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—
Chair

Mr. James Bezan

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• (0900)

[English]

The Chair (Mr. James Bezan (Selkirk—Interlake, CPC)): We'll call the meeting to order. We have quorum. We're going to kick off our study today on the review of the Species at Risk Act.

We're welcoming to the table today officials from the Department of the Environment, Parks Canada, and DFO. From the Department of the Environment we have Cynthia Wright, who's the acting assistant deputy minister, environmental stewardship branch. Welcome. From Parks Canada we have Mike Wong, who's the executive director of the ecological integrity branch. Welcome to the committee. From the Department of Fisheries and Oceans we have Pardeep Ahluwalia. Welcome to you all.

I understand that you're doing a joint presentation, so we look forward to your opening comments.

I'll turn it to you, Ms. Wright, to kick us off.

Mrs. Cynthia Wright (Acting Assistant Deputy Minister, Environmental Stewardship Branch, Department of the Environment): Good morning, and thank you, Chair.

The Chair: Mr. Warawa.

Mr. Mark Warawa (Langley, CPC): On a point of order, just a reminder, Chair, that we were hoping to have all documents received at committee before the witnesses arrived. This gives us a chance to review the documents and be much better prepared to hear from the witnesses. This is just a reminder that, if at all possible, we need to receive these documents 24 hours prior.

The Chair: Duly noted, and we will encourage witnesses to make sure we get their presentations in plenty of time, especially when we've given them some notice of appearing at committee.

With that, we'll turn it back to you, Ms. Wright.

Mrs. Cynthia Wright: Thank you.

Together my colleagues and I are going to speak to you about the implementation of the Species At Risk Act, or SARA, as we tend to call it. We'll give you a fairly high-level overview of the act and the progress to date.

SARA is premised on the view that it is in our interest to protect species at risk. Canada's biodiversity is essential to the health and well-being of Canadians and our economy. For example, 13.6% of Canada's GDP depends on healthy ecosystems through forests, agriculture, and the oceans. Healthy ecosystems perform a number of functions, including carbon sequestration, clean air and water, disease and pest control, pollination of food crops, recreation, and

spiritual benefits. Biodiversity provides the bank of genetic material essential to innovation in many economic sectors, such as agriculture, forestry, and the pharmaceutical industry.

While we may intuitively understand the value of biodiversity, in the past 250 years, only about 15% of the planet's estimated biological diversity has been described in any meaningful way. Of the more than 70,000 species found in Canada, there are only slightly more than 7,700 species that we meaningfully track. Of these, over 70% can be considered secure in their status. SARA focuses on the species facing risk of extinction. Threats of species include the loss of habitat, over-exploitation, pollution, and the impacts of climate change. For some ecosystems, the loss of ecological integrity and habitat has been significant over the past 100 years: on the order of 70% for native prairie wetlands; more than 99% of prairie tall grass; and over 80% for the native Carolinian forest.

The Species at Risk Act explicitly recognizes that the responsibility for conservation of wildlife in Canada is a shared responsibility. It is not something that the federal government can accomplish on its own. The accord for the protection of species at risk was agreed to by the federal government and provinces and territories in 1996. The goal of the accord is to prevent species in Canada from becoming extinct as a consequence of human activity. The accord committed each jurisdiction to use its own laws and regulations to protect species at risk. For the federal government, this applied to migratory birds, aquatic species, and species on federal lands. SARA is the key legislation for the federal government to implement the accord.

SARA was put in place to prevent wildlife species from becoming extinct or being extirpated, which means no longer existing in the wild in Canada, and to support their recovery. It addresses all wildlife in Canada, ranging from large mammals, to fish, to insects, to plants. It legislates the requirements for assessment, protection, and the recovery of species at risk in Canada. Prior to SARA, most of this work had been carried out under non-statutory programs. SARA is prescriptive in the many ways of how these functions are carried out. It sets out timelines for actions. It also requires consultations at most key decision points.

Under SARA the accountability is shared with the Minister of Fisheries and Oceans and the Minister of the Environment, who is also responsible at this point for Parks Canada. The Minister of the Environment is responsible for the overall implementation of the act, for terrestrial species on federal lands, and, as the minister of Parks Canada, for all species within the lands and waters under the jurisdiction of Parks Canada. They're responsible for making recommendations to the Governor in Council and for all migratory birds under the Migratory Birds Convention Act. The Minister of Fisheries and Oceans is responsible for implementing the act for all aquatic species outside of national parks and for providing the Minister of the Environment with listing recommendations on aquatic species.

SARA formally requires or enables several governance and advisory bodies. It formalizes the Committee on the Status of Endangered Wildlife in Canada, or COSEWIC, which is the independent body of experts created in 1978 that makes the assessments on the status of species. It formalizes the role of the Canadian Endangered Species Conservation Council, which is comprised of federal, provincial, and territorial ministers responsible for wildlife. This is co-chaired by the federal Minister of the Environment.

● (0905)

It has created the National Aboriginal Council on Species at Risk, or NACOSAR, which has six members appointed by the Minister of the Environment. It also allows for the Species at Risk Advisory Committee, SARAC, which has about 25 members from industry and resource sectors, academia, and environmental organizations. It meets with officials a few times per year.

Based on experience working on species under SARA and provincial and territorial legislation, the ministers of the Canadian Endangered Species Conservation Council signed a national framework in 2007. It followed up on the 1996 accord and set out common principles, objectives, and overarching approaches for species at risk conservation to guide federal, provincial, and territorial programs and policies. It set out a cycle of five interrelated components that are formalized in SARA, which I will now describe briefly.

SARA separates the process for conducting scientific assessments on the status of wildlife species from the decision on whether or not to list the species under the act. The independent assessments are handled by COSEWIC, the independent body of experts appointed by the minister. Species can be classified as special concern, threatened, endangered, extirpated, extinct, data deficient, or not at risk. COSEWIC has assessed at total of 775 species; 551 of them have been determined to be at risk in Canada, and 13 have been assessed as extinct.

The decision whether or not to list a species under the act is reserved for the Governor in Council. It is made on the recommendation of the Minister of the Environment after consultation. For aquatic species, the Minister of Fisheries and Oceans provides the recommendation to the ministers of environment. SARA sets out the timelines for the listing process. It is also important to point out that the listing decisions are subject to the cabinet directive on streamlining regulation, which requires a description of the socio-economic impacts of the decision. This is

because listing is done by an order and evokes immediate protection and prohibitions. There are now 425 species listed under the act, nearly double the number at the time of proclamation.

For endangered and threatened species, SARA sets out the requirements and timelines for recovery strategies and action plans, including the identification of critical habitat. For species of special concern, management plans are required. When SARA became law, 233 species were listed on schedule 1 of the act. Recovery strategies were required by June 2007 for 190 species listed as threatened, endangered, or extirpated. Management plans were required by June 2008 for 43 species listed as special concern.

This has presented a significant challenge to the department. Recovery strategies for 106 species are now completed, and strategies for an additional 172 species are well under way. The pace is picking up. We continue to learn how to use ecosystem and multi-species recovery approaches. There are now more than 20 of these in place.

A great deal has been accomplished through voluntary stewardship actions by Canadians to care for species and habitat. There are several federal stewardship funding programs to incent this action. The habitat stewardship program is the key federal funding program aimed at encouraging Canadians to protect key habitat for species at risk, especially critical habitat on non-federal lands. Since 2000 it has funded 1,400 projects at a cost of \$82 million, and leveraged an additional \$203 million in investment. The national areas conservation program is also making important contributions to recovery. Actions can also be taken under other federal legislation, including the Fisheries Act and the Oceans Act.

● (0910)

The final part of the conservation cycle is monitoring and evaluation to determine the effectiveness of protection and recovery measures and to make adjustments as necessary. The ultimate goal is to delist species that have recovered.

I'll now turn to Pardeep.

Mr. Pardeep Ahluwalia (Director General, Species at Risk Directorate, Department of Fisheries and Oceans): Thank you.

