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Meeting Needs: A Consideration of the Aboriginal Fisheries Strategy and the Future of Food Fisheries Management

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INTRODUCTION Food fisheries of the Pacific coast of Canada have been heralded as some of the most abundant in the world. During the last two decades, stock declines have been accompanied by intensifying conflicts between resource users and resource managers. Three competing groups of resource users are Aboriginal fishers, commercial fishers and sports fishers, though these categories are not mutually exclusive and have been known to cooperate. I find it useful to divide the fisheries into categories however, based on the premise that because each is motivated by different perceptions and uses of the resource, they therefore function to fulfill fundamentally different needs and require different approaches to management.

The federal government of Canada has assumed responsibility for the management of each type of fishery and attempts to balance resource allocation between the different user groups. Since the decision rendered by the Supreme Court in *R. v Sparrow* [1990] federal strategies for the management of the Aboriginal food fisheries have been modified to accommodate emerging legal definitions of Aboriginal rights. In 1992, the Department of Fisheries and Oceans introduced the Aboriginal Fisheries Strategy (AFS) in response to the suggestions of the Court. The underlying policy objective was to provide a clear and simple regulatory framework for the management of the fisheries in a manner consistent with the *Sparrow* decision and with the communal nature of Aboriginal fishing rights.

Although developed in the hopes of resolving resource conflicts and improving the management of the fisheries, the AFS has met with much opposition, both from Aboriginal and non-Aboriginal fishers. Many Aboriginal communities remain reluctant to negotiate fishing rights with the government. Their reluctance stems in part from past experience with restrictive resource policies and regulations, but also from more fundamental disagreements based on understandings of the nature of fishing rights and responsibilities for the resource. Criticisms have focused in particular on the imposition of a harvest quota on the food fisheries. Underlying this opposition are different perceptions of the salmon, its role in community, and appropriate rules of conduct for sustaining the resource that are deeply rooted in notions of Aboriginal culture and spirituality.

I will argue that the AFS has met with limited success because it continues to impose principles and practices of a state management system that are culturally inappropriate for many First Nation communities and resource use systems. By ignoring the importance of the social, spiritual, and cultural purposes underlying the harvest and use of salmon in Aboriginal communities, promoters of the state model of fisheries management will remain in conflict with

those who most value and rely on the resource. In practice, a quota severely limits the ability of Aboriginal fishers to provide for their needs through traditional resource distribution systems. Philosophically, it represents state perceptions of the salmon resource and its management that are opposed to those found in Aboriginal models. The imposition of this system impairs the ability of Nations to honour and fulfill their spiritual obligations and ecological responsibilities to the salmon and the Creator. It hampers the exercise of traditional beliefs and practices in fisheries management which are integrally involved in the meeting of needs in Aboriginal communities. In this paper I will examine some of the reasons underlying opposition to the AFS within the cultural context of one coastal First Nation.

I. THE NUXALK NATION AND THE SALMON FOOD FISHERY
The Nuxalk Nation is located on the north-central coast of British Columbia. Even after 200 years of European contact, the Nuxalk people maintain close ties to the lands and resources of their traditional territory, despite increasing pressure from external developers and throughout significant changes to their economic and social systems. Reliance on the salmon food fishery as a source of sustenance and cultural re-enforcement has been maintained or even strengthened over the past few generations. This reflects the determination of members of the Nuxalk Nation to enjoy traditional resources and to exercise traditional rights.

During a series of interviews conducted in 1997 and 1998, some members of the Nuxalk Nation took time to express to me the many ways in which they value the salmon food fishery. Their needs and concerns indicated the wide range of factors to be considered in discussing fishing rights. Although the importance of salmon spans economic, cultural, social, spiritual and political realms, I will narrow the scope of this paper by focusing only on those issues relating to meeting needs through the resource distribution of products of the salmon food fishery, and how successfully these activities are accommodated by AFS agreements. I will present some of the opinions voiced by Nuxalk people here, as the limitations of federal strategies such as the AFS can only be realized within local cultural and socio-economic contexts.

The Salmon Resource

Five species of salmon—spring, sockeye, pink, coho, chum—and steelhead trout spawn in the rivers encompassed by the Nuxalk territory. The fish are not considered equal to the people who enjoy the use of the resource, but are valued for particular characteristics, such as taste, timing of run, abundance, and cultural context. Each can be made into a wide variety of products to meet needs within the community as well as supplying trade demands in other communities.

Soon after the creation of government-imposed reserve systems in the late 1800s, regulations restricted the Nuxalk salmon food fishery to the four-mile stretch of the Bella Coola River that passes through their reservation. Products from the in-river salmon harvest function as the staple food source in Bella Coola, although the introduction of commercial fishing has enabled those fishers with commercial boats and licenses to more easily access marine resources and distribute them within their families and the community. The salmon food fishery is accessible to all Nuxalk because it is less reliant on expensive gear and because it takes place within the reserve boundaries. The food fishery should be viewed as distinct from commercial fishing activities in

which the Nuxalkmc are also involved. The two systems are regulated through different licensing systems (commercial versus communal licenses), are geographically distinct, and function for different purposes. Fish acquired through commercial fishing is generally destined for sale in national and international markets, while the products of food fishing are used for subsistence, ceremonial, and trade purposes.

Understanding Nuxalk Aspirations

During interviews and informal conversations four themes arose with respect to current concerns and future goals for the food fishery. I will categorize them as economic, cultural, environmental/spiritual, and political/social, but stress that the four areas are integrally related and would perhaps be more accurately envisioned as overlapping spheres. For the sake of simplicity, I will summarize them as follows:

1. Economic: most often stressed was a need for the continuation of the salmon food fishery as an important socioeconomic provider. People emphasized that any management system must accommodate the variability of needs within the Nuxalk community, including a high rate of population growth and poor opportunities for wage employment.

