum salmon and throughout the Salish Sea, chinook salmon have experienced poor returns in recent years. There is little known about the winter and spring diet and winter distribution of the Southern Residents but recent and ongoing research will further our understanding and help further identify the principal threats facing the population.

For the 2018 salmon fishing season, the Department is considering additional fishery management actions to support increased chinook prey availability in key SRKW foraging areas within the SRKW

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[1] Culture refers to a body of information and behavioural traits that are transmitted within and between generations by social learning

Critical Habitat. Potential measures will be designed to provide an accessible food supply and to reduce physical and acoustic disturbance in key SRKW foraging areas. The Department intends to implement measures on a trial basis in 2018 with additional monitoring designed to assess the effectiveness of management actions with future adjustments as required. Further information on potential measures under consideration will be provided in a separate document in January or early February 2018. Consultations with First Nations and stakeholders to seek input on these potential measures will occur as part of meetings scheduled to discuss the salmon IFMPs and additional meetings are also being considered to permit time for discussion and input on possible management actions.

5. Fraser River Chinook

For Fraser River Spring 4_2, Spring 5_2 and Summer 5_2 chinook, the 2018 Salmon Outlook for these populations continues to be identified as *stock of concern due to* continued overall very low abundance related to depressed parental escapements and continuing unfavorable marine survival conditions and low productivity. Management measures implemented in previous years are expected to remain in place for First Nations, recreational and commercial fisheries to protect these populations. In addition, a technical review of the available information is expected to provide an assessment of whether the Department's management approach in place since 2012 is achieving conservation and allocation objectives consistent with *An Allocation Policy for Pacific Salmon (1999),* including obligations to provide for constitutionally protected aboriginal and treaty fisheries after conservation objectives. Technical work is on-going and results of the review (expected in Spring 2018) may result in further changes beginning considered in 2018.

For Summer 4_1 chinook, the 2018 Salmon Outlook has been decreased to the *low* category. While returns have increased dramatically since the 1980's and early 1990's, recent returns have fluctuated due to instability in smolt-adult survival rates and spawner abundance in 2017 declined to 60% of the parental brood. However, average spawner abundance over the last 4 years has averaged nearly 120,000. Directed fishing opportunities may occur on this stock group, provided that fisheries can be designed to limit impacts on co-migrating possible stocks of concern including: Spring 4_2 chinook, Spring/Summer 5_2 chinook, Fraser Fall 4_1 (Harrison) chinook, Fraser River sockeye, and Interior Fraser River coho.

For Harrison River chinook (Fraser Fall 4_1), the 2018 Salmon Outlook is *low*. Current marine conditions and stock productivity appear unfavorable, and parental escapements have been below the lower end of the PST approved escapement goal range of 75,100 to 98,500 spawners for 5 of the last 6 years (2015 is the only year since 2012 that has met the escapement objective). The preliminary 2017 escapement estimate for Harrison Chinook is less than 30,000 – well below the target escapement goal range and also less than the S_{gen} for this system (S_{gen} is approximately 45,000 spawners). Additional fishery management actions including chinook non-retention in commercial and recreational fisheries are anticipated within the Fraser and/or Harrison Rivers and additional measures may be explored to increase terminal returns.

6. Interior Fraser River Steelhead

Emergency Assessment: Spawning escapement of Interior Fraser steelhead has been on a downward trend for many years, with recent years' escapements reaching the lowest on record. COSEWIC is currently undertaking an Emergency Assessment as per S.28(1) of SARA to assess whether there is an imminent threat to the species, for the purpose of an Emergency Listing as per S.29(1) of SARA. The assessment is anticipated to be completed in early 2018. After consultation with and consideration of relevant biological information provided by DFO, if the Minister of Environment and Climate Change Canada is of the opinion there is an imminent threat, (s)he must make a recommendation to GiC to list

the species on an emergency basis. Unlike a regular listing process, this recommendation does not include consideration of non-biological factors; however, such factors can be considered by GiC in the decision whether or not to list the species under Schedule I of SARA.

Fisheries Management Measures to Support Recovery of Steelhead: Representatives from DFO and the Province of BC are working to identify possible adjustments to the current Interior Fraser steelhead management approach for the 2018 season. Given ongoing declines in Interior Fraser steelhead escapement, a broad, comprehensive approach to the management of fisheries that impact this stock aggregate either directly or through incidental interception is required. Adjustments will be considered to fisheries occurring at those times and in those areas where Interior Fraser steelhead are likely to be present, based on our current understanding of the return migration timing of this stock aggregate. This includes fisheries in the marine approach areas, as well as those occurring within the Fraser River and tributaries.

During the upcoming consultations on the salmon Integrated Fisheries Management Plan for the 2018 season, DFO and the Province of BC will consult with First Nations and stakeholders to explore additional management actions to support steelhead conservation.

7. Fraser River Sockeye

2018 is a dominant return year for Late run sockeye. A quantitative forecast of Fraser sockeye returns is expected in early 2018. While returns of sockeye on the 2010 and 2014 cycle lines were large, Fraser sockeye returns have been less than the forecast median (p50) over the last 3 cycles with the exception of 2010. As a result, planning will need to consider the potential for a range of potential returns, as well as, specific management measures for protecting and rebuilding conservation units of conservation concern.

Key considerations during consultations will include the use of a window closure to start the season, the escapement plan for Early Stuart, Early Summer, Summer and Late run aggregates and specific management measures for stocks of concern. The Department plans to identify 2 escapement plan options in the draft IFMP for consideration in 2018. Options are usually informed by the escapement plan implemented in the brood year (i.e. 2014) and modifications to account for annual considerations including forecast returns. The table below provides information on the fishery reference points implemented in previous years to inform planning.

For each management aggregate, the escapement plan also identifies a Low Abundance Exploitation Rate (LAER) for cases when there is zero or very low total allowable mortality for a timing group that allows for limited fisheries directed on co-migrating stocks or species. The LAERs have previously been set at 10% for Early Stuart, Early Summer and Summer run timing groups and 20 to 30% for Late run sockeye in past Adams dominant years. As an outcome of the Fraser River Sockeye Spawning Initiative (FRSSI) workshop in late January there may be additional LAER options to consider. In addition, further discussion will be required on the potential for additional terminal harvest opportunities for Fraser sockeye stocks that may return in abundance.

Table: Summary of Fraser River sockeye escapement plan / fishery reference points used in previous years.

Mgmt Unit	Early Stuart		Early Summer[a]		Summer[a]		Late[a]	
Fishery Reference Points	Lower	Upper	Lower	Upper	Lower	Upper	Lower	Upper
2007	108,000	270,000	120,000	300,000	600,000	1,500,000	400,000	1,000,000
2008	108,000	270,000	120,000	300,000	520,000	1,300,000	400,000	1,000,000
2009	156,000	390,000	120,000	300,000	520,000	1,300,000	400,000	1,000,000
2010	156,000	390,000	200,000	500,000	1,000,000	2,500,000	1,200,000	3,000,000
2011	108,000	270,000	120,000	300,000	520,000	1,300,000	400,000	1,000,000
2012	52,000	130,000	100,000	250,000	640,000	1,600,000	300,000	750,000
2013	108,000	270,000	100,000	250,000	1,250,000	3,125,000	300,000	750,000
2014	108,000	270,000	180,000	450,000	1,020,000	2,550,000	1,100,000	2,750,000
2015	108,000	270,000	100,000	250,000	1,000,000	2,500,000	300,000	750,000
2016	108,000	270,000	100,000	250,000	640,000	1,600,000	300,000	750,000
2017	108,000	270,000	100,000	250,000	1,250,000	3,125,000	300,000	750,000

Notes:

a) For Early Summers, Summers, and Lates, the fishery reference points are scaled up annually to account for the expected contribution of unforecasted miscellaneous stocks in the MU.

b) A separate management objective is identified for Cultus Lake sockeye in the salmon IFMP and includes an exploitation rate constraint that limits harvest of Late run sockeye.

c) Beginning in 2010, the maximum allowable exploitation rate for Cultus sockeye was permitted to increase above 20% if conditions were expected to permit continued rebuilding of the population based on inseason information on returns of Late run sockeye and potential numbers of effective spawners.