When we think of aquatic species in the context of the Species at Risk Act, the first part we think of is that Canada is, as we all know, a maritime nation, with the longest coastline in the world and an extensive system of lakes and waterways. These are home to a diverse population of aquatic species, both marine and freshwater, which are an important component of Canada's biodiversity, of its natural heritage, and of its natural resources. Some of these species are iconic symbols of Canada; others are important for a wide variety of commercial, aboriginal, and recreational purposes. As the competent minister for all aquatic species outside of national parks, the Minister of Fisheries and Oceans uses SARA as well as a number of other legislative tools, including the Fisheries Act and the Oceans Act, to protect species at risk.

In implementing SARA, a number of complexities arise. While similar complexities apply to many terrestrial species and migratory birds, some are particularly acute when dealing with aquatic environments. Aquatic ecosystems often involve multiple populations of species inhabiting the same physical space, sometimes with complex interrelations and interdependencies. Particularly in the marine environment, many species are highly mobile and inhabit Canadian waters only in specific seasons.

Also, there are specific interests related to aquatic resources or the aquatic environment. These include commercial, aboriginal, and recreational fishing; marine and internal navigation for both commercial and national security reasons; hydroelectric installations; and water control systems. Actions related to the conservation and protection of one species at risk are likely to have impacts on other species as well as on the variety of interests.

There are also complex jurisdictional issues at play for aquatic species. While DFO is responsible for aquatic species, it typically does not have jurisdiction on or for lands abutting aquatic environments, making inter-jurisdictional cooperation and collaboration essential.

There are significant challenges with information as an increasing number of less well-known species are being assessed. While sufficient information may be available for the assessment process, other information is often insufficient to effectively support recovery planning.

The complexity of dealing with aquatic species at risk is especially highlighted when we consider the activities related to the harvest of aquatic species and the communities and industries that are dependent on them. Commercial fisheries, both marine and freshwater, operate in environments that are typically multi-species in nature. Undertaking protection and recovery measures under SARA for an aquatic species at risk is likely to have consequences for the commercial harvest of other species found in the same place at the same time.

There's also the added complexity of SARA-related restrictions on aboriginal access to aquatic species, which are traditionally harvested for subsistence, and the consequent impacts on maintenance of traditional lifestyles and cultures.

We've selected three examples of species that illustrate successful conservation outcomes that are directly due to the powers of SARA and would likely not have been achieved without this important

legislation. The first of these is the northern abalone, which is a bottom-living marine mollusc. It was once a valuable fisheries species, important to coastal first nations and commercial and recreational fishes. All fishing for this species closed in 1990 because of large population declines. Abundance has continued to decline since then, likely due to illegal harvesting.

● (0915)

The Species at Risk Act prohibits harming, killing, and selling individuals of listed species. The enforcement of the SARA prohibition has directly led to arrests and convictions and is helping to put a stop to the illegal harvest of abalone. In addition, the captive breeding project is being used to supplement the wild population, which should help contribute to recovery.

Mr. Mike Wong (Executive Director, Ecological Integrity Branch, Parks Canada Agency): Thank you, Pardeep.

The next example of the species at risk legislation at work is a species called the forked three-awned grass. This is a fairly unremarkable grass occurring in a few restricted areas in Ontario and Quebec. The term "awns" refers to the bristles that protect the plant's flowers. Much of the remaining population occurs on land owned by the Beausoleil First Nation, who were planning the construction of a community centre when they discovered the presence of this endangered species.

The first nation worked very closely with the federal government to adjust the construction plan and to protect the plant and its habitat. The outreach and education efforts led to increased awareness of this endangered species and motivation to protect it. The Beausoleil First Nation have taken ownership of the protective measures, are active in its recovery actions, and have erected large education billboards presenting the species to the public.

The next example is the black-footed ferret. This is a small nocturnal weasel that is extremely rare and probably extirpated in Canada. They depend on short-grass prairie and their main prey is the black-tailed prairie dog. The prairie dogs are now limited to a very small area in Saskatchewan, which effectively limits the recovery of this particular species. There are probably no ferrets remaining in the wild in Canada, but they are kept in captivity at the Toronto zoo and can be reintroduced into the wild. Because prairie dogs are generally viewed as a nuisance by our ranchers, there would have been very little interest in re-establishing prairie dog and black-footed ferret population without the cooperation and cooperative efforts launched under the Species at Risk Act.

Ferret recovery planning has been done in conjunction with prairie dog management planning, so the ranchers' concerns are fully addressed. Although ranchers were strongly opposed to the idea in the past, a well-designed and inclusive SARA recovery planning process resulted in broad consensus on the reintroduction of the ferret. This will likely take place in the fall of this year.

Cynthia.

• (0920)

Mrs. Cynthia Wright: Let me conclude with a few final comments in light of the review.

Experience has shown it takes time to achieve recovery. The sea otter, once extirpated from Canada, was reintroduced to the west coast in 1969. Initially assessed as endangered by COSEWIC in 1978, it was downgraded to threatened and then to a species of special concern in 2007. Other long-term success stories include the whooping crane and plains bison.

Through the first five years of experience of the act, we've continued to learn and refine our practices. With resources and management structures in place, with many procedures in place as well as overall implementation policies for decision-making close to final, and with practices improving, the pace of implementation throughout the SARA cycle is now steadily improving.

Thank you, Mr. Chair.

The Chair: Thank you very much.

We're going to kick it off into our first round. You have seven minutes, Mr. McGuinty.

Mr. David McGuinty (Ottawa South, Lib.): Thank you, Mr. Chair, and thank you very much to you folks for being here this morning.

Can I begin with Ms. Wright, just to ask a question based on a number of your overheads? I'm trying to get some understanding of your budget. There's nothing here with respect to your budget. Can you help us understand if this is shared? Say the purpose of SARA as you have it here on slide five is threefold: prevention, recovery, management and special concern. You talk about two line departments and one agency, but in their own jurisdiction enforcing and implementing SARA, Environment Canada is the overall implementer, correct?

Mrs. Cynthia Wright: Yes.

Mr. David McGuinty: So statutorily you have the responsibility for ensuring that DFO and Parks Canada are actually doing their jobs?

Mrs. Cynthia Wright: For ensuring that, but they do, actually, execution as well.

Mr. David McGuinty: Okay.

How much money do you have this fiscal year ending, for example, for all SARA activities at Environment Canada?

Mrs. Cynthia Wright: At Environment Canada for all activities, it's about \$60 million—\$59.9 million. That would include science, direct enforcement, our administrative responsibilities, including managing the listing process, the actions we take. It would also

include the significant funds to fund other stewardship activities by others, including the habitat stewardship program I mentioned.

That does not include the additional \$22 million that was added in budget 2007 for enforcement activities, which now brings the number of enforcement officers in Environment Canada who are SARA-trained to 98.

Mr. David McGuinty: To 98 officers?

Mrs. Cynthia Wright: Yes, 98 wildlife-trained officers.

Mr. David McGuinty: Do you know what DFO is spending on SARA, and what Parks Canada is spending on SARA?

Mr. Pardeep Ahluwalia: The directed budget for species at risk activities within DFO is in the order of \$27 million a year, and from that, as Cynthia has already mentioned, the types of activities are essentially the same. We have partitioned between salaries and operating expenditures, and of the \$26 million or \$27 million that we have, we directly fund about 104 full-time-equivalent staff positions and the rest of it is on the actual activities. Those 104 staff positions are for people who are dedicated to species at risk work.

Mr. David McGuinty: Ms. Wright, going back to environment for a second, excluding the new funding for enforcement, how has your budget at Environment Canada for SARA been affected over the past five years?

• (0925)

Mrs. Cynthia Wright: It has increased. It increased significantly with budget 2007.

Mr. David McGuinty: By how much? Do you know?

Mrs. Cynthia Wright: Yes. Overall, in 2006 we were spending \$40 million, and in 2007-2008, \$51 million. That's exclusive of enforcement.

Mr. David McGuinty: On page 9 of your overheads, you talk about results and outcome from the COSEWIC species assessment process. You say that it has assessed a total of 775 species and 551 have been determined to be at risk in Canada. Is there a backlog for that assessment?

