

February 21, 2011

Cohen Hearings

**Witnesses: Brent Hargreaves & Gordon Curry (DFO Aboriginal Fisheries)
Cross-examination by Phil Eidsvik (Area E Gillnet Fishermen & B.C.
Fisheries Survival Coalition)**

MR. MARTLAND: Mr. Eidsvik is next, thank you.

THE COMMISSIONER: Thank you.

MR. EIDSVIK: Thank you, Mr. Commissioner. Ten minutes is a lot shorter than I anticipated because the subject matter today has been much broader than I anticipated. But I'll be as quick as I can to assist the people coming behind me. My name is Philip Eidsvik. I'm on with the B.C. Fisheries Survival Coalition and the Area E Gillnetters who fish the Fraser River.

CROSS-EXAMINATION BY MR. EIDSVIK:

Q *One of the things I wanted to start off quickly, Dr. Hargreaves, was the statement about prior to World War II everyone thought the fish supply was inexhaustible.*

Do you remember when the International Pacific Salmon Fisheries Commission began their rebuilding program on the Fraser River?

DR. HARGREAVES: No, I don't remember the exact dates, no.

Q *Would it surprise you if it was before World War II?*

DR. HARGREAVES: No, it wouldn't.

Q *Yeah, so the idea that there's this great big, let's kill every last Fraser sockeye, wasn't really relevant in the context of Fraser River sockeye, was it?*

DR. HARGREAVES: No, my comment was in the global perspective in terms of fisheries throughout the world not specifically on salmon on that particular comment.

Q *Okay. So I'm just trying to say that we had a massive, successful rebuilding program on Fraser River sockeye from the '30s to the '90s. So to use that world perspective and apply it to Fraser River sockeye is a little troublesome for some of the people, I think.*

DR. HARGREAVES: I was personally leading up to the FAO Code of Conduct document.

Q *Oh, good.*

DR. HARGREAVES: That was what I was referring to.

Q *Thank you for clearing that up. There was a statement that gillnet fishermen on the coast will anchor all night and leave their nets in the middle of the channel. I've never heard of that. Perhaps you can offer a bit of detail on that.*

DR. HARGREAVES: In my experience, it's not unusual, particularly in, for example, the Fraser River for a gillnet to be set and left overnight.

Q *Are you talking about set nets or driftnets?*

DR. HARGREAVES: A net that's been tied off to the shore.

Q So you're not talking about the public commercial fleet?

DR. HARGREAVES: I have personally observed, for example, in Port Alberni where I worked for many years, where a fisherman would set the net at dawn -- or at dusk, I mean, and not come back till the early morning.

Q *We're talking about Fraser River sockeye here. And I guess you're aware that there's a licence condition that all -- and I'm talking about the public commercial fleet and tidal waters below Mission -- you're aware there's a licence condition that says you can't leave your net unattended?*

DR. HARGREAVES: Yes, I'm aware of that.

Q And what would happen if you left your net unattended in the Fraser River? If it's a driftnet --

DR. HARGREAVES: Probably fill up with debris.

Q *It would fill up with debris. Would it drift down on the shore maybe a log boom?*

DR. HARGREAVES: Probably, yes.

Q *If you left your net unattended in Johnstone Strait, perhaps a cruise ship might go through it, is that fair to say, or a towboat?*

DR. HARGREAVES: No, there's a relatively small number of cruise ships going in a very specific route. So if you did that in Area 13 --

Q *Log (indiscernible - overlapping speakers).*

DR. HARGREAVES: -- yes.

Q Okay. So it's not a common practice in the commercial sector. And we're talking about coho and I think DFO did a really good map a number of years ago where they showed all the coho streams here in the Vancouver area that had been paved over. Do you recall that map?

DR. HARGREAVES: No, I don't remember that map.

Q *Oh, okay. If there was a stream below this building that was paved over, obviously a Selective Fishing Policy wouldn't restore that stream.*

DR. HARGREAVES: No.

Q *Okay. In the great scale of thing, how big are habitat and water usage issues on Thompson coho?*

DR. HARGREAVES: I think it's probably significant but I don't think that's been well defined.

Q *But I'm curious, if it's a big factor or significant, why wouldn't it be well defined?*

DR. HARGREAVES: I think it's a very, very complex issue so there's water extraction issues, there's use by agriculture, there's, you know, a variety of uses in there that would affect the habitats.

