

High and Dry

AN INVESTIGATION OF SALMON-HABITAT
DESTRUCTION IN BRITISH COLUMBIA



David
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High and Dry: An Investigation of Salmon-Habitat Destruction in British Columbia

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John has spent the past 17 years researching and investigating the causes and extent of fish-habitat loss throughout the Pacific region and documenting DFO's failure to meet its habitat-conservation mandate.

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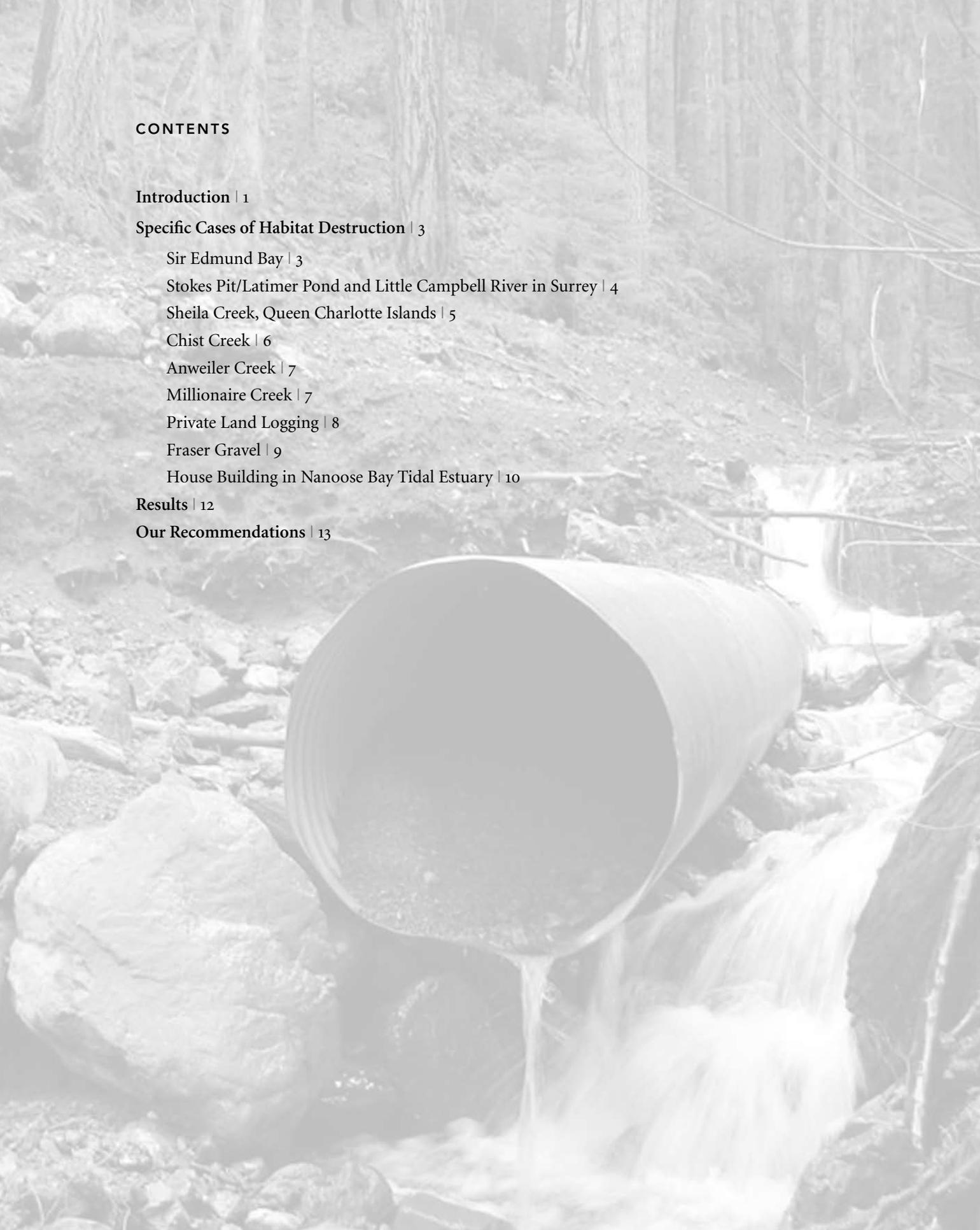
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Introduction

Wild Pacific Salmon are an integral part of British Columbia's natural environment, culture and economy. So you would think that we would do everything possible to ensure that they survive well into the future.