Mrs. Cynthia Wright: Mr. Chair, I believe you're inviting the chair of the COSEWIC committee, when you probably can get more into detail.

I wouldn't call it necessarily a backlog. Governments provide a general status report on the status of species in Canada. That's the 7,000-plus that we're tracking. That plus other sources of information go to COSEWIC, who then decide what they will assess. They have a system for selecting priorities. So I suppose it's a backlog in the sense that they haven't gone through all 7,700, but they are looking at trends and trying to assess those that look most likely to be endangered.

Mr. David McGuinty: We're tracking 7,700 species?

Mrs. Cynthia Wright: In Canada, yes.

Mr. David McGuinty: How many species do we have?

Mrs. Cynthia Wright: I think we have about 70,000 species in Canada.

Mr. David McGuinty: Do we know that for a fact?

Mrs. Cynthia Wright: I don't know that anybody can say they know how many species they have in their country when, as I said in my opening remarks, only about 15% of the planet's biological diversity has been described in any meaningful way.

Mr. David McGuinty: So we have a geological survey in Canada but no concomitant biological survey, right?

Mrs. Cynthia Wright: You could say that.

Mr. David McGuinty: So is there any discussion, as a result of the SARA experience, for the need for increased investment in ascertaining and investing in discovering more species and identifying more species, and the nomenclature for more species?

Mrs. Cynthia Wright: Well, there is activity happening. I guess first of all I should be clear that the tracking is happening at both provincial and territorial levels as well as at the federal government level. There is funding on nomenclature, taxonomy, etc., mostly in museums and academia. There are discussions under way on how we can collaborate and share information more across governments on biological diversity and how we can do more assessment of not just individual species but understanding ecosystems and trends in ecosystem health.

Mr. David McGuinty: So would you say over the past five years, then, that your budget for science is the same? Up? Down?

Mrs. Cynthia Wright: The budget for species at risk research has also increased in that same time period.

Mr. David McGuinty: Significantly?

Mrs. Cynthia Wright: As part of that overall increase. Yes, I'd say significantly. Environment Canada's traditional area of expertise in wildlife was limited to migratory birds. We now have resources for internal science and also to fund external science that augments our traditional capacity and knowledge. I think in Canada you can say that in science, knowledge is shared by many and we have to work hard at pulling it together.

Mr. David McGuinty: Thank you very much.

The Chair: Thank you. The time has expired.

Monsieur Bigras.

[Translation]

Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ): Thank you, Mr. Chairman.

I would like to welcome you to the committee. As you know, the former commissioner on the Environment and Sustainable Development tabled several very critical reports about the protection of species at risk and the strategy adopted by the federal government regarding biodiversity generally. One of these audit reports, which was tabled in 2005, stated that progress to implement the federal government's strategy was slow in a number of ways. The audit also highlighted the fact that the federal government had not kept its promises to improve Canada's tools for understanding biodiversity and to manage information on it.

In addition, in March 2008, the new commissioner published an audit following the one done in 2001. Here were some of the conclusions: "There is no comprehensive inventory of species at risk [...] Legislated deadlines are not being met [...] National coordination is needed [...] Critical habitat has not been identified [...] Action plans are still in their infancy [...] Recovery activities are taking place."

My question is quite simple. What have you done since the legislation was tabled?

● (0930)

[English]

Mrs. Cynthia Wright: I'll take that question, Mr. Chair.

We've tried to convey in the opening presentation that there is a lot of work happening. It's a challenge to work under legislation in the first five years. There's been a lot of hiring of new staff—I mentioned increased resources—training those staff and developing the procedures.

I did point out that listing has happened. There has been almost a doubling of the number of species added to the schedule. I should make sure, Mr. Chair, that members understand that those species are afforded immediate protection. There are prohibitions that apply immediately upon listing. So we are still making pace on the recovery strategies and implementation of those strategies. There is action on 318 recovery strategies and 106 of those are finished. The pace is picking up.

We have also extensive work under the habitat stewardship program, which is helping Canadians protect critical habitat.

There are a number of activities under way to help improve the processes. As I mentioned, a lot of the work is actually done by the provinces. For example, in Environment Canada, of the 335 terrestrial species, we had expertise in only about 55. So we do have to work closely with the provinces and territories, and in fact, for the terrestrial species the provinces and territories are leading on 75% of the recovery strategies.

This is important not only for the use of their expertise but in recognizing their implementation is going to be important. It's not just the federal government that is implementing actions.

The pace is picking up; there is a lot more work to be done. But now, after five years, with experience and better procedures and practices in place, with staff being hired, we are optimistic that the pace will continue to pick up as it has in the last couple of years.

[Translation]

Mr. Bernard Bigras: I have another question. At the end of your presentation, you talk about what might be called success stories. I would like to come back to an issue that is much discussed—the polar bear. I think I am correct in saying that the International Union for Conservation of Nature has put the polar bear on what is known as a red list. The World Wildlife Fund estimates that two thirds of this species will be extinct within 50 years. For its part, COSEWIC thinks that the species is not necessarily threatened, but that it is of special concern.

I understand that there are some success stories, but could you explain what procedure is followed when a decision is made that the species is not classified as threatened, even though a number of scientists estimate that it will be extinct within 50 years? What process have you set in place to ensure that this species will be protected? I think polar bears are very threatened because sea ice is melting. This reduces the polar bear's habitat.

[English]

Mrs. Cynthia Wright: I guess there are a couple of points I'd like to make on this one, Mr. Chair.

There has been controversy about what the status is, given the difference in the classification title given by the IUCN and COSEWIC, and by the Americans, in fact. That was one of the reasons the Minister of the Environment, Minister Prentice, held a polar bear round table in January, which was to share knowledge. So there was a presentation there from both the chair of COSEWIC and independent scientists, as well as from Inuit, to discuss what exactly is the status and why the classification outcome is different in different countries.

One of the things COSEWIC does.... And I should underscore that the assessment of special concern comes from the independent body; it's not Environment Canada or Parks Canada, but it is the independent body appointed by the minister who have come up with that assessment. They have a rigorous process, which I'm sure the chair of that committee would be happy to explain to you when he comes. Under that process, though, they do include traditional aboriginal knowledge. That is because western scientists have only been studying many of these species for a few decades, whereas traditional aboriginal knowledge has generations of information.

That information was key in COSEWIC's assessment. They had assessed the polar bear as a species of special concern. The Governor General, after the act was passed, referred it back to the committee so that traditional aboriginal knowledge would be included in the decision-making and in the analysis by COSEWIC, which was done.

COSEWIC reported back last fall that, again, they felt it was of special concern. They did note that climate change will likely have an impact over the next three generations. But in the short term, the biggest threat is over-hunting in some areas.

That was the second purpose of the polar bear round table the minister held in January, to discuss the kinds of management practices that various jurisdictions are putting in place. And it's important to note that for two of the subpopulations where hunting was significantly reduced, the populations of polar bears appear to be recovering.

So COSEWIC provides independent advice that the species is a species of special concern. The departments are in the process of consulting on that before finalizing their advice for listing of that species.

● (0935)

The Chair: Merci. Your time has expired.

We'll move on to Madame Duncan.

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Thank you, Mr. Chair.

Ms. Wright, you mentioned at the outset that the federal government had taken actions to list species, and that this affords protection. Yet scientific experts advise me that the most critical action to be taken under the act is protection of habitat. Can you tell me how many of those species have received habitat protection?

Mrs. Cynthia Wright: Yes, habitat protection comes in a number of different ways. And I'm sure the member, Mr. Chair, is thinking of the critical habitat, a designation under the act.

Critical habitat has been identified for only 22 of the species so far under the act. Again, the pace of that is increasing. But this isn't to say that's the only habitat protection that happens. Many of these species exist in national parks, or in provincial parks or on land managed by Environment Canada in protected areas, so there is protection for many of the species across the country where they are already in protected areas.