8. Interior Fraser Coho

For 2018, based on persistent, on-going low productivity for Interior Fraser River coho, the Department plans to maintain a precautionary approach to management of southern BC fisheries with management

measures in place similar to those in place prior to 2014. As a result, fisheries impacts will be limited to incidental, by-catch or release mortalities in most areas and in recent years this was expected to result in a 3-5% Canadian domestic exploitation rate.

As part of the *Pacific Salmon Treaty* (PST) re-negotiation, general agreement on renewal of Chapter 5 (Coho salmon) has been reached between Canada and the U.S. For southern Coho, the key elements of the agreement-in-principle are as follows:

- Maintain the regime outlined in the current agreement until Canada has finished work on a status-based management approach for Canadian Management Units (MUs) in the PST. The status-determination work will involve establishing reference points for moving amongst Low – Medium – High status (for purposes of annual fishery planning), and the allowable sustainable exploitation rates at each status level.
- Until Canada completes this work, bilateral (Canada-U.S.) management will be driven by the status of Interior Fraser Coho (IFR), and based on a "Low" status level. Canada has committed to completing the work for Canadian MUs by the end of 2018. Further information on consultations planned for this work will be communicated later in January 2018.

This work will not affect the management of the 2018 season.

9. Commercial Salmon Allocation Framework (CSAF) Demonstration Fisheries

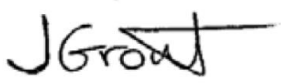
As part of implementing changes to the Commercial Salmon Allocation Framework (CSAF), the Department is continuing to work with First Nations Salmon Coordinating Committee (SCC) and the Commercial Salmon Advisory Board (CSAB) representatives to develop CSAF demonstration fisheries proposals to provide increased flexibility for harvesters to fish their commercial salmon shares. CSAF demonstration fishery proposals are assessed through an Evaluation Framework which outline Department objectives and were developed with support from the SCC and CSAB. The Department is requesting any new or existing demonstration fishery proposals be submitted by proponents to Cynthia.Johnston@dfo-mpo.gc.ca **no later than February 5th, 2017.** As in previous years, this is to ensure sufficient time for the Department to evaluate the proposals and provide an opportunity for feedback and discussion though the draft IFMP consultation process. Demonstration fishery proposals that are not submitted by this deadline will not be considered for the 2018 season.

Drafts of the Northern and Southern IFMPs are planned for release for review and comment on the last week of February, 2018.

If you have any comments or concerns about the IFMP process for the coming year, please contact Ashley Dobko at Ashley.Dobko@dfo-mpo.gc.ca.

Yours sincerely,

Jeff Grout



Regional Resource Manager, Salmon

Appendix B

Larkin, Brenda FLNR:EX

From: Psyllakis, Jennifer FLNR:EX
Sent: Thursday, October 19, 2017 2:23 PM
To: Ethier, Tom FLNR:EX
Cc: Trotter, Ward FLNR:EX
Subject: RE: Musqueam chum fishery and steelhead impacts

Based on the information from Angela (I just left messages on her cell and landline to seek clarification), the difference is between:

1) a 24 hour opening (either as a single block or divided into 2) starting early on the 23rd; or
2) a 18 hour opening a day earlier on the October 22.

Angela indicates that either should be within the constraints set out, but doesn't quantify the degree of change from the desired objective. We can't provide technical input on the degree of change in risk as we have not engaged on the model.

> While we feel that agreeing to an earlier opening could be a concern for BC, we did run this option through a steelhead exposure model developed by our Area biologists and in this model, that timing looks like it would be within the steelhead constraints that have been set out. However, we have not discussed an Oct 22 opening with BC.

If DFO is monitoring the interception and can quantify that, it would help inform whether or not there would be more concern with another opportunity in the future.

From: Ethier, Tom FLNR:EX
Sent: Thursday, October 19, 2017 1:57 PM
To: Psyllakis, Jennifer FLNR:EX
Cc: Trotter, Ward FLNR:EX
Subject: RE: Musqueam chum fishery and steelhead impacts

Thanks Jen.

I was hoping for a summary of what the proposed change was? For example what is the surrent strategy and what is the shirft? And a bit more info on why we think that adjustment represents the increased concern.

Also there is no offer here to work with Musqueam and describe the challenges of conserving steelhead. To date there has been no discussion with them on that and it seems to me they should hear from us on our concerns given we have the delegated authority. Thoughts?

From: Psyllakis, Jennifer FLNR:EX
Sent: Thursday, October 19, 2017 1:30 PM
To: Ethier, Tom FLNR:EX
Cc: Trotter, Ward FLNR:EX
Subject: FW: Musqueam chum fishery and steelhead impacts

Hi Tom,

Here are some quick bullets on the Chum fishery. I hope it is helpful. I have also attached condition 14 for quick reference (we are in year 1).

Given the conservation status of steelhead and the predicted returns this year, every steelhead does matter this year.
DFO's objective, which BC supports is "For Fraser River commercial gill net fisheries, the strategy will be to protect 80% of the Interior Fraser River steelhead run with a high degree of certainty." This is articulated 2017-2018 IFMP.
DFO expects this objective will be met, based on their exposure model, with the prescribed approach they shared with BC.
BC has not reviewed the current model DFO is using, however, it is a reasonable approach to try to estimate impacts.
If Musqueam would like to go outside of the proposal provided by DFO, and that is their basis of calls to the minister's office, it will impact both the likelihood of achieving the objective and the Marine Stewardship Council certification, which included a condition for the province and DFO to work together on steelhead management. The intent of condition 14 is to ensure: "fishery management actions consistent with the precautionary approach to fisheries management and make management decisions that do not hinder the recovery of Thompson River steelhead".
DFO is the decision authority for the fishery and it is difficult for the province to weigh the risks of any other proposed approach in terms of adherence to the objective and the MSC condition to the fishery at large.

From: Davies, Trevor FLNR:EX
Sent: Thursday, October 19, 2017 12:44 PM
To: Psyllakis, Jennifer FLNR:EX; Bison, Robert FLNR:EX
Cc: Ramsay, Mike K FLNR:EX
Subject: RE: Musqueam chum fishery and steelhead impacts

Hi Jen et al. – tried to contact Rob but he's out of the office.

Again, it's hard not to get sucked into DFO chum fishery management here....

The 2017-2018 IFMP stipulates that: "For Fraser River commercial gill net fisheries, the strategy will be to protect 80% of the Interior Fraser River steelhead run with a high degree of certainty." This is a bit of a tangent but that keep in mind that this is simply a heuristic and it doesn't seem to be working. At this stage every Thompson River steelhead counts.

DFO passed this management option through their steelhead exposure model developed by our Area biologists and in this model, the proposed timing change looks like it would be within the steelhead constraints that have been set out. As outlined above are these constraints sufficient? That's kind of a separate conversation though.

This isn't a terribly satisfying response but I would limit it to:

"Thompson River steelhead are in a state of extreme conservation concern. The current spawning population forecast for the Thompson/Chilcotin aggregate is 215. Without a full review of the DFO exposure model the Province is unable to provide guidance on management decisions at this scale. We urge DFO to make the necessary management decisions to minimize steelhead bycatch in their fisheries to facilitate the recovery of Thompson river steelhead and meet the Marine Stewardship Council (MSC) Condition 14 obligations. Specifically, set fishery management actions consistent with the precautionary approach to fisheries management and make management decisions that do not hinder the recovery of Thompson River steelhead."

