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Chair

Mrs. Deborah Schulte

Standing Committee on Environment and Sustainable Development

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• (1530)

[English]

The Chair (Mrs. Deborah Schulte (King—Vaughan, Lib.)): I call the meeting to order.

We had discussed that we were going to do 15 minutes at the end to respect our guests' time; however, it's very important that we're all here when that happens. I know some of the members have to go early.

If our guests are okay with this, we're going to do 10 minutes right at the beginning to get our committee business out of the way. Then we can get right into witness statements. Thanks for your understanding, and we'll get this done quickly.

In front of us is a motion. Ms. Duncan brought it forward a couple of weeks ago, and we held off addressing it until you were here. Now is a good time to table it. I was going to open the floor for a very quick discussion on it. It's about the commissioner.

Just to bring it to everybody's attention, if you don't remember what the commissioner's reports were on, there was one on nuclear and one on fisheries. I don't have it in front of me, but it was on the fisheries department and keeping track of the numbers of species. Sustainable fisheries is what it was all about.

There was also one on a sustainable development strategy, which we already spent quite a lot of time on in this committee.

Those were the reports that she brought forward. Ms. Duncan is suggesting that we bring her in to have her report to us on those. I know you're new to the committee. We've actually had her in front of us many times.

Hon. Ed Fast (Abbotsford, CPC): Yes, it was many times.

The Chair: You haven't had the privilege of experiencing that, but we have definitely spent a lot of time with her. She was very helpful in our sustainable development study.

Let's open the floor. Does anybody have any comments?

Ms. Linda Duncan (Edmonton Strathcona, NDP): I'd like to speak to my own motion. Thank you very much, Madam Chair.

I was initially recommending the commissioner. In view of the fact that we had done a sustainable development report, she has done yet another one on different agencies, and she in turn wrote to us. She was surprised she hadn't heard from us, but the commissioner usually comes before the environment committee after she has tabled a report.

I would love to have her come and speak to us. We can be specific on which parts of her report she might talk to us about. I know there was something about fisheries, but I don't think we need to deal with that. Perhaps it could be on the sustainable development side of it.

I would love to have her come before us, even if it was just for an hour. I'd like to return the courtesy to her. She's asked to come before us. I would like to hear her feedback on our report and have people ask questions about her latest report, which reviewed another four or five agencies.

The Chair: Does anybody else have anything to add?

I have Mr. Amos and then Mr. Fast.

• (1535)

Mr. William Amos (Pontiac, Lib.): I say this with the greatest of respect for the commissioner, who I would actually love to meet with. However, I'm preoccupied by the timeline that we have for our CEPA report.

As you mentioned, Madam Chair, we've had the opportunity to meet with the commissioner on her previous reports, and I do think in an ideal world we would have the opportunity to meet with her every single time she issues a report. However, in light of the fact that we've taken extra time on the conservation and protected areas piece in order to get the necessary number of witnesses in to have a comprehensive report, and in light of the fact that we have a deadline on the CEPA report, I think we should be prioritizing that and getting through the witnesses on that issue.

The Chair: Thank you.

Go ahead, Mr. Fast.

Hon. Ed Fast: I share Mr. Amos's concerns.

I have a question, first of all, to staff. Have we actually received a formal request from the commissioner to appear before committee to speak to us?

The Chair: She offered. It's not—

Hon. Ed Fast: Yes, I appreciate the offer, but this is all about setting priorities. We've done extensive work on the conservation study. The commissioner has actually appeared on the Federal Sustainable Development Act work that we did. I know along the way there are going to be additional things we can learn from her, but right now we have the conservation study that we still have to provide drafting instructions for. We have a comprehensive CEPA review. We have a climate change study that we're going to be doing after that.

I would like to get through the studies we're committed to before we start inserting all kinds of other sessions that don't relate directly to the priorities this committee has established. I'm with Mr. Amos. At this point in time, I think this is premature.

The Chair: Okay.

Ms. Linda Duncan: Let's just call the vote. Clearly we're going to lose it. Let's just move on to our witnesses.

The Chair: I still wanted to put something in front of the committee. We don't have to lose a vote. We can suspend it for now and think about bringing her back. When we've done our work, if you want to do that, we have that option. We can adjourn debate, and it sits there. If we have time sometime in the future, we can bring it back up, but it's up to you.

Ms. Linda Duncan: Let's not waste any more time. I don't think she's coming.

The Chair: Okay, we'll call the vote.

(Motion negatived)

The Chair: That has not passed.

The other thing is that on Tuesday we have the finance minister doing an update in the House. I believe most people would probably like to be in the House to hear that. I'm wondering if there's any opposition to our moving our committee—we're doing drafting instructions—from 4:30 p.m. to 6:30 p.m., recognizing that we do have a subcommittee after that for about half an hour.

Mr. Darren Fisher (Dartmouth—Cole Harbour, Lib.): Do you mean we start at 6:30?

The Chair: No, we would start at 4:30 instead of 3:30. We move it back an hour, and that way we can be in the House for the minister.

Ms. Linda Duncan: I can't speak for Mr. Stetski or whether he has obligations, so you might want to get in touch with him.

The Chair: Whoever is in this House at this time is speaking for each other, so you're really the member today. You didn't know about this, so I will ask him, but I would just like to have the sense of what's around the table here.

Does anybody have a problem with that?

Mr. William Amos: Chair, unfortunately I've committed to a meeting of the subcommittee of the Joint Interparliamentary Council, where I'm serving as a witness. I will have to—

The Chair: What time is that?

Mr. William Amos: That's at 5:30 to 6:30. They're reviewing the parliamentary associations and the parliamentary groups, and so everyone who's a chair of a parliamentary group or association has been asked if they would come by.

The Chair: Okay, so you have a problem.

Go ahead, Mr. Bossio.

Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.): Chair, I won't be here for the whole week, so you'll have to go head without me, unfortunately.

The Chair: Okey-dokey.

Ms. Linda Duncan: Madam Chair, if we're going to have a subcommittee meeting, can we have it first? I ask because I have an

obligation at 6 o'clock. If you're going to go till 7:30 p.m. and then have a subcommittee meeting, I prefer that we have the subcommittee meeting at 4:30 p.m.

The Chair: Okay, we'll move the subcommittee over to Thursday. If that's going to be a problem, I need to know about it now; otherwise, we'll move the subcommittee to Thursday.

Mr. William Amos: I should have added that I don't mind if the meeting carries on without me. I will just go to that other meeting and come back. I'm sure our team can carry the ball.

• (1540)

The Chair: Okay.

Does anybody have a problem with moving the subcommittee, because of this, to Thursday? We normally don't, because the Thursday people are trying to get home—

Ms. Linda Duncan: I'm actually here.

The Chair: —and so I just want people to be aware of that.

You're here, so you're okay.

What about our side? On Thursday night, what's the issue?

Mr. Darren Fisher: For a subcommittee?

The Chair: For a subcommittee....

Mr. Darren Fisher: I'm not on it.

The Chair: That's Will and John.

Mr. John Aldag (Cloverdale—Langley City, Lib.): I just have to see what my flights are. Yes, I'm going out the next day, so I'm good for Thursday night.

The Chair: Then you're okay.

Okay, we'll move it to Thursday, and that solves that problem. Obviously we have some issues with moving the schedule, but I think we're going to move it and we're going to make accommodation for that. I'll check with Mr. Stetski to see what his issues are, just to make sure he knows what we're doing.

The other issue we had was Darren's bill. We had all decided that we were going to do that the week we come back from the riding week. Ms. Duncan asked me if we can have additional witnesses. I know we had voted here that we were not going to. She felt that there wasn't an opportunity for her to have any comment on it because she wasn't aware that we had a subcommittee meeting where we decided that.

Do you want to put your position forward, and then we'll vote on it?

Ms. Linda Duncan: Yes.

Two weeks ago I submitted names of witnesses. They are the same witnesses that I presented here to the committee when I was here, so it's no surprise that I had requested additional witnesses. All that I needed to do was to provide the names and the contact information. Absolutely, people seemed interested in the witnesses I was suggesting for enforcement and cumulative impact assessment.

The Chair: Are you talking about CEPA or are you talking about Darren's bill?

Ms. Linda Duncan: I'm talking about CEPA.

The Chair: I'm talking about Darren's bill. CEPA is totally different. I thought you wanted to have something on Darren's private member's bill.

Ms. Linda Duncan: I did also, on that one.

The Chair: Okay, so let's talk about Darren's bill.

Ms. Linda Duncan: The issue on the light bulb bill was that I wanted to simply be here, and that's a week when I may not be in town. I'm finding out if it still makes sense for me to go with the minister to Morocco, given the changes that she's made. If I'm here, great, but if that's the week she's suggesting that I go with her, then I'm just not here.

I wanted to be here to discuss this bill. Somebody from CELA wanted to come to testify and be supportive. I would definitely like to be here, and be here for the review.

The Chair: There are only two things going on in the committee at that point, because we'll already have finished our drafting instructions. We're either doing CEPA or Darren's bill.

Both are important to you. We're doing one or the other. We have to have the meeting, so what do you want to do?

Ms. Linda Duncan: The regrettable thing is that there are discussions about agenda. Unless I come to every meeting, which is kind of duplicitous—

The Chair: No, no—

Ms. Linda Duncan: I know, but that's the problem. Decisions were made on our schedule without consulting me. I'm not here that week. My witnesses on CEPA can't be here. They could be here, but I can't even ask them. Then the light bulbs would be dealt with.

It's just unfortunate that it's the only week when I'm not here. I would have been available any other day. I've requested those witnesses on CEPA and I would like to be part of Darren's review, but it's just a week I can't be here.

The Chair: Hold on. I think we're getting mixed up.

