

Summary Report

WILD SALMON SUMMIT

September 19-21, 2018



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Acknowledgement

On September 19-21, 2018, First Nations leaders, Elders, fishers, technicians, and other experts gathered on the unceded traditional territory of the Musqueam Nation for three days to discuss the current state of wild salmon health and develop a shared vision and strategic plan to ensure the future of wild salmon in BC.

We respectfully acknowledge Musqueam Elder Larry Grant for welcoming us to X^wməθk^wəy'əm and to the Musqueam people for generously allowing us to gather on their territory to perform this important work. We thank all speakers and delegates for taking the time to gather with us and for their contributions.

Executive Summary

On September 19-21, 2018, the British Columbia Assembly of First Nations (BCAFN), the First Nations Summit, and the Union of British Columbia Indian Chiefs (UBCIC) hosted the “*Wild Salmon Summit: In a Time of Reconciliation*” at the Westin Wall Centre located on the unceded territory of the Musqueam Nation.

The Wild Salmon Summit was held to explore issues related to the current health and management of wild salmon and their habitats and develop a shared strategic vision for this important resource. First Nations leaders and technicians from across BC were invited to share their perspectives and engage in dialogue about the future of wild salmon.

Each day of the summit was designed around achieving an overarching objective outlined below:

Day 1 - Conduct an environmental scan of the mandates and operations of First Nations fisheries organizations in BC;

Day 2 - Discuss the current state of wild salmon health and identify barriers to ensuring healthy wild salmon populations;

Day 3 - Develop a shared strategic vision for wild salmon in BC.

Three (3) key overarching themes of discussion emerged over the course of the three-day event that formed the basis of the suggested priority actions outlined in this report. These themes include:

- Developing a Shared Vision;
- Centralizing and Improving Access to Knowledge, Data and Information; and
- Affecting Legislative and Policy Change.

Delegates at the event presented a number of recommendations for actions that could be taken within each of these key themes. These recommendations are provided within the report as suggested priority actions to be taken by First Nations leadership.

Developing a Shared Vision

This theme emerged through discussions of developing a shared political vision, and strategic pro-active provincial plan, amongst BC First Nations. This shared vision would extend and apply to the rehabilitation, protection and management of wild salmon, salmon habitat and fisheries through the implementation and recognition of our inherent jurisdictions,

authorities, titles, rights and responsibilities. The suggested priority actions within this theme include:

Suggested Priority Action 1: The First Nations Leadership Council to strike a Political Steering Committee to develop and identify recommended immediate province-wide priorities. This political steering committee should be comprised of representatives from the First Nation Leadership Council, British Columbia First Nations, the Pacific Salmon Commission and the First Nations Fisheries Council.

Suggested Priority Action 2: The Political Steering Committee will be tasked with building a model of collaborative governance and decision-making that inclusive of Tier 1 relations (First Nations – Intertribal Relations) and Tier 2 relations (Nation-to-nation, government-to-government). This model will be specifically related to the identified immediate priority issues pertaining to wild salmon, salmon habitat and fisheries. The First Nations Leadership Council will be tasked with accessing equitable and sustaining funding sources to support the Political Steering Committee to accomplish the work of developing this model.

Centralizing and Improving Access to Knowledge, Data and Information

A number of summit delegates identified the importance of developing a plan to recognize and activate the technical knowledge and experience of First Nations fisheries organizations and to fully integrate Traditional Ecological Knowledge (TEK) into the management and protection of wild salmon. This included discussions of increasing access to data for First Nations fisheries organizations and First Nations. The suggested priority action under this theme is:

Suggested Priority Action 3: The Political Steering Committee will complete an environmental scan and develop a plan to recognize, coordinate and activate the technical knowledge, Indigenous knowledge and experiences of our own First Nations fisheries Organizations and Nations. This will be done in relation to the political tables and/or governance model that is created through activities in Suggested Priority Action 2.

Affecting Legislative and Policy Change

There were a number of issues with existing legislation and policy pertaining to fisheries that were identified by summit delegates and presenters. This theme addresses some of the specific concerns that were raised through those discussions. The suggested priority actions within this theme include:

Suggested Priority Action 4: Once implemented, the Tier 1 and Tier 2 Governance models, in collaboration with First Nations fisheries organizations, will identify ongoing priorities for the shared table to bring forward. As a short-term priority, Summit delegates recommended that the Political Steering Committee, in the immediate term, advocate for the full implementation of the Wild Salmon Policy.