2. Cultural: as well as supplying daily nutritional benefits, the harvest and processing of salmon function to promote intergenerational activities; they ensure the passing on of knowledge and culture from elders to children. Adequate supplies of salmon ensure that important cultural events such as weddings, feasts, funerals, celebrations, and potlatches can continue. Harvesting activities also strengthen spiritual and emotional connections to lands and natural resources.

3. Environmental/Spiritual: most fishers are quick to raise the issue of environmental degradation caused by industrial developments. The impacts of logging, increased commercial and recreational harvests, and pollution were common concerns. The links between a healthy watershed, healthy salmon populations, and healthy communities are obvious to those who rely on the resource. During interviews and cultural events the importance of respecting a spiritual obligation to use, share and protect the salmon also became apparent.

4. Political/Social: interview participants frequently mentioned issues of control over resource management. In the last few generations, the Nuxalk people have witnessed increasing competition for the resources contained within their traditional territories, while at the same time experiencing diminished power over the resource decisions that affect them. Regulatory systems developed by the federal government seem to have little relevance to the Nuxalk daily and long-term needs and use of the salmon resource, nor do they allow for the expression of traditional resource management principles and practices. A long-held prophecy speaks against federal control: AMy dad, and his dad, and his dad, told me that if the government has control over all of the fish, that that species would become no more@ (0026).

The First Salmon Ceremony embodies many of these aspirations in a single, vital cultural event. Early in the season, during the first run of spring salmon, people gather to hold a ceremony to both welcome the salmon and give thanks for its annual return. The importance of this ceremony lies in re-affirming the connection that the Nuxalkmc feel to the salmon, demonstrating respect and thanks to the Creator, and honouring an age-old promise to respectfully use and then share the salmon through feasting. While up-holding this spiritual obligation to ensure the continuation of the salmon runs, the ceremony is also an expression of rights to the resource and

the land.

The Importance of Exercising Traditional Rights

Recent legal decisions have determined that the First Nations of Canada have a priority right to fish for food, ceremonial and cultural purposes over all other harvesters (*R. v. Sparrow*, [1990]). The on-the-ground reality is that the salmon food fishery is the last in a long line of commercial and sports fisheries, and many Aboriginals who are reliant on the food fishery feel vulnerable to government closures for conservation purposes. These problems are recognized by those who work in the management of the west coast fisheries:

For fisheries managers, this ranking of prioritiesBspawning escapement, Indian fisheries, sport and commercial fisheriesBpresents difficulties since migrating stocks are encountered in the reverse order. Managing catches and shares of catches is a difficult business at best. When, in addition, the total stock size is unknown, allowances made for spawning and Indian catches are often not attained (Pearse 1992:6).

The harvest data from food fisheries supply the numbers necessary to model fish populations and calculate escapement and harvest levels. Negotiations made under the AFS are geared towards providing the government with data that until now has remained largely unquantified. Some Aboriginal fishers disagree with this approach to resource management, particularly in regards to the use of purely quantitative assessments to define need. While resource rights remain unsettled in BC, many Aboriginal fishers are hesitant to co-operate with the federal government on resource management strategies. At the same time, experience dictates that if First Nations choose to not exercise a traditional right, they may lose it.

II. FEDERAL REGULATION OF THE FOOD FISHERIES AND ITS IMPACTS ON COASTAL SOCIETIES
detailed regulation of the Aboriginal food fisheries, including the prohibition of preferred harvest methods and resource distribution mechanisms (Newell 1993; Lyons 1969). The introduced federal regulations were based on objectives of resource conservation in the face of increasing demands for salmon on world markets. Underlying government policy and regulations at the time was a notion that the salmon resource was Acommon property@to which all citizens of the colony should have equal access to harvest for commodity production. Aboriginal perceptions of the salmon resource and systems of managing its harvest and allocation were ignored in the process of institutional development in the colony.

Systems of Law, Tenure, and Resource Management in Northwest Coast Societies

To understand the impacts of these regulations on land and resource management in Northwest Coast cultures, a brief introduction to tenure and social organization is necessary. The Aboriginal salmon fisheries were not considered Aopen-access@resources, instead they were carefully managed by a central authority, usually the family who had the ancestral rights to the lands and resources of that area. For the Nuxalkmc, such rights and prerogatives were handed down in *smayustas*, or creation stories, and formally acknowledged in potlatch ceremonies:

The easiest way to understand the rights of the ancestral family in land is by first considering the mythological explanation...on reaching the earth the first people are believed to have prospected for suitable settlement sites, places where salmon and oolachen could be caught, and if possible, near side valleys where berries were abundant...The members of the group pre-empted these areas for themselves. This really gave a sacred sanction to the possession of the land (McIlwraith 1992).

Like hunting-grounds, fishing sites are said to have been pre-empted by the first people and have passed into the ownership of their descendants, but the system of prevailing ownership was private instead of communal. Boas recorded in the mythology of the Bella Coola Indians that each of these ancestors, when sent down to the [Nuxalk] world, received a salmon-weir, which was placed across the river at the locality where they built their village (1898). Each weir was owned and managed by the chief of the village adjacent to it. Alexander MacKenzie referred to the chief's role in fish management in his journals:

It is on this river alone that one man appears to have an exclusive and hereditary right to what was necessary to the existence of those who are associated with him. I allude to the salmon weir, or fishing place, the sole right to which confers on the chief an arbitrary power; the chief's power over it, and the people, was unlimited, and without control. No one could fish without his permission, or carry home a larger portion of what he had caught, than was set apart for him (Lamb 1970).