The week you're not here, we're doing Darren's bill. Your witnesses are being invited for CEPA, which is going to come when you're here, so if those are the witnesses you want to see, that's not a problem.

Ms. Linda Duncan: What's the date for the CEPA?

The Chair: Darren's bill is coming in front of us right after we go on the break. You're maybe going to be away that week and the following week. It's that following week. I think it's the 14th. It's the one right after the break week.

Mr. Darren Fisher: I was told it was the 14th or 16th.

The Chair: Right, it's the 14th or 16th, and then we're going back into CEPA.

We didn't have much choice. It was either CEPA or Darren's bill, and you want to be here for both of them.

Ms. Linda Duncan: I know, because that was what everybody agreed to do, and I didn't have a chance to say that I can't do it.

The Chair: Okay, but we're not cancelling the meeting. We're doing one or the other, and I think you have an interest in the CEPA

Ms. Linda Duncan: I have an interest in both of them.

The Chair: Okay.

Ms. Linda Duncan: If I can't be here to discuss Darren's bill, I absolutely need to be here for CEPA, because I'm the only one who has requested additional witnesses.

The Chair: Okay, but that's not true. We have lots of witnesses.

● (1545)

Ms. Linda Duncan: I haven't heard of any additional witnesses.

An hon. member: There are dozens of witnesses.

The Chair: That's what we do in the subcommittee meeting.

Ms. Linda Duncan: I was told there weren't any more, so I'm only saying what I've been told.

The Chair: Okay, let's end this, then. I think we have our schedule, and that's what we're going to stick to. I was trying to accommodate a request, but I think we're okay.

We're going to have Darren's bill done. The week after that, we're going to carry on with our CEPA study, and we are going to discuss in the subcommittee, which is now next Thursday, what we're going to do. You will need to potentially come to that, because we're going to be discussing witnesses.

Ms. Linda Duncan: Okay. I'll be there.

The Chair: Perfect. I think we're good.

If we're all ready, we'll close that chapter and move on to our very wonderful witnesses, who have been patiently waiting.

I will introduce who's here.

From Pulse Canada, we have Gordon Bacon, chief executive officer. Thank you for being here in the committee room with us.

We have David Boyd, who is adjunct professor, resource and environmental management, at Simon Fraser University. He is on video conference with us. It's nice to see you again. Thank you for being here.

From the Ecology Action Centre, we have Mark Butler, who is the policy director. He is here via video conference from Halifax, Nova Scotia. Thank you very much for being here also.

We usually get started with the video conference people, because that's always the most dicey section. We might lose you, and we don't want to do that.

We'll get started with David Boyd. You have 10 minutes. I think you know the procedure, having been in front of us before. Thank you so much.

Dr. David Boyd (Adjunct Professor, Resource and Environmental Management, Simon Fraser University, As an Individual): Thank you very much, Madam Chair and honourable MPs. It's a pleasure to be joining you here today.

It is now 30 years since the Progressive Conservatives under Prime Minister Mulroney pledged to introduce a comprehensive new environmental law for Canada. The Canadian Environmental Protection Act, in their words, was to be the world's toughest pollution legislation and include an environmental bill of rights for Canadians. Unfortunately, neither of those visions has come to pass, but I think they offer objectives that are still relevant to Canadians today: to have world-class legislation that protects human health and ecosystem health from pollution and toxic substances.

I am going to start with an overview of the problem we are trying to solve. Much of what I say today is drawn from my most recent book, called *Cleaner, Greener, Healthier: A Prescription for Stronger Canadian Environmental Laws and Policies*. If any members of the committee are interested, I am happy to provide complimentary copies of that book to you.

Let me start with the big picture. The environmental burden of disease in Canada, which is the proportion of premature deaths and illnesses caused by exposure to environmental hazards, is strikingly high. The best estimates of the number of premature mortalities in Canada every year range between 15,000 and 25,000, and we have millions of preventable illnesses caused by exposure to environmental hazards. The areas of greatest concern are probably cardiovascular and respiratory illnesses caused by exposure to air pollution, and cancer caused by a whole range of toxic substances from air pollution to asbestos, radon, and so on.

To make matters worse, this environmental burden of disease in Canada is not equitably distributed. There are vulnerable and marginalized populations that are currently bearing a disproportionate share of the burden of pollution. Indigenous people in Kitimat, B.C., Fort McKay, Alberta, and Samia, Ontario, are exposed to high levels of air pollution. Water contamination faces Grassy Narrows First Nation, and there is extensive pollution in the three northern territories.

It is not just indigenous peoples who bear the brunt of disproportionate pollution in Canada. A striking study revealed that one out of every four low-income Canadians lives within one kilometre of a major source of industrial air pollution, resulting in higher levels of hospitalization for heart disease and lung disease.

These are the problems we are trying to solve. The environmental burden of disease in Canada carries a major economic cost, ranging between \$3 billion and \$7 billion a year in direct health care costs, and between \$3 billion and \$8 billion a year in terms of lost productivity. When we try to put a dollar figure on the pain, suffering, and premature loss of life, we get a figure exceeding \$70 billion.

What I hope to do in my 10 minutes with you today is lay out eight principled approaches that will enable you to strengthen CEPA, prevent these premature deaths, prevent these preventable and unnecessary illnesses, and save the Canadian economy billions of dollars.

With no further introduction, let me turn to my first recommendation.

Number one is the polluter pays principle, something that I'm sure all of us agree is an important principle of environmental law.

Everyone, from economists on one side to environmentalists on the other, agrees that the most efficient way to implement the polluter pays principle is through pollution taxes, yet Canada ranks dead last among wealthy industrialized countries in the use of pollution taxes, according to a 2013 study from KPMG.

My book compares pollution taxes on fuel, energy, pesticides, air pollution, and water pollution and finds that in each of these categories, we lag behind our industrialized peers. My first recommendation for you is to amend CEPA to explicitly authorize the use of pollution taxes, which is not currently in the law, and to mandate the creation of a national pollutant tax, using the data provided to the Government of Canada through the National Pollutant Release Inventory. That's number one.

The second principle is substitution, which is a very simple principle. It just means we should eliminate and phase out toxic substances and replace them with safer alternatives. This was a principle pioneered by Swedish legislation in the 1990s. It's now the bedrock of the European Union's REACH chemicals legislation, but it is not found at all in CEPA.

• (1550)

My second recommendation is that CEPA should be amended to include the substitution principle, and that in part 5 of CEPA, every time we list a toxic substance, we should go through a rigorous assessment of the alternatives and mandatory substitution of safer substances.

My third principle that I would like to share with you is the precautionary principle. Again, the precautionary principle is already found in the Canadian Environmental Protection Act; it's the implementation that's been lacking. For example, when I compared drinking water rules and regulations across the OECD for 65 different chemical contaminants, Canada's voluntary guideline for those contaminants is weaker than that of another jurisdiction for over 80% of those chemical contaminants. It's not only that: most countries have legally binding standards for drinking water quality, whereas Canada only has voluntary guidelines.

To really ensure that we are applying the precautionary principle, I have two recommendations. One is that CEPA be amended to require the suspension of the manufacturing, import, export, or use of any toxic substance that has been banned by another OECD nation. The second is to use a hazards-based approach for substances of very high concern.

This is emulating the European Union. The assumption would be that we would prohibit those substances unless industry can provide evidence that they can be safely used and that there are no feasible alternatives.

My fourth principle is world-class standards. I believe all Canadians should be protected by world-class standards. In my book I review Canadian rules governing both indoor and outdoor air quality, drinking water, pesticides, and toxic substances, and we consistently lag behind other countries. I'll give you just one very important example: air pollution and air quality. Canada is the only western industrialized nation that does not have legally binding national standards for air quality. We have voluntary guidelines. We call them standards, but let me be clear: they are not.

Even our voluntary guidelines are much weaker than those in other countries. For example, Canada's guideline for sulphur dioxide is more than four times weaker than the corresponding American standard.

My recommendations in terms of world-class standards are that CEPA should be amended to require Canada to put in place standards that are as strong as or better than any other OECD nation and to mandate the development of national standards that are legally binding for air quality and for drinking water safety.

The fifth principle I came to talk to you today about is the right to live in a healthy environment. This was intended to be included in the original CEPA back in the 1980s. That didn't happen. The right to a healthy environment is a right to clear air, to safe drinking water, to a non-toxic environment, and to flourishing biodiversity. It's accompanied by procedural rights, including access to information, public participation in decision-making, and access to justice.

This right is found in the environmental laws of more than 100 countries around the world, such as France, Finland, Norway, Costa Rica, and Brazil. It's also found in the environmental laws of five Canadian jurisdictions: Ontario, Quebec, and the three northern territories. In the past two years, more than 150 Canadian municipalities have passed resolutions recognizing their citizens' right to a healthy environment and calling upon the federal government to do the same, so my fifth recommendation is that CEPA be amended in part 2 to include environmental rights and responsibilities.

For all of these recommendations I'm putting forward today, I will submit a much more detailed brief, because obviously I can't cover them in 10 minutes.

My sixth recommendation has to do with environmental justice. I mentioned at the outset that a disproportionate burden of pollution is being borne by vulnerable and marginalized populations. This principle needs to be added to part 2 of CEPA, and in all decisions and actions taken by the federal government, special consideration for these populations needs to be included.

Canada should also follow the urging of the World Health Organization, so CEPA should require a national environmental health equity assessment to be done on a regular basis, every five or 10 years, to define the scope of the problem and outline potential solutions.

My seventh recommendation has to do with the effective enforcement of CEPA. I can tell you that the enforcement of this law has been a disaster from the get-go. For my book I calculated that the first 23 years of enforcement under CEPA resulted in a

smaller number of fines than one year of enforcement of an overdue book in the Toronto Public Library.

CEPA 1999 includes an environmental protection action that citizens can use to enforce CEPA. It has never been used.

