



House of Commons
CANADA

Standing Committee on Fisheries and Oceans

FOPO • NUMBER 030 • 1st SESSION • 38th PARLIAMENT

EVIDENCE

Thursday, April 7, 2005

—
Chair

Mr. Tom Wappel

All parliamentary publications are available on the
"Parliamentary Internet Parlementaire" at the following address:

<http://www.parl.gc.ca>

Standing Committee on Fisheries and Oceans

Thursday, April 7, 2005

• (0935)

[English]

The Chair (Mr. Tom Wappel (Scarborough Southwest, Lib.)): We're ready to proceed. Thank you. I call the meeting to order.

Pursuant to Standing Order 108(2), a study on the Rouge River watershed, from Friends of the Rouge Watershed we have Jim Robb, general manager. Do we also have David here? No? Okay. So we have you here, Jim.

Just so you know, other members may come, but we have Shawn Murphy, who is parliamentary secretary to the Minister of Fisheries and Oceans, and Mr. Jean-Yves Roy, who is the official critic of the Bloc Québécois for Fisheries and Oceans.

You have up to 15 minutes to make a presentation, and then there is questioning, but give me a second so I can position myself to see what you're going to offer us.

Mr. Jim Robb (General Manager, Friends of the Rouge Watershed): While people are getting into position, I'll just introduce myself and give a little bit about my background. My name is Jim Robb, and I have bachelor of science degrees in forestry and environmental studies from the University of Toronto. I've worked on watershed issues for over 20 years, and I was involved with the creation of the Rouge Park. I also worked for six years as the vice-chair with the Ontario Environmental Assessment Board and the Niagara Escarpment hearings office, so I've had experience right from the grassroots level up to the provincial adjudication level.

It's a pleasure to be here today, and I want to thank MP Tom Wappel and this committee for allowing us to speak. I want to thank the staff and Mr. Latimer for helping to facilitate our presence here today and for getting the gear ready for our presentation. I also want to say a few positive things at the beginning.

The Government of Canada has played a leadership role in the creation of the Rouge Park, and it's something the government can be very proud of. It's also played a leadership role in helping this park to have massive community involvement through programs of Human Resources Development Canada, the Great Lakes Sustainability Fund, EcoAction, and a number of other federal programs. So we have very positive things in general to say about the federal government's involvement in the Rouge watershed and park.

Today's presentation will be a bit of a critique of an area of the real problem in the watershed. Without further ado, I'll begin, if I can get the signal back up. I'll give you a little bit more background while we're getting the thing set up.

In the Rouge watershed a number of projects are going on. It's a watershed located in the greater Toronto area, in one of the most densely populated areas of Canada, yet we still have biodiversity that's outstanding anywhere in Canada. We just have an amazing... we have 55 species of fish still in the Rouge River, including Atlantic salmon, rainbow trout, brook trout, and a federal species at risk called the redbreasted dace. So we still have a fairly healthy watershed here.

The Rouge is also located within the Toronto remedial action plan area, so it's part of the Great Lakes water quality initiatives, an international initiative between the United States government and the Canadian government to clean up the Great Lakes. The context—why we need to protect this fish habitat—is the fish are literally the canary in the coal mine for ecosystem and watershed health. We have several million people who depend on this water for their drinking, their recreation, and their general quality of life, and if we can protect the fish habitat and do a good job on that, indirectly we are protecting the health of Canadians, which in the long term puts on less of a tax burden and allows money to be used in other programs governments need it for.

The project I'm here to talk about is a large sewer project called the York-Durham sewer. It's designed to accommodate the next 30 to 35 years of growth in the greater Toronto area, particularly in York Region. York Region is located north of Toronto. It extends from Steeles up to Lake Simcoe—from the edge of Toronto all the way up to Lake Simcoe—and from approximately over near Highway 400 to Durham and Pickering, which are a little to the east of Lake Simcoe.

This big pipe, as it's called in the newspapers, is about two to three metres in diameter. Unfortunately, York Region did not do a proper environmental assessment on this; they're putting a human sewage pipe, two to three metres in diameter, 150 feet in the ground in the middle of drinking water aquifers.

So we'll begin the presentation.

We really question whether DFO is doing enough here to apply the Fisheries Act, the Canadian Environmental Assessment Act, and international treaties.

The goal of Friends of the Rouge is to protect and enhance the Rouge watershed and park. We do monitoring, planning and protection work, environmental education outreach.

● (0940)

In our biggest activity, we involve nearly 3,000 young people and community members each year in the planting of over 30,000 trees and wildflowers in the Rouge Park to restore and reconnect ESAs and wetlands. We've won a number of awards for that work. The Government of Canada has been a big partner through Great Lakes Sustainability, EcoAction, and Human Resources Development Canada.

We involve young people in our work. We have co-op students from high schools involved. So we have a nice program that works in cooperation with local school boards.

The Rouge Park is a beautiful area, and politicians who visit never fail to be impressed by its majesty. One of our photos shows MP Derek Lee out with some of the Great Lakes Sustainability staff for a tour.

There's a big block of federal lands to the north of the park and a big block of provincial lands to the south. So there's a tremendous opportunity to create a link between Lake Ontario and the Oak Ridges moraine.

Rouge Park contains over 10,000 hectares, which is 100 square kilometres. It has many vegetation communities, over 762 plant species, and over 55 fish species. We have nationally rare or at-risk species in many areas of the park—ginseng, dense blazing star, reaside dace, red-shouldered hawk, and others.

This park is accessible by public transit to millions of people. We don't have a provincial or federal park right in the GTA, but we have the Rouge Park, which offers people an opportunity to see the wild lands near the city.

The Rouge flows from the Oak Ridges moraine through five municipalities and federal ridings in Toronto—Richmond Hill, Stouffville, Markham, Pickering—before emptying into Lake Ontario. It has spawning areas for migratory trout and salmon, and it supports a multimillion-dollar recreational fishery. The large yacht basins at Bluffer's Park in Scarborough and along Lake Ontario are now generating economic revenues because the Great Lakes initiatives have made the lake cleaner over the last few years. We need to protect fish habitat so we can continue the advances we've made. There are a few reasons why we think it's important to protect fish and their habitat.

The GT area is also very popular for the tourism and film industries, and quality-of-environment issues are important. Literally dozens of major films have been made in the Rouge over the last 10 years. They can do city and country shots, all in a fairly small location. So it's important to the economy of the region.

Right in the city of Toronto, at the end of a TTC ride, you can actually fly fish and catch trout. I've seen them pull 20-pound brown trout out of the Rouge and 30-pound salmon.

The GTA greenbelt is an excellent provincial initiative. On the west end of Toronto, we have this beautiful north-south link, the Niagara escarpment, right near this huge urban blockade. The Rouge and the Duffins are an oasis, one of our last chances to protect a healthy group of streams that still have trout and healthy fisheries. That's why we want DFO to work hard in these areas.

The federal government has dedicated part of its lands in north Pickering to the extension of the Oak Ridges Moraine Preserve. We have a photograph of Minister Collinette and Dan McTeague visiting. Louis Yeager is the general manager of Rouge Park.

● (0945)

The federal lands are up here. The federal government owns 75 square kilometres. They're considering a regional airport in there, but there's plenty of room to extend this reserve. As to the provincial land, they own a large swath here of 32 square kilometres, and the premier has promised to keep two-thirds of that green space. This is the agricultural preserve. It has been very controversial, but it has been included within the greenbelt. This is the Rouge Park.

Going back to the York-Durham sewer, they're building this large inter-regional sewer. It will extend all the way up to almost Lake Simcoe, Holland Landing, and East Gwillimbury, and then drain sewage from an area of hundreds of square kilometres down to Lake Ontario at Duffins Creek. Despite the size of this project, it was never submitted to an individual provincial or federal environmental assessment, and as a result, it's causing serious harm.

As I said, it's being tunneled deep within the aquifers. In order to build this huge pipe deep within the ground within the aquifers, they have been sucking water out at the rate of 50 million litres per day. If you want to put that into a visual context, if you had a backyard swimming pool the size of this room.... Let's put it in this room's context. At 50 million litres per day, if the pipe were coming into this room, it would fill up this room halfway within two minutes. That's how quickly they're dewatering.

What it's doing is lowering the water table. That means streams—trout streams and habitat for reaside dace—are going dry, wetlands are going dry, and hundreds of wells are going dry.

