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Chair

Mr. Ken McDonald

Standing Committee on Fisheries and Oceans

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•(1530)

[English]

The Chair (Mr. Ken McDonald (Avalon, Lib.)): I call the meeting to order.

Pursuant to Standing Order 108(2), in our study of the implementation in Canada of a third party habitat banking framework, we have several witnesses here today. We have a couple by video conference and one in person.

By video conference we have Marian Weber, Professor, Department of Resource Economics and Environmental Sociology, University of Alberta. Welcome.

We also have, from Poulton Environmental Strategies Incorporated, Mr. David Poulton, Principal. He is here by video conference as well.

Here in person we have a witness who is well known to all of us Newfoundlanders anyway—and to people from the mainland, as we call it—the Honourable David Wells, Senator.

Thank you for being here, all three of you, by video conference and in person.

We'll begin with presentations by our witnesses. We'll go first to video conference. I'd like to get that out of the way first, in case there's a problem with the connection later.

Ms. Weber, when you're ready, please, you have seven minutes or less.

Dr. Marian Weber (Adjunct Professor, Department of Resource Economics and Environmental Sociology, University of Alberta, As an Individual): Thank you for inviting me to testify on the feasibility of third party habitat banking in Canada. I am a researcher at Alberta Innovates and an adjunct professor at the University of Alberta, and I am speaking independently.

Today I would like to outline key components of a framework for third party banking, first by providing a high-level summary of the history and benefits of third party banking; second, by illustrating desirable elements of a framework through two case studies, and finally, by summarizing lessons from these and implications for third party banking under Bill C-68.

First, here is a brief history of banking, which arose 40 years ago out of the U.S. Endangered Species Act and the U.S. Clean Water Act.

Wetland banking under the Clean Water Act identifies three mechanisms for offsets: permittee-responsible mitigation, third party banking and in-lieu fee mitigation. Since 2008, these options have been prioritized, with third party banks being the most preferred option, followed by in-lieu fee mitigation. Third party mitigation is preferred because of improved oversight and ecological outcomes.

Both in-lieu fee and banks are third party mechanisms. The difference is that for in-lieu fees, developers pay a fee to an agent and the development takes place prior to restoration. Banking is associated with up-front restoration, and credits are sold to companies prior to development. In-lieu fees can be preferred when there are few potential buyers, but they have also been criticized because of lack of accountability.

Alberta's wetland compensation program, prior to 2013, was an example of a poorly administered in-lieu fee program whereby charges for wetlands compensation were directed to Ducks Unlimited, with limited accountability in linking the payments to wetland losses and gains. The program was criticized by the Alberta auditor general and has since evolved to become more transparent.

The first case study I wish to highlight is the New South Wales Biodiversity Offsets Scheme. Under this scheme, biodiversity impacts from development are offset through permanent private land agreements. Prior to 2016, the offset scheme was known as BioBanking. BioBanking was a voluntary program that ran in parallel with regulated offsets. The Biodiversity Offsets Scheme combined both regulated and voluntary programs to leverage dollars and provide standardization and accountability.

The critical elements of the Biodiversity Offsets Scheme are the Biodiversity Conservation Trust and the biodiversity offset management system. The conservation trust is a statutory not-for-profit body that administers the in-lieu fee program. Its role is to deliver offsets through landowner agreements. The biodiversity offset management system sets standardized roles for registering and exchanging credits and includes a science-based online assessment tool that is used by both landowners and developers to assess credit obligations prior to entering agreements.

A unique aspect of the fisheries offsets is that many of the activities that cause harm to fish take place on public lands and are temporary in nature. Third party offsets would require some sort of disposition on public lands and in waterways.

These issues are considered in the second example, the U.S. lesser prairie chicken offset program, which is a multi-state program to improve habitat through a combination of permanent and temporary offset agreements. These range from five to 10 years in length.

The emphasis on mobile sites explicitly recognizes the temporary nature of many development projects in habitat enhancement activities. Credits are established under an umbrella of the range-wide conservation plan, which explicitly accounts for the dynamics of temporary and permanent activities over the next 50 years.

I would like to summarize by highlighting two lessons from these case studies.

The first is the need to establish an agency with appropriate oversight and accountability for administering the offset system. This agency should be accountable to regulators, but be at arm's length to ensure that there is no conflict of interest.

Second, both programs illustrate the importance of standardized systems and metrics applicable to all offsets, whether they are proponent-led, third party banks or in-lieu fees.

•(1535)

In conclusion, third party frameworks have been implemented in other jurisdictions and are feasible in Canada.

One concern I have under Bill C-68 offsets is that they are evaluated on a case-by-case basis, with proponents using different methods. I would urge the committee to consider the need for standardized administrative systems and assessment protocols within an umbrella of a fisheries conservation plan.

Enabling third party offsets is a critical element of a successful offset program. Leaving this off Bill C-68 could hamper the development of the necessary administrative infrastructure for a credible and efficient offset program for several years.

Thank you.

The Chair: Thank you, Ms. Weber.

We'll now go to Mr. Poulton for seven minutes or less, please.

Mr. David Poulton (Principal, Poulton Environmental Strategies Inc.): Thank you, Mr. Chairman and members of the committee.

My name is David Poulton. I am the principal of Poulton Environmental Strategies Inc., a small consulting firm here in Calgary. I am also the director of the Alberta Land Institute, which is a land use policy research institute at the University of Alberta, and I am the executive director of the Alberta Association for Conservation Offsets, a multi-stakeholder forum for advancing offset thinking here in Alberta. I wish to make clear, though, that all my comments are my own individually, and not necessarily representative of the members of the groups that I am affiliated with or of the groups themselves.

Bill C-68, as originally presented, included provisions for banking arrangements whereby a development proponent could arrange to

undertake conservation actions to produce habitat credits and then bank those credits for application against future offset obligations from future development plans. This is dealt with in proposed section 42.01, as I am sure the committee members are well aware.

This is known as first party banking, because the party that creates and banks the credits is the same as the party that ultimately uses them. It's also known as self-banking or, in some of the documents, as proponent banking.

First party banking has occurred selectively for several years under the existing Fisheries Act. It has been largely restricted to a few proponents with repetitive or ongoing projects that require a flow of offset measures. I expect that committee members are familiar with the report from SENES Consultants from a few years ago that reviewed those arrangements.

I have comments on banking generally and then third party banking, and some suggestions about how we might ease into this business. In my comments, I should make clear that I completely agree with everything that Dr. Weber has said with respect to the administration of banking, and I wouldn't want my comments to be seen to be detracting from what she said at all.

With respect to banking generally, it's generally acknowledged that it has three advantages over proponent-led offsets and also over in-lieu fees.

First, and what really distinguishes it, is that it allows for the development and maturation of offset measures prior to the corresponding development.

A common problem in offset arrangements is that there is a time lag between the negative impact of the development and the positive impact of the offsets. With banking, the offsets precede the development, and therefore the negative aspects can be minimized or even reversed. It also allows an opportunity, because it is done in advance, to ensure that the conservation measures are actually successful in achieving their goals, thereby mitigating the risk that there would be some failure in the offset measure when it is too late for any accounting for it in the development process.

Finally, because banking of banked offsets credits is pursued in a proactive way, it allows for an opportunity to match those actions with land use planning and species planning in order to pursue strategic priorities, something that may not happen if offset measures are pursued on an ad hoc basis, with developers each designing their own specific measures.

Let me turn now to third party banking.

The amendments that are currently under consideration would expand habitat banking to include third party bankers, those who do not intend to use the credits for development projects of their own. This opens the prospect of a community of professional fish habitat bank sponsors whose business model is based on the creation of fish habitat for the purposes of generating habitat credits for commercial sale. This could lend a community with both expertise and efficiency to the activity of habitat restoration, enhancement and creation.

Further, I believe it is the intention that there would potentially be several banks of credits available at any one time in a region, which would bring competition and market pressure on those habitat bankers to be cost-efficient and produce quality work.

In case you can't tell, I am certainly in favour of the amendments for creating the third party banking. I do understand, however, that the department is concerned with the extent of the policy and administrative infrastructure that third party banking may require. I'd like to offer a couple of suggestions in that regard.

Again, I endorse Dr. Weber's suggestion that there be an agency responsible for this, with standard metrics and so on, and I believe there may be some interim measures that we can take in the short term while we are developing that infrastructure.

• (1540)

However, even if full implementation is delayed, I think the passage of the amendments would be an important signal to the department and to the Government of Canada as a whole that habitat banking is a path worth following and that resources should be dedicated to developing it.

My first suggestion is that we look to the U.S. for guidance as to how a system might be developed. The United States has had a system of wetland banking in place for over 30 years, but it is important to note that during a lot of that time it was developed on an ad hoc and relatively informal basis. Indeed it was only formalized into a set of federal regulations in 2008. Prior to that, it developed largely on the basis of practices that were accepted informally in regional offices of the U.S. Army Corps of Engineers, and as those practices proliferated and greater dependence upon banking arrangements grew, the federal authorities thought it was important to provide uniform guidance in order to assure consistency across the system.

That example does indicate that this sort of activity can occur on a small scale and a relatively informal basis, providing that there is an acceptance of the notion that a habitat credit is a transferable asset and not something that is bound to a particular proponent or a particular project.

Second, I would suggest that we could start putting our toe into these waters—no pun intended—by allowing the first party bankers that currently exist or that are contemplated under the new legislation to transfer their credits to third parties. Those would be other developers in the region in which the first party bankers are operating, and those third parties would have a need for credits to mitigate and offset their own impact.

