



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Fisheries and Oceans

FOPO • NUMBER 036 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Wednesday, November 23, 2016

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Chair

Mr. Scott Simms

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• (1530)

[English]

The Chair (Mr. Scott Simms (Coast of Bays—Central—Notre Dame, Lib.)): Hello, everybody, and welcome. We have a meeting that is going to be done in two parts. The first part will be about our review pursuant to Standing Order 108(2) and the motion adopted by the committee on Monday, September 19. The committee commences its study to review changes made to the Fisheries Act of 2012. In the second hour, we'll be talking about the supplementary estimates, with votes to be taken, and we'll have officials from the Department of Fisheries and Oceans and from the Coast Guard.

In the meantime, let's get to our first part. We have two distinguished guests with us today. From West Coast Environmental Law, we have the staff counsel, Ms. Linda Nowlan. Thank you, Ms. Nowlan, for joining us. As an individual, which is quite a distinction here, sir, we have Otto Langer, fisheries biologist, who is no stranger to us, of course. Mr. Langer, we welcome you.

The way this works, as you know and for those who are watching, is that we start with 10-minute introductory statements. You can speak to this particular issue for 10 minutes or less, and then we'll open up the floor to questions and comments.

Mr. Langer, I'm going to start with you, sir.

Mr. Otto Langer (Fisheries Biologist, As an Individual): Thank you, Mr. Chairman, co-chairs, members.

My name is Otto Langer. I am a fisheries biologist. I've been involved in fisheries biology across Canada for about 50 years now. I spent about 33 of those years with the Department of Fisheries and Oceans and Environment Canada.

Some of the comments I make will go beyond DFO and amendments to the habitat section of the Fisheries Act, and the entire Fisheries Act. I think a lot of my comments relate to Environment Canada, and at times even to Transport Canada.

Habitat and water quality has been a political football in government in the 50 years I've been around. When certain governments are in place, they want to turn off the civil service, and would like to hide the Fisheries Act. When I was with government, at times we were told that no one wanted to see a copy of the Fisheries Act on our desk. Unfortunately, the resource base suffers when we see these ups and downs. Now we're into about a 16-year down cycle, unfortunately.

Looking at the Fisheries Act and amendments we can make to it is only a quarter of the issue. You need good legislation; however, you

need good political direction with some balance of science in that political direction. You need a strong will within the agencies to do the job. Right now that doesn't exist. You need the organization and the resources to do the job.

We've reached a low point in the last 50 years. Our legislation has gone downhill. Political direction has been terrible in the recent past. There is no will in DFO or in Environment Canada to do the job. The organization is suffering a lot, and the resources have been cut, especially in 2012.

I've done a great deal on the history of the Fisheries Act and how the work has been done, including affidavits to the B.C. Supreme Court. I was considered an expert on the habitat pollution provisions of the Fisheries Act. That was tendered as an affidavit. I'm not going to go into that. I think my brief is 100 pages long. I just want to dwell on the first seven pages.

Prior to 1967, and my joining the Department of Fisheries and Oceans from the University of Alberta, there was no real habitat law of any sort in the Fisheries Act, other than to look at blockages from dams, low flows below dams. A section of the Fisheries Act said that when you were logging, you couldn't put debris in the stream. However, we were losing a lot of streams in British Columbia due to gravel companies, logging road builders. They were mining gravel directly out of the spawning beds of salmon streams. So in 1967, the government was convinced to put through an order in council, and the B.C. gravel removal order was put in place. That is the beginning of a habitat law in Canada.

Then in 1976, some of us campaigned for a couple of years to get habitat protection into the Fisheries Act, and Parliament, in its wisdom, passed the habitat section, which we called HADD, harmful alteration, disruption or destruction of fish habitat. We saw that as a giant step forward. That seemed to create a lot of confusion in Canada.

That was followed up with a defining policy, which some people referred to as the no net loss policy. It was a national fisheries policy, and it received a lot of good feedback from around the world in being one of the first sustainable development policies on earth.

In the 1960s and 1970s we went from a rapid net loss of fish habitat to no net loss and the HADD provisions of the Fisheries Act. We didn't achieve zero loss. We were at the point of what I would call a slow net loss. In the 1980s, we reviewed projects through the FEARO process, the federal environment assessment review office. We had no Canadian environmental assessment act. We had regional screening coordination committees.

Quite a good job was done without legislation, just orders in council. In 1995, CEAA came along. Unfortunately CEAA was greatly watered down in 2012. For instance, in British Columbia, it went from 495 to five reviewable projects. An example is a jet fuel terminal in the Fraser River. Probably one of the worst places to put a jet fuel terminal is in the middle of a world-class estuary. In 1988, when the airport consortium tried to put it in, the federal government held a proper FEARO review, and the project was rejected as too great a risk to the Fraser River.

In 2011, the feds weren't even there. They had delegated the reviews on the Fraser River to the Vancouver Port Authority, and the feds didn't do a review of any sort. Environment Canada and Fisheries just disappeared from the scene. The project is now approved and it's 10 times larger than what was rejected in 1988.

•(1535)

There's something wrong in Canada right now in terms of where is DFO; where is the legislation, and we're at a point of rapid net loss of habitat again.

One big thing that we lost in CEAA was the fisheries law trigger. If there was a harmful alteration, it triggered a proper environmental review. The Harper government did remove that, and that was a giant setback. That also applied to the Navigable Waters Protection Act, as that act and the Fisheries Act did complement each other.

In summary, I'd like to say that here we are in 2016 and we've lost habitat protection provisions in the Fisheries Act. We've lost connections between habitat protection needs, between CEAA, between DFO, Environment Canada, and NWP. We've lost habitat protection offices and staff. There's no habitat enforcement, despite what the DFO bureaucrats and past ministers have said. We have next to no public review in terms of environmental assessments. Key habitat protection has been delegated to the industry—it has self-compliance—and to the federal harbours. Now we've put the wolf in charge of the sheep. That's where we sit in Canada.

There's a lack of connection of fish to the overall ecosystem health. If we go to DFO, we'll see how they have an ecosystem management branch that means nothing. We're doing less ecosystem work now than we probably ever have in the past, and the laws and the agencies are fragmented so much we can't bring the ecosystem together.

The recommendations I would make are the following:

Restore section 35 to the act to be more or less worded as it was in the past. That was a giant step forward to protect habitat in Canada, and it was basically neutered or butchered by the past government.

We should retain generally the definition of what is fish habitat in Canada.

We should eliminate the 2012 provision that it's illegal to permanently or seriously harm fish habitat or fish exposed to a commercial, aboriginal, or recreation fishery.

Fish habitat law now should relate to any waterway in Canada that supports fish or a fishery, not just fish exposed to a type of fishery.

Any significant harmful alteration or destruction of habitat must be subject to a proper environmental assessment under CEAA. It must be meaningful, transparent, and allow maximum public input. That's not the case right now.

We should develop a habitat violation ticket system for lower-level violations and retain the general provisions for major offences.

We have to restore reasonable resources and scientific capability to DFO. That's so essential. We've had a terrible recruitment of many managers in the last 12 years. They're not there to do the job; they're there to basically play political football. The present minister has to get over that problem somehow. A lot of key people who had a lot of experience were basically laid off. The agency has to dig itself out of the hole.

We need to have a proper and effective enforcement program. We have next to nothing.

In my brief, on page 8, there's a graph indicating where enforcement investigations have gone in Canada. They've gone right downhill from about 1,800 in 2002 to about 300 in 2010, and they're now almost at zero, especially when it comes to prosecutions. I think in 1998, we had 48 convictions in Canada; under habitat law in 2008 we had one; in 2015 we had zero. If that doesn't indicate a problem, we have a real problem on our hands.

We have to recognize DFO as being separate from fish farming. I think fish farming should be given to another ministry, like agriculture. DFO is still in a great conflict of interest where it promotes fish farming and pretends it also protects habitat.

The last comment I'll make before I close is that I know you'll be meeting with DFO civil servants and high-level deputy ministers. In the 33 years I have worked with DFO, things were good in the first several years. It was almost—I hate to use the term—the golden years, but people had the will, and they did the job, and I think they were quite honest. Now we find politically inspired staff at very high levels in the agency, including the regional offices. I think there's a tremendous lack of honesty in DFO, and the public has no trust in them at all. I think all you have to do is look at some of the material they produce on the Internet that's available to all Canadians.

• (1540)

We look at page 4 in this document on projects near water. It talks about how the amendments to the Fisheries Act in 2012 brought everything together and consolidated it. Well, the exact opposite has happened. Now pollution is looked after by Environment Canada. Serious offences are looked after by DFO. Aquaculture is looked after by another part of DFO. If it involves any nuclear facility, the Canadian Nuclear Safety Commission handles the Fisheries Act on that. If it involves an energy project, the National Energy Board looks after the Fisheries Act on that.

Certain provinces, such as New Brunswick, Nova Scotia, and Prince Edward Island, look after the federal fisheries. We've delegated half of that protection to the national harbours, 17 of them in Canada. How can the bureaucrats say that they consolidated it and brought it together with the Harper changes? The exact opposite is happening. In my experience in the government, when we pretend we've brought it all together and we say this, you can be 90% certain that we are going in the opposite direction. That's what's happening right now.

Thank you.

The Chair: Thank you for that, Mr. Langer.

Now we'll go to Ms. Nowlan, from West Coast Environmental Law, for 10 minutes, please.

Ms. Linda Nowlan (Staff Counsel, West Coast Environmental Law): Thank you for the opportunity to speak here today. It's a pleasure to be here with Mr. Langer, whom I've known for many years.

My name is Linda Nowlan, and I am a staff lawyer with West Coast Environmental Law in Vancouver. As an example of the type of work I do for this organization, which has been here for more than 40 years—I haven't been with it for 40 years, though—I've given a dozen workshops around the province on fish habitat protection law for community and streamkeeper groups.

We've prepared two briefs. The first is "Scaling up the Fisheries Act: Restoring Lost Protections and Incorporating Modern Safeguards". The key messages from this brief were endorsed by over 45 groups. I sent a copy to each of you earlier this year. The second is a new one: "Habitat 2.0: A New Approach to Canada's Fisheries Act", presented jointly by West Coast Environmental Law and FLOW Canada. FLOW is the Forum for Leadership on Water, and I am pleased that Tony Maas is here today from FLOW.

A summary of the review we commissioned on international best practices on fish habitat is included as an appendix to our new brief. I am going to review the six recommendations in "Habitat 2.0", but first I'm going to do a bit on background.

In 1977, former fisheries and environment minister Roméo LeBlanc introduced a fish habitat regime to Parliament, and he explained why he was doing that: "The chain of life extending to the whole open ocean depends on bogs, marshes, mudflats, and other 'useless-looking' places that ruin your shoes. Biologists have likened these areas to the cornfields and wheatfields on the ocean." He urged Parliament to protect "the irreplaceable nurseries of fisheries well-being", and these words ring true today. All parties supported that

bill and urged the minister to give it swift passage, which it did receive. Fish and their habitat need help more than ever today, so the government's commitments to restore the lost protections and introduce modern safeguards are very welcome. Both of our briefs address both topics.