These are just two of the pipes discharging. Those are 12- to 14-inch diameter pipes, and there are several of them.

The Rouge Park Alliance is a group of municipal councillors and federal representatives. Derek Lee and Dan McTeague sit on the committee. John McKay has sat on the committee. This is a letter they wrote to the minister last April.

They indicated that:

dewatering of the middle aquifer has...been found to be depleting the surface aquifer on a wide scale, resulting in impacts on streams, wells, aquatic ecosystems....

the reduced flows in our tributaries and the abnormal conditions in the discharge receiving stream are classic examples of harmful alteration, disruption and destruction of fish habitat (HADD) as defined in the Canada Fisheries Act.

The Rouge Park chair is a former Assistant Deputy Minister of Natural Resources and a fisheries expert. He's the guy who wrote this letter. He knows what he's talking about. The Rouge Park general manager is a former provincial cabinet adviser. So you have two people who know their stuff writing this to the minister saying there's already HADD.

They go on to request that the Minister of Fisheries, Minister Regan, refer the matter to the Minister of the Environment for an environmental assessment. They talk about how the impacts are basin-wide and are influencing the Toronto area of concern and remedial action plan.

This is the area of predicted aquifer impact if they triple their current dewatering. It has a 10-kilometre radius, approximately. So the area of aquifer impact is 300 square kilometres. It covers most of Markham, parts of Richmond Hill and Pickering, parts of Scarborough, and parts of Stouffville. So it covers five federal ridings, or it infringes on five.

Within that area, at the centre of that circle, the aquifer will be drawn down 40 metres. That's the equivalent of a 12- to 14-storey building—picture that, the House of Commons over there—and it's 300 square kilometres. In the aquifer, the zone of impact slopes out to the side. So at the very edge of that line, it will only be drawn down a metre or two. But picture how large a lake that would be. They're taking, essentially—we feel, robbing—that water from people's wells, from streams, and from wetlands, and they've done it without a federal EA and without a proper provincial EA.

This is what MPs Tom Wappel, Derek Lee, and Jack Layton said, generally, in a letter to Minister Regan:

I am asking that...you request the Minister of Environment to order a Comprehensive EA of this project....

A federal EA is needed to identify alternative ways to satisfy the purpose of the York Durham sewer twinning and extension without depleting important groundwater resources and without harming sensitive fish and wildlife habitat within the Rouge River Watershed and the [Oak Ridges Moraine].

● (0950)

This is what Minister Thibault said to us in a letter almost three years ago now:

Those projects that the TRCA reviews and determines are likely to cause a HADD [a harmful alteration of fish habitat] are referred to DFO for a decision under section 35 of the Fisheries Act.

A decision to issue a subsection 35(2) Fisheries Act authorization is a trigger under the CEAA, which requires DFO to conduct an Environmental Assessment of the proposal.

So we've been writing on this issue for over three years now.

This is what happened in phase one of this project. This is where they discharged the groundwater into the stream; they didn't even have a channel. The deep water is very heavily mineralized. It has a lot of iron and has phosphorous, magnesium, and some ammonia in it, and this is what it did. This little Rouge stream you see there is home to hundreds of spawning trout and reddsides, yet this is what happened. This occurred over a two-and-a-half-year period without it being stopped, despite our protests.

That's what the rocks look like in the discharging water. They're covered with about a quarter to a half-inch of scum from the discharge.

Further upstream the groundwater had been lowered in the water table so much that trout streams and areas for reddsides were completely dried up.

Lower down in the Rouge, a stream that normally would be about a foot and a half deep was about two inches deep. This stream here, the Little Rouge River, has been selected by the Canadian

government as one of the best chances to bring back Atlantic salmon to Lake Ontario.

This happens to be Bob Hunter of Citytv out doing a story on it. They've done a number of stories.

This was just a year ago and a bit. Minister Regan wrote to me and said the TRCA have to determine that, as proposed, the construction of the 16th Avenue sewer was likely to create a HADD and they've referred it to DFO for a decision under subsection 35(2).

Now, if you recall, the earlier letter from Minister Thibault said if that happened, it would trigger an environmental assessment federally, that is, if DFO had to issue a subsection 35(2) permit. DFO went back to York Region and said, let's make an agreement; we know you don't want to do an environmental assessment and we don't want to do it, so let's figure out a way we can do this without having to do an EA.

Through freedom of information we have minutes of meetings in which DFO and MOE schemed—and it's the only word I can use—to circumvent the Canadian Environmental Assessment Act federally and the Fisheries Act. It's really sad. They agreed amongst themselves to not enforce the legislation and to not require the application of the Canadian Environmental Assessment Act despite this huge \$800 million project—that's how much the project is worth. Sixty kilometres in length, it dumps into Lake Ontario up to 700 million litres of sewage a day and is pumping 50 million litres of groundwater per day, and despite all these things, despite what the Rouge Park Alliance has said and what members of Parliament have said, DFO has not applied its legislation.

This is a little bit more from the letter from the Rouge Park.... DFO went back to York Region and said, let's negotiate an agreement here; give us some mitigation and we'll declare there is no harmful alteration of fish habitat after mitigation. Well, despite best efforts, you cannot fully mitigate this kind of project; it just can't be done. The Rouge Park chair, again, writes to them and says there is no other example of such a mitigation plan being attempted, let alone succeeding, particularly at the scale anticipated and over the time period.

They also pointed out that the mitigation plan only refers to a few streams the consultants consider important, but the Fisheries Act applies to all fish habitat. They're basically saying that for a few streams that are important, we're going to pipe water to them and keep them flowing. Other Rouge streams are going to dry up, so they haven't addressed the full issue.

Then, in an e-mail to the conservation authority in August 2004, a DFO staff person says the bottom line is that it's experimental and may not fully work.

●(0955)

In fact, in November of 2004, a workman who was working on the pumps that pump out the groundwater and push it through pipes to keep the streams flowing turned off the pumps accidentally just overnight. Hundreds of metres of trout streams stopped flowing, and fish died. There are investigations under way about that. In fact, there was monitoring before the event and after, and there was a significant reduction in fish biomass and diversity. We've established that there is a HADD and there was a HADD.

Great Lakes United, which is an international coalition on the U.S. and the Canadian side of the border of anglers and hunters, first nations, environmental groups, community groups, and unions passed a resolution and forwarded it to the minister in July 2004 saying that in light of the new information there is a need to do a full environmental assessment.

The Toronto Star has done a couple of full-page and some two- or three-page coverages of this story, in July of 2004 and January 2004. *The Toronto Star*, as an editorial board, I think took a really strong stance in the protection of the Oak Ridges moraine as the greater Toronto area's rain barrel. This project is essentially smashing the rain barrel. It's basically putting a huge hole in the rain barrel and draining away all those aquifers and water. So it's had big press coverage. It will also continue to have press coverage.

The worst thing about this is, the longer it goes on the worse it's going to get. There's a real possibility that as the aquifers drop lower and lower they will not fully rebound, because sometimes the soil shifts underground when you dry it out, wet it, and dry it out, and sometimes that changes the pathways groundwater uses.

But even if that doesn't happen, York Region plans to be dewatering for various parts of this project for a decade, and they admit that the longer they dewater, the longer it will take to rebound. They estimate for each year they dewater, it'll take a year at least to rebound to 80% of what it was. That means for the next 20 years this watershed—the Oak Ridges moraine and the Rouge River system and surrounding streams—are just going to be devastated.

Why is DFO failing to apply the legislation? We've done a lot of research. I've gone through thousands of files. I've looked at what happened. I've gotten stuff through freedom of information, including minutes of meetings, and I think I understand. I totally disagree with it, but I think I know what's happened.

The first thing is that political pressure and influence are trumping science. We have seen this happen before: in the cod fishery on the east coast; we've seen it happen elsewhere in fisheries. It has disastrous outcomes. In this case, what happened is York Region hired Warren Kinsella and Navigator to help them get access to the government. In fact York Region.... We asked the minister several times, over a period of three years, if we could meet with him and his senior staff and we never got the opportunity to state our case. York Region and other people have been up and have spoken to the minister and the minister's staff at least once, perhaps more times. Basically, it's a case of unfair political influence. Warren is a great guy, has amazing skills, and is a hard guy to go up against when you're in a battle like this; we don't have the access.

