

**Commission of Inquiry into the Decline of
Sockeye Salmon in the Fraser River**

Public Hearings

Commissioner

THE HONOURABLE
JUSTICE BRUCE COHEN

Held at:

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

Monday, December 13, 2010

Keith Lowes

For B.C. Wildlife Federation

B.C. Federation of Drift Fishers

MR. MCGOWAN:

Mr. Lowes, do you have a question?

MR. LOWES:

Good afternoon. I act for the B.C. Wildlife Federation and the B.C. Federation of Drift Fishers. My name is Lowes. I have a couple of questions, and I'd like to start with Chief Charlie.

CROSS-EXAMINATION BY MR. LOWES:

Q

Chief, I was impressed with your terminology when you referred to the fish and fishing as medicine. I take it that you get a great deal of spiritual and emotional sustenance from being outdoors and catching fish?

CHIEF CHARLIE:

Sorry, I missed your name.

Q

Keith.

CHIEF CHARLIE:

Keith.

Q

Yeah. Since we're all on first-name basis here. Lowes.

CHIEF CHARLIE:

Thanks, Mr. Lowes. Yes.

Q

It's an important part of your life, I took it, from your answer?

CHIEF CHARLIE:

Do you want a short answer or a longer answer?

Q

I want the long answer.

CHIEF CHARLIE:

Yeah, I think being outdoors, being connected with all things is very, very important. And one of my roles in my family and my community might be as a teacher, and so I always talk about -- to those that are coming behind me, walking in a similar way, to have respect for all living things and to pay respect to all living things and to only take what you need and to share the rest.

Q

And would you recommend that medicine for everyone?

CHIEF CHARLIE:

Yeah, we should go right now.

Q

And in particular, my clients?

CHIEF CHARLIE:

Yes.

Q

Yes. And, in fact, that's what they get, for the most part, out of their activity, isn't it, "re-creation"? Isn't that what you're looking for, "re-creation"? Not looking for; finding?

CHIEF CHARLIE:

I don't really understand your definition of re-creation or --

Q

I'll leave it. When was this pellet gun incident?

CHIEF CHARLIE:

Not this past summer, the summer before.

Q

And do I take it from your evidence that after it was over you set up a series of meetings? Was it you who set up the series of meetings?

CHIEF CHARLIE:

Yeah, I called upon our fishing consulting at the time to help I call together a group, yes.

Q

Yeah. And do they continue to today? Are you still having those meetings?

CHIEF CHARLIE:

Yes, the next one is on January 11th, 6 if you plan on attending?

Q

Have they done the trick? Have they calmed the waters, no pun intended?

CHIEF CHARLIE:

Yes, I think they have, but if -- also calmed the waters, but also given some clear definition about the different uses. And so if you're hinting that there's the same and that it is the same right. I don't think it is; I think it's a little bit different.

Q

Well, that leads me into next question. You mentioned the word "privilege", and I noticed Mr. Becker talked about the privileged fishery. What's the difference, as far as you're concerned, between -- well, first of all, are you saying that non Aboriginal people have no right to fish?

MR. BECKER:

They purchased the privilege to fish.

Q

Yeah --

MR. BECKER:

We have an Aboriginal right guaranteed to us under the constitution, s. 35(1).

MR. MCGOWAN:

Well, Mr. Commissioner, I wonder if what we're starting to engage in, here, is asking the witnesses for a legal opinion?

MR. LOWES:

No, no, I won't. I just want to know what the word means to the witness.

CHIEF CHARLIE:

Me?

Q

Yes.

CHIEF CHARLIE:

Yeah, I think that there -- we definitely have an Aboriginal right to fish.

Q

No, no doubt about that. But what -- I'm looking at the -- I want the meaning of the other word, the "privilege".

CHIEF CHARLIE:

It is -- under s. 35, we have an Aboriginal right to fish, and I think that those that are non Aboriginal have a privilege to be able to be out on the water that they purchase through a licence or through a derby, or through whatever process that they used to get there.

Q

I see. So you think, and Mr. Becker, you think, that non Aboriginal fishermen are buying something from the government, is that --

MR. MCGOWAN: Well, Mr. Commissioner, again, I'm not sure whether it makes a difference whether he's asking the witness for a legal opinion or their opinion about a legal matter. It's either a legal opinion or it may not be relevant.

Q

Well, my understanding --

MR. MCGOWAN:

So I don't think there's much use in pursuing this.

MR. LOWES:

My understanding is that the whole reason for these -- for this panel was to get a sense of a world view, and clearly this is part of a world view.

MS. GAERTNER:

Mr. Commissioner, I share the concern of Commission counsel on this matter. I think we are getting into the area of what's a legal opinion or not and what does a privilege under the legal system mean or not. I don't think that the clients here are in a position to be able to speak for Mr. Lowes' clients as to what they think they hold. I don't think we're getting very far in this question.

MR. LOWES:

I won't pursue it. It's not worth the argument.

Q

The thrust of my question, really, Chief Charlie, was that my understanding of your evidence was that once the dispute or the argument got past the question of rights and privileges and into, "How are we going to fish together in the same place," the meeting got better?

CHIEF CHARLIE:

Yes.

MR. LOWES:

I have no more questions