However, due to our lack of care and attention, we are steadily chipping away at the very foundation of the wild salmon's survival: their habitat. Their homes, the native streams in which they have reproduced for centuries, are steadily being degraded, and in the worst cases destroyed, by urban and rural development, industrial logging, mining and agricultural activity.

Salmon consistently return to their home streams to spawn. Each individual stream supports a unique population, or stock, of salmon. To date the degradation or loss of stream and river habitat in British Columbia has contributed to the extinction of more than 142 salmon stocks. Another 620 stocks are at high risk of extinction.

The federal Department of Fisheries and Oceans (DFO) and B.C.'s provincial environment regulatory agencies have the responsibility and authority to protect our salmon and their habitat. In fact, DFO is mandated under the federal *Fisheries Act* to do so. Yet our intensive field investigations have shown that the destruction of critical salmon habitat continues. In this report we highlight how and why this is this allowed to happen, and we offer suggestions on what needs to be changed to better protect salmon habitat.

Federal and provincial governments have adopted a "results-based" policy approach to environmental regulation. This is a hands-off management approach whereby project proponents are encouraged to conduct their activities with minimal government oversight. Government is supposed to conduct random audits of these activities to ensure that expected results are achieved. The intended result is no net loss of fish habitat.

These policies are part of DFO's new habitat-management regime, called the Environmental Process Modernization Plan (EPMP). The plan relies on agreements with provincial governments and industry and on the use of "qualified professionals" hired by project proponents to undertake environmental reviews where the environment, particularly fish habitat, is considered to be at risk.

In B.C., the provincial government has also relaxed its environmental regulatory and enforcement regime. Both levels of government now rely heavily on "qualified professionals" to determine whether a project will have an impact on fish habitat, and to propose and conduct mitigation or compensation activities.

In the past, federal and provincial environmental-agency regulatory staff have conducted this work in a transparent and accountable system. Now, however, the new policies and budget cuts in Ottawa and Victoria have reduced the operational capacity within DFO and the relevant provincial ministries to protect fish habitat.

The ultimate question now: Is this new approach to habitat management working?

The David Suzuki Foundation investigated some specific land-development initiatives to find out. We monitored and documented recent stream and fish-habitat damage in different parts of B.C., reported that damage to DFO and monitored the response. The results are troubling. Our observations and experiences suggest that the current habitat-protection and management system is not working.

Our investigation has identified not only problems but also some creative opportunities for solutions. The science has clearly shown us that salmon need clean water, healthy spawning areas and natural vegetation buffers along streams. The federal government has the mandate and the legislation to meet these basic needs, and the provincial government has the management authority to take action on habitat protection.

What is desperately required now is for governments to invest in the capacity that allows their relevant agencies to consistently realize salmon-habitat protection. Political will, a rigorous enforcement and management system, and appropriate financial resources are needed to protect habitat and reduce the risks to wild salmon survival.

The results of our investigations and specific recommendations are presented in this summary document. The full investigative report and detailed case files can be found at www.davidsuzuki.org.



The Investigation

The David Suzuki Foundation investigated nine instances in which significant fish-habitat damage had been reported. These included sites in Northern B.C., Haida Gwaii (Queen Charlotte Islands), coastal areas, the Lower Mainland and Vancouver Island. We discovered potential *Fisheries Act* violations at every site we investigated.

SPECIFIC CASES OF HABITAT DAMAGE

1. SIR EDMUND BAY

The situation

This case involved a finfish aquaculture operation in the Broughton Archipelago with a history of not complying with its operating permit by expanding well beyond its approved site boundaries and production limits. Rather than charging the company for non-compliance with the rules, the provincial government approved a new operating plan and issued a new permit in 2002 to bring the company into compliance with the law. The government did this despite concerns expressed by the provincial environment ministry of the day that the newly proposed operation was too big for the site.

