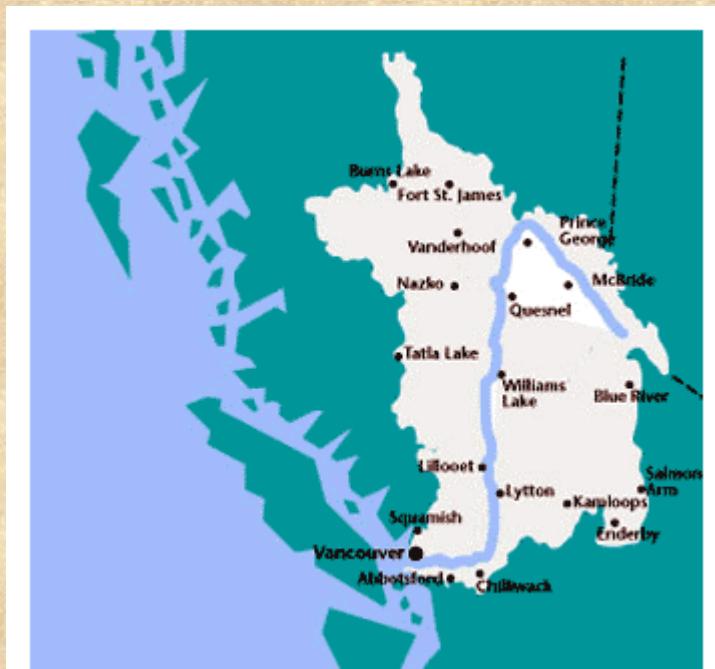

Recent Negotiations Between Fraser River First Nations and DFO on the Future of the Watershed Process

Prepared for the Fraser River
Aboriginal Fisheries Forum Meeting,
Nov. 21-22, 2002
(Draft #1)

Context

- Fraser Watershed:
 - Approx. 100 First Nations communities
 - Area of watershed = 25 % of BC total land mass



Context

- Fraser Watershed:
 - Diversity of FN viewpoints / interests
 - from maximization of harvest and economic benefits → strong stewardship sentiment
 - in many cases, strong attachment to local river systems and stocks
 - Variable levels of inter-FN co-operation
 - For watershed-level mgmt, co-operation is essential between aboriginal organizations

History of the Watershed Process

1989: Fraser River First Nations negotiate inter-tribal treaty fishing through IIFC

1993: Fraser Watershed Agreement (FWA) between DFO and Fraser FN

- establishment of FWAFF (Fraser Watershed Aboriginal Fisheries Forum) and FRAFS (secretariat)

1999: FWA lapses, participation in FWAFF drops due to a variety of concerns

- definition of “consultation” a key factor

Specific Work of the Fraser River Aboriginal Fisheries Secretariat (FRAFS)

- Co-ordination of Fraser Forum meetings
- Co-ordination of Tier 1 meetings
- Information distribution to Fraser FN
 - email / fax distribution
 - Watershed Talk newsletter
 - Quarterly journal
- Support to Stock Mgmt Cttee & technical staff
 - Ken Wilson = Stock Mgmt Co-ordinator
 - Mike Staley = Fraser Panel Liaison
 - Watershed-level technical analysis from FN perspective

Recent History

- 2001 review of FRAFS / FWAFF processes by independent facilitator
- 13 recommendations
- Most dealt with need for clarity in structure and function
- Clarity around consultation a key concern

Report follow-up

- Negotiating committee:
 - 5 First Nations (appointed by Tier 1)
 - 5 DFO staff (Area Director / Area Chief / Director Treaty and Aboriginal Policy and staff),
- Meeting regularly since June 2002
- Proposals developed to address most recommendations
- Proposals to be formally presented at next FW AFF meeting (Nov. 21-22)
- Need buy-in from both DFO and First Nations caucus (Tier 1) to proceed

Joint Sub-Committee

First Nations

- Fred Fortier
- Marcel Shepert
- Chief Robert Hope
- Ko'waintco Shacklley
- Neil Todd

DFO

- Barry Rosenberger
- Paul Ryall
- Brigid Payne
- Ardyth Cooper
- Laureen Kinney

Review Recommendations

1. That a process be established as soon as possible to negotiate a new Fraser Watershed Agreement.
2. That a process be developed as soon as possible to negotiate a mutually acceptable consultation protocol.
4. That an Executive Committee be established to oversee the operations of the Secretariat.
9. That DFO and First Nations establish a process to clarify rules regarding how the technical process should work.
13. That a process be established by DFO and Fraser First Nations to consider the recommendations contained in the Report and act upon those for which there is mutual support.