Why do I suggest this? The first party bankers that we either have or are contemplating are presumably established, sophisticated entities that are well known in their regions and that have an

ongoing relationship with the Department of Fisheries and Oceans. As such, they are likely to be a source of information for those others in the region that may be looking to solve their fisheries challenges. We already have a process to certify their first party credits as being valid and bankable. That process exists, and may undergo further development. All we need then is to allow them to transfer credits, and conversely to accept transferred credits as valid when submitted for use by the third party recipients of the credits.

This relatively informal process would allow us to gain some initial knowledge as to where demand for credits may come from, how buyers and sellers can effectively connect, how transfers can be effected and what issues might arise with transferring credits. As those issues arise, we can indeed deal with them through a regulatory framework.

My understanding is that Port Metro Vancouver is currently the only first party bank that is allowed to transfer its credits. I don't know if that has ever actually been done, but it does indicate that there has been some contemplation of this model and that perhaps there may be some experience with it of which I'm not personally aware.

I just want to make a couple of remaining points here. One is that in creating third party banking, the legislation would effectively create transferable habitat credits as a new form of tradable asset, one whose value lies in its satisfaction of a regulatory offset requirement.

As Dr. Weber indicated, this carries with it certain expectations that the credit must be backed by some system that assures its performance environmentally and establishes some liability for ensuring that the performance is actually seen through.

Further, we need some clear system in order to establish when a credit actually comes into existence and when it is used and extinguished so that there is no fuzziness around what is and is not a valid credit.

Perhaps the best way to achieve this is through the use of a registry, an approach that is often used for intangible forms of property. Indeed, the legislation does provide for a registry of projects under the Fisheries Act. It does not specify that it would carry information with respect to banking and credits, but I think if it did, it would be a very valuable tool for validating the process.

• (1545)

With that, I think I will close my comments. I look forward to hearing from the committee in due course.

The Chair: Thank you, Mr. Poulton.

We will go now to Senator Wells for seven minutes or less, please.

Senator David Mark Wells (Senator, Newfoundland and Labrador, C): Thank you, Chair.

Good afternoon, colleagues.

I want to start off by thanking the chair and the members of this committee for inviting me to speak here today about implementing third party habitat banking in the Canadian context.

This wasn't part of my speaking notes, but I think it's important that I am here not just as a senator who proposed amendments on third party habitat banking and had them accepted in the Senate. I have also appeared at the House fisheries committee before as a subject matter expert, and I have 35 years of experience in the fishery, managing fish processing plants. I was chief of staff at DFO, director of policy at DFO and author of more than 100 technical reports on the fishery. I have direct experience in habitat banking, and I am also a member of Canada's team in the delegation to NAFO.

As I'm sure you are aware, Bill C-68 recently passed in the Senate, with amendments to expand habitat banking to third parties, to introduce an offset payment system and to ensure habitat banking benefits remain local in comparison to a work, undertaking or activity.

I would like to use this opportunity today to urge your committee to recommend the passage of these amendments into law.

While I'm aware that your committee is simply exploring the possibility of implementing third party habitat banking sometime in the future, I want to make it very clear that Bill C-68 may be the only opportunity to get this done right and done within a reasonable period of time.

The Fisheries Act is one of Canada's oldest pieces of legislation, brought into force right after Confederation. When this act is changed, the process is quite lengthy, as we are seeing now with Bill C-68 and as we've seen with all other attempts to pass legislation regarding the Fisheries Act.

I think we all recognize and appreciate the complexities involved in establishing an effective third party habitat banking regime in Canada. Those complexities, though, colleagues, are not legislative; they are regulatory. The amendments to Bill C-68 only come into force upon proclamation of cabinet, and not with royal assent as they typically do. This would provide DFO and the relevant federal agencies the time to get it right so that nothing would be forced onto the Canadian public without it being ready, and I think that's an important point to make.

What the Senate is recommending with the habitat banking amendments is the early work involved in setting the stage for DFO to consult widely and bring in the proper regulations. This could take over a year, two years or five years—however long it takes to bring in a system that's based on international best practices and generates the best possible ecological and economic outcomes.

Third party habitat banking is not new. Other countries, including the United States, already have third party habitat banking systems in place. These systems work, and they work well.

The international debate on this topic is not about whether third party habitat banking should be permitted within a jurisdiction; it's about how regulations should be designed and administered.

The benefits of including third party groups in a habitat banking regime are substantial, and so are the costs of excluding these groups.

Expanding the habitat banking system would create an entirely new habitat banking economy that creates jobs, incentivizes

innovation and encourages more and better environmental protection.

Not all proponents—and currently it's in the legislation that it would be just proponents—have the resources or knowledge to build a physical offset. Under a third party habitat banking system, as you have heard from the other witnesses, the proponents would be able to purchase a habitat credit instead of designing and building their own physical offset. The offset must still be created, but under third party habitat banking it could be created by a group with specific conservation expertise. The proponent would essentially be, in these cases, funding the construction of an improved physical offset. This would not replace the mitigation aspects required under the environmental protection aspect of any development.

Third party habitat banking is a win for industry and a win for the environment. Companies won't have to divert attention from the core aspects of their business and the jobs that come with it. All they have to do is buy the credit for the habitat bank established by a third party group and, of course, the mitigation required.

With a new market for the credits, there is an incentive for third parties to join the habitat banking program, thus leading to additional ecological protection.

Who are these third party groups? These third parties include, but aren't limited to, indigenous groups, conservation specialist groups like Ducks Unlimited, wetlands advocates, private sector firms and municipalities. All of those, colleagues, currently do not have the right to be part of the proponent protection. When we say that only a proponent can create a habitat bank, as Bill C-68 did before we amended it in the Senate, we are deliberately excluding groups that have direct experience protecting our environment.

● (1550)

These stakeholders all want to be on the front lines of habitat restoration and enhancement, and they should be. That's why the amendments I proposed at committee to expand habitat banking to third parties, which had broad support across all groups and caucuses in the Senate, also had broad and diverse stakeholder support. Environmental NGOs and industry groups like the Ontario Waterpower Association and the Canadian Ferry Association, for example, as well as first nations, municipalities, conservation authorities and provincial government agencies want to see the expansion of habitat banking to third parties become law. The Senate amendments in Bill C-68 regarding third party habitat banking are cross-partisan amendments, and they're reasonable amendments in terms of implementation, given DFO will have more than enough time to consult widely and bring the system into effect.

I also want to clarify something for the record. As I imagine many of you are aware, I voted against Bill C-68 at third reading in the Senate. I voted this way because there are other aspects of the bill entirely unrelated to habitat banking that I could not support. Bill C-68 is an omnibus fisheries bill, and as I said in my third-reading speech in the Senate, it should have been split into different bills dealing with substantially different elements of the Fisheries Act.

Colleagues, I'm pleased that we have the opportunity here today to discuss the positive changes now in the bill and how they can be implemented in Canada. Third party habitat banking is a perfect example of a private sector solution to environmental challenges. The system is funded by the private sector and executed by specialist groups in the field of environmental and ecological preservation.

I hope your committee, and indeed the entire House of Commons, will use this opportunity to enable the regulatory work to bring third party habitat banking into effect sooner rather than later.

Thank you.

The Chair: Thank you, Senator Wells.

We'll now go to rounds of questioning, and we'll start with the government side. I understand Mr. Morrissey was going to go first, so we'll go now to the second one. Mr. Rogers, you have seven minutes or less, please.

Mr. Churence Rogers (Bonavista—Burin—Trinity, Lib.): Thank you, Mr. Chair.

Dr. Poulton, I have a couple of questions around your presentation. Can you speak to other jurisdictions that we can learn from when it comes to habitat banking?

Also, I have a couple of follow-up questions. How long has it been in place in these jurisdictions? Can you also speak to some of the legislative complexities that go with habitat banking systems?

• (1555)

Mr. David Poulton: There's certainly been experience in several of the Australian states. As well, I'm familiar with systems in Europe. However, I have to admit that I haven't studied in detail the legislative arrangements that have enabled them.

The state I'm most familiar with, Victoria in Australia, put in place a banking system for native vegetation. It went through several iterations. Legislatively, it was quite simple. It was based on a policy that required permitting for any destruction of native vegetation, and the policy behind that permitting indicated a commitment to no net loss, much like our policy has done for several years with respect to fisheries. It then laid out a system for classifying different types of vegetation in different regions of Victoria, and for the development of credits among third parties and for trading among parties.

It has had various levels of performance as the system has been tweaked. In some ways it was overly complex early on, with very fine distinctions between different vegetation communities, leading to a number of very thin markets. Then a change of political winds there led to quite an expansion of the classification scheme. I'm not familiar with exactly how it turned out, but I did hear early critiques that it may be too broad—that it was designed to encourage large markets but may have been ecologically inappropriate.

I think that points to a key challenge in this endeavour: to get a system that is administered efficiently and encourages private sector participation, yet still upholds environmental standards. That is a tricky balance to find. There may not be immediate success in finding that balance immediately when designing a system, but I think that just speaks to the need for some ongoing review and improvement of the system. It should not deter us from exploring how to do it as well as is feasible at any one time.

Mr. Churence Rogers: In the U.S. it seems to be a fairly complex process. Legislation on habitat banking there is in excess of 100 pages. How complex is that system compared to the Victoria one that you talk about?

