

Issue Update

Sector: Fisheries

Issue: First Nations Fisheries

History

The Assembly of First Nations (AFN) Fisheries Sector supports the National Fisheries Committee (NFC), which advises and supports the collective interests of First Nations in Canada on priorities related to fisheries, aquaculture, and oceans. The NFC is co-chaired by the Fisheries portfolio holders, including British Columbia Regional Chief, Terry Teegee;, New Brunswick Regional Chief, Joanna Bernard, Prince Edward Island Regional Chief, Darlene Bernard, and Chief Roderick “Junior” Gould of the Mi’kmaq Abegweit First Nation.

This update covers three key areas of recent advocacy and activity:

1. Over the last decade, Yukon River chinook salmon of Canadian origin have experienced the worst returns in their history. More than half of their populations have been lost since historical returns have been recorded, and the numbers are still trending lower toward extirpation. First Nations have relied on returning salmon as a central food source, and salmon form a central part of First Nations cultural and customary practices. As a result, the First Nations-in-Assembly passed Resolution 06/2021, *Yukon River Chinook Salmon of Canadian-Origin*, that provided AFN with a mandate to call upon the Government of Canada to initiate an inquiry into this decline and to organize, in partnership with affected First Nations, a strategy to identify the causal factors and to address those factors to reverse the population decline.
2. In 2016, the Government of Canada launched the Oceans Protection Plan (OPP), a \$1.5 billion interdepartmental strategy aimed at protecting Canada’s coasts and waterways. Budget 2022 proposed an additional \$2 billion for the OPP over nine years, starting in 2022-23, for renewal and expansion.

First Nations communities have deep connections to Canada’s coasts and waterways and all the fish and wildlife that use those bodies of water. Therefore, they are deeply interested in protecting those environments and the life they support. Resolution 52/2018, *First Nations Inclusion in Canada’s Oceans Protection Plan*, provided AFN with a mandate to work collaboratively with the Government of Canada to address long-term capacity funding to affected First Nations; to promote the inherent rights, Treaties, title, and jurisdiction of First Nations; to require any Government of Canada legal or policy framework to respect said rights, Treaties and title; and to work with appropriate departments in securing core and capacity funding for First Nations and regional work associated with the OPP.

3. Fisheries and Oceans Canada (DFO) and the regulation or otherwise management of First Nations fisheries came into the public view in a very pronounced way in 2020 when Sipekne'katik First Nation strategically undertook their own self-governed lobster fishery in accordance with their established Treaty rights. The response from DFO included harassment of First Nations fishers, gear seizure, and general ambivalence toward non-First Nations harvesters who, at the time, were actively destroying First Nations vessels and gear, including a well-known warehouse. In response to this, AFN received a mandate through Resolution 08/2020, *Systemic Racism in all federal agencies, including Fisheries and Oceans Canada's Response to Sipekne'katik First Nation's Inherent Rights-based Fishery* to, among other things, call upon the Minister of DFO and the Canadian Coast Guard to address systemic racism within DFO with particular attention to the enforcement branch.

AFN's recent advocacy

1. **Salmon:** As a Co-signatory with Chief Nicole Tom of the Little Salmon/Carmacks First Nations based in the Yukon, NFC Co-Chair Regional Chief Teegee, in November 2022, issued a letter to Prime Minister Justin Trudeau calling attention to the catastrophic decline of Yukon River Chinook Salmon and requesting the Government of Canada to focus more attention and resources toward understanding this complex dynamic and reversing the trend.

In March 2023, the AFN secured funding to assist in the development of an AFN–Yukon Region-led initiative, which came in the form of a Government Relations and Public Outreach campaign to raise awareness of what is happening to the salmon stocks in the Yukon. This Government Relations and Public Outreach campaign has been presented to Yukon First Nations Chiefs through the AFN – Yukon Regional Leadership meetings and remains at their discretion in terms of its implementation. These plans may have utility as templates for similar campaigns in other regions.

2. **Oceans Protection Plan (OPP):** The AFN, Transport Canada (TC) Community Engagement and Partnerships (OPP), and Canadian Coast Guard (CCG) Indigenous Relations Branch formed an OPP Assessment Working Group in January 2022 to undertake the joint assessment work. The Working Group met roughly every two weeks from January 2022 until January 2023. AFN has been waiting since March 2022 for TC approvals of the methods and best practices framework to move forward with the assessment work.

Through various Working Group meetings, it was deemed necessary to develop a Terms of Reference to clarify how the AFN, TC, and CCG will collaborate on the assessment. The Terms of Reference were drafted collaboratively and a version is ready for review. The draft Terms of Reference includes:

- Sections on the purpose of the assessment.
- Guiding principles.

- Structure and approach.
- Regional engagement.
- Communications and information-sharing.
- Review, amendment, and termination.

3. **First Nations Fisheries & Fisheries and Oceans Canada (DFO):** Based on extensive research, in April 2022, the AFN submitted a report to the Senate Standing Committee on Fisheries and Oceans, whose specific area of study was the Implementation of Indigenous rights-based fisheries across Canada. This report examined prominent Supreme Court Case decisions, including the *Sparrow Decision* (1990), the Marshall Decision (1999), and the Ahousaht Decision (2009). In each case, there is a common thread of structural racism influencing how First Nation harvesters are viewed and treated.

The AFN was pleased to submit this comprehensive written report to the Senate Committee in support of the ongoing need to have the Government of Canada recognize First Nations rights-based fisheries as constitutionally protected and ensure the full implementation of the First Nations Right to Fish for Food, Social and Ceremonial Purposes, which does not require Government of Canada licensing or management of any kind.

Next Steps

All AFN policy sectors will support the implementation of the National Action Plan to the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA), including as it relates to fisheries. The proper implementation of Supreme Court Case decisions with respect to First Nations Treaty rights to harvest is both an AFN mandate and an essential element to implementing the UNDA. We will support work currently underway through regional offices and regional AAROM bodies, such as the *Save Our Salmon* campaign in the Yukon and the transition away from Open-Pen Net Fish Farming in British Columbia. We will always promote First Nations fisheries and advocate for DFO to work with First Nations, provinces, and territories to revise regulations and policies to respect First Nations' Treaty-protected inherent rights and empower First Nations' authorities in fisheries protection and enforcement.