The Committee on the Status of Endangered Wildlife in Canada, or COSEWIC, ranks freshwater and marine fishes very high on the danger list. In fact, the chair of COSEWIC says that, as a group, they are the second most endangered group of species in Canada, and that the leading cause of risk for most of these freshwater fishes is habitat loss and degradation. The numbers get worse every year, and the numbers of fish at risk have increased since the amendments. I have other examples of fish decline after the 2012 legal amendments, which I'd be happy to address in questions.

For more background, I'd like to draw the committee's attention to the words of the Supreme Court of Canada, which in 1992 emphasized that environmental protection is "one of the major challenges of our time". In 1997, the same court said that this was "a public purpose of superordinate importance". That decision referred favourably to the need for national environmental standards, and that's what Parliament intended.

Parliament saw fit in the Constitution to give exclusive legislative authority over seacoast and inland fisheries, as one of "the great questions which affect the general interests of the Confederacy as a whole", to the national Parliament. Those are the words of John A. Macdonald, stated during the Canadian Parliament debates on Confederation in 1865.

The 1868 Fisheries Act included provisions to protect fish habitat, not just fisheries. Our brief contains a number of examples from published legal cases across the country that show why we need strong habitat protection to deter harmful activities that damage fish habitat, destroy it, or alter it, sometimes temporarily.

Fish habitat protection is not only a national concern, it is an international legal obligation, which is another reason that we need national standards that only the federal government can promote. I won't go into the full range of treaties that spell out this obligation. Some are in the brief.

There is wide agreement that the 2012 amendments in the Fisheries Act weakened habitat protection—weakened, not eliminated. Perhaps the best summary of how the amendments were viewed came from Mr. Justice Cohen, who conducted a three-year judicial inquiry, from 2009, into the cause of low sockeye return to the Fraser River. I'd be happy to say more about the Cohen commission's findings and Mr. Justice Cohen's findings in questions.

There are two ways in which the current act is not an effective legal tool to protect fish habitat. First, the sole court case I could find interpreting the new standard finds it weak. Again, I'm happy to talk more about that in questions.

•(1545)

Second, and Mr. Langer touched on this, enforcement is not occurring. It appears that there has not been a single charge laid relating to a violation of the new section 35 since the amendments came into force in November 2013. That comes from information from the DFO annual reports to Parliament over the past two years.

The reason for the lack of the charges is unclear, but many experts believe it's due to uncertainty about the meaning of the new statutory language. If you don't know what it means, you're not going to go lay a charge about it.

In contrast, in 2001-02, 54 charges were laid. I have more numbers if you want them. Contrast this record with recent convictions and fines levied against offenders for violating the prohibition on depositing deleterious substances into fish-bearing waters. Last year, 92 charges were laid under that provision, with a further 28 laid for violation of the metal mining effluent regulations. One guilty plea resulted in the largest environmental fine in Canada, \$7.5 million from a Quebec mine operator. Prosecutions are an essential part of the regulatory tool box. If we don't have any, there's a problem. Clear language in the law is needed for successful prosecutions.

Now I will go through our six recommendations quickly, focusing on the first four.

The first is to restore the prohibition on HADD. You've heard most witnesses recommend that. Restoring these terms will provide guidance due to the existence of 40 years of judicial interpretation of those terms, but a new HADD section could also modernize the act.

We recommend that if HADD is reinstated by Parliament, it include new features. Incorporating relevant sections from DFO's numerous unenforceable policies on habitat protection directly into the act would help fill the legislative vacuum noted by leading marine law expert Professor David VanderZwaag.

We could have an expanded and modern definition of fish habitat in the act. We could put factors into the act which must be considered when authorizing HADD. For example, how important is the habitat? Is the impacted habitat type in low supply, of high value to fish production, or both?

Second, the act must protect key elements of fish habitat, including environmental flows. The Fisheries Act should provide a legally binding national flow standard to conserve the quantity, timing, and quality of water flows, also known as environmental flows.

CSAS scientists point to this issue as a deficiency in the current regime and say that a national standard is needed. The act should define conditions of flow alteration that constitute HADD based on science advice from the Canadian Science Advisory Secretariat and used by DFO. Our brief contains more information on that. These are key changes, and if enacted, they will demonstrate the government's commitment to modernize the act.

Our third recommendation is to protect key areas of fish habitat. The new act contains a mechanism to designate ecologically significant areas by regulations. Unfortunately, this provision has

not yet been used. It's a good provision. We recommend that it be used.

For example, eelgrass beds of particular significance could be designated as essential fish habitat, and therefore off limits to development. Flora Bank at the mouth of the Skeena River is an example of this type of habitat. I would be happy to talk more about that during the question period as well.

Various DFO policies indicate that some habitat areas should be off limits to development. These include the two wild salmon policies on either coast, the policy for managing the impacts of fishing on sensitive benthic areas, and the policy on cold-water corals and sponges.

Another potential no-go zone is limited and imperilled spawning habitat for marine shore spawning forage fishes such as surf smelt, capelin, and Pacific sand lance. For example, in Washington State, such beach habitats are listed and protected as critical wild salmon habitat.

Our fourth recommendation is to protect fish habitat from key activities that can damage habitat, such as destructive fishing practices and the cumulative effect of multiple activities. We adopt Dr. Fuller's evidence to this committee on the first point. On the second point, cumulatively, minor works are considered to pose the greatest threat to fish habitat. To ensure that the cumulative impact of minor works and activities are understood and considered, we recommend, as have other witnesses, that the act require the creation of an accessible database so that DFO knows what's going on out there with cumulative impacts, and can then take more steps.

We agree with Mr. Langer that for the minister to fulfill his mandate to restore lost protections, environmental assessment triggering needs to be restored to the Canadian Environmental Assessment Act.

•(1550)

Our fifth recommendation is to protect fish habitat from key threats, such as a changing climate.

Our sixth recommendation is to modernize the governance of fish habitat. Specific provisions on co-governance and co-management of fisheries must be developed collaboratively with first nations. This limited committee consultation process is not the appropriate forum to develop those provisions. That must be done through a nation-to-nation consultation process.

In conclusion, a new approach to habitat, "Habitat 2.0", would ensure healthy fisheries for generations to come, the overall goal for the mandate in the mandate letter by the Prime Minister. Implementing these six recommendations would help achieve that goal.

I will end as I started, with words of wisdom from the former fisheries minister in 1977, the Honourable Roméo LeBlanc:

If our laws can protect the water, if we give the fish a place to live, we can have a better place for man—

—and woman—

—to live.

The work of constant monitoring and restraint where necessary is hard, but the alternative prospect of forever losing stocks or species of fish is not acceptable.

The fish and their waters are a public resource. With the changes to the Fisheries Act that I am asking for, my department will be better able to carry out the public responsibility of guarding them.

Thank you.

● (1555)

The Chair: Thank you, Ms. Nowlan.

Now we go to questions and comments.

First we'll go to the government side. Mr. Hardie, for seven minutes, please.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): Thank you to the witnesses.

Mr. Langer has already answered the question in his testimony, so I'll ask Ms. Nowlan.

Do you agree with the Cohen commission recommendation that aquaculture be separated from the DFO's mandate?

Ms. Linda Nowlan: Yes, I do agree with that.

Mr. Ken Hardie: Why?

Ms. Linda Nowlan: I think it is a conflict of interest for the government to be promoting that activity at the same time as fulfilling their overall mandate to conserve fish and fisheries.

Mr. Ken Hardie: We heard a few days ago in testimony a very specific example of where, in one case, a nuclear power plant had been given permission to put warm water back into a stream. That led to a very measurable mortality rate on the fish in that stream or river.

Are there other permissions that you're aware of that should be perhaps at least reviewed in the context of modernizing the act?

Ms. Linda Nowlan: Yes. One recent example that I'll give is the approval of the Pacific Northwest LNG project up in the Skeena River. That's Flora Bank that I referred to. Back in 1972, DFO said this was one of the most important habitat areas on the whole Pacific coast. It was surprising to see that DFO thought now, with the new definition under the act, that the amount of serious harm to fish habitat, using the new definition, was acceptable. Many independent scientists disagree, and I think that authorization could be one that could be reviewed. Those are tens of thousands of square metres of habitat that are going to be put at risk from this recently approved project.

Mr. Ken Hardie: Mr. Langer, you referred to a jet fuel facility near the Vancouver airport that had been approved by the Vancouver Port Authority, basically under permissions delegated from the federal government. In my discussions with the Prince Rupert Port Authority, it seems that the siting of the Northwest LNG plant also resulted from a decision by the port authority.

Can you comment on the wisdom of these delegations? Are the port authorities really in a good position to make the best possible choices for all of the interests involved in something like this?

Mr. Otto Langer: I would say they are definitely not the proper authority to be making decisions on behalf of what's good for fish.

Their business line is the export and import of goods. The calling, above anything else, is to make a profit, even though it's a federal agency. That's the same with private industry. Business only exists to make money. That's their primary objective. If they don't make money, they don't exist any longer. How can those agencies put fish high on their agenda when their agenda has many other callings?

We have a fishery agency. They have the expertise. Now we have the Vancouver Port Authority hiring fisheries biologists and duplicating what another federal agency is doing, but their goal is not to conserve and protect habitat. Their goal is to develop maximum port development. I would say I can't see how any government could have allowed that conflict of interest to occur. I guess it would apply to all 17 federal harbour authorities in Canada, it's just that in British Columbia, the Prince Rupert one and the Vancouver one create the largest environmental conflicts right now, with probably about 10 projects proposed. In the Fraser River estuary, Environment Canada and DFO have largely disappeared, and the Prince Rupert Port Authority is determining what's adequate for habitat compensation, where it could be built.

How did we ever get in that mess? It's truly putting the wolf in charge of the sheep. There's something really wrong there.

Mr. Ken Hardie: When we look back at the reason the changes were made about five years ago, the federal government of the day was very interested in giving a boost to the economy by getting many public works done. There was a concern that was expressed by many rural municipalities about what they saw as the onerous red tape that added time and money to the cost of doing these public works.

If we're looking at modernizing the act, if we were to preserve a system that allowed public works to go forward in a more expeditious and less costly way, what would that take? Would that take a streamlining of the regs if we were to reintroduce many of the foundational protections that you say were taken away? Do we go back to them and try and fix them up, or is it a matter of just simply more resources for the DFO to go in and do the inspections and analyses, or is it a combination of the two?

I'll ask you both to respond to that.

● (1600)

Mr. Otto Langer: It's not a simple solution and of course, DFO will need some additional resources. When I was a DFO employee, we couldn't hire enough biologists, so that one could sit on every bulldozer in Canada. Common sense has to apply and you have to streamline many things. Bureaucracies are not good in streamlining things and cutting out a lot of red tape, so that direction has to be there.

Sorry, what was the other part of the question?

Mr. Ken Hardie: Is it a matter of trying to make an assessment process work better and faster, or does DFO simply need more resources to get things done in a reasonable amount of time?

