



## NATIONAL CITIZENS INQUIRY

Vancouver, BC

Day 2

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### EVIDENCE

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**Witness 11: Dr. Ben Sutherland**

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[00:00:00]

**Marion Randall**

So again, this new witness is Dr. Ben Sutherland and it's Marian Randall for the record, the lawyer assisting in this case.

Dr. Sutherland, can you please say your name for the record and spell your first and last name, please?

**Dr. Ben Sutherland**

Sure. It's Ben Sutherland, B-E-N S-U-T-H-E-R-L-A-N-D.

**Marion Randall**

And do you promise to tell the truth, and all the truth, while you're giving your presentation here?

**Dr. Ben Sutherland**

I do, yes.

**Marion Randall**

Okay, and I'll just begin with, I think I'll run through it myself, and you note if there's any corrections. You did an undergraduate degree at Thompson Rivers University with an Honours in Biology, and you did some postdoctoral work. Actually, maybe I'll get you to do it because I think I'm a bit confused here with what I've written. You did more than one post-doctorate? You took a doctorate.

**Dr. Ben Sutherland**

I don't mind running through it really quickly.

**Marion Randall**

Yeah, I think you should actually, I'm botching it up. So go ahead.

**Dr. Ben Sutherland**

Yeah, I did a doctorate at University of Victoria between 2008 and 2014. Then I went and did a postdoc in Quebec City between 2014 to 2017. And then, I came back to BC and did another postdoc with UBC and Fisheries and Oceans Canada, unofficially with Fisheries and Oceans. And then, I started as a biologist at Fisheries and Oceans and then moved into a research scientist position in 2019, I believe. And then was made a permanent research scientist at Fisheries and Oceans in 2020 and worked towards taking over a lab, a very large lab in the Pacific region, and eventually became co-program head with a retiring scientist, and that was up to 2021.

**Marion Randall**

And then what happened in 2021? I think we're in the midst of COVID then where you started having troubles.

**Dr. Ben Sutherland**

Yeah, so well, we were dealing with the pandemic effectively in the lab. We were being very cautious and careful, following all the rules, and many of us were working from home, myself included for much of the time. And then, yeah, I guess the vaccine mandate was announced.

**Marion Randall**

And just before you get there, Dr. Sutherland, would you tell the Commission, I think you've got a leadership award for your leadership in enforcing COVID mandates.

**Dr. Ben Sutherland**

That was after the—

**Marion Randall**

After the mandates.

**Dr. Ben Sutherland**

August 6th was when we heard in the media, the mandate was being announced, August 6, 2021. And I was very concerned about that. It was a shock to me because the organization was very respectful before that about diversity of opinions and all kinds of different people respecting diversity.

So I was really shocked and upset in August when I heard that, and I actually went to my specialist. I have a genetic disorder that has an iron accumulation disorder called hereditary hemochromatosis, and in 2016, I found out I had this. I had actually put off testing for it for so long because I was just too focused on my career. And I found out I had it in 2016 and my levels of iron were very high, and I had to go through all this testing to make sure that I hadn't done permanent damage to my organs. It was really scary. That was

when I was in Quebec. And I swore after that I would never put my career in front of my health again.

So I went to my specialist after hearing about the mandate, and I said, “Have they done testing on people with hereditary hemochromatosis and chronic low platelets?” which I had. And he said, “Well, not exactly, but I don’t have any reason to think that you shouldn’t be safe to take this procedure.”

And so he wouldn’t give me an exemption letter, which, you know, he had no reason to think that I was in danger, so I respect that opinion. And so I was not able to obtain an exemption letter. So a few days later, I was indeed provided a leadership award as I mentioned. We had a— It still is a large lab, it’s a great lab. I had five direct reports, and I was co-managing five other reports while my mentor was getting ready to retire. A lot of effort went in to training me up to run this lab. It was a very— It was an honour to work there.

So I was given a leadership award

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during the COVID-19 pandemic for making sure the lab operated effectively, and we got our job done. And then, of course, the election came in September, and that went the way it did. And October the 6th, the mandate was officially implemented. And at this time, I—

**Marion Randall**

And just to ask you, Dr. Sutherland, is that the federal? There was a federal mandate on October 6th for all federal workers?

**Dr. Ben Sutherland**

That’s correct yeah, the policy on COVID vaccine, the policy went in on October the 6th. That’s correct.

**Marion Randall**

Thank you.

**Dr. Ben Sutherland**

So October the 12th, I had to attest as to my status, and I decided to not request an exemption because I couldn’t get the exemption letter. And I didn’t have a religious affiliation at the time, and it was very clear that exemptions were going to be very difficult to obtain. It also didn’t sit right with me to request an exemption: like, why should I be exempt because of hemochromatosis or something when the person beside me who just doesn’t want to take this medical procedure has to take it? So it didn’t sit right with me requesting an exemption.