Mr. David Poulton: With respect, sir, I don't think that's a fair comparison. The legislation in the U.S. is a set of regulations that covers the whole suite of offset tools and principles. It includes administration of in-lieu fees, proponent-led banking and so on, and a fair number of those 100 pages are commentary from the corps of engineers and from the Environmental Protection Agency on how it might be implemented.

The actual substance of the American system is—and I say this somewhat guardedly—reasonably streamlined, in that a party that wishes to sponsor a habitat bank makes an initial proposal to the corps of engineers outlining what they had in mind and where they intend to do it, including a budget and a business plan. That is reviewed by a multi-party committee. The committee—I forget the particular acronym—is a combination of the different agencies that may be impacted by the project.

There's essentially approval in principle given at that stage. A more detailed plan is called for, and then the implementation of that plan is monitored, with approval and accreditation given as different thresholds are met and different stages completed.

It's a system that seems to work. There are literally hundreds and hundreds of habitat banks under the U.S. fishery system, and they are selling credits on an ongoing basis. It does seem to work.

Mr. Churence Rogers: I thank you for that comparison and clarification.

There have been concerns raised around jurisdictional issues as well. Who do you think is important to bring into the conversation in terms of indigenous groups and communities?

•(1600)

Mr. David Poulton: I think those are critical concerns in communities with respect to any development in this area. I think Senator Wells spoke to the opportunity that third party banking may create for municipalities and for indigenous groups. With any offset scheme, it's important that those communities, as stakeholders in the land, be closely consulted with respect to any change in land use, whether for economic benefits or environmental purposes, and that there be opportunities opened up for them to be involved and share in the benefits.

Mr. Churence Rogers: Thank you.

The Chair: Thank you, Mr. Rogers.

We will go to the Conservative side. We have Mr. Doherty for seven minutes or less, please.

Mr. Todd Doherty (Cariboo—Prince George, CPC): Thank you, Mr. Chair.

Thank you to our guests.

Senator Wells, I'll direct my line of questioning to you.

Senator, knowing where we are with this bill and knowing that even prior to the Senate being finished with the amendments, the minister wrote to this committee and asked us to study third party banking, do you not find it ironic that we're sitting here today doing a study on it when we know that there's going to be time allocation on the bill tomorrow?

We know that the Liberals have now stripped out your habitat banking amendments. There was great work done by all sides on habitat banking. Do you not find it ironic that we're sitting here today?

Senator David Mark Wells: I'm here as a witness, so I don't want to get entirely political, but as much as it was ironic, it was disappointing, because third party habitat banking is a good idea. You've heard it from—

Mr. Todd Doherty: Right.

Senator David Mark Wells: —our other witnesses, and we've heard it from stakeholder groups.

I'm unsure why. I have been part of the legislative process for a very long time, and not just as a senator but as a senior official at DFO who is knowledgeable about the industry. I know it takes a long time to get any legislation through the two chambers. There are the consultations and the other things that have to happen, and the legal review, obviously.

It's ironic maybe, but more than that, it's disappointing. There was an opportunity for first nations, for communities, for ecological conservation groups and for environmental groups that care about the environment and want to protect the environment, even through simple things like salmon ladders, but through the apparently deliberate rejection of these amendments, particularly on third party habitat banking, there was no respect given to those groups, and we all want to help the environment, especially in the natural resource industries.

Mr. Todd Doherty: We have heard that the response to the habitat banking amendments that the Senate introduced was that they fall outside the scope of the bill.

Senator David Mark Wells: No. Actually, habitat banking is common in Canada. Our amendments regarding habitat banking were for third party habitat banking—first nations, conservation groups—which can only be described as a positive advance.

The other parts of the amendment were the offset, which were discussed, and finally the service area, whereby there was a defined region where the offsets could be used.

For instance, a mining project on the Avalon Peninsula in Newfoundland and Labrador would not be offset by ecological remediation in Saskatchewan. It would be as close as practicable to the area, ideally, and within the same province. Right now the service area is all of Canada, and I think that should be given some consideration.

Mr. Todd Doherty: Senator, one of the minister's responses to our questions regarding why the amendments were stripped out was that there would be jurisdictional challenges with respect to the habitat banking. How do you respond to that?

Senator David Mark Wells: Jurisdictional challenge occurs if something is being forced on a jurisdiction by another jurisdiction.

I think in any development where there is a benefit to the environment, where there are jobs created, where there is facilitation of a project that might involve a mining company or an agricultural project or forestry, no one would be forced to accept ecological remediation. If I were mayor of a town, I would welcome it. I would welcome the jobs. I would welcome the development of the wetlands or the establishment of a fish ladder in a river system, big time.

•(1605)

Mr. Todd Doherty: Mr. Poulton, you mentioned first party habitat banking and certain groups in your presentation. Would that be Ducks Unlimited, or who would be a first party?

Mr. David Poulton: My understanding is that it generally is government agencies, such as transportation agencies or others.

Mr. Todd Doherty: Okay.

Mr. David Poulton: The one that I am most familiar with is Port Metro Vancouver, which has ongoing operations. They know they are going to be disturbing fish habitat on an occasional or ongoing basis, and as a result they have an ongoing need for offset credits.

It is generally development groups, because they are the ones that will ultimately use the credits.

Mr. Todd Doherty: I was formerly in the transportation industry. Is there a risk, similar to the carbon credits situation, that habitat banking credits could all of a sudden become a commodity that could be traded back and forth between groups and organizations?

Mr. David Poulton: That language has, from time to time, been applied to it. It has been described as a commodification of natural values.

With respect, I am less concerned about the semantics of it than the ecological productivity of it. If it is producing environmental gains and making use of people's expertise in an efficient way, I hardly think how it's labelled comes into play.

Mr. Todd Doherty: The reason I bring it up is that in my riding we have seen international organizations buy up huge swaths of agriculture land, plow it under, and plant trees for carbon credits to be applied overseas. I'm wondering if this could be an issue that could be addressed by Bill C-68, including third party habitat banking, in the language that was used by the Senate.

Mr. David Poulton: I think I would have to give that some more thought before responding, but my initial sense is that it could be managed on a case-by-case process, and that it wouldn't necessarily have to be dealt with legislatively or even through regulation.

Mr. Todd Doherty: Okay.

The Chair: Thank you, Mr. Doherty.

Now we go to the NDP and to Mr. Johns for seven minutes or less, please.

Mr. Gord Johns (Courtenay—Alberni, NDP): Thank you.

I'll start with Senator Wells.

Thank you, Senator Wells, for being here and for all the work you are doing in the Senate around this issue.

I have a question regarding first nations. Can you talk about the consultation that's been done with first nations regarding third party habitat banking, and maybe what you've heard from them?

Senator David Mark Wells: Sure. I'll give a direct example.

It was Senator Dan Christmas of the Membertou First Nation in Nova Scotia. He and I worked together on these amendments. He voted for them. He's with the independent senators group. It was on his initiative that first nations were part of our consideration.

Mr. Gord Johns: Were the indigenous stakeholders across the country, coast to coast to coast, consulted?

Senator David Mark Wells: Well, I know they didn't come to committee.

Mr. Gord Johns: Okay, so there's no testimony from indigenous groups that I can read.

Senator David Mark Wells: There was no testimony of first nations at committee.

Mr. Gord Johns: Okay. That concerns me. Ensuring that they're adequately consulted is critical. We've heard concerns from indigenous communities in the past that there have been habitat banks that have been poorly executed in their communities. We would certainly like to hear more from the indigenous communities on this issue.

Senator David Mark Wells: Could I respond to that?

Mr. Gord Johns: Yes, absolutely.

Senator David Mark Wells: If this were passed into law, I think that would be part of the development of the regulatory framework by DFO. They would have years to put together the requirements for a consultation. That obviously would include indigenous groups.

Some indigenous groups would want to be part of conservation projects in their area.

• (1610)

Mr. Gord Johns: What if they don't support it, and then it's...?

Senator David Mark Wells: If they don't support it, no one is forcing it on them. If you're going to support the development of an offset or of assistance in another area as part of an offset system, as part of a third party habitat banking system, you're not going to force wetlands conservation on a group that doesn't want it. I think that's clear. I imagine most groups would want it, but that would be part of the development of the regulations by DFO. DFO would be required to consult.

Mr. Gord Johns: You don't think that should be part of the legislation now?

Senator David Mark Wells: The legislation is providing the opportunity for the offset. The details would be in the regulations, and of course parliamentarians don't get into the details of regulations; we just do the legislation.

Mr. Gord Johns: We do have concerns. We just want to make sure, on the record, that they weren't adequately consulted prior to this initiative coming here.

Senator David Mark Wells: They didn't show up at committee to discuss it, but they may have been consulted by others.

Mr. Gord Johns: Okay.

Senator David Mark Wells: I would be surprised if Senator Christmas hadn't discussed it with the Membertou First Nation, for instance.

Mr. Gord Johns: Okay.

Could you talk a bit more in depth about ensuring that there will be no net loss or net gain of fish habitat?

Senator David Mark Wells: Sure. I'll give a direct example.

I was part of a project in my private business prior to coming to the Senate. There was a mining company that wanted to utilize a pond or a lake, so they had to do a mitigation of the lake. They removed the fish and put them in another... I think it was in the same watershed. That was the mitigation, but they were also required to provide... This was a novel way of doing third party habitat banking under a different regime, because a regime wasn't in place, but I believe they funded a salmon ladder a couple of hundred kilometres away. It was a different river system and a different watershed. That's the kind of thing that...

