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SOLUTIONS ARE IN OUR NATURE

Dr. M. Saunders
Wild Salmon Policy
Department of Fisheries and Oceans
200-401 Burrard Street
Vancouver, B.C. V6C 3S4

February 18, 2005

Dear Dr. Saunders.

Re: David Suzuki Foundation Critique of the 2004 Draft Wild Salmon Policy.

We congratulate DFO on getting out the December 2004 draft of the Proposed Wild Salmon Policy (WSP) for public comment. The policy began in 1998 and it was our sincere wish that the policy would have been finalized well before now to improve the level of protection and conservation offered to what is an integral part of West Coast ecosystems and one of the iconic wonders of the West Coast of Canada.

Considering that most stocks of salmon in the Northern Hemisphere have been greatly impacted by the fishery and human impacts on their habitat the conservation community held high expectations that this policy would allow a significant shift in DFO practices to insure that healthy populations of salmon will survive will into the indefinite future. Unfortunately this recent draft has, to a large degree, dashed our expectations and we feel efforts to help DFO improve their performance in this task may continue to slip backwards under this policy.

The David Suzuki Foundation has always had the conservation of wild salmon as one of its main interests since its formation 13 years ago. In response to non-sustainable practices that have undermined the fishery and its essential habitat base, we have conducted a number of relevant studies which are outlined in Appendix I. We believe that things must improve in that the habitat base is being undermined by an improperly implemented National Habitat Policy and many stocks are threatened by a continued inability to manage them properly.

The document is much more than a policy paper. Improving the conservation of Pacific salmon requires much more than a wild salmon policy. The problems facing the sustainability of diverse and healthy populations of wild salmon in all of our rivers seem

daunting. This paper seems to at times be a public relations document and at other times a partial scientific rationale document. In that sense our comments will at times go beyond what should be a critique of a policy paper

One should not look to the proposed WSP as a document that will suddenly change the way DFO operates. The recent and present management of DFO is unfortunately a separate issue and until the finalized and approved WSP is partnered by a revived and rehabilitated DFO, the WSP will languish and not be implemented to meet public expectations and the intent of the Fisheries Act and associated conservation legislation. How DFO can improve its performance is beyond the terms of reference of the WSP comments and the DSF will make a later submission on this issue.

In that the policy began in 1998 and was open to public comment in 2000, we feel the long time span between 2000 and 2004 has given rise to a document that seems to not have resolved many of the concerns raised in 2000. In addition several new elements have been added to the policy which seems to undermine the conservation intent of such a document. That leaves us confused as to where DFO will go next and that could leave the future of wild salmon in continued jeopardy. Despite many years in the development of this policy, we feel we are still near a beginning point and no where near the implementation stage.

The above comment cannot be over emphasized in that DFO has sent out contradictory messages on how this policy will be reviewed in a transparent public forum. In late January 2005 Dr. Brian Riddle indicated on CBC radio that if the comments are significant, the policy will have to be changed. However, at the same time the DFO WSP webpage indicates that DFO consultation does not want to deal with the specifics in the body of the policy but focus on the implementation of that policy. In that we strongly feel there are a number of major fatal flaws in the policy, DFO must dwell on redrafting the policy after public comment and once an acceptable draft is finalized, then meaningful implementation discussions can take place. Presently DFO probably does not have the means to properly implement any such policy and we have on going concerns about DFO's will and ability to further consult on this matter beyond the planned workshop of March 1-2, 2005.

Upon initial review, the policy seems to cover all the major topics it should address. However, upon close review, it is obvious that a number of major flaws are apparent due to poor definitions, tone and language selection, and an advancement of many concepts and practices that have not proven to work in the past or in many other jurisdictions. Our review of the document will outline general major flaws and comment on the ten points made in the WSP Snapshot on page v. The bulk of our comments will be detailed comment on the content of the document from major flaws down to the simple usage of certain words that affect the tone and undermine the usefulness of this document. Also many of our comments will emphasize the need for a good editor to rewrite this document so as to clearly state what you are really trying to say or what you should be trying to accomplish.

A. Major Flaws:

1. **“Conservation” is not adequately defined.** DFO is mandated by law to make conservation their first priority. Conservation then should not be one in a list of competing goals and priorities of the salmon fishery – it should be the fundamental cornerstone. Unfortunately, this is not the case in the *WSP*.
2. **The “precautionary principle” is not properly defined.** In the absence of adequate information, DFO must err on the side of salmon and salmon habitat protection. This is an international commitment and DFO is not living up to that commitment to protect nature.
3. **The ecosystem value and diversity of “habitat” must be acknowledged.** The *WSP* does not acknowledge the functional complexity of salmon habitat and indicates that DFO may willingly sacrifice salmon habitat. This does not support the DFO slogan of ‘No Habitat – No Fish’.
4. **Adequate spawning escapement goals, harvest rules, and decision-making protocols are not established in the *WSP*.** The *WSP* is too vague and increases the opportunity for discretionary decisions not based on conservation.
5. **The biological, economic and social risks posed by salmon hatcheries and salmon farms are not addressed.** The weight of evidence suggests that hatcheries and salmon farms can and do harm B.C.’s wild salmon. **DFO must stop permitting, supporting, and actively encouraging such activities until it can be shown that they are ecologically sustainable i.e. the precautionary approach.**
6. **A proper analysis has not been done to support many of the conclusions or recommendations in this policy.** Due to present weaknesses in various practices, DFO is looking for yet find another ‘new direction’ to follow. This seems to take place every few years when the agency realizes it is not doing an adequate job in conserving the fishery resources of Canada. To avoid re-inventing the wheel or repeating past mistakes there has to be a comprehensive analyses of what has or has not worked in the past and in other jurisdictions.
7. **Adequate resources must be allocated to give the *Wild Salmon Policy* a life beyond a government shelf.** If the *WSP* is to be implemented, DFO must reverse the continual decline in funding and DFO must commit resources towards science, management, protection and enforcement and assessment of B.C.’s wild salmon populations. No effective management policy can work without adequate resources and a strong political will.