•(1555)

My recommendation here is to provide citizens with the opportunity to bring civil actions to enforce the Canadian Environmental Protection Act. There are successful models in the United States and Australia that we can build on that will help ensure greater compliance with this very important law.

The Chair: You're almost out of time, so I just want you to wrap it up, if you can.

Thanks.

Dr. David Boyd: Thank you, Madam Chair.

My eighth and final recommendation is that we need to have more mandatory timelines in CEPA. Health Canada and Environment Canada have just finished an amazing job of categorizing thousands of substances. That was because the law required them to do it by a certain day. There are a variety of timelines that need to be added to CEPA in order for it to function effectively.

Thank you very much for your time and attention today, and I look forward to your questions.

The Chair: Thank you very much for your statement. I'm sorry to have to cut you off, but I know there will be more coming, and there will be lots coming out in the questions.

Next up is Mark Butler.

Thank you very much, and we look forward to what you have to tell us today.

Mr. Mark Butler (Policy Director, Ecology Action Centre): Madam Chair, co-chairs, and members, thank you for this opportunity to present and for turning your attention to the application of the act to the first GM food animal in the world to receive approval for human consumption.

At the end of my presentation, I will also briefly address a couple of other CEPA-related issues.

I am the policy director at the Ecology Action Centre, which is a Nova Scotia-based environmental organization founded in 1971. We endeavour to ground our work in science, and we also try to find solutions that integrate the economy and the environment. Our preference is to be solutions-based, and I will endeavour to take that approach today.

I am not a CEPA scholar, and CEPA is not an easy act, or at least part 6 is not. There are others, such as my co-presenters Dr. David Boyd or Dr. Meinhard Doelle at Dalhousie University, or some of the lawyers at Ecojustice, who are better equipped to craft amendments to the act that will address some of the problems that I will discuss today.

Prior to EAC's engagement on GM salmon in 2014, we did relatively little work on the interactions of genetically modified organisms with natural systems. We became involved because of a threat in our backyard to wild Atlantic salmon.

AquaBounty is an international company with a research facility in Prince Edward Island. The company has developed a salmon that contains the genetic material from two other species: chinook salmon and ocean pout, which is an eel-like marine fish. The company claims that the fish can grow faster than conventionally farmed salmon. They also claim they have established barriers to their reproducing with wild salmon, principally through the use of land-based facilities and triploid induction, which is the creation of organisms with three chromosomes, effectively making them infertile.

We are concerned about the risk to wild salmon should GM salmon escape. First, GM salmon could outcompete wild salmon for the resources of food, habitat, or mates. Second, and more importantly, fertile GM salmon could breed with wild salmon, changing the genetic makeup of wild salmon forever. This would have unknown ecological consequences and economic consequences for recreational and food fisheries in Atlantic Canada.

We do have concerns about the research facility in P.E.I., but our main concern is with commercialization. At that point, you are talking about hundreds of millions of fish being grown in numerous facilities, and potentially close to some of our famous salmon rivers in New Brunswick, Quebec, Nova Scotia, and Newfoundland.

At the commercial scale, the barriers to reproduction with wild fish are subject to the laws of probability. Research papers have documented the escape of non-GM fish from land-based hatcheries in Atlantic Canada. We also know that triploid induction is not 100% effective. When you are talking about hundreds of millions of fish, a 1%, or 3%, or 5% failure rate is a lot of fish.

We are not looking for problems or windmills to tilt at. Atlantic salmon has enough problems without us inventing more for them. It's an endangered species, and there are probably fewer than 700,000 fish left in Atlantic Canada.

● (1600)

This approval has implications beyond salmon. The approval issued by Environment Canada is precedent-setting. It's the first commercial production of a GM food animal in Canada and the world. The biotech industry knows this. What Canada decides, what you decide, will have implications for the many other species with wild counterparts that are candidates for genetic engineering.

For these reasons, in 2014 we challenged Environment Canada's and Health Canada's approval in Federal Court. In 2015, the court ruled against us, and we appealed to the Federal Court of Appeal. We just heard this week that we lost our appeal. The court's main reason was deference to ministerial discretion.

Our principal argument in court was that Environment Canada gave approval for commercial production without assessing it. The Department of Fisheries and Oceans conducted a scientific assessment of AquaBounty's request to export 100,000 eggs to Panama for commercial grow-out and declared this transaction non-CEPA toxic, but made it clear that their conclusions were specific to

this request. Export of eggs from one research facility is a very different matter than the production of millions of fish at numerous facilities.

We also raised concerns around the issuance of waivers and the long delays in the publications of waivers, which I can address if you have questions.

During this process we were stunned to realize that CEPA, at least in this case, provided no opportunity for public consultation, nor has there been any consultation with stakeholders, be it the agriculture industry, the commercial fishing industry, the tourism and recreational fishery, or even the provinces. The Province of Nova Scotia has publicly opposed GM salmon, saying it's not necessary to the development of the industry. There has been no consultation with first nations and indigenous peoples. Atlantic salmon was and is a very important species for first nations in Ontario, Quebec, and Atlantic Canada. Altering the genome of this fish should trigger consultations.

Based on our experience over the last couple of years, we have some recommendations. They centre around public consultation, the transferability of the right to introduce a new substance from one company to another, and the issue of caution and the precautionary approach. I certainly agree with Dr. Boyd that while it's in the act, the act is certainly not being applied like that, at least with respect to GM salmon.

We also would like to see included in the act an expansion of what is considered to go toward sustainability benefit, including a broader definition of risk.

I mentioned that we work on other issues that have implications for CEPA, and I'll briefly address those.

We also work on the regulation of the conventional aquaculture industry. We are concerned about the Aquaculture Activities Regulations, which came into force in August 2015 but were an initiative of the previous government and, in our opinion, were part of the lost protections expressed through regulatory changes. Specifically, we would like the government to look closely to see if the disposal-at-sea provisions of CEPA are effectively violated by pesticide use in the aquaculture industry, and the reporting requirements under the AARs.

We are also concerned that these regulatory changes are counter to the intent of the London convention. The cuts to toxicology research on this issue will also impact science-based decision-making, and we know that the AAR changes were in direct response to the charges against Cooke Aquaculture for using an illegal pesticide in New Brunswick.

Finally, environmental justice, raised by David Boyd and other presenters, is important for our organization, and we work with impact to communities. We appreciate that the committee is considering this dimension in its review and that some presenters have raised it, and while we haven't focused on CEPA in our work on environmental justice, we are happy to answer questions on that matter.

Thank you very much.

• (1605)

The Chair: Thank you very much, Mr. Butler.

We're going to hear from Mr. Bacon, then we'll open the floor to questions.

You have 10 minutes, please. Thank you.

Mr. Gordon Bacon (Chief Executive Officer, Pulse Canada): Good afternoon, Madam Chairman, and good afternoon to all the committee members. Thank you very much for the invitation to appear in front of you today.

I want to start with a very brief introduction of our organization. Pulse Canada is the national industry group representing farmers and processors and exporters of pulse crops in Canada.

You may not know that Canada is the world's largest exporter of pulse crops, accounting for some 37% of global trade. Canada exports pulse crops like peas, beans, lentils, and chick peas to more than 150 countries around the world. While Canada's pulse crop industry might not be front of mind with all Canadians, the global pulse community does recognize Canada as a global pulse super-power, and we continue to grow.

Canadian farmers grew more than 4.6 million tonnes of peas in 2016, an increase of 44% from the previous year, and 3.2 million tonnes of lentils in 2016, which is a 36% increase from 2015. I believe this alone is a great story on environmental and sustainable development.

You might have heard that the United Nations has declared 2016 as the International Year of Pulses. To date, we've had more than 2.8 billion media impressions generated as consumers in the food industry look to the nutritional value of pulses, their contribution to important health issues like diabetes and cardiovascular disease, and increasingly the important role that pulses can play to improve the environmental footprint associated with food.

Pulses have clearly become much more than a trend. Consumer interest is continuing to grow, and the food industry is already acting, with new product launches and launches of reformulated foods that boost higher protein and fibre levels. The reformulation of food with ingredients with a small footprint will become increasingly important, and can be a cornerstone of Canadian and global

approaches to reducing the footprint from food. When reformulation also improves nutritional content, it's a real win-win.

CEPA, along with other acts, is part of the regulatory framework in Canada that ensures protection of the health of Canadians and protection of the environment. Since Canada exports to more than 150 countries, the Canadian regulatory framework also provides assurances to consumers and governments around the world. Canada's export of food items like pulses is seen as a trusted source of food, in part because of our recognition as being a global leader in our regulatory approach.

Canada plays a very important role globally in ensuring that people have access to sufficient food, affordable food, and safe food. We are one of only a handful of countries in the world that regularly produces enough food to be a reliable supplier to world markets. Canada therefore plays an important role in global food security.

Our work in the pulse industry is aligned with some broad global priorities: affordable food, food that improves human health, and a food system that is environmentally sustainable. When we add in the national goals of economic growth, competitiveness, and fostering of innovation, we have a multifaceted framework within which we can build a Canadian approach to regulation with a focus on environmental protection and sustainable development.

The sustainability of all sections of the food value chain depends upon its ability to assure the other links, including the consumer, that our food is safe. Farmers have a particularly close and personal link to both human and environmental health. Regulations provide the framework and safeguards to build on this assurance. As part of a global food system, it's important for Canada to play a leading role in ensuring there are global approaches to both human and environmental health.

The PCP Act, Pest Control Products Act in Canada is an important part of the regulatory framework that's working to protect human and environmental health. There's a strong alignment between the approaches taken by Canada's PMRA and the approach taken by the EPA in the U.S., the European Food Safety Authority, EFSA, and similar bodies in Australia and elsewhere. Their rigorous science-based approach to risk assessment with new and existing crop protection products not only keeps Canada's food system safe but also makes an important contribution to establishing a global framework for food safety. Canada is an important resource at Codex, which is the global food safety standards body.