Everyone was pleased with that. The mining company was pleased because they not only had to do the mitigation, which was required by law, but they also could support another project in another area. As I mentioned earlier, one of my amendments was on service area. My hope is that it would be in the same watershed, in the same river system, but sometimes there isn't a proponent in the same river system. Sometimes there's no opportunity to do upgrading of wetlands in the same river system, so that's why I said within the same province.

The other thing about that, Mr. Johns, is that it would still be under the discretion of the minister to have it in a service area anywhere in Canada, but the intent was to have it as local as possible.

Mr. Gord Johns: We've had testimony from all three of you, but I haven't heard about any concerns you heard when you were looking at habitat banking. What were the concerns you heard?

Senator David Mark Wells: One of my colleagues at the fisheries committee in the Senate posed the question to the DFO officials who were on site. One of the concerns was that—and this struck me as odd—we haven't done this before. We don't have a regime set up that fits this system.

If that's the concern, they have time to do that. The coming into force would not be at royal assent; it would be at the direction of cabinet, which could be the next cabinet or the one after or whenever the system is ready. Their concern was that they hadn't done it before.

Of course, we've heard from other witnesses and from many others that this is done in other jurisdictions and done successfully.

Mr. Gord Johns: Did you hear any concerns from the provinces or local governments?

Senator David Mark Wells: No.

Mr. Gord Johns: Could a third party, such as a non-profit group, be contracted by the project proponent to bank habitat on their behalf?

Senator David Mark Wells: It depends on the way the system is set up. Normally with a third party habitat banking system, those credits would rest in a place to be drawn upon. The requirements right now under the regulations allow a proponent to subcontract that to a group that does wetland conservation, for instance. That's not prohibited right now.

• (1615)

The Chair: Thank you, Mr. Johns. Your time is up for now.

We'll now go to the government side.

Mr. Morrissey, you have seven minutes or less, please.

Mr. Robert Morrissey (Egmont, Lib.): Senator Wells, did your review put any parameters on how habitat banking may be implemented?

Senator David Mark Wells: No. We would leave that to DFO and the relevant federal agencies. As parliamentarians, we would establish the law, and they would build the system to fit those parameters. We didn't build in any restrictions. In a lot of our discussions, there were discussions of flexibility for companies that are currently proponents.

You have to realize that a mining company or a forestry company —

Mr. Robert Morrissey: You would agree, then, that the final authority and decision-making on proper implementation of a substitute habitat should rest with DFO.

Senator David Mark Wells: It would rest with the minister, yes, and the relevant agencies, and maybe the department of environment or...

Mr. Robert Morrissey: You agree, then, that they should be the final authority in making the decisions and setting the criteria on what would be acceptable. The cases would change dramatically, depending on the situation you were attempting to resolve.

Senator David Mark Wells: It would go to consultation, so I imagine the final authority would always rest with the minister, who would have unfettered discretion anyway. If the regulations are established after consultation with first nations, environmental groups, communities and others, then one would expect the regulations would respect the consultations, but yes, the final authority rests with the minister.

Mr. Robert Morrissey: When you were conducting studies, did you do any analysis of a situation that exists currently where a habitat was replicated?

Senator David Mark Wells: There are two aspects to that. One is the mitigation on the site, such as when a mining company requires a lake or a pond. There would be mitigation at that point, such as removal of the fish or protection from overflow or from any deleterious effects in that area from the activity. The other side of it is the banking aspect, somewhere in the service area.

We are familiar with what the Americans and the Australians are doing, and obviously familiar with the concept of like for like.

There is one other thing, Chair, if I may. Proponents have their expertise in their own industry, such as mining or forestry, and under the current circumstance, they are required to do the mitigation and provide assistance in wetlands or ladders or anything like that. That's not their core business, but there are wetland organizations and conservation groups that do have that aspect in their wheelhouse and are ready, willing and able to have private sector funding to help the ecology. That was part of what drove us.

I'm sorry to take your time, Mr. Morrissey.

Mr. Robert Morrissey: That's fine.

I'm going to share the rest of my time with my colleague, Mr. Hardie.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): How much time do we have?

The Chair: You have three minutes.

Mr. Ken Hardie: That is a wealth of time.

Senator Wells, what could be a sticking point of all of this is the notion that a company with especially deep pockets could just simply come in and say they can't or they're not interested in remediating or recovering or restoring or whatever, and offer a bunch of money. At a time when I think there's a lot of increased sensitivity to the loss of habitat, do you think that we should permit that kind of response and allow them to just basically buy their way out in order to let a project go ahead?

Senator David Mark Wells: My short answer is no, but the parameters will be built into the regulations.

One thing you have to remember is that there's an immediate mitigation on the site. That's a requirement regardless. The habitat banking aspect just helps other areas.

If I may, we can put a price or a cost on any deleterious effect on a piece of the environment and obviously mitigate it as part of the default that they don't get away with it. They have to do that, but this would provide an additional benefit to another group in another area.

How that's built and how the parameters are developed would be in the regulations. To think that a company would just come in and say, "Look, we have a million dollars, so let us start digging our mine" is a simplistic way to look at it. I don't think that would be part of the reality.

• (1620)

Mr. Ken Hardie: How would you deal with a situation in which the impacts would be felt in one area where local people were not very happy about it, but there was a notion that the offset could be done someplace else that wouldn't actually benefit the local people? I would understand or assume that this would be a sticky situation.

Senator David Mark Wells: Absolutely. There are two things about that.

One is that there is an environmental assessment process that allows people who are impacted in an area to come in and voice their concerns and affect a decision on the approval or denial of the proponent's project. That's one thing.

That's exactly why I put in the amendment regarding the service area. It would require that the habitat banking activity happen as close as practicable to where the deleterious effect is happening, if possible in the same watershed. In the worst-case scenario, it would be my hope that it would be in the same province.

Again, it's under the direct authority of the minister. It's the unfettered right of the minister to choose where that would be, but there would be guidelines around it. That was the essence of my service area amendment. It's a good question.

Mr. Ken Hardie: Thank you.

The Chair: Thank you, Mr. Hardie.

We'll now go to the Conservative side and Mr. Arnold for five minutes or less, please.

Mr. Mel Arnold (North Okanagan—Shuswap, CPC): Thank you, Mr. Chair.

I thank all of our witnesses for being here today.

Senator Wells, I seek a little bit of clarification.

Our committee studied the changes to the Fisheries Act back in 2016. There were statements by the minister that first nations were being consulted face to face and that we would receive input from those consultations for the completion of the study. Many times there were requests for extension of the study by the committee. The government simply voted down those extensions time and again when it was first nations, when it was we on this side who were asking for extensions to do a proper study.

There were submissions and briefs. Collectively over \$900,000 was paid by DFO for these briefs, and they were received after the committee had drafted the study. Could some of these issues have been addressed with the proper extension of that study some two years ago, in 2016?

Senator David Mark Wells: I'm sure they could have, Mr. Arnold. We looked at as much as we could within the confines of our Senate committee. We spoke with experts, people with experience in this area, and we gave it our own consideration with whatever experience we brought to the table, and I'll say I have considerable experience.

On the face of it, this makes sense. It's done successfully in other areas. It not only allows a system that permits a proponent to do what they want to do within the confines of the law—with environmental assessment and all of that—but it also enhances areas that are supported by first nations groups, wetlands conservation groups and environmental protection groups. We have a lot of them, and we should have a lot of them. This just facilitates it to a greater degree. Right now it's just the proponent.

Mr. Mel Arnold: Thank you.

I'm very familiar with the conservation groups that could do this kind of work and produce the banks that are there, such as Ducks Unlimited and provincial wildlife federations across the country that have wetlands improvement programs and conservation programs.

Could this third party habitat banking actually produce lasting net gains for fish habitat if it were to be included?

• (1625)

Senator David Mark Wells: That's the whole idea. It's not just keeping everything steady, but to make it better. It's increasing wetlands so they support the ecology, support conservation, support the growth of positive environmental development.

We didn't hear anyone, other than the officials at DFO, saying this is a bad idea. We didn't hear anyone but the officials at DFO saying that. It surprised me a little bit, because it just makes sense. There's widespread support for this concept.

Mr. Mel Arnold: Thank you.

Do you have any idea why the Minister of Fisheries would have requested this committee to do a study on third party habitat banking even before the amendment process had finished making its way through the Senate?

Senator David Mark Wells: It was my first signal that these amendments would likely be turned down in the House. I had a conversation or some correspondence with the Canadian Wildlife Federation, and I was told by its executive director that from their discussions, DFO's or the minister's or the government's preference was to not have third party habitat banking considered in this legislation.

Mr. Mel Arnold: That seems—

Senator David Mark Wells: I don't know why, because again, across the board it's a good idea, according to experts, other witnesses, proponents, conservation groups, first nations.

Mr. Mel Arnold: I agree, Senator. It seems absolutely unfathomable that the minister and his department would be opposed to something that would actually, as you stated, provide lasting net gains of habitat. It doesn't make any sense.

The Chair: Thank you, Mr. Arnold. Your time is up.

I want to say thank you to our witnesses for appearing, both by video conference and here in person.

We'll suspend for a couple of minutes to change the panel for the next hour. We have some witnesses by video conference and we want to make sure they're hooked up and ready to go.

Again, thank you to everyone for appearing as witnesses here today.

•(1625) _____ (Pause) _____

•(1630)

The Chair: We'll get started now on our next hour of testimony.

Appearing here by video conference is Mr. Paul Norris, President of the Ontario Waterpower Association. Welcome, sir.