B. Review of ‘The Wild Salmon Policy – A Snapshot’ (page v).

We agree and support the general intent of points 1, 2 and 3. They adequately frame the goal statement for a wild salmon policy.

Point 4 summarizes one of the major flaws in the document. It will direct DFO staff and encourage those that can harm the salmon resource that DFO staff must consider the need to protect the economy and social needs of society as well as the needs of fish and their habitat. This has to be an overall government outcome but it is not the job of DFO to accomplish this within their conservation mandate.

Point 5. Intent acceptable but concept of a run restoring itself within possibly a human lifetime is vague and not acceptable as presented.

Point 6. General intent acceptable subject to better definition of CU size and comments found elsewhere in this critique.

Point 7. General intent acceptable but realistic probability of effective implementation is very doubtful due to complexity of science, conflicting jurisdictions and inadequate resources.

Point 8. Same comment as in Point 7 above.

Point 9. This point summarizes other major flaws in the document. The first part of this summary point is of extreme concern. The latter part again relates to DFO’s questionable ability to deliver on such claims.

Point 10. This is not a policy issue but more resembles cheer leading or political wishful thinking.

C. Detailed Comments and Critique (major flaws indicated as ➡):

Page 1. The proposed policy indicates that “The management of steelhead and cutthroat fisheries has been delegated to the Province of British Columbia and so is not covered by this document”. In that this is true for the management of fish stocks this does not apply to the application of the habitat and pollution provisions of the Fisheries Act which cannot be delegated due to the discretionary nature of those sections of the Fisheries Act. In that habitat conservation is essential for these salmon species they must not be left out of the Wild Salmon Policy. B.C. manages the freshwater sports species under a gentlemen’s agreement with the Federal Government. If they do not do a proper job, or for any other reason, the powers of the Minister of Fisheries and Oceans is not fettered and the Minister may unilaterally re-assume those powers. If we are concerned about all

salmon species on this coast and if this is to be a more ecosystem based policy, why ignore the needs of certain select species? This makes the policy less inclusive.

← **Page 2. Definition of Conservation.** One of the greatest weaknesses in the document is the poor definition of 'conservation'. Most would have come up with a definition that is more expected in common environmental language use and be similar to dictionary definitions. This comment high lights some of the poor language that is in this document. It allows such great flexibility that any one can weasel their way out of implementing many aspects of this policy in various circumstances or allow others to undermine what should be the conservation aspects of such a policy.

On page 40 of the Glossary the word 'conservation' is again defined. Here the definition is more complete but totally inadequate. The definition includes present and future social and economic values. This is of great concern. What is the intent of this unusual definition in a conservation document? When you are dealing with a natural legacy such as salmon should the definition not include key words like 'ecosystem health' and 'existence values'?

Page 2. It is noted that certain salmon populations had been diminished to such low numbers that spawners were not consistently monitored at these sites. To be fair, DFO must admit that fish populations that are healthy (e.g. last Horsefly River peak cycle sockeye run) were also not adequately monitored. The truth is that many salmon runs are not enumerated or properly protected as they return to their home streams due to DFO re-directed priorities and resource cuts. Not knowing what spawns in each stream undermines a key accountability or performance assessment factor noted in this document. Resorting to index streams will not fill this void.

Page 3. Figure 1 will confuse the public. Explain the Index Values. Also why are not Aboriginal and recreation catches included? It is our understanding that due to various court decisions, the aboriginal fishery increased during the past several years. Does DFO not have accurate figures on what recreation and aboriginal fishermen catch? Also are key fisheries not exposed to significant poaching? Until these numbers are included it is simply a DFO claim that the difference between catch and spawners is getting ever greater. Therefore using this incomplete information to emphasize DFO's switch to a conservation first approach may not be as obvious as claimed.

Also it notes that selective harvesting practices have been developed and adopted. This is misleading in that selective fishing practices have been adopted in only select locations and the options to expand this program seems to not have been exhausted.

Page 4. The Salmonid Enhancement Program. Over a decade ago DFO claimed that they had 10,000 volunteers working on restoration, enhancement and stewardship projects. Since that time, DFO has spent over \$150 million on these types of projects – especially community stewardship groups. Despite that large expenditure, why would the number of volunteers have remained the same? Does DFO not know how the massive cuts have affected stewardship programs and staff?

← **Page 4. Importance of Habitat.** This section is another overall great weakness in this proposed policy.

Salmon habitat does not have “significant economic value to non-fishery uses such as...” The water or the land may have a value to other competing land and water users. The fact that the land and water, or usually a combination of the two, that makes habitat, is most often totally incidental to a property developer. A developer is just interested in the land base or getting rid of run-off water. The fact that it is salmon habitat, and charges could be laid for encroaching on it, is a negative value to short sighted developers.

The policy states that the challenge for habitat managers is to protect habitat under greater and greater human development pressures while they enable development in support of social and economic priorities. I question why this is so stated in a salmon conservation document. DFO habitat staff has no such legal mandate! This may be a government’s political need and plan but it should be presented here in such a manner.

The main habitat priority DFO staff have is to protect and conserve fish habitat. Due to the great political pressures on staff they will use their discretion so as to not obstruct industry but it is not their job to promote industrial development. Common sense has to dictate that conservation must come first in a DFO wild salmon policy conservation document. The WSP weaves a wonderful but elusive goal of balancing conservation with economic and social needs. This is not new. It has been done ever since the 1950’s and it gave rise to a rapid net loss of habitat. In the 1970’s the goal of minimizing damage as part of ‘multiple resource use’ did not work and major losses still occurred. Then the concept applied under the blanket of ‘cooperative resource management’ did not work to achieve a no net loss of habitat. Due to the habitat status on the Pacific Coast the Habitat Policy of 1986 was introduced. Despite its early attempts of accommodating ‘sustainable development’ the DFO Habitat Policy with its key principle of no net loss has indeed been operating at a 'slow net loss' of habitat instead of a 'no net loss' or a 'net gain' level as required by that policy. Many DFO habitat assessment reports published after 1996 totally confirm this scenario.