Risk-based assessments recognize the importance of exposure in determining societal risk. Canada's current regulatory approach for pesticides recognizes vulnerable populations and occupational exposure as part of the comprehensive pre-market assessment.

• (1610)

Recognizing that we have a world-leading approach in CEPA, as well as in Canada's PCP Act and in the Seeds Act, is not to say that we wouldn't suggest or support changes. What does make sense is that we avoid overlap between agencies and acts so that Canadians have a clear process and a streamlined approach. Having dedicated departments, adequately resourced, avoids the duplication of efforts and aligns well with the need to ensure that regulatory approaches are structured to deal with the rapid pace of innovation.

As part of a global food system, we need to ensure that the uniqueness of Canada's environment and farming systems is fully considered and at the same time work to ensure the ongoing alignment of scientific approaches with other esteemed regulatory authorities around the world.

Consumer preferences can be met with differentiation in the marketplace. Regulatory approaches in human and environmental safety must remain focused on the weight of scientific evidence. Canada's regulatory approaches can continue to be science-driven and evidence-based and can look to how other governments and science bodies have taken risk-based approaches. This is the way that we can protect people and the planet, and ensure that Canada continues to play an important role in sustainably feeding the world's population with affordable food.

The Chair: Thank you very much for all of your witness statements.

We'll move to questions, and we'll start with Mr. Gerretsen.

Mr. Mark Gerretsen (Kingston and the Islands, Lib.): Thank you, Madam Chair.

The bulk of my questions are for Mr. Boyd.

Mr. Boyd, one of the recommendations that you had was the polluter pays model, and you talked about how Canada was dead last. Can you explain why Canada is dead last?

Dr. David Boyd: The reasons for that would really deal with political opposition to pollution taxes. The fact that other countries have been able to move forward with pollution taxes suggests to me that we need to find the political will to put those in place.

You could even compare us to the United States. In the United States, the Clean Air Act and the Clean Water Act, both of which are federal environmental laws, impose requirements on the states to collect taxes on air pollution and water pollution respectively. You can't find a more hostile country in the world to new taxes than the U.S. They've been able to put in place these pollution taxes, and I think it behooves us to do the same.

One of the problems that I've heard from speaking with officials at Environment Canada is that there's no explicit authorization for environmental taxes in CEPA as it stands today. There's reference to permit-trading systems and other economic instruments, but you won't find that specific authorization. I think it's really important to put that in there to enable us to move forward.

Mr. Mark Gerretsen: Thank you.

You also talked about the hazard-based approach to substances, as opposed to the risk based approach. We have heard this a couple of times. Why do you support the hazard-based approach? What evidence do you have to support that it is a much better model or tool to use?

Dr. David Boyd: The basic difference is that for toxic substances for which we have information that they're carcinogenic, mutagenic, toxic to reproduction, or very persistent and very bioaccumulative, the European Union takes that subset of all toxic substances and says, "For these cases, we're not going to put the burden on government to demonstrate that there's a harm to human health and the environment." It says to industry, "Look, we know that these substances have these toxic properties. What we want you to do is to provide evidence to us that these substances can be used safely, and that there are no feasible alternatives."

It's really reversing the burden of proof for those substances. What that has enabled the European Union to do is to move more expeditiously in getting these toxic substances out of our economy, out of our society, out of our environment, and out of our bodies. I would like to clarify—

• (1615)

Mr. Mark Gerretsen: A lot of people will argue that a risk-based approach could equally mitigate risk and could be just as effective.

What's your response to that? I understand the difference between the two. What do you have to support your claim that the hazard-based approach is a more solid approach?

Dr. David Boyd: CEPA has been on Canada's books since 1988. It was overhauled in 1999. With the risk-based approach we are taking years, and in some cases decades, to put in place the risk management measures that we would have put in place much more quickly with a hazard-based approach.

One example is asbestos. Asbestos was added to the list of toxic substances in Canada more than 25 years ago. We continue to allow its export, its import, and its use in a variety of products in Canada because we're taking a risk management approach. It's taking us decades. The same can be said for other substances, including PBDEs, phthalates, triclosan, and the list goes on and on.

Really, in the European Union, what they did was say, "Look, we know that all types of asbestos are carcinogenic; boom, they're all banned." There are more than 50 countries around the world that have banned asbestos.

Mr. Mark Gerretsen: I noticed that you used that example in your list under legislated timelines and what happened with asbestos. Are you saying that in Europe, for example, asbestos is no longer used in brake pads?

Dr. David Boyd: That's correct. All uses were banned in Europe as of 2005. There were some exceptions allowed to continue, but all of those exceptions have now expired. The European Union has found substitutes for asbestos in brake pads.

Mr. Mark Gerretsen: That's very encouraging to know; I didn't know that.

The other thing you talked about was enforcement. I like your comparison that there have been more fines in one year from the Toronto Public Library than there have been under CEPA in 25 years.

Can you expand a little as to how you see that apparatus being set up? What's reasonable? Why aren't more fines being imposed? What can we do to strengthen the whole idea of enforcement?

Dr. David Boyd: Initially, the problem in Canada was that we didn't have enough resources for adequate enforcement. There weren't enough boots on the ground and in the field.

There's also a question of willingness to prosecute. That's why places like the United States, dating back to the Clean Air Act in 1970, have allowed citizens to step into government's boots, with appropriate safeguards in place, and enforce those critical environmental laws. Those safeguards are really important. In the United States, before a citizen can enforce the Clean Air Act or the Clean Water Act, they have to provide the government and the alleged violating party with 60 days' notice. That 60-day period allows the government to take appropriate enforcement action or the alleged violator to come into compliance. Citizens cannot file enforcement actions in the U.S. if the government is already proceeding with enforcement, so that avoids the fear of double prosecutions.

By putting those safeguards in place, you can have a system where citizens are spurring government to increase enforcement. It results in higher levels of deterrence and higher levels of compliance.

Of course, some people fear that the courts will be overwhelmed with citizens trying to enforce these laws, but it's a difficult and expensive process. In the United States, there are somewhere between 100 and 200 environmental citizen suits a year. We're about one-tenth the size, so you could forecast between 10 and 20 of these in Canada a year.

The intention when CEPA was amended in 1999—

The Chair: I hate to do this, but I'm going to have to get you to wrap it up. You have so much to share with us, but we have only a limited amount of time. I'm going to end it there.

Go ahead.

Dr. David Boyd: The last thing I was going to say is that the environmental protection actions in CEPA have never been used, and so clearly they're not working.

The Chair: Thank you very much for that.

We'll move to Mr. Eglinski.

Mr. Jim Eglinski (Yellowhead, CPC): Thank you Madam Chair, and I want to thank all the witnesses who appeared today, in person and on screen.

My first line of questioning will go to Mr. Bacon. I was listening to the last witness, and he talked about a hazard-based system as the correct way. In your presentation, you favoured the risk-based assessment in the food industry. I wonder if you could explain and expand on that a little more so I can get a clear understanding.

• (1620)

Mr. Gordon Bacon: It's our belief, and the belief of many, that we need a risk-based assessment. I'll speak about it from a crop-protection perspective and what the Pest Control Products Act does, which is very extensive.

Companies spend hundreds of millions of dollars in pre-market assessments, which brings in a critical component, and that is exposure.

There's a long list of hazards to our health. I have IARC's list of known carcinogens here: coffee, alcoholic beverages, sunshine—

For potential hazards, there is a long list, but you do need to bring into consideration exposure to those hazards to understand that risk. My view would be that we should have a system that takes a look at the toxicity of compounds as well as exposure.

In the case of crop protection products, it makes many assumptions about maximum levels of exposure, high-risk populations, the length of lifetimes, and multiple safety factors are built in. I believe a risk-based approach that looks at exposure is key.

A hazard-based approach can lead to confusion, and I would cite IARC. Some examples are cellphones and brain cancer, and processed meats and exposure. There are more recent headlines coming out of it that I think can confuse people as to what the risk is at a consumer level.

I think risk-based approaches that bring into account actual exposure are an important part of understanding what should be noted as a concern.

Mr. Jim Eglinski: I notice that you mentioned the EPA and EFSA, as well as Canada's programs or people who are watching over that. Do you find that it's a benefit to the countries to harmonize their regulatory bodies in this respect, and where do you see Canada in the global picture compared to these two other agencies?

Mr. Gordon Bacon: PMRA, the Canadian agency, and EPA in the U.S., along with other groups, have taken a global approach to reviews. This does a couple of things. One is that it makes sure that technologies are evaluated quickly and at a cost-effective level, and then, if they pass the rigorous tests, they are made available to be part of the productive chain in the food system. I think there are some cost-effectiveness and time issues, but from a global trade perspective it's also very important that we have harmonized approaches.

As I pointed out, with pulses alone, Canada trades with more than 150 countries around the world, and we need predictable rules and a common approach to understand what products can be traded and under what rules.

In terms of global harmonized approaches, we have many examples in automotive fuel and other areas where we decide how we're going to evaluate a product, and then we can collaborate across borders. Food is a global business, and from our perspective, a harmonized approach is an important part of food security.

Mr. Jim Eglinski: Thank you.

How much time do I have?

The Chair: You have two minutes.

Mr. Jim Eglinski: My third question I'd like to put to Mr. Boyd.

You were talking about a more stringent regulatory and enforcement concept. I read through the environmental protection alternate measures and things such as that, and I went through all their data for the last 25 years. Our agency, CEPA, has basically gone the way of warnings versus the way of charges, and there's a format. In the policy it says they can go by way of warning or through charges, and so on. However, the Canadian Environmental Protection Act is practising alternate measures very similar to what we do in the criminal justice program with young offenders and so on, because it's a better way of making people comply than just going out and charging them. In working with the agency to ensure that they change their ways, they become more compliant.