From: Psyllakis, Jennifer FLNR:EX
Sent: Thursday, October 19, 2017 10:42 AM
To: Bison, Robert FLNR:EX; Davies, Trevor FLNR:EX

Cc: Ramsay, Mike K FLNR:EX
Subject: FW: Musqueam chum fishery and steelhead impacts
Importance: High

Hi Rob/Trevor,

Please look at the details provided by Angela to see exactly what is being considered. Can you confirm that this is indeed within the agreed upon conservation measures. Are there specific concerns that we can provide feedback on additional considerations to mitigate potential impact?

This is now with the minister as well, so a response asap is appreciated.

Thanks,

Jen

From: "Reid, Rebecca" <Rebecca.Reid@dfo-mpo.gc.ca>
Date: October 18, 2017 at 7:52:15 PM PDT
To: "Ethier, Tom FLNR:EX" <Tom.Ethier@gov.bc.ca>
Cc: James Mack <james.mack@gov.bc.ca>
Subject: Re: Musqueam chum fishery and steelhead impacts

> Hi Tom - sorry if my previous question to you want not clear. I was trying to find out if BC wanted DFO to stay within our agreed upon management constraints. Your response, that yes, you did, led to us developing the option that Angela set out for you. So, agreeing to this plan is consistent with your previous statement of wanting to ensure steelhead conservation measures are in place.
>
> Perhaps that is understood, but I just wanted to confirm.
>
> Regards,
>
> Rebecca Reid
>
> Sent from my BlackBerry 10 smartphone on the Rogers network.
> Original Message
> From: Ethier, Tom FLNR:EX
> Sent: Wednesday, October 18, 2017 7:42 PM
> To: Bate, Angela
> Cc: Reid, Rebecca; Mack, James AGRI:EX; Sutherland, Craig FLNR:EX; Thomson, Andrew; Psyllakis, Jennifer FLNR:EX; Trotter, Ward FLNR:EX
> Subject: Re: Musqueam chum fishery and steelhead impacts
>
> Thanks Angela. That is really helpful. I don't believe we had all that information when we were asked to comment. We will be in touch in the morning
>
> Sent from my iPhone

On Oct 18, 2017, at 7:31 PM, Bate, Angela <Angela.Bate@dfo-mpo.gc.ca> wrote:

Happy to, Rebecca. Hi all,

As background, we are currently planning First Nation Economic Opportunity (EO) and commercial gillnet fisheries for chum. To minimize impacts on steelhead, we hold off starting economic/commercial gillnet fisheries until most steelhead have passed through (this year - Oct 23) and constrain the number of fishing hours.

To hold within the steelhead constraints for Musqueam, we have proposed 24 hours of fishing to catch their chum allocation, which they could take in one or two chunks of time. We have said they could start the first opening late on Sunday evening (effectively, early on Monday the 23rd). (If more than one opening, the second opening would be on Thursday.)

Chief Sparrow has indicated an interest in an 18 hour opening. He has also asked if he could start this opening earlier on Sunday. Among other things, he has noted safety concerns with respect to staging his crews. There is also a tidal concern as certain tides are better for fishing than others. However, this would put them on the water on Oct 22.

While we feel that agreeing to an earlier opening could be a concern for BC, we did run this option through a steelhead exposure model developed by our Area biologists and in this model, that timing looks like it would be within the steelhead constraints that have been set out. However, we have not discussed an Oct 22 opening with BC.

I should add that if Musqueam had an 18 hr opening and catches their chum allocation AND the chum run size increased, there is a good chance they would come back to us looking for another opportunity. We could consider this if within steelhead constraints but at this point, it is not on the table.

That might be too much info but thought it would be helpful to run through where we are.

Thanks. I'd be glad to answer any questions.

Angela

****

Angela Bate
Area Director, Fraser and Interior
Fisheries and Oceans Canada
604-666-6478 (W) s.17 (C)

Angela Bate
Directrice de secteur, Fraser et l'intérieur du C-B
Pêches et océans Canada
604-666-6478 (B) s.17 (C)

Original Message
From: Reid, Rebecca
Sent: Wednesday, October 18, 2017 5:05 PM
To: Ethier, Tom FLNR:EX; Mack, James AGRI:EX
Cc: Sutherland, Craig FLNR:EX; Bate, Angela; Thomson, Andrew
Subject: Re: Musqueam chum fishery and steelhead impacts

Perhaps Angela can weigh in, as I don't have anything new from this morning.

Thanks

RR

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Ethier, Tom FLNR:EX
Sent: Wednesday, October 18, 2017 5:03 PM
To: Reid, Rebecca; Mack, James AGRI:EX
Cc: Sutherland, Craig FLNR:EX; Bate, Angela; Thomson, Andrew
Subject: RE: Musqueam chum fishery and steelhead impacts

Hi Rebecca

I have heard back from James. Could you give me a bit more detail on what the proposed change is? I read that the effort would be more than doubled, so any clarity would be helpful. Thanks.

-----Original Message-----

From: Reid, Rebecca [mailto:Rebecca.Reid@dfo-mpo.gc.ca]

Sent: Tuesday, October 17, 2017 6:38 PM

To: Mack, James AGRI:EX

Cc: Ethier, Tom FLNR:EX; Sutherland, Craig FLNR:EX; Bate, Angela; Thomson, Andrew

Subject: Re: Musqueam chum fishery and steelhead impacts

Not Chief Sparrow? Yes, gillnetting is definitely the issue around the Chum fishery intercepting steelhead. If you would like a briefing on DFO's management approach, please let me know and we will try to set up a quick call.

RR

Sent from my BlackBerry 10 smartphone on the Rogers network.

Original Message

From: Mack, James AGRI:EX

Sent: Tuesday, October 17, 2017 6:34 PM

To: Reid, Rebecca

Cc: Ethier, Tom FLNR:EX; Sutherland, Craig FLNR:EX; Bate, Angela; Thomson, Andrew

Subject: Re: Musqueam chum fishery and steelhead impacts

Chief Wansbourough from Musqueam has a tentative meeting with my minister tomorrow. Topic is gill netting.

I didn't make the connection until now. Will let you know what comes out of it

Sent from my iPhone

On Oct 17, 2017, at 6:12 PM, Reid, Rebecca <Rebecca.Reid@dfo-mpo.gc.ca<mailto:Rebecca.Reid@dfo-mpo.gc.ca>> wrote:

Thank you. We will advise Musqueam that we will be maintaining our conservation efforts for SH. Chief Sparrow has said he was going to call BC about this issue; I don't know if he has made contact, but you might want to let your DM know about the discussion if you can.

RR

Rebecca Reid

Regional Director General/ Directrice générale régionale Fisheries and Oceans Canada - Pacific Region/ Pêches et Océans Canada - Région du Pacifique

200-401 Burrard Street / 401, rue Burrard, bureau 200 Vancouver, BC/CB V6C 3S4 Office / Téléphone: 604-666-6098 Cell / Cellulaire: s.17 E-mail/ Courriel: rebecca.reid@dfo-mpo.gc.ca<mailto:rebecca.reid@dfo-mpo.gc.ca>

From: Ethier, Tom FLNR:EX [mailto:Tom.Ethier@gov.bc.ca]

Sent: Tuesday, October 17, 2017 4:35 PM

To: Reid, Rebecca <Rebecca.Reid@dfo-mpo.gc.ca<mailto:Rebecca.Reid@dfo-mpo.gc.ca>>; Ethier, Tom FLNR:EX <Tom.Ethier@gov.bc.ca<mailto:Tom.Ethier@gov.bc.ca>>; Sutherland, Craig FLNR:EX <Craig.Sutherland@gov.bc.ca<mailto:Craig.Sutherland@gov.bc.ca>>

Cc: Mack, James AGRI:EX <James.Mack@gov.bc.ca<mailto:James.Mack@gov.bc.ca>>; Bate, Angela <Angela.Bate@dfo-mpo.gc.ca<mailto:Angela.Bate@dfo-mpo.gc.ca>>; Thomson, Andrew <Andrew.Thomson@dfo-mpo.gc.ca<mailto:Andrew.Thomson@dfo-mpo.gc.ca>>

Subject: RE: Musqueam chum fishery and steelhead impacts

Hello Rebecca,

Given the status of extreme conservation concern, we support DFO treating this fishery as with other fisheries and applying the agreed to management measure.