Mr. Otto Langer: I think you have to centralize expertise in the right agency. When we're dealing with an energy issue, the National Energy Board should just be dealing with that energy issue. Do we have enough natural gas for future generations? Do we build a pipeline across provincial boundaries? Why would the National Energy Board then determine what's good for fish in every stream they put that pipeline across? That makes no sense at all. Get all the agencies to do their job properly and efficiently versus the fragmentation we now have, as I mentioned.

When it comes to the Fisheries Act, we probably have 12 different groups across Canada looking at the Fisheries Act and applying it. That's the exact opposite to what the pipeline industry asked for when I was with DFO in about the year 2000. They complained and whined a lot and it had a lot to do with the butchering of the Fisheries Act. They said, "When we're in B.C. we have to tunnel under a river to protect salmon and when we go to Alberta, we can just rip through the river, an open trench. Why is there this difference?" They went to Ottawa and complained that they wanted one approach.

Well, after 2012, it appears we have more different approaches than ever. Is that efficiency? That's going to be costly and it's going to create a lot of confusion, including confusion in the courts in terms of who is really in charge. There's this myth that the Fisheries Act slowed down the economy. Well, when habitat came into the Fisheries Act, the economy kept growing and growing. I didn't see any decrease in the economy anywhere, so I think there is a bit of a myth there that we have to get rid of the Fisheries Act. That certainly didn't occur at all.

Yes, it can be done more efficiently. When we look at DFO resources right now, they've really been chopped since 2012, so yes, they'll need some additional resources, but even more so, they need expertise. As I mentioned, they need a better organization. They need more expertise in management. Some of the management at DFO leaves a lot of doubts in my mind.

The Chair: Thank you, Mr. Langer.

For seven minutes, Mr. Sopuck.

Mr. Robert Sopuck (Dauphin—Swan River—Neepawa, CPC): I was a little shocked, Mr. Langer, at your brief when you talked about the upper management of DFO, and I think the term you used was "not honest". I have found the senior staff of DFO, both when I was on the government side and on this side, to be very forthright and very scientifically literate. I certainly enjoyed having them before this committee.

In terms of the habitat section, let's be very clear. There is a habitat protection section that remained in the new act. It says, "Serious harm to fish is defined as death of fish or the permanent alteration to or destruction of fish habitat". Then it went on to a definition of fish habitat. It gets a little tiresome to hear that there are no habitat protections under the new Fisheries Act, which is clearly not the case.

A delegation from the Mining Association of Canada testified. These are people who actually have to deal with these acts. They said, "In the mining industry experience, the 2012 changes to the Fisheries Act have in practice broadened the circumstances in which

the Section 35 prohibitions apply and increased the circumstances in which an authorization and offsets are required". They went on to say, "The amendments have encouraged greater attention to sound science and the purposes of the act".

I'd like a simple yes or no answer. Do either of you work in industry, for example, for a mining company, a forestry company, or anything like that.

• (1605)

Mr. Otto Langer: Have I ever worked in—

Mr. Robert Sopuck: Have either of you worked in the natural resources industry specifically for a mining company, a forestry company, a potash company, or anything like that?

Mr. Otto Langer: No, I've not worked for a mining company, but I did work for Shell oil in the Alberta tar sands, so that's getting pretty close to mining.

Mr. Robert Sopuck: Yes.

Ms. Nowlan, have you ever worked in industry?

Ms. Linda Nowlan: As a lawyer when I first started, I represented engineering and architecture firms for large construction projects. In my current work as an environmental lawyer with a streamkeeper group—

Mr. Robert Sopuck: The reason I ask—

Ms. Linda Nowlan: Excuse me. I haven't finished.

Streamkeeper groups are very concerned about how the law works.

Mr. Robert Sopuck: I'm afraid this is my time as a member of Parliament.

Ms. Linda Nowlan: Excuse me, Mr. Chair. Do I have time to finish my answer or not?

The Chair: Perhaps we could pause right here.

Mr. Robert Sopuck: We only have seven minutes.

The Chair: Madam, to be honest, each member has seven minutes. I apologize if you feel you're inconvenienced, but it's up to our members here to use their time as they wish.

Mr. Fin Donnelly (Port Moody—Coquitlam, NDP): On a point of order, Mr. Chair, if the witnesses are being asked a question, they should be allowed to answer the question.

The Chair: Yes, I realize that, Mr. Donnelly.

Mr. Ken McDonald (Avalon, Lib.): Exactly.

The Chair: Keep in mind that the seven minutes belong to you as a member. You can proceed as you see fit. If someone feels that is rude behaviour—

Mr. Fin Donnelly: I'm not arguing.

The Chair: —then I apologize, but it still belongs to the member at the end of the day, which I have to uphold.

That being said, I'm going to return to the clock.

Mr. Robert Sopuck: Thank you.

The Chair: Go ahead, Ms. Nowlan.

Ms. Linda Nowlan: It's over to you.

Mr. Robert Sopuck: The reason I ask that is I've had the pleasure of working directly for a forest company, not representing them, not being a consultant to them, but working for a forest company where I ran a wastewater treatment plant in the environment programs.

One of the things environmental activists never give industry credit for is the fact that best management practices are implemented at all times in every industry.

I know, Mr. Langer, you talked down about the business of making money. The fact is big business, and industry, and natural resources companies use that money to improve environmental standards all the time. One only needs to look at Sudbury, the air quality improvements there, and the wastewater treatment plants in all forest companies now.

Mr. Langer, you made a point. You said there has been a rapid net loss of habitat. Can you give me some specific examples with numbers attached under the new act?

Mr. Otto Langer: We just have to look at the Petronas LNG project in the Skeena River estuary. It's a relatively pristine estuary, and we've learned from the Fraser River, the Squamish estuary, and many others that this is not a place where you put industry. You have to site in an alternate location.

No one in DFO is against industry and the economy. At times, 80% of the solution is placing the right industry in the right location. Here we have a project in the middle of a virgin estuary. That's a tremendous setback. In the Fraser River, DFO seems to have disappeared, and we're allowing supertankers of jet fuel to come up into the Fraser River estuary, turn around in a narrow waterway, and build a giant terminal for 80 million litres of jet fuel. That was rejected in 1988, but it's approved now.

This goes on and on.

Mr. Robert Sopuck: It's interesting that you both use the Fraser River as an example.

Ms. Nowlan, your example stopped in 2009, which was admittedly a very low year, but wonder of wonders, in 2010 the sockeye sprang back, and in 2014 there was a record sockeye salmon run of 20 million fish, so I think it's important to complete the story here.

It's obvious the Fraser River system is currently capable of producing millions of fish even under the new Fisheries Act, and perhaps even because of the new Fisheries Act.

I found it interesting, when we changed the Fisheries Act, we focused on production of fish. Fish production is quite important.

I'm going to ask you a question, Mr. Langer. In prairie Canada, a number of reservoirs have been built over the last 40 or 50 years. There's something you're familiar with as a biologist called the reservoir effect, in that the fish population, the fish production, just boomed dramatically to the great benefit of local communities.

Was the building of those reservoirs and the admitted changes in fish habitat, which caused an incredible boom in fish production, good or bad for fish?

Mr. Otto Langer: I'm not aware that reservoirs have created a great boom in fisheries. Generally, downstream areas are affected

greatly by reduced flows or altered flows. We just have to look at the Nechako River, and the Kenney Dam that was built there, and the damage that it has done, including the temperature.

I don't know where you get your information from, but probably —

● (1610)

Mr. Robert Sopuck: I'm a fisheries biologist myself.

Mr. Otto Langer: —the greatest impact to fishery runs in Canada and the world is the building of dams and reservoirs. Certain fish could be introduced into a reservoir, and they will do well there, but that does not include the salmon that have to spawn in that area, and get flooded out, and get blocked by the dam.

Mr. Robert Sopuck: I'd like to bring you to my constituency to see the Lake of the Prairies reservoir and the significant walleye fishery that has developed because of that reservoir.

Ms. Nowlan, one thing I find consistent among the environmental activist groups is the desire to reduce the ability of the minister to decide public policy. The World Wildlife Fund said that before us, and the Ecology Action Centre said that before us.

On page 5 of your brief, you say, "limit the Ministers' regulatory powers". What is it about environmental activist groups that they want to remove the powers of elected officials to make decisions on behalf of citizens who vote? To me that's a recommendation against democracy. Can you explain that?

Ms. Linda Nowlan: Yes, I'd be happy to. I'll refer to the Supreme Court of Canada, and I'll quote from them:

Though discretionary decisions will generally be given considerable respect, that discretion must be exercised in accordance with the boundaries imposed in the statute, the principles of the rule of law, the principles of administrative law, the fundamental values of Canadian society, and the principles of the Charter.

In the Ahousesht case from 2014, the then minister of fisheries and oceans wrote a handwritten note beside the science advice from her advisers, who advised not to reopen a herring fishery. She wrote beside it that it should be reopened, and she gave a direction to do so. The judge in that case in Federal Court admonished the minister for "fudging the numbers" and said that it seems that once the minister and the DFO depart from science-based assessments, the integrity of the fisheries management system is harmed.

There is never absolute discretion for elected officials. That is a misunderstanding of the law.

The Chair: I'm sorry, Mr. Sopuck, but I have to call this to an end.

Mr. Robert Sopuck: Thank you.

The Chair: We're going to Mr. Donnelly, for seven minutes, please.

Mr. Fin Donnelly: I would like to start off by mentioning that I think we have two Canadian heroes in front of us here, in their respective fields. Certainly they are both heroes of mine. As a quick note, in 2000, I dedicated my second swim the length of the Fraser River to Mr. Otto Langer for his years of dedication to salmon, to the salmon fishery habitat, and to the Fraser River. I'm very happy that both of you are in front of us today in this committee talking about the Fisheries Act.

Mr. Langer, if I could start with you, on the 2012-13 changes to the Fisheries Act with respect to habitat protection, in your view, was this a good thing?

Mr. Otto Langer: No, there shouldn't be any doubt in the mind of anyone who is objective that this wasn't a good thing. We probably lost the basis of protecting 80% of habitat in Canada.

We've all heard of death by a thousand cuts, and that's what destroys habitat in most places. In my last years in DFO, I did a lot of work on assessment of the no net loss policy, and when it comes to the bigger projects, you have a greater industrial will in the company to look good. They hire better consultants, and they do a better job of assuring a no net loss of habitat. Government rides them more because they are big corporations, but when you take the 101 little landowners in that same watershed, one who's cutting down some trees, one who's destroying the riparian zone, and someone who runs across a stream with his ATV, and you add all of those up, they are going to do a lot more damage to the stream than one larger industrial development.

Basically, we deleted out all of that protection from the Fisheries Act. That is your harmful alteration disruption and destruction of fish habitat. None of that would be considered serious harm, as defined in 2012-13.

Mr. Fin Donnelly: Can you tell me a bit about your background, why you are qualified to talk about this, and how long you've been a fisheries biologist when you were working for the department, etc.?