So I attested as an unvaccinated person and not requesting an exemption. And then that’s when I started reaching out to everybody I could. I tried reaching out to the union. They fully supported the mandate, so it was clear I wasn’t going to get any movement there. They spoke with me, but they wouldn’t debate with me about any of the topics. But in any case, they fully supported the mandate, the union, and then I went to my management and they

did what they did. I mean my direct supervisor absolutely did not— I can't speak for him, but they didn't want to lose me there. It was just, that was how things work.

So it was clear to me that I was going to be removed from my position, so I started planning my departure. I just want to underscore, I'm an early career researcher. This was my dream job. I was going to do 30, 35 years. I was doing genetic stock ID in salmon across the whole coast. That's a specialty I've been working on my whole career. So this was the hardest decision, but also, I would not have made it any other way, and I still wouldn't today.

**Marion Randall**

So Dr. Sutherland, there was a period, October 12th, you had to make the attestation for your

**Dr. Ben Sutherland**

That's correct.

**Marion Randall**

vaccine status, and then, as you're saying, you prepared to leave. But you are also required to take a course, I believe.

**Dr. Ben Sutherland**

That was a little bit later. So I was preparing to leave. I was getting all my files ready for my replacement, who was a good scientist, and I gave all of my documents to him and sorted out all my emails because I knew that I would be removed from my position and locked out of my computer and email within 24 hours. So I needed to make sure that the lab could continue the important work that they were doing. And then, yes, I had to take the mandated course. As an unvaccinated individual, I was mandated to take a course called Building Vaccine Confidence.

And yeah, they actually asked me in my— Well, I don't know if it would be called an exit interview, but when I was removed on November the 15th, they wanted to make sure that I had taken that course, which I told them I took it and I had some serious concerns with the course and some issues. And I had comments for them if they wanted it. But they didn't want my suggestions on the course.

**Marion Randall**

So you were removed on November 15th of 2020, is that right?

**Dr. Ben Sutherland**

2021.

**Marion Randall**

2021. So were you fired at that time, or did you expect to go back to your work?

**Dr. Ben Sutherland**

That's a matter of debate, I believe. I was put on administrative leave without pay. My record of employment was Code M, and it says dismissed/suspended, but I was told that I was not dismissed. It said due to COVID vaccine mandate. So I guess I was not dismissed, but I was placed on this leave without pay against my will.

And yeah, that kind of started a period of— I would describe it as traumatic. I basically had to drop all of my projects with all of my collaborators,

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some of whom I'd been working with before I was at that job. And when you're in a research field like mine, marine genomics, you really build— Like it's a small group. It's not as big as human genetics or anything, so you build a network, and I had all these tens of projects that were really exciting that I was driving forward. And I just had to drop all of them.

**Marion Randall**

Are these projects that were with Fisheries and Oceans, and you couldn't continue with them because they were part of that work?

**Dr. Ben Sutherland**

That's correct, yeah.

**Marion Randall**

And how did you make out financially during this period?

**Dr. Ben Sutherland**

I don't know if scary is the right word; it was really anxiety-inducing. My wife, she works in a private organization, and we were concerned she was going to also get mandated. It was actually one of the harder moments when she said that she was going to go and get the shot so that we could keep our house. And that really frustrated me because it took away my ability to take care of my family with my wife; you know, we are partners. And I said, "Absolutely not; we're not doing that," and she agreed with me. But they didn't implement the mandate in the private sector; they're too smart. They don't want to lose good employees, of course; they have to make good money, well some of the private sector anyways. But they didn't in her job, so we were able to get through there.

I wasn't able to sit in front of a computer for about a month or so, through December. That was that dark period. I was really touched by the testimony earlier. It was a very difficult time in Canada during the fall of 2021.

I applied for EI. It was so frustrating. I was, you know, I'm this specialized scientist, and I am walking my dog at 8:30 in the morning on Tuesday morning watching all these cars going to work, and I'm thinking, "Why can't I just go into the other room?" I work from home and do all— Like there's never enough hours in the day for a researcher to get their work done. And now I just have to sit back and do nothing.

So I applied for EI and eventually heard back in February, and I managed to get EI. So I was on employment insurance, which was interesting to me because one of the notes on the website for eligibility says you lost your job due to no fault of your own. So someone in the EI department thought it wasn't due to my own fault.