The investigation

A site visit in January 2003 (less than a month after the new plan was approved) revealed that the company was repeating old habits by operating well beyond the scope of its newly expanded permit. The company was operating twice the number of pens that were approved. Production was more than double the level recommended by the Ministry of Environment to protect on-site fish habitat from farm waste smothering the sea floor.

We contacted DFO and asked them to investigate this probable breach of the *Fisheries Act* by the company and the Province.

The response

A few months after receiving our complaint, senior Pacific Region DFO staff advised us that their entire marine monitoring and enforcement team had been disbanded, their boats pulled out of the water and their budget withdrawn, and that their ability to investigate complaints of this nature had been compromised as a result. DFO further advised us that they would only be conducting future investigations and inspections of salmon farms “if requested to do so”. It has been more than three years since we brought this matter to the attention of the DFO. To date, no punitive actions have been taken against the company or the Province.



2. STOKES PIT/LATIMER POND AND LITTLE CAMPBELL RIVER IN SURREY

The situation

This case involves land-development activities in an area of Surrey known as Stokes Pit, a former gravel-mining operation in the watershed of the Little Campbell River, an important salmon and trout stream. It was alleged that these activities were having significant adverse impacts on fish habitats. The land was owned by the City of Surrey.

The investigation

A site visit in 2005 revealed numerous serious problems: a lake that was an important local fishery was drained as a result of on-site construction activities; streams and wetlands on the site that had been identified by consultants as Class A fish habitat were being bulldozed and filled in; stream-side (or “riparian”) vegetation on remaining streams was being stripped away; in two locations fish were blocked from accessing their rearing habitat; and on-site construction and surface erosion resulted in a thick layer of fine sediment being deposited over much of the remaining habitat – sediment that clogs fish gills and smothers spawning habitat. Our investigator determined that in 15 years of doing this kind of work he had never witnessed such significant loss of fish habitat associated with any one development.

We contacted DFO and asked them to investigate these probable breaches of the *Fisheries Act*. In fact, DFO had been informed of this problem before. The City of Surrey claimed that it had done all that it could to protect fish habitat in this area.

The response

After repeated requests that DFO address this situation, a DFO official agreed to allow our investigator to review the project-approval documents and agreed to a

joint site inspection. The document review revealed inconsistencies in site-specific information concerning fish values, a shocking lack of detail on site environmental values and a lack of coordination between agencies reviewing the proposal.

After the site visit, the DFO official expressed concern that the proponent may have misled him as to the quantity and value of fish habitat on the site, and acknowledged that the proponent may not have complied with specified conditions of project approval or completed requested site-rehabilitation works as specified. Also, even though assessment by a biologist was clearly needed, the person who reviewed and approved this proposal for DFO was an engineer who appeared to rely on incomplete documents provided by a “qualified environmental professional” retained by the proponent.

Despite all of this, DFO has since determined that this case does not merit any action of charges under the *Fisheries Act*. Unfortunately, this appears to be the way of doing business at DFO under its new Environmental Process Modernization Plan.

3. SHEILA CREEK, QUEEN CHARLOTTE ISLANDS

The situation

This case involves stream damage associated with a logging operation on Haida Gwaii. The logging site is located immediately adjacent to a stream that was identified by the logging company on its logging plans as a fish-bearing stream.

The investigation

A site visit in 2005 revealed that timber-harvesting and road-building activities impacted three smaller tributary streams that fed directly into a larger stream that had been identified on company logging plans as a fish-bearing stream. According to the rules of the day, the three tributary streams should have themselves been classified as fish-bearing streams by virtue of the fact that they were directly connected to the larger stream. Two of the smaller streams had been completely clear-cut. One was left with a partially intact riparian zone, but it had been filled in with sediment debris related to road construction and, quite possibly, road failure.

These incidents of stream mismanagement were reported by telephone to the Queen Charlotte City branch of the DFO in August 2005.