We can add this to our agenda when we meet in December if you like.

Regards,

<image001.jpg>

Tom Ethier

Assistant Deputy Minister

Resource Stewardship Division

Ministry of Forests, Lands, Natural Resource Operations and Rural Development

Phone: 250 356 0972

From: Reid, Rebecca [mailto:Rebecca.Reid@dfo-mpo.gc.ca]

Sent: Tuesday, October 17, 2017 12:51 PM

To: Ethier, Tom FLNR:EX; Sutherland, Craig FLNR:EX

Cc: Mack, James AGRI:EX; Bate, Angela; Thomson, Andrew

Subject: Musqueam chum fishery and steelhead impacts

Hello Tom and Craig - I would appreciate your input on a management issue we are facing right now, in negotiating an economic opportunity chum fishery with the Musqueam Nation. The Musqueam is concerned about the restrictions we are proposing to protect steelhead, and they dispute that BC requires these measures for them. I have included a summary of their perspectives in the e-mail below.

Our policy approach on these sales fisheries is to treat them similar to regular commercial fisheries, from a priority and conservation point of view. However, I would like your views on whether you would like us to vary the steelhead management approach in this case. If not, we will continue to apply the agreed upon management measures that we have discussed in the past. However, if you have less concerns about the Musqueam fishery, that would be useful to know. Also, if you could please identify someone (Mike perhaps?) to participate in a call and talk to the Musqueam Nation on this issue, that would be very helpful.

The Musqueam wish to start fishing very soon, so the quicker we can resolve the steelhead impact question, the better.

Thank you.

Rebecca Reid

Regional Director General/ Directrice générale régionale Fisheries and Oceans Canada - Pacific Region/ Pêches et Océans Canada - Région du Pacifique

200-401 Burrard Street / 401, rue Burrard, bureau 200 Vancouver, BC/CB V6C 3S4 Office / Téléphone: 604-666-6098 Cell / Cellulaire: s.17 E-mail/ Courriel: rebecca.reid@dfo-mpo.gc.ca<mailto:rebecca.reid@dfo-mpo.gc.ca>

From: Parslow, Matthew

Sent: Tuesday, October 17, 2017 11:44 AM

To: Bate, Angela <Angela.Bate@dfo-mpo.gc.ca<mailto:Angela.Bate@dfo-mpo.gc.ca>>; Maxwell, Marla <Marla.Maxwell@dfo-mpo.gc.ca<mailto:Marla.Maxwell@dfo-mpo.gc.ca>>; Matts, Brian <Brian.Matts@dfo-mpo.gc.ca<mailto:Brian.Matts@dfo-mpo.gc.ca>>; Allan, Dean <Dean.Allan@dfo-mpo.gc.ca<mailto:Dean.Allan@dfo-mpo.gc.ca>>; Hawkshaw, Mike <Mike.Hawkshaw@dfo-mpo.gc.ca<mailto:Mike.Hawkshaw@dfo-mpo.gc.ca>>; Nener, Jennifer <Jennifer.Nener@dfo-mpo.gc.ca<mailto:Jennifer.Nener@dfo-mpo.gc.ca>>

Subject: MFN - Update and request for call Morning, Spoke with the Chief this morning:

. He disagrees with the steelhead management approach, stating that:

o Nothing has changed, the Department should have consulted further on steelhead management.

o They should not be treated the same as the Area E fishery, they are low impact.

o The province doesn't have a problem with their fishery.

o Should not be held to 2x12 hours and to fishing after Area E, wants one fishery to catch it all.

. I did provide some responses to this:

o Steelhead management approach did not change this year, was consulted on through the IFMP process.

o No direction has been provided from the Department that the steelhead management approach will be changing.

o Highlighted that they would be fishing first, and that there would be a full day of no fishing between Area E and their second opening.

. I did ask him what duration fishery he would be seeking out of interest - he stated that 30 hours would be sufficient and that they would be done for the season after that.

. Side note: he has asked for contacts at the Province - I will send Rob's information, are there others that should be sent as well?

Questions and next steps:

. Is their availability and interest in having a call this afternoon?

. Recognizing the impacts this would have on all other harvesters, is there a willingness to consider a 24 hour fishery for Musqueam this year?

Thanks,

Matthew Parslow

Fisheries and Oceans Canada

Resource Management, Fraser & Interior Area

100 Annacis Pkwy, Unit 3

Delta, BC V3M 6A2

Email: matthew.parslow@dfo-mpo.gc.ca<mailto:matthew.parslow@dfo-mpo.gc.ca>
Office: 604.666.6608

Larkin, Brenda FLNR:EX

From: Acoura Fisheries <fisheries@acoura.com>
Sent: Monday, February 27, 2017 6:40 AM
To: Russell, Jim AGRI:EX
Cc: Mack, James AGRI:EX; Ethier, Tom FLNR:EX; cburridge@telus.net; Grout, Jeff; Scott, Melissa AGRI:EX; Mayers, Neil A AGRI:EX; Larkin, Brenda FLNR:EX
Subject: RE: Letter of support from the Province of BC regarding MSC Condition 14 (BC Salmon Fisheries) response

Dear Jim,

Thank you very much for sending this through, the letter is much appreciated.

Regards,
Polly

Polly Burns
Fisheries Technical Officer

Tel: 0131 335 6661
Fax: 0131 336 6601
Web: www.acoura.com

6 Redheughs Rigg
Edinburgh
EH12 9DQ

From: Russell, Jim AGRI:EX [mailto:Jim.Russell@gov.bc.ca]
Sent: 24 February 2017 19:10
To: Acoura Fisheries <fisheries@acoura.com>
Cc: Mack, James AGRI:EX <James.Mack@gov.bc.ca>; Ethier, Tom FLNR:EX <Tom.Ethier@gov.bc.ca>; cburridge@telus.net; Grout, Jeff <Jeff.Grout@dfo-mpo.gc.ca>; Scott, Melissa AGRI:EX <Melissa.Scott@gov.bc.ca>; Mayers, Neil A AGRI:EX <Neil.Mayers@gov.bc.ca>; Larkin, Brenda FLNR:EX <Brenda.Larkin@gov.bc.ca>
Subject: Letter of support from the Province of BC regarding MSC Condition 14 (BC Salmon Fisheries) response

Dear Polly Burns:

Please find attached, a letter of support from the Province of BC regarding MSC Condition 14 response.

Please let me know if you have any questions.

Jim Russell
Director, Strategic Seafood Initiatives
Ministry of Agriculture
250 897-7522
jim.russell@gov.bc.ca

Ministry Vision: An innovative, adaptive and globally competitive Agrifoods sector valued by all British Columbians.

BRITISH COLUMBIA

FEB 2 4 2017

File: 0280-30
Ref: 185939

Polly Burns
Fisheries Technical Officer
6 Redheughs Rigg
South Gyle
Edinburgh, Scotland
EH12 9DQ

Dear Polly Burns:

Re: Marine Stewardship Council Sustainable Fisheries Certification: B.C. Salmon Fisheries

We are writing today to confirm that the Ministry of Agriculture and the Ministry of Forests, Lands and Natural Resource Operations worked collaboratively with the Canadian Pacific Sustainable Fisheries Society (CPSFS) and Fisheries and Oceans Canada in developing Action Plan Condition 14 response to the above mentioned certification (see attached).

Stabilizing, and then rebuilding the Thompson-Chilcotin steelhead populations is critically important to B.C. We are therefore pleased that we were able to agree upon a four year action plan with Fisheries and Oceans Canada (DFO) aimed at identifying and addressing any impact the DFO managed chum salmon fishery has on the recovery of steelhead populations.