Results: Recommendation 1

- That a process be established as soon as possible to negotiate a new Fraser Watershed Agreement.
- **PROPOSED ACTION** : That the Fraser Watershed Aboriginal Fisheries Forum agree that the Interim Executive Committee (IEC) take the lead toward preparation of a draft Watershed Agreement.

Results: Recommendation 2

- That a process be developed as soon as possible to negotiate a mutually acceptable consultation protocol.
- **PROPOSED ACTION :** That the Fraser Watershed Aboriginal Fisheries Forum endorse the documents *Framework for Consultations Between the Department of Fisheries and Oceans and Fraser River First Nations and Possible Process for Pre-Season Planning, Development of Conservation and Harvest Management Plan(s), In-Season Management and Post-Season Evaluation*, and recommends that they be forwarded to Fraser First Nations and DFO for formal approval.

Results: Recommendation 4

- That an Executive Committee be established to oversee the operations of the Secretariat.
- **PROPOSED ACTION:** That the Forum approve the Interim Executive Committee and eventually the Executive Committee as the appropriate body for continuing discussion of ACTION items contained in this Report, and that the existing structure and Terms of Reference for the IEC serve as a basis for an Executive Committee once funding for the Secretariat has been confirmed for the 2003 – 2004 fiscal year.

(See Appendix C)

Results: Recommendation 9

- That DFO and First Nations establish a process to clarify rules regarding how the technical process should work.
- **PROPOSED ACTION:** That the Forum adopt the draft Terms of Reference for the Stock Management Committee.

Conclusions of the sub-committee work

- The Sub-Committee argues that it has made substantial progress toward resolution of several contentious issues affecting relationships between Fraser First Nations and DFO.
- We recommend that the Forum accept our recommendations and continue the process toward their implementation.

Consultation documents

- Structure:
 - 1. Framework document
 - general principles, structure and outcomes
 - 2. Process document
 - timelines and specific outcomes

1. Consultation framework

- Background / Scope:
 - Emphasis of framework is to provide a meaningful avenue for exchange between FN and DFO on watershed-level issues
 - Does not replace local bilateral processes
 - The watershed process is:

“is an important component of a series of process that occur at different levels, all of which combine to provide a well-rounded picture of First Nation views on fisheries issues”
 - Identifies DFO / First Nation constraints

1. Consultation framework

- General Principles:
 - Respect, collaboration
 - Meaningful input into fisheries mgmt
 - Range of views tabled and considered
 - Clarity surrounding participants' roles / responsibilities
 - Timely exchange of information

1. Consultation framework

- Clarification of:
 - Scope
 - Levels of consultation
 - Participation / accountability
 - Structure
 - Information exchange
 - Timing
 - Review and evaluation
 - Dispute resolution