Mr. Otto Langer: I started working for the Department of Fisheries and Oceans in 1969. I was recruited out of the University of Alberta with two degrees in fisheries biology. I was hired to be a fish protection biologist. I soon learned that it was hard to do the job unless we had a law, so some of us pushed for a law to protect fish habitat. In theory, we could protect fish habitat from dams, flows from dams, debris from logging, and things like that, but there was nothing there to really protect habitat. You could destroy a wetland. You could run a tank through a marsh, and there was nothing you could do about that.

We also used the pollution law to protect a lot of habitat. If you did fill in an estuary, we called that a deleterious substance, and we would try to protect the Fisheries Act using water quality law. Over the years I became, in Canada, probably the expert witness who has done more expert witness courses on pollution and the Fisheries Act, with well over 100 cases from Newfoundland to Vancouver Island, and from the Arctic down to the 49th parallel. I've been on a lot of tribunals. I've done a lot of work. I've directed a lot of projects, many of which have been published. I'm still doing some of that work, including a few of the key ones I have right in front of me that have appeared in qualified journals.

• (1615)

Mr. Fin Donnelly: Thank you.

Ms. Nowlan, in your testimony you talked about a weak interpretation. I'm wondering if you could expand a little bit more about the judge who talked about the interpretation of the new act for protecting habitat being weak.

Ms. Linda Nowlan: Yes, I'd be happy to. Thank you.

The only case I could find that did interpret that section was a Federal Court case, where the Mikisew Cree First Nation objected to Bill C-38, the omnibus budget bill, which weakened habitat protection, on the basis that they weren't consulted. They were successful, but as the bill had already become law, there was no remedy for them, unfortunately. In that case, commenting on the impact on their aboriginal rights to fish, and the duty not to cause serious harm to fish, the new provision in the act, the Federal Court said that the amendments to the Fisheries Act removed the protection to fish habitat from subsection 35(1) of the act. In that, they also said that the amendment "clearly increases the risk of harm to fish".

Mr. Fin Donnelly: Thank you.

You've given clear recommendations. You've submitted them to this committee. Both of you have submitted your recommendations, which I think is really important. Thank you for doing that.

You also mentioned linking policies to the Fisheries Act. I'm wondering specifically about the wild salmon policy. Perhaps you could talk a little more—and if he wishes Mr. Langer could also comment—about, for instance, taking an existing policy that the department has and how it could be linked better or legally to the Fisheries Act.

Ms. Linda Nowlan: Sure. I'd be happy to.

As you know, the Cohen commission did recommend full implementation of the wild salmon policy, and said it was an excellent policy; the only problem was that it hadn't been implemented fully, which is a big problem. It's a stepped approach. The first step in strategy one is to identify conservation units for salmon and then you colour code them green, yellow, or red. The red-coded conservation units, particular units of habitat, are supposed to, if you go all the way through the strategy, result in a management change, but unfortunately, that management change isn't well defined in the policy. Even more unfortunately, in the 11 years that we've had the wild salmon policy, we've never managed to get from strategy one to strategy four, except in one limited case of chinook on the south coast. I think that the act could be amended to actually talk about how to classify habitat, and to require that there be a response when you have red-coded conservation to bring back the fish.

Mr. Fin Donnelly: Is there anything you can add on that, Mr. Langer?

Mr. Otto Langer: It's probably on this point that I would disagree a little bit. My experience shows that the more complicated your legislation is, the more confusing it is to the courts. All you have to do is confuse a judge, and you can't do any enforcement work.

You take the B.C. Environmental Assessment Act. Recently we challenged that in the B.C. Supreme Court. Our lawyers just couldn't understand the act. They spent days trying to understand the act and its regulations. You'd want to avoid that.

I think policy should remain as policy and it defines simple, strong law. Then you have guidelines on how to achieve that policy. Then, and this is what's lacking, you need a strong industrial and citizen stewardship program, where you work with industry, and you hold their hand in partnership, and they will learn how to do the right thing to avoid—

•(1620)

The Chair: I'm sorry, Mr. Langer. I have to cut it right there. The time is up.

We're going to Mr. Finnigan for seven minutes, please.

Mr. Pat Finnigan (Miramichi—Grand Lake, Lib.): Thank you to the panel for appearing in front of us today and for giving us your expert opinion based on your lifelong experience with the protection of fish habitat.

I'll start with Ms. Nowlan.

Could you please complete your statement that you wanted to complete when Mr. Sopuck didn't want you to finish. Could you please tell us what your background is? Have you worked in industry.

Ms. Linda Nowlan: Yes. I was just pointing out that, as a lawyer representing engineers and architects for large construction projects, I did have to deal with interpretation of the Fisheries Act. Also, now, for conservation groups, and streamkeeper groups, and individual members of the public who call our office because they're concerned about the impact of a development or project on their favourite local stream they've spent countless volunteer hours protecting, we have to interpret the act and tell them how to enforce it.

It is definitely true that DFO needs more resources, more enforcement officers, but the law needs to be clarified, too.

Mr. Pat Finnigan: Thank you.

Mr. Langer, to quote you, you said that the changes are the biggest setback to conservation law in Canada in half a century, and that you have watched a steady decline in the application and enforcement of the Fisheries Act over the past decade.

In your view—

Mr. Otto Langer: Excuse me, we can't hear you. Could you speak up?

The Chair: Mr. Finnigan, please get closer to the microphone. Thank you.

Mr. Pat Finnigan: I'm sorry about that, Mr. Langer.

To quote you, you have described the changes to the Fisheries Act as the biggest setback to conservation law in Canada in half a century, and you've said that you have watched a steady decline in the application and enforcement of the Fisheries Act over the past decade.

In your view, what's caused that steady decline in the application? Is it government bending to lobbyists or is it to save money? In your view, why did we go down that path, and why are we cutting back on the enforcement?

Mr. Otto Langer: I'd say the downhill slide started during the government previous to the Harper government. The government of Paul Martin was into balancing the books big time, and cuts were being made at DFO. I think we lost 40% of our scientists then, and we came up with a term called "smart regulations". I shouldn't say "we"; it was imposed upon the agency, I think. The key thing was self-compliance: let industry look after itself and it'll do the right thing.

From experience in Australia and elsewhere in the 50 years I've been around, that simply does not work, so we were going off in the wrong direction, hoping it would work. It was wishful thinking. It hasn't worked. That was going in the wrong direction.

Then the word was out to cut down on enforcement. I don't know why that happened. As I showed in the figure I gave from the Cohen commission, less and less work is being done every year. I could get into a long story of why that happened, but fisheries officers were taken off of habitat. That was a really poor move.

We could probably look at 10 different things as to why things were going downhill. Then suddenly in 2012, we decided that fisheries aren't doing enforcement work: let's get rid of enforcement staff, and let's get rid of the habitat section of the Fisheries Act, and let's put them in place. This is what the pipeline companies did lobby for. It has been a downward spiral since about the year 2000.

Mr. Pat Finnigan: Thank you.

Ms. Nowlan, you said earlier that the aquaculture industry should be separate from DFO, so I would expect maybe with the Department of Agriculture or some other.... How would that be different?

Right now, if it were under a separate department, would they be infringing on the laws or the act as they operate? Can you elaborate on that?

Ms. Linda Nowlan: There are some new aquaculture activity regulations under the act that allow pesticides to be used in water, which many believe should be changed. I think I'll leave the questions on aquaculture separation, and I'll just refer to the Cohen commission report. After three years of detailed investigation, I think his recommendations should be followed. He heard from a hundred witnesses and commissioned numerous technical studies, and I would rely on his report.

Mr. Pat Finnigan: Thank you.

In the Fisheries Act, it does not include any obligation to restore depleted fish stocks, to prevent overfishing, or reduce bycatch.

In your opinion—and I could ask both of you—does DFO adequately address these issues as part of its suite of fish-related policies? Please elaborate.

•(1625)

Mr. Otto Langer: You should go first.

Ms. Linda Nowlan: I think that putting an explicit provision in the act that requires rebuilding depleted stocks, as they do in the U. S., would be a good idea. It has proved to be quite successful in the U.S. since that change was made to their law.

Also, a simple prohibition on overfishing would be a good addition, a modern addition to our act. Why not state the obvious?

Mr. Otto Langer: Yes, I think we are—and I'll use this word—too liberal in how we run a fishery. For instance, we can look at white sturgeon, an endangered species in the lower Fraser, and we still run a multi-million-dollar fishery on that stock and we just say, “Oh, you can catch and release”. Well, is that the way we should protect something that's endangered? We do a lot of those types of things in government, or we did, and we still do to basically keep the public happy so they can fish. At times you do have to reduce fisheries quite drastically.

The fisheries people will say that you can't do that, that you're going to lose public trust and that you have to let them keep fishing. That just doesn't make sense.

We seem to put more money at times into endangered species under SARA than we do to maintain healthy fish stocks. That's truly unfortunate.

Mr. Pat Finnigan: Do you think that should be enshrined in the act, or how should that be...?

Mr. Otto Langer: I think it's beyond the capability of a human organization to be directed to restore all stocks to a healthy status, unless the United Nations and everyone else is going to get together and reduce global warming, and we do this and ten times the research we do. It's good to have it, but at times it will be unachievable, unfortunately. We are into a bit of a downward spiral. With global warming and many other pressures on the resource, that's probably going to continue, sadly so.

Mr. Pat Finnigan: Is there room for aquaculture in the ocean? Do you think there are ways that we can safely practise aquaculture, whether it be open or in closed cage, recirculating water? Do you have an opinion on that?

Mr. Otto Langer: I was in DFO when aquaculture became a big issue, and then I worked at the David Suzuki Foundation for a few years on aquaculture issues. I don't think you should have open net-cage fish farming. That creates disease problems. We know any time you put a lot of cattle or fish together, it's almost a disease breeding area—the same with humans. That shouldn't affect the wild stocks in that area, so you could have some containment structure in place.

The Chair: Thank you, Mr. Langer, I appreciate it.

We have to call it to an end there because we're out of time.

Ms. Nowlan, it was nice to have you with us today and Mr. Langer as well. We thank you.

We're going to take a short break—

Mr. Fin Donnelly: Mr. Chair, on a point of order, I received a letter on November 21 from Lisa Fong of Ng Ariss Fong law firm. She is requesting that the Heiltsuk First Nation appear as a witness before the committee regarding the Fisheries Act, and the clerk has advised—

The Chair: Mr. Donnelly, we've already been through this. You yourself can provide the names of people to appear as witnesses. We've done this already. I'm not quite sure this is a point of order; it's a point of contention, perhaps, but nevertheless, I think you were given—

Mr. Fin Donnelly: I was seeking clarification, Mr. Chair. The last part is that the clerk has done exactly what you're saying, which is

advise them to seek out and ask an individual member. I'm wondering how I should respond to them, given where we are in this study. They're not on the list.

The Chair: Why don't we just call this to a close, and then we'll talk to the clerk to fix the situation, okay?

Mr. Fin Donnelly: Thank you.