But at that point, as a researcher, as an academic, you have to keep publishing papers, you have to keep working in the field. And I needed to find some money. And I needed to get back on my feet, rebuild my confidence. So I decided, okay if that's how it's going to be, I'm going to start my own company. And I did. And so as soon as the EI started, it ended. And I started my own company in late February 2022. And I was rebuilding my confidence. It was yeah, like I said, it was a tough time.

**Marion Randall**

So during the period that you worked for Fisheries, you knew the mandate was coming down, you'd made your attestation before you left. Were you working remotely that entire time?

**Dr. Ben Sutherland**

I was.

**Marion Randall**

From home?

**Dr. Ben Sutherland**

I was working remotely, I believe, the entire time when the mandates came in. I was one of— I wanted to get back to be with my team. I didn't have to be there, but I wanted to be around. But yeah, a lot of the time during the COVID period, I was working from home.

**Marion Randall**

So you weren't interacting with other people where you could possibly transmit something is what I'm thinking?

**Dr. Ben Sutherland**

No, after the mandate came up, I was basically, I had a really good setup at home and I just kept working from there. I wasn't actually doing lab work, so yeah, I was just working from home.

**Marion Randall**

So when you developed your own company and you're doing your research to keep up your skills

**Dr. Ben Sutherland**

Yes.

**Marion Randall**

was there sort of ramifications to do with not being able to speak to any of these collaborators or have any access to your projects at work that affected you trying to start your business?

**Dr. Ben Sutherland**

Absolutely, yes. You know, it was hard to drop everything. I couldn't really reach out to people and explain, "Hey, sorry, I can't fulfill my commitments to this project because I've been put on leave,

[00:15:00]

because I'm an unvaccinated person." We know the stigma around unvaccinated people at that time, and I don't want to share my private medical information with collaborators that I really respect.

This is actually the first time I've publicly spoken about this issue. But just to answer your question more directly, I worked with the values and ethics division at Fisheries and Oceans. And it turned out that I couldn't take on any projects related to salmon, which I had been working on since 2008 because it was a risk of a conflict of interest. Which I think makes sense if I actually went on my own leave, like if I actually wanted to go on leave. You don't want me mixing with clients that maybe want to sway my opinion when I'm back in the position. But when you're forced on leave without pay and then told that it's a high risk of conflict of interest to work in your field, yeah, it's very difficult.

**Marion Randall**

So do you work in a different field than salmon now?

**Dr. Ben Sutherland**

I switched fields. I did a bit of work on shellfish in 2017. So I jumped into that field and learned a bunch of new things. It took me a little while to get up and running, but I got there and I had some really nice opportunities come up. I'm pretty good at what I do, so people were happy to get me involved. So yes, I switched fields and I'm actually still working in shellfish genomics now. I haven't gone back to salmon.

**Marion Randall**

Is it fair to say that you had this dream job and you've gone on a completely different trajectory than you had hoped or planned to or dreamt about?

**Dr. Ben Sutherland**

Yeah, I mean, that was my first real job. I had like a pension; I had a reasonable salary. We just had bought a house, my wife and I, and this derailed that entire thing. Now I do contract work and I'm very thankful for that, but it's a completely different direction than where I was going. But yeah, we have to make the best of what happens.

**Marion Randall**

So at some point in here, did Department of Fisheries and Oceans ask you to come back? Because you were on unpaid leave but still technically employed?

**Dr. Ben Sutherland**

Yes, okay, and that comes back to the question about was I fired or was I dismissed or— So in March, I started getting more anxious again because I knew the six-month period was coming up.

**Marion Randall**

Is that March of this year, 2023?

**Dr. Ben Sutherland**

Sorry, March of 2022.

**Marion Randall**

Okay, thank you.

**Dr. Ben Sutherland**

I started to get more anxious because I knew May 15th was coming around. And I expected six months after they implemented this policy that we'd hear back about our jobs. And I still didn't know, like am I able to go back? This was a traumatic situation. How can I trust this organization, like the policy, you know? The people that I worked around were wonderful but policy in the organization, I was just— Can I even go back at this point? I also had all these commitments that I'd made because I'd started these contracts that I needed to fulfill, all of which I got approval through values and ethics and from management that I could finish those projects.

So anyways, April came around. At the end of March, I contacted the office of the president of the union and said—well there was a few things that I was talking to them about. And then April 6th, the union decided that it was now unjust, and I believe, unjustified and punitive. You can check the wording of that please in the press releases from the union. But they said that it's only unjustified as of April 6th, not as of November, so I disagreed completely.

It was in my view, November was when the problem, or maybe even August was when the problem started. So the union started pushing back against the employer as of April 6th but not before. And then May 15th came around, and there was still no word. And I was very anxious at this time, waking up in the middle of the night, like, what am I going to do? Can I even go back there? I couldn't even think about it; it was just, it was too, it was too much.