So that's one of the reasons—political influence.

The other thing is there's a lot of development money in this, and speculation. This is meant to open up lands in York Region owned by private developers that can make a lot of money and can produce new homes. They have an amazing amount of clout.

In fact, they're funding this. They're putting 80% of the \$800 million up front through development charges. So there's pressure there.

Another problem is DFO has a level three agreement with the conservation authority, and the problem here is the conservation authority is funded by York Region and the municipalities. I have been told by people within the conservation authority that York Region has bluntly—in fact the word used was “blackmailed” the conservation authority to give them approvals before they were ready, and perhaps even when they don't think they should be given, by basically saying, we fund you; play ball or we're not going to fund you.

●(1000)

That is devastating. It's wrong and it amounts to leverage. If you want to use a strong word, it's extorting unfavourable decisions. And I think it's a systemic problem that really needs to be addressed.

The other thing is that there has been almost no DFO or TRCA or public involvement in the consideration of alternatives. If York Region had done a good environmental assessment, respected engineers have told us, they wouldn't have chosen this way. There are other ways to build the pipe, either above the water table or by using different techniques that don't require this massive dewatering.

In fact, York Region actually tendered the project for a different technique called earth pressure balancing that requires less dewatering, but the company that bid said it could do it the way that was asked or it could do it this way and it would be cheaper. York Region chose the cheap way, which, by the way, involves a lot more dewatering. It could have been done an alternative way and we wouldn't have hundreds of wells going dry, we wouldn't have streams and wetlands being impacted, and we wouldn't be in this dilemma. But York Region's engineers literally had tunnel thinking.

Also, DFO relies too much on proponents and consultants. The proponents are working for the consultants. That's who they reply to. He who pays the piper does call the shots. Even though there could be very good consultants, very professional, who give good advice, the tendency is to stretch the envelope in favour of your client. When DFO is relying on that information without having more independent advice, it's relying on skewed information.

Next is that DFO I think believes that it doesn't have the staff and resources to do proper environmental assessment reviews, so it avoids them at all costs. I went on the government website and I couldn't believe it. I saw Canadian environmental assessments for projects I wouldn't believe they were taking the time to do them on. Projects 1/1000th the size of this were having environmental assessments done, while an \$800 million project affecting a 300-square-kilometre area of aquifers doesn't get an EA. To me, it's not logical.

Another problem is that conservation authority staff really haven't been doing fisheries that long. There used to be an agreement with the Ministry of Natural Resources. Then with the Conservative government in provincially, I think there was friction. They were trying to play hardball in terms of finances, and the minister went elsewhere.

Conservation authority staff now have it and they do not really have the level of experience with fisheries to do this job consistently well. They also don't have the level of experience with environmental assessment in hydrogeology. In this case, hydrogeology—groundwater environment—was key. At the time they were studying this, TRCA did not have those people on board.

The next thing is crucial. The thing about declaring a HADD is that if you have total discretion, if there aren't proper guidelines on what constitutes harmful alteration, you basically encourage this kind of "let's make a deal" thinking. There should be really good guidelines. If you're going to be removing this amount of groundwater, it should automatically be a HADD because you know something's going to go wrong.

In fact, in the comprehensive study list in the Canadian Environmental Assessment Act, if you're removing more than 200 million litres of groundwater per year, a comprehensive environmental assessment is required. In this case, they're removing 200 million litres of groundwater in four days. This deserves a federal environmental assessment, particularly since it didn't have a proper provincial one.

Again, the conservation authorities are basically municipal councillors. Municipal councillors have already voted on planning issues as councillors and they're encouraging development. Then they come to the conservation authority and they see a proposal that comes forward that says this might have impacts. In a lot of cases they bypass the impacts and just approve it—not all, but in a lot of cases. So their minds are more set on development because they understand land-use planning but they don't understand fisheries matters.

We also don't have sufficient accreditation of fisheries consultants. There should be a list of consultants and they should really be rated in some way on their past performance—whether what they said came true, whether the impacts are worse, whether they lived up to their responsibilities. We need some sort of accreditation. A lot of guys who hang up a shingle and say they are fisheries guys...it's really questionable whether they have the skills and whether they have the professionalism to do the job. There's no accreditation right now.

The next thing is monitoring, enforcement, and prosecution, and last are performance bonds. We need to have heavy-duty financial assurances, so that if proponents say they're going to do something and they don't do it, by right, somebody should be able to reach into the money and make sure it gets done. We need those kinds of things as tools for our people.

• (1005)

Lest you think I'm being unduly critical, if you read any of the last three reports of the Ontario environmental commissioner, they were fairly scathing in terms of the Fisheries Act and the lack of its application. This is just one quote, and I don't think it's the worst:

...Ministries appear to be undermining the power and viability of the Fisheries Act by squabbling about enforcement responsibilities under the legislation...and the legislation is not being effectively used to address water pollution threats and promote sustainable aquatic ecosystems.

I do not fully understand your responsibilities, but I have been told that you report to the House of Commons and the House of Commons gives direction if it wants to.

There are three things we would really like you to do. We would like you to ask that this York-Durham sewer project be required to get a fisheries authorization under section 35 of the act and that it be required to undergo an environmental assessment federally.

Secondly, we'd ask that the Minister of Fisheries and Oceans and his department strengthen the application of the Fisheries Act and the Canadian Environmental Assessment Act, not only to protect fish habitat but also to protect the water that we all depend on. The Fisheries Act is your tool; it is one of your best tools to protect the quality of our water and ecosystems—and even human health. Don't leave that tool in the drawer; make sure it gets taken out and used.

That is the end of my presentation, and I'd be happy to answer questions.

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

Committee members, our researchers prepared briefing notes and some questions as well—plus you've heard the presentation now.

The way this works, Mr. Robb, is that there is a predetermined order of questioning that we always follow.

We'll start with Mr. Kamp.

Mr. Randy Kamp (Pitt Meadows—Maple Ridge—Mission, CPC): Thank you, Mr. Chair, and thank you, Mr. Robb.

I need to begin with a confession that until a couple of days ago, I had never heard of the Rouge River. If I sound somewhat ignorant, it is because I am.

Mr. Peter Stoffer (Sackville—Eastern Shore, NDP): Can I use that in the campaign?

Some hon. members: Oh, oh!

The Chair: It has to be put in context then!

Mr. Randy Kamp: Oh, so that's on the record, is it?

But just about the Rouge River!

Thank you for a very informative presentation. I assume that those who are wanting to do this say it is a short-term plan to dewater, as you call it, and once that's done everything will return to normal. Is that what they are saying? What is your opinion about that?

Mr. Jim Robb: That's an excellent question.

That has been the selling thing, and I think it is very misleading. If you took away your oxygen for ten minutes and then gave it back, it wouldn't make any difference: you'd be dead. If you take away water from fish habitat for a several-year period, it is not going to matter much, as the fish will be dead.

Not only that, but they are also not telling the truth, because they've taken the project and broken it up into little pieces and never looked at the big picture. In using the little pieces they say, "We're only going to be dewatering here for three years, and three years after we stop here, the water's going to rebound back to 80% of its former levels". Just after they finish that section, they're going to be dewatering over here and then over here. They are going to be dewatering for a period of approximately ten years. If it takes an equivalent time for the water to rebound, and they're going to be dewatering for at least several years to ten years, the water levels are going to be lowered for a period of seven to twenty years.

What we have found is that people don't understand the hydrogeology. The middle aquifer is huge, stretching right across the greater Toronto area. When you create a big, 300-square-kilometre depression in that aquifer, and if you stop dewatering, there is so much water in the sides that it flows back in, and within a year or two it's up to 80% of where it was before. The aquifer that supports the streams is the upper aquifer; it is a bunch of tiny little aquifers. When you allow those aquifers to drain away, it could take decades for them to come back.

So I think a misleading message has been sent, and it's a dangerous message. It is very misleading.

•(1010)

Mr. Randy Kamp: Is there a disagreement between, say, yourself and those who want to do this project on what the long-term or even the short-term or mid-term environmental impact will be?

Mr. Jim Robb: It's not only us. A lot of the information I have comes from hydrogeologists. When I worked at the Ontario Environmental Assessment Board for six years, I worked on adjudicating hydrogeological issues, so I know the issues reasonably well. For six years I heard legal arguments and experts, and I have a background. Yes, there's a disagreement between me...but there's also a disagreement among hydrogeologists.