The Chair: We'll be back in a few minutes.

Mr. Mel Arnold (North Okanagan—Shuswap, CPC): I have a point of order, Mr. Chair.

The Chair: Sure, Mr. Arnold.

Mr. Mel Arnold: I'd like to propose a motion for the committee in light of all the testimony and the desire for the—

The Chair: Mr. Arnold, have you given us the 48 hours' notice as required?

Mr. Mel Arnold: No, I didn't believe I needed that just to provide a motion for the committee.

The Chair: Do you mean a motion relating to business before the committee as of right now?

Mr. Mel Arnold: Yes.

The Chair: Proceed.

Mr. Mel Arnold: I move:

That the Committee request from the Department of Fisheries and Oceans (DFO) all input received from DFO's online public consultation related to the Fisheries Act Review to date; that this public input be provided to the Committee within 7 days of the passing of this motion; and that all input received for this consultation in future be also provided to the Committee within 7 days of receipt by the department.

• (1630)

The Chair: Do we have any comment here?

Mr. Donnelly is opening up debate.

Mr. Fin Donnelly: Mr. Chair, it's just for clarification.

I think it's a good motion. I'm just wondering about the deadline for input. It is November 30, I believe, so if there's some clarification, maybe Mr. Arnold could speak to that if he is thinking it would be now, as opposed to—

The Chair: Mr. Arnold, go ahead.

Mr. Mel Arnold: I just want to get this moved forward as soon as possible, because I'm sure there's a huge volume of that information. I would hate for it to be provided late in our deliberations.

The Chair: Mr. Doherty, go ahead.

Mr. Todd Doherty (Cariboo—Prince George, CPC): Mr. Chair, I believe the deadline is November 25.

The Chair: You have a question, Mr. Hardie?

Mr. Ken Hardie: Is the intention of this motion that this material be entered as evidence into the hearing?

The Chair: I'm sorry, for point of clarification before we proceed, November 25 is the deadline for Department of Fisheries and Oceans, the minister's office; November 30 is the deadline for submissions for this particular committee, Standing Committee on Fisheries and Oceans.

Mr. Arnold, go ahead.

Mr. Mel Arnold: The motion is clearly to get the submissions to the committee as soon as possible, so that we can consider it with due process.

The Chair: Is there any comment on that or further debate? It's a motion pertaining to business here today.

Ms. Jordan, go ahead.

Mrs. Bernadette Jordan (South Shore—St. Margarets, Lib.): Could we have one minute just to talk?

The Chair: There's a motion on the floor, ma'am. I can't break. I'm sorry. We have to decide right now, through debate.

Do you have a comment?

Mrs. Bernadette Jordan: Can we amend it to "30 days"?

The Chair: Would you like to make an amendment?

Mrs. Bernadette Jordan: I'd like to amend it to read "30" instead of "7".

The Chair: Ms. Jordan, you'll have to put an amendment on the floor to that effect. For the benefit of what you're hoping to do, I will suspend for a few moments so that you can discuss it.

Mrs. Bernadette Jordan: Thank you.

The Chair: I wanted to dispense with this early, but since we have some confusion on the floor, we'll suspend for a few minutes.

If you want to propose your amendment, put it in writing.

I'd like to ask our officials to please come forward.

Thank you very much.

● (1630) _____ (Pause) _____

● (1635)

The Chair: Welcome back, everybody.

Before we get to our witnesses, we're dealing with a motion on the floor.

Ms. Jordan, I understand you have an amendment you'd like to move.

Mrs. Bernadette Jordan: I'd like to move that the motion read the same except for "14 days" as opposed to "7 days".

The Chair: Just so it's clear, and I won't read the whole thing, the middle part says, "that this public input be provided to the committee within 7 days of the passing of this motion". You want to change "7" to "14".

Mrs. Bernadette Jordan: Yes.

The Chair: Are there any comments?

Mr. Arnold.

Mr. Mel Arnold: Mr. Chair, I'm wondering why we would wait for an extra week to receive it from the department. The department should have it within a week. I think that's a reasonable amount of time to turn it over. It doesn't mean that we have to look at it within those seven days, just that we want to start receiving it as soon as possible.

The Chair: Ms. Jordan.

Mrs. Bernadette Jordan: We're asking that it be amended to "14 days".

The Chair: Are there any more comments?

Let's go to a vote.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: Now we must move to the main motion as amended. It states:

That the Committee request from the Department of Fisheries and Oceans (DFO) all input received from DFO's online public consultation related to the Fisheries Act Review to date; that this public input be provided to the committee within 14 days of the passing of this motion; and that all input received for this consultation in future be also provided to the Committee within 14 days of receipt by the department.

(Motion as amended agreed to)

The Chair: Mr. Doherty.

Mr. Todd Doherty: On a point of order, Mr. Chair, when we set out as a committee to undertake this study, it was to be non-partisan, not politically motivated, obviously, but it was to look at the best way of moving forward. That said, we also asked or suggested that our witnesses be likewise.

We had two witnesses before us today. One, I would say, may have been very partisan, at least—

The Chair: Just so I'm clear, this is a point of order. Is that correct?

Mr. Todd Doherty: This is a point of order.

The Chair: Are you sure?

Mr. Todd Doherty: It is.

I move that we strike the testimony of Mr. Langer as we believe he has contributed to Mr. Donnelly. It could be seen as being partisan and politically motivated.

The Chair: Mr. Doherty, I'm afraid you cannot move that on point of order. I don't think that's pertinent to the business at hand. This is testimony that we've agreed on earlier, and we go through a process to do this.

Mr. Todd Doherty: He has contributed to both the NDP and the —

● (1640)

The Chair: I appreciate that, Mr. Doherty, but is there a particular point to this point of order that pertains to the Standing Orders?

Mr. Todd Doherty: Absolutely. We talked about ours being a science-based study, not politically motivated, not partisan.

The Chair: Right, but where in the Standing Orders does it talk about that? That's my point.

I have to rule out your point of order, sir.

It doesn't pertain to being a point of order. You can bring it up in debate. You can bring it up with the witnesses at the next testimony if you wish to do so.

Mr. Todd Doherty: Okay.

The Chair: I just want you to understand that.

Mr. Todd Doherty: Thanks, Mr. Chair.

The Chair: Thank you.

Sorry, Mr. Donnelly, do you have a point of order?

Mr. Fin Donnelly: No, I was just following up. You had mentioned on the break that I was to—

The Chair: Yes, you can do that. Go right ahead. You can bring it up to the clerk if you wish, whenever you wish.

You can do it now if you want.

Mr. Fin Donnelly: Okay. Thank you—

The Chair: No. Sorry, Mr. Donnelly, physically bring it up to the clerk if you so desire.

Mr. Fin Donnelly: Are you going to hold on?

The Chair: Yes, I'd like to get on with this meeting. That's the issue.

Mr. Fin Donnelly: You're just going to hold on, though. Right?

The Chair: Yes, just give it to the clerk.

We're here for the next little while, about 50 minutes or so, on the supplementary estimates (B). I want to thank our witnesses for coming.

From the Department of Fisheries and Oceans, we have Tony Matson, assistant deputy minister and chief financial officer; Kevin Stringer, associate deputy minister; Jody Thomas, of course, who is the commissioner of the Canadian Coast Guard; and Mario Pelletier, deputy commissioner of operations, also coming to us from the Canadian Coast Guard.

You have 10 minutes to start. Will one person be doing the presentation?

Mr. Stringer.

[*Translation*]

Mr. Kevin Stringer (Associate Deputy Minister, Department of Fisheries and Oceans): Tony Matson will be making the presentation, but I'd just like to say how pleased we are to be here to give this presentation and to answer your questions on supplementary estimates (B). As you know, the minister was here last week with the deputy minister. They aren't available today, but senior department officials are in attendance.

[*English*]

Tony Matson, our chief financial officer, will do a very short five-minute presentation on the supplementary estimates (B).

Thank you very much.

Mr. Tony Matson (Assistant Deputy Minister and Chief Financial Officer, Department of Fisheries and Oceans): Thank you, deputy and Mr. Chair. Hello, *bonjour*, committee members.

[*Translation*]

My name is Tony Matson, and I am the chief financial officer for the Department of Fisheries and Oceans and the Canadian Coast Guard. We are delighted to appear before you this afternoon to provide an overview of the Department of Fisheries and Oceans' supplementary estimates (B) for 2016-17.

[*English*]

I am pleased to be here today with the associate deputy minister of fisheries and oceans, and the commissioner and deputy commissioner of the Canadian Coast Guard. I have prepared very brief remarks. This should allow plenty of time to go through any questions that the committee may have.

Before I provide a quick synopsis of the financials, I would just offer a simple reference that we are currently in the midst of the second supply period. Section 26 of the Financial Administration Act requires all spending to be approved by Parliament. Supply bills are referred to the committee, where the contents are studied before voting actually takes place, hence our presence here today.

In these estimates we are seeking Parliament's approval for a total of \$26.5 billion. This would bring our approved authorities to date to \$2.607 billion, as \$2.581 billion had previously been approved by Parliament through the main estimates, supplementary estimates (A), and transfers from central votes to our carry forwards from last year.

The funding summary is presented on page 2-31 of the supplementary estimates publication,

[*Translation*]

or page 2-70 of the French version.

[*English*]

To summarize, we are seeking \$19.9 billion in operating expenditures, \$1.6 billion in capital expenditures, and \$5 billion in grants and contributions.

Budget 2016 provided funding over five years starting in 2016-17 to Fisheries and Oceans Canada and Natural Resources Canada to support maritime conservation activities, including the designation of new marine protected areas under the Oceans Act.

We are seeking \$11.8 billion in these supplementary estimates toward achieving our target of protecting 5% of Canada's marine and coastal areas by 2017, and 10% by 2020. This commitment is clearly reflected in the mandate letter of Minister LeBlanc.

Budget 2016 also provided funding over five years starting in 2016-17 to seven federal departments and agencies to adapt to climate change impacts by implementing programming focusing on building the science base to inform decision-making, protecting the health and well-being of Canadians, building resilience in the north and indigenous communities, and enhancing competitiveness in key economic sectors.

We are seeking \$2.6 billion in these supplementary estimates to continue the work to assess the risks for the department caused by climate change in Canada's three oceans and major inland waterways, to fund research to understand the impacts of climate change, and to apply the science to facilitate departmental adaptation to climate change.

We are also seeking \$3.4 million for the government's review of the Fisheries Act and early action to strengthen monitoring. The outcome of this initiative is to provide Canadians the opportunity to participate in the review of the changes to the Fisheries Act and to support the restoration of lost protections and incorporation of modern safeguards.

• (1645)

[Translation]

For the Canadian Coast Guard, we are seeking \$1.7 million in funding to strengthen marine incident prevention, preparedness, and response in waters south of the 60th parallel. An additional \$1.5 million is being sought for the procurement of two new survey and sounding vessels.