The response

The first thing that our investigator learned was that the regular habitat-protection officer for the Queen Charlottes was on a one-year leave of absence. There was a temporary replacement and the office was in transition. In October 2005, we finally reached an official who had conducted a site visit based on our earlier calls. The official acknowledged the damage but informed our investigator that just prior to logging the company had apparently reclassified the large stream adjacent to the



site as non-fish-bearing based on its own inspection. The DFO official admitted he did not actually see the renewed stream assessment nor did he verify the veracity or accuracy of the subsequent stream assessment. So, rather than investigating further, DFO accepted the new information provided by the logging company at face value. We were advised that this approach was consistent with new policy. As a result, no further action was taken.

In this case, the application of DFO's new habitat-management policy may have compromised fish habitat. Because there was no investigation conducted, the facts could not be properly determined.



4. CHIST CREEK

The situation

Chist Creek is a valuable fish stream just south of Terrace. In its lower reaches it is home to sockeye, coho and chinook salmon and rainbow trout. Dolly Varden char, a blue-listed (threatened) species were believed by DFO to occupy the upper stream reaches. Our investigators were advised in 2005 that a significant landslide had occurred on the watershed's logging road near Km 15, making the road impassable.

The investigation

A site visit revealed two massive landslides off the down-slope side of the road that deposited tonnes of rocks, trees and sand directly into the north branch of Chist Creek. The cause of the slides appeared to be uncontrolled ditch water flowing onto the road surface at the affected location – perhaps due to a plugged culvert. In addition, a long-banned road-building technique known as side-casting (where material removed from the land to create the roadway is deposited on the down-slope side of the road) was a contributing cause of the slide. In addition, ditches and a new bridge crossing installed further upstream exposed large amounts of mineral soil that were eroding off the roadway and being deposited into the stream.

The response

We alerted DFO and informed them that immediate action was needed to assess the cause of the road failures. The logging company had road crews in the area working to repair the road and as a result all evidence of the causes of the slides would be lost. Local DFO officials informed our investigators that they did not have staff available to attend the site.

More than a month later, we discovered that no one from DFO had yet been to Chist Creek, but that the B.C. Ministry of Forests (MOF) had been advised of the situation and was asked by DFO to conduct an inspection. Subsequent conversations with the MOF made it clear that illegal road-building practices likely contributed to the slides, but there was no interest on their part to assess blame. Federal fisheries

must hold the province accountable when they have the responsibility to regulate activities that harm fish habitat, as happened in 2005 when DFO laid charges against the B.C. MOF for logging infractions.

To date, no charges or fines have been imposed in these matters. DFO field staff never went out to investigate the situation. This appears to be a case where DFO lacked both the capacity to conduct a proper investigation and the political direction to take action against the Province.

5. ANWEILER CREEK

The situation

Anweiler Creek is a major fish-bearing stream in an area north of Terrace that had been extensively logged in the past, resulting in a large network of intersecting logging roads. An agent of the federal Crown encouraged our investigators to look into logging-road maintenance issues and practices in the Anweiler Creek drainage because he was concerned that fish habitat in the creek was being harmed and nothing was being done to stop it.

The investigation

In 2005 our investigators visited the site. They found numerous places where the logging roads were not being properly maintained. There was no question that the lack of road maintenance was harming fish habitat in Anweiler Creek, mainly through the introduction of tonnes of silt and logging debris through landslides and road erosion caused by plugged culverts.

The response

Our investigators immediately reported the lack of road maintenance and subsequent habitat damage to both DFO and the B.C. Ministry of Forests. DFO staff advised us that they were unable to attend these sites due to other commitments and would pass our concerns on to the MOF. MOF subsequently advised our investigators that an action plan was being developed to deal with all the identified road problems. One year later, the promised action plan had not yet been developed. This is clearly a case where local DFO field offices are under-staffed and incapable of responding to critical habitat issues in a timely fashion. The MOF also dropped the ball. Cooperation between federal and provincial agencies is not working as anticipated.