Q *All right. But selective fishing only deals with commercial fishing, one part of the equation that might have an impact on Thompson coho. And the other part is out there. You just don't know enough about it; is that fair to say?*

DR. HARGREAVES: I hope we've made it clear that it's much broader than just commercial fishing so I would correct that comment.

Q *Okay. So commercial, recreational --*

DR. HARGREAVES: And First Nations.

Q *-- fishing -- yeah, okay. Selective fishing prior to 1998 when the program was put in, I always thought there was a selective -- and Mr. Harvey referred to it as time and area. Certainly, the Fraser River chinook fishery was closed when the Fraser River gillnet chinook fishery, targeted gillnet fishery; do you recall?*

DR. HARGREAVES: Yeah, I think Gord mentioned that – I mean time and area has always been a significant management technique, probably one of the most important, right back to the beginning of the fishery so...

Q *Okay. So do you recall when the Fraser Chinook fishery was closed?*

DR. HARGREAVES: No. You mean the west coast?

Q *No, in the Fraser River itself, the Fraser River gillnet fishery on chinook?*

DR. HARGREAVES: No, I don't remember the date.

Q *Mr. Curry, do you recall?*

MR. CURRY: I don't recall the date specifically but I'm aware of it, yes.

Q *It's been many years.*

MR. CURRY: Yes.

Q *Has there been a targeted fishery on that stock since it's been rebuilt by the Fraser River gillnet fleet?*

MR. CURRY: I don't believe there has been. But I couldn't speak completely because I haven't been working on the Lower Fraser fishery throughout that entire time period. So I don't know whether there's been some demonstration fisheries or some fisheries to attempt to catch Fraser chinook while allowing sockeye to pass through the nets.

Q *What I'm trying to get at is a lot of commercial fishermen are reluctant to buy into another program from DFO. And I'm sure you must have heard that, you know, when the Fraser River chinook fishery was closed. They were promised when the fishery was rebuilt it would re-open for them. It hasn't. Do you hear comments from the fishing fleet they don't really trust DFO to keep their promises?*

MR. CURRY: What I see is that the commercial industry has a code of conduct that clearly the majority of commercial harvesters have endorsed and, therefore, I would expect that out of professionalism they would be looking to do everything that they could to make a more selective and a more responsible fishery. And as we've mentioned, we work with many individuals that have done just that, whether they're in the lower Fraser or out in the marine areas working to find those solutions.

Q *Yeah, I guess what I'm getting at is probably despite previous actions, people in the commercial sector have gone along with it. And I'm just going to ask you. There was a number of complaints that have been talked about and I know one of them was, were*

there concerns that selective projects were delivering fish to small groups of people that were sort of private. And did you hear complaints about that?

MR. CURRY: We heard complaints like that at the beginning of the program but even throughout the program. So how we changed, how we did business is that we invited commercial reps to sit in on the selection of these projects so that they were involved in that selection process so that they could report out to their constituents how those projects were being selected. Because they certainly were not provided to certain interests and so on; it was simply based on the merits of their proposals and the possible benefits that could accrue from the work that they proposed to do. And there was many people that were critical of those that were trying to work with DFO. And that was very unfortunate because it was very unfounded.

Q *So there were some people in DFO 1 that perhaps the fishing fleet thought were a little too close to DFO and there's some disputes over that; is that fair to say?*

MR. CURRY: I heard those comments but from my experience they didn't apply.

Q *There's a general principle, I think, maybe in fisheries management. If I'm wrong, you can clear me up, that the conservation benefits accrued by the best managed fishery can often be negated by a fishery that's less well-managed if they fish on the same stock. Is that a fair statement?*

MR. CURRY: Yes, that could be a fair statement. An example is where you've got a quota-type fishery that's very well-managed and controlled and then you have a derby-style fishery being carried out upstream of that where when you open it, you don't know the number of fish that you're going to harvest. You could overshoot your target by a hundred percent and that's the precariousness of that kind of management. So DFO does everything we can to use past information and data to try and hit that target but it's not always possible because it's a very difficult thing to do.

Q *I see. So despite fishery management being able to rebuild the Fraser sockeye run from 1930 to 1990 with a fleet much larger or less people, you guys, if I can get it right, seem to be unable to do this any other way except through an IQ fishery?*

MR. CURRY: Well, I think the complexity of this issue is so much greater than that statement. I mean, we had a great big slide in the Fraser River back in 1913 and we've been rebuilding actually since then. And we're going through a period of time recently with global warming that is changing the environment, changing the productivity. It can be up one year, down the next. And so it's a very difficult environment in which to manage these fisheries.