Let me just give you a little bit more. If you're lowering the aquifer 30 to 40 metres, and you say in three years it will be back to 80%, that still means it's going to be six metres lower. Six metres lower is 20 feet, and 20 feet means that a stream that used to have water could still be completely dry. I think they're misleading the decision-makers, and they're misleading people who don't understand groundwater and hydrogeological issues as well. I think it's a dangerous thing they're doing.

Mr. Randy Kamp: Although there was no environmental assessment done, I assume they do have hydrologist reports and so on that disagree with your conclusions.

Mr. Jim Robb: No, actually, I think I'm going from their own reports largely. When I say it will take three years for the aquifer to rebound from this project to 80%, that's directly from their own reports. Also, they admit themselves, have admitted in public, that the environmental work they've done was totally inadequate for phase one. In phase two, they've tried to do a better job.

Let me give you an example. In phase one, they predicted that the area of aquifer impact would extend approximately 500 metres from the dewatering sites. It ended up extending 10 kilometres. They were wrong by a factor of 20. As I said in the letter to the minister, they have shown no ability to be trustworthy on this project. They have consistently underestimated the impacts by huge factors, a factor of 20.

I think that York Region has been so anxious to get this under way, and to do it, that they've been doing it quick and dirty. Who's the dirt going to end up on? It's going to end up on the people who let it go through, because in another three years, when the chickens come home to roost in this, and the waters have dropped and the streams are drying up and the aquifers and people's wells are going dry—there are already 100 wells that have had to be replaced and there are hundreds more that will need replacing if it goes ahead—who are they going to point the finger at? They're going to point the finger at the Ministry of the Environment provincially, and the government, and they're going to point it at the Department of Fisheries and Oceans federally, and the federal government. York Region was the one that talked you into this with very misleading information.

Mr. Randy Kamp: At this stage of the construction, is there a solution?

Mr. Jim Robb: Yes. We've talked with top engineers, some of the top ones in the city of Toronto, and there are a number of possibilities. For one, they're planning to service all these communities like Newmarket, Aurora, East Gwillimbury, and Holland Landing, that are on the north side of the moraine. It makes no sense to pipe sewage 60 kilometres from the north side of the Oak Ridges moraine, down through Markham, Richmond Hill, Scarborough, all the way to Lake Ontario and Pickering. Those communities should have their own state-of-the-art sewage treatment facilities. You can do it now in such a way and you can put it through wetlands—you can build wetlands and put it through those—such that you'd have really high-quality water at the end of the process.

For north of the moraine, those growing communities of York Region should have their own sewage treatment, and they shouldn't be on the big pipe. South of the moraine we should be using technology such as freeze technologies and pressure technologies that don't require as much dewatering, or we should be locating the pipes above the water table and using force mains.

•(1015)

Mr. Randy Kamp: Yes, I understand that you would recommend other solutions to the big pipe, but at this stage in the process, is it feasible to go to plan B?

Mr. Jim Robb: Yes, I think it still probably could be done with freeze and pressurized technologies. There are worker safety issues involved with that, and they'd have to be carefully scrutinized because it means basically you'd have to pressurize the environment, and it means the workers can work down there for shorter lengths of time. There are extra safety precautions, so there's a cost implication.

If you look at the alternative, which is going to be hundreds and hundreds of wells drying up, and we've just seen the tip of the iceberg so far... A quarter of York Region residents use that same groundwater. They have wells in York Region—in Stouffville, in Richmond Hill—that pull the groundwater out. If these hydrogeologists haven't got it quite right, and they were 20 times wrong in the past, what happens if those wells are affected?

Mr. Randy Kamp: You're asking for an environmental assessment and you're asking for that so that this project will be stopped.

Mr. Jim Robb: No, I'm asking that the dewatering be stopped. I don't want to see a 300-square-kilometre hole in the Oak Ridges moraine aquifer system, I don't want to see route streams and wetlands going dry, and I don't want to see hundreds of rural residents and people on aquifers losing their wells.

Mr. Randy Kamp: So you're convinced that if an environmental assessment is done, it will conclude that the dewatering is harmful in some way and then scuttle that part of the project.

Mr. Jim Robb: I'm convinced that if they did an environmental assessment, which is what's required by law.... What I'm asking for is that York Region not be above the law because of their powerful friends and influence. I'm asking that York Region, just like any industry or individual, be subject to the Fisheries Act. And I think as an outcome what will happen is they'll have to find a way to do this that doesn't involve creating a 300-square-kilometre hole in the aquifer.

Mr. Randy Kamp: Can they still do that with where they're at in the project? I mean, it's dewatering now, right?

Mr. Jim Robb: Yes, I think they can. I'll just go back to something I said earlier. They tendered it initially for a different technique that would involve less dewatering, but they got two bids, and the guys basically said, "We can do it this way, it's cheaper, but it will be more dewatering, or we can do it the way you asked". And guess what? York Region chose the cheap way.

Mr. Randy Kamp: Okay. Thank you very much.

Mr. Jim Robb: You're welcome.

The Chair: Thank you.

Monsieur Roy.

[Translation]

Mr. Jean-Yves Roy (Haute-Gaspésie—La Mitis—Matane—Matapédia, BQ): Mr. Kamp has asked a number of questions that have thrown some light on this. I would like to know who in Ontario is responsible for enforcing the Canadian Environmental Assessment Act. Let me explain what I mean. For example, in Quebec, there is an agreement with the Department of the Environment of Quebec. According to this agreement, the Department of the Environment of Quebec makes the studies needed to enforce the Canadian Environmental Assessment Act.

Is it the same in Ontario? Is there an agreement between the Ontario department of the Environment and the federal Department of the Environment? Who is responsible in Ontario for these studies?

• (1020)

[English]

Mr. Jim Robb: Merci.

When I was with the Ontario Environmental Assessment Board, there was much discussion about an agreement between the two levels of government to avoid duplication. I'm not aware that it has come to fruition. I believe there are perhaps some informal agreements that say basically if the province does an environmental assessment, the federal government would not see the need to duplicate it in most cases. I'm not aware that there's a formal agreement, but I know there's been a lot of negotiations.

I could stand to be corrected on that.

[Translation]

Mr. Jean-Yves Roy: This would mean that, if the Ontario Department of the Environment has already made a study, the federal department will not necessarily do anything, even if he is asked to.

[English]

Mr. Jim Robb: I think in practice that has happened. The problem in this case is that the provincial Ministry of the Environment has something called the class environmental assessment process for municipal engineers. It's like a cookbook approach that's a much simpler system—not quite check marks in boxes, but close to it. But it's designed for projects such as when you're building a subdivision and you're putting in a 12-inch diameter sewer to serve a small subdivision. It's designed for those types of recurring small kit projects. Unfortunately, the York Region took that process and used it for a two- to three-metre diameter, 60-kilometre long inter-regional pipe that's 150 feet deep in the ground within a drinking water aquifer. It's totally inappropriate and didn't meet the criteria, but that's what they did.

People don't like duplication in general, but I think that actually sometimes duplication can be an important check and balance. We saw what happened in Walkerton when the Conservative government stripped away any sense of duplication or oversight. I think the federal government has a very important role, and in a case like this, where the province and the municipality have really messed up royally, the federal government, I believe, by reading the legislation and policy, has a responsibility under law to apply their legislation.

[Translation]

Mr. Jean-Yves Roy: I understand, but if there is an agreement, it will be difficult to ask the federal Department of the Environment to do something.

My other question concerns the alternatives. You talked a bit about that before. You said that with a sewer system and pumps at ground level, a deep gravity sewer system, with surface pipes and water treatment plants, not only one but one for a given number of residents, etc. the problem would be solved.

Has a comparative study been made on the costs of the existing project and what you propose? Is there such a big difference between the method you propose and the present method, as far as costs are concerned?

[English]

Mr. Jim Robb: First, to address something you said, I don't believe there is an agreement in place. In fact, there have been other federal environmental assessments done in the province of Ontario. So the federal government, as far as I know, has not ceded any jurisdiction to the province. It still has it, as far as I know.