This policy must strengthen the National Habitat Policy and not undermine it by forcing staff to promote industrial development as part of their job by coercively forcing them to back off on any conflict with industry to the detriment of salmon. The policy creates the basis and atmosphere to allow a more rapid net loss. This is unacceptable to Canadians and an abdication of the strong conservation policy that DFO and DOE (Section 36 of the Fisheries Act) must show in a new revived conservation leadership role.

Further to the above, even before the policy is final, DFO staff has been scrambling under Ottawa’s direction to change the approach to protect habitat while accommodating industrial growth in habitat areas. The tone for habitat protection in Canada was established here in BC by DFO staff in the 1970 to 2000 time period. Despite those years of progress the evolving conservation standards have been recently undermined by Pacific Region being required to accept national protocol standards that are less than

what is required to protect the sensitive habitat of healthy populations of Pacific salmon in our streams.

For instance, a few years ago Ottawa blocked Pacific Region stream crossing guidelines because they had to be national in scope and regions like Atlantic did not have them in Newfoundland. National standards on protecting riparian habitat have been thwarted because DFO does not protect riparian habitat in the rest of Canada. Indeed the enforcement of the blatant destruction of riparian vegetation in the Alberta Hay River system was recently blocked by DFO Ottawa. Also protection of Pacific Salmon in the Yukon from placer mining has become a political football over the years and this policy seems to re-enforce that approach whereby 'smart regulations' are developed by an industry / DFO partnership. When this is done, despite denial, the powers of the Minister have been, in all practicality, illegally fettered. These new ways of protecting habitat are not a modernization of habitat protection but a step back to the 1970s. The real difference is that in the 1970's there was a strong will to protect habitat and real progress was made such as the addition of Section 35 to the Fisheries Act. Unfortunately DFO does not have the corporate will to build upon that nor the memory to appreciate that.

← **Pages 4 and 5. Enhancement and Aquaculture:**

The WSP stresses the need for a 'balanced approach'. However in these two sections, DFO fails to live up to that test. The WSP notes the contributions of enhanced wild salmon but have not noted the real threat of hatchery raised salmon to wild fish. Has the Columbia River Basin and B.C. experience not shown that the production of hatchery fish has not been offset by a loss of wild salmon? Have DFO scientists not publicly noted that hatcheries are a greater threat to wild salmon than even salmon farming? Noting that you can address any risk factor by management is simply wishful thinking. Again DFO is avoiding developing good policy on how to relate to hatcheries and has neglected to relate to the issue of ocean ranching. This is despite the fact that DFO has prepared an internal paper on ocean ranching and such an approach could be seen as an attempted solution to rid the government of some of the expense in running their expensive hatchery program.

Again the test of balance is missed when it comes to aquaculture. Here DFO promotes the benefits of salmon farming but says nothing about the negative impacts – this is little more than a continuation of the Ottawa DFO sanctioned denial of any impacts of salmon farming on the natural environment and on wild salmon and their habitat. In addition, DFO again notes that it is caught in the middle of the aquaculture debate. This is not where DFO should be if they are to be leaders in conservation of wild salmon. As long as DFO is a promoter of salmon farming, it cannot take a balanced approach to the conservation of wild salmon. This is a key issue that the Minister must finally acknowledge by means of properly addressing this issue in this policy at this time. DFO cannot continue to keep sweeping these important issues under the carpet.

Further in this section DFO promotes their good work. In that it is not of a precautionary nature and does not emphasize conservation first, it must be presented in a more balanced manner. DFO has refused to conduct a balanced environmental assessment of fish farms

so as to balance the economic viability of farms with the environmental risks of cumulative impacts and the direct risk to wild stocks by allowing farms to be established as little as 1km from a salmon stream. This approach was not adequate 10 years ago and can even be less supported today unless you ignore recent findings and the precautionary principle. With new information and with a great public concern about sea lice and disease, why is it promoted in the WSP that must be a progressive policy document and not a DFO public relations document?

Further the document states that DFO will support aquaculture development consistent with its commitments to ecosystems based and integrated management as specified in legislation, regulations and policies. In that DFO has next to no legislation that legally mandates DFO to take an ecosystem approach to wild salmon management, what is DFO referring to here? DFO strongest piece of conservation law, the Fisheries Act, indeed has no ecosystem approach mentioned in it.

Also the WSP does a great disservice to the Fisheries Act by not mentioning Section 36 of the Act. This is key legislation that mandates the DFO Minister to not allow a deleterious deposit into any fish frequented waters unless so authorized. This leaves large section of DFO legal mandate out in the cold and therefore out of a comprehensive conservation approach needed in this policy. Although DOE administers this section of the Act, the Minister of DFO is ultimately responsible for its implementation. Why is the role of DOE not mentioned in this policy? Water quality is a key part of a WSP and it is obvious by its omission. A key recommendation here is that habitat protection and water quality protection must be combined and jointly administered. Why would you settle for a political decision made in 1971 that has handicapped the protection of wild salmon for over 30 years? Despite constantly growing pressures, wild salmon indeed get less DFO consideration from water quality concerns in 2005 than they did 10 - 20 years ago.

← **Page 6-7. A new policy approach.** A rationale for a new policy approach is presented. However, if the legislation is not adequate to support that policy, should required changes to legislation or other policy (e.g. National Habitat Policy) not be mentioned? Should weaknesses in the administration of legislation including the pollution sections of the Fisheries Act, as administered by another department that appears to have nothing to do with the WSP, not be addressed? It's great to mention the Oceans Act but it does not have any teeth in it and it does not apply to salmon in their freshwater environment. Also, it is obvious that the ecosystem - cumulative effects aspects of CEAA are ignored by DFO so as to not scope out risks too greatly due to workloads and impacts to industry? How is the WSP going to address these issues?