Q I think we'll deal with that as we go along in time. I want to ask you a couple of questions about revival tanks in the Fraser River. Every by-licence condition, every

gillnetter in the public commercial fleet needs a revival box; is that correct? By-licence condition?

DR. HARGREAVES: Yes.

Q If you don't have it or you don't have it operating, can you be charged and prosecuted?

DR. HARGREAVES: Yes.

Q What about the Aboriginal commercial fishery on the Fraser in the tidal waters? Are all those vessels required to have coho revival boxes and steelhead revival boxes?

DR. HARGREAVES: No.

Q So for the boats that fish in both fisheries, if they fish in the public fishery on Monday, they need the revival box and they'll go to court if they don't have it or don't operate it, and on Tuesday then in the Musqueam, Tsawwassen, Sto:lo commercial fishery, you can go ahead and operate without a revival box; is that correct?

DR. HARGREAVES: Yes.

Q Do you know *why* that is?

DR. HARGREAVES: I think because of the priority of First Nations. So the first priority is conservation and the second is First Nations FSC, food, social and ceremonial.

Q But this is a *commercial* fishery I'm talking about.

DR. HARGREAVES: Yes, I'm aware of that but often those same boats are used for the FSC component. So when they go out to get their FSC. So they're not required to have a revival tank when they fish for FSC purposes.

Q So I'm trying to get this clear then. So during a commercial fishery that's licensed where they can sell fish, you're saying that they're still fishing for food; therefore, they don't need to pay attention to the regulation that's applicable to the other fleet?

DR. HARGREAVES: Yes, I'm not certain why.

Q Are they allowed to keep coho?

MS. SCHABUS: Objection, Mr. Commissioner. I just want to clarify something. Mr. Commissioner, I just wanted to clarify something. Mr. Eidsvik just pointed out that they

were not following regulations but actually the regulations do not stipulate that. I just wanted to clarify that point and I'm going to remain standing just in case.

MR. EIDSVIK: Thank you for that. I believe my question was quite proper because there's a regulation that applies to our sector, the public commercial fishery, but not to the Aboriginal commercial sector. And I agree with my friend that there's different regulations and that's what I was trying to get at. So there's a conservation issue for the public commercial fleet in the lower Fraser River but not one for the Aboriginal-only commercial fleet in the Fraser. And that's what I was trying to establish.

Q *Can you tell me, how big is the set net fishery in the Fraser Canyon?*

DR. HARGREAVES: *I don't know.*

Q *How many nets?*

DR. HARGREAVES: *I don't know.*

Q *No idea?*

DR. HARGREAVES: No.

Q *Would it surprise you if it was 400 in a busy fishery?*

DR. HARGREAVES: Possible.

Q *Do they use --*

MS. SCHABUS: I'm going to object again. Mr. Commissioner, I'm afraid that the witnesses have indicated that they are actually not in a position to comment on this and unless Mr. Eidsvik establishes the basis and that they would be in a position to comment on that, I'd ask him –

MR. EIDSVIK: Well, the basis for that is we're talking about selective fishing in the commercial sector and in the Aboriginal sector and in the sport sector we talked about barbless hooks.

Q *My question is simple. There's a very large commercial fishery in the Fraser Canyon. Do they use revival boxes for their gillnet harvest?*

DR. HARGREAVES: *I don't know. I'm not familiar with that fishery.*

Q *Well, maybe you can help me because your job, I think, was selective fishing, wasn't it?*

DR. HARGREAVES: Yes.

MR. CURRY: If I can comment.

DR. HARGREAVES: Okay, Gordon, go ahead.

MR. CURRY: I'll comment on one way that it's managed and that is when we are dealing with coho, as I mentioned earlier, the 3 percent mortality on coho that we manage by is borne by all fisheries. We look at all fisheries and all fishery impacts. So the current fisheries, as they stand are meeting that requirement. There may be some inconsistencies but the bottom line is that assortment of fisheries is meeting the current standard at 3 percent.

Q Well, you've said that the revival box really adds to the survivability of coho. So if all commercial fishermen were to use revival boxes, it seems to me there'd be less coho mortalities; therefore, we could target on the main species more. But have I got that wrong?

MR. CURRY: That's correct.

MR. EIDSVIK: Okay. Those are my questions. Thank you, Commissioner.