Other suggested priority issues identified by the Summit delegates that the Political Steering Committee and/or the to-be established Governance Models may want to consider include:

- Work towards provincial-level responsibility for fisheries management to allow BC First Nations to exercise jurisdiction over fisheries matters;
- Develop cross-jurisdictional approaches to fisheries management to ensure First Nations across provincial, territorial and international boundaries undertake collaborative approaches for the protection of fish and fish habitat;

- Revisit and modernize DFO policies and approaches to wild salmon management to ensure Aboriginal rights are second only to conservation; and
- Seek delegated responsibilities under the *Fisheries Act* to permit First Nations fisheries management opportunities.

Context

The Value of Salmon to First Nations

Salmon has been the cornerstone of culture and of the survival of Indigenous peoples since time immemorial. This relationship extends into interconnected segments of life, where salmon hold value socially, economically and culturally. As one delegate remarked, when used for food, salmon is a health concern; when used for ceremony, salmon is a spiritual and cultural concern; when used for employment, salmon is a social and economic concern.

The importance of salmon to Indigenous communities cannot be overstated. It is a relationship of interdependence and mutual sustainability that has been in place for countless generations. The Aboriginal right to fish and assert jurisdiction over fish and fish habitat is also legally protected and has been upheld numerous times in provincial and federal courts. However, salmon stocks have been steadily declining over the years as Indigenous communities are consistently held up in court fighting for the recognition of their rights to protect this valuable resource.

“What is the basket of rights we want respected now as it relates to the reconciliation framework? What lasting commitments to recognition, respect and wild salmon protection and rehabilitation can we achieve given this political climate? What can we achieve now in the context of lasting agreements that will survive the next election?” – **Brenda Gaertner, Mandell Pinder**

Acting in a Time of Reconciliation

The Wild Salmon Summit 2018 has been convened in a critical time of reconciliation. A time where our judicial system has recognized the Aboriginal right to fish, and the inherent right of First Nations to govern their lands, waters and resources, including fisheries, are protected by the Canadian Constitution. We are also in an important time where both the federal government and BC provincial government have committed to implementing the *United Nations Declaration on the Rights of Indigenous Peoples* through legislation and policies that respect Indigenous jurisdiction and authority. It is also an opportunity for First Nations to work with governments to ensure lands and resources under their stewardship are properly protected and managed for the benefit of future generations.

Over the years, countless court cases have recognized and upheld the Aboriginal right to fish.

The *Nuu-chah-nulth decision* (2009) was upheld by the BC Supreme Court in 2014, clarifying the Aboriginal right to harvest and sell all species of fish found within territories. The *R. v. Marshall decision* (1999), confirmed a treaty right allowing Mi'kmaq to earn a livelihood through commercial fishing. *Delgamuukw v. British Columbia* (1997) confirmed that Aboriginal title is constitutionally protected and it entitles the holders to exclusive possession and use of the land and resources on and under it.

“If BC salmon dies, so does BC.”
– Delegate

More recently, the Supreme Court of Canada in *Tsilhqot'in* (2014), made clear that Aboriginal title includes the right to govern and “pro-actively use and manage the land” and resources. While Aboriginal rights have been recognized in the courts, progress in implementing the necessary changes to policy and legislation to reflect court decisions has been slow or, in many instances, non-existent. Today, Nuuchahnulth Nations involved in the 2009 case are attempting to engage Canada, via DFO, in meaningful negotiations to implement the rights-based fisheries.

Background

The concept of holding a province-wide gathering for First Nations to discuss the health of wild salmon and to strategize around developing a strategy to protect wild salmon stocks, was developed through a number of discussions over the last few years.

The Wild Salmon Alliance’s 2016 Dialogue Session

On April 18 and 19, 2016, the First Nation Wild Salmon Alliance held a dialogue session, “*The Future of Wild Salmon: Advancing A Path Forward to Informed Management and Decision-Making*”, which began to build a First Nations-driven, science-based strategy for ensuring the sustainability of wild salmon.

The event focused on answering the following overarching questions: How do we understand the various impacts on wild salmon? How can we develop a path to gain greater understanding of the impacts on wild salmon? How can we develop the science and data to support our birth right to protect wild salmon?

The recommendations outlined in a summary report, “*The Future of Wild Salmon: Removing the Barriers to Informed Decision-Making Report of Proceedings and Recommendations*” focused on exploring the impacts on wild salmon using scientific data and using science to support Aboriginal rights and informed decision-making. Recommendations also suggested the review of fisheries legislation and policies, and called for the implementation the 2005 Wild Salmon Policy.