If DFO is serious about reversing many trends in wild salmon protection, a truly new approach must be taken in relationship to salmon and habitat management as well as in how DFO is organized and equipped to do that job. Much of this is in the diligent direction of staff in conservation needs of salmon (versus the balancing of development needs with habitat needs) and in making great in roads in industrial stewardship with those that manage land and business in the Pacific Region. Many of the old experiments (e.g. MRU, CRM and LRMP type land use planning) have not worked well and simply

taking old tools, legislation and relationships and wrapping them in a new blanket will change little. The policy must outline a significant new will by the Federal government (not just DFO) to truly conserve salmon as a national treasure and drive improved arrangements with industry and the Province or the trend of a net loss of habitat capacity or a loss of real habitat will prevail. The accommodation approach (referred to as a “balanced approach”) outlined in this document is not a step forwards.

← **Page 9. The Diversity of Wild Salmon.** The policy presents a long discussion on salmon diversity. This is a rationale for certain policy positions but should it be part of a policy document? The public would be very interested in not reading about the rationale but about the position DFO is going to take and how are they going to implement it. The rationale for the various policies should be in an appendix. Considering the time put into this policy and the importance of Pacific salmon to the West Coast, we needed a policy rationale document where you determine policy needs based on an analysis to identify shortcomings in present conservation approaches, then outline the draft policy, its implementation plan and implementation needs.

For instance, the policy notes the adaptation to local habitat diversity and the need for habitat connectedness. We agree with that but how is DFO going to maintain habitat connectedness when 90% of habitat alteration decisions are made by the Province, their crown corporations, their local governments or by private industry and land holders with provincially issued permits that allows development or works that harm habitat? What is needed here is a roadmap into the future, not a rationale and discussion with little reference to how it can be done. The policy gives no insight into how salmon conservation will become a provincial and federal joint priority. What policy or approach must be adopted to make it a joint Federal-Provincial reality? Failure to do this will not advance us beyond the countless Federal-Provincial letters of agreement or MOU’s that have maintained and guaranteed a net loss of salmon habitat.

Further the discussion notes that survival strategies should continue to serve wild salmon well “unless human caused pressures become insurmountable”. Have human pressures on the Coquitlam, Bridge, Salmon Rivers and Scott, Hoy, and hundreds of other streams in BC not become insurmountable? Even in the Yukon the human pressures from one industry, placer mining, have become insurmountable to DFO and about 100 salmon and other salmonid streams have been lost. Considering this, what does the policy direct DFO staff to do to stem this loss and restore past losses?

Page 11. Goal and Guiding Principles. We support your Goal and Principles but the policy is weak on how you are going to accomplish this in the face of insurmountable human pressures, weak will to do the job due to objections from the Province and industry and DFO Ottawa, reduced resources and a lack of skill sets in the present DFO organization.

Page 12. The Fisheries Act was actually passed in 1868 not 1867. The Policy for the Management of Fish Habitat should be dated 1986 not 1985.

➡ **Page 12. Principle 1.** This principle carries little clout. It notes that “the Department will strive to maintain healthy populations in diverse habitats”. Ever since 1970 the Department has strived to do this. Even with SARA, CEAA, Oceans Act , Habitat Policy and numerous amendments to the Fisheries Act it has not done an adequate job in this area and that track record has necessitated yet another new approach outlined in the WSP. Simply ‘striving’ to do it is not measurable or accountable. Waiting for this to be developed after the policy is adopted is not acceptable.

How are you going to the job when DFO cuts are great, the will do to the job is low, and resources and needed expertise is simply not there? The policy or a supporting document has to outline how you are going to overcome these impediments or the policy is not worth the paper it is written on. One can argue that this is a different issue but in reality there is little use in developing a policy if there is little probability that it can be made to work.

➡ **Principle 2.** Good idea but despite numerous past claims of transparency and inclusiveness, DFO does a terrible job in this area. Once again how are you going to do this or are these just empty words? For instance, as you released this policy DFO just signed an agreement with major industrial associations in Canada on a new way of protecting habitat. As part of that new ‘modernized approach’ DFO rushed to complete new habitat protection protocols for many industrial activities without any public consultation. At the Minister’s release of this document in December 2004, Dr. Riddle noted the large number of groups and resources that were out there to help DFO do its job. How many of the watershed / stewardship groups were consulted on this new approach to protect habitat? Would consulting them not be part of the ‘new balanced approach’? DFO did not make any effort to contact or consult with the public on this new approach.

When and how will you become transparent with the politicized staff you now have as managers in the organization? It is obvious that their calling to support societal or government social and economic concerns may be greater than their real job - conservation. A memorandum was recently circulated to DFO habitat staff from DFO Ottawa that their job was to take on this new balance as outlined in this policy and that conservation was not to be their central priority. If this is the modernization of habitat protection it is a step back to the pre - 1970s. Of greater concern is that it is being implemented before this policy is finalized and without any public discussion. How can DFO explain that and expect public trust and support? You simply cannot promote and claim transparency in these matters and as you make those claims you deliberately contradict those very claims?

➡ **Principle 3.** As noted earlier, this section is dangerous to the conservation of salmon habitat. It is vague but it is clear that DFO is rolling the clock back to the confused and often misused concepts of Brundtland (1988) and asking staff to balance fishery needs with human social and economic needs. It is obvious that fishery decisions have almost always taken the social and economic needs into account. That is done without saying or we would not be suffering a rapid net loss of habitat (1860’s to 1980) and since 1980, a

slower net loss of habitat. Should it not be the intent of this policy to reverse that habitat loss trend and not formalize it? Is it not the mandate of other government agencies to address the economic and social needs of government? Does this policy intend to force DFO staff to relinquish their leadership role in conservation? No one else presently provides that leadership in government. This policy should be a unique opportunity for DFO and DOE to get together to firmly establish themselves as the aquatic conservation leaders in the federal government starting with this policy..