Missing from early accounts of Nuxalk salmon management is the role played by social and spiritual obligations in dictating resource distribution. While the chief had ultimate authority over fishing areas, success as a chief was largely determined by an ability to demonstrate generosity through sharing the harvests of the territory. Rights to property could not be separated from a responsibility to provide for all people of that community; the underlying principle being that each individual has a right to as much salmon as they need. Martin Weinstein and Mike Morrell have documented a similar system for the Kwakiutl, and propose that the management of fisheries throughout the Nations of the west coast depended upon an obligation for their leaders to publicly demonstrate adequate resource husbanding through the ceremonial re-distribution of harvested products (1994:2). For the Nuxalkmc, the chief's authority stems directly from the rights and responsibilities given to the ancestral family by the Creator.

An Historic Overview of Federal Fisheries Regulations

For the Nuxalk people, contact with Europeans began in the late 18th century when both Captain George Vancouver and explorer Alexander MacKenzie arrived within several weeks of each other. At that time, Northwest Coast societies such as the Nuxalk relied on a wide range of fish harvesting, processing, and distribution methods within and between Nations to ensure adequate food supplies throughout the year. These methods and the social systems that had evolved around them continued well after European contact; it wasn't until the establishment of a colonial government and its restrictive policies that fishing methods and management began to change significantly.

During the late 1800's intensifying pressure from commercial salmon fisheries resulted in the need for a conservation-based approach to fisheries management and policy. The colonial government established fisheries regulations based on a perception of the resource as a market commodity, one which differed significantly from existing Aboriginal systems and worldviews. The first federal regulations affecting the food fisheries of the Northwest Coast were enacted in BC in 1888 (Newell 1993). They effectively separated Indian harvesting and personal consumption of fish from economic, social, or cultural purposes, functions that had previously been integrally related in Aboriginal systems.

In 1894 new regulations further restricted harvesting methods, prohibiting fish traps and weirs, and only permitting the use of dip-nets in non-tidal waters. The salmon weirs and traps common to many west coast Indian fisheries were prohibited and then destroyed by government officials (1906), since they were seen as a threat to conservation. New regulations introduced in 1917 required Indians fishing for food to obtain a federal permit that was subject to the same types of restrictions (location, gear, time, season) as the industrial fishery. The ban on potlatches, which prohibited such activities from 1884 until the 1950s, further fragmented the social organization involved in successful resource management on the coast. The regulatory system remained largely unchanged until 1981 when Band food fishing licences were introduced.

III. CONFLICTING SYSTEMS OF RESOURCE MANAGEMENT: A STATE VERSUS A INDIGENOUS

Historical and personal experience lends to First Nations a feeling of distrust in regards to the negotiation of fishing rights, but a contemporary conflict between perceptions of the resource and responsibilities tied to its protection remains today. While co-management arrangements have attempted to bridge the gap between the two systems, they often fail to provide for the continued meaningful expression of Aboriginal beliefs and practices, instead coercing First Nations to abandon their traditional systems to conform to the dominant model. In the words of one Nuxalk interviewee:

It comes back to ourselves, what we're fighting for is survival now, to continue to exist as a people. That system wants to extinguish our rights. Wants to extinguish our ties to the land. We have a way of life and we want to try to protect that way, and that ties up with the land, ties up with the forest. Everything that we feed with, that's not commercialized. So what are they doing? Rather than trying to understand, [they] make us fit in the world as it is in all other places. They assimilate or extinguish indigenous people, do away with that way of life so they've got a green light to go extract the resources, unlimited (0012).

The Royal Commission findings support a continued distinction between two systems of resource management (based on notions of property and ownership) at the end of the 20th century: Amany Canadians...regard access to Crown lands and to the resources on them as common property rights (1996:439). Conversely, Aaboriginal property systems can best be thought of as communal because they resemble neither individual private property systems, nor the system of state management, coupled with open access, that currently prevails on public lands

in Canada@(*Ibid.*:457).

Common Property vs. Communal Resources: differing perceptions:

Presently, there is no academic property classification which adequately encompasses those systems of resource ownership and distribution developed in Aboriginal fisheries, in which rights of access cannot be separated from responsibilities to sustain and share the resource. For the sake of simplicity I will refer to the Aboriginal system as a traditional *communal* system of property, distinguished from those which are conventionally called *common property* arrangements:

The latter are characteristic of rapid economic change, unstable social institutions and the absence of local, community control. The Pacific salmon fishery, to biologists and economists alike the classic illustration of the evils of common property tenure, resulted from the expropriation of historic, local fishing systems and the deliberate creation of an economic free-for-all in which the spoils went only to the strong (Usher 1986:23).

Usher points out a fault in the picture painted by Hardin in his theory on the tragedy of the commons: A what is omitted from this scenario is social organization and its mediating role between individuals and their environment@ (1986:22). Common to many Aboriginal cultures in Canada A spiritual beliefs, ceremonial activities, and practices of sharing and mutual aid also helped to define appropriate and necessary modes of behaviour in harvesting and utilizing resources@ (RCAP 1996:461). It is the social and cultural aspects of resource use which have been largely denied by government management schemes.

Usher outlines the differences between two models of wildlife management which he refers to as state and indigenous (1986a). The characteristics he uses to distinguish between the two are applicable to the Pacific salmon fisheries; I have summarized some in the table below:

Table 1: A Comparison of Characteristics of State and Indigenous Resource Management Systems

	State	Indigenous
Resource Ownership and Access	common property arrangement; resource equally accessible to all citizens	communal property arrangements; access determined by authority
Management responsibilities	harvesters distinct from managers; authority centralized and has exclusive management responsibility	harvesting and managing are conceptually and practically inseparable
Knowledge system	scientific accumulation, reliance on technical data, value-free framework	experiential, accumulated by all resource users, shared within larger society and between generations
Resource allocation	determined on an economic and political basis	dictated by kinship organization as well as principles of communal

		ownership and sharing
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(Sources: Usher 1986 and Royal Commission on Aboriginal Peoples 1996).