As well, from Ontario Power Generation Incorporated, here in person we have Mr. Daniel Gibson, Senior Environment Specialist and Chair of the Fisheries Working Group in Renewable Generation and Environment for Waterpower Canada. Welcome, sir.

We'll start off now with some testimony from Mr. Norris for seven minutes or less please, when you're ready.

Mr. Paul Norris (President, Ontario Waterpower Association): Thank you, and thanks to the committee members for the opportunity to provide our insight and perspective on your consideration of the enablement of an optional third party habitat banking system as a component of Bill C-68.

My name is Paul Norris. I'm President of the Ontario Waterpower Association. I'd like to state at the outset that our organization is in strong support of the inclusion in legislation of third party habitat banking. Not only can such a tool contribute to our collective desired outcome of sustainable fisheries, but in so doing it can foster positive and productive partnerships and innovation on the landscape.

By way of introduction, the OWA represents the common and collective interests of the owners and operators of Ontario's 224 waterpower facilities. They are located from Cornwall to Kenora, with installed capacities ranging from less than 20 kilowatts to more than 2,000 megawatts, and built as early as 1898 and as recently as 2018.

Our membership of more than 140 includes environmental, engineering, legal, financial and construction firms; equipment manufacturers and suppliers; municipalities; and indigenous communities. Waterpower is the electricity engine upon which the initial economic prosperity of the province of Ontario was built, and it remains the backbone of an affordable, reliable, sustainable energy system.

It is of specific relevance to the matter under consideration by the committee that our association has the regulatory responsibility for the environmental assessment process for virtually all waterpower development in Ontario through the provisions of the Class Environmental Assessment for Waterpower Projects, of which the OWA is the proponent. Approved by the minister of the environment in 2008, the objective of the Class Environmental Assessment is to help ensure that projects are planned in an environmentally responsible manner. An additional objective of the Class EA is to coordinate and integrate the multiplicity of environmental approvals and public involvement processes that are relevant to planning a waterpower project.

With respect to DFO's mandate, the Class EA states:

...a waterpower project will almost always involve review and possible Authorization under the federal Fisheries Act and studies conducted under the class EA should involve collection of appropriate information on fish and fish habitat. The completion of an undertaking under the Class EA does not remove Fisheries and Oceans Canada's decision-making authority under the Fisheries Act but it is expected that a proponent using this Class EA will satisfy the substantive planning requirements related to completing a Fisheries Act authorization.

It is precisely this "one project, one process" approach of the Class EA that enables the consideration and the application of an array of tools, such as habitat banking, to achieve the objectives of the myriad legislative requirements to which a waterpower project is subject.

Embedded in the Class Environmental Assessment as well is the mitigation sequence within which the concept of third party habitat banking would be utilized. In short, the Class EA adopts a conceptual hierarchy of avoidance, prevention and mitigation.

Where impacts cannot be avoided or prevented, mitigation measures, including compensation, are considered. Habitat banking in general and third party habitat banking specifically are proactive mitigation measures that can be applied on a landscape level to achieve desired outcomes, including the sustainability of fisheries.

I believe it's also important to recognize that the enabling of the innovation of third party banking under the Fisheries Act could help deliver what are generally referred to as "stackable benefits". One could easily envision a fish habitat banking project that creates ecological goods and services for wetlands, for species at risk, and for carbon offsets—in short, a whole that is greater than the sum of its parts.

This then brings me to the practical application of third party banking.

In support of the OWA Class EA, we have published more than 40 environmental best management practices for the construction of waterpower facilities. Three of these BMPs are specific to fisheries species at risk and were developed with the input and advice of Fisheries and Oceans Canada. I'd like to focus, however, on the partnership between our association and Ducks Unlimited Canada in their preparation and publication of the BMP for wetlands and waterpower facility construction. The document advises that:

The restoration or creation of wetland habitat requires input from a multi-disciplinary team...to develop an adaptive strategy based on a critical analysis of the abiotic features of the landscape. Engagement and/or retention of agencies experienced in wetland restoration/creation and management such as Ducks Unlimited Canada will inform and enrich the design of wetland creation projects.

● (1635)

In short, while in some instances a proponent may have the capacity to apply mitigation strategies, including habitat banking, in others there is a clear and recognized role for subject matter experts, particularly those in the business of on-the-ground stewardship, such as Ducks Unlimited Canada, the Nature Conservancy of Canada, Trout Unlimited and others.

For waterpower projects, which in Ontario take up to eight years to complete from environmental assessment to commissioning, regardless of size, the opportunity to proactively bank habitat as a potential mitigation measure, either by the proponent or in partnership with a third party organization, is particularly relevant, especially on a landscape scale. Enabling this measure through the Fisheries Act will undoubtedly unlock the art and the science of the possible.

The OWA fully recognizes and appreciates the significant regulatory and policy work that is required to implement third party habitat banking. In our view, it is well worth the effort. Based on my experience as a member of the Ontario species at risk program advisory committee as well as the Wetland Conservation Strategy Advisory Panel, I can assure committee members that there has been significant collaborative thought devoted to the concept and application of third party banking, which the Department of Fisheries and Oceans can leverage. I can also assure you that our organization is prepared to contribute to these efforts.

Thanks again for the opportunity to speak with you today. I look forward to the entertainment of questions.

The Chair: Thank you, Mr. Norris.

We'll now go to Mr. Gibson.

You have seven minutes or less, please.

Mr. Daniel Gibson (Senior Environment Specialist and Chair of Fisheries Working Group, Renewable Generation and Environment, Waterpower Canada, Ontario Power Generation Inc.): Thank you, and greetings to the chair and to the members of the committee.

Ontario Power Generation appreciates the opportunity to make a delegation to the standing committee today. I'm also here today in my capacity as chair of the fisheries working group for WaterPower Canada.

OPG, Ontario's largest green energy generator, is focused on safe, reliable and sustainable electricity generation. The company's electricity generation portfolio has an in-service capacity of over 17,000 megawatts and operates two nuclear generating stations, one biomass-fuelled thermal generating station, one oil/gas-fuelled thermal station, a solar facility and 66 hydroelectric generating stations. As Ontario's largest clean energy provider, we maintain a critical role in Canada's greenhouse gas emissions reduction targets.

OPG has been actively involved in all aspects of the federal government's review of the Fisheries Act and in Bill C-68 since 2016. We welcome this opportunity to present today on the feasibility of implementing a third party habitat banking framework for Canada.

Similarly, WaterPower Canada, formerly known as the Canadian Hydropower Association, represents both the producers of hydro-electricity as well as the service and supply businesses that support the industry. As you've heard in past delegations, and it's important to restate it, hydro power supplies over 60% of Canada's electricity and is our largest generation source by far. The result is an electricity system that is one of the cleanest, most renewable and most reliable in the world. The generation of hydroelectricity produces virtually no greenhouse gas emissions. It can and must play a central role in achieving Canada's climate change targets.

From the outset, OPG wishes to acknowledge our support for the submissions from WaterPower Canada, as well as the Canadian Electricity Association, the Canadian Nuclear Association, and the Ontario Waterpower Association.

OPG continues to support this government's efforts to implement modern safeguards into the act. Today we are here to talk specifically about that under habitat banking.

In our previous submissions to this committee and through discussions with DFO, OPG has advocated including provisions in Bill C-68 for a habitat banking system that advances the effective and efficient management of Canadian fisheries. We have advocated added flexibility for the creation and use of credits by project proponents and third party groups in a manner that advances both fish habitat conservation objectives and economic objectives. We are encouraged to see the interest expressed by this committee to study this issue of third party banking in greater detail and the inclusion of enabling amendments to Bill C-68 during the Senate review of the bill.

We understand that the proposed provisions of Bill C-68 would allow for some capacity for the Governor in Council to regulate not only the creation, allocation and management of credits and offsets but also their potential exchange and trade. These enabling provisions represent a significant opportunity towards making another tool available for achieving net benefits for fish and fish habitat conservation in Canada.

A well-designed habitat banking system could allow for the ability to aggregate projects for the greatest benefit, large proponent-led initiatives, third party-led initiatives that proponents could support and buy into, and opportunities with well-defined cumulative benefits for multiple species, including species at risk, as Mr. Norris has alluded to. Allowing broader participation in habitat banking can support business and create economic and knowledge-building opportunities as well.

The implementation costs for habitat banking may be reduced for proponents who may not see this as their core business, while the expectation of financial incentives can expand economic and business opportunities for qualified third parties to properly manage and monitor habitat offsets. These third parties may be better equipped to aggregate regional offsetting actions on a larger scale than might be otherwise done for individual proponents.

Because they are longer-term, habitat banks can also encourage broader partnership and knowledge-building opportunities. OPG's example in this regard is the habitat bank developed through a partnership with Quinte Conservation, consultants and a local contractor to design and build the Big Island wetland near Belleville, Ontario. The investment in this habitat bank was carried out as an offset requirement under the environmental assessment for OPG's Darlington new nuclear project, well in advance of the project's being approved.

The Big Island project is a perfect example of an offsetting project that went beyond the standard like-for-like offsetting model and sought first to consider the fisheries management objectives for the water body where we were working. What was determined was that a limiting factor for fisheries productivity in Lake Ontario was not necessarily the loss of alewife, which is the species most commonly interacting with our nuclear power facilities, but rather the loss of coastal wetlands along Lake Ontario's north shore.

● (1640)

Equipped with this knowledge, OPG and the project partners were able to develop a project based on perpetual habitat credits to offset the potential annual loss of fish as a measure of productivity for the future Darlington nuclear facility.