This issue hi-lights one of the overarching weaknesses in this policy paper. As part of policy development one must analyze the status quo and develop new approaches or policy where the old approach is not working. Where is that analyses? DFO and the policy advocates a lurch into a 'modernization' of habitat protection when there is no objective review or studies to support that new direction. Is that new direction mainly motivated by a political agenda to support more economic growth? This lack of analyses undermines the entire habitat aspects of the WSP. Where have DFO staff blindly promoted conservation without taking into account social and economic needs of society? Where do we achieve conservation above all other demands of society? The policy must note that habitat is often compromised to an excessive level and this has resulted in a net loss. A stronger conservation approach has to be taken. This policy should then define when and where that will happen.

When DFO staff has to find a social, economic and environmental compromise, a much compromised position will come out of DFO before it is compromised again by those with a development mandate. The WSP fails to realize that environmental protection is paramount if the social and economic needs of society are to be protected for future generations. This section is very short sighted and naively believes the three legs of sustainable development can always be treated equally not understanding that a healthy environment allows the other two legs of the stool to have a future. In most cases the conservation aspects have to get greater share of the balance to offset 140 years of development in B.C. that most often ignored the conservation leg of the stool of sustainable development. Balance cannot just relate to the present needs of the economy. The temporal aspect of balance and the tremendous cumulative effects of over a hundred years of habitat loss must be taken into account.

Principle 3 will allow staff and political and industrial lobbyists to insure that fish considerations come secondary to many economic needs of industry and the government of the day. This principle seemed to be the driving force behind DFO when they recently contradicted all their past studies and positions and joined in a new partnership with the Province and allowed political direction in B.C. to reverse the 2001 B.C. urban streamside protection directive. With this new smart regulation salmon will have less protection in BC and this 'modernized smart regulatory approach' will simply give industry more certainty to develop more land near streams and thereby not afford salmon more consistent and better protection. This approach is not precautionary in nature and did not put conservation and possibly public protection first. This is not a smart regulatory approach. Also it did not offer the transparency and balanced debate that went into the original streamside protection directive of 2001.

← **Page 13. Objective 1.** The same fatal flaw identified in Principle 3 again rears its ugly head in Objective 1. Here it shows how sustainable development will be implemented. It says that habitat and stream fish populations can be written-off for social and economic needs. It tries to sugar coat the process by noting that this will be a temporary loss in localized spawning groups in a CU. After suggesting this totally objectionable approach, the document then determines that other spawning stocks will then re-colonize depleted spawning areas. This is little more than misguided political wishful thinking. It is not supported by good science, the shorter term reality and the difficult challenge of protecting fish habitat that does not have fish in it hoping that they someday will return.

Further to the above, a log splash dam destroyed a major run of sockeye over 80 years ago in the Upper Adams River and despite the passage of three human generations, abundant runs in the lower Adams River did not allow for a re-colonization of that depleted spawning run. Industrial greed destroyed the Coquitlam River pink salmon runs some 50 years ago. They have not returned despite abundant runs in adjacent areas. Waiting for strays to re-colonize lost runs in reasonable human time frames is often based more on wishful thinking than good science. The reality of protection and conservation must be more central to this policy than wishful thinking.

In these sections the discussions on science and diversity does little to counter the reality of the destruction of salmon runs when a strong conservation approach is not practiced in and around our salmon streams.

← **Pages 14-16. Objective 2. Maintain Habitat and Ecosystem Integrity.** This section of the report has major flaws. As noted on page 1 of our brief, parts of this policy document is based on little or poor analyses, wishful thinking and contains many errors. The policy says habitat protection is based on a project basis and ignores ecosystem considerations – largely true! Also it says it is mainly applied to freshwater systems. This is incorrect.

NNL concepts have been related to marine, estuarine as well as fresh waters for the past 20 years. The writers should review and become aware of some of the DFO NNL assessments of estuarine and marine projects. Project reviews have been generally based on individual project reviews. Why? DFO staff has been urged under CEAA by Ottawa and even the Department of Justice legal advisors to scope out projects as narrowly as possible. CEAA does afford the tools for looking at a wider picture and including cumulative impacts.

If this document is to be credible it should properly explain why DFO staff have not expanded environmental concerns beyond project by project reviews and how is that to be overcome. Staffs have been told to avoid broad scoping and do not have the resources to broadly study ecosystem impacts. Also the Fishery Act is designed to hold each project (person) responsible for their actions. The major foundation of impact assessment originates in the Fisheries Act and it does not have a cumulative effects or ecosystem basis to deal with multiple developments. Non-point source impacts including many

water quality issues relate to this same shortcoming and are often land use based – a provincial mandate.

← **Page 16.** The sidebar **Changes in Habitat Management** is really in a time warp. This National Smart Regulation initiative has never been presented to the public for comment despite your proposed policy of transparency and partnerships. Despite the great investment in stewardship groups, does DFO only see industry or the Province as a partner? Also the smart regulation approach as outlined has been pushed by DFO in the Yukon as a way to protect fish from placer mining impacts. By involving all partners DFO more or less delegated powers under the Fisheries Act and the smart regulation became a regulation to protect miners from fish and habitat destruction has been rampant in the Yukon including the loss of entire streams. The approach in the Yukon sets a bad precedent for all of North America. Also this smart regulation sees habitat destruction as short term and someday fish will re-colonize the streams that have been destroyed. Again here the WSP is overtaken by the need for ‘balance’ with the industrial development, wishful thinking and a lack of reality.