Differing perceptions of resources, notions of property, and principles that dictate resource harvest and distribution underlie some of the current conflicts over fishing rights. The Royal Commission on Aboriginal Peoples has extensively researched and documented practical and philosophical conflicts between state and indigenous systems of resource management across Canada (see RCAP 1996 Vol. 4: Lands and Resources). A common concern raised in the RCAP Report is that the present state management system makes resource allocations based on criteria that are often irrelevant to Aboriginal resource users (1996:525). While their findings may be generalized to many First Nations and their experiences in Canada, I find it useful to employ a case study to communicate the present realities of living within the conflicting systems. I will use the example of resource allocation and distribution in an Aboriginal community to examine some of the ways in which the current state management system **B**exerted through the Aboriginal Fisheries Strategy **B**conflicts with those characteristics common to indigenous resource management systems.

Contemporary Indigenous Economies and the Role of Trade

The continuing significance of indigenous economic systems has been established by many academic researchers. Though often based on subsistence activities, contemporary indigenous economies are no longer completely immune to market forces, and may more accurately be described as **A**semi-subsistence **@** or mixed economies. Indigenous economies differ from mixed economic systems however, in the following two ways:

1. Wealth is owned not only by private individuals and the state, but also by families and clans;
2. Kinship plays a more significant role in allocating resources than in developed capitalist or socialist economies (Chipeta 1981).

Systems of trade and barter, often established along lines of descent, continue to function in resource allocation and distribution within the Nuxalk community and between the Nuxalk and other First Nations. Poor employment opportunities and expensive store-bought food have likely reinforced the Nuxalk reliance on the natural resources of their traditional territory for subsistence purposes. But the salmon food fishery provides much more than a healthy, inexpensive supply of food; it continues to function as a main cultural and economic basis for the Nuxalk community, providing strong ties to tradition, resources and land.

Trade as a System of Resource Allocation and Distribution in the Nuxalk Nation

Salmon are harvested and processed not only for personal consumption and social events, but also for trade purposes. In return for salmon products people receive a wide variety of goods **B**those items most often identified during interviews include moose, mountain goat, elk, deer, clams, sea urchin, herring and roe, halibut, cod, prawns, crab, seaweed, ooligans and ooligan grease, wild berries, fruits and vegetables, tanned hides, and smokehouse wood. In the words of one fisherman:

To me, [the salmon food fishery] is probably one of the most important things in

my life. A big part of my own diet is food fish, of some kind, whether it's my own or it's from bartering. Food fish doesn't mean just eating fish, it means eating something that you got for your fish. If somebody came along and told me that I couldn't go food fishing, I'd still go and do it (0021).

Traded along with products of resource harvesting are services, such as hunting privileges and labour, as well as equipment. The adaptation to new materials has necessitated greater cash income to enter the fishery and resulted in reinforced patterns of cooperation and sharing. Those without boats rely heavily on the trade and barter of skills, services and other material goods to provide salmon for themselves and their families. Less formal but equally important as trade is the existing principle of sharing one's harvest with members of the community, often without direct or expected reciprocation. While some fisher's harvest is intended largely for personal use, others fish for the extended community and social/ceremonial events.

The network of distribution that has evolved around the salmon food fishery is far-reaching. Some harvesters estimate that they keep only 10-20% of their catch; the rest is distributed between four to five other families on average. Some fisher's catches may eventually provide for twenty to fifty individuals. Many stressed the importance of this network; they expressed an obligation to provide for others on the reserve who are for some reason unable to provide for themselves. Often including elders, single parents, and unemployed individuals. "When I go out food fishing for myself I usually catch a lot more than I can eat myself and just give it away, to people that I know that don't have the stuff" (0021). Although family ties provide much of the foundation for this distribution, many other relationships are established on the basis of trade: "The people you trade with become almost like your family because you are dependent on each other for your food" (0048).

High unemployment in the Bella Coola valley. Reaching 85% among the Nuxalk reserve population (Hereditary Chief Edward Moody, personal communication, 1997). Strengthens the reliance on natural resource harvesting for livelihood purposes. Those who are unable to hunt and fish for themselves are supported through the distribution network. Products resulting from the trade of salmon are likewise distributed: a moose will be divided between the families of those who harvested and processed the salmon initially. Needs change from year to year, dependent upon a variety of factors, and it is the salmon and related economy which provide an socio-economic safety net for people:

It's really important, because one year [the fish is] all we lived on...both of us were unemployed. Now you need it more and more because of the way the job economy is going. We help people that are in dire straits too, like if they're short one month, we give them fish...when they're having a hard time...and we give them moose meat (0048).

This salmon economy goes unrecognized by most non-native Canadians. It provides important dietary items and social links within and between communities, factors often overlooked in federal and provincial resource management strategies. In order to maintain indigenous economies, it is necessary to identify and protect the resources on which they rely (Lonner 1986).

Presently, this is the struggle that many First Nations are undergoing in Canada. Protection of salmon must address competition from other users as well as protection of spawning and rearing habitat. Resource management systems must encompass social systems and cultural aspects of resource use. The social and economic obligations that are met both within Bella Coola and with other neighbouring nations through formal (the potlatch) and informal systems of distribution (sharing) and trade provide economic security that is directly dependent on the health of the resource. It is from this perspective that I will now turn to look specifically at the Aboriginal Fisheries Strategy proposed by the federal government, the objectives behind the strategy, and its potential implications for resource use within the Nuxalk community.

IV. THE CURRENT REGULATORY CHALLENGES TO THE MANAGEMENT OF FOOD FISHERIES
The most fundamental change to the management of food fisheries in recent years have come as a result of the 1982 Constitution Act. While section 35(1) of the Act recognized and affirmed Aboriginal and treaty rights, *R. v. Sparrow* (1990) was the first case to explore the nature and scope of those rights. In that case the court focused on the Aboriginal right to fish for food, social and ceremonial purposes, and did not answer the question of commercial rights in regards to Aboriginal fisheries.

