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Watershed Talk

Volume XVII
Issue 4

A weekly Aboriginal fisheries newsletter for fisheries representatives and their organizations

Letter to the DFO RDG, from the First Nations members of the Forum

At the Forum on Conservation and Harvest Planning meetings held on January 25 and 26, 2011, the First Nations participants requested that a letter be sent to the Regional Director of DFO to address a number of policy issues that were raised during the Forum sessions. A letter was sent to the RDG (CC: DFO Minister and Deputy Minister) on February 2, 2011. In the letter, the current IFMP process, a number of recreational fishing issues, and priority access for First Nations were discussed; several recommendations were also presented. A response to the letter was requested from the RDG, and that response was received on February 22, 2011. Upon review of the RDG's response, First Nations felt that many of the issues in the initial letter were not adequately addressed, so an additional letter was sent to the RDG (CC: DFO Minister and Deputy Minister) on March 10, 2011. The text of that letter has been provided below for your information. We expect to receive a response from the RDG in time for the next Forum meeting (March 29 and 30, 2011 in Nanaimo).

March 10, 2011

To: Sue Farlinger, RDG Pacific Region
CC: Hon. Gail Shea, Minister of Fisheries and Oceans
Claire Dansereau, Deputy Minister of Fisheries and Oceans
RE: Issues Raised by the First Nations Forum Participants
SENT VIA ELECTRONIC MAIL

Dear Ms. Farlinger:

Thank you for your letter dated February 22, 2011 in response to recommendations and priority issues raised by the First Nations participants of the Forum on Conservation and Harvest Planning (letter from Ken Malloway to S. Farlinger February 2, 2011). The Forum met again on February 22 and 23, 2011. Concerns were raised by First Nation attendees about some of your responses in your February 22 letter.

IFMP process and timing of DFO-First Nations consultations

You stated that "we welcome a focused dialogue with First Nations regarding what changes First Nations would consider to be required for "adequate consultation". That discussion – including a focused workshop at the end of March 2010 – has been going on for years and we don't seem to be making much progress. We suggest that no more discussion is needed. We suggest that DFO should take the guidance provided by the Supreme Court of Canada in many decisions favourable to First Nations – particularly the very clear guidelines provided in the Haida decision – and change its policies and procedures to conform to those guidelines. The IFMP process, particularly in regard to spring chinook, would be a good place to start.

Your suggestion that "it may be helpful" to make use of two current initiatives to "propose" steps "that could support the IFMP consultation and planning process" is astonishing. As officials in your Department should very well know, the Roadmap Planning Group and the Co-management Working Group exist for very clear purposes that have nothing whatsoever to do with an operational matter such as the IFMP consultation process. The IFMP process is an operational problem that, together with its solution, lies squarely in the lap of DFO. To try to deflect the issue, and your Department's responsibility, in this fashion is clearly inappropriate. Much of the current difficulty around the IFMP
process stems from the timing of the availability of information. If the Department wishes to make a serious commitment to changing its IFMP process to better provide for meaningful consultation with First Nations, an appropriate approach might be to assign the task to a Joint Technical Working Group under the auspices of FRAFS.

Recreational Fisheries

In your response you describe how and by what means you consider that recreational fishing opportunities are "closely regulated". That may be – but the point is, in a number of cases those closely regulated opportunities are having a very detrimental effect on some stocks and are thus unjustifiably infringing (albeit in a closely regulated way) on First Nations rights. Last year, First Nations recommended a number of area closures for recreational fishing in order to protect returning Chinook salmon, particularly the early timed stocks (e.g. spring 42 Chinook). While some of these closures were implemented by DFO, some areas remained open, and some areas were open for the catch and release of Chinook. All those areas should have been closed to fishing as specified by First Nations. Sport fishery harvest of spring chinook undoubtedly took place in the open areas (while we had closed our fisheries on those same stocks.) Catch and release fisheries do not provide an adequate level of protection for these vulnerable stocks, as the gear used by some sport fishers (e.g. cut plugs) has the potential to cause mortal injury. The simple act of handling or repeatedly hooking a fish as it makes its way up the river causes significant stress. First Nations maintain that closures to conserve Chinook should be complete closures, and should not include catch and release fishing.

In your letter you addressed the recommendation from First Nations to implement species-specific area licensing for recreational fisheries; however, you indicated that DFO does not consider such a licensing regime to be useful at this time. We would like to state for the record that First Nations stand by our recommendation to implement area licensing, with license fees going back into the territory for protection and enhancement. Consider an example from the BC Provincial Government. The Ministry of Environment (now operating under a different name), which conducts stock assessment for steelhead, uses some funds from recreational licenses to fund the position of "River Monitor". First Nations feel that DFO could implement a similar program that sees license fees used for local monitoring, head recovery, and habitat restoration.