The Policy wants to focus habitat protection to ‘high risk’ projects. This approach totally contradicts the policy goal of ecosystem protection and cumulative effects inclusion. Streams often die by a thousand cuts and not single high risk project. The problem with the present system is that high risk projects do get most attention and stream degradation is assured by the cumulative effects of hundreds of low risk projects and non-point source impacts. This has been clearly spelled out in about 10 DFO habitat protection assessment studies completed during the past 10 years. Is the ‘smart regulation’ initiative really just a catchy cheer leading slogan as it allows habitat protection to lurch sideways (not forwards)? Once again, where is the analyses of what works and what does not work?

Tools to create more effective habitat reviews have been pushed for years but have often not been supported by DFO management. A lack of management leadership in the late 1990s and into 2000 allowed an integrated habitat enforcement program to fail. A program to have dedicated habitat fishery officers in place across B.C. was never implemented even though areas of Canada like Alberta and Saskatchewan, with few fish, have dedicated DFO habitat enforcement officers. A program to train habitat experts was discontinued due to a lack of resources and a retirement of DFO expert witness staff. An initiative to certify habitat consultants to do the work that DFO would / could not do was sabotaged by select DFO staff that refused to accept change. This was never resolved because of a lack of DFO leadership and vision in these areas. The vision that is presented here is not based on experience, science nor the reality of making it work.

Greater predictability in habitat decision making was undermined by decisions in 2000 to break up Pacific Region into more independent areas and habitat decisions logically became more independent and inconsistent. This is now compounded by Ottawa determining that they will control large project reviews. Also more inexperienced staff has been put into habitat staff positions. Consistency is a great objective but DFO has been doing much in the past 6-7 years to promote greater inconsistency. How is the WSP policy going to address those problems?

DFO wants to renew partnerships. This was the theme of the \$50M and the \$100M Green and CFAR programs from 1992 to 2003. As more and more partnerships were developed with local government and watershed groups, DFO totally cut the funding for this work in 2003. Also the BC government has done more in the past few years undermine habitat protection by de-regulation, cutting stewardship programs and cutting habitat protection staff. Partnerships are nothing new.

What policy can DFO adopt to rebuild old working partnerships evident in the 1970's before partnerships often just became a political photo opportunity? It was the strong working relationships between the old Fish and Wildlife Branch of B.C. and DFO that worked together to oppose many large destructive projects and forced Hydro and Highways to change their practices. This WSP has not suggested anything that will make partnership better work other than the need to sign more partnership MOU's.

The document urges a new management approach in assessment work to improve consistency. It must be appreciated that it is DFO management decisions that have often undermined hard working and dedicated habitat staff from doing this very exact thing.

The side bar ends by again dreaming about transparent decision making. Action on this, especially in the habitat protection field, is not on any radar screen and one can only look upon this as hollow words. Those in DFO that promote transparency in DFO decision making are usually threatened by a fortress mentality driven the system. Implementation of these dreams has to be spelled out in some detail because DFO is generally opposed to openness and is definitely not aligned to do this work. Tremendous pressure is put on staff to not release work that will not support the DFO mission to look good (i.e. the empty 'excellence' cheer leading). The WSP is an ideal opportunity to make DFO open, honest and then once that is done, results will improve and DFO will gain the public support they and the salmon resource so badly need.

Page 16-17. Here again DFO talks about balance between diversity and the fishery. Here you have a better chance of achieving it than in the habitat conservation areas. Here the different aspects of the fishery should at least share the same goals. In industrial development, the harm to fish habitat is most often associated with a financial gain and fish are an obstacle to short sighted industrial wealth.

Once again this section is vague – what are the public values that you keep referring to? Also in this section you stress the need for all to be engaged in the process. Nice but not supported by DFO actions and even the resources to do it. Where will all the expertise and resources come from to make a heavy stakeholder consultation process work? Undermining the involvement of many stakeholders is DFO's inability to fund them and often to seriously consider their input. How is the policy going to help DFO change the way they operate?

← **Page 17. Strategies and Action Steps.** This section dwells on the application of precaution, better habitat protection by integrating fishery plans into habitat protection

and society's chosen level of risk. The definition of adverse risk or the application of the precautionary principle as defined by government and employed by DFO is unacceptable. It simply is not precautionary in approach and will not make conservation a first priority. DFO decisions to this date have often documented the lack of precaution or adverse risk decision making in their many decisions related to salmon farming.

Integrating fishery plans in with habitat protection priorities sounds good but it will not give rise to better habitat protection. What is the rationale to do this other than the buzz words – 'integrated planning'? Many runs and streams are not actively managed and will therefore get lower levels of protection. Where you can develop an integrated fishery plan for bigger runs, those fish often already get the highest level of protection. This also contradicts early sections of the policy. How will you protect habitat if there are no fish in the habitat? Regardless of IFMPs, habitat has to be protected at a high level at all times or you are undermining your resource based and the future of the resource. If the habitat is there and the fish stocks are managed properly, the fish will use it!

← **Page 18. Strategy 1.** Conservation Units must small enough to not allow what DFO has outlined in the document i.e. the loss of streams in a CU as being of no major concern. Also what DFO has outlined in the policy will require significant resources. To better understand the genetics and the drivers of evolution and conduct tracking of wild salmon is beyond DFO's present capability. Meanwhile resources continue to shrink as the job complexity increases. DFO is at a point o no return. Any new work will allow other priorities to be lost. This gives rise to a policy of No Net Gain!

← **Page 22-23. Strategy 2** and the previous Strategy 1 require a great deal of monitoring. With existing or even reduced resources, how is DFO staff is going to design and conduct very complex and difficult monitoring to determine stock and habitat status? This sounds great but impossible with the science and the staff available to do it. Monitoring the status of habitat and tracking its changes requires in-depth science. Examine some of the simple but real monitoring issues. The province and DOE cut much water discharge monitoring stations over the past 10 years – a loss of most critical information for protection and planning. DFO could not afford to maintain long term studies in the Carnation Creek long term logging watershed study and withdrew over a decade ago. To track watershed changes DFO will have to conduct the equivalent of at least several Carnation Creek type studies on an ongoing basis and monitor hundreds of other projects and specific streams. This is a phenomenal task. With present resources and expertise this is simply impossible. If it is done with the present envelope of resources, some very misleading information will be generated that will not hold up to scientific scrutiny.

