

Nuu-chah-nulth Injunction Stops Commercial Herring Fishery

An injunction from the Federal Court has prevented seine and gillnet commercial herring roe fisheries from taking place on the west coast of Vancouver Island this spring. Issued February 21, the injunction stops Fisheries Minister Gail Shea from opening the fishery following her December 23 announcement approving a 10% harvest on the WCVI, Haida Gwaii, and the Central Coast (Heiltsuk and Kitasoo Nations' territories).

The injunction came after a one-day hearing, brought forward by five Nuu-chah-nulth Nations. Ahousaht, Tla-o-qui-aht, Hesquiaht, Mowachaht/Muchalaht, and Ehattesaht/Chinehkint pursued the case for all Nuu-chah-nulth who were united in their opposition to the 2014 fishery in their territories due to conservation concerns about herring stocks in Nuu-chah-nulth Ha-ha-houlthee.

Closed since 2006, the herring fishery on the west coast of Vancouver Island was halted so that herring stocks could rebuild.

Late in 2013, DFO announced that the stocks were expected to marginally exceed the cutoff for commercial roe harvest in 2014. However, First Nations were not satisfied that stocks were sufficiently rebuilt to justify the opening. They began voicing their concerns almost immediately.

"This process started back in November, when Ha'wiih met with Fisheries and Oceans Canada

(DFO) and recommended that the herring fishery remained closed in 2014," said Uu-a-thluk Program Manager, Don Hall. "The Nations are not opposed to commercial fisheries in times of abundance, but feel strongly that current herring populations will not support the proposed harvest."

Following those recommendations, Nuu-chah-nulth Nations issued an open letter to BC herring fishers, asking them to select alternative areas when choosing their fishing location for

"It seems to me once the Minister and the DFO depart from science-based assessments the integrity of the fisheries management system is harmed."

—Federal Court Judge Leonard Mandamin

the 2014 herring roe fishery. According to DFO numbers, enough herring are forecast in the Prince Rupert and Strait of Georgia fishing areas to satisfy all of the commercial herring roe licences.

Nuu-chah-nulth later issued a joint letter with the Council of the Haida Nation and the Heiltsuk Tribal Council, expressing their shared opposition to the fishery in their territories.

Despite opposition, Minister Shea did not reverse her decision. During the court hearing that followed, legal documents submitted by Canada revealed that DFO had, in fact, agreed with Nuu-chah-nulth Nations. In a three-page memo, DFO advised the Minister to

An injunction from the Federal Court has stopped the commercial roe herring fishery from opening on the West Coast in 2014.



"maintain a closure for the three areas [Haida Gwaii, the BC Central Coast, and on the west coast of Vancouver Island] for the 2014 fishing season." Unfortunately, the Minister went against DFO's advice.

"This is not an instance where the Minister has chosen, with the support and advice of DFO and the assessment of scientific evidence, to make a discretionary decision concerning the fishery," wrote

Judge Mandamin in the decision following the injunction. "It seems to me once the Minister and the DFO depart from science-based assessments the integrity of the fisheries management system is harmed."

Although pleased with the injunction and with the respite for WCVI herring stocks, Nuu-chah-nulth Nations were frustrated by having to fight another court battle. "It is a shame on this government that we have to go to Court again and again," said NTC Vice President Ken Watts in a press release prior to the decision. "This is a waste of Canadian taxpayers' money, defending a minister that ignores the advice of her own scientists and managers. We want to protect herring so that everyone, including commercial fishermen, will benefit when our herring stocks rebuild."

Nuu-chah-nulth Nations met with DFO following the court's decision at the Council of Ha'wiih Forum on Fisheries. Discussions included how herring stock assessments should proceed in 2014 despite the commercial closure.



Uu-a-thluk
P.O. Box 1383
Port Alberni, B.C.
V9Y 7M2

Ph: 250.724.5757
Fax: 250.724.2172
info@uuathluk.ca

www.uuathluk.ca

Nuu-chah-nulth Nations are not opposed to commercial roe herring fisheries when stocks are abundant.