When the Darlington new build was temporarily suspended, OPG was fortunate enough to utilize portions of our Big Island wetland bank to offset measures for our existing Darlington and Pickering nuclear generating stations as part of our Fisheries Act authorizations. That said, if we had not had that opportunity to reinvest those credits into our Fisheries Act authorizations, the prior investments in the Big Island wetland may have been in jeopardy.

While creating the expanded wetland would have been a good outcome from a sustainability point of view and for its habitat offset, there are few organizations that can afford to spend money up front on an offset project when there remains overall uncertainty as to whether or not the project would be approved. From this perspective, enabling a formalized third party banking regime presents an opportunity to bring practitioners together as part of a community to report on and share experiences, research efforts and knowledge of what works. OPG and other industry partners have investigated and commissioned research on habitat banking prior to embarking on the Big Island wetland project. We'd be happy to share that as written submissions to the committee if the committee so chooses.

Overall, OPG believes that enabling third party banking would not only bring increased collaboration and opportunity for aligning biodiversity offsets for fisheries, but would also enhance broader ecosystem function and restoration goals, such as wetland creation, species at risk and land conservation. I'm not the first person to mention that in our testimonies.

In closing, I'd like to thank the committee for this opportunity to provide our views on habitat banking under the Fisheries Act. OPG, as well as WaterPower Canada, would welcome the opportunity to work with DFO to help build a habitat banking system that works in the Canadian context, where resource management is a shared responsibility.

OPG looks forward to continued participation through our industry associations to assist the committee's efforts. We would also be more than happy to meet with you to review our comments and happy to take any of your questions now.

Thank you.

● (1645)

The Chair: Thank you, Mr. Gibson.

We'll go now to the government side and Mr. Finnigan, please, for seven minutes or less.

Mr. Pat Finnigan (Miramichi—Grand Lake, Lib.): Thank you, Mr. Chair. I will be sharing my time with Bobby Morrissey.

I want to welcome both of your organizations to our panel today.

There's one question I have. This might have been more within the other panel's experience, but I'm hoping you can help me on this one. Who would determine what habitat or species has to be recreated when you're recreating another habitat to replace what we will be... not destroying, but modifying? Who determines that? Is it the commercial species, or is it the lower end of the chain? How do we determine what has to be included in the recreated habitat?

That's for whoever wants to take it.

Mr. Daniel Gibson: I'm happy to take a stab at that one.

I think there's a hierarchical approach to offsetting. First you look to avoid, offset and mitigate. Once you get to your offsetting measures, I think some of the evolution in our thinking around fish habitat management is the prioritization of fisheries management objectives in a particular watershed. Regardless of the impact you may be having, I think that when you're going to those compensation or offsetting measures, you're looking to prioritize in accordance with fisheries management objectives. That would come through consultation with the regulator, with DFO.

As we saw with the example of the Big Island wetland, alewife were the species that were potentially being harmed as part of our operations at Darlington, but they weren't necessarily seen as a critical species for protection on Lake Ontario. They were seen as a productivity loss, however, and therefore we needed to compensate or offset for that productivity loss in accordance with the management objectives for Lake Ontario. That's what drove us towards that decision-making. It's the loss of coastal wetlands, and these are the big productivity drivers on the Great Lakes. That's what took our focus in that direction.

Mr. Pat Finnigan: Do you have any further comments, Mr. Norris?

Mr. Paul Norris: Yes. Those conversations happen now. Dan is right. Once you go through the hierarchy of avoidance, prevention and mitigation and you're into mitigation, those conversations happen now at a project level with the regulator. The innovation that we're talking about here, or the tool that we're adding to the tool kit, is the opportunity to proactively bank that offset or mitigation and to do it through a partnership with a third party.

The answer to the question will be the same, regardless of whether you're having the site-specific conversation with DFO. The innovation here that we're talking about is that once you get to that conversation, here's a new tool in the tool box that could provide a broader benefit.

Mr. Pat Finnigan: My other question is about what happens once these projects are established. I know that in New Brunswick and across the country we have Ducks Unlimited. I think that in New Brunswick we have a policy whereby no wetland should be destroyed, and if you want to run a road through a certain wetland, you go and see Ducks Unlimited. For a couple of hundred thousand dollars, they'll take care of that new wetland. They're a pretty reputable organization.

If, for instance, the new wetland or new flooded area might need maintenance sometimes, or if something happens to it and it dries up

or floods up, who is responsible for making sure that this habitat continues to exist? That's the question I would ask you.

Mr. Daniel Gibson: I think there are multiple approaches to that. I think that today the proponent, a company like OPG, would be responsible for the offsetting habitat for the life of their project—for the life or the timeline of their nuclear power facility, for example.

In the case of a third party bank, in some cases you would be transferring that maintenance over to that third party. In the case of Quinte Conservation, they are monitoring the Big Island wetland on our behalf. We have a relationship with them to do that, and they are monitoring its effectiveness over the long term.

In terms of maintenance, I think that would be established through the agreement with the third party.

• (1650)

Mr. Pat Finnigan: Okay. Do you have anything, Mr. Norris? Things are good?

Mr. Paul Norris: I would agree with that. Those are some of the really interesting and intriguing policy conversations that would happen underneath the enabling part of the legislation. You're absolutely right to point out that this is a key consideration.

Dan is right. There are multiple ways to address that opportunity. That's the policy work that would be done in collaboration with DFO and with the folks you mentioned, such as Ducks Unlimited, Trout Unlimited, NCC and other people who do this for a living.

Mr. Pat Finnigan: Thank you.

I'll now turn my questions over to Mr. Morrissey.

Mr. Robert Morrissey: Thank you.

Mr. Gibson, you referenced the point that few organizations can afford the cost. Could you elaborate a bit more?

Mr. Daniel Gibson: Sure. In cases of nuclear power facilities or hydroelectric facilities, you're talking about a decade of investment leading up to your project, but a lot of projects aren't that size. A lot of the projects simply aren't as large as these large provincially led investments. To ask a housing developer or some other developer to front those costs five, six, or seven years before their development goes in the ground is a difficult proposition, simply because, under the habitat banking today, you make your investment and then you have to establish the credit system following the investment.

Really, what you're doing is monitoring the habitat for a few years in advance to ensure that the credits are viable and the productivity gains are there. Then you're able to make that transaction afterwards. A lot of other project proponents simply don't have that sort of lead time on their projects.

Mr. Robert Morrissey: How would you recommend that they be dealt with?

Mr. Daniel Gibson: That's a great segue to third party banking, because when established organizations such as Nature Conservancy Canada are making these, it can be a bit more transactional, so you can make a smaller window for that.

As a proponent, you could come to the table with a project. You could have a partner such as NCC with a project that they've already established, and they're looking to trade those credits. You could create more certainty of offsetting—

Mr. Robert Morrissey: You're looking for more predictability—

The Chair: Thank you, Mr. Morrissey.

Unfortunately, Mr. Finnigan said he was sharing his time, not splitting it.

Mr. Robert Morrissey: He was very generous.

The Chair: Now we'll go to Mr. Calkins on the Conservative side, for seven minutes or less, please.

Mr. Blaine Calkins (Red Deer—Lacombe, CPC): Thank you, Chair. I will not be sharing my time with Mr. Morrissey.

Voices: Oh, oh!

Mr. Robert Morrissey: Hey, I didn't ask.

Mr. Blaine Calkins: For our witnesses who are here, I want to first of all say thank you very much for your input.

I guess the concern I have is that the scope of this idea is limited right now to the Fisheries Act. I'll give you an example.

We're dealing with reclamation and remediation projects, such as an oil sands project, which may or may not actually involve a river or a lake. I'll use the example of the Kearn project in northern Alberta, which was a naturally tar-bottomed, small, shallow pond that might have had a number of aquatic species in it, but not any fish any greater than perhaps a stickleback.

Instead of actually having habitat banking in place to restore it in an area where there's not a lot of human activity, we could have restored it to its natural state, which is required by all the environmental legislation both federally and provincially, and we could have had an enhanced offset by enhancing a fishery or perhaps purchasing some land for sage grouse somewhere else, not near the project.

I'm wondering about this. Is the Fisheries Act actually the right place for this? Is the Canadian Environmental Assessment Act a better place for it?

Mr. Gibson, go ahead.

Mr. Daniel Gibson: I'll probably stay within my wheelhouse on the Fisheries Act, but I don't discount your question. There is an opportunity—I think Mr. Norris alluded to this—for a stackable benefit opportunity. If the Fisheries Act is the enabling legislation, you can look to wetland creation as more than simply a fisheries project. There are opportunities for waterfowl.

I wrote down some statistics here. The Big Island wetland is 16 hectares of ponds and interconnected channels. That's servicing a lot more than just fisheries. There is attenuation of cattail wetlands, and there are 29 species that were not there before, including one listed species at risk that showed up in 2018. There are stackable benefits to habitat creation that go beyond the aquatic environment and into the terrestrial environment, absolutely.

•(1655)

Mr. Blaine Calkins: I'm going to move to you, Mr. Norris. You are the only one so far who has brought up the notion of ecological goods and services or alternative land use services being part of the solution as well. That's a different sense of enhancement. From my experience, that is taking marginal cropland out of cropping and returning it back to a natural state. That might not necessarily be an enhancement, but just returning it back to its natural state.

Do you think that actually plays a role in habitat banking? My understanding is that it's a different thing. How does that relationship of habitat banking and alternative land use services work in your mind?