As a policeman for 35 years, I've been very involved in that, and we found it to be very effective, especially with aboriginal communities and in community types of justice.

I wonder if you would comment on that. I thought you were being a little heavy-handed there.

• (1625)

Dr. David Boyd: Yes, I agree with you. There is a range of enforcement tools available under the Canadian Environmental Protection Act. We should, and we do, make use of many of those tools.

However, at the end of the day, when people are breaking the law, my opinion, which is shared by many Canadians, is that those people should be charged for breaking the law—not all the time and not as the exclusive tool, but as part of that range of tools. Failing to use that stick that's in the toolbox is one of the reasons Canada continues to have problems with pollution and toxic substances and why we have such a significant environmental burden of disease.

Mr. Jim Eglinski: Thank you.

The Chair: Thank you very much.

Ms. Duncan is next.

Ms. Linda Duncan: Thank you.

I want to thank all three of the witnesses. I appreciate your making yourselves available.

I think I only have time for questions for Dr. Boyd, but I do have a request for Mr. Butler. I really appreciated your concerns about biotech and particularly with aquaculture. When I just quickly look

at the act, it looks like the definition of disposal is awfully narrow, so I would certainly welcome—and I'm sure the rest of the committee would—any recommendations you would have for changing that part of the legislation to address your concerns.

I'm sorry to pass the work to you, but I appreciate any input you can provide. Perhaps you could confer with other people on the west coast as well.

Dr. Boyd, thank you very much. I really appreciate your long list. I look forward to getting the details. As probably the only member of the committee who actually was involved in the negotiation of the first act, I'm really discouraged that there are parts of the act that we still haven't improved.

I would appreciate some feedback from you, and possibly from Mr. Butler as well, on any recommendations you have on part 9, which is about the federal and aboriginal lands. It's a huge gap in the law because there are areas, including on Indian reserves, where there are essentially no pollution control laws. It's a bit stunning that for fenced lands, parks, and aboriginal lands, there's a big gap because the provincial laws don't apply. If you could talk to your colleagues, I would welcome any ideas. We've just never improved that part of the legislation.

Dr. Boyd, I would like to ask you questions in two areas.

One is under part 3, where both the Minister of Environment and Climate Change and the Minister of Health have obligations of mandatory duties for monitoring.

Interestingly, there are two provisions: sections 45 and 55. Under section 45, the health minister actually has a mandatory duty to conduct research and studies when any of the toxins may cause impacts to health. There are a lot of first nations, including in northern Alberta, who have been putting in a request for the last 20 years for the federal government to initiate a health study. I'm surprised that the minister has not stepped up to the plate and delivered on that, and I'm wondering if you've pursued that.

I'm going to give you a lot of questions, and then you might want to combine it together, because I only have six minutes.

I've actually requested that we get in some leading scientists to talk about cumulative impact. Under the Minister of Environment and Climate Change, I think that there's an area where the federal government is really dropping the ball. Even though that's a mandatory duty, we don't seem to have had major federal engagement in cumulative impact.

I'm pleased that you're concerned about health. My final comment is that specifically, when we did the review of emissions from coal-fired power and gas and so forth in Alberta, the team actually agreed to my recommendation that we include a "hot spots" protocol, which the Government of Alberta, to its credit, has implemented. That requires that when you have a concentrated industry—it may be fracking, oil sands, or coal-fired power—there are triggers for a concerned community to request reviews. An example would be if there is new science that suggests further review of these emissions and if there's a poor compliance record.

I welcome any of your feedback on that area of health and a response to those questions regarding the various duties of the minister.

Thank you very much for all your proposals, and of course I welcome all your recommendations on enforcement and environmental rights. Thank you.

Dr. David Boyd: Thanks very much. That's quite a handful of questions.

In terms of Health Canada, one of the things that Health Canada has started doing in recent years is a national biomonitoring study, which is a study of which chemicals and in what concentrations are actually being found in our bodies. That's an important step forward, but there's much more that can be done.

In terms of the big picture of environmental health monitoring, what European Union countries and what the United States have done is created what they call national environmental health surveillance systems, which are comprehensive systems for monitoring the emissions and releases of toxic substances into our environment and our communities, the exposure of humans to those toxic substances, the adverse health impacts of those exposures, and finally, the policies that are in place to reduce the emissions, releases, and exposures.

Canada has pieces of that in place. In my brief, I will include a section that draws on the experiences of those other jurisdictions, as well as Quebec, which is a national leader in Canada, to create a national environmental health surveillance system. It's something that's really important, because if you don't have that information, then how do you determine what your priorities are in terms of regulation and enforcement?

I think that the issue raised about pollution hot spots is a really important one. It goes back to the issue of environmental justice, that there are marginalized and vulnerable communities and populations in Canada that are really bearing a disproportionate burden of pollution in society.

This is an area where the words "environmental justice" are not to be found in any federal law, regulation, or policy in Canada; whereas, the United States has been dealing with this for 30 to 40 years, and so have some European countries.

This is a huge opportunity that we have before us now to put environmental justice into the Canadian Environmental Protection Act in ways that really make that meaningful and that give government the tools and the mandate to protect those populations and those communities.

• (1630)

Ms. Linda Duncan: Is that it for my time?

The Chair: Yes, actually, it is. Sorry. I was so focused on writing down the details that I missed the time. My apologies.

Ms. Linda Duncan: Thank you very much

The Chair: Mr. Bossio.

Mr. Mike Bossio: Welcome back, Dr. Boyd. It's always a real pleasure to have you here on a panel. My questions will be directed toward you.

Yes, I would like a copy of your book, first off.

Second, I would invite you to send in further testimony on the hazards versus risk-based approach.

Most important, I'm really interested in this right to a healthy environment. I'd like to give you the rest of my time, which is about five and a half minutes, to talk about this right to a healthy environment. Once again, I invite you to send in further testimony on this area, because it is something that I think is very important.

Thank you.

Dr. David Boyd: Thank you very much.

I've been studying and working on the right to a healthy environment for about a decade now. I've helped other countries draft constitutions, draft legislation, and I've also studied the impact on countries when they do recognize the right to a healthy environment, and the corresponding responsibility to protect the environment.

This right is now protected in the constitutions of over 100 countries worldwide. As I mentioned, it's in 100 environmental laws worldwide. Together with other researchers, I've now done quantitative statistical analysis that demonstrates a cause-and-effect relationship between the recognition of the right to live in a healthy environment and a number of things we're all striving for: stronger environmental laws, increased public participation in environmental decision-making, more rigorous enforcement of those environmental laws, and most importantly, superior environmental outcomes.

Countries where the right to a healthy environment is recognized in law or in their constitutions have been able to reduce air pollution faster, produce greenhouse gas emissions faster, and more generally perform better than countries without the recognition of that right on environmental performance indices from the famous Yale-Columbia one to the comparisons that are done by the Conference Board of Canada.

The right to a healthy environment is quite a powerful tool and it is a human right. It is something that we need to recognize in the pantheon of human rights and it does come with important responsibilities, as well, so I think it's important to have both of those elements added to the Canadian Environmental Protection Act.

I also find from talking to indigenous colleagues that this notion of environmental rights and responsibilities is a really important part of indigenous law and culture. It offers us the opportunity to make another step toward reconciliation by incorporating that indigenous concept into Canadian law.

To reiterate, if I may, the really important thing is that recognition of the right to a healthy environment hasn't created any kinds of economic collapse. Look at countries like Norway. Norway is doing very well economically, but has much stronger environmental rules than Canada. France is another country. France added the right to a healthy environment to its constitution in 2005, and since that time, France's rating in the Conference Board of Canada's environmental performance standings has gone from the middle of the pack to the top of the pack, so it really does have that impetus.

I think it's also interesting to note, in relation to what Mr. Bacon was saying, I agree that we should have harmonization of these systems internationally, on the condition that it is upward harmonization, so we go to the higher standard and not the lower standard.

When you're talking about pest control products, I know we're not reviewing the Pest Control Products Act here, but again, a comparison of Canadian regulation of pesticides with the European Union does not make us look very good.

There are more than 40 different active ingredients that are no longer eligible for use in the European Union because of health and environmental concerns, but they continue to be registered in Canada as pesticide active ingredients. Those 40-plus active ingredients are used in more than 1,000 different pesticide products in Canada, but you'll find none of them on a shelf in any country in the European Union, because they are applying the precautionary principle in a way that we're not.

The right to a healthy environment is part of the underlying legal infrastructure of the European Union. We need to bring that concept to Canada.

• (1635)

Mr. Mike Bossio: Do I have any more time?

The Chair: You have time.

Mr. Mike Bossio: Mr. Butler, I know you've wanted to provide some feedback on that in your testimony, so please go ahead.

Mr. Mark Butler: I would endorse what Dr. Boyd is saying. We work with communities that are disproportionately affected by landfills and other toxic industries. There was a study done here in Nova Scotia which showed that a disproportionate number of African Nova Scotian and indigenous communities are adjacent to landfills.

It's a question, I guess, of who has the political power in our society, and those who have less power are less able to reject them, when these things are decided, and have to deal with the consequences. So if there are ways...and David made a number of good recommendations in that regard.

Mr. Mike Bossio: David, I know we have an Environmental Bill of Rights in Ontario. I'm actually someone who has benefited from that in a fight against a landfill, finally proving that there was

massive off-site contamination from this landfill, and we were able to utilize that process to do so.

I also know that there are flaws. I know you can't deal with those now, but I would invite you once again to try to address where this legislation exists now and how we can improve upon it nationally.

Thank you very much for your testimony.