The 2018 Wild Salmon Summit Concept

As explained by Chief Bob Chamberlin, Vice-President of UBCIC, the 2018 Summit was conceived of informally at a meeting at the UBCIC office amongst the First Nation Leadership Council organizations. The First Nations Leadership Council executive members expressed concerns over the future of wild salmon such as declining wild salmon stocks, the impacts of open net fish farms, access to science and data, and recognition of Aboriginal fishing and resource rights.

The 2018 Summit was developed as a way to begin identifying how Indigenous organizations involved in fisheries can work together more efficiently and effectively and speak with one voice on wild salmon. The three-day event focused on allowing First Nations leadership to fill in the gaps about issues impacting wild salmon and identify the priorities and strategies they deploy in safeguarding the future for wild salmon.

The information gained from the 2018 Summit will feed into the development of a province-wide strategy that can be presented to the governments of BC and Canada to hold Canada to its mandate of reconciliation and ensure First Nations interests in fish are second only to conservation.

Purpose

The objectives and intended outcomes of the Wild Salmon Summit 2018, included:

1. Conduct an environmental scan of the mandates and operation of First Nation fisheries organizations in BC with respect to wild salmon to determine technical knowledge, synergies and improve collaboration.
2. Discuss the current state of wild salmon health and identify barriers to ensuring healthy salmon populations with the intended outcome of strategizing around common challenges i.e. access to data organizational obstacles, environmental issues, and concerns regarding legislation and policies.
3. Develop a shared strategic vision for wild salmon in BC to begin planning around suggested purposes and priorities that a political table can bring forward.

Participants

The 2018 Wild Salmon Summit was attended by approximately 207 First Nations delegates from across BC. Most delegates represented leadership and technical teams from the Fraser Valley and Vancouver Island areas, with a fairly even split between technical and political representation.

Summit Design

The 2018 Wild Salmon Summit was designed to take place over a three-day period to permit sufficient time for the exploration of the event's three key objectives. Each objective was allocated one day for presentations and dialogue.

Day 1: Environmental Scan of Existing First Nations Organizations

- Determining the mandates and activities of key First Nations fisheries organizations
- Discussing organizational obstacles and gaps experienced by a sampling of First Nations from across BC
- Exploring the strategic approach of the Wild Salmon Policy and Wild Salmon Advisory Council

Day 2: Impacts on Wild Salmon

- Defining the current state of wild salmon health
- Determining the current state of Aboriginal rights, title, and jurisdiction with regards to fish and fish habitat

Day 3: Indigenous Strategy Session

- Identifying priorities based on issues discussed on Day 1 and 2
- Strategizing around priorities and determining next steps

Through panel discussions and open dialogue sessions, guest speakers and delegates shared information and provided feedback used as the basis of the recommendations set out in this report.

Guest speakers representing the First Nations Leadership Council, as well as First Nations leaders from across BC, provincial Indigenous organizations, the federal government, and other experts presented on areas of specialization and participated in dialogue sessions facilitated by Tyrone McNeil, Vice President of the Sto:lo Tribal Council.

Key Themes and Recommendations

The following is an overview of the high-level key themes and recommendations that emerged from the discussions at the Summit, including those that came from participant comments and questions. Many of these themes were identified in the summary reports from each of the three (3) days and in the overall event summary. The recommendations and associated action items are intended to be understood as a chronological, prioritization of the recommendations.

Developing a Shared Vision

Participants recognized the need to develop a shared vision amongst First Nations in BC for the rehabilitation, protection and management of wild salmon, salmon habitat and fisheries through the implementation and recognition of inherent jurisdictions, authorities, titles, rights and responsibilities.

Suggested Priority Action 1: The First Nations Leadership Council to strike a political steering committee to develop and identify recommended immediate province-wide priorities. This political steering committee should be comprised of representatives from the First Nation Leadership Council, British Columbia First Nations, the Pacific Salmon Commission and the First Nations Fisheries Council.

Numerous First Nations fisheries organizations exist with unique mandates, memberships, and priorities. It is necessary to develop a shared position and priorities amongst First Nations in BC. The shared positions and priorities should be shared with key political representatives from Indigenous organizations who will be mandated to bring these policies to the highest levels. This position needs to outline First Nations rights to self-determination and self-government as they relate to fish and wild salmon.

“So much work has taken place to identify the issues, the work going forward needs to be developing plans to address these issues and implementation” – Delegate

A Political Steering Committee should be struck to identify and recommend immediate province-wide priorities. The Political Steering Committee will be populated by the First Nations Leadership Council and will consist of nominated representatives from: the First Nations Leadership Council, the Pacific Salmon Commission, and representatives from BC First Nations.