Second, with regard to studies, that's one of the things an environmental assessment would do. It would look at this comparatively, and it would bring in other costs—social, economic, and environmental. That process and that fact-finding have not been done, and that's why we have this current dilemma.

It's my belief that if you were to do something called full-cost accounting in an environmental review, you would choose the alternatives we're suggesting. That's based on my years of involvement in environmental reviews and environmental assessment matters. So I believe the alternatives would prove to be less costly.

Let's take an example of what is likely to happen now. Citizens in Markham and Richmond Hill are considering a class action suit against York Region. That's a huge cost, potentially. You have other things going on. You have the whole political realm now. You have me here before you. York Region has hired Warren Kinsella. You have all these people doing things that involve time and costs that are hard to put on. But I think if you do the proper review, ultimately you will come up with a better solution.

• (1025)

[Translation]

Mr. Jean-Yves Roy: Mr. Chair, I have a last question.

You say an assessment has been done on the environmental aspects. What will be the quality of the water after the aquifer will have been lowered by some 40 metres and will have been filled later? If you pump water from the aquifer and you let it fill rapidly after that, the quality of the water in the aquifer will not be the same.

[English]

Mr. Jim Robb: I agree with you completely.

The consultants for the proponent know the stuff, but they're giving the proponent's view, a rosy view. Unfortunately, a lot of the people reviewing it at DFO and TRCA don't have a lot of hydrogeological experience.

What we're finding already from phase one is that many wells are showing up as contaminated. In this area it's very complex. You have an upper aquifer that supports the streams and wetlands, you have this huge middle aquifer where a lot of people have their wells, and then you have this really deep aquifer that's right next to bedrock containing oily deposits, methane, and high levels of chloride. When you suck the water out of the middle aquifer, to replace it, the water percolates up from the lower aquifer, and of course this water is higher in methane, higher in chloride, higher in a bunch of things that people don't want to be drinking in their water.

Even in the Ministry of Environment, with the staff downsizing, they are so overworked that often these things don't get dealt with near the beginning of the process, and when it gets near the end, people are too embarrassed to raise them.

The Chair: Merci, Monsieur Roy.

Mr. Stoffer.

Mr. Peter Stoffer: Mr. Robb, thank you very much for your presentation.

I just want to go over a couple of things.

Have you formally asked for a meeting with the Minister of Fisheries and Oceans?

Mr. Jim Robb: On several occasions.

Mr. Peter Stoffer: What has been the response?

Mr. Jim Robb: I think it wasn't a high priority. It has basically been, "We're too busy".

Mr. Peter Stoffer: You've been at this for over three years.

Mr. Jim Robb: Yes.

Mr. Peter Stoffer: And you have yet to get a meeting with the minister.

Mr. Jim Robb: That's correct.

Mr. Peter Stoffer: Mr. Chairman, how many seats are in the Toronto area?

The Chair: There are 22 in the actual city of Toronto and 44, or something like that, in the GTA.

Mr. Peter Stoffer: Of the 44, how many are Liberal?

The Chair: I don't know.

Mr. Peter Stoffer: There are an awful lot. You would think, sir, with that many Liberals and the former transport minister in that area, that that kind of political clout should get you a 10-minute meeting with the minister. Have you in any way tried to get them all to say, look, I just want 15 minutes of the guy's time?

Mr. Jim Robb: Yes.

Mr. Peter Stoffer: Have you or your organization sought legal action to get an injunction on this?

Mr. Jim Robb: As I told you, the freedom of information stuff I've obtained indicates there is this kind of agreement between the Ministry of the Environment and the Department of Fisheries and Oceans not to enforce the act. So I've had to bring my own private prosecution, which has been accepted by a justice of the peace, and actually tomorrow morning it is going back to court to set a trial. I had to bring my own private prosecution. I'm being assisted in this endeavour by Environmental Defence, which is a non-profit legal group, and also Gilbert's law firm in Toronto, which is a very good law firm.

York Region basically told us, "We'll keep you tied up in the courts for years". They hired McCarthy Tétrault, but they lost in the first round. They tried to get it thrown out. Our junior lawyer, who had just been called to the bare one month previous beat two of McCarthy Tétrault's top lawyers, because the law was on our side essentially. The facts and the law were on our side.

The Chair: That's always a nice way to start your career.

Mr. Jim Robb: Yes. I think it was a big ego booster for the young lawyer. He did an excellent job and he presented an excellent brief.

So we have done our best. We've had to go to the courts ourselves. Since we went to the courts, MOE has commenced its own investigation, and DFO apparently has four investigations under way for harm to fish habitat, but all we see is foot-dragging.

That is another recommendation we have for the committee. I work for a non-profit charitable group. I'm doing the prosecution as an individual. I don't have the resources, or even the time, because I'm busy planting trees and doing other things. But DFO should really take over that investigation. It's a legitimate prosecution. They should take over the prosecution.

Now, the federal Crown is there. Ms. Harquail, on behalf of the Crown, is there. So far, the federal ministry of the environment has been investigating it because of their role. So it seems like Environment Canada is doing something, but it seems like DFO is dragging their feet. And I think it's because of that backroom agreement, essentially, where they said, "We agree not to enforce".

• (1030)

Mr. Peter Stoffer: Have you sought any assistance at all from the provincial government, as in Mr. McGuinty?

Mr. Jim Robb: I don't know how to put this delicately, but....

Mr. Peter Stoffer: Just say whatever you want.

Mr. Jim Robb: Well, Warren Kinsella was involved in the campaign. He's a very well-respected guy for a very good reason, and I'm not in his league.

Mr. Peter Stoffer: Did you say Warren Kinsella's a well-respected person?

Mr. Jim Robb: I mean he is in terms of political and communications abilities.

Basically, we've worked our best, and we've talked with key people in the premier's office, Don Guy and David Harvey, and sent them all the information.

Last year around this time there was a \$10,000-a-plate dinner with the developers....

Mr. Peter Stoffer: You have a couple of requests of the committee. If I were you, I would formally write a letter to the chairman asking that the chair of the committee seek guidance or advice from the minister so that you could have a meeting with the minister. I know the minister quite well. He's a pretty decent individual. I think he's probably not fully briefed or aware of the situation. I think what you have to do is bypass the bureaucrats and ask the committee to write a letter to the minister asking for a 15-minute audience so you can discuss it with him.

Mr. Jim Robb: I certainly would appreciate that. I think we are coming down to the crunch, though. In October of last year, the Ministry of the Environment granted a new dewatering permit that will allow them to triple the dewatering. They were dewatering at approximately 16 million to 20 million litres per day. They now have permission to go upwards of 50 million to 60 million per day, as of June of this year.

If you go to Markham now you'll see 12-inch black pipes all along the roads. Essentially, the groundwater is being put in pipes and piped all over the place to try to keep the streams from running dry. But as we've seen, one pump failure, one valve failure, one unforeseen situation, and the streams dry up.

I appreciate that, and we definitely do want to meet with the minister, but we actually want something more than that. We want the law to be enforced and we want the dewatering to be stopped.

The Chair: Thank you very much, Mr. Stoffer, for those sometimes mischievous questions.

I think one of the reasons Mr. Robb is here is precisely because of the inability to meet the minister.

Mr. Cuzner, go ahead, please.

Mr. Rodger Cuzner (Cape Breton—Canso, Lib.): I'm just going to take a couple of minutes and then turn it over to Mr. Murphy.

Is the \$800 million project being totally funded by York Region?

Mr. Jim Robb: My understanding is it's 80% through development charges and 20% through sewage charges to the taxpayers.

Mr. Rodger Cuzner: So there's no provincial or federal money in this project?

Mr. Jim Robb: I thought about that, and I'd be surprised if somehow it didn't creep in, but I haven't had the time to sort of spirit that out. I wouldn't be surprised if somehow it crept into it through some federal or provincial infrastructure, but I don't know that.

Mr. Rodger Cuzner: I would think \$800 million would be more than creep. There would have to be a formal agreement. And I wouldn't pretend to understand what the full infrastructure agreement is with Ontario.

I know in Nova Scotia, any municipal projects are driven by the municipal unit but are then supported by the province and the federal government. And prior to anything to do with water, water treatment, water transportation, or whatever, there's a provincial EA, and then once you hit a certain gallonage—because we're a federal funding partner—that triggers the federal EA. It goes to the committee—whether it's environment, fisheries and oceans, natural resources, whatever pertinent body or bodies impact it—to be juried once it's complete.