In addition, as stated in our previous letter, species-specific area licensing would offer DFO a greater degree of control over recreational fisheries, which could help to resolve some of the concerns that First Nations currently have about the current state of the recreational fishing sector. For example, 2009 Chinook data indicates that recreational fishers caught more endangered Chinook than did First Nations in FSC fisheries. This is not consistent with the Sparrow decision of having recreational and commercial sectors "bear the brunt of conservation". We understand that additional management measures were taken in 2010 to protect Chinook, and that DFO may be taking similar measures in the 2011 fishery; however, due to data challenges

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(very low sample size, delayed data collection and processing, etc.), it is difficult to determine whether these management actions will be sufficient to protect endangered Chinook. Management actions must be in line with First Nations' rights as defined in R. v. Sparrow.

Catch monitoring

In your letter you refer to DFO's Strategic Framework for Fishery Monitoring and Catch Reporting, which was quietly released at the January 25th, 2011 Forum meeting in Richmond; however, DFO did not present or even address this document at the Forum. You also refer to DFO's recreational fishery catch monitoring programs throughout the marine and freshwater areas. Based on information presented at the Faser Salmon Catch Monitoring Workshop on November 23rd, 2010, First Nations feel that many of these catch monitoring programs are not robust enough to yield accurate catch data. Once the numbers are worked out, it appears that DFO spends an average of 3.19 days/year at each recreational fishing access site on the south coast. Further to this, surveying only 61 access sites in a 77,020 km2 area begs the question of how much fishing area remains unmonitored. When catch monitoring data has broad confidence limits the fishery producing that data must be curtailed or closed in accordance with the principle of risk-averse management.

As stated in your letter, First Nations do participate in some catch monitoring programs in the interior of BC; however, coastal First Nations have expressed great interested in conducting this work in marine areas. Considering the vast fishing area and the current state of monitoring programs on the coast, we hope that DFO will consider implementing First Nations catch monitoring programs in the marine area.

Priority access for First Nations

You state "DFO confirms its commitment to managing all fisheries such that Aboriginal fishing for food, social, and ceremonial fisheries has priority over other fisheries." We are continually assured of that. Yet we continually see non-aboriginal people fishing for stocks of fish while we are forced to sit idle instead of fishing for those same stocks of fish. We know that we cannot meet our needs from every species or stock that we may wish to because of our management and conservation concerns. But when we are prevented from fishing in our usual and accustomed way for a particular species or stock – while nonaboriginal people enjoy "closely regulated opportunities" for those same species or stocks – then your assurance of managing to our priority is hollow.

Once again you deflect and divert your responsibility by trying to punt the issue to the "Fraser Roadmap process" or the "joint DFO-First Nations FSC working group associated with the FNFC". They do not have authority, responsibility, or jurisdiction over the proper implementation of the Sparrow decision. You, the Department of Fisheries and Oceans, has that authority and that responsibility.

The next Forum meeting is scheduled for March 29th and 30th, 2011 in Nanaimo, and we look forward to some positive responses by March 29th.

Sincerely,

Chief Ken Malloway
On behalf of the FN participants of the Forum on Conservation and Harvest Planning for Fraser Salmon

MEETING NOTICES

March 21 & 22, 2011 (Prince George)
FRASER SALMON ROADMAP

Location:
PRINCE GEORGE NATIVE FRIENDSHIP CENTRE
1600 Third Ave, Prince George, BC

Hotels in Prince George:
Best Western City Centre, 910 Victoria Street - (250) 563-1267
Coast Inn of the North, 770 Brunswick Street - (250) 563-0121
Ramada Hotel Prince George, 444 George Street - (250) 563-0055
Travelodge PG Goldcap BC, 1458 7th Avenue - 1-800-578-7878

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March 28, 2011 - 1:00pm start time (Nanaimo)
FRASER WATERSHED JOINT TECHNICAL FORUM

March 29 & 30, 2011 (Nanaimo)
FORUM ON CONSERVATION AND HARVEST PLANNING FOR FRASER SALMON

Location: Best Western Dorchester Hotel
70 Church Street, Nanaimo, BC

Accommodations: A block of rooms has been reserved at the Dorchester Hotel at a rate of $99 (single) or $109 (double) per night + taxes. To reserve a room, please call the Dorchester Hotel directly and ask for a room for the Fraser Salmon Roadmap. Rooms will be reserved at this special rate until March 11 only, so please book as soon as possible by calling (250) 754-6835.

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If you plan to attend these meetings, please RSVP to Aimee Arsenault, FRAFS Communications Coordinator, by emailing info@frafs.ca or by calling 604-836-1909.

The Watershed Talk is also available for download at www.frafs.ca

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