6. MILLIONAIRE CREEK

The situation

This case involved a 43-hectare property development in the Millionaire Creek watershed, a fish-bearing stream in the District of Maple Ridge near Vancouver. This development was being touted as a green project, with the first guiding principle



being “environment first”. Foundation staff visited this site in 2006 in response to complaints from local citizens that heavy surface runoff laden with sediment from land under development was entering local creeks and harming fish habitat and that this had been going on for some time with the full knowledge of, but inaction on the part of, DFO.

The investigation

A site visit on a rainy day proved the concerns to be legitimate. While the land developer had made some attempts to manage sediment from building sites, there was still a great deal of run-off from the stripped-bare sites. In fact, erosion was visible around the foundation of some of the new homes under construction. Sediment was being discharged through drainage pipes into the nearby fish-bearing creek. A local resident advised our investigator that this sort of discharge had been occurring regularly and that local residents had reported this repeatedly to both DFO and local municipal-government officials. Although an environmental monitor was required to be on-site during construction, no monitor was observed. Our investigator saw other nearby construction sites with similar drainage problems.

The response

When our investigator contacted DFO regarding this problem, he was told that DFO had sent a generic letter to local developers requesting that they develop proper storm-water and siltation management plans for construction sites and that the plans be submitted to DFO for approval. DFO did not answer repeated requests for information concerning whether these reports were ever submitted and/or whether there had been compliance follow-up.

Clearly this was a situation where DFO lacked the capacity and/or will to conduct field investigations in response to citizen concerns and relied more on industry to do the right thing.

7. PRIVATE LAND LOGGING, BEAUFORT MOUNTAIN RANGE, PORT ALBERNI

The situation

A logging company had been logging extensive portions of the west-facing slopes of the Beaufort Mountain Range near Port Alberni. Small streams on the logged slopes fed into a famous fishing river, the Stamp. Two small communities at the base of the slope also rely on these streams for drinking water. After an extended period of heavy rain, the logging road failed in several locations, primarily due to inadequately sized and placed culverts.



The investigation

Our investigator visited the site in January 2006 and again in April 2007. It was clear from our inspections that culvert failure had caused several road washouts and subsequent damage to at least two fish streams below. The investigator determined that the logging company had not installed a sufficient number of culverts, or properly sized culverts, to handle the runoff.

The response

Attempts to get DFO to pursue this case resulted in no action by the agency at all. Instead, investigation into the matter was left up to a provincial agency known as the Private Managed Forest Land Council. The council subsequently assessed \$30,000 in fines against the logging company for improper culvert installations at four locations but ultimately determined that the cause of the road failures was not associated with logging or road-building activity. DFO has not pursued any enforcement action in this matter even though fish and fish habitat were clearly impacted.

We have subsequently learned that DFO determined that there was no longer a need for a local area habitat coordinator. In this case, the local fisheries-enforcement official, whose job it was to investigate habitat-related offences, was relieved of his position and re-assigned to other duties. All future matters related to habitat alteration in the district, which includes most of Vancouver Island and the central coast of B.C., are now to be dealt with by a single habitat official at a central location far removed from Port Alberni. That person would have very limited powers and would only be permitted to inspect operations and give advice to proponents. Fisheries officers, the only DFO officials with broad enforcement powers and the power to conduct detailed investigations, would only be brought in for exceptional circumstances and only if one was available.

8. FRASER GRAVEL

The situation

The Fraser River has been mined for gravel for decades. Concerns have been raised that the mining locations are based on convenience (easy access to source of gravel) rather than for the purposes of fish-habitat protection or flood control, which was the original stated purpose for gravel removal. The federal government recently gave permits for significant extractions despite these concerns.

The investigation

Our investigator visited a gravel-extraction site on the Fraser River in 2006. At this site a causeway was built across a major side channel to the river to access gravel on a mid-river gravel bar. The causeway was supposed have a bridge installed to ensure adequate flows below the road, but this was not done. Thus, this causeway acted like



a dam, and our investigator observed a significant drop in water levels below the road. This resulted in thousands of fish nests being exposed to the air, drying out and killing the eggs within them. We immediately reported this situation to DFO. A local resident also reported the problem, bringing dead newly hatched fish with him, and was told to write a letter of complaint. DFO did not act in this matter for almost a week. Shortly thereafter the media reported on the problem.