I'd like some clarification as to whether or not we're a funding partner here, because an \$800 million project not having a federal EA just blows my mind. I know we're trying to clean up the Sydney tar ponds for \$400 million—and we could fill a room with the studies. We had lots of studies done, but we don't have a lot of tar ponds cleaned up. But I think the funding formula would be of interest to the committee.

•(1035)

Mr. Jim Robb: I haven't had the time to get into that. I have looked a little bit at the information, but it's basically funded 80% by the developer, and it's up-front funding by them because it opens up new lands and new profits.

Mr. Rodger Cuzner: Jim, your presentation was excellent, but what you're saying is there has to be an investment in it to fix the damage that's been done. Would the work that's been done all be for nought? Is there still some use to the work that's been done?

Mr. Jim Robb: Yes. I don't want them proceeding with more dewatering, particularly the tripling of the dewatering. I think they can probably find a way to continue the project.

I've spoken to, for instance, the chief waste water engineer for the city of Toronto, and he said there's an ability to do different pipes at different levels with siphons and lifts and different ways to do it. So, yes, if you give engineers the right problem, they can solve it, but if the problem you give them is build this as cheap and as quick as possible, that's what you get.

The Chair: Mr. Murphy.

Hon. Shawn Murphy (Charlottetown, Lib.): Thank you very much, Mr. Robb. Thank you for presentation.

I just want to go back to the basis here. I don't pretend to understand this deep gravity sewer system. It seems like an extremely complicated system that's being implemented in this region. But we have laws in this country—or I hope we do—that say that anything of this magnitude would require a fairly comprehensive environmental assessment. I know there's always a problem with duplication, in that the developers don't want to go through one with the province and one with the federal government.

Now you may have answered this before, but can you take us through...? Did Ontario conduct an extensive environmental assessment before giving its approval?

Mr. Jim Robb: No.

Hon. Shawn Murphy: Was it required pursuant to environmental legislation?

Mr. Jim Robb: In my opinion, and based on my experience, yes.

Hon. Shawn Murphy: What reason do they give to not do any kind of an assessment?

Mr. Jim Robb: They did what's called a municipal engineer's assessment, but—

•(1040)

Hon. Shawn Murphy: Were there any public hearings?

Mr. Jim Robb: No.

It'll take a little explaining, but I'll try to explain it.

This was initiated under the Harris Conservative government. Basically it was development, full steam ahead, cut the red tape. They delegated a lot of the review for certain types of projects to the regional municipalities, so you essentially had, in this case, the fox watching the henhouse.

The region entered into a public-private partnership and basically used a municipal engineer's EA, which is totally inappropriate for this. As I said, the municipal engineer's EA is meant for small servicing, limited in scale, limited in impact, easy to mitigate. They took that municipal engineer's EA and used it on an \$800 million inter-regional project to put in a two- to three-metre diameter human sewage pipe in a big aquifer—totally inappropriate.

At the time, the MOE was cut back so far that it was under their radar. The region was allowed to do the EA and basically consider it pre-approved without provincial review. They started putting this pipe in the ground. I've looked at the files in the MOE office and the EA branch, and I couldn't believe how thin they are, how deficient they are.

The province had very little involvement in this, and I think it was essentially during heavy cutbacks in the previous Conservative government in Ontario.

Hon. Shawn Murphy: Also, under the Fisheries Act this would appear to me to be a fairly significant change in the fish habitat. There would be an authorization required under section 35 of the Fisheries Act. Was that obtained?

Mr. Jim Robb: No. As I said, that's what should have happened, and that's what Minister Thibault wrote us to say what will have to happen. If the conservation authority refers it to us and says there's likely to be a HADD, then we'll have to do an environmental assessment. The conservation authority did refer it to DFO and said there's likely to be a HADD, but instead of requiring an environmental assessment, DFO went.... York Region, through people like Warren Kinsella, were able to get the ear of the right people, and they said let's work around this.

Hon. Shawn Murphy: I don't want to get into Warren Kinsella, but was there an authorization obtained under section 35 of the Fisheries Act?

Mr. Jim Robb: No.

Hon. Shawn Murphy: There was not.

In your opinion, was one necessary?

Mr. Jim Robb: Absolutely, and not just in my opinion, but also in the opinion of the chair of the Rouge Park Alliance, who is a former Assistant Deputy Minister of Natural Resources and a fisheries biologist by training, and in the opinion of Lewis Yeager, who is the general manager of the Rouge Park and a former scientific adviser to cabinet office provincially.

Hon. Shawn Murphy: You've talked of your own court case, but is there another court case where one community is suing another community as a result of this?

Mr. Jim Robb: I don't know a lot about it, but I know there was a court case where King City tried to sue the region because they wanted to put in a local treatment system, but the region was insisting they put in the pipe. Apparently King City lost that court case on a technicality.

The Chair: Just to follow up on Mr. Murphy's questions, in your presentation you said you had a letter from the minister, and that letter was dated February 5, 2004. You quoted from that letter and you said his letter said that the Toronto and Region Conservation Authority had determined that, as proposed, the construction of the 16th Avenue sewer would be likely to result in a HADD—harmful alteration and destruction—and that they had referred the project to DFO for a decision under subsection 35(2) of the Fisheries Act. That's the minister writing to you saying the TRCA had determined there was a HADD and they had referred it to DFO.

Is that right?

Mr. Jim Robb: Yes, Mr. Chairman. The letter is provided for you.

The Chair: What happened?

Mr. Jim Robb: From my careful review of the files, what basically happened is that York Region used its influence to sit down with DFO and said, let's negotiate.

The problem is they declared a mitigable HADD, saying there's a HADD, but after mitigation it won't be a serious impact. That's their way of getting around this. It's totally dishonest, and I think it undermines public confidence in governance. And if the people we hire to do a job are not doing the job, it really doesn't look good.

In this case, because York Region is a big, powerful economic area, I think they got special treatment.

The Chair: But, Mr. Robb, the very next paragraph from that says as follows: "DFO has met with the proponent and the other resource management agencies including TRCA as part of its review of the proposal for the Phase II YDSS."

What's YDSS?

Mr. Jim Robb: It's a short form for York-Durham sanitary sewer.

The Chair: Right. That's the big pipe.

It says: "DFO has not received sufficient information on the proposal to make a decision in respect of the habitat provisions of the Fisheries Act."

But they didn't meet with you.

Mr. Jim Robb: No.

The Chair: They met with the proponents.

Mr. Jim Robb: The York Region chair, Bill Fish—an ironic name—was up here in Ottawa meeting with the minister on at least one occasion, and I think his staff met with senior DFO officials and the minister in Ottawa.

The Chair: Don't you find it strange that you requested meetings, that they requested a review under subsection 35(2), and that DFO meets with the proponent but not with you?

Mr. Jim Robb: I found it very frustrating and very strange, because we had been providing what we thought were very reasonable, informative documents regularly over the last two years, backed up by reasonable science. I was very frustrated.

The Chair: Thank you.

I'm sorry. It's Mr. Hearn's turn. I just wanted to clarify that.

Go ahead.

Mr. Loyola Hearn (St. John's South—Mount Pearl, CPC): Thank you very much, Mr. Chair.

I noticed from your presentation that this has received some pretty high-profile publicity. You've had Citytv involved, the *Star* is involved, and I presume there have been other items done publicly.

What type of public support is there? Is there a public outcry? Are you a voice in the wilderness through your organization, or is this a big on-the-ground political issue?

The people who are concerned and have expertise in this area.... It takes a long time for the average Joe on the street to buy in, as you know. Sometimes publicity, as we see here, can certainly help. But the thing is, unless you get that outcry from the streets, it's pretty difficult to get people, especially politicians, to change their minds. So where are we there? How much public support do you have versus the proponents of the project?

●(1045)

Mr. Jim Robb: That's an excellent question, and I think it is part of the nub of the problem. Because this project is underground, and because the effects are occurring slowly but will get deeper and deeper, we probably haven't gained as much of the public's attention on it. It is gathering steam now.

We've been contacted by people in Richmond Hill and Markham, whose wells they now realize are.... They want to make a class action suit.