**Marion Randall**

Were there consequences of your union saying it was as of April 6th that they thought it was justified? If they had gone back to the November date, would you have expected to have the money for which you were not paid and put on unpaid leave? Like, if your union had taken a different approach, would it have been likely that you could have been paid for that time you were forced off the job?



[00:20:00]

**Dr. Ben Sutherland**

I have no idea.

**Marion Randall**

Okay.

**Dr. Ben Sutherland**

I have no idea. In any case, they absolutely, they specifically said to me, we will not— November 15th, we approve of the policy. And it wasn't until April that it was not approved anymore. So I'm not sure.

**Marion Randall**

So basically what we have here, and what you're telling the Commission here, is that you were in your dream job, you were forced off into a trajectory you didn't want, and this gave you a great deal to have to redo. You were devastated. Maybe you can describe it a bit and anything else you might have to say.

**Dr. Ben Sutherland**

Well, sorry, I know it's late in the day. So yeah, I'm just looking for the date. Okay, so after seven months on leave, I decided enough is enough, and there's no way I can go back to this job. And they still hadn't told us what was happening. This was June 6th or early June 2022, and so I hired a lawyer, and I went to defend myself. I was tired of looking for help from people who didn't want to help me. So I hired a lawyer. And that was on June 9th, I believe. And then on June 14th, they announced the suspension of the policy. And they wanted everybody back to work on June 20th.

However, they only suspended the policy. They did not rescind the policy. The policy is still there. It's just in a suspended form. And it specifically states that they can reintroduce it if they deem it necessary. So that would be hanging over one's head if they were back in that job. So I had already committed to the legal route. By that point, I realized, no, you lost your job in November.

**Marion Randall**

Did the steps you took for legal action, did they produce any fruit? What happened?

**Dr. Ben Sutherland**

We filed in federal court and that filing is there right now.

**Marion Randall**

It's ongoing?

**Dr. Ben Sutherland**

I believe so. I don't know if I can talk much about that, but yeah, it's not ended.

**Marion Randall**

So is there anything else you need to add to your testimony here?

**Dr. Ben Sutherland**

Yeah, just the one thing I would say is, if you think about where I was, I was working from home with no contact. I was winning awards while working from home. My peers were still working from home during the whole period that I was on leave without pay. My colleagues, other research scientists, they were still working from home. So it leads me to think that the only reason— Like, there was no contact between me and the workforce. I can't speak for the people putting in the policy, but they would probably say something like, "Well, you might have needed to go into the workplace." That's not the case for my position. And that's why I think my case is interesting to provide as testimony here because the objectives of the policy that they put into place, the second objective is basically to improve the vaccination rate in the federal public service. And that, to me, is the only objective that was met by removing me from my job.

I was asked about suggestions for the Commission. And I just have the question: Is that what we're doing now as a country, is specifically to increase vaccination rate where we're removing people from their jobs? And yeah, I think that's all I have to say.

**Marion Randall**

Thank you. So any questions from the Commissioners? Yes, please. I think, is that okay? And then you after.

**Commissioner Kaikkonen**

I just have a quick question. Given the Prime Minister's statement this week, earlier this week, where he doesn't think the vaccination policy was forced on employees that are within the federal government, do you feel that you were forced?

**Dr. Ben Sutherland**

That's a very difficult question. I think that's a legal question. And I think that's above my—I chose to not take the shots.

[00:25:00]

I faced serious consequences for not taking the shots: those consequences were emotional; they were financial; they were reputational; and they were career-impacting consequences. And that was specifically for not taking something that I did not— For saying no to a medical procedure. That's all I can say to that. But thank you for that question.

**Commissioner Kaikkonen**

That works. Thank you.

**Marion Randall**

And the next question, please.

**Commissioner DiGregorio**

Thank you so much for staying and testifying at this late hour.

**Dr. Ben Sutherland**

Thank you.

**Commissioner DiGregorio**

You referred to the policy and I think you might have even had a copy of it there and how one of its purposes was to increase vaccine uptake. And I'm just wondering if you can provide a copy of that policy to the Commission.

**Dr. Ben Sutherland**

Absolutely and it's all public information and I'd be happy to provide that policy or yes that document [Exhibit VA-13].

**Commissioner DiGregorio**

Thank you.

**Dr. Ben Sutherland**

Thank you.

**Marion Randall**

Any further questions? No? Okay. Thank you very much. Thank you for your testimony, Dr. Sutherland.

[00:26:25]

***Final Review and Approval:*** Margaret Phillips, August 25, 2023.

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