And I also mentioned the habitat stewardship program, which is providing funding to allow governments to enter into protection arrangements with private citizens on private lands. That program has protected or restored habitat in the neighbourhood of about 400,00 hectares.

Ms. Linda Duncan: Ms. Wright, I understand, of course, that if these species at risk also happen to wander into a national park, they're going to be protected. But isn't there an obligation of the federal government to also ensure that the full critical habitat of the species is protected? I'm thinking of the cases of grizzly bears and woodland caribou.

Mrs. Cynthia Wright: Yes, you're right, the act does require us to identify critical habitat. As I said, we are in the process of doing that and have done that for a number of species. This is one of the areas that's proving to be more challenging.

For example, to use one species that Environment Canada has learned a lot about, the piping plover, a bird that nests on the ground and a species that Environment Canada has a lot of expertise in and knowledge of, from studying it for many years, we still doesn't know why that bird nests in one area one year and in a totally different area another year.

Ms. Linda Duncan: My question was specifically about the woodland caribou and the grizzly bear.

Mrs. Cynthia Wright: Sorry, I misunderstood. I thought you were talking more generally. With the woodland caribou, again—

Ms. Linda Duncan: I understand there is a critical plan on the minister's desk and that it's been there since the fall, so I'm wondering what action is happening to implement that so we can have habitat protection.

Mrs. Cynthia Wright: There was a science assessment study to assist in identifying critical habitat. This is an example where Environment Canada had to seek expertise outside of Environment Canada. The minister is reviewing that and is fully intending to make that public as soon as possible.

• (0940)

Ms. Linda Duncan: Is it normal for years to pass before action is actually taken when species are listed?

Mrs. Cynthia Wright: It's not years that pass, even in the case of caribou, because there is work that's done through the habitat stewardship program by provinces. Caribou is an example of a species that's primarily managed by provincial jurisdiction. While things are still working through the species at risk process, action is still being taken by the primary managers.

Ms. Linda Duncan: Well, I beg to differ.

I understand that in order for SARA to be properly implemented there are supposed to be clear policies in place and regulations. Regulations would be particularly necessary for enforcement. Can you tell us what the reason is for the delay in finalizing the policy under SARA and the regulations?

Mrs. Cynthia Wright: On the policy, we have a number of practices and procedures, but our experience of the national framework that I referred to in my presentation has assisted us in speaking the same language with the provinces on complementing different pieces of legislation. Environment Canada, with Fisheries and Oceans and Parks Canada, have been working on a set of policies for decision-making under the act. We've consulted with our several advisory committees as well as the provincial jurisdictions. We hope to have those final within the next few months.

The challenge has been when we work on these policies we learn as we go, so we're constantly updating and reconsulting on what we have. We are hoping to release policies that we know, and we will continue to learn and improve within the next several months.

Ms. Linda Duncan: I understand that under the act probably one of the reasons for the delay is trying to maintain friendly federal-provincial relations. There may well be provincial objections to the listing of species and taking action in habitat protection.

I'm advised that there are only two federal-provincial agreements in place. Is that true, and if so, what's happening with the rest of the provinces?

Mrs. Cynthia Wright: There are three bilateral agreements in place with provinces: British Columbia, Saskatchewan, and Quebec. Most of the rest of them are in the final stages of review before approval.

Ms. Linda Duncan: In the interim, I'm curious to know how much of your budget is actually spent on science, on monitoring the species, and on identifying both aquatic species and land species and which ones are at risk. What percentage of the budget is actually spent on science, as opposed to advisory committees?

Mrs. Cynthia Wright: I would remind people that COSEWIC is the independent body that does the assessment. For a small budget from the government, they actually lever out a lot of capacity, because many of those people are academics, provincial scientists, and government scientists. We don't pay for their salaries. Their budget is just under \$2 million to do the scientific assessment process. Over and above that, we have about \$7 million or \$8 million in Environment Canada on research to support the kinds of activities, and my colleagues will probably speak to their budgets for science as well.

Mr. Mike Wong: Within Parks Canada we have a budget of \$14 million for the Species at Risk Act, for its implementation.

Ms. Linda Duncan: Is that work undertaken by Parks Canada officials, or is that on a contract basis?

Mr. Mike Wong: It's a combination of both.

We have hired species at risk scientists who are dispersed among our national parks. As well, we've worked in close partnership with academia in order to target the research in the right areas.

Ms. Linda Duncan: In view of the shortness of time, my final question is this. I've been in touch with a number of environmental organizations over the last 30 years, and a lot of them have expressed frustration that it is only when they file court cases that the federal government actually moves to take action to protect species. Can you advise, given the minister's now apparent love of enforcement, if there is a switch in mentality of the department? Are you now going to be moving to actually take concrete action without awaiting private action?

Mrs. Cynthia Wright: There have been court cases, and we, as well as others, learn from those court cases. And I did speak to the fact that we've had to develop a number of procedures and practices to work under the legislation. Moving from the non-statutory programs to the statutory programs has been a challenge.

Getting the staff trained in the same kinds of procedures and having the tracking in place to know where we're at has been a challenge. As I said, we're making progress on that. Some of the court cases have been around critical habitation identification, and as I pointed out, that's probably been the most scientifically challenging task for us.

• (0945)

Ms. Linda Duncan: Are you not supposed to follow the precautionary principle?

The Chair: Your time has expired, Ms. Duncan.

We're going to Mr. Warawa to wrap us up on the seven-minute round.

Mr. Mark Warawa: Thank you, Chair.

I would like to continue on with some questioning that Ms. Duncan started.

Mrs. Wright, in regard to the court cases, does the cost of those court cases come out of the annual budget of approximately \$60 million?

Mrs. Cynthia Wright: The cost for the prosecutors does not come out of it, but the cost for the department to prepare for the case and provide the documentation will come out of the budget. It comes from our staff.

Mr. Mark Warawa: Does the increasing number of court cases have an impact on the budget?

Mrs. Cynthia Wright: Yes, it does have an impact on our workload and our ability to manage our priorities.

Mr. Mark Warawa: Thank you.

I also had a question on the increasing budget and commitment of our government to SARA and to its enforcement, but that was already brought up by Mr. McGuinty. The government is very committed and is showing that by increasing the budget. My questions are on the scoping of the review of SARA. Do we consider, as a committee, a total rewrite of SARA, or do we look at fixing the problems that have been identified to this point?

SARA has been in place since 2003, but it came into full force in 2004. As you pointed out, a lot has been accomplished over the last couple of years. As you're dealing with the different stakeholders, aboriginal groups, the provinces, could you describe some of the

known problems with SARA that have been identified by them and by the government that should be fixed to make it more effective and run more efficiently?

Eventually my questioning is going to be on the very prescriptive requirements under SARA that things have to be done and you go from phase to phase to phase. Is it practical? Could you just make some suggestions on what you're hearing from the stakeholders about what needs to be fixed in SARA?

Mrs. Cynthia Wright: I'll raise a few that I hear regularly from stakeholders, particularly from the Species at Risk Advisory Committee and the National Aboriginal Council on Species at Risk, starting with the latter. One of the challenges you'll hear, I'm sure, concerns consultation with aboriginal peoples. Aboriginal people have rights, and many of them have land management responsibilities, and therefore species are of primary concern to them, for reasons including subsistence harvesting that my colleague, Pardeep Ahluwalia, mentioned.

There is a requirement to consult. I'm sure we could never do enough consultation. That is something we're trying to improve. We now have a memorandum of understanding with the Nunavut government to respect their land management claim responsibilities.

Consultation is a challenge with aboriginals, particularly, as you know, because they're dispersed across Canada in small communities. We're mounting our largest consultation ever on the polar bear to get out to small communities, because we know it's a species that's important to the Inuit people.

The second aspect that aboriginals will raise is subsistence harvesting and whether or not the Species at Risk Act interferes with it.

From a broader perspective, there is a large number of species—I mentioned that there's been almost a doubling of species added to the list since proclamation—for all of which we are required to go through the steps of recovery strategy and plan our management plans. Some are simple, but many of them are complex, and they all require a high degree of attention.