Here DFO mentions the need to index water quality as a benchmark of habitat quality. In that this was delegated to DOE in 1971, where does DOE and Section 36 of the Fisheries Act fit into this policy? This is a major issue. Just saying it will be done in this document will not allow anything to happen unless the policy document outlines how it can be done i.e. implementation.

Finally in the monitoring, indicator and benchmarks of habitat quality, the section is very vague. It is probably vague and dwells on wishful thinking because there is not a simple way or cost effective way of doing this work. A reality check is really important here. thinking.

➡ **On page 23** you stress the need for linkage between habitat protection and production. This is desirable but why is it so essential to do a good job of protecting habitat unless of course you are only going to protect part of the habitat that salmon depend on? Also if you stress habitat protection in high production areas this will undermine an ecosystem and encourage a loss by cumulative effects in less productive areas and that could undermine local population and habitat diversity. All habitats have to be protected if diversity and all the good things the policy mentions are to be safeguarded. In some of these sections, certain statements start to contradict and undermine the overall policy goals.

The policy refers to habitat priorities in bottleneck areas. Where DFO in the past have identified bottlenecks to production or areas of significant habitat loss, DFO management has not shown the leadership to address these priorities due to fear of conflict with political needs in Ottawa, with industry or with the Province i.e. terrible fish farm siting guidelines, no culvert guidelines, no or inadequate riparian regulations, etc.

Finally in the habitat section we see no emphasis on enforcement of the Fisheries Act especially as related to Sections 35 and 36. Why is that not prominent? In National Green Plan consultations in 1991-92 the public demanded more enforcement of environmental law. Where is this need mentioned in this policy? One reason we have a net loss of habitat is that DFO and DOE did not diligently act on the public wishes of 1991-92. This is a great weakness in DFO Pacific Region e.g. inability to stop constant sediment releases from Coquitlam River gravel pits. This problem is even worse in other parts of Canada. The concern is that Pacific Region is being aligned by Ottawa DFO to appear consistent with the rest of Canada which takes a less diligent approach to habitat protection issues.

Page 24. In action Step 2.5 DFO notes the need to modernize habitat protection with a complementary data management system. What you have presented in this section has been ongoing for many years and is not really new at all. The big difference is that millions of dollars have gone into it in the past and that money is no longer available. What the policy misses is why it is not now as a result of past expenditures and how it can now be done without those resources. Management accountability has to be taken to task if the system is to now change. I see little in this document to promote management accountability and a policy to improve leadership and management capability. If you do not renew management, you will not renew your conservation of salmon and salmon habitat.

➡ **Page 24. Strategy 3.** We agree with the need to include ecosystem values and monitoring. As noted earlier - how is this going to be done considering that there are

expertise and resource shortcomings. Also there is no good legal mandate to direct DFO into doing this. When the Province lifted the moratorium on new salmon farms DFO had a golden opportunity to conduct a proper ecosystem evaluation of salmon farming (Humphry Rock 2003-2004). However they chose to ignore those provisions of CEAA and it was not done. Further if DFO had applied the precautionary principle they would not have sat on the sidelines and went along with BC government political decision to lift the moratorium or to allow the move of salmon farms to northern B.C. waters. Where courts have forced a wider review of development projects, it challenged the work DFO had done i.e. Eastern Rocky assessments. How is DFO and lack of ecological culture in that agency going to change? The policy needs to outline how those changes will be made.

← **Page 25.** DFO has again ignored global warming as something they must help address to protect wild salmon. Pretending that the protection of diversity is the wild salmon's answer to adapting to warmer condition is again wishful thinking. It should be noted that when FRAP published a DFO technical report on global warming and Fraser River fishery stocks, Ottawa raised much fuss about it and tried to get the report withdrawn in that such frank discussion could affect the federal government's agenda on global warming. Here DFO has to determine if they are serious about protecting salmon or is an External Affairs Department issue of greater priority to the government agenda of the day. Its time DFO stood up and was outspoken on the need to address climate change – the biggest long term threat to salmon resources.

Page 27. Integrated management. The side bar on integration mentions the success of bringing many stakeholders together. However, this example fails to note that DFO has not integrated its salmon habitat protection needs for consideration by this new body. Where are the habitat considerations and consultations? Also one cannot just pretend you can have integrated plans for salmon. How about the rest of the ecosystem and other fisheries that has a direct bearing on salmon e.g. the herring fishery?

← **Page 28. Planning Process.** It is good to believe and work towards a long term ecosystem protection and planning process. However, what is on this page is no different that what DFO noted 10-20 years ago. DFO in fact committed much involvement to the only broad scale planning we have seen in BC – the Land Resources Management Planning process. A DFO assessment indicated that DFO staff accomplished little in the process and at times it even undermined the protection of salmon i.e. the Cariboo LRMP.

As noted earlier, where are the DFO analyses about why past planning processes did not work and protect fish habitat better? For DFO to now promote a process that may not be a priority for those constitutionally mandated to manage land, water and waste i.e. the provinces, how is it to be effective? The landscape and water uses cannot be planned around salmon with the jurisdictional breakout, the will and priorities the different levels of government now demonstrate in B.C... The only way some of it can be done is to invoke water use rights of fish under the Fisheries Act. However, DFO withdrew their rights to set this precedent when they withdrew from a court imposed judgment on Alcan and B.C. on the Nechako River back in the 1980's. That decision would have put DFO in

the driver's seat but DFO withdrew from that case so as to not embarrass the Province. Once again politics interfered with the development of good court precedents to conserve salmon and their habitat.