Mr. Paul Norris: I think what I was speaking about is taking a landscape approach to the notion of habitat banking. In our province, for example, the hydroelectric facilities are managed on a watershed basis. You can envision a habitat banking proposal that looked at a broader scale across the watershed, as opposed to a site-specific scale, and made some investment decisions that provided an overall benefit or more benefit than the site-specific one.

Your question on environmental assessment was a good question as well. The environmental assessment process is a planning process. As I said in my deposition, it is through that process that the proponent goes through the hierarchical consideration of avoidance, mitigation and offset. It's the Fisheries Act in the case of the fisheries or the Endangered Species Act in the case of endangered species that actually puts the outcome of the planning process into an instrument or an authorization. That's why you look to the Fisheries Act through the authorization process, but the thought process begins much more in advance of that, during the environmental assessment process. It's just that this is not the instrument to actually implement the offset measure, whether it's the Fisheries Act or the Endangered Species Act or others.

Mr. Blaine Calkins: Well, we didn't specifically talk about the Species at Risk Act, but it's an interesting idea to use habitat banking as a method of funding or providing resources for actually removing species from the endangered or threatened lists. This is definitely an opportunity that I think is worth exploring.

The other part of it that I wanted to ask either of you to explore with me is the notion of corporate citizenship. Not everything that a company does.... For example, I'll talk about the Buffalo Hills project in Alberta, which is a wetlands project in southern Alberta. Shell Canada put \$6 million on the table. They didn't do that because they were required to through habitat banking for an offset. They did it just because they're good corporate citizens.

If we go down the path of requiring this through reclamation, remediation or habitat banking for offsets, I'm wondering whether we're going to diminish the desire of industry to also provide corporate citizenship, just out of their own goodwill, and how or if you see that being a factor.

Mr. Paul Norris: I think it just builds the tent bigger, to be honest. Whether it's on the environment, social equity or gender diversity, I think corporate citizenship is a cultural phenomenon for many corporations across the country.

I think what this does is build the tent bigger. It brings other people into the potential use of partnerships in terms of habitat banking and offsetting measures. I don't think it diminishes the interest in corporate Canada in doing good things for the environment, because that's part of their culture.

Mr. Daniel Gibson: I would agree. At OPG we have a biodiversity program that is largely seen as being above compliance or outside of the compliance window. One of the programs we support is the Bring Back the Salmon program, which is done through the anglers and hunters association of Ontario.

Mr. Blaine Calkins: You mean OFAH.

Mr. Daniel Gibson: Yes, that's OFAH, and we are the larger corporate sponsor. That is driven largely by the fact that these are the communities we live in and a lot of our staff and workers are members of those organizations. We are making those investments outside of the compliance window, so I wouldn't think it would impact that.

Mr. Blaine Calkins: Finally, do you see any distinction in offsets from the perspective of projects, be they major or intermediate-sized, of which the impact will be lasting? For example, I don't know if there is a requirement for a hydroelectric dam to be removed at the end of its useful life. However, an oil sands project at the end of its life has to be fully reclaimed to the point that you shouldn't know that a project was there in the first place some years after the reclamation or remediation process has taken place. Do you see a distinction or differentiation in how habitat banking would apply in either of those scenarios?

• (1700)

Mr. Daniel Gibson: Well, I don't think we've seen that yet, simply because our generation lasts so long. We're still on our first generation of...

Mr. Blaine Calkins: But are you required to completely remove a hydroelectric dam? What are the current requirements and what are the new requirements going forward? I know that dams that were built 40, 50 or 60 years ago would have had different requirements from those for the dams built today, in your particular case, but what is the plan there? Is there a differentiation, from your perspective, between that and a project such as an oil sands or mining project or any other type of project for which you go in, you do your work, you get what you want and you get out, and hopefully you leave it such that nobody would ever know you were there in the first place? Those are different things, and I'm just wondering, from your perspective, whether that should be reflected in habitat banking policy going forward.

The Chair: Thank you, Mr. Calkins. We will probably have to wait to get an answer from another questioner on that one. We've gone way over time.

Mr. Johns, go ahead for seven minutes or less, please.

Mr. Gord Johns: Thank you.

Thank you both for testifying today. I'll start with you, Mr. Gibson.

In terms of habitat banking, can you see how it could encourage the offsetting of project impacts instead of impact avoidance or minimization?

Mr. Daniel Gibson: That's a great question. I think that comes down to the hierarchical approach that the regulator is bound to pursue, so I can see that as a potential criticism. Having been part of many projects while I have worked in the industry over the past 20 years, I haven't seen that approach. I have seen most of the early consultation with a regulator being specifically focused on avoidance, mitigation and then, as a final solution, the offsetting of the project. I haven't experienced that.

Mr. Gord Johns: Mr. Norris, do you want to speak to that?

Mr. Paul Norris: Yes. We are responsible for the environmental assessment process in Ontario. Our environmental assessment process very clearly maps out the mitigation hierarchy, so you cannot get to mitigation until to you go through avoidance and prevention. I have heard that as well—that everybody is going to leap to compensation—but that's just not the way it works.

Mr. Gord Johns: We have heard concerns that third party habitat banking could be open to manipulation and that it's hard to establish equivalence between banked habitat and what is being damaged. Can you maybe speak to that, Mr. Gibson?

Mr. Daniel Gibson: Sure. I can speak only to the Big Island wetland project. We have an advisory team that includes a research scientist from DFO and different universities. They look at the accounting of our credits. They are actually measuring the productivity of our bank and ensuring that it is performing the way it should. It's not left to industry to show correct performance. It's usually, as in the case of the Big Island project, an advisory group that comes to a consensus that the productivity is what we committed it to be.

I would argue that there are some safeguards there in large projects, but again, those would come through the regulations.

Mr. Gord Johns: Mr. Norris, do you want to add to that?

Mr. Paul Norris: I would point out that the conversation about whether or not an offset works is a conversation that happens whether you are talking about habitat banking or compensation that happens outside of banking. The same observations would be made with respect to a project that was being authorized by Fisheries and Oceans Canada for which specific compensation measures were required by DFO as a result of their authorization. All we're talking about here is being more proactive and shifting that conversation forward and putting those measures in the bank, so to speak, so that when the offset actually happens, we've already done something.

Mr. Gord Johns: We've heard from first nations that there has been a lack of input from them around third party habitat banking. Can you talk a bit about your relationship with first nations around governance and decision-making, how you're determining acceptable habitat credits and how you determine the scope and location of the offset projects and priorities?

Mr. Daniel Gibson: I can try. I may have to get back to you on that one, though. That's a good question for our corporate team at OPG to see what was involved in the environmental assessment in terms of consultation. I don't want to speak on their behalf, but I can absolutely get you that information.

I can only assume that through the environmental assessment process there was consultation with the first nations communities around Big Island as well as around the new Darlington nuclear facility, but for specific roles, I would have to get back to you.

• (1705)

Mr. Gord Johns: Were they doing some of the work on the projects?

Mr. Daniel Gibson: Again, I would have to get back to you. I can't speak off the top of my head.

Mr. Gord Johns: Okay.

Mr. Norris, are you able to comment on that?

Mr. Paul Norris: Yes. Again, I won't speak on behalf of the first nations, but the reality in Ontario over the last 10 years at least, particularly in greenfield hydro development in northern Ontario, has been that the first nations are actually proponents and partners in the projects. They are co-proponents leading the environmental assessment process.

Now, there are still obligations with respect to the Crown's duty to consult with their neighbours and with others, but the reality in our business, at least in this province right now, is that projects are being led by or in partnership with first nations, which makes the whole conversation about how you look at environmental assessments as opportunities to incorporate traditional ecological knowledge. It's a different dynamic from what it was even 10 years ago.

Mr. Gord Johns: Absolutely. Having that indigenous knowledge piece is critical.

Can you speak to some of the concerns and some of the challenges you have had around habitat banking? You have both spoken highly of the positives. Mr. Gibson, do you want to touch on some of the challenges you have had in your experience?

Mr. Daniel Gibson: Sure. Absolutely.

With a large project like a new nuclear project, you're trying to quantify the potential impacts of the facility in advance, so there's a lot of teamwork and a lot of collaboration that go into assessing the impact of the new facility.

Once that is established and you devise a project, you really have to look at quantifying and accounting for the productivity losses and gains. That accounting process, I think, has been a long process for OPG. It has not been one that we have been straying away from, but it has been a detailed process.

Again, I can't speak to the economics of it today, but we are annually looking at the productivity of the Big Island wetland to ensure that it is offsetting the potential impacts of the facility.

Mr. Gord Johns: Great.

Mr. Norris, I'll go back to you. Do you have any kind of feedback on the challenges?

Mr. Paul Norris: Yes. I think I mentioned in my remarks that I had the pleasure of sitting on Ontario's Ministry of Natural Resources and Forestry Wetland Conservation Strategy Advisory Panel. We were tasked under the previous government, over a period of about six months, with providing advice to government on an offsetting policy, which is really what we're talking about here. Incorporated into that was a conversation about habitat banking, which is what we're talking about here, and third party habitat banking.

In my experience, the notion of enabling the concept is not the hard part. That's what I think the Fisheries Act should do. Where the rubber hits the road, as I said in my deposition, is with getting down to the regulatory framework—how it's going to be administered, what's going to count, and what the policy framework around implementation will look like. It's all useful work, and work and thought that have been done before.

Mr. Gord Johns: Do you think first nations—

The Chair: Thank you, Mr. Johns. Your time is well up.

We will now go back to the government side and Mr. Hardie. You have seven minutes or less.

Go ahead, please.

Mr. Ken Hardie: Thank you, Mr. Chair.