Critical habitat identification is a challenging one. It's challenging from a scientific perspective. The act requires that we do it in the recovery strategy as best we can. Often we're struggling, asking how much we do in the recovery strategy. Do we get the recovery strategy out and move to action plans, so that we at least get information out there in the public? That's a challenge.

A challenge you'll probably hear about from industry concerns the act's permitting, and the fact that the act presumes that government will want to stop any activity that could have any impact on species at risk. Some of that activity has been in place—hydro dams, etc.—so there are industry concerns about clarity as to whether or not the act would allow long-term activity, particularly activity that's already in place before species are identified.

Those are some of the challenges that we hear regularly.

• (0950)

Mr. Mark Warawa: The timeframe you are given within SARA to deal with these numerous issues.... Let's talk about aboriginal issues. As a species is being identified by COSEWIC, is there adequate time within SARA to deal with the issues of science and with traditional needs? I'm thinking also of the socio-economic issues that may be raised, with industry or first nations. You have a very prescriptive formula within SARA. Do the timeframes need to be looked at?

Mrs. Cynthia Wright: The nine-month clock for listing—that's the time from when the minister provides the COSEWIC assessment to the Governor in Council—starts a nine-month clock to finish the listing process, which requires consultation. We have found that where consultation involves extensive consultation with aboriginals, particularly where there are land claims and where there are economic issues—and my colleague from Fisheries and Oceans could probably speak to that more—this nine-month clock is extremely difficult. It's very difficult to get across the north, for example, for consultation with all the communities that could be implicated by a decision on polar bear listing. Nine months is a very difficult challenge.

In fact, the agreement we negotiated with Nunavut to respect their land claims actually requires more than nine months.

That's in the listing phase. The other phase, critical habitat, is, as I said, a challenge in the early stages of the recovery planning.

The Chair: We'll start off our five-minute round.

Mr. Scarpaleggia.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Thank you very much, Chair.

Welcome to the committee.

I'd like to pursue the issue of critical habitat protection. Is it required of the department to make recommendations about critical habitat protection in recovery plans, or in assessments that are supposed to be dealing with critical habitat? Could you clarify that for me, please?

Mrs. Cynthia Wright: It's not in the assessment phase. So COSEWIC does not concern itself with critical habitat. And oftentimes, COSEWIC has very limited information about where the species are and what the requirements are for recovery.

It's in the recovery planning phase, which under the act is a two-step process. The first step is a recovery strategy, which has a high-level goal—what population do you want to reattain?—and it says that you have to identify critical habitat to the extent possible. In the action planning phase, the second part, you are getting more precise implementation measures to protect. That's when you're supposed to finish the identification of critical habitat.

Mr. Francis Scarpaleggia: Now, my understanding is that the court cases you were alluding to before, and that Ms. Duncan was alluding to, involved issues of critical habitat and recovery plans.

Mrs. Cynthia Wright: Most of them do, yes.

Mr. Francis Scarpaleggia: Especially since it's pretty clearly laid out in the legislation, I imagine, why would we submit to recovery plans that could be so easily and repeatedly challenged in court? You say that as you go through these successive court challenges, you learn. But what is there to learn, really? It seems to me that it was a fairly well laid out and clear requirement from the get-go. So what's there to learn? In what respect are these recovery plans lacking with respect to habitat?

• (0955)

Mrs. Cynthia Wright: I can probably explain best, Mr. Chair, with the short example of the piping plover. As I said, it breeds on the ground, and particularly in agricultural or beach recreation areas. We don't know why it picks an area, and it doesn't pick the same area year after year. So identification of critical habitat would require us to stop recreational activities and agricultural activities in the area identified as critical habitat.

Mr. Francis Scarpaleggia: So that's where the socio-economics comes in, I guess.

Mrs. Cynthia Wright: That's where the importance of being sure of what you're doing comes in. You have to be able to identify it such that a farmer knows he can plough or cannot plough that area, because critical habitat has a prohibition against activities happening.

Mr. Francis Scarpaleggia: That's a socio-economic issue, I would think. If you're talking to farmers about ploughing, it's all about economics, is it not?

Mrs. Cynthia Wright: What I'm trying to explain is that it's a consequence of being sure, scientifically, of what you're identifying. Scientifically, we want to be sure of whether the piping plover are highly likely to nest in this area.

Mr. Francis Scarpaleggia: Right. I've got it. But what about the other four challenges? What species did they involve? Was it the same problem? Did you have a species that was roaming about and so on?

Mr. Pardeep Ahluwalia: If I may, Mr. Chairman, one of the more recent species that's been the subject of court challenges is the resident population of killer whales off British Columbia. That's a different level of challenge in the sense of dealing with critical habitat. We're dealing with large marine mammals that occupy a very large space. The resident killer whales are predominantly resident in B.C. waters, hence the name, but they don't spend all their time in B. C. waters. So we're not always quite sure of what the habitat is, let alone the critical habitat.

Mr. Francis Scarpaleggia: What do the courts say in response to these challenges? Do they agree with you that there are scientific challenges? Or do they say that it's not really a scientific challenge and that maybe you're not working closely enough with the province on this? Or maybe the province is being uncooperative. I mean, what kinds of conclusions are the courts coming up with?

Mrs. Cynthia Wright: If I can, Mr. Chair, many of these actually haven't gone all the way through the court process. For the piping plover, the mistake Environment Canada made was not being clear about what we were up to. We spoke to the NGOs that raised the challenge afterwards, and we made a mistake. We should have said that we were doing further work to identify critical habitat and that we would have that done within a set period of time. We are now trying to make that our practice so that we're more transparent.

The Chair: Time has expired, unfortunately.

Mr. Calkins, the floor is yours.

Mr. Blaine Calkins (Wetaskiwin, CPC): Thank you, Mr. Chair.

I certainly appreciate the conversations happening today.

First, just quickly, can you enlighten me as to how something gets on schedule 2 or 3? I understand that COSEWIC is responsible for taking it from schedule 2 or 3 and putting it on schedule 1. Can you just tell this committee how a species gets listed on schedules 2 and 3?

Mrs. Cynthia Wright: The good news is that effectively, schedules 2 and 3 are empty now. COSEWIC has existed for a long time, and they were operating under a certain kind of assessment procedure. They reformulated their procedures to harmonize with the International Union for Conservation. They had species that had been assessed under an old protocol, but they had to be reassessed under the new protocol. Those have all been dealt with and are into the listing process or are listed under schedule 1.

Mr. Blaine Calkins: In the deemed classification clause in the bill, how many of the species moved to schedule 1 from schedules 2 and 3 because of insufficient time? Have a lot been moved into that?

Mrs. Cynthia Wright: No, they were all done on time, with scientific evidence.

Mr. Blaine Calkins: How does this act work in conjunction with the Convention on International Trade in Endangered Species? Is the listing that we put out in schedule 1, the endangered species there, used by the CITES?

Mrs. Cynthia Wright: That can be used as Canada's input and presentation to the CITES, but the CITES has their classification, and that's what COSEWIC was trying to harmonize with.

•(1000)

Mr. Blaine Calkins: I'm going to move on and ask some questions specifically pertaining to the fisheries and aquaculture.

The issue of abalone was brought up. If we take a look at the way the law is structured, we cannot take an animal or species that's been classified under the Species at Risk Act and use it for aquaculture, for harvesting, or for commercial purposes. Is that true?

Mr. Pardeep Ahluwalia: Unfortunately, it's not quite as clear as that.

Mr. Blaine Calkins: That's where I'm going with this. If we take a look at the act, Atlantic salmon in the Bay of Fundy are considered endangered, or extirpated, or whatever they're classified as, yet we seem to have no trouble at all farming Atlantic salmon.

The question I have here becomes one of speciation. We have things that are listed not because of a species being at risk, but because the species is gone from what we know to be a traditional area where that species once existed. That's a habitat issue more than it is species at risk, because a species might be abundant in another part of its normal geographic range.

