



November 8, 2010

Cohen's Interim Report Gets an "F"

OTTAWA-- The Cohen Inquiry has issued its first report three months late. The report weighs in at 680 grams or nearly 1½ pounds and has 302 pages. If prizes were awarded for weight or number of pages the report would be given high marks; for content it warrants an "F".

The Inquiry was established on November 5, 2009 and was ordered to submit an interim report by August 1st setting out Justice Cohen's assessment of (i) previous investigations he considered relevant to his inquiry into the Fraser River salmon fishery and (ii) the government's action to implement their recommendations.

The dictionary says that an "assessment" *evaluates or judges the value or quality* of something. Cohen was never asked to summarize previous studies, he was asked to *evaluate or judge the value or quality* of both them and the government's response. He did neither.

Cohen failed on all counts. His interim report does not contain any substantive assessments. Nowhere in the 302 pages of his report did he *evaluate or judge the value or quality* of previous studies or of the government's response to them.

Instead of selecting investigations which were directly relevant to his inquiry, Cohen simply summarizes the recommendations of 22 different reports. Some were noteworthy but most were inconsequential.

Instead of making substantive assessments of how the government implemented or failed to implement recommendations, he merely summarized in point form what the government *claimed* to have done.

Fishermen have not forgotten that the investigations by Peter Pearse, John Fraser and Bryan Williams all heard considerable evidence of widespread and ongoing problems in the administration and enforcement of aboriginal fisheries. Their reports contained a long series of recommendations with regard to addressing the problems in the administration and enforcement. This interim report paid scant attention to these issues.

There are many references to the Supreme Court's decision in *Sparrow*, but only one to the *Van der Peet* decision and it made no mention of the fact that the court rejected a Sto:lo claim to an aboriginal right to sell or trade salmon, an issue central to many of the fisheries management and enforcement problems on the Fraser.

The interim report sets out the various technical and scientific studies that the Inquiry has established yet seems blind to the obvious problem of using former DFO staff to conduct such

work when the inquiry has as its first order of business a review of DFO departmental management policies and practices.

In addition it is never explained why the commission is undertaking such work. Cohen's terms of reference never requested such scientific studies. Furthermore the interim report was never to be a recitation of what the commission was doing, its sole task was to *evaluate or judge the value or quality* of previous studies and the government's implementation of their recommendations.

At no time does Cohen explain why he failed to make the required assessments. While DFO is undoubtedly relieved at not having to face any assessment of their failures to implement earlier investigations, Cohen's inaction is not something that can be put at the door of DFO. It was Cohen's job and he failed to do it.

Cohen claims that his staff "toiled long hours to get the commission in operation as *quickly* and *efficiently* as possible." Fishermen might be tempted to ask to what end?

Cohen and his staff have clearly wasted their first year. There is nothing in this interim report on how DFO might make changes in its management of the 2011 fishery. Most importantly this is not the report that was asked for nor is it what fishermen had reason to hope for when the Cohen Inquiry was established one year ago.

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