[English]

The remaining items listed on page 2-31 of the supplementary estimates,

[Translation]

or page 2-70 of the French version

[English]

are largely technical and routine in nature. This includes accessing royalties from intellectual property, or the re-profiling of funding to align financial resources to updated project timelines, or to match recipient requirements in the case of grants and contributions.

As well, we are seeking a relatively modest number of internal vote transfers that are net neutral to the overall departmental financial base. This is a clear example of sound resource management stewardship, where we are seeking your approval to use existing reference levels to meet our program demands by placing the funds into the right bucket.

As an example, the department is transferring \$600,000 from its operating vote to its grants and contributions vote to support the Anqotum resource management program to develop a restoration project for Little Southwest Miramichi River, New Brunswick. This will create a habitat bank to offset possible damage incurred by small craft harbours projects that may harm commercial, recreational, or aboriginal fisheries.

We also have a small number of transfers to and from other government departments that are also net neutral to the overall government financial framework. These are listed on page 2-32 of the publication,

[Translation]

or page 2-71 of the French version.

[English]

I am confident that if there are any questions, we can get to them.

I would like to take this opportunity to thank you for allowing me to complement Mr. Stringer's opening remarks on our supplementary estimates for this year. My colleagues and I would be happy to entertain any questions you may have.

Thank you.

The Chair: Thank you very much.

We're going to start the questions with Mr. McDonald for seven minutes.

Mr. Ken McDonald: I'm going to share my time with the other Ken on the committee, so it's going to be Ken squared—

The Chair: Okay, we'll start with Ken and end up with squared. That's very good. Carry on.

Mr. Ken McDonald: Mr. Chair, I thank the DFO officials for coming here again today. It's great to see you any day. The wealth of knowledge you bring to the committee is very much appreciated.

Lately we've been hearing misinformation about not creating any new jobs throughout government. Recently we had an announcement about the reopening of the marine communication centre in St. John's, which is the capital city of Newfoundland. My riding is outside there.

What exactly will that do for the creation of jobs in that particular centre, based on what was there before it was closed by the previous government? What will it be with the new level of service?

Ms. Jody Thomas (Commissioner, Canadian Coast Guard, Department of Fisheries and Oceans): Thank you for the question.

Yes, we'll be reopening the maritime rescue subcentre that was previously located in St. John's, Newfoundland. We'll have 12 watchkeepers, and 16 staff in total. I believe that previously we had nine watchkeepers....

Mr. Mario Pelletier (Deputy Commissioner, Operations, Department of Fisheries and Oceans):

We had 12.

Ms. Jody Thomas: Okay. We had 12 in the old centre.

We're taking the functions that the centre previously did, but we're also adding some capacity. We're going to make the centre an emergency operations centre. It's going to be 24/7, as it previously was. We're also going to combine it with our regional operations centre, which will become 24/7 so that we have eyes on the water 24/7 for search and rescue, but also for environmental response incidents. It's sort of an all-hazards approach rather than a pure search and rescue approach. It will have the search and rescue capacity, absolutely, but we're going to give it other duties and maximize the opportunity that we're getting in reopening the centre.

• (1650)

Mr. Ken McDonald: Thank you for that. It's great news for my area where many people make their living on the water.

My next question has to do with a program that's been offered in the past through your department and that especially has to do with small craft harbours: the divestiture of some of your properties, whether it be to municipalities or other interested groups. Do you foresee that program continuing, and have you allocated a certain amount of funds to continue with that program?

Mr. Kevin Stringer: It will continue. It's an important issue. We have 750 core harbours that have been identified as such, and then we have another about 300 that are non-core that we are seeking to divest. We divested over 1,000 over the last number of years, so it's been a substantive effort.

The overall small craft harbour budget each year, in addition to the additional infrastructure monies that we get, is about \$75 million a year. A certain portion of that we use for our divestiture each year. It's usually a small portion because the needs of the ongoing harbours for maintenance, for dredging, etc., take most of it. It's a small piece of that.

It is an ongoing challenge. We are always looking for local community groups and for municipalities who are interested in taking over responsibility for them. What we will do is make investments in them to make sure they're ready to be handed over. So, we do have some funding. It comes out of our core funding, out of that \$75 million, and it's a small piece of it, but we do feel that we need to continue to do that.

Mr. Ken McDonald: I agree. It's a great program. The municipality where I live took over some property, and they have some great plans for it. It's a great project, overall.

I'll share my time now with the other Ken.

Mr. Ken Hardie: Thank you, Ken.

Thank you, everybody, for being here.

Our first study in this committee, of course, was the closure of the Comox base and the consolidation into the Coast Guard base in Sidney. I was pleased to see management at the Sidney facility issue the first quarterly report just the other week. I understand that this is kind of a baseline report. They're establishing the baselines to which they will report in the coming months.

There are still some concerns. We heard from Powell River that there were some issues. I had the opportunity to attend the Sidney facility. It has top-notch technology, top-notch staff. It's a very crowded, noisy room. So, I think that there are some unresolved issues there.

The one, though, that I really want to ask the commissioner about is the question of what progress has been made on stakeholder consultation. Are we out talking to the fishers, the mariners, about the quality of the radio reception, the quality of the information they're receiving, and the quality of the response to calls for assistance? Are we engaged in those conversations?

Ms. Jody Thomas: Yes, the first quarterly report was posted and, as promised, it is a joint union-management effort to look into any technical or operational problems with the system. That's going quite well. I can't say with fishers, absolutely, that consultations have occurred, but certainly they have occurred with all of our large stakeholder groups through our regional marine advisory board, our national marine advisory board, tug operators, ferry operators, etc., so sort of the landscape in B.C. In fact, we just met with the Western Marine Community Coalition this afternoon. We heard feedback from all these groups. They're feeling very positive about the system. So, the answer is yes, we're consulting broadly. We want to hear the view from the marine-using public.

Mr. Ken Hardie: I would hope that the individual fishers would also be included in that, because they're the ones in the smaller vessels who would be most at risk if they didn't receive timely information that they could understand and, obviously, act on.

Thank you, Mr. Chair.

• (1655)

The Chair: Thank you, Mr. Hardie.

We'll go to the opposition for seven minutes.

We'll start with Mr. Doherty.

Mr. Todd Doherty: I'll direct my questions to Mr. Matson and Mr. Stringer.

Mr. Matson and Mr. Stringer, did DFO do an investigation into the deaths of several thousand fish after the sewage was dumped in the Rivière Yamaska?

Mr. Kevin Stringer: I don't know the answer to that question.

Mr. Todd Doherty: Okay. Do you have a mandate to do an investigation?

Mr. Kevin Stringer: After which?

Mr. Todd Doherty: The Rivière Yamaska.

Mr. Kevin Stringer: Sorry, that dumped...?

Mr. Todd Doherty: When sewage is dumped into these rivers and you're made aware of the deaths of several thousand fish, do you have a mandate to do an investigation?

Mr. Kevin Stringer: Section 36, which is the section of the Fisheries Act, is the first piece that is implicated there, and that is an Environment Canada lead. Section 36 is the pollution section. It is about the deposit of deleterious substances into fish-bearing waters. That would be an Environment Canada lead. That said, there is often a habitat impact as well, and we will work with Environment Canada on that.

Mr. Todd Doherty: Is your department aware that there was 50 million litres dumped on Monday, 60 million litres dumped yesterday, and a projected 18 million litres today? Seven million litres are forecast to be dumped into the St. Lawrence River in December. Are you aware of that?

Mr. Kevin Stringer: I am not aware of that. The department may well be aware of that.

Mr. Todd Doherty: Okay.

Again, Mr. Matson and Mr. Stringer, your department deals in scientific fact. When you make decisions like whether to impose a moratorium on cod, what role does public opinion play?

Mr. Kevin Stringer: I think when we take a decision on closing a fishery, a moratorium on any fishery, science is the foundation. Science is always the bottom line. When we are talking about getting ready to reopen a fishery, we would consider socio-economic impacts, we would consider the views of the public, and we'd consider other issues. Again, science needs to be at the core and the foundation of all of it.

The pillars of decision-making start with science. Socio-economic considerations must always be considered as well, but the science and the conservation is always our bottom line.

Mr. Todd Doherty: When you have public opinion, do you separate public opinion by geographic region, by industry group, third party interests, small businesses, or concerned citizens?

Mr. Kevin Stringer: I would say that we don't often look at what public opinion says on this. What we would generally look at in this type of a decision, again, we would start with the science, but in addition to the science are the economic impacts and the social impacts. If there is public opinion, we would look at that as well, and we would start with the area that's most impacted because that's the area where the effects are going to be.

Mr. Todd Doherty: Mr. Stringer and Mr. Matson, we've heard testimony over the course of our studies that is contradictory in terms of the DFO not having the resources to do its job, the DFO just not doing the job, and not being able to trust what DFO management and DFO officials are saying. Is it a matter of—and I'm trying to frame this properly—not having the resources to do the job or choosing not to do the job, in terms of your DFO officers?

Mr. Kevin Stringer: In terms of...?

Mr. Todd Doherty: Enforcement.

Mr. Kevin Stringer: In terms of enforcement writ large, we have a complement of about 600 enforcement officers across the country. In terms of resources, I'll say two things, because I think you're speaking about the fisheries protection issues. We have 600 enforcement officers writ large dealing with fisheries, species at risk, etc. With respect to fisheries protection, you will always find public servants saying that they could do with more resources, and I'd be one of those. I think the minister spoke to this when he appeared. There were reductions about the same time as the Fisheries Act changes came into effect. The overall complement in the fisheries protection program went from 450 to 280. There were also reductions in enforcement, particularly in what we call central and Arctic areas, areas away from the coast.

The minister spoke to that. There have been reductions in those areas. Public servants will always carry out the legislation to the best of their ability, and this is certainly the case in this program, developing policy and programs to be able to address it to make sure we are meeting the requirements of the law.

• (1700)

Mr. Todd Doherty: I really appreciate your comments, Mr. Stringer.

The other comment in other testimony was that the changes that were made to the Fisheries Act made it harder or it became ambiguous so that the DFO officers did not understand the regulations, and therefore could not enforce the regulations. Would you say that is true?

Mr. Kevin Stringer: I think it's always difficult with new legislation, and this was certainly the case. We'd had 30 years' experience, I think it was, with section 35, the harmful alteration, disruption, and destruction of habitat. It was absolutely clear, and much jurisprudence built up on it. With "serious harm", and with commercial, recreational, and aboriginal fisheries, there have been challenges in terms of our own staff—and we've done training—but also for proponents and others to have a full understanding of exactly what that means and how it's applied.

Mr. Todd Doherty: The onus would be on management and the ministry to explain that. Is that correct?

Mr. Kevin Stringer: It is, and we've had training sessions across the department. That said, there was not the jurisprudence in place to

be clear about the direction about that, but we've sought to be clear about the direction.

Mr. Todd Doherty: I appreciate it. Thank you for your testimony.

The Chair: Thank you, Mr. Doherty.

We have Mr. Donnelly for seven minutes, please.

Mr. Fin Donnelly: Thank you to the department officials for being here to answer the committee's questions.