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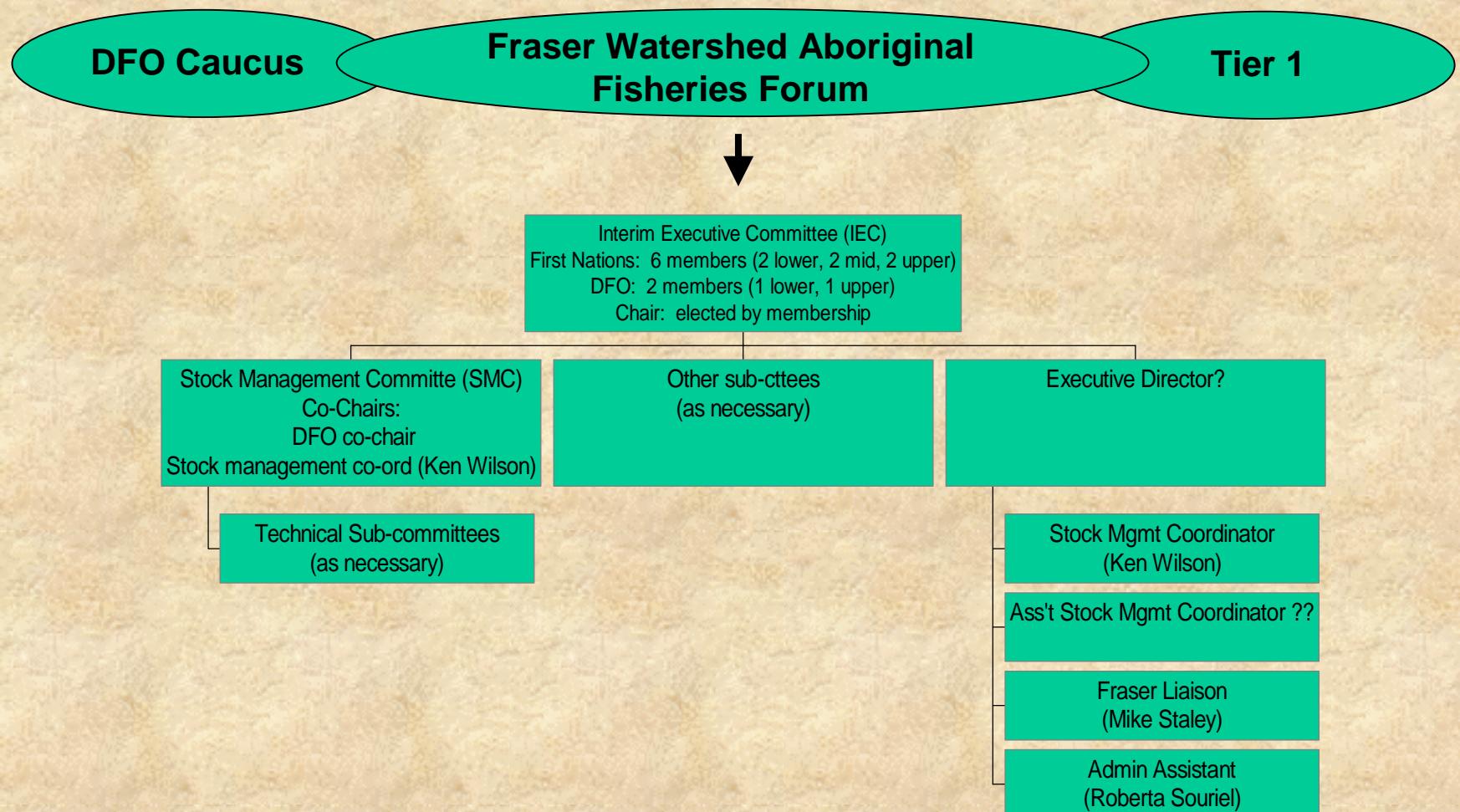
Consultation Framework Cont.

- Scope
 - Primarily focused on Fraser River salmon
 - Main focus on pre-season, in-season, and post-season management planning
 - Other areas of discussion will include: research, assessment, habitat, and enforcement
- Levels of consultation
 - local (bilateral) form the backbone of all DFO consultations
 - Sub-regional I.e. Upper Fraser Fisheries Conservation Alliance
 - Watershed I.e. FRAFF
 - Could be discussions between Fraser Tribes and BCAFC or Island Tribes etc..

Consultation Framework cont.

- **Participation and Accountability**
 - First Nations and DFO need to send representatives from their respective organizations who are empowered to speak on issues concerning their organizations.
 - Participants need to be accountable for relaying information on their respective organizations and their membership
- **Proposed Structure**
 - Secretariat (information exchange, administration, newsletter)
 - Interim Executive committee
 - Executive Director
 - Technical sub-committee

Proposed FRAFS structure



Consultation Framework cont.

- Information Exchange
 - A schedule of meeting and documentation should be developed for distribution well in advance of the fishing season.
 - Three formal watershed forum meetings will be held: preliminary pre-season, detailed pre-season, and post season. Additional meetings may be held if mutually agreed upon.
 - The executive director, in consultation with the interim executive committee will define agendas and develop clear outcomes from meetings; where necessary sub-committees may be struck in order to develop recommendations on issues.
 - Local First Nations will discuss with DFO what works best mutually for Bi-lateral discussions, relative to watershed process.4

Consultation Framework Cont.