Dr. David Boyd: As you know, Mr. Bossio, the Ontario Environmental Bill of Rights is currently undergoing a process of legislative review by the province, so there's a fortuitous opportunity. We can learn from both the successes and the failures of that law as we design environmental rights provisions for the federal law.

The Chair: Thank you very much.

We are a co-operative committee, and I know Ms. Duncan has to leave early, so we're going to move up her time so she can get her questions in. It's three minutes.

Ms. Linda Duncan: Thank you very much. I appreciate that.

I have some pragmatic suggestions to follow up on with either Mr. Butler or Dr. Boyd, on those areas where the health minister, the environment minister, have mandatory duties to undertake monitoring and environmental impacts on health, but it's discretionary whether they have to talk to aboriginals or to affected communities.

It might be simple for us to switch and say there's a mandatory duty to provide an opportunity to have input. We've given those kinds of rights under environmental assessment but somehow we haven't continued them into other statutes. I'd appreciate any way that you could look at the statute so it might be easy to slip some of these in.

You know I'm a big defender of an environmental bill of rights. The reason I'm proposing a separate bill is this: CEPA has been one of the leaders and it led a lot of provinces to include those kinds of rights. The problem is we don't have the same rights in the endangered species act; we don't have it in fisheries; we don't have it in migratory birds, and so forth. I would welcome any suggestions on how to specifically include those kinds of rights in this bill, even any recommendations you might have to have an overriding right across the board when the government's going to make any kind of decisions that would impact the environment or health.

I'd be happy to hear from either of you.

• (1640)

Dr. David Boyd: I think that in coming up with solutions, part of what I've tried to do—and as the committee goes on with its work, you'll start to think I sound like a broken record—if we embed a certain number of key principles across the whole body of Canadian environmental law, then we'll achieve a degree of consistency. That is what I think you're striving for, and I think we should look at the question of how we can achieve the right to a healthy environment in a way that crosses all those boundaries without having to necessarily amend every one of those laws. That's something I'm certainly happy to have conversations about and look into.

Ms. Linda Duncan: Thanks.

Mr. Butler, would you like to add anything?

Mr. Mark Butler: I think your suggestion of making it mandatory is a good one. I think CEPA is a good place to start with an environmental bill of rights and also environmental justice. If I could just move the conversation a little, something that really struck us when we were dealing with this GM salmon is that the Department of Fisheries and Oceans had all the scientific expertise, yet they were not a decision-maker, and essentially their advice was spectacularly ignored when it came to the approval process.

Ms. Linda Duncan: I'm sure my time is up.

Thank you very much. I appreciate that.

The Chair: It is. You're very welcome.

Mr. Shields, you're up.

Mr. Martin Shields (Bow River, CPC): Mr. Bacon, you talked about co-operation internationally with a number of agencies and working with different countries. Internally in the food business, and maybe this is something you know about, the regulatory gaps that may occur or not occur between different health...to do with foods, different productions. Is there coordination or is it siloed, or is there a lot to do with health in food production?

Mr. Gordon Bacon: Mr. Shields, I'm not sure I understood the question or am capable of answering it.

Mr. Martin Shields: Yes, you may not be able to, but you talked about health, and you talked about food production. In a sense, you're very familiar with the regulations to do with that in your particular crops, in pulses. Do you have any connection to other food production to understand how they do it? Is there any overlap? Is there anything that works, doesn't work, in the regulation piece for health, what you do?

Mr. Gordon Bacon: My background doesn't qualify me to respond to the question.

Mr. Martin Shields: Okay, I'll go in a different direction.

You talked about environmental health and high-risk populations. Can you talk a little more about that?

Mr. Gordon Bacon: In the risk-based assessment, and I think this is a key part and a strength of our approach and the regulatory approach in Canada, and this is specifically referring to the Pest Control Products Act, but I think there's a very good lesson in it, in that there is pre-market consideration of the elderly, young children, many at-risk populations, in understanding what a lifetime of exposure would be. It's part of a risk-based assessment before approval is given.

I think everyone supports that. As I said, sustainability in the food industry hinges upon ensuring an understanding that this is a safe food product. I think to have that consideration in place and have the science to support a recommendation for something being commercialized is part of a risk-based assessment.

Mr. Martin Shields: I think you're answering my first question, which you're getting to. I think you understand more, but you may not be able to say it.

The regulations, as you see them, do they work? What would you suggest about the regulations specific to you?

Mr. Gordon Bacon: For our approach on crop protection products, we actually feel that the Canadian agency is one of the

toughest agencies in the world. I could cite examples. Comparisons to other agencies and the approach they take is an important thing to look at. We need to understand the reasons that a product might not be approved for use. Perhaps it's a different environment.

In discussions with Europeans most recently on environmental issues, we were looking at greenhouse gas emissions. One of the key differences between a European study and a western Canadian one is our soils are frozen for three or four months of the year, and theirs aren't.

There can be environmental differences that might be the reason a product might be registered in one jurisdiction and not another. There are also things like cumulative risks from a human health perspective. I can't really comment on that difference.

One thing I would note is that Canadian regulations are two and a half times tougher than the European ones. We have a good system. We stand behind the system. We believe it represents pulses and other crops we grow in Canada as being safe around the world.

• (1645)

Mr. Martin Shields: The confusion out there for the consumers is around safety. I was involved in health governance for many years. I heard a news story last night about 10% of patients in hospital being at risk of having something happen to them negatively. Our health system has people asking if they should go to a hospital. There's a one in 10 chance that something negative is going to happen.

The consumer confusion out there is huge. In our world, in a year, 1.5 million people get killed in cars, yet we get into them every day. There's a lot of confusion out there.

In your industry, are you trying to minimize that confusion for health in the sense of food?

Mr. Gordon Bacon: Yes, and in the pulse area specifically, our funding comes primarily from farmers. Over the past 10 years, we have been working very closely at the other end of the stream from a health value proposition perspective in understanding what pulses can contribute.

We're working with the food industry to make sure that we can explore the potential of pulses to play a positive role in looking at non-communicable diseases that affect not only Canadians but people around the world. A strong regulatory system is a key part of providing that assurance to consumers that the foods that are put in front of them have been looked at by science and evidence-based approaches to establishing safety.

All panellists perhaps agree that the regulatory environment is an important part of providing consumers with the confidence that the food put in front of them is safe.

Mr. Martin Shields: Thank you.

The Chair: Mr. Amos.

Mr. William Amos: Thanks to our witnesses. It's a pleasure to have you here. I really appreciate the preparation that has clearly been done.

My first question goes to Mr. Butler. I should disclose to the committee that I was counsel to the Ecology Action Centre prior to being elected. Mr. Butler and his organization have consented for me to ask questions, such that I'm not in any violation of solicitor-client privilege. Dot your Is, cross your Ts in this world.

You spoke to the issue of genetically modified salmon, and the process pursuant to which the previous administration evaluated information around the risks to biodiversity from genetically modified salmon. You spoke to how CEPA is complex regarding the toxicity assessment of said genetically modified species.

What, in your opinion, is necessary in terms of legislative reform to get to a place where genetically modified animals are evaluated in a manner that maintains the confidence of Canadians?

Mr. Mark Butler: Thank you for your question.

Perhaps I can preface my answer by saying that this was a test for the act. This was the first GM food animal in the world. There are many more under development. In my opinion, it failed, so we really need to learn from this. I would look to you and others who are scholars in CEPA to find ways to fix it. I identified, from a layperson's point of view, two of the big failures.

One, I think, was just a complete disregard for the science. When it came to the science, it was like a bait and switch. They assessed a very narrow thing, and then Environment Canada went ahead. DFO did the assessment of a very narrow request, and Environment Canada went ahead and approved something much larger and, I think, destined to result in the genetic contamination of wild salmon, which is an irreversible impact. We're going to see more of this, so we need to figure this out.

Two, I'm familiar with the Fisheries Act and the Canadian Environmental Assessment Act, and I was, to use a technical term, gobsmacked to discover that there was no opportunity for public engagement, interaction, or any kind of discussion about the pros and cons. You'll notice that the smack, or the approval, came out subsequent to the decision. It could have come out earlier in the *Canada Gazette*. That could trigger at least some public engagement.

The company got a waiver so that they didn't have to do an invasiveness test. They got it because the product was said to be contained. Environment Canada, for whatever reason, didn't publish that waiver until our court case was under way, at which time they also published hundreds of other waivers dating back almost 10 years, which they had forgotten to publish.

It's a difficult act to understand. It's not very transparent. People such as Dr. Meinhard Doelle at Dalhousie, yourselves, Dr. David Boyd, and others could probably identify ways in which public engagement could be better designed and brought into the act. We've actually asked for a strategic environmental assessment because we think this is going to be a big area for all of us. It may not be now, but it will become so.

● (1650)

Mr. William Amos: Thank you, Mr. Butler.

I'll ask a series of yes-or-no questions out of concern for the time I have left.

Would you agree that entities seeking to engage in a toxicity risk assessment pursuant to CEPA for a genetically modified animal should not be able to avoid the disclosure of documents that involve public interest aspects out of concern for their commercial interests? Would you agree that the public interest ought to predominate in questions of mixed commercial and public interest when you're dealing with genetically modified animals?

Mr. Mark Butler: That's easy. Yes. The impacts are irreversible.

Mr. William Amos: Thank you. That's not the case right now, of course—

Mr. Martin Shields: That's a leading question.

Mr. William Amos: Well, it—

The Chair: Don't tell me you haven't done the same from time to time.

Mr. Martin Shields: No, never. Why would you do that? I don't know what a leading question is.

Some hon. members: Oh, oh!

The Chair: All right. Carry on.

Mr. William Amos: Would you agree, Mr. Butler, that there should be stricter provisions and a requirement for a rationale when waivers are provided by governments that enable corporations that were looking to have toxicity risk assessment information not to provide that risk information? Would you agree that it should be tightened up so that waivers can't be so easily provided without a detailed explanation?