The response

When the story appeared on the evening news, DFO finally acted and issued a stop-work order. A portion of the causeway was removed and culverts were installed in an attempt to restore downstream flows, but it was too late for many salmon eggs. Our investigator then tried to track down the paperwork related to this project. After lengthy delays, he discovered that the required environmental documents were not in place and that similar operations using the same destructive practices had taken place in other locations.

Our complaints resulted in the DFO conducting its own investigation to determine what went wrong. DFO concluded that the causeway construction had resulted in a significant fish kill and that, in future, substantial efforts must be taken to avoid a reoccurrence. DFO made a series of recommendations to prevent similar occurrences. Many have yet to be implemented. No charges were ever laid in the matter despite the fact that millions of fish may have died.

Failures in inter-agency (provincial and federal) communication, a failure by DFO to provide clear guidance and an over-reliance on information supplied by the proponent all contributed to this avoidable fish kill.

9. HOUSE BUILDING IN NANOOSE BAY TIDAL ESTUARY

The situation

In this case, a citizen informed us that a land developer was in the process of depositing tonnes of rock and sand in a tidal estuary. The fill, upon which a house was to be built, was being deposited within the tidal flood zone, which is valuable fish habitat. An assessment of the situation prepared by an environmental consultant for the Regional District of Nanaimo (which initially permitted the development) early on in the project-development phase recommended that the proposed location of the house be moved and the impacted areas rehabilitated because the project was causing damage to rare and sensitive habitats.

The investigation

A local resident contacted the David Suzuki Foundation and asked for assistance in dealing with this matter after having contacted DFO early on in the project-



development stage and receiving no action from the department. We assisted the resident in gathering information and interacting with DFO.

Although DFO was informed in the early stages of this project that fish habitat was being damaged, nothing was done while the developer deposited tonnes more fill material and commenced construction. Eventually DFO said that they would request that the project proponent conduct a fish-habitat assessment to determine how much habitat had been impacted, but they did not stop the project. The assessment was to be used to determine whether and how much compensatory habitat would need to be constructed to offset losses. This request for a habitat assessment was made in June 2005. The assessment should have only taken a matter of weeks to complete. However, as of May 2007, the proponent had not complied with this request and the development went on to completion.

The response

Our investigator contacted DFO in 2006 and asked why no action had been taken on this case. They said this one slipped through the cracks. Further inquiries were met with assurances that the developer would have to assess how much fish habitat was being destroyed and would have to mitigate that damage. However, the developer was never told to stop the work, and, in fact, DFO initially did not even have the resources to establish whether the site was even flooded by tides.

This file has not been handled properly by DFO. When apprised of this situation in its early stages the agency did not take appropriate action to review the matter or to prevent the damage from occurring. No corrective, compensatory or punitive measures have been taken. The project proponent has not supplied information required by DFO and the department has taken no action to make it do so.



Results

Through these investigations we arrived at three major conclusions.

First, existing DFO staff are severely limited by budget and/or time constraints in their ability to respond to matters related to habitat destruction and loss. There are far too few inspectors and/or enforcement officers to adequately do the job.

Second, under the new habitat-management regime, of which the EPMP is a primary component, the DFO is relying too much on information supplied by project proponents and their qualified environmental professionals for project-approval purposes, and the DFO lacks the capacity both in terms of numbers and qualifications of people to review the information for its quality and accuracy. Further, DFO policy appears to be that DFO staff should accept this information at face value and not question the findings.

Third, with the exception of the Fraser River gravel-extraction case, not one of the fish-habitat damage reports we submitted to the DFO led to anything more than promises of follow-up. No enforcement actions were taken by DFO in any of these matters. This concerns us greatly as our investigations covered only a sample of habitat-damage incidents, and by extrapolation we assume that many other incidents of habit damage are similarly left unattended to by DFO or the responsible agency in the provincial government.