- **Timing**
 - A joint calendar of Fraser salmon species will be established by the interim executive committee to ensure meetings and information exchange are carried out with optimal timing.
- **Review and evaluation**
 - A post-season meeting will be held to evaluate and recommend improvements for up coming year.
- **Dispute resolution**
 - A dispute resolution mechanism will be developed and will need the consent of both parties to be adopted.
 - The interim executive committee will be responsible for development and recommendations within one year of signing watershed agreement.

Consultation framework Cont.

- Outcomes:
 - Participating parties have a clear understanding of mgmt processes for Fraser stocks
 - Paper(s) incorporating watershed-wide views developed on annual basis
 - Conservation and Harvest Mgmt Plan
 - Plan undergoes full consideration in the IFMP planning process
 - Process for implementation of IFMP is understood
 - Annual progress towards co-management

2. Process document

- Focus = development of Conservation and Harvest Mgmt Plan
 - Management objectives & priorities
 - Management measures (harvest rules, monitoring, etc.)
 - Comments / views on approach-area fisheries

2. Process document

- Focus = development of Conservation and Harvest Mgmt Plan (CHMP)
 - clarification of timelines, integration with DFO's Integrated Fisheries Management Plan (IFMP)
 - development of joint planning calendars

Note:

CHMP = stock mgmt plan that reflects Fraser FN perspectives, supported by Stock mgmt cttee

IFMP = DFO's plan for the management of Fraser stocks that reflects input from various DFO sectors, and external parties

2. Process document

- Stock management co-ordinator
 - responsible for drafting of CHMP, and compiling First Nations input
 - supported by the joint DFO - First Nations Stock Management Committee

Process: Fall / January

Local

- Post-season mtgs
- Input to draft watershed level post-season report

Watershed

- Draft work plan
 - Stock mgmt
 - Interim exec
 - Forum process
- Post-season reporting
- Jan: post-season / preliminary pre-season FWAFF session

Process: January - March

Local

- Prelim pre-season
bilateral meetings

Watershed

- Finalize post-season
report
- Prelim draft CHMP / IFMP

Process: mid-late March

Local

- Review of preliminary CHMP / IFMP drafts

Watershed

- FW AFF pre-season
- Stock mgmt cttee compiles input on CHMP, review of IFMP

Process: Apr - May

Local

- Pre-season bilaterals
 - finalize details of local fishing plan
 - near-final drafts of IFMP discussed

Watershed

- Stock mgmt cttee / Interim Exec cttee comment on near-final draft IFMP
- Finalize CHMP
- DFO provides formal response to CHMP

June 1st: IFMP public release

2. Process document

- Areas for further work:
 - in-season mgmt:
 - work being done at Tier 1 to give mandate to Fraser Panel reps
 - consultation process for:
 - new policy initiatives
 - special review processes
 - other “non-routine” initiatives

Fraser Watershed Agreement

- At recent Tier 1 mtg, First Nations expressed desire for new FWA
- Informal summary of questions / considerations developed by First Nations counsel / Dept of Justice
 - framework to address some of past problems
- Tier 1 working to revisit the Intertribal Fishing Treaty

Next steps

- Presentation of results of review committee work at FWAFF meeting on Nov. 21-22
- Ratification by both Tier 1 and DFO of general approaches
- IEC continues to work on:
 - implementation of 13 recommendations
 - oversight of secretariat and FWAFF processes

Next steps

- IEC continues to work on:
 - Making sure both parties have a clear understanding of management processes and strategies for Fraser River Fisheries
 - A watershed wide record of Fraser First Nations views on management objectives, escapement levels, harvest, strategies be developed.
 - Integrating the Conservation and Harvest Plan and the Integrated Fish Management Plan in a transparent manner
 - Annual progress toward co-management
 - Timing of discussions
 - Dispute resolution mechanism
 - Review and evaluation

Issues

- Participation
 - key areas of the Fraser not represented
- Funding and resources
 - future pressures:
 - e.g. Technical support, other regional processes...other?
- Technical capacity issues
 - may need long-term action plan to address
- Ongoing sensitivity surrounding consultation
- Building awareness
 - DFO / First Nations

General comments

- Recent negotiations have yielded some positive benefits
 - joint problem solving approach
 - beneficial to have clarity on processes / responsibilities
- Lack of full Fraser FN participation problematic
- Outlook for future depends on:
 - Tier 1 / DFO response
 - Tangible benefits to new approach