I trust the above is clear; however should you have any doubt about B.C.'s commitment to the recovery of Thompson-Chilcotin steelhead populations, please do not hesitate to enquire.

Yours truly,

James Mack
ADM, Ministry of Agriculture

Tom Ethier
ADM, Ministry of Forests, Lands and Natural Resource Operations

pc: Christina Burridge, Canadian Pacific Sustainable Fisheries Society
Jeff Grout, Fisheries and Oceans Canada

Ministry of Agriculture
Office of the
Assistant Deputy Minister
Mailing Address:
PO Box 9120 Stn Prov Govt
Victoria BC V8W 9B4
Telephone: 250
Facsimile: 250 356-7279
Location:
5th Fl, 808 Douglas St
Web Address: http://www.gov.bc.ca/agri/

ATTACHMENT

CONDITION 14

Action Plan

Year 1: DFO and the Province of BC will form a technical working group to review the key inputs, parameters and assumptions of the existing steelhead impact assessment model to improve the understanding of key fisheries, assumptions and parameters that influence projected Interior Fraser (IF) steelhead exposure or impacts in salmon fisheries. TWG may recommend refinements to model as required. This work will include development of fishery profiles that overlay fishing effort and IF steelhead run timing in the various fisheries to evaluate where steelhead impacts are most likely to occur This could include a retrospective analysis of past years and a sensitivity analysis of key uncertainties and assumptions to provide insight into where most effective measure can be put in place to reduce impacts on steelhead stocks of concern. Incorporation of information from additional studies or analyses that would improve understanding of key model uncertainties will be considered.

DFO and the province will work towards agreement on conservation and management objectives for IF steelhead and other salmon stocks where salmon harvesting may have impacts on IF steelhead. A fishing plan evaluation framework for assessing impacts of alternative fisheries management approaches will be explored.

The potential set of fishery management actions will be consistent with the precautionary approach to management.

Management strategy evaluation via simulation will be used to assess the efficacy of different salmon harvesting approaches on IF steelhead stock recovery and rebuilding.

Year 2: DFO and the Province will complete a technical and social and economic analysis of proposed management approaches using the agreed-to fishing plan evaluation framework. This evaluation would include consultation with affected parties through existing fisheries advisory and consultative processes. Based on the results of the analysis and feedback from consultations, a plan will be developed that identifies appropriate management objectives and measures to address IF steelhead conservation risk. The plan will include pre-agreed indicators to evaluate, post-season, the performance of annual management actions relative to plan objectives.

The technical working group will identify research and / or data collection initiatives that could assist in addressing key uncertainties in the emerging management framework.

Year 3: Report on implementation of the management measures developed in year 2 using defined performance indicators. Consider further refinements to the management measures and fishery timing / closures / methods as required to ensure that performance targets are achieved.

Year 4: Final report on implementation of the management plan and annual reporting on performance indicators.

Larkin, Brenda FLNR:EX

From: Russell, Jim AGRI:EX
Sent: Friday, February 24, 2017 11:10 AM
To: 'fisheries@acoura.com'
Cc: Mack, James AGRI:EX; Ethier, Tom FLNR:EX; cburridge@telus.net; Grout, Jeff; Scott, Melissa AGRI:EX; Mayers, Neil A AGRI:EX; Larkin, Brenda FLNR:EX
Subject: Letter of support from the Province of BC regarding MSC Condition 14 (BC Salmon Fisheries) response
Attachments: signed Polly Burns leter20170224.pdf

Dear Polly Burns:

Please find attached, a letter of support from the Province of BC regarding MSC Condition 14 response.

Please let me know if you have any questions.

Jim Russell
Director, Strategic Seafood Initiatives
Ministry of Agriculture
250 897-7522
jim.russell@gov.bc.ca

Ministry Vision: An innovative, adaptive and globally competitive Agrifoods sector valued by all British Columbians.

BRITISH COLUMBIA

FEB 2 4 2017

File: 0280-30
Ref: 185939

Polly Burns
Fisheries Technical Officer
6 Redheughs Rigg
South Gyle
Edinburgh, Scotland
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I trust the above is clear; however should you have any doubt about B.C.'s commitment to the recovery of Thompson-Chilcotin steelhead populations, please do not hesitate to enquire.

Yours truly,

James Mack
ADM, Ministry of Agriculture

Tom Ethier
ADM, Ministry of Forests, Lands and Natural Resource Operations

pc: Christina Burridge, Canadian Pacific Sustainable Fisheries Society
Jeff Grout, Fisheries and Oceans Canada

Ministry of Agriculture
Office of the
Assistant Deputy Minister
Mailing Address:
PO Box 9120 Stn Prov Govt
Victoria BC V8W 9B4
Telephone: 250
Facsimile: 250 356-7279
Location:
5th Fl, 808 Douglas St
Web Address: http://www.gov.bc.ca/agri/

ATTACHMENT

CONDITION 14

Action Plan

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Year 4: Final report on implementation of the management plan and annual reporting on performance indicators.

Larkin, Brenda FLNR:EX

From: Mack, James AGRI:EX
Sent: Tuesday, February 21, 2017 1:45 PM
To: Ethier, Tom FLNR:EX
Subject: RE: MSC Stakeholder Announcement - BC Salmon (82562 BCSalmon RA)

Tom – here it is

From: Mack, James AGRI:EX
Sent: Friday, January 6, 2017 10:14 AM
To: Ethier, Tom FLNR:EX
Subject: FW: MSC Stakeholder Announcement - BC Salmon (82562 BCSalmon RA)

Tom

Can we discuss the email trail below.

I'm a bit concerned that FLNRO is provoking stakeholder comments in a leading way on this. It's totally appropriate for government experts to contribute their expertise, but we've had privileged access to the process to the internal process, so it seems questionable to come around again like this during the public process.

I think the risk here is that we end up having various government experts arguing about these issues in a public process.

Give me a call when you're back next week and we can strategize next steps.

On Jan 5, 2017, at 3:21 PM, RODNEY CLAPTON s.22 wrote:

Baron Can you advise what role your Ministry played in decisions below? Your Ministry had are a rep in attendance at the Dec 2nd meeting in Kamloops & he was by end of meeting, very aware of "Extreme Conservation Concern" of Thompson steelhead stocks & the severe impact of commercial net fisheries. To suggest that this interception is not impairing rebuilding of stocks is ludicrous!

You should be aware that stakeholders & all sectors are currently working to develop a comprehensive Thompson/Chilcotin steelheadrecovery plan. We expect much more from our fisheries experts responsible for managing these stocks. Your comments appreciated

Rod

From: "Trevor FLNR Davies:EX" <Trevor.Davies@gov.bc.ca>
To: "Nurie FLNR Aliperti:EX" <Nurie.Aliperti@gov.bc.ca>, "Adrian Clarke, FFSBC" <Adrian.Clarke@gofishbc.com>, "Mike.Gass@gofishbc.com" <Mike.Gass@gofishbc.com>, s.22
"Dan Cahill, Director Appointment" <Dan.Cahill@bcgeu.ca>, "Cam D ENVSchley:EX" <Cameron.Schley@gov.bc.ca>, "Greg Burrows" s.22 "Alan Martin" s.22 "Michael Schneider" s.22
s.22 "Matt Jennings BCFROA" <matt@bcfroa.ca>, "Mike K FLNRRamsay:EX" <Mike.Ramsay@gov.bc.ca>, "Jeff A FLNR Morgan:EX" <Jeff.Morgan@gov.bc.ca>, "Vicki FLNRLewis:EX" <Vicki.Lewis@gov.bc.ca>, "Pat FLNR Twaddle:EX" <Pat.Twaddle@gov.bc.ca>, "Stephen FLNRMacIver:EX" <Stephen.MacIver@gov.bc.ca>, "Greg FLNR Andrusak:EX" <Greg.Andrusak@gov.bc.ca>, "Murray J ENV Smith:EX" <Murray.J.Smith@gov.bc.ca>, "Martina ENV Beck:EX" <Martina.Beck@gov.bc.ca>, "Cole FLNRWinegarden:EX" <Cole.Winegarden@gov.bc.ca>, "Robert FLNR Bison:EX" <Robert.Bison@gov.bc.ca>
Sent: Wednesday, January 4, 2017 11:14:45 AM

Subject: MSC Stakeholder Announcement - BC Salmon (82562 BCSalmon RA)

Hello PAAT members,

Happy New Year everyone.