I don't want to see it get to that point. Once it gets that far, the damage will be done. Most of my work is really planting trees and wildflowers and doing restoration, so I have limited time to do this kind of work. That's part of the problem too; it's just time constraints. I could go out and mount a huge public campaign; I've done it before. But in my current responsibilities, and with some family health issues, I haven't been able to mount that.

But I think there is broad public support. To give you another indication, the Oak Ridges moraine.... You can imagine how much public support there must have been to get Mike Harris's government to review the moraine. That was a wonderful step. The reason was that if you ask people anywhere in the GTA, most people know it's our rain barrel and have this idea that it's important for water. They may not understand all the stuff, but "Oak Ridges moraine: our rain barrel...".

When the public realizes that the people who promised it, including the McGuinty government and the federal government too, are smashing the rain barrel, they won't be that forgiving, but as of yet they haven't realized it.

Mr. Loyola Hearn: I agree totally that it takes those who are close to the issue to understand it and wonder why the person next door has never heard of it.

I'm thinking of Saskatchewan—and it's true of any place; it's true of the stream next door to me and it's true in your case. The reason I say Saskatchewan is that we don't think of major trout rivers or fisheries as being important, but it's a major issue there. If I wanted tomorrow to put in a new culvert to my driveway and there happened to be a little stream nearby where somebody saw a trout 100 years ago, I'd have a half dozen fisheries officers lined up telling me I can't do it.

In fact, just a while ago—and I may have relayed this story before—a culvert was washed out on the road by a river, and I doubt very much if there is any fish habitat right now, but there might have been somewhere down the road. The Department of Transportation was held up for days by Fisheries and Oceans because they wanted to make sure a proper assessment was done. We had four accidents, one almost life-threatening, before they finally woke up and had the culverts put in.

That's the kind of stuff we see, and yet we see rivers and streams go dry and nobody seems.... It's inconceivable, in light of what we see in other areas. Not being there, I can't find an explanation, but I know the chair is involved in this, and that lends—and I don't mind saying it publicly—a lot of credibility to what you're doing, certainly from our perspective.

It mystifies me. I don't know whether you can explain or not. Do it.

Mr. Jim Robb: I can't explain it. That's part of our problem. I don't know how an \$800 million project, so big and inter-regional in implications, taking 700 million litres of sewage to Lake Ontario through the Duffins water pollution control plant every day, could not be looked at, except by this inappropriate vehicle called municipal engineers. It baffles the mind.

I have seen private environmental lawyers who defend corporations get really upset about this when they find out about it. They say, just like you, "I defend my client and spend all this money for a very small matter, then York Region gets special treatment and they're above the law". Some people jokingly call them, "Not the city above Toronto; the city above the law".

The Chair: Mr. Blais.

• (1050)

[Translation]

Mr. Raynald Blais (Gaspésie—Îles-de-la-Madeleine, BQ): It would be interesting to talk about harbours and pleasure crafts, but I will leave that for another day.

About the Canadian Environmental Assessment Act, if I am right, it is in October or in November that a new statute was to come in force, according to what we were told.

Did you have, at that time, some expectations about this new Canadian legislation which supposedly allowed for the environmental assessment of the kind of project you talk about?

[English]

Mr. Jim Robb: I apologize. I'm not as up to date on federal environmental assessment; I'm more familiar with the provincial area.

I keep in contact with some of my colleagues at the Environmental Assessment Board, and I understand a lot of people have put a lot of work into trying to improve the Canadian Environmental Assessment Act. I think it does need a fair bit of improvement. It's not being applied strategically. It's being applied to all these little projects instead of to larger projects where there's greater chance of a big net gain and change in direction.

I'm not aware that it would change our situation, but if I have a chance I'll go back and review what was done then and hope that in the future this won't recur.

[Translation]

Mr. Raynald Blais: If I understood correctly your presentation, you mentioned that the project will have an impact on federal lands.

[English]

Mr. Jim Robb: I'm not sure it would. One phase of this project called the ninth line did go through a section of federal lands. We got a copy. There was a screening environmental assessment done for that section. It goes up to Stouffville. We first got involved when we found out about that. I wrote and got the federal assessment. It was a screening assessment.

They kind of botched that one. The predictions weren't right, so they didn't even learn from that assessment when they went on to do new sections. They didn't even do an assessment, let alone a screening one. So a screening was done on one small portion of it. It was found to be inadequate later on, but despite that sort of learning experience, there was no federal assessment done for the other sections because they didn't go directly through federal land.

The Chair: Mr. Robb, I think Mr. Blais' question was whether this project affects federal lands.

Mr. Jim Robb: Thank you, Mr. Chairman.

I think it will affect federal lands because in the federal block of lands known as the Pickering airport lands, the cone of influence extends out for 10 kilometres from the dewatering site. That would include a portion of those federal lands, so that's a very good point.

[Translation]

Mr. Raynald Blais: This is the reason for my interest in the Canadian Environmental Assessment Act. The new approach they try to present... I said try, because I am not so sure about that. I could give you a good example of that by telling you about what is happening in my riding with the Bennett file in Belledune, because at some point, we were being told that the Canadian Environmental Assessment Act would allow some action being taken. That's what was promised at the time. With the new legislation, there must be automatically—and I say automatically—an environmental assessment done as soon as federal lands are impacted. That's why I say that, according to your presentation, the requirements for the application of the new act are there, since federal lands are involved. I don't talk about section 35 of the Fisheries Act, that's another point. But with the Canadian Environmental Assessment Act, there is an interesting possibility.

• (1055)

[English]

Mr. Jim Robb: Thank you for illuminating me on that. I wasn't aware of that. I knew the federal lands were affected in the first instance, that there was a requirement directly, and I frankly hadn't put my mind fully to the fact that the cone of influence for phase two still extends out onto the federal lands.

We have tried basically every approach. We laid out for the minister three years ago now the pieces of legislation—the Migratory Birds Protection Act, the Fisheries Act, the Canadian Environmental Assessment Act, the Navigable Waters Protection Act—and we said we think there are repercussions in each one of these pieces of legislation that deserve to be looked at. And for some reason they haven't been, not through the federal government or the federal environment assessment, and to us, it's a miscarriage of the law.

The Chair: Mr. Matthews.

Mr. Bill Matthews (Random—Burin—St. George's, Lib.): Thank you, Mr. Chair.

I want to have a few short words and say to Mr. Robb, thank you for coming. It was only last week I first heard of the Rouge River. I didn't know where it was, certainly, and I didn't know about your problem, so it's been very insightful and, very honestly, it's very disturbing.

As a member of Parliament who comes from a rural part of the country that has a lot of dealings with DFO on a daily basis, with some aspect of DFO on economic development and other things, I agree with what Mr. Hearn said; if you want to put a culvert in a road, you can get hung up for an unusual period of time.

In my own case, I can say to you and the committee that trying to get approval for economic development proposals in my region... I've been 18 to 24 months with projects held up because of environmental assessment, which sometimes gets irritating because the proponent is calling me every couple of months and I have to go back to them and say it's still under environmental review. But I've come to tolerate that because I think it's a good thing that we become more thorough and more environmentally aware. Only a few years ago we didn't give a damn about those things. So it's positive, as frustrating as it gets sometimes.

I don't really have a question; it's just an observation that I find it absolutely mind-boggling that something of this magnitude could be going on now. When I deal with anything related to waterways whatsoever, whether it be a stream or a harbour, it takes so much time. It does. It takes so much time for the environmental review and assessment to be completed, and then we can finally get it to a stage where we can get it up to our minister to sign off.

That's just a comment from me. I think you've gone a good route by coming here. I have to say it is. I think you'll find this committee is very sincere, very inquisitive, curious, very thorough. I think you've made a good move by coming here and certainly, as Mr. Hearn said, by engaging our chairman here. But, again, I don't want to prejudice. We'll wait and hear the other side of the story.

Mr. Jim Robb: I'd like to respond to that, Mr. Chairman.

I share your frustration. I went to the Environmental Assessment Board not as a lawyer or as a consultant, but as a person who works in the community, and I've seen how much time and effort can go into an environmental assessment. I think we have to make the process yield decisions in a more timely manner. I think one of the reasons they take longer is perhaps often at the beginning people really have in their mind what they want to do, the way they want to do it, and they try to shoehorn it through the process, and that often results in a lot of conflict.