Following *Sparrow* a number of government initiatives with the stated objective of increasing Aboriginal involvement in both fish harvesting and management were introduced. In June of 1993, the *Aboriginal Communal Fishing Licences Regulations* replaced the *Aboriginal Fisheries Agreements Regulations* to regulate fishing by Aboriginal peoples. The objective of the amendment to the *Pacific Fishery Regulations 1993* was to provide a clear and simple regulatory framework for the management of Aboriginal fisheries in a manner consistent with the *Sparrow* decision and to make the management of the fisheries consistent with the communal nature of Aboriginal fishing rights (p. 2964). Subsection 35(2) was revoked and substituted with the following:

(2) Subject to subsection (3), no person shall buy, sell, trade, barter or offer to buy, sell, trade or barter any fish unless it was caught and retained under the authority of a licence issued for the purpose of commercial fishing, a licence issued under Part VII, a licence issued under the *Aboriginal Communal Fishing Licences Regulations* in which the Minister has authorized the sale of fish or an Excess Salmon to Spawning Requirement Licence issued under the *Pacific fishery Regulations, 1993* (p. 2905).

The communal licences represent a movement towards a policy of negotiating agreements with Aboriginal groups. One of the stated objectives of this change is to minimize regulatory impacts on Aboriginal fisheries.

The Aboriginal Fisheries Strategy

In 1992, DFO introduced the *Aboriginal Fisheries Strategy* to promote, protect and preserve the aboriginal right to fish (SOR/94-390:2270). The *Aboriginal*

Communal Fishing Licences
 Regulations allow the Minister of Fisheries and Oceans to issue communal licenses to aboriginal communities for fishing and other related activities and to fix the terms and conditions of those licences. The AFS promotes the negotiations of those terms on a case-by-case basis, between a First Nation/Aboriginal Organization and DFO representatives. The major components of AFS co-management agreements include the following:

- \$ a harvest allocation to the aboriginal group - e.g. 10,000 sockeye;
- \$ terms and conditions of the communal fishing licence, such as who may fish and how, where and when they may fish, as well as enforcement provisions;
- \$ arrangements for the co-management of the aboriginal fishery by the group and DFO - e.g. collection of information on harvest levels;
- \$ identification of co-operative management projects for the improvement of the management of fisheries such as habitat enhancement and stock assessment; and,
- \$ contribution of money to support co-operative fishery management (Opening Statement of the Standing Committee on Aboriginal Affairs, March 10, 1998).

Some of the terms and conditions may include: authorization for the sale of fish harvested under the licence, who can fish under the licence, and reports about and inspection of catches. However, because the issues to be negotiated are defined by the government, and fail to address claims to self-government, the consultations are not often considered meaningful by Aboriginal groups. Whether a community wishes to negotiate the terms of a communal licence or not, such a licence and ensuing regulations *will* be imposed:

In situations where no agreement is reached, DFO will issue a communal licence based on the consultations which have been held, and incorporate conditions which it is believed will meet the conditions of *Sparrow* and enable enforcement action to be taken (*Ibid.*).

For those Aboriginal groups who oppose the communal licencing system itself, or certain aspects of it, there remains little choice but to pursue their argument through the court system. Presently, some Aboriginal leaders refuse to so much as acknowledge government representatives or receive their telephone calls, since any communication at all may be termed *Aconsultation@*, and used against them in the courts in the future.

The AFS in Practice

Included in the AFS agreements are what might be perceived as a series of trade-offs or agreeable compromises. In exchange for reliable harvest data on the food fisheries, DFO will offer an enticement to the First Nation community, such as an increase in commercial licences through the Allocation Transfer Program, greater control over resource allocation or management, or permission to initiate a pilot sales program. The data that DFO receive are the previously missing link in the federal fisheries management paradigm, allowing for more accurate predictions of First Nation fish harvests, and therefore, more accurate modeling and prediction of escapement, commercial, and recreational allocations.

The attraction of negotiating agreements for fishing rights are many and varied. The prime reason perhaps being one of efficiency of time and financial resources; the expenses of pursuing litigation are enormous and the outcome often unpredictable. The objective is to reach agreements that are amenable to both parties involved in the negotiations. For those First Nations that agree to the conditions of the licence to abide by a quota, for example the AFS may act as a vehicle to get DFO to remove things that currently impede the exercise of certain rights. The pilot sale agreements have been particularly attractive to those First Nation communities who are presently experiencing severe economic difficulties. The AFS can ensure immediate economic advantages such as the sale of fish caught in the food fishery or of a greater number of commercial licences for Aboriginal fishers. At the same time, many individuals oppose the commoditization of the food fishery, correlating the decline of fish populations and traditional management systems with putting a commercial value on the resource.

The pilot sale agreements conducted under AFS negotiations have been some of the more controversial co-management examples on the Pacific coast. Although developed to facilitate co-management of the food fisheries, the policies of the government in conducting negotiations under the AFS demonstrate a continued reluctance to award any powers of self-determination in resource use to First Nations. If reducing conflicts and tensions between the competing resource users is necessary in adopting a sustainable and satisfactory fisheries arrangement, the AFS has been largely unsuccessful in these respects. It has perhaps enhanced the adversarial nature of state vs. Aboriginal politics and resource management issues, and both aboriginal and non-aboriginal fishers seem dissatisfied at this point in time.

V. RESPONSES TO THE AFS AND COMMUNAL FISHING LICENCES: THE NUXALK NATION

During two rooted distrust of current fisheries management institutions and the possibility of further restrictions to future resource use. Most fishers expressed an unwillingness to submit to an imposed quota for increased economic opportunity:

Who would do it? I'd go fishing more. I'd take more than what I'm allowed because I don't think that nobody should come in and determine how many fish we're allowed per person. Because how do they know how many fish I eat in one year? They can't come in and say you're only allowed to keep two or three per year. Or five. Or six. Or whatever number they're going to put on there. It's still going to be a number on that AFS (0050).