Mr. Mark Butler: Yes, definitely, and I think particularly here, where there was this bait and switch, this may have been the only opportunity to assess the impact. The waiver was given for something very narrow, a research facility, but that would have been the only opportunity to assess invasiveness.

The Chair: That's it, Mr. Amos. Sorry.

We are going to allow for another round of six minutes each because we are doing so well on efficiency.

Mr. Fast.

Hon. Ed Fast: Witnesses, thank you for being here.

Mr. Boyd, thank you for being here again. I do have a question for you.

You've suggested that we need nationally binding air quality standards, but it's my understanding from the World Health Organization that Canada's air quality across the country is considered among the very best in the world, up there with Australia and some of the Nordic countries. Certainly there's much more that needs to be done, but we do rank quite high in the world for the quality of our air. You pointed to Sarnia. That's probably our worst case, but many parts of the country have top-notch air quality, so I'm wondering, why are you proposing to change a system that right now already develops among the best air quality regimes in the world?

Dr. David Boyd: There are two reasons, Mr. Fast.

The first is that if you look at the environmental burden of disease in Canada, which I mentioned at the outset, leading experts estimate that between 9,000 and 15,000 premature deaths per year in Canada are the result of exposure to air pollution. I think that the statistics you're mentioning about Canada being a world leader, in part that's because we're a huge country. If you take an average air quality assessment for Canada, we come out looking pretty rosy. The problem is that we have—not just Sarnia, but northern Alberta, northwestern British Columbia—many areas in Canada where there are significant air quality problems, and I would include some of the major cities as well.

What national air quality standards would do for us would be to provide a level playing field for all Canadians, and a system whereby if a particular region or city was in non-attainment, there would be a mandatory remedial process. There would have to be actions taken to bring air quality up to that national standard in those regions. That's the way the system works in the European Union and the United States, as well as Australia.

• (1655)

Hon. Ed Fast: Thank you for that explanation.

Mr. Bacon, you've heard Mr. Boyd talk a lot about his preference for a hazard-based approach, which is an approach that essentially requires companies to make the case that their product doesn't represent a risk. Presumably those companies use their own scientists to make that case, scientists who are beholden to them. Under a risk-based system, of course, it's the government that undertakes these assessments. In my mind, I would prefer to have the security and safety of knowing we have a government that is independent of the companies that are looking to come forward with specific products that may or may not be toxic, and have them do the assessments.

What are your thoughts?

Mr. Gordon Bacon: In the risk-based approach that is in place for crop protection products, it is the company, it is the technology developer, that undertakes the studies that are mandated by government, and then government evaluators will take a look at that data and make the assessment. It's still the technology provider that is making the investment to provide the data, and then an independent body of scientists, PMRA, and under global joint review, this workload is shared with the EPA and other agencies that are part of the global joint review will take a look at that. In areas where it is unique to Canada, such as environmental, then clearly Canadian regulatory officials need to take a look at it.

How I would differentiate between a risk-based approach and a hazard-based approach is that the key difference is this exposure, as we talked about earlier. Many substances can be a potential or known hazard, but what is key is to understand the exposure to that hazard to understand its risk.

Hon. Ed Fast: All right. That's very helpful as well.

I have a question for Mr. Butler.

You're disappointed that the CEPA process failed with respect to the GM salmon. Are you, in principle, opposed to genetically

modified animals, or is it this particular case that you have concerns about?

Mr. Mark Butler: As I mentioned, we hadn't done a lot of work on GM organisms before this particular situation arose in our backyard. I would say we have concerns, but we're not de facto or a priori opposed to all GM organisms. It depends on the use and the containment. Again, I do think, and even among some of my colleagues, we don't appreciate what is coming at us. What is it going to mean for trees, fish, birds, insects, that we are now moving genetic material so easily across species boundaries, and what does that mean for biodiversity? What does it mean for the functioning of what we would call a natural ecosystem?

We've a little bit of what this can look like with zebra mussels, and these are just a species arriving versus the movement of genetic material between species. Nonetheless, we see what impact invasive species can have on our native ecosystems.

Hon. Ed Fast: I sense a lot of scepticism.

Mr. Mark Butler: Yes, but it's healthy scepticism. Environmentalists are healthy sceptics. We've learned to be healthy sceptics. Often I think the human race is a little too arrogant when it develops new technologies. We introduce them first and then try to patch up the damage later. What we're trying to say here is to be very careful because once the genie is out of the bottle, you can't get it back in again.

• (1700)

Hon. Ed Fast: I understand that.

How much time do I have?

The Chair: You are done. Sorry about that.

Mr. Fisher.

Mr. Darren Fisher: Thanks to the folks here. Hi, Mark.

The problem with going last is a lot of people have already asked the questions I had.

Mr. Bacon, you talked about reformulated foods, and I know there are no GM pulses. Can you tell me what a reformulated food would be? You have "improving nutritional outcomes or values". It sounds a lot like it's genetically modified, but maybe you could give me a bit of extrapolation on that.

Mr. Gordon Bacon: I'd be happy to. I'll use the example of a slice of bread. A major Canadian company and many small ones have come out with a bread that now includes pulse flours, rather than just wheat flour or multiple cereal flours. Canadians are supplying a major bakery in the U.K. with both wheat and pulses for a reformulated bread.

I'll give you some quick numbers. Pulses' protein levels are 24% or 25% to wheat's 12%. When you start adding 20% or 30% pulse flour to bread, you increase the protein content, increase the fibre content, and change the glycemic response so that blood sugars aren't spiking as high. Reformulated foods are really foods that are healthier and more nutritious.

I want to add another element. Sixty per cent to seventy per cent of non-renewable energy use on a farm is related to fertilizer production, transport, storage, and application. With investments in science and technology in Canada, we have pulse crops that do not require nitrogen fertilizer. As legumes, they can take atmospheric nitrogen. So in combination with this reformulation to improve nutrition content, we have lowered the environmental footprint of these food products. I think this is a really exciting area.

Most of the calories consumed in the world come from cereal crops. If we look at adding pulse crops and improving the nutritional content and reducing our environmental footprint, it's going to be a combination of looking at reformulating our food and educating consumers to make smart choices that will allow us to make an enormous gain in the environmental impact of food, which accounts for about 30% globally of greenhouse gas emissions.

If you want to look at what I think is the exciting part of low-hanging fruit, to change the environmental footprint of food—not agriculture but food—we need to start looking at the food consumers are eating and the messages we give them to make informed choices. That's what I meant when I talked about reformulated food.

Mr. Darren Fisher: Thank you. I'm glad I asked you that.

Mr. Boyd, nice moustache, the second nicest one I've seen today.

You spoke of substitution. You said to eliminate and replace, and then you spoke about Sweden. You mentioned that Sweden and the EU are successfully using a substitution replacement procedure, and that CEPA should include a substitution clause. Can you give us some specific examples of successful chemical substitution in Sweden or the EU?

Dr. David Boyd: Certainly. Just to take one off the top of my head, Sweden was the first country in the world to prohibit the use of polybrominated diphenyl ethers, which is a horrendously long chemical word. It's a family of brominated flame retardants, which causes a wide range of adverse effects on human health when humans are exposed to it.

Sweden was the first country in the world to ban the use of PBDEs in manufacturing and also in products. This raises a point we haven't discussed here today. Canada just last week completed a very drawn-out regulatory process for PBDEs, under which we have now banned the three major groups of this chemical compound, but our regulations, unlike the Swedish regulations and the European regulations, continue to allow the use of PBDEs in consumer products. These are flame retardants that are added to things like children's pyjamas, mattresses, televisions, and computers. It's to reduce their flammability.

In Sweden and the European Union, they have used the process of substitution to find alternatives that are less toxic and less dangerous, and they have completely eliminated the use of these PBDEs. That's

an example of how substitution can work in a very important fashion.

As a related note, when we're talking about a risk-based approach versus a hazard-based approach, one of the problems we've encountered with the risk-based approach is that our science is constantly evolving. We are learning that substances like lead and benzene and PBDEs are actually more harmful to human health at lower concentrations than we previously determined. With a risk-based approach, you're having to respond over time and are continually lowering the amounts in which you'll allow exposures. With a hazard-based approach, you flip that around and you just don't allow it unless it can be proven safe. It's a more expeditious way of dealing with these toxic substances.

• (1705)

Mr. Darren Fisher: Would substitution spur innovation?

Dr. David Boyd: Substitution is a great spur for innovation.

The reality is, we have to find chemical substitutes that are safer, that are greener. In places like Sweden, the European Union, and California, which are leaders in chemicals management, they have created whole new industries called green chemistry. They're finding the alternatives. It's really phenomenal, an economic boom, so part of the clean tech future of Canada should include a very prominent green chemistry sector.

Mr. Darren Fisher: The environment and the economy go hand in hand. Sorry, but I hear that somewhere every day.

Dr. David Boyd: That's right.

I also haven't mentioned, when you look at the cost benefit analysis of these stricter environmental regulations, what you find is that the costs are dwarfed by the health benefits. In the United States, for example, they estimate that full implementation of their very strong Clean Air Act by 2020 will have an annual cost of approximately \$65 billion, but it will have an annual benefit in terms of the health benefits of over \$1 trillion. On average, they are seeing about a 30:1 ratio of benefits to costs for air quality standards in the United States.

Mr. Darren Fisher: Thank you.

The Chair: Okay, we have a chance, if everyone is willing, to do another session of six minutes each. I think we can do that.

We'll just follow the same format, if Ms. Duncan wants to go ahead and take it.

Ms. Linda Duncan: I have just one quick question.