I think it is an important process. We do have to make it yield decisions in a more timely way. We don't want to tie up a lot of time and resources—we'd rather be out planting trees and doing good work—but what we don't want to happen here is for the Rouge River to run dry, for the wells to run dry, or for the wetlands to dry up, and the way it's going right now, the impacts are going to be tremendous.

The Chair: Mr. Robb, I very much appreciate your coming and giving us your testimony today.

Just for the benefit of the committee, I could wrap it up by reiterating what I understand your evidence to be, in brief.

We have an \$800 million project traversing at least five federal ridings, affecting numerous communities, that has had no environmental assessment under either the provincial or federal environmental assessment laws, other than the municipal engineer's assessment, I think you called it—

• (1100)

Mr. Jim Robb: Which is nested within the provincial environmental assessment.

The Chair: So that's why you kept referring to no proper provincial environmental assessment in your evidence.

Mr. Jim Robb: Right.

The Chair: In addition to that, you have requested numerous meetings with the minister and have received none. The local conservation authority, according to the letter you've presented to us from the minister, determined there was a HADD, or likely to be a HADD, and referred it to DFO for a decision under section 35, and DFO has not taken a decision. And while they have met with the proponents, they haven't met with you.

Mr. Jim Robb: Correct.

The Chair: That's more or less it. You've also given us what you would like us to do, and you've actually set that out in your proposals.

Mr. Jim Robb: There were two recommendations. The third one, I guess, was to have DFO assume the prosecution that's going forward.

The Chair: Okay. So that was not in your written—

Mr. Jim Robb: No. I actually spoke to my friends at Environmental Defence. They said they'd keep going on it, but their resources are stretched, so—

The Chair: All right.

Mr. Jim Robb: —it's really the federal government's legislation; it should be the federal government that enforces it.

The Chair: I see Mr. Murphy and Mr. Hearn want to make remarks.

Mr. Hearn was first.

Mr. Loyola Hearn: Thank you, Mr. Chair.

I have an observation first. I was just wondering if the committee members are getting new ties, or is this a Liberal phenomenon with Mr. Murphy and Mr. Matthews there?

I have one very brief question. I might have missed this, but in Newfoundland we're spending \$100 million, I know, to clean up the harbour in the city of St. John's. Halifax and Vancouver and other harbours, too, are looking for money, or have already got it, because people are very concerned about raw sewage. And we're talking about millions of gallons being pumped into the lakes?

Mr. Jim Robb: Well, no, they're going to a treatment plant, but in Ontario we know our treatment plants aren't always in compliance.

Mr. Loyola Hearn: Well, that was my question, actually—whether or not this is being properly treated, because if not—

Mr. Jim Robb: Well, the Duffins Creek Water Pollution Control Plant is a fairly up-to-date plant, but any plant has problems when it has to increase capacity a lot. They have problems during wet-weather flows, when they can't treat them all, so some of them bypass.

The Chair: And that's why you recommended a new treatment facility above the moraine?

Mr. Jim Robb: Yes, so you don't dump all this sewage into a lake with several million people.... How much can you dump in before you eventually run into problems?

The Chair: Thank you.

Mr. Murphy.

Hon. Shawn Murphy: Mr. Chairman, I have a point I'd like to address to you or maybe the clerk. We have this matter this morning. I view it as a very serious issue—and I want to thank Mr. Robb for the excellent presentation—and obviously the steering committee made a decision to have a hearing on the Rouge River. I assume if we're going to be doing a job, we will be writing a report, but I'm a little concerned about the nature of the hearing. We have heard from one person on one environmental group; if we are to write a report, it's always nice to get a broader flavour of the thing.

If Mr. Robb's allegations are true—and I have no reason to think they're not—it's something we would have to take very seriously, and write a report, but to have one party come before the committee on a serious issue is not the way I would suggest the committee should operate.

When it was decided by the steering committee—whoever is on the steering committee—to have the hearing on the Rouge River, would it not have been more proper to have at least two or three people come before the committee—at least a proponent, the developer, one of the communities? These people have a tremendous interest in this development.

If we accept the evidence we heard today, every law on the book was flouted, and then—

The Chair: Mr. Murphy, I don't think there was any intent by the steering committee—certainly by your chair—that we would hear from Mr. Robb and write a report.

I think the intent was that the full committee should hear from Mr. Robb, we would determine whether the full committee was interested in his evidence—and it appears that they are—and then the full committee would make a decision as to where we go from here.

Everything you said makes sense. I think we would have a meeting of the committee and we would make a decision as to whether we are going to pursue this matter, given the fact that we've already had precedence for matters that are not, generally speaking, national in nature.

That's why we brought this gently to the committee, because it's a very specific project in a very specific area of Canada, but it obviously has implications because of the way things may or may not have been done.

So we wanted just to see if the committee would have further interest, and if the committee does have further interest—and I think I see a consensus that it does—then we would decide where we want to go. Do we want to hear from DFO? Do we want to hear from the proponents? How far do we want to pursue this?

I think at this point we just want to say thank you to Mr. Robb. Then, in future committee business, we'll have a discussion as to how we should deal with this.

Does that satisfy you, Mr. Murphy?

•(1105)

Hon. Shawn Murphy: That's fine by me at this point.

The Chair: Okay.

Monsieur Roy, s'il vous plaît.

[*Translation*]

Mr. Jean-Yves Roy: Thank you, Mr. Chair. Before I conclude, I want to ask a question to Mr. Robb.

Have you contacted the office of the Commissioner of the Environment and Sustainable Development about this? Ms. Johanne Gélinas is responsible for monitoring the enforcement of environmental legislation in Canada. Have you contacted her about that?

We, as members of the committee, will talk to her soon and it might be a good thing to check to see if she knows about this issue. We could also raise it with her.

[*English*]

Mr. Jim Robb: No. I appreciate that comment. I had intended to go to both the Environmental Commissioner of Ontario and the federal Commissioner of the Environment and Sustainable Development with this matter and have not done that yet. I don't think they could change the outcome, but they would do a review.

I will go to her, though, because I think it's something that really is deserving of review, because it's not just me who thinks they've broken the law; there are six separate investigations under way now. After we filed the Fisheries Act charges, the environment ministry commenced their investigation. We kind of forced them into doing it. And there are at least four DFO investigations.

In reviewing the files, they don't have permits for a number of the things they did in phase one. They didn't get the permits.

The Chair: Monsieur Roy gives you an excellent heads up—

Mr. Jim Robb: Thank you.

The Chair: —because Madame Gélinas has complained numerous times that it appears as if the complaints procedure under her legislation and her responsibility is not known and not used to the extent that it should be by the public. The way I read her, she's just waiting for cases. So I would jump on that suggestion as soon as possible.

Mr. Jim Robb: I will jump on it this weekend. I'll be burning the oil.

The Chair: Everything is on their website, I presume. You just go in there and away you go. We will be meeting with her on other issues, but we could certainly discuss this with her as well.

Mr. Jim Robb: I have learned a lot here today, and I appreciate it. I really appreciate the invitation and the real interest shown by the committee. The questions have been all really excellent.

I was an adjudicator, and I now am in a role of environmental worker, but I still try to be as balanced as I can. I've certainly given you my side of the story, but I've tried to base it on evidence. I've backed it up with the letters. I have fairly good files on all this, and the quotes I used were largely from the minister and other people.

The Chair: Thank you very much again, Mr. Robb.

Committee members, on Tuesday we have the DFO officials regarding the Nunavut issue.

Ms. Hunter.

Ms. Lynn Hunter (As an Individual): I'm wondering, as a courtesy to a former member of Parliament, if I could table some documents for the committee.

The Chair: That's an unusual one.

This is Ms. Lynn Hunter, former member of Parliament from 1988 to 1993, I believe, from the New Democratic Party.

Ms. Lynn Hunter: No, it's not on this issue.

The Chair: Then I don't think we could accept it, in any event. Let me just check procedurally.

We recommend that you send whatever you have directly to the clerk. Then we'll take a look at it, and if we deem it of interest to the committee, we'll of course have it translated into the other official language, which is a requirement, and then we'll distribute it. Thank you.

The meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

**Also available on the Parliamentary Internet Parlementaire at the following address:
Aussi disponible sur le réseau électronique « Parliamentary Internet Parlementaire » à l'adresse suivante :
<http://www.parl.gc.ca>**

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.