All we're doing is negotiation for something we already own, which is absolutely stupid to me...other people are trying to manage what we do and what we've done forever. We've done it on our own forever. And how do they know how much we need every year? (0021).

Some of the Nuxalk fishers disagree with the government's approach to resource management, particularly in regards to the use of purely quantitative assessments to define need. Underlying the opposition to the quota is the knowledge that ultimate economic security lies in the salmon resource. A brief explanation of the political issues involved in providing Aboriginal harvest data and using numbers to quantify need is warranted here. The concerns expressed by the Nuxalk fishers are similar to those encountered by Weinstein and Morrell in their work with the Kwakiutl:

Some of the negative responses came from concerns about the possibility that current harvest levels might be interpreted as an aboriginal needs level, locking their communities into inadequate harvest levels by supplying number estimates. Other people were concerned about management and allocation structures which require government permits for harvest. Numbers were seen to be related to permits and quota ceilings imposed by outside agencies. This group felt that the delegation of management authority to others is an intrusion on their sense of Indian-ness. On their identity and responsibility as Kwakiutl (1994:10).

Many First Nations communities are presently undergoing a process of re-establishment and renewal that includes recovery from drastic population declines and the repression of cultural and political freedoms. Current demographic and political considerations preclude setting an allowable harvest in this context. Nuxalk needs and aspirations with respect to salmon will most likely increase in the future, putting the food fishery in direct conflict with allocations for other fisheries (Russ Hilland, personal communication, 1998).

The mis-givings felt by many Aboriginal peoples in regards to negotiating resource rights with the government stem from historical experience, perceptions of inadequacies of current fisheries management, and a perceived insecurity for future rights:

The government has mismanaged the resources of our territory for two hundred years now. They've totally destroyed our territory, the forests, and the fish habitat. I personally don't believe they have the knowledge to manage our resources. Our people have managed the resources ever since the beginning of time. And we already have a treaty with God. We can't break that treaty (0046).

To those who philosophically oppose the foundations of the industrial fisheries management paradigm, the quantification of the aboriginal food fishery harvest remains an unknown, and so stands in defiance of the dominant models. For some, no enticement offered by DFO can be great enough to forfeit this potentially powerful bargaining position.

Another source of resistance to the AFS lies in the potential power it can provide to band councils. While many First Nation communities in BC remain politically divided, giving the band council the ability to designate who has access to the fishery is a risky option.

Impacts on Distribution Networks

Fishers raised a concern related to meeting future needs under the rigid system of harvesting and management proposed through the AFS, not just their own needs, but the needs of the larger community. For example, the quota suggested in the AFS Agreement-in-Principle for sockeye salmon is 7500 fish. This amounts to 6.25 sockeyes per person, when divided by the registered Nuxalk population of 1200 individuals. Not only will this limit fishers' trade activities, more importantly they will not be able to harvest any surplus to share with those community members who are unable to fish for themselves, nor will they be able to donate a portion of their harvest for use in ceremonial feasts and cultural activities. The numbers used in the agreement are derived from catches reported to DFO. Although many of those interviewed were reluctant to put figures to their catches, their reports of personal needs levels and quantities used in sharing and trade indicate that the suggested quota grossly underestimates the current Nuxalk reliance on the food fishery. It also presents difficulties to meeting needs in the future, as the Nuxalk population growth rate is high, doubling in the last forty years (Russ Hilland, personal communication, 1998).

Sharing of the salmon harvest remains an integral part of the Nuxalk food fishery. While cultural codes of conduct and kinship descent play a role in determining the distribution of the resource, there is also an underlying value of sharing that is poorly understood by those entrenched in the dominant society and its resource management institutions. Frideres (1998) discusses values common to many Canadian First Nation societies; I will present some of them in the following table to demonstrate the differences underlying the two resource management systems.

Table 2: Value Comparisons Between Aboriginal and Non-Aboriginal Societies

Aboriginal	Non-Aboriginal
<i>Sharing as generosity</i> which respects the person-hood of all living beings who contribute cooperatively to the well-being of life; striving to bring about the greatest harmony and collective good while honouring the freedom and autonomy of oneself and others.	<i>Sharing as an obligation</i> , to guarantee the right to well-being of all and the right to equal opportunity, while maximizing individual achievement and success in active personal pursuit.
Honour as an essential attitude of respect for the freedom and autonomy of other persons, toward other-than-human persons, for Elders, for wisdom, and for the kinship with nature and the forces of life, both known and unknown.	Consideration as courtesy and fair play toward peers and equal achievers, and stewardship toward the less fortunate and the things upon which survival and well-being depend, e.g., good order, law, and nature.
Kindness, as the desire for harmony and preference for amiability in all inter-personal relations, human and other-than-human.	Charity as an admonition to exercise compassion and benevolence in acceptance of the common humanity of all, acknowledging a primary motivation of personal pursuit of individual development, success and private gain.

(Source: R. Silverman and M. Nielsen, Aboriginal Peoples and Canadian Criminal Justice, Toronto, Butterworth. In: Frideres 1998:330).

Values such as *sharing* (as interpreted by the Nuxalkmc) are deeply rooted in cultural belief systems. They are connected to Aboriginal understandings of balance and maintenance of the natural order in life. After one hundred years of experience with the state fisheries management system, they continue to motivate resource use and to determine resource distribution in First Nations communities. They also continue to be undermined by the imposition of culturally-inappropriate federal strategies for resource management.

The cultural gap between the state and indigenous systems has seldom been successfully bridged by co-management strategies. Instead, Aboriginal leaders, fishers, and community members are encouraged to submit to the imposed state system for temporary economic or political incentives. In reality, there can be few prospects for conflict resolution and sustainability in the Aboriginal fisheries when the practices, philosophies, and needs underlying the indigenous system continue to be overlooked by the dominant society.