Also, for example, if you take a look at the peregrine falcon, we have things listed by subspecies and not actually by species. At the species level we may have an abundance of peregrine falcons, but if you take a look at the tundra subspecies of the peregrine falcon, that one is listed.

When we take a look at the abalone, we can look at it from the perspective that there is definitely aquaculture commercial value to it. If we were to actually have a mechanism in place to allow the abalone to be raised in an aquaculture perspective, it might actually reduce the poaching and the illegal harvesting of this listed species.

Where could the act use some improvement when it comes to sorting out some of these issues?

Mr. Pardeep Ahluwalia: If I may, you've raised some very interesting and challenging questions for us.

With the abalone, the act does allow for us to take individuals of a species if it's for scientific purposes and doesn't jeopardize recovery of the species. We do have the ability to take species from their natural environment if it's to help recover the species. That's what has happened with the abalone example on the west coast, in that there is a commercial operation that is raising abalone. It's a first nations organization. The rationale is that the first nation is concerned with recovery. If my memory serves correctly, half of the population they raise is intended to go back into the wild to help recover the species.

The challenge is on the aquaculture side of the operation, which is intended to help provide the funding, or at least a portion of the funding, for the recovery side of the operation. We do have a mechanism in place to allow that trade to happen under a fairly onerous set of permits and handling requirements, but it's certainly not an easy path to follow for recovery of a species. The same applies for the certain others that are starting to be looked at.

It is an area that we do find challenging. I don't think we have an easy solution to this one, but it is one that may warrant some consideration.

[Translation]

The Chair: You have five minutes, Mr. Bigras.

Mr. Bernard Bigras: I have a question that follows up on the one asked by Ms. Duncan regarding the bilateral agreements you have signed with the provinces. I would like to come back to this issue, since this is the first meeting on this issue, so that we can refresh our memories regarding federal-provincial cooperation. You reminded us that three bilateral agreements had been signed with three provinces, including Quebec. Please start by reminding us what these agreements are about. I think it is important to do this.

•(1005)

[English]

Mrs. Cynthia Wright: The bilateral agreements, as I said, are meant to give the federal and provincial governments a good understanding of who will do what. They actually end up developing cooperative work plans and, where appropriate, sharing resources to get the job done. As I said, particularly from Environment Canada's perspective, often the knowledge, expertise, and many of the tools to protect a species or recover a species are actually sitting in the hands of a province. The bilateral agreements are meant to facilitate that.

There's a governance committee that develops a work plan. They share priorities on who will look after what species in terms of doing actually the recovery plans and implementation activities. They're also meant to facilitate other actions, such as consideration of species at risk under the environmental assessment procedures of both orders of government.

So they're quite broad. They also spell out consultation—how we'll consult if there's an emergency on the status of a species, that type of thing. They're comprehensive in terms of the whole act.

[Translation]

Mr. Bernard Bigras: While there is nothing mandatory about it, are the provinces to submit reports to the federal government?

[English]

Mrs. Cynthia Wright: The provinces do carry out activities. They often are doing recovery strategies under their own powers and their own authorities. Then they will provide those to Environment Canada. The act allows the environment minister to adopt an existing strategy or action plan. Often the federal government will adopt that provincial strategy.

That's one example of a rapport. As I said, there's work planning in committee. They're regularly communicating their priorities.

[Translation]

Mr. Bernard Bigras: As I understand it, some provinces have signed agreements with the federal government, and others have not. Do you think that this type of model, involving signing agreements with the provinces, is one that promotes the protection of biodiversity? Do you think it is preferable to have some agreements with the provinces, rather than to have none at all? Is this the model we should be considering in order to protect habitat and species as much as possible as a result of this type of cooperation?

[English]

Mrs. Cynthia Wright: We feel that these are essential to the implementation of the accord, the national framework, and the

federal Species at Risk Act. That's why we have a high level of effort finalizing bilaterals with all jurisdictions.

[Translation]

Mr. Bernard Bigras: Have you noticed any differences between provinces that have signed agreements and those that have not signed such agreements with the federal government? Have you seen any differences in the enforcement of the rules on species protection, that would ensure that Canada can meet its 1992 commitment, for example? We should remember that Canada was the first industrialized country to sign the United Nations Convention on Biological Diversity. Does this type of agreement with the provinces help Canada do better internationally?

[English]

Mrs. Cynthia Wright: Yes, we do consider the bilaterals to be key. We've seen, for example, that once we have the bilateral in place, and we have the committee that meets regularly and shares the priorities, shares the workload, we're making significant progress. It has helped build a better understanding among the governments that have signed a bilateral agreement and the federal government in terms of how SARA works, how we implement it. I think there's less uncertainty for the provinces.

Just as an example, the first bilateral signed was with British Columbia. It led to a lot of cooperative action, for instance, on the spotted owl. The experience we had under the first bilateral is what led us to develop that national framework, which gives more clarity and is helping us speed up the finalization of remaining bilateral agreements.

The Chair: Mr. Braid, you're on.

Mr. Peter Braid (Kitchener—Waterloo, CPC): Thank you, Mr. Chair.

Welcome to the departmental officials this morning. Thank you for your participation.

I wonder if I could just start at a high level. We have approximately 70,000 species in Canada. Of that, about 7,700 are being monitored. I'm just curious about what process or methodology we went through to determine that first 10%, and how they fell into the monitoring category. Are those low-hanging fruit, so to speak?

•(1010)

Mrs. Cynthia Wright: I can speak more to the terrestrial and perhaps Pardeep would like to speak to the aquatic.

A lot has to do with jurisdiction. Environment Canada has jurisdiction for migratory birds. We have a very mature act, the Migratory Birds Convention Act, and a lot of cooperation in North America and in fact in South America. There is a lot of bird monitoring. Pretty well all the birds are monitored to some degree or other.

In the early days those were birds that were considered more important to society, such as waterfowl, ducks for hunting. That is somewhat similar at the provincial level. The species for which the provincial government is obliged to understand the status so they can set hunting quotas is where monitoring is probably the most stringent and long term.

Mr. Peter Braid: With respect to enforcement specifically, you mentioned either during your presentation or perhaps in answer to a question that the number of enforcement officers has increased. You now have 98, I believe. That was as a result of an increase in budget 2007. What's the additional number of enforcement officers that resulted from that budget increase?

Mrs. Cynthia Wright: It was 38. They almost doubled.

Mr. Peter Braid: That's about a 50% increase.

What authorities do those enforcement officers have?

My follow-up question will be what opportunities for improvement to the legislation might we consider to further augment those authorities?

Mrs. Cynthia Wright: Most of their actions to date have been with respect to the prohibitions under the act for killing, collecting such a species. For instance, there was a case not too long ago when someone was charged successfully under the act for collecting turtles in the wild.

Their authorities will apply to protection of critical habitat. Their authorities, under the Species at Risk Act, are largely focused on those prohibitions, and if a permit is issued that the permit be complied with as well. There are permits for incidental take activities as well; for instance, you're carrying out an activity and you may accidentally harm a species at risk. If that is deemed to not affect the whole population or its recovery, that can be a permanent activity. The enforcement procedures are largely related to those prohibitions as well as the critical habitat prohibitions.

There are also authorities under other pieces of legislation that are used, under the parks authorities, under the Fisheries Act, and Environment Canada under protected areas, etc. There are more than just the species at risk.

Mr. Peter Braid: Right.

As we undergo this legislative review, are there opportunities for improvement in the act to further improve the authorities the enforcement officers have or to give them additional tools so they can do their job more effectively?

Mrs. Cynthia Wright: One thing I should point out to the committee in light of the enforcement bill being tabled last week is because at the time that bill was being drafted and the Species at Risk Act referral to this committee was imminent, there was a decision that we shouldn't amend the Species at Risk Act via the enforcement bill. So the provisions in the enforcement bill that was

tabled last week do not include any amendments of the Species at Risk Act. All of those provisions in that enforcement bill could apply to the Species at Risk Act—in other words, the fines, the sentencing instructions, the enforcement tools, including the administrative monetary penalties. Those are absent or only allowed but not required under the Species at Risk Act. So all those in the enforcement bill could have been applied to the Species at Risk Act.