Suggested Priority Action 2: The Political Steering Committee will be tasked with building a model of collaborative governance and decision-making that inclusive of Tier 1 relations (First Nations – Intertribal Relations) and Tier 2 relations (Nation-to-nation, government-to-government). This model will be specifically related to the identified immediate priority issues pertaining to wild salmon, salmon habitat and fisheries. The First Nations Leadership Council will be tasked with accessing equitable and sustaining funding sources to support the Political Steering Committee to accomplish the work of developing this model.

First Nations, as title holders, must be included in decision-making processes regarding the lands and resources within their territories. Brenda Gaertner, lawyer at Mandell Pinder LLP, spoke to the importance of exercising Indigenous jurisdiction over fish and fish habitat, particularly now with favourable court decisions and political will, both federally and provincially. The stars are aligning for change, including the announcement of the federal government's Principles Respecting the

Government of Canada's Relationship with Indigenous Peoples, and the commitment to implement the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) by the provincial and federal governments.

It was suggested that First Nations may want to look to enter into collaborative governance agreements, which can take place amongst one another or with the Crown. The collaborative decision-making models/processes include: Tier 1 – First Nation to First Nation (Intertribal Relations); Tier 2 – First Nation to Crown (Nation to Nation); Tripartite – First Nation, Federal Government, Provincial Government.

In building collaborative governance decision-making processes/models, the precautionary principle should be included, and consideration should be given to the federal and provincial government's "*Principles Respecting the Government of Canada's Relationship with Indigenous Peoples*".

All processes/models should address the following areas: Parties, Purpose, Principles, Subject Areas, Governance Structure, Approach to making decisions and/or recommendations; Resourcing; Information Sharing; Dispute Resolution; and Review and Evolution. These components work to determine which Indigenous Peoples are represented and by whom, the purpose and priorities, the role of aggregates that bring specific technical and administrative capacity, and identify lead Crown Ministries – including whether the agreement or subject matter is bilateral, trilateral, or multi-lateral.

"You have jurisdictions and authorities and we have to find space in Canada to have your place at the table." – Brenda Gaertner, Mandell Pinder LLP

Centralization of and Access to Knowledge, Data and Information

First Nations need to collectively define, qualify and quantify infringements on Indigenous fishing rights socially and economically. To do this, First Nations need increased access to fisheries data, methods for disseminating information, and centralization of data to support coordinated efforts.

Suggested Priority Action 3: The Political Steering Committee will complete an environmental scan and develop a plan to recognize, coordinate and activate the technical knowledge, Indigenous knowledge and experiences of our own First Nations fisheries Organizations and Nations. This will be done in relation to the political tables and/or governance model that is created through activities in Suggested Priority Action 2.

Delegates spoke on the importance of developing a plan to recognize and activate the technical knowledge and experience of First Nations fisheries organizations. It is suggested this be carried out through a First Nations technical body who will gather and provide necessary statistical data on wild salmon and fully realize Traditional Ecological Knowledge (TEK). This technical body would be mandated to share perspectives, shape initiatives, and make recommendations to First Nations leadership to facilitate coordination and planning around fisheries activities and advocacy.

"There is emerging awareness and support for the issue - wild salmon is a priority" – Delegate

Access to data is an ongoing issue over which delegates expressed concern. Currently, there is insufficiency of data and a need for more collaboration around monitoring and data collection. Research is required to understand and actively monitor the impacts of the resource industry, climate change, recreational fisheries, and aquaculture on fish, fish habitat and water. Ongoing work is needed in stock assessment, developing restoration plans, identifying assessment activities for monitoring,

and undertaking a First Nations-led study on the socio-economic value of wild salmon to First Nations.

Significant resources will be required to undertake this work. First Nations will need to identify a clear plan moving forward regarding requesting funding from government to develop a First Nations technical body and facilitate on-the-ground data collection and information management. It is suggested that First Nations leaders work together to put pressure on the federal and provincial governments to provide resources to develop a clear plan amongst First Nations in BC.

Affecting Legislative and Policy Change

Significant work must occur at the legislative level to hold government accountable for the protection and management of fish and fish habitat.

Suggested Priority Action 4: Once implemented, the Tier 1 and Tier 2 Governance models, in collaboration with First Nations fisheries organizations, will identify ongoing priorities for the shared table to bring forward. As a short-term priority, Summit delegates recommended that the Political Steering Committee, in the immediate term, advocate for the full implementation of the Wild Salmon Policy.