VI. Recognizing First Nations Food Fisheries: Opposition to Management is the first step toward possible solutions. For guidance as to what shape the management of Aboriginal food fisheries may take in the future, I will rely on some of the relevant recommendations from the Royal Commission on Aboriginal Peoples:

Recommendation 2.4.62

The principles enunciated by the Supreme Court of Canada in the Sparrow decision be implemented as follows:

(b) for the purposes of the Sparrow priorities, the definition of conservation=not be established by government officials, but be negotiated with Aboriginal governments and incorporate respect for traditional ecological knowledge and Aboriginal principles of resource management;

Recommendation 2.4.64

The size of Aboriginal commercial fishing allocations be based on measurable criteria that:

(a) are developed by negotiation rather than developed and imposed unilaterally by government;

(b) are not based, for example, on a community's aggregate subsistence needs alone;

(Source: Summary of Recommendations from the Royal Commission Report on Aboriginal Peoples. 1996. Atlantic Policy Congress of First Nation Chiefs Secretariat Inc. pp. 40-41).

The Report also recommends abolishing the Indian Act and establishing self-government based on aboriginal Nations (as opposed to bands) through Constitutional amendment. It's difficult to argue the potential merits of pursuing fishing rights in one form or another without considering the larger legal/constitutional context in which those rights are embedded. For some First Nations, achieving ultimate satisfaction in fishing rights will require what might presently be considered radical change to current notions of what Aboriginal resource rights entail within

Canada. The question ultimately becomes one of self-determination: can First Nations achieve their aspirations in regards to the salmon food fishery within the confines of the present Canadian systems (resource management, legal, political)? And if not, what needs to change?

New Definitions of Conservation

In the *Sparrow* decision the Court stated that the justification for conservation and resource management is surely uncontroversial. We must remember that in the past, the government's infringement on the basis of conservation has justified the destruction of traditional fishing methods such as traps, weirs, and certain types of nets, all developed with a detailed knowledge of the salmon resource and how to harvest it selectively to replace them with open-ocean fisheries which unselectively harvest mixed stocks and unevenly impact the future survival of the more vulnerable ones.

Presently of great concern to all people reliant on the salmon fisheries is the impact of competing industrial resource activities on the health and productivity of the fish stocks. Habitat destruction occurs at alarming rates through the clear-cut logging of the watersheds which provide suitable salmon spawning and rearing areas. Conservation must somehow incorporate the idea that the First Nations communities that rely on the fish, have not historically threatened the very existence of that resource through large scale habitat destruction. If their right to use the resource is protected, they will also desire a right to a responsibility over the survival of the resource.

Increasing Local Control: Bioregional Management

First Nations' oppositions to the data requirements driving AFS negotiations reflect a concern over centralized state control of the fisheries. The debate over Aboriginal fishing rights and jurisdiction over the resource ultimately raises questions that probe the assumptions underlying state fishery management and policy in Canada. According to Weinstein:

The importance of studying the aboriginal paradigm, other than to celebrate and honour the creative human genius of the First Nations which developed it, is for the opportunity it gives to think beyond current management structures for solutions to the biological, economic, and social problems of the fishery. There are fundamentally different methods of structuring the resource (1994:7).

As discussed previously some Aboriginal resistance to government-imposed fisheries management schemes stems from a cultural gap in understandings of resource systems. Both fisheries academics and Aboriginal fishers have criticized the essential feature of modern management systems that fundamentally divides resource managers from resource users (RCAP 1996:526). There is increasing academic support of the local control of resources, based on bioregional management theory, as well as recognition of the importance of Traditional Ecological Knowledge held by First Nations in resource-dependent communities. Fisheries science (and the inherent difficulties in managing the salmon) may ultimately support the assertion of local control over management decisions. Traditional science and methods of harvesting and managing the resource may provide some of the solutions we're looking for. Shifting resource harvesting and control to terminal, in-river fisheries will not only satisfy the needs and concerns of First Nations

that rely on the salmon, but also move toward reducing the data inadequacies involved in mixed, open-ocean fisheries. Increased recognition of the validity of traditional management systems will support claims such as those of the Nuxalkmc to exert their preferred means of managing access to and control of resource use (including allocation of harvest and distribution of products).

CONCLUSIONS

While I cannot presume to fully understand the needs, concerns and aspirations of all Nuxalkmc in regards to the salmon food fishery, I am nonetheless willing to make some preliminary observations. In common with many resource-dependent First Nations, the Nuxalkmc are justifiably concerned with their future access to and use of natural resources. Their concerns stem from previous limitations to economic opportunity, the reluctance of the provincial and federal governments to satisfactorily settle land claims, and from a well-founded distrust of industrial resource use and management strategies. Faced with increasing competition for the resource and declining salmon stocks, they seek to ensure some measure of future resource and economic security.

As presented earlier, many of the Nuxalk aspirations rely upon securing the right to use the salmon food fishery in the future. Although opposition to an imposed quota was raised most frequently as a concern about AFS negotiations, the underlying issue is a broader one regarding control. The AFS, though promoted as a co-management strategy, gives the federal department of fisheries the ultimate power over management. DFO can close the fishery for conservation purposes when deemed necessary. This leaves the in-river food fisheries in a precarious position as they are the last to harvest the spawning salmon. By choosing to negotiate with Band Councils, the federal government also ignores the political division that exists within most First Nation communities, and awards the Council the power to delegate who can use the resource.