Mr. Peter Braid: Great, thank you very much.

How much more time do I have, Mr. Chair?

The Chair: Your time is up. Thank you very much.

Mr. Trudeau.

Mr. Justin Trudeau (Papineau, Lib.): I just want to follow up directly on exactly the point Mr. Braid made. First of all, in the collecting of turtles case you mentioned, what were the penalties applied to the individual?

• (1015)

Mrs. Cynthia Wright: I think it was a \$10,000 fine.

Mr. Justin Trudeau: Okay. What you're saying about the environmental enforcement bill not applying to SARA, I'd like you to go over that, just repeat it for me. Are you saying it could have applied to SARA and it was chosen that it wouldn't apply to SARA?

Mrs. Cynthia Wright: That's correct. In other words, at the time, the decision was that because SARA could be before this committee—in fact it's unfolded this way, and it is before this committee for review—the enforcement bill is amending other pieces of legislation, so there was a decision to keep them separate but to allow the committee to consider how it could apply to SARA.

Mr. Justin Trudeau: Okay. I'm just surprised, because you'd think an enforcement bill would be protecting wildlife and species at risk, if anything. I think that's certainly something we're going to have to consider here, making sure the provisions of the enforcement bill, when it comes before us, apply to SARA.

To go back, you mentioned polar bears and traditional aboriginal knowledge, and one of the weak points in traditional aboriginal knowledge, by definition, is the new impacts of climate change. For generations native elders could predict exactly which day or which week the ice would break up, and now they no longer know which day the ice is going to break up—a given day—because the weather patterns are so changing.

How is Environment Canada, and specifically in relation to SARA, addressing the changes coming? I think of the disappearance of the sea ice in the polar bear case, but there are many, many others across the board. How are we preparing for the coming changes, because of climate change, in the way we regard species at risk and their habitats?

Mrs. Cynthia Wright: To use the example of polar bears, that was certainly a topic that was discussed at length at the polar bear round table in January. Indeed, COSEWIC has looked at the long-term implications for climate change on the polar bear in its status assessment. I think that's why they are pointing to the need to make sure harvesting is set properly, so there's a strong enough population base for the species to maintain.

I think what traditional aboriginal knowledge brought to this was a better understanding of how species do recover. Many of the Inuit were recounting stories of declines and increases, so what are the factors affecting that? The other thing they brought to our attention is that maybe the management units we're using are actually not necessarily the right boundaries. They found that polar bears, according to traditional aboriginal knowledge, move more, cross boundaries more. These are all things that can be useful in recovery strategies.

Mr. Justin Trudeau: Finally, in regard to the woodland caribou case, there's a question of the timelines and the amount of time, the gap that was highlighted in SARA between the time a minister receives the assessment from COSEWIC and passes it on to cabinet, to Governor in Council, which would then trigger the start of the nine-month countdown clock.

You mentioned there were concerns about not being able to consult enough in the nine months given. Is that the main reason this gap exists? My understanding was that the gap was not supposed to exist, because it was supposed to be the onus of falling back on the science, the onus of action as opposed to an onus of inaction.

Mrs. Cynthia Wright: I hope I haven't misled the committee, Chair.

For woodland caribou, the gap is not in the listing. Caribou is a listed species and therefore afforded the protection of the act, so thou shalt not kill, harm, harass, take—

Mr. Justin Trudeau: Or endanger critical habitat.

Mrs. Cynthia Wright: The second aspect where the challenge has been is identifying the critical habitat for caribou. Understanding caribou and their habitat needs, that's where the scientific challenge has been and that's where we've needed extra scientific work. The species is on the list and afforded the species protection provisions of the act.

The example I was using where the consultation takes longer is in the listing phase, and for other species, just to use the example of the polar bear, that's one where we have an obligation to consult with wildlife management boards as some of the key managers on the population. So we have an instrument we've negotiated that respects wildlife management agreements, and that instrument makes it hard to complete the consultations in nine months. We cannot do it within the nine months and respect the land claims, and the Nunavut land claims agreement in particular.

• (1020)

The Chair: Thank you. The time has expired.

Mr. Watson.

Mr. Jeff Watson (Essex, CPC): Thank you, Mr. Chair.

Thank you to the officials for appearing here today.

A lot of our colleagues around the table have jumped into a lot of very specific questions, and that probably means they know a lot more than I do about SARA. I'm still studying this thing. In my mind I've sort of separated the review of SARA into two aspects. One is the framework itself, SARA as an act. Is the fundamental architecture of SARA in fact sound? Are only parts of it needing overhaul, or does most or all of it need a fundamental new approach? The second aspect I've separated this into is sort of the policy, the processes, and the results that flow from the framework.

I want to start with the framework itself. I think you've sort of hinted in this direction, but I'm not sure I've heard a conclusive answer from officials. SARA itself as an act, its contents, its prescription as a framework, is it generally speaking fundamentally sound? Should this committee be satisfied that fundamentally it's okay, that there may be certain aspects we should be looking at but not a fundamental rewrite of the legislation? Is that your opinion?

Mrs. Cynthia Wright: What hopefully the committee has heard from us today is that we've done a lot of work in five years to learn about this act, to learn how to use this act, and to learn how to use this act in the landscape in Canada both jurisdictionally and geographically. We feel that we're well positioned to now start to make significant progress in implementing this act.

Mr. Jeff Watson: I'm not sure I heard the answer yet. Is the fundamental architecture okay?

Mrs. Cynthia Wright: If you mean in the general sense of this process—

Mr. Jeff Watson: What the act lays out. I'm looking for direction as to whether this committee should be looking at a fundamentally different approach to species at risk than the act itself.

Are we looking at a fundamental overhaul of the act, or is it the opinion of officials now, with five years of experience under their belt, that the act itself largely is okay? There may be some specific areas that we should be focusing in on as a committee to sort of... I don't want to say "tweak" per se; it might be more than a tweak. But were they looking at a select number of areas in which to make improvements to the act so that it allows you to function better in your capacity for carrying out the act? That's more what I'm driving at. Is that a clear question?

Mrs. Cynthia Wright: I think that would be a fair assessment, especially if one considers that it took roughly ten years, I think, to come up with this architecture of an act. So we are able to function in it. There are criticisms and weaknesses, but we are making progress in those areas.

Mr. Jeff Watson: Okay. That I think is highly instructive for our process as a committee, then, in terms of your opinion. We'll of course be seeking the same guidance from others who will appear before the committee, as to whether they think the fundamental architecture is sound.

In your opinion, then, where can the architecture be improved? That will give us some guidance as well. I ask the question from my experience on my other committee, the Standing Committee on Transport, Infrastructure and Communities, where we're looking at the Navigable Waters Protection Act. That's an act that's over 100 years old, and there's a whole lot more experience, but officials came to us with some suggested amendments and some areas to be looking at based on their experience. As I ask the question about where are some areas that this committee could pursue to improve SARA, will officials be coming forward at some point with suggestions on how to make those improvements in the areas that are trouble spots?

Mrs. Cynthia Wright: We haven't identified areas where it needs to be improved. A lot can be done within the existing act with clear procedures and practices. So we won't be bringing forward specific areas for improvement.

Mr. Jeff Watson: Okay. Can you point us in the direction, then, of where the framework itself poses some challenges for you?

Mrs. Cynthia Wright: I think I have spoken to the listing and how we're managing that. You will hear more from others, but essentially how we're managing the nine-month clock is it starts with when the minister makes his recommendation to the Governor in Council. So where the minister needs more time to respect land claims, we are taking more time before we refer the recommendation to the Governor in Council. That's an example of where members might want to make the act clearer on that.

• (1025)

The Chair: Thank you; your time has expired.

Mr. Jeff Watson: Time flies when you're having fun, Mr. Chair.

The Chair: Mr. Woodworth.

Mr. Stephen Woodworth (Kitchener Centre, CPC): Thank you very much.