I know that the status and recovery of Thompson Steelhead is extremely important to the PAAT. Please see the links below regarding the Marine Stewardship Council (MSC) reassessment of salmon fisheries that intercept Thompson Steelhead. Of particular interest to those concerned about the impacts that commercial salmon fisheries may be having on the Thompson/Chilcotin Steelhead stock aggregate is Condition 14 (page 290) that evaluates the impacts that these fisheries may be having on non-target stocks.

https://fisheries.msc.org/en/fisheries/british-columbia-salmon/@@assessments
<https://fisheries.msc.org/en/fisheries/british-columbia-salmon/@@assessments>

The rational section is as follows:
"It is not clear that it is highly likely that steelhead is above the PRI, or that recovery is occurring, primarily because the Chilcotin River run (Fraser watershed) has been fluctuating around the lower extreme conservation concern escapement goal. Nevertheless, some fishery measures are in place to reduce bycatch mortality, such as mandatory catch and release and time/area closures (although the Assessment Team is aware that time/area management measures were adjusted recently for the chum salmon fishery), and these measures are expected to ensure that the UoA does not hinder recovery and rebuilding, so UoA 2 meets the SG60 level, but does not meet the SG80."

For a definition of what SG60 and SG80 means can be found in this link (page 13):
https://www.msc.org/certifiers/certifier-training-support/jan2014-scoring-a-fishery
<https://www.msc.org/certifiers/certifier-training-support/jan2014-scoring-a-fishery>

To summarize, the rational is saying that recruitment is **NOT** being impaired at this time and thus these fisheries are **NOT** having a substantial impact on the recovery potential of Thompson/Chilcotin steelhead.

If you and/or your members would like to provide stakeholder input on the MSC assessment of these fisheries you can use the following template. Please note that comments must be submitted by January 27th, 2017.

https://www.msc.org/documents/scheme-documents/forms-and-templates/template-for-stakeholder-input-into-fishery-assessments-v2.0/view <https://www.msc.org/documents/scheme-documents/forms-and-templates/template-for-stakeholder-input-into-fishery-assessments-v2.0/view>

I hope PAAT members find this information useful.
Best,
Trevor Davies

From: Acoura Fisheries [mailto:fisheries@acoura.com <mailto:fisheries@acoura.com>]
Sent: Wednesday, January 4, 2017 1:43 AM
Subject: RE: MSC Stakeholder Announcement - BC Salmon (82562 BCSalmon RA)

Just to clarify, the date should be 27th January **2017** and not 2016 as below. Apologies for any confusion!

Regards,
Polly

Polly Burns
Fisheries Technical Officer

<image001.jpg>
Tel: 0131 335 6661
Fax: 0131 336 6601
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<http://www.acoura.com/>
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<image002.jpg> <http://www.linkedin.com/company/3163030> <image002.jpg> <http://twitter.com/Acoura_UK>

Acoura provide a range of specialist services and solutions aimed at protecting businesses who operate across the food and drink supply chain. For more information visit www.acoura.com <http://www.acoura.com/> or email info@acoura.com.

<image003.jpg>SAVE PAPER - Please do not print this email unless absolutely necessary.

From: Acoura Fisheries
Sent: 23 December 2016 10:21
Subject: MSC Stakeholder Announcement - BC Salmon (82562 BCSalmon RA)

Dear Stakeholder,

The Public Comment Draft Report for the British Columbia Salmon fisheries has now been published and is available to view on the MSC website here. <https://fisheries.msc.org/en/fisheries/british-columbia-salmon/@@assessments>

There is now a consultation period for which stakeholders can make comments on the report. Due to the holiday period, the usual 30 day period has been extended. Please use the attached stakeholder input template form to make comments, and return to us by 17.00GMT on 27th January 2016. Full details are available on the announcement at the above link.

Regards,
Polly

Polly Burns
Fisheries Technical Officer

<image001.jpg>
Tel: 0131 335 6661
Fax: 0131 336 6601
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<http://www.acoura.com/>
6 Redheughs Rigg
Edinburgh
EH12 9DQ
<image002.jpg> <http://www.linkedin.com/company/3163030> <image002.jpg> <http://twitter.com/Acoura_UK>

Acoura provide a range of specialist services and solutions aimed at protecting businesses who operate across the food and drink supply chain. For more information visit www.acoura.com <http://www.acoura.com/> or email info@acoura.com.

<image003.jpg>SAVE PAPER - Please do not print this email unless absolutely necessary.

------ End of Forwarded Message

Larkin, Brenda FLNR:EX

From: Psyllakis, Jennifer FLNR:EX
Sent: Monday, February 20, 2017 7:02 AM
To: Ethier, Tom FLNR:EX
Cc: Larkin, Brenda FLNR:EX; Trotter, Ward FLNR:EX
Subject: RE: Letter to Acoura Marine dated Feb 10, 2017

Hi Tom,

I have met with staff and will again this afternoon to provide some recommended edits to the letter.

Quickly:

Better collaboration / improved relationships is everyone's goal
The level of support communicated in the draft letter is not currently resourced.
There is strong desire to reiterate that the commitment to the condition is independent of the MSC certification decision
There is strong desire to reiterate that the province will continue to ask for conditions and implementation of actions that increase probability of steelhead recovery.

We can provide a balanced letter without being overly positional and convey the message of working together on the action plan. The bigger concern is the ability to ensure the plan can be implemented within available resources.

Let me know if anything else comes to mind, otherwise, will have it back to you by end of today.

Jen

From: Ethier, Tom FLNR:EX
Sent: Wednesday, February 15, 2017 9:16 PM
To: Psyllakis, Jennifer FLNR:EX
Cc: Larkin, Brenda FLNR:EX; Trotter, Ward FLNR:EX
Subject: FW: Letter to Acoura Marine dated Feb 10, 2017

Jen,

Please don't forward or share this but can we talk tomorrow about this please. Thanks.

From: Mack, James AGRI:EX
Sent: Wednesday, February 15, 2017 1:20 PM
To: Ethier, Tom FLNR:EX
Cc: Russell, Jim AGRI:EX
Subject: FW: Letter to Acoura Marine dated Feb 10, 2017

Tom,

We're still working on the Marine Stewardship Certification process. MSC has asked for a provincial letter endorsing the Condition 14 response (regarding steelhead).

Jim has been through drafts of this with FLNRO staff but we've had a hard time landing this and the timeline is approaching.

In the interests of time, we've cut the letter back to something higher level that I hope we can both agree to and provide comfort to MSC.

Let me know if you think we could sign this. We also need to revisit the steelhead file from a broader perspective as it's been difficult to get everyone on the same page.

Let me know about the letter and then we can schedule some time on the longer term issues.

thanks

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Cc: Mack, James AGRI:EX
Subject: FW: Letter to Acoura Marine dated Feb 10, 2017

James, Melissa, Neil:

Additional materials for steelhead meeting at 1 pm today.

Jim

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Sent: Friday, February 10, 2017 4:02 PM
To: Neilson, Larry AGRI:EX; Carswell, Barron AGRI:EX
Subject: FW: Letter to Acoura Marine dated Feb 10, 2017

I changed the letter to make it more consistent with the letter DFO is sending. What do you think? Not too much for FLNR to argue with. Still I'm not going to share with F&W until James and perhaps Tom have a chance to look at.

BTW...I talked to Christina this afternoon. Apparently FLNR's subterfuge behind the sceneshas had an effect on Acoura and she is really worried that BC Salmon may be decertified.