A petition drafted and signed by close to three hundred Nuxalk individuals in 1997 represents their extreme opposition to the AFSCa program which they perceive to threaten the resource they most rely upon. They fear their needs won't be met in the future under a quota that allots six sockeye salmon per person and fails to allow for population growth. The fish are for food, social and ceremonial use only, and already the Nuxalkmc experience problems with trading fish products between communities that has resulted in a reduction in trade in some instances (personal communications, 1997 and 1998). In this case, the AFS agreement seems to give with one hand and take with the other: while supposedly allowing for traditional trade activities, the quotas on fish harvests preclude fishers from being able to harvest enough for their families at the same time as obtaining other necessities through trade. And the need for obtaining permits to continue to conduct traditional trade activities is considered offensive by its very nature.

The negotiated agreements also fail to allow for the continued expression of cultural beliefs and resource management practices that are rooted in Nuxalk spirituality. The imposition of a harvest quota not only threatens future resource access and use, but strikes at the very heart of Nuxalk perceptions of appropriate behaviour in regards to the salmon. Asking the Nuxalkmc to abide by a system that cannot permit harvesting and sharing the resource in traditional ways forces them to go against a spiritual contract that ensures the continuation of the salmon.

Current conflicts over salmon fisheries have not been resolved through AFS negotiations. This is largely due to the continued reluctance of the federal government to permit First Nations to determine their own resource management strategies. While the agreements have permitted the Department of Fisheries and Oceans to obtain the data necessary for their harvest allocation models, many Aboriginal communities are left frustrated that co-management negotiations have not taken place in good faith. No real power- or knowledge-sharing has taken place, nor have the ecological and socio-economic principles and practices that have proved successful in traditional Aboriginal fish management systems been respected in federal strategies. Those introduced under the AFS continue to separate social, political, cultural and ecological forces at work in the functioning of First Nations= food fisheries.

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OMIT FOR NOW:

During the last few years I have been privileged to spend time with members of the Nuxalk Nation learning about the resource conflicts that they as a people are facing at the end of the 20th century.

(a more comprehensive assessment of the cultural, spiritual and ecological importance of the salmon resource than that presented here is documented in Winbourne 1997). A common feeling expressed during interviews was that Nuxalk fishing rights are vital to the community but those rights are vulnerable, threatened by current government policies and corporate development schemes.

Although the salmon resource is valued and used in a wide range of ways encompassing in First Nations communities,

Pronounced changes to the traditional systems of resource use and management occurred when the management of fisheries was taken under the wing of the federal government in the late 1800's.

The overt purpose of both feast and potlatch was the announcement of an event of social significance: marriage of an important person, birth of a potential heir to one of the group's titles, crests, and high statuses, inheritance and formal assumption of one of these titles or crests and its corresponding position...Recital of the history of the privilege and the distribution of wealth served to validate its use. The guests were witnesses to the fact that the privilege was rightfully owned and rightfully transmitted to its new bearer (Drucker 1965).

Despite government policy that has impeded many social, cultural and spiritual practices (having great political significance), both kinship and a spiritual obligation to respectfully harvest and share the salmon continue to motivate fishing and dictate resource allocation in the Nuxalkmc community.

The federal approach to the management of First Nations food fisheries outlined above provides a clear example of how conflicts may arise when state policies and regulations are imposed on indigenous systems.

As Diane Newell points out,

This early policy created, among other things, a lasting image of Pacific Coast Indians as simple subsistence people who were quite unlike the commerce-minded Euro-CanadiansBa stereotype that, tragically, continues to be accepted in Canadian courts today (1993:62.)

Scott, Colin and Monica Mulrennan. 1998. Connection to Land and Sea at Erub, Torres Strait. A paper presented to the 7th Conference of the International Association for the Study of Common Property. June 10-14. Simon Fraser University.

Winbourne 1997, AShe River-Feeds her Family: a Look at the Significance of the Salmon Food Fishery in a Northwest Coast Society and Methods of Evaluation@. Unpublished paper.

and the distribution of fish in the community. Because of high unemployment, many people on the reservation are relatively cash poor and so the number of people able to enter the fishery is limited.

There is an increased reliance on cash to enter the food fishery, largely due to technological adaptations.

So that while aboriginal fishers hesitate to declare their harvests for fear of retribution from the non-native public and policy-makers, they also feel a need to harvest maximally to ensure satisfactory future harvest levels.)

Some progress on this issues has been made in the United States (*U.S. v. Washington*). If the recommendations of the Royal Commission are enacted in the Canadian courts, we may soon see a new definition of conservation that incorporates the concerns of Aboriginal fishers.

Perhaps the Fraser River AFS agreements have received the most attention, as the year they were initiated, close to 500,000 salmon disappeared between the mouth of the river and the spawning grounds. Public and professional alarm resulted in an investigation into the missing sockeye. The resulting report documented the most likely cause of the crisis as unusually heavy fishing by Aboriginal fishers (Pearse 1992). Public tensions rose because of the perceived increased take by Aboriginal fishers, as did

Following a Nuxalk Band Council meeting on June 6, 1997, the elected chief councilor signed an agreement in principle under the AFS, despite referendum results indicating greater than 70% of the voters were opposed to the agreement. The agreement outlined quotas for salmon food fishery harvests of four species. Since that time, members of the Nuxalk Nation have drafted a petition invalidating the authority of the chief councilor to negotiate this agreement on behalf of his people. Close to three hundred registered Nuxalkmc signed the petition; exceeding voting quorum of two hundred and fifty.

They may not be traded, sold or bartered, Aonly traditional exchange or distribution of fish or fish products within and between Aboriginal communities is allowed@ Although the wording and meaning is unclear

Pearse, Peter H. 1992. Managing Salmon in the Fraser: Report to the Minister of Fisheries and Oceans on the Fraser River Salmon Investigation. Department of Fisheries and Oceans.

Jim Pollard, to the McKenna-McBride Commission quoted on the Nuxalk Internet Website. Accessed Oct. 1997, at: <http://www.envirolink.org/orgs/nuxalk/mckenna.htm>.