I want to start off on the Cohen commission. The government gave Canadians an update in August on its Cohen commission progress, and for recommendation 7, the government stated:

DFO has not developed an annual progress report on WSP implementation, but has reported on implementation internally through regular business planning and reporting processes. The updated WSP Implementation Plan will include a commitment to report publicly on progress annually.

It was further stated that it is anticipated that external consultations on the draft implementation plan will begin in 2016.

When can we expect the wild salmon policy implementation report?

Mr. Kevin Stringer: What I can say is that those consultations have begun. Part of the consultations are on the implementation. In fact, the consultations are specifically on the implementation of the policy. What launched it, and what the minister said when he did the Cohen announcement this summer, is that we have recommitted to the wild salmon policy. People were wondering if we remained committed to it, so he recommitted to it, and said we would go out and have consultations on its implementation. Following that, we would have regular annual implementation reports, public reports. Those consultations are now under way.

Mr. Fin Donnelly: Thank you.

Is the list of consulted stakeholders publicly available?

Mr. Kevin Stringer: If it's not publicly available, we can make sure this committee's aware of it. I believe it is publicly available, but we'll make sure you can have that.

Mr. Fin Donnelly: Okay, so you're still not sure about when the report is coming, but it will come soon.

Mr. Kevin Stringer: Yes.

Mr. Fin Donnelly: The funding for the WSP implementation, is that in the budget?

Mr. Kevin Stringer: It's everywhere, right? The great thing about the wild salmon policy, it is an ecosystem-based policy that has science, fisheries management, habitat, oceans, and all those elements. It actually is something that has an ecosystem-based approach.

Mr. Fin Donnelly: Sometimes everywhere means nowhere.

Mr. Kevin Stringer: The funding is in all the different areas. We have said in the past that, with respect to salmon, on all of those things, we spend, on science alone, around \$16 million, and on everything, around \$65 million a year. It's a substantive amount of money.

We were actually able to put that together during the Cohen commission to show where the funding was. We've made a further investment, as you know, with the \$40 million a year on science. That is helping. The oceans funding that we got is helping. All of those pieces fit into it as well.

Mr. Fin Donnelly: Thank you.

I'll turn to the Coast Guard. In its first quarterly report, submitted to this committee on November 4 in response to the committee's report on the closure of the Comox MCTS centre, DFO indicated that there were 74 outages related to the MCTS communications control system, and 50% of the system failures were caused by third party telecommunication issues.

How does DFO manage these system failures? What corrective measures have been established as a result?

• (1705)

Ms. Jody Thomas: Thank you for the question, Mr. Donnelly.

In terms of the telecommunication failures, on November 8 when the oceans protection plan was announced, a major part of that plan is for us to acquire and implement, install, an entire backup system so that there's a duplication for all of those lines. If one goes down, we'll have a backup. That's an accelerated backup process we are putting in place and we're very happy to get that going.

In terms of the 74 that were CCS related—the communications control system—they ranged from system failure for 30 seconds. We had a couple that were longer. If we even had to reset a computer, just reboot it, we logged it there, so we would be completely transparent every time the system went down, any time something was logged in the system.

There's a range of problems. Any of the major problems—Mario can describe it in detail—have been rectified through our technical team, either in the region or here. The majority of them were very minor. They're just there for transparency purposes.

Mr. Fin Donnelly: Just to add, we know the *Nathan E. Stewart* ran aground and spilled diesel fuel into the traditional waters of the Heiltsuk Nation. Some first nation leaders are describing that as an environmental disaster. Recently in *The Globe and Mail* there were details of how only two MCTS officers were responsible for monitoring that vast stretch of B.C.'s coast from north Vancouver Island to the Alaska border, including the inside passage.

B.C. has been promised a world-class spill response; however, prevention is far less expensive. I'm wondering if the ministry is going to reconsider, or is reconsidering the reopening of MCTS Comox to help prevent these disasters.

Ms. Jody Thomas: I read that article myself in *The Globe and Mail*. I think there are a couple of elements to the answer.

Number one, the MCTS officers responded immediately and actually directed a large portion of that response, to ensure that the search and rescue vessel deployed immediately and was on scene rapidly to respond to what was originally a search and rescue incident. We didn't know the tanks had been breached on the tug. We saved seven people, one of whom was in the water. So from that perspective the MCTS function and its coordination of search and rescue, and then what became a larger incident, was perfect.

You heard the transmission. It was very clear. The communication with the tug was pretty much perfect. The reality of this incident, Transport Canada and the Transportation Safety Board are both investigating. More MCTS officers would not have prevented this incident. A turn was missed. It was sort of one or two minutes and the vessel was aground. The MCTS officers did an extraordinary job in managing what was a very highly emotional situation. You heard the tapes yourself, as you said, and they were reported in *The Globe and Mail*.

The MCTS had no impact other than responding and ensuring that seven people were saved. They did a really good job.

The Chair: Thank you, Ms. Thomas, I appreciate that. Thank you, Mr. Donnelly.

Now we'll go to Ms. Jordan for seven minutes please.

Mrs. Bernadette Jordan: Thank you to our witnesses for appearing today. I have a number of different questions from all over the place.

I'm going to start with Mr. Stringer, because I often remember your quote when we first talked about marine protected areas when you first appeared before this committee. You said it was both exciting and terrifying. I'd like you to give us an update on where we are in terms of the percentages and how we're moving forward with our MPA.

Mr. Kevin Stringer: Thank you for the question.

It continues to be both of those things. What I would say—and I think I said this at the time, as well—is what's most exciting about it is that it's truly galvanized the department and the stakeholders, and even the fishing industry and others, to say, "Okay, this is going to happen. How are we going to make it happen? What sorts of things are we going to do?"

I would say two things. It's quite different for 2017, which is the 5%, and 2020, which is the 10%. We are now going through an exercise of identifying the sensitive areas that we have already identified through science. Those are corals and sponges. These are key rearing areas and spawning areas, and we're looking at areas that need protection. We are also looking at what the best tools are for those protections, understanding that creating formal MPAs, marine protected areas through regulations takes time. We're going to have to use other measures for the protection, and that's the exercise we've been going through this fall.

We've also been talking to the fishing industry, the oil and gas industry, the shipping industry, and others to make sure they're part of the discussion. We've been engaging with environmental groups and academics, who have a lot of this information. That's been the exercise. It's also about trying to figure out what the criteria are that we need to say that we've done this, and to be able to say that this counts as x per cent.

In addition, there have been a number of specific closures. There was a significant canyon closure off of Nova Scotia, which was announced, I think it was in early September. There was Darnley Bay in the north, which was announced very recently. There have been others.

The other thing I would say is that it's not just DFO, even in the federal government. Parks Canada does national marine conservation areas, and they are working on Lancaster Sound, which would get 2%. That's a major one up in the Northwest Passage. Environment Canada does national wildlife areas, and they're working on Scott Island, which is at the north end of Vancouver Island.

We have structure and organization within the government. We're working with environmental groups, and with industry. We're trying to figure out how we get to that 5% and how we get the more formal MPAs in place by 2020.

• (1710)

Mrs. Bernadette Jordan: Could you walk us through the process of engaging with the stakeholders on the MPAs? You mentioned fisheries, and you mentioned oil and gas. Do you just hold a public meeting? Do you reach out to them individually? I come from an area with a number of fishermen, and I would like to know how that process works.

Mr. Kevin Stringer: Taking Nova Scotia as an example, there is a process under way that brings together the fisheries organizations and other industries, and they've been meeting for many years. There's something called ESSIM, which stands for the eastern Scotian shelf integrated management plan. That has continued to meet, and it's become the core of what's been dealing with these protected areas. They've been working on MPAs, but they're also working on different areas for closed areas.

We're going to have a challenge, because in previous days, we used to take seven years. We'd identify the areas that needed protection: here are 14 different candidate areas, what do we think; where are the interests, etc.? It would take years and years. We've given ourselves one year to do this. It's a huge challenge. People do feel hurried, and they do feel rushed. That being said, we do have the science to be able to do it. We are looking at different measures that help ensure that we're going to maintain a robust fishery and other industries. We are working as much as we can with industries going forward, but that is a bigger challenge than it was.

Mrs. Bernadette Jordan: Okay.

I'm going to switch my questions now to small craft harbours. As you may be aware, the size of vessels is changing in the lobster industry, specifically. They're now a lot wider than they used to be. This is causing a lot of problems with our wharves in our small craft harbours with the amount they can now berth, the size of the berth, getting in and out of areas, and with breakwaters. When you look at wharves that need upgrades, do you take that into account? I think this is part of the problem that we see. They're not taking into account the changes that are happening in the fishery when they are upgrading the wharves.

Sometimes they run out of money before they run out of the project. I have one wharf in my riding where there's a three-foot difference, because they didn't have enough money to finish the whole wharf, and now the two sides of the wharf have a three-foot difference. They have ramps, which I question the safety of when going to and fro.

I'm wondering about the process when you look at small craft harbour wharves. How do you determine the best approach for the way the fishery is going?

• (1715)

Mr. Kevin Stringer: Thank you very much for that question.

I would say it is a huge challenge. We do try to integrate our small craft harbours group as much as we can with our fisheries groups, as well as to engage with the harbour authorities. The harbour authorities have made an enormous difference. Those are the folks who really know what the future needs are, so we work with them as much as we can, but I think we need to do better at that, ensuring that we're not just patching up, that we're actually preparing for the future.

I said that \$75 million a year is the usual budget for this. The investment that this government made this year is \$149 million over the next two years, an enormous difference in terms of being able to catch up and not just patch up, but actually think ahead.

The other thing I would—

The Chair: Thank you, Mr. Stringer. I have to leave it at that. Sorry.

Mr. Kevin Stringer: No, understood.

The Chair: We have to move along.

We have Mr. Sopuck for five minutes, please.

Mr. Robert Sopuck: We had some very interesting testimony from Mr. Ron Bonnett, who's president of the Canadian Federation of Agriculture, Canada's largest farm group, regarding the Fisheries Act. I'm going to quote his testimony. He said, regarding the Fisheries Act in its previous form, "The experience that many farmers had with the Fisheries Act, unfortunately, was not a positive one. It was characterized by lengthy bureaucratic applications for permitting and authorizations, and a focus on enforcement and compliance measures taken by officials coupled with the lack of guidance or outreach on the purpose of these measures, or information on how to navigate through the process. Many farmers were then relieved when the changes that were made just a few years ago drastically improved the timeliness and cost of conducting regular maintenance and improvement [facilities] to their farms as well as lifting the threat of being deemed out of compliance."

Mr. Bonnett went on to say, "There are also many accounts of inconsistency in enforcement, monitoring, and compliance across Canada with different empowered organizations which led to a confusion and indiscriminate approaches to enforcement and implementation. Even at the individual level, there were different interpretations of the act based on one's familiarity with agriculture."

Mr. Bonnett went on to say, "It is CFA's position that a complete revert to reinstate all provisions of the Fisheries Act as they were would be unproductive and re-establish the same problems for farmers and provide little improvement in [the] outcome for the protection and improvement of fish habitat. The current streamlined approach is working far better for all and efforts should continue this approach."