Jim

From: Christina Burridge [mailto:cburridge@telus.net]
Sent: Friday, February 10, 2017 3:10 PM
To: Russell, Jim AGRI:EX
Subject: FW: Letter to Acoura Marine dated Feb 10, 2017

Please don't distribute further at this point, C/

From: Toby, Marina [mailto:Marina.Toby@dfo-mpo.gc.ca]
Sent: February 10, 2017 2:38 PM
To: cburridge@telus.net; Nener, Jennifer <Jennifer.Nener@dfo-mpo.gc.ca>
Subject: Letter to Acoura Marine dated Feb 10, 2017

Larkin, Brenda FLNR:EX

From: Mack, James AGRI:EX
Sent: Tuesday, February 21, 2017 1:32 PM
To: Ethier, Tom FLNR:EX; Russell, Jim AGRI:EX; Scott, Melissa AGRI:EX
Cc: Psyllakis, Jennifer FLNR:EX; Trotter, Ward FLNR:EX
Subject: RE: Letter to MSC

Excellent news. Thanks

Jim – can you work with Melissa to get the actual letter signed and sent this week?

From: Ethier, Tom FLNR:EX
Sent: Tuesday, February 21, 2017 1:18 PM
To: Mack, James AGRI:EX
Cc: Psyllakis, Jennifer FLNR:EX; Trotter, Ward FLNR:EX
Subject: RE: Letter to MSC

Hi James – I am good with the MSC letter as written and the proposed elements of a path forward in condition 14. I have asked Jen to reach out to DFO to get going on year 1. I believe she will also be touching base with Jim Russell to go over the elements of the plan and likely a discussion of how will we resource the work. Thanks for stick handling all of this. Tom.

From: Mack, James AGRI:EX
Sent: Tuesday, February 21, 2017 8:04 AM
To: Ethier, Tom FLNR:EX
Subject: Re: Letter to MSC

That works . I've kept the day open to respond to budget stuff so am pretty flexible

Sent from my iPhone

On Feb 21, 2017, at 5:36 AM, Ethier, Tom FLNR:EX <Tom.Ethier@gov.bc.ca> wrote:

> For sure. I should have staff comments this morning and I suspect they will be along the lines of resourcing the commitment. I'm in meetings all day but can step out after 10 am or so. Are you reasonablyspin free today?
>
> Sent from my iPhone
>
> On Feb 20, 2017, at 3:32 PM, Mack, James AGRI:EX <James.Mack@gov.bc.ca> wrote:
>
> > Tom
> >
> > Need to move this letter this week. Do you want to discuss?
> >
> > ---
> >
> > **From:** Russell, Jim AGRI:EX
> > **Sent:** Monday, February 20, 2017 1:45 PM

To: Mack, James AGRI:EX
Subject: RE: Letter to MSC

Just heard back from Christina. Acoura is trying to wrap up public consultation by end of this week, so we'd need letter by then.

Jim

From: Russell, Jim AGRI:EX
Sent: Monday, February 20, 2017 8:32 AM
To: Mack, James AGRI:EX
Subject: RE: Letter to MSC

James:

Did we ever hear back from Tom on this?

Jim

From: Mack, James AGRI:EX
Sent: Thursday, February 16, 2017 9:06 AM
To: Ethier, Tom FLNR:EX
Cc: Russell, Jim AGRI:EX
Subject: Letter to MSC

Tom

Here's the same attachments again but in a "clean" email (I realized that the previous one forwarded a string of comments between Jim and industry).

Industry feels they need a letter this week, but I think we're fine with next week.

Let me know how you want to proceed

James Mack
Assistant Deputy Minister
Agriculture Science and Policy, Ministry of Agriculture
Phone: 250-356-1821
james.mack@gov.bc.ca

Larkin, Brenda FLNR:EX

From: Mack, James AGRI:EX
Sent: Thursday, February 16, 2017 9:06 AM
To: Ethier, Tom FLNR:EX
Cc: Russell, Jim AGRI:EX
Subject: Letter to MSC
Attachments: SPMBCVAN2KM17021015300.pdf; Letter to Acoura regarding MSC Certification BC Salmon Fisheries Take 2.....docx

Tom

Here's the same attachments again but in a "clean" email (I realized that the previous one forwarded a string of comments between Jim and industry).

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Let me know how you want to proceed

James Mack
Assistant Deputy Minister
Agriculture Science and Policy, Ministry of Agriculture
Phone: 250-356-1821
james.mack@gov.bc.ca

BRITISH COLUMBIA

File:
Ref:

Polly Burns
Fisheries Technical Officer
6 Redheughs Rigg
South Gyle
Edinburgh, Scotland
EH12 9DQ

Dear Polly Burns:

Re: Marine Stewardship Council Sustainable Fisheries Certification: BC Salmon Fisheries

We are writing today to confirm that the Ministry of Agriculture and the Ministry of Forest Lands and Resource Operations worked collaboratively with the Canadian Pacific Sustainable Fisheries Society (CPSFS) and Fisheries and Oceans Canada in developing Action Plan Condition 14 response to the above mentioned certification (see attached).

Stabilizing, and then rebuilding the Thompson-Chilcotin steelhead populations is critically important to BC. We are therefore pleased that we were able to agree upon a four year action plan with Fisheries and Oceans Canada (DFO) aimed at identifying and addressing any impact the DFO managed chum salmon fishery has on the recovery of steelhead populations.

I trust the above is clear; however should you have any doubt about B.C.'s commitment to the recovery of Thompson-Chilcotin steelhead populations, please do not hesitate to enquire.

Yours truly,

James Mack
ADM, Ministry of Agriculture

Ministry of Agriculture
Office of the
Assistant Deputy Minister
Mailing Address:
PO Box 9120 Stn Prov Govt
Victoria BC V8W 9B4
Telephone: 250
Facsimile: 250 356-7279
Location:
5th Fl, 808 Douglas St
Web Address: http://www.gov.bc.ca/agri/

Tom Ethier
ADM, Ministry of Forest Lands and Natural Resource Operations

pc:

Christina Burridge, Canadian Pacific Sustainable Fisheries Society
Jeff Grout, Fisheries and Oceans Canada

ATTACHMENT

CONDITION 14

Action Plan

Year 1: DFO and the Province of BC will form a technical working group to review the key inputs, parameters and assumptions of the existing steelhead impact assessment model to improve the understanding of key fisheries, assumptions and parameters that influence projected Interior Fraser (IF) steelhead exposure or impacts in salmon fisheries. TWG may recommend refinements to model as required. This work will include development of fishery profiles that overlay fishing effort and IF steelhead run timing in the various fisheries to evaluate where steelhead impacts are most likely to occur This could include a retrospective analysis of past years and a sensitivity analysis of key uncertainties and assumptions to provide insight into where most effective measure can be put in place to reduce impacts on steelhead stocks of concern. Incorporation of information from additional studies or analyses that would improve understanding of key model uncertainties will be considered.

DFO and the province will work towards agreement on conservation and management objectives for IF steelhead and other salmon stocks where salmon harvesting may have impacts on IF steelhead. A fishing plan evaluation framework for assessing impacts of alternative fisheries management approaches will be explored.

The potential set of fishery management actions will be consistent with the precautionary approach to management.

Management strategy evaluation via simulation will be used to assess the efficacy of different salmon harvesting approaches on IF steelhead stock recovery and rebuilding.

Year 2: DFO and the Province will complete a technical and social and economic analysis of proposed management approaches using the agreed-to fishing plan evaluation framework. This evaluation would include consultation with affected parties through existing fisheries advisory and consultative processes. Based on the results of the analysis and feedback from

consultations, a plan will be developed that identifies appropriate management objectives and measures to address IF steelhead conservation risk. The plan will include pre-agreed indicators to evaluate, post-season, the performance of annual management actions relative to plan objectives.

The technical working group will identify research and / or data collection initiatives that could assist in addressing key uncertainties in the emerging management framework.