Several speakers over the course of the three-day Summit spoke to the importance of the implementation of the Wild Salmon Policy (WSP), a document designed to guide the federal government and partners in the protection and conservation of wild salmon and their habitats and permit First Nations to enter into direct agreements with Department of Fisheries and Oceans (DFO).

“What existing legislation needs to be modified to better include us in decision-making?” – Delegate

The WSP includes six strategies compiled under three overarching themes:

1. **Assessment** – includes the ongoing assessing and monitoring of the biological status of wild salmon, their habitats, and ecosystems.
2. **Maintaining and rebuilding stocks** – focuses on how information from assessment activities is used to manage, maintain and rebuild stocks and habitat, including, planning.
3. **Accountability** – Accountability theme commits the Department to completing activities and reporting publicly on progress.

The WSP was finalized in 2005 following six years of drafting and consultation. DFO’s progress has been slow in rolling out this policy. Guest Speaker Brian Riddell of the Pacific Salmon Foundation expressed frustration with the slow implementation of the policy, as we should be moving from talks of conservation to actively engaging in restoration of salmon stocks and habitats. On August 2016, Minister LeBlanc announced commitment to rejuvenate the WSP starting with the development of a WSP Implementation Plan. A draft implementation plan was developed through meetings with working groups of representatives from the First Nations Fisheries Council, Pacific Salmon Foundation, Province of BC, Yukon Salmon Sub-Committee and DFO. This implementation plan sets out activities to be undertaken under the WSP from 2018-2022, under two Activity Themes: 1) Assessment Work; and 2) Integrated Planning and Program Delivery. A final Implementation Plan was expected by Summer 2018, but no materials have been received to date, despite requests for an advance copy.

“There needs to be the inclusion of values into regulations and policies.” – Brenda Donas, Lake Babine Nation

While, the implementation of the WSP has been slow, Jordan Point of the First Nations Fisheries Council spoke of the progress that First Nations have made in building governance structures amongst one another given the complex circumstances. He noted that the First Nations fisheries organizations already in place are well positioned to lobby government for change to law and policy, including the full implementation of the WSP.

Summit delegates identified other suggested priority issues that the Political Steering Committee and/or the to-be established Governance Models may want to consider. These include the following:

Work towards provincial-level responsibility for fisheries management to allow BC First Nations to exercise jurisdiction over fisheries matters

The Province of British Columbia has several ministries with jurisdiction over critical factors that influence wild salmon health, including mining and forestry. However, British Columbia currently has no central department that deals with fisheries and is the only province in the country that does not have such a department.

First Nations need to work with BC to establish a department that manages fisheries to allow BC to exercise jurisdiction over fisheries matters.

Develop cross-jurisdictional approaches to fisheries management to ensure First Nations across provincial, territorial and international boundaries undertake collaborative approaches for the protection of fish and fish habitat

Pacific wild salmon do not travel exclusively within one jurisdictional boundary. Many of these fish populations travel across provincial and territorial boundaries, as well as international boundaries. It will be critical to seek opportunities to strengthen cross-jurisdictional work with Indigenous groups in the Yukon, Washington State and Alberta to ensure First Nations across provincial, territorial and international boundaries undertake collaborative approaches for the protection of fish and fish habitat.

Revisit and modernize DFO policies and approaches to wild salmon management to ensure Aboriginal rights are second only to conservation

DFO allocation policies and the chinook policy prioritizes recreational fisheries over First Nations right to fish for food, social, and ceremonial purposes, and DFO's sub-management areas are misaligned with First Nation traditional territories.

Indigenous communities need to be involved in modernization of DFO policies including TEK to ensure their rights are second only to conservation.

Seek delegated responsibilities under the *Fisheries Act* to permit First Nations fisheries management opportunities

First Nations need to work on changing the management regime for fisheries. The *Fisheries Act* allows for delegated responsibilities to the provinces, but First Nations may want to seek opportunities for delegated fisheries management responsibilities.

Conclusions and Next Steps

In BC, acts of reconciliation can be particularly meaningful with respect to fisheries, as the implications are far-reaching. Grand Chief Stewart Phillip, President of UBCIC, spoke of the Wild Salmon Summit as an opportunity to hear how others are approaching stewardship and harvesting across the province and discuss how First Nations can work together more efficiently and effectively to be proactive in addressing issues impacting wild salmon. In the age of reconciliation, First Nations are well positioned to engage with Canada on issues related to the management of fish and fish habitat. Together, First Nations organizations and communities in BC can continue working to build a shared roadmap that can ensure the health and vitality of wild salmon for many generations to come.

“*I believe that the greatest power we have as Indigenous people are our own laws and our traditions and our values*” – **Chief Marilyn Slett**