Thank you both for being here.

When did you do that work on the wetlands for the Big Island project, Mr. Gibson? Do you recall?

Mr. Daniel Gibson: I'm looking through our notes. We're doing annual reporting, so I have our annual report here for 2018. I believe that project was undertaken around 2013.

Mr. Ken Hardie: All right.

The way I put my head around this notion of third party habitat banking is that you have a project. You will go through the avoidance and mitigation, but you see some net detriment. You will go out then and look for somebody who has done something good, and you basically buy those credits from them.

I would presume, if we're looking at the regulations, that the regulations should more or less say that whatever you buy should be equivalent to or even a little better than what you have lost.

That then suggests that if somebody has proactively gone out and has worked on some sort of restoration or whatever, it would take some time to find out exactly how effective that has been.

What kind of lead time would somebody who wants to be in the business of third party habitat banking have to be working with? How would they know, for instance, that a company the size of yours was planning something that they would maybe get to work on to get your business?

This is right down into the cogs and wheels of this thing. I'm interested in seeing how that would work.

• (1710)

Mr. Daniel Gibson: Absolutely. I think there are a lot of examples in the States of how these banks get established and who invests in them originally to get them going, but productivity does change over time.

In the case of OPG's Big Island wetland, I believe there was a hypothesis or a projected productivity credit. What would the credits look like in year two, year three, year four and year five? As wetlands age, they actually become more efficient and more productive in their capacity. There is that level of technical expertise that comes to the table and starts talking about those things.

Specific to someone going out and doing that work, often organizations like OPG don't necessarily have the in-house technical expertise to do that type of work. There are speciality organizations that do, so in allowing that partnership to happen, again, you can almost guarantee better outcomes when you have an established bank, established credits and established productivity. If I have to come and buy 10 credits from you, the regulator can insist on my buying 12 and ensuring there's a better outcome for any uncertainty associated with the project.

Mr. Ken Hardie: Ducks Unlimited has come up a few times. Of course, they're quite well known for going out and restoring habitat, though what it kind of sounds like is that if they go out and do work that they were going to do anyway, all of a sudden we're giving them an opportunity to monetize the work that they were going to do anyway.

We may still end up with a net loss of habitat if they've done the work that they were going to do anyway. It's not as though they're going to go out and do additional work to offset the damages caused by a project. Do you catch me on this?

Mr. Daniel Gibson: I can, provided that there are no limitations on their ability to do the work today. If there are no capacity issues or no financial limitations to these organizations going out and doing more, then I would agree with you, but if there are organizations that are looking to take on these opportunities and these types of projects and they have that limitation of finances, then there is an opportunity for corporations like OPG to play a role, I think.

Mr. Ken Hardie: Maybe we'll go to you, Mr. Norris, and get Mr. Gibson to chime in.

We've heard from our previous witnesses that the legislation would just enable third party banking to take place, but that the essential elements of the regulations would really define how well it's going to work. I guess I would ask your advice. What would you see as the essential elements in regulation that would make something like third party habitat banking work in the public interest?

Do you have any thoughts on that?

Mr. Paul Norris: Yes. It's a great question.

I think that in regulation you would have to give some thought to whether you are going to define which organizations or types of organizations would be eligible to be offset providers, right? You would certainly need to have some stipulation around the notion of tradable credits and what they look like. All of those things would have to be outlined in the regulatory framework for sure.

Mr. Ken Hardie: Mr. Gibson, do you have any thoughts?

Mr. Daniel Gibson: I was just going to add to that. I'm writing them down as I'm listening to Mr. Norris.

One is transparent debit and credit systems, something that the Canadian public would have confidence in. Another is a science-based and evidence-based approach, such as science advisory committees or a centre of expertise within the DFO. Right now, DFO has a centre of expertise for hydroelectricity. I believe it's in Manitoba. A similar type of centre of expertise on the habitat banking regime would be appropriate.

Right now, we have proponent-led habitat banking, which is good, but for the broader audience or the broader groups outside of large corporations like OPG or, as I think was mentioned earlier in the testimony, the harbour in Vancouver—

• (1715)

Mr. Ken Hardie: Port Metro Vancouver.

Mr. Daniel Gibson: Yes, Port Metro Vancouver. Thank you.

For smaller players, that sort of science advisory group within DFO would be beneficial.

Mr. Ken Hardie: Do you see any risks or perils in turning something like this into a commodity? It seems, especially with all of the stuff that goes on in the world of high finance—which I don't pretend to understand—that you do get market distortion. You get all kinds of things happening. I would hate to suggest that we're going to see money laundering coming into this, but Lord, it's showing up everywhere. Is that the sort of thing that you would also need to ensure the regulations would cover off?

Mr. Daniel Gibson: I have no expectation of the timeline according to which regulations would come forward through DFO. I think what we're looking for, and sort of supporting, is enabling legislation to get it started.

I share your concerns. I think that's what smart regulations are for. I think all the associations you have heard from today would be happy to sit around the table with DFO to try to support their development.

Mr. Ken Hardie: Thank you.

The Chair: Thank you, Mr. Hardie.

Now we will go to the Conservative side for five minutes or less.

Go ahead, Mr. Arnold.

Mr. Mel Arnold: Thank you, Mr. Chair.

Thanks to both of you for being here today for this certainly interesting testimony that we have heard around habitat banking and so on.

I want to refer to some testimony that we heard back in December of 2017. Dr. David Schindler stated that the Liberal Government of Canada pan-Canadian framework on clean growth and climate change presents three scenarios for replacing fossil fuel power with 100,000 megawatts of hydroelectric power. He stated that this new capacity of hydroelectric power would require building 100 facilities the size of Muskrat Falls or Site C by 2050.

How much habitat banking would have to be amassed in order to offset the construction of 100 facilities the size of Site C or Muskrat Falls?

Mr. Daniel Gibson: You're asking a very hydro-centric question, and I'm happy to try....

I can't quantify that; I'll start with that. However, the idea of developing hydroelectricity and developing reservoirs is a question of how you perceive the development. There is change on the landscape. When you create a reservoir, you're changing a riverine environment to a lacustrine environment, and that is change.

However, to look at it from a different angle, Lac Seul is a huge lake in northern Ontario that was once a river. It has been turned into a world-class wildlife fishery largely because of controlled water and controlled waterpower. In that situation, you've created a very massive reservoir in which, you could argue, the productivity of the fishery has increased as a result of the development, but it was developed first for hydroelectricity.

I have had many conversations with DFO about this, and that's not how they view the Fisheries Act and not how they view compensation offsetting. However, habitat is created when you create large lacustrine environments.

That may take a little bit of a perception change, but to enable that much hydroelectricity to be built.... I'll use another example. The Lower Mattagami River was once a river, and now we have a very slow-moving lacustrine environment that is arguably much more productive than it was in its original state. Wetland has been created, and we now have waterfowl showing up on the backwater wetland pockets. We don't see that as a net benefit of the project; it's just a by-product of the project.

Mr. Mel Arnold: Thank you.

I'll ask you both to comment on this one. We've heard statements that this system of habitat banking and offsetting is new. I would counter with the statement that it's not—it's been in existence for some 60 years with the Columbia Basin Trust fund, which sees money coming from the U.S. into Canada for fisheries projects, for fish habitat projects, because of the impacts the damming of the Columbia River has had. It is now dammed in 12 or 13 different places, some in B.C. and some in the U.S., and compensation comes to Canada and goes directly into fish habitat projects throughout the region from that.

Would either of you comment as to other projects that you know of, in which this type of habitat banking or habitat compensation has been taking place? Would you agree that it's not a new concept?

Mr. Daniel Gibson: I think you're specifically speaking to sea-run or oceanic fisheries in which salmon come into and out of a river every year. We don't necessarily have many of those per se in Ontario.

● (1720)

Mr. Mel Arnold: Funds from the Columbia Basin Trust were actually going into non-anadromous species, resident species that weren't sea-run.

Mr. Daniel Gibson: To your point, it has been around for a long time.

Mr. Paul Norris: It is a different model, because what you're talking about there is the investment of financial resources directly into a trust fund, which then administers the outcomes that are desired. There's an intermediary there.

Mr. Mel Arnold: It's not actually—

Mr. Paul Norris: What's a little bit different here is that.... Pardon?

Mr. Mel Arnold: Sorry; in that case, it's not the proponent that is doing the work or the offsetting. This isn't something new that.... What's being restricted is proponent-only offsetting in the—

Mr. Paul Norris: Yes, it's just a different model.

Mr. Mel Arnold: Thank you.

You indicated that you have seen net habitat gains from some of the projects that have been done.

Mr. Daniel Gibson: I'll expand on that comment.

My meaning was that you can have the assurance of having a productivity net positive, a net gain in productivity. A lot of what happens with the existing regulatory regime is that you have some uncertainty with your offsetting plan. If you're going to permit a project and you're going to authorize an activity, there is some uncertainty associated with the effectiveness of that offsetting. Through habitat banking, you can gain more certainty, because the project is built in advance.

Mr. Mel Arnold: Thank you.

The Chair: Thank you, Mr. Arnold.

I'll take this time now to thank both of our witnesses, Mr. Gibson and Mr. Norris, for their presentations here today.

To be truthful, I thought when we took this on that it was going to be a bit of a boring conversation, but it certainly hasn't been. It's been of interest, I have to say.

Thank you both.

I'm going to suspend for a minute to do a little bit of committee business to talk about what's happening next week.

Thank you.

[Proceedings continue in camera]

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