Year 3: Report on implementation of the management measures developed in year 2 using defined performance indicators. Consider further refinements to the management measures and fishery timing / closures / methods as required to ensure that performance targets are achieved.

Year 4: Final report on implementation of the management plan and annual reporting on performance indicators.

Fisheries and Oceans Canada
Pêches et Océans Canada

Pacific Region
Suite 200 – 401 Burrard Street
Vancouver, British Columbia
V6C 3S4

Région du Pacifique
Piece 200 – 401 rue Burrard
Vancouver (C-B.)
V6C 3S4

Your file *Votre référence*

FEB 1 0 2017

Our file *Notre référence*
2017-502-00032

Acoura Marine
Fisheries Department
6 Redheughs Rigg
South Gyle, Edinburgh, EH12 9DQ

Dear Dr. Rob Blyth-Skyrme,

Re: DFO Support for the Canadian Pacific Sustainable Fisheries Society Action Plan to Address Conditions for MSC Recertification of BC Salmon

Further to my letter on August 30, 2016, I am writing to confirm that Fisheries and Oceans Canada (DFO) worked collaboratively with the Canadian Pacific Sustainable Fisheries Society (CPSFS) and the Province of British Columbia on the development of the Action Plan to address conditions set out in Marine Stewardship Council reassessment of British Columbia (BC) sockeye, pink and chum salmon fisheries.

The action plan identifies joint contributions from DFO and the CPSFS to address the conditions over the next four years. The Department is supportive of the activities identified in the action plan to respond to the conditions of Marine Stewardship Council recertification.

We understand that a number of the elements of the plan intersect with the interests of multiple participants involved in the B.C. salmon fishery, including First Nations, commercial and recreational harvesters, environmental groups and the public. In these cases, and as appropriate, DFO will engage with First Nations and other interests, through the Department's established consultative and advisory processes on elements of the plan that relate to the mandate of DFO.

Please let me know if you have any concerns or comments.

Yours sincerely,

Andrew Thomson
Regional Director, Fisheries Management

cc: Christina Burridge, Canadian Pacific Sustainable Fisheries Society (CPSFS)
Jennifer Nener, Director of Salmon Management & Client Services

Canada

Larkin, Brenda FLNR:EX

From: Mack, James AGRI:EX
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Cc: Russell, Jim AGRI:EX
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Appendix C

ecojustice
VANCOUVER CALGARY OTTAWA TORONTO

www.ecojustice.ca
info@ecojustice.ca
1.800.926.7744

November 18, 2016

Sent via email to ec.registrelep-sararegistry.ec@canada.ca

Assistant Deputy Minister
Canadian Wildlife Service
Environment Canada
351 Saint-Joseph Boulevard
Gatineau, QC
K1A 0H3

Charles Hatt
Barrister & Solicitor
1910-777 Bay St
PO Box 106
Toronto, ON M5G 2C8
416-368-7533, ext 524
chatt@ecojustice.ca

Re: Comments on the draft Listing Policy for Terrestrial Species at Risk

I write on behalf of Ecojustice to provide comments on the draft "Listing Policy for Terrestrial Species at Risk" ("**draft listing policy**") released by Environment and Climate Change Canada ("**ECCC**"). We welcome and congratulate ECCC on moving forward with implementation of the *Species at Risk Act* ("**SARA**" or the "**Act**"), and on your recent efforts to address various backlogs in meeting your statutory duties under SARA, including backlogs in making listing decisions and in finalizing recovery strategies.

We are, however, deeply concerned that the draft listing policy is premised on an unlawful interpretation of the listing process set out in s. 27 of SARA. The draft listing policy states that the 9-month timeline for the Governor in Council's ("**GIC**") listing decision is not triggered unless and until the Minister of Environment and Climate Change (the "**Minister**") forwards COSEWIC's assessment of a species to the GIC.[1]

This interpretation has been evident in the practice of ECCC, the Minister, and the GIC long before the advent of the draft listing policy. Notably, the GIC has adopted a practice of issuing orders in council "acknowledging receipt" of COSEWIC assessments, even though this practice is nowhere contemplated in the Act. The same unlawful interpretation underlies the Department of Fisheries and Oceans' ("**DFO**") listing policy.[2]

This unlawful interpretation allows for indefinite delay of listing decisions, which undermines the purposes and structure of SARA. It has facilitated a systemic backlog of pending listing decisions. Currently there are over 100 species for which listing decisions are overdue. Some listing decisions have been overdue for a decade or more.

[1] Draft listing policy, see generally Section 2.0 "The prescribed steps of the SARA listing process" and Section 5.0 "Governor in Council's Decision".
[2] DFO, "*Species at Risk Act* Listing Policy and Directive for 'Do Not List' Advice" (2014).

In our view, the only lawful interpretation of s. 27 – and the only interpretation that would meet the Act's purposes of preventing the extinction of at-risk species and encouraging their recovery through timely action – is that **the 9-month timeline is triggered by the Minister's receipt of COSEWIC's assessment**. This interpretation accords with Parliament's intention to give the GIC only a time-limited discretion over listing decisions. In other words, if the GIC does not make a listing decision within 9 months of COSEWIC's assessment being received by the Minister, the species' status under the Act is resolved in accordance with COSEWIC's expert scientific recommendation. This interpretation fulfils the Act's purposes by ensuring timely decisions on the legal statuses of species deemed at risk according to the best available science.

Timely listing decisions are critical to achieving the Act's purposes. If an endangered or threatened species is added to the legal list in Schedule 1 of the Act, it can be protected immediately from direct harm. Listing also triggers timelines for recovery planning and other protective actions under SARA. As Madam Justice Mactavish of the Federal Court of Canada held in *Western Canada Wilderness Committee and others v Minister of the Environment and others,*[3] the timelines in the Act are central to achieving Parliament's scheme for protecting and recovering Canada's threatened wildlife:

> To state the obvious, the *Species at Risk Act* was enacted because some wildlife species in Canada *are at risk*…. [M]any are in a race against the clock as increased pressure is put on their critical habitat, and their ultimate survival may be at stake.
>
> The timelines contained in the Act reflect the clearly articulated will of Parliament that recovery strategies be developed for species at risk in a timely fashion, recognizing that there is indeed urgency in these matters. Compliance with the statutory timelines is critical to the proper implementation of the Parliamentary scheme for the protection of species at risk.[4]

In the context of the Act's purposes and overall scheme, it makes no sense that Parliament would have created a "loophole" allowing the Executive to put off a listing decision indefinitely. Rather, the GIC receives a COSEWIC assessment at the same time that the Minister receives the assessment, and at the same time that the COSEWIC assessment is posted on the species at risk public registry for all the world to see. The claim that the GIC only "receives" an assessment when the GIC finds it convenient to acknowledge receipt is a legal fiction that undermines the will of Parliament and the protection of Canada's threatened wildlife.

It follows from the above that parts of the draft listing policy are unlawful. For example, ECCC provides response statements within 90 days of the Minister's receipt of COSEWIC assessments that indicate whether the consultations on a proposed listing decision will follow a "normal timeline (typically three to four months)" or an "extended timeline (typically nine months to a year)".[5] The consultations required by the Act – which we note are much narrower in scope than those actually conducted by ECCC

[3] 2014 FC 148.
[4] At paras 101-102 [emphasis in original].
[5] Draft listing policy, at Section 2.3 "Response statements and the listing consultations".

and DFO – are required to inform the GIC's discretion over listing decisions, which only operates during a 9-month window. Therefore any "extended timeline" consultations are unlawful by design.[6]

Our recommendation is that you revise the draft listing policy so that it accords with a lawful interpretation of the listing process set out in s. 27 of the Act. We note that similar revisions are required for DFO's listing policy.

Sincerely,

Charles Hatt

[6] The only exception might be for constitutionally-required consultations with Aboriginal groups where a listing decision could have a serious impact on their Aboriginal rights and where more than 9 months are needed for the consultation.