We have every hope that governments can get together to plan out the landscape as to proactively protect aquatic habitat and salmon. There is no proof that it can be done considering the low priority the BC government has put on planning and fish habitat protection. As part of your analyses you should analyze past land use planning products and agreements and determine what worked and especially why most of them did not work. This policy could direct DFO to get their act together but it may not go beyond that without a strong federal –provincial political will and high level agreement to allow salmon to persist and thrive into the foreseeable future. However, to do that in DFO would be a real accomplishment because the present organization structure allows all managers and many staff to be experts on almost anything and DFO cannot come out with a common message of what should and must be done to conserve habitat effectively. The new 'modernization approach' is a far cry from what will work.

Page 31 to 34 Strategy 5. The above many comments cover most of the issues raised in this section. To go over them again would be redundant. However in summary it appears that most staff remaining in DFO will spend an inordinate amount of their time and resources in designed new approaches, monitoring, planning and doing assessments and issuing annual reports in an air of transparency. Who will be left to count the fish, do the project assessments as required by law, do the surveillance and conduct enforcement work?

← **Page 35. Implementation.** It is obvious from these several pages of comments and criticisms that the implementation section, that only covers two pages. It is another weak part of the report. Implementation of any wild salmon policy, realistic or not, requires a very different DFO than what now exists. This involves the Pacific Region as well as Ottawa DFO, the legislation, resources, and many other factors. This policy, even with great improvements to remove the fatal flaws cannot be implemented as vaguely as it is outlined. Implementation is always the greatest phase challenge of any plan for policy. This section needs great upgrading. What is here is unrealistic in terms of thinking it can be done within the envelope of available funding. Stating such is again dreaming. Repeating in your implementation section that some localized groups of salmon may disappear over time is an admission of failure. That is not a good leadership quality. If you believe that, you must better spell out what such losses can be accepted and under what conditions.

Page 27 Conclusions. Good final key elements are outlined but how will the WSP transform DFO's approach to managing Pacific salmon and their habitat and dependent ecosystems? This conclusion also seems to omit that many independent ecosystems can influence the survival of salmon and their habitat. It is also false to believe much of this is a new way of doing business. Much of it has been attempted before and DFO has just not been able to make it work. How will they overcome the many impediments in their

management and lack of insightful leadership? This is not in the policy. Will this develop into yet another DFO renewal document that the public will not see?

In a sense DFO has dusted off some old ways of doing business in an attempt to implement them now because the status quo is just not working. However, when changes were promoted in the past the dollars were often there to implement the changes but the management leadership was not present. Now the leadership is still in confusion but the resources are no longer there. This policy is asking DFO staff and stakeholders to change things at the most inopportune time. Is the desperation of the 2003 - 2005 period great enough to make change possible with no new resources? This is worth considering or the policy is really a dream with fatal flaws in it.

Page. 39. Next Steps. Here the paper finally mentions that this is a document that is not yet final. It appears that DFO has refused to call it a 'draft' document. Unfortunately significant resources were spent to make it look like a final glossy document. The DFO Minister made a plea in the February 2, 2005 edition of the Vancouver Sun for comments on this paper. However, when we visited the DFO web page on the WSP, DFO says the majority of this policy is not up for review and you want to focus consultation on the almost non-existent implementation section of the policy. Why would DFO not be more transparent about what do you really want out of your consultation efforts? You cannot build credibility and trust with other groups by sending out such mixed and confusing messages.

DFO and the federal government seems to be having a difficult time in determining what they want to do with wild salmon and what should they expect when they send out a draft policy that is weak in its core goal – the overdue need to better conserve wild salmon and their habitat in an ecological setting as demanded by the public.

We appreciate this opportunity for input and look forward to be able to contribute to an improved WSP and a new and strong federal and provincial joint will to create a sustainable future for wild salmon on Canada's West Coast.

Sincerely yours,

Otto E. Langer
Director of Marine Conservation
David Suzuki Foundation

Copy to:
Minister of Fisheries and Oceans MCC
CAAR PFRCC Minister of Environment

Appendix 1. David Suzuki Foundation Publications Dedicated to the Protection and Conservation of Fish Stocks on Canada's West Coast.

Tank, S.T., 2004

Seas of Change: Ten Recommendations for Sustainable Fisheries on the B.C. Coast

David Suzuki Foundation Publishers

Williams, I.V., Groot, C., Walther, L. 2004

Possible Factors Contributing to the Low Productivity of the 2000 Brood Year Pink Salmon (*Oncorhynchus gorbuscha*) that migrate through the Broughton Archipelago, B.C. Canada.

David Suzuki Foundation Publishers

Langer, O.E.. 2003

Is there a Bottom Line in the Wild Salmon – Farmed Salmon Debate? A Technical Opinion

Bioline – Association of Professional Biologists of B.C.

Rolston, D., Proctor, B., 2003

Salmon Farms and Sea Lice: A baseline report of the incidence of sea lice on juvenile salmonids on British Columbia's North Coast.

David Suzuki Foundation Publishers

Leggatt, S., 2001

Clear Choices, Clean Water: The Leggatt Inquiry into Salmon Farming in British Columbia

David Suzuki Foundation Publishers

Volpe, J. 2001

Super un-Natural: Atlantic Salmon in B.C. Waters

David Suzuki Foundation Publishers

Edwards, D., Glavin, T., 1999

Set Adrift: The Plight of British Columbia's Fishing Communities

David Suzuki Foundation Publishers

Glavin, T. 1998

Last Call: The Will to Save Pacific Salmon

David Suzuki Foundation Publishers

Ellis, D.W. & Associates, 1996

Net Loss: The Salmon Netcage Industry in British Columbia

David Suzuki Foundation Publishers

Walters, C, 1995

Fish on a Line: The Future of Pacific Fisheries

David Suzuki Foundation Publishers

Pinkerton, E., Weinstein, M., 1995

**Fisheries That Work: Sustainability Through Community – Based
Management**

David Suzuki Foundation Publishers