Both Mr. Butler and Dr. Boyd talked about the right to participate and gain access to information, and so forth. However, something has occurred to me. When we talk about environmental impact assessments, it has become the norm where impacted communities or first nations seek costs so they can hire the appropriate experts, so they can review and make proposals, yet for the review of toxins, it isn't included in the legislation.

I'm wondering if either of you would think that we should start having provisions as well in CEPA, where there is notice of potential to.... Where the citizens want to trigger a review of a chemical, or the government has announced it is going to be reviewing a toxin, potentially to ban it, there would be the potential, or at least the power with the ministers of health and environment to actually provide costs so that you can provide independent experts.

Dr. David Boyd: That's an excellent suggestion.

The flip side of that is also something we haven't spoken about, which is a consumer's right to know the hazardous substances in consumer products. The European Union has a comprehensive system. California has a comprehensive system. There is a harmonized UN system for labelling of hazards in consumer products. I think that is a really important addition to CEPA.

We've talked about consumers and the possibility of consumers misunderstanding, but if we actually had information on the packages, that would really help people make informed wise choices.

Mr. Mark Butler: The short answer to your question is yes.

I mentioned that I found CEAA, compared with CEPA, to allow for much more public participation. My problem with CEAA is that the EIS is developed by consultants hired by the proponents. I'm trying to figure out a way during the CEAA review for a truly independent scientific document to be the basis of the review.

It's interesting that with CEPA, though, we actually did have some relatively good signs coming out of DFO, but they were largely ignored by the regulating department. To actually get the bigger environmental assessment, we had to go through freedom of information. We should put transparency and the importance of science—of independent science—on a much higher pedestal than it is right now.

• (1710)

Ms. Linda Duncan: Thanks.

We look forward to having you both here when we review CEAA.

The Chair: We'll start that witness list right now, right?

Mr. Fast.

Hon. Ed Fast: I have a question for Mr. Boyd.

You're promoting an amendment to CEPA to allow for the imposition of pollution taxes. I understood that the power to tax already exists.

If the Minister of Finance chose to impose a tax, he could do that. Am I wrong?

Dr. David Boyd: No, I don't think you're wrong. Certainly, the Constitution gives the federal government broad taxation powers.

I think the specific issue of pollution taxes may be one that Environment Canada has encountered some resistance to, so that's why I'm suggesting it be made explicit in the Canadian Environmental Protection Act. It may be confirming something that already exists, but that's not the understanding of at least some officials in the department.

Hon. Ed Fast: If the government did go forward and tax pollution, that pollution presumably is pollution or emissions of toxic substances that are presently below the maximum thresholds. Is that correct?

Dr. David Boyd: That's right.

Hon. Ed Fast: These are thresholds that were established based on current science, presumably on the impact of these emissions on human health. This tax, presumably, would be layered upon the existing carbon taxes that are already in place across the country, or implied carbon taxes when you look at jurisdictions like Ontario and Quebec. So we have the carbon taxes in place, or carbon pricing, then we have pollution taxes layered on top of that. In some cases the same companies that are already paying the carbon tax are paying also a pollution tax. You can see the escalating burden that we're now imposing on companies across the country. I'm just concerned about the balance, with the environment and the economy going hand in hand, what impact it does to shift that balance.

Dr. David Boyd: I think that's a fair question, Mr. Fast, but if you look at the fact that all of our industrialized competitors, the United States and European countries...in the case of the United States they already have pollution taxes. European countries are dealing with both carbon taxes and pollution taxes. The basic principle behind pollution taxes is that we know these substances are causing externalities. They're having impacts on the environment. They're having impacts on human health. The purpose of the pollution tax is to internalize those externalities.

In Canada, we're literally discharging billions of kilograms of toxic substances into our air, into our water, into our soils, on an annual basis. A pollution tax, if it has been calibrated correctly, should be based on the toxicity of the substance, and then applied on a per kilogram or a per tonne basis.

Hon. Ed Fast: But you will agree with me.... Go ahead.

Dr. David Boyd: The last thing I want to address is the economics. I'm perfectly fine with creating a system of national pollution taxes and using that revenue to offset other forms of tax, which then addresses the economic concerns.

Hon. Ed Fast: The revenue neutrality of it. Yes, I do understand. But the challenge is not only nationally, but our largest competitor is the United States and except for California, there is no carbon pricing across the United States. They may have pollution taxes, but when Canada has a carbon tax and a pollution tax, now you're starting to tilt the playing field against Canadian businesses. That's why I'm a strong proponent of a North American approach to addressing not only greenhouse gas emissions, but addressing the non-greenhouse gas emissions that I think, for the most part, you've been referring to.

Dr. David Boyd: Right.

Well, I'm referring to emissions of over 350 toxic substances that are reported by big business in Canada to the national pollutant release inventory. My understanding is that the United States is looking at a cap-and-trade system for carbon emissions which will effectively put a price on it similar to a carbon tax. Everyone in the world is moving toward the pricing of carbon. Canada is taking some steps of leadership. I think it's anomalous for us to say we're going to put a tax on one pollutant and ignore 350 other toxic substances that we're pumping out.

Hon. Ed Fast: I'm not disagreeing with you on the substance of what you're saying. What I am saying is this has to be done on a North American basis. We have economies across the country, regional and provincial economies across the country, in which a tilted playing field can really disrupt job creation. As the United States moves forward as well, it's certainly my belief that we have to, as much as possible, coordinate our efforts with the U.S.

• (1715)

Dr. David Boyd: Except for the fact that if you design pollution taxes correctly, you can address those competitiveness concerns through revenue recycling, revenue neutrality. Again, I can go back to the example of Sweden. Sweden took a leadership position in the European Union and put quite a significant tax on emissions of nitrogen oxides. The result of that was a dramatic decline in nitrogen oxide emissions and the development of some new technologies that Sweden was then able to export.

The beautiful thing about pollution taxes is that they create an incentive for continuous improvement, which is exactly what we want. We're developing clean technologies that we can then not only use here, but export to other countries.

Hon. Ed Fast: That's helpful. Thank you.

The Chair: Thank you very much.

The last questioner is Mr. Amos.

Mr. William Amos: Dr. Boyd, my first question continues the theme of pollution taxation.

Do you think it would be appropriate for this committee to recommend that the Government of Canada, first, undertake a comprehensive assessment of how pollution taxation could be undertaken in a manner that maintains competitiveness with our most important trading partners and, second, consider doing so in conjunction with our closest trading partner?

Dr. David Boyd: There's already been a lot of academic work done on pollution taxes and competitiveness, so you might be able to appoint an expert panel to draw together that evidence. If we're going to move forward on pollution taxes, we need to put it in CEPA, and we need to get started. I think that the time for study is done, and the time for action is here.

Mr. William Amos: I'd like to turn now to the issue of the integration of procedural and substantive rights that enable the Canadian citizens' right to a healthy environment. Can you give me a short list of what you think some of the top procedural reforms would be that would enable greater participation in the provision of information? What are the tools that are not there? Obviously, there's the citizen supervision which is weak and which could be modified. Can you give me a few broad strokes?

Dr. David Boyd: Certainly. Let's start with access to information. At the current time, if you're a Canadian citizen looking for information, it's very difficult. I'm purportedly an expert in environmental law and I find it hard to find information about various Canadian environmental law policy initiatives. There are different websites. There's the chemicals management plan website. There's the Canadian environmental assessment website. There's a species at risk public registry.

What Ontario has done under its Environmental Bill of Rights has worked very well. It has created one-stop shopping through the creation of an electronic online environmental registry where all of the information is available in one place. You simply plug in a search term and, voila, you have the information you're looking for. I think that would be probably the single most useful thing we could do in terms of citizen access to information.

In terms of public participation, there are many things that we could do to improve that. One is that there are now, as a result of legislative changes by the previous government, unprecedented barriers to public participation in important environmental processes under the National Energy Board Act and under the Canadian Environmental Assessment Act. Citizen participation is no longer open to the public. You have to fill out application forms online and then have someone judge whether you're eligible to participate.

Then there are access to justice issues. It's clear that some of the provisions we have in Canada, like the environmental protection action under CEPA, don't work. Coming up with creative ways to grant access to judicial and administrative remedies is really important. I think we can put all sorts of creative elements in there.

I really love the idea that comes from the Philippines, that in any environmental litigation there has to be a mandatory period of mediation between the parties to see if the issues can be resolved before they go through that tortuous court process.

I'll include a whole bunch of recommendations in my brief about access to information, public participation, and access to justice.

• (1720)

Mr. William Amos: Thank you for that.

I'll stay on this theme, but I'll go to an area of concern that I know will be raised by those who feel that increasing access to judicial remedies by citizens creates a potential for the courts to be crowded with applicants who seek to stop projects without regard to the broader public interest.

Would you agree that the challenges we face around social acceptability of resource development could actually be alleviated if citizens felt as though they had recourse to an independent judicial body that they trusted?

Dr. David Boyd: I think that in order to gain social acceptability, there is more than just access to justice. You're going to have to be making decisions as a government that show respect for people's right to breathe clean air, to have access to safe drinking water, and all of those other substantive elements of the right to a healthy environment. Then you also have to respect their rights to information and participation. Through public participation we get better decisions, and not only better decisions, but decisions that can be accepted as long as they're consistent with those other principles.

The issue of social licence is a thorny one, and I think as we move forward in the 21st century with greater scientific clarity about the challenges we face, decisions will be evaluated not just on whether the process was fair, but whether the substantive outcome advances

us towards a sustainable future. In my opinion, that's the real challenge. We need to make decisions in Canada that make us a more sustainable country, not a less sustainable country.

The Chair: Thank you very much to all of our guests for taking the time to be with us today to have such thoughtful discussion on these important issues.

I also forgot to recognize James Maloney. Thank you very much for joining us. I appreciate your being here.

I'll end the meeting a bit early because we really don't have time to start a second round. It's been a very good session.

The meeting is adjourned.

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