Why was the agricultural community's experience, in terms of interactions with your department, so dismal before the changes were made to the Fisheries Act?

Mr. Kevin Stringer: I think you've heard from the agriculture community their views on why it was the challenge that it was. I'd say a couple of things.

One is it wasn't all dismal. We actually did have some class authorizations for agricultural drains in Ontario and in other areas, so we were working with the agricultural communities. I would also say it was true that there were a number of notorious, if you might want to say, instances where farmers were concerned that people were coming onto their fields and either making them clean out their drains or not letting them clean out their drains, or making them do it in a certain way.

In terms of that question, we've always sought to work as closely as we can with all groups.

Mr. Robert Sopuck: I understand that, but as somebody who, as you know, is a fisheries biologist and represents a large rural area, I think, with all due respect, Mr. Stringer, you're downplaying the impact on municipalities and farmers across the country. We have testimony from the Saskatchewan Association of Rural Municipalities, the AAMDC, which is the municipal association in Alberta, and the Federation of Canadian Municipalities will be before us.

I deeply respect your expertise and testimony, but I would say that as somebody who represents the farming and rural constituency and knows pretty much all the farm leaders across the country, the experience with the old Fisheries Act was uniformly bad. I think it's partly because when a DFO officer shows up at a farm meeting with a flak jacket and a pistol.... Of course, we farmers love our guns, but that's a different story. We don't take them to municipal meetings. I would just say, with that experience, that no matter what changes are made to the Fisheries Act now, I would like the department to really reflect on that and ensure that doesn't happen. That's more of a comment.

I'll switch gears here. On a more positive note, with the fact that the department is hiring all of these fisheries scientists, what kind of process will you go through for the allocation of these scientists to the various programs? I think I may be speaking for the entire committee. As you know, we're doing a major study on the northern cod and the Atlantic salmon, two species of tremendous importance. Will you ever possibly see the way to assigning some of these new scientists specifically, a group to Atlantic salmon and a group to northern cod, so they don't just "work on what they want to"? I mean that respectfully because I love doing fisheries, it's great fun, but these are two species that are extremely important. Do you see the possibility of assigning a number of scientists to each one of those species, and that's all that they would work on?

• (1720)

Mr. Kevin Stringer: Trevor Swerdfager would probably have the specific answer to that. I believe some of them will be assigned to those areas. What I can say is it was a very significant amount of money: \$40 million a year plus \$1.5 million a year for freshwater. That does speak to the issues around fisheries protection, the freshwater part in particular.

Of that \$40 million a year, more than half of it goes to stock assessment and related fisheries science. That's an area that has not had an investment in a long time. That is the assessments around cod, salmon, those types of things.

Mr. Robert Sopuck: Is there anything for fisheries enhancement?

Mr. Kevin Stringer: The funding goes to fisheries. I don't know if it's enhancements specifically, but I do know that fisheries biology and stock assessment are more than half. There is a percentage for aquaculture, a percentage for freshwater science, and a percentage for ocean science writ large. It was very thoughtful about areas that needed the most work and we've been hearing from fishermen in particular where that work is needed.

The Chair: Thank you, Mr. Stringer.

I'm going to have to go to the committee about this one. We have approximately five minutes left. Mr. Morrissey, you're up. Beyond that, to round out, we can go to Mr. Donnelly for three minutes, and then we have to take votes very quickly, which means I need to extend the meeting by five minutes. Do I have unanimous consent to proceed: five, three, and then votes?

All right, we're good, no objections.

Mr. Morrissey, you have five minutes or less.

Mr. Robert Morrissey (Egmont, Lib.): Thank you.

I have to reiterate the comments made by my colleague Mr. Sopuck. We have to get a lot better in dealing with farmers and municipalities on the interpretation of the act as we tighten it up. There were too many cases of borderline heavy-handedness coming from the department in dealing with these people who generally are trying to do the best job they can.

I want to go to small craft harbours and follow up with Ms. Jordan. In the money that you have going forward, could you elaborate a little on what's going to utilize \$1.4 million? How is it going to impact on the capital expenditures going forward?

Mr. Kevin Stringer: Thanks for the question.

I'll start with where you started, which is around the agriculture but also the interpretation of the act. The last time the minister and I both said this. There is more room for interpretation around commercial, recreational, and aboriginal fisheries, and around serious harm to fish than there was in the previous version on habitat.

With respect to the \$1.4 million—

Mr. Tony Matson: It's funding to support projects for small craft harbours using the funding for divestiture.

Mr. Kevin Stringer: A divestiture program was originally booked for Little Tancook harbour in Nova Scotia. It looks as if that particular divestiture is not going to happen, at least not this year. We're hoping that it will happen. It's a question of diverting the funds to a different project, which is in Quebec.

Two other small craft harbour items are in here, which are to approve funding for small craft harbour work in Naufrage and in Alberton. Those are projects we were hoping to do last year and we moved the funds to this year because it didn't get done in time and we wanted to make sure that work is done. I believe the work has been done in both cases, fixing the wharf and dealing with the breakwater.

• (1725)

Mr. Robert Morrissey: Could you give a breakdown? You identified \$5 million in grants, I believe.

Mr. Tony Matson: Yes, in these estimates we've asked for \$5 million in grants and contributions. Most of it is for contributions. I can get the breakdown by initiative.

Mr. Robert Morrissey: You identified \$1.6 million that you were transferring to capital. Could you identify what that was for?

Mr. Tony Matson: We can get you that information as well.

Mr. Robert Morrissey: Okay. You're looking for that. We probably could go back.

Perhaps you could elaborate a bit more. It was Naufrage and Alberton, you said. Could you identify what the funding options were?

Mr. Kevin Stringer: It's a total amount of \$360,000 that is being moved from last year's funding to this year's funding to be able to complete the work on those projects. Naufrage is construction of a wharf and repairs to the breakwater. Alberton is wharf repairs. I know Naufrage is completed and Alberton should be done in a couple of weeks.

It's in the supplementary estimates because it was supposed to be in last year's funds. It didn't get done last year, so we needed to move monies over to this year's funds.

Mr. Robert Morrissey: Do I have one minute?

The Chair: You have one minute.

Mr. Robert Morrissey: I would like you to elaborate on the impact you will have with your new capital expenditures, the small craft harbours going from \$75 million to \$149 million, I believe you said.

Is that \$149 million each year over the next two years—

Mr. Kevin Stringer: No.

Mr. Robert Morrissey: —or \$149 million spread over two? Which is it?

Mr. Kevin Stringer: Yes. It's the latter.

In other words, we get \$75 million a year. That's the A-base budget and it's ongoing. We get it every year. This year, they said, "We're going to give you \$149 million over two years." They didn't say how we had to divide it up, but we have done that.

With that \$149 million, we're doing 85 projects. It's around \$2 million a project. These are substantive projects in every region of the country. These are largely project-ready things because we have a list of lots of them that need work.

It does really enable—

Mr. Robert Morrissey: Do you have that list now?

Mr. Kevin Stringer: I think we can provide the list of where those projects are. Most of them have been announced and work is under way on them.

The Chair: Thank you, Mr. Stringer. Thank you, Mr. Morrissey.

Mr. Donnelly, you have three minutes, please.

Mr. Fin Donnelly: I have a couple of questions. I want to start off with the Fisheries Act. You have identified \$3.4 million in funding to review the changes to the Fisheries Act and to enhance monitoring and reporting of existing projects permitted under the Fisheries Act.

Mr. Stringer, could you explain a bit more about how that money will be spent?

One of the concerns we have, or certainly I have at this committee, is not having enough time to hear fully from all the witnesses that want to comment on the Fisheries Act. Is this funding going to allow for a fulsome input from Canadians who have concerns in the limited time available and do you have time to spend these funds?

Mr. Kevin Stringer: We're going to make sure we do hear from as many Canadians as we can.

Regarding funding, in terms of the engagement, as you know we have a federal-provincial table that's working on this, including deputies meeting with provinces today on the Fisheries Act and other issues. We have what the committee is doing. We very much look forward to that report, but there are other elements as well.

There are also indigenous consultations. In indigenous consultations, some of this funding is to support indigenous groups to come to the table, to work with us, etc. Also, there is the online engagement. The process of setting up that website, being able to pull the data off, etc., is covered in this funding.

Regarding the monitoring, there has been a challenge. We want to fully engage Canadians, take the time to think through what we want to do, yet we want to make progress immediately.

We said, let's at least enhance the monitoring; let's at least develop a monitoring protocol, start doing more, and commit to a report in terms of how we're doing in monitoring, so there are seven FTEs or seven people that have been brought on to be able to do that work.

That's what the \$3.4 million is for.

• (1730)

Mr. Fin Donnelly: Thank you.

I've heard some first nations are very frustrated regarding how they can get involved. I talked about the Heiltsuk First Nation today in committee. I've talked about others in the lower Fraser aboriginal fisheries groups, and there are others that have been writing to us and expressing their concerns.

On the \$11.8 million that has been designated for marine conservation to the MPAs, I want to say that, according to the fall 2012 report of the commissioner on the environment and sustainable development, DFO has established eight MPAs and is working on another eight.

Can you give us an update on that? Do you think you will hit the 2017 target by the end of the year next year?

Mr. Kevin Stringer: We intend to hit the target next year, in 2017, remembering that 2017 starts soon but ends a year from now and a bit, so we are going to hit—

Mr. Fin Donnelly: Thank you.

Very quickly, will you hit 5%?

Mr. Kevin Stringer: Our plan is to hit that target. We're taking it very seriously. It doesn't mean these all need to be formal MPAs. Those extra eight MPAs, which we are working on, including Hecate Strait and Laurentian Channel and St. Ann's Bank—those are the ones we've been working on.... That doesn't get us to 5%. To get to 5% we're going to have to count other measures. The Aichi biodiversity target 11 resolution says through marine protected areas “and other effective area-based...measures”, so we've been working on making sure that we meet the criteria for real “other effective area-based measures”, understanding that by 2020 we have to live up to that.

Our plan is to make it—

Mr. Fin Donnelly: Thank you.

The Chair: Thank you, Mr. Stringer. I'll have to leave it at that.

I want to thank Monsieur Pelletier, Ms. Thomas, Mr. Stringer, and Mr. Matson for joining us for the supplementary estimates. Don't go anywhere. We have to do some votes here just to end off this meeting.

We have three votes in this particular round for the supplementary estimates (B) referred to us on November 3.

DEPARTMENT OF FISHERIES AND OCEANS	
Vote 1b—Operating expenditures.....	\$20,842,744
Vote 5b—Capital expenditures.....	\$1,588,390
Vote 10b—Grants and contributions.....	\$3,060,074

(Votes 1b, 5b and 10b agreed to)

The Chair: Shall I report these votes on the supplementary estimates back to the House of Commons?

Some hon. members: Agreed.

The Chair: There being no objections, that will be done.

Thank you very much, everybody. We will see you next Monday.

The meeting is adjourned.

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