Our Recommendations

In light of the results of our investigations we conclude that a much more rigorous and comprehensive system of enforcement for fish-habitat protection should be established.

Recent claims by DFO suggest that the department has not compromised its enforcement capacity and that it is, in fact, beefing it up, but the responses we have received and the numbers say otherwise. According to DFO's own published numbers, 95 fewer enforcement activities were undertaken in fiscal year 2005/2006 (25) compared to fiscal 2002/2003 (120). DFO's lack of response or inability to respond, as we have identified in the above cases, suggests that this decline is continuing.

We recommend that the DFO invest significantly more resources into programs that ensure compliance with the *Fisheries Act* and habitat protection. This should include hiring more inspection and enforcement staff; conducting routine, random site inspections; monitoring permit compliance; and taking enforcement measures to prevent further habitat loss and ensure future compliance.

The challenge in realizing these recommendations is the serious under-funding within DFO's enforcement division and the lack of will to use enforcement as a deterrent. Most importantly, DFO needs to get personnel out in the field conducting random site inspections and taking action to prevent habitat damage from occurring wherever it is found.

Our experience shows that by simply going out to inspect work sites it is easy to find things that are going wrong. However, and unfortunately, we citizens do not have the authority to stop offenders from undertaking destructive activities. All we can do is report them to the proper authorities. But if there is anything we should be able to expect from those reports, it is immediate and decisive action. Instead, as the cases above show, we are, for the most part, met with silence, inaction and/or complacency on the part of the DFO.

The results of the investigations highlighted in this report support and confirm the need for change that the David Suzuki Foundation has presented in previous reports on fish-habitat conservation. In October 2006 the David Suzuki Foundation published a report titled *The Will to Protect*, which offers a range of solutions that the DFO and the provincial government(s) could pursue to provide better protection of our fish and fish habitat. The solutions, in part, include:

1. Improve habitat-protection policies and regulations by:
 - Clarifying responsibilities of relevant provincial and federal agencies
 - Establishing enforceable conservation objectives
 - Requiring project proponents to provide accurate information on fish habitat and mitigation
 - Making those who destroy habitat pay for recovery
 - Establishing comprehensive streamside protection and protected areas
 - Implementing a formal audit process for self-regulating industries
 - Making it easier to hold those who harm fish habitat accountable
2. Get DFO officials out of the office and into the field by:
 - Increasing resources for habitat enforcement
 - Establishing mobile regional task-force groups to enforce habitat-protection laws

(The full version of the *Will to Protect* report can be viewed at [http://www.davidsuzuki.org/files/Oceans/DSF-Will to Protect-72.pdf](http://www.davidsuzuki.org/files/Oceans/DSF-Will_to_Protect-72.pdf).)

In summary, the David Suzuki Foundation suggests that unless DFO modifies its new habitat-management plan and accepts a greater and more active role regarding its responsibility for salmon-habitat conservation and protection, we will continue to see more unique populations of salmon slide into reduced levels of abundance and, in the worst cases, go extinct. The clock is ticking and more and more salmon habitat is degraded every year. We encourage all governments to take the issue of salmon-habitat protection more seriously.

We encourage all those who care about the future of our wild-salmon resource to use this report to present arguments to your municipal, regional, provincial and federal government representatives and call on them for more investment and action on habitat protection in the streams and rivers near to you.

More information about salmon conservation can be found on our website at www.davidsuzuki.org.

Too many salmon stocks in B.C. are threatened or have already been wiped out because the laws governing habitat protection are not being enforced and because too little monitoring of habitat damage and destruction is taking place.

High and Dry: An investigation of salmon-habitat destruction in B.C. looks at nine cases where habitat damage was reported and investigates what steps, if any, the authorities responsible for fish habitat took in response. The report also offers suggestions to ensure the future of healthy fish populations.

The David Suzuki Foundation is committed to achieving sustainability within a generation. Abundant stocks of wild Pacific salmon are a vital part of a sustainable, prosperous future.



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