First of all, I just want to pick up a bit on what Mr. Watson was saying.

I get the sense from you that it took ten years to get this act together and that the first five years have really been working out the

kinks, if I could put it that way. And I almost get the sense that your plea is "For goodness sake, now that we've got this system up and running, and we're poised to really put it to use, let's not go back and change the fundamentals". Am I overstating it, or is that what I should take from your answers?

Mrs. Cynthia Wright: Mr. Chair, it's as important for us as civil servants to implement the act that Parliament has given us. We feel that we're making good progress toward implementing the act that Parliament has given us.

Mr. Stephen Woodworth: Right.

I'd like to pursue a few questions around the enforcement side of things, and in particular, starting with the notion that the environmental enforcement act did not include upgrades to SARA. Was that simply as a matter of deference to the committee—that is, that the department didn't want to put a proposal in front of this committee about SARA until the committee spoke first? Is that the way I perceive it?

Mrs. Cynthia Wright: That is very well stated.

Mr. Stephen Woodworth: Thank you.

To follow up on that, would it be correct for us to think that all three of the departments or agencies represented here today would not, indeed, have any objection, in principle, if the environmental enforcement provisions were applied to SARA? I guess I should say that I don't know for sure if DFO would have that position. So I'd like to hear specifically about DFO, but also generally from the three of you on the environmental enforcement legislation. Would it be a good fit for SARA?

Mr. Pardeep Ahluwalia: Mr. Chair, when we were looking at the enforcement act some time ago and the connection with SARA, from a DFO perspective, we didn't perceive any initial areas where, in principle, we wouldn't be able to work with the environmental enforcement bill.

Mr. Stephen Woodworth: Does that apply as well to Parks Canada, Environment Canada generally, as it relates to SARA?

Mr. Mike Wong: Mr. Chair, similarly to the officials from other departments, we participated in the discussions on the enforcement bill and ensured that it aligned with our current policies and approaches.

Mr. Stephen Woodworth: Thank you.

I'd like to see if there's any information. You may not have come prepared to speak to this, but there was mention of a conviction with respect to the Blanding's and spotted turtles that resulted in a \$10,000 fine. Are you able to put that in context for me?

One of the concerns in the environmental enforcement legislation is to ensure that fines are adequate to prevent people from taking profit. I don't know whether you could enlighten me about what profit there is in Blanding's and spotted turtles and whether or not a \$10,000 fine in fact is more than just the price of doing business in that particular illegal activity.

Mrs. Cynthia Wright: With respect to the turtle—and I can get you the correct facts—my recollection is that the person was charged before he had an opportunity to profit from the turtle. So there was no profit in that case.

In terms of the enforcement bill—and again, I can double-check the facts—I believe this would have fallen under the summary conviction, which would have set a minimum of \$5,000 under the enforcement bill. So the fine was higher than what the minimum to an individual would have been.

The maximum under the new enforcement bill would be \$300,000 instead of \$50,000. Those kinds of factors would be up to a court, and I couldn't speculate how a court would treat all of that.

•(1030)

Mr. Stephen Woodworth: I just wondered if there was any economic evidence about the trade and such things, and whether the penalty provisions, as they currently exist, are adequate to overmatch. I guess that question applies generally to any number of animals, not just these turtles, but I don't know...

Mrs. Cynthia Wright: The trade in turtles as a food source—I'm not sure about Blanding's specifically—is a fairly lucrative market, particularly within Asian cultures.

Mr. Stephen Woodworth: Okay. Thank you.

The Chair: Your time has expired.

As chair, I just want to get a couple of clarifications on some of the questioning that has taken place. There has been quite a bit of discussion about polar bears. I know that when we look at the western Hudson Bay polar bear population, there is significant concern about numbers dropping there. But within Canada, there are about a dozen different distinct populations of polar bears, and if you look at the global context and the rest of the Arctic region, there are well over 20 distinct polar bear populations.

So when COSEWIC and the department officials are working together looking at species of concern and species at risk, do you take into account the broader context of the overall population worldwide, or are we just talking about the isolated problems that we might experience with individual populations?

Mrs. Cynthia Wright: Mr. Chair, I have two points on that.

Yes, the COSEWIC does consider the status of the species globally. They are restricted to assessing just the Canadian population, but they do consider, particularly more in their priority setting, the global population of that species.

On the issue of populations or subpopulations or subunits, that's actually one of the interesting things that came out of the COSEWIC polar bear assessment. Canada does consider that it has 13 subunits and had been considering those as subpopulations. However, given the additional work that was done in this recent COSEWIC assessment along with the traditional aboriginal knowledge,

COSEWIC has assessed that as one population. So they looked at the status and the health of the population overall, as opposed to looking at those subunits, as the International Union for Conservation of Nature has done.

The Chair: There was also a discussion about species that are being farmed. The abalone is one they were talking about. Plains bison is another species of concern in the wild, but it is largely farmed across western Canada. So how do they take those situations in which you have a very large and healthy domestic population versus the population in the wild, and balance that off with how the department may invest its resources in studying and protecting them in the wild?

Mrs. Cynthia Wright: COSEWIC could only assess the status in the wild.

The Chair: You would only look at them in the wild. But from a departmental standpoint, what would be the role of Environment Canada, Parks Canada, or DFO as you're dealing with these farmed species? If you look in a lot of the parks under Parks Canada, we find, for example, the wood bison. It's up in Wood Buffalo National Park or out in central Saskatchewan or even in Manitoba. There's actually a farmed bison herd in Riding Mountain, and not a wild herd.

Mr. Mike Wong: In fact the plains bison is another success story under the species at risk legislation. We do have a disease-free herd in Elk Island National Park, outside of Edmonton, and in fact this is one of the stocks that we use to help recover the plains bison across the country. Most recently, we returned the plains bison back into Grasslands National Park after a 100-year absence from that area of Saskatchewan. So with time, I believe we will be able to reach the recovery goals for the plains bison fairly easily.

The Chair: I have one final question. There has been a desire by Parks Canada to protect geographic areas that are unique. In the north part of my riding is a lowlands area that has been designated for some time. Hopefully it will turn into a national park. It's also home to the only area in Canada where you find the five major ungulates actually co-existing in the wild: bison, moose, elk, deer, and woodland caribou. But it seems to be a long, drawn-out process, and we're still at the point of having this as a protected area and not a national park.

●(1035)

Mr. Mike Wong: In our national park systems plan, our vision, if you will, is to establish a national park in each of these natural regions. Certainly the Manitoba lowland is one of the areas that we feel have a unique landscape and biodiversity. We would like to establish a protected area. We are in consultation with the first nations in these discussions, and as you pointed out, these discussions do take time. This is one of the priority areas that we have established over the last few years in our corporate plan.

The Chair: Thank you.

We have time for one more five-minute round.

Mr. McGuinty.

Mr. David McGuinty: Thank, Mr. Chair.

I want to pick up on the chair's comments about the polar bear. My understanding of the listing in the United States is that the Republican administration was forced by the Federal Court to list the polar bear as endangered because of the prospective problems that the court adjudged would be forthcoming under climate change and loss of habitat. I don't expect an answer, but I want to get that on the record. At some point when COSEWIC appears, Mr. Chair, I'd like to ask them more about that. Why is there a distinction here? Also, I understand the court used the IUCN data that Mrs. Wright spoke about.

I want to go back to this act. It appears to me that the linchpin around all of this—the success of species at risk, processes, enforcement and management—is critical habitat. We've known now for a decade, which is why ecological integrity was brought to bear on Parks Canada under our previous government, that if we don't have our parks systems properly buffered and connected, then in large part, especially for the large predatory species, it's really all for naught. This is why we have the Yellowstone-to-Yukon Initiative. We've got a whole series of drivers at play because wildlife biology is telling us that it simply is not working. They become ecological dead zones. Parks, for example, in the outskirts of Boston don't have a single indigenous species left from the time they were set up a century and a half ago.

I want to go back to this question of critical habitat. My understanding is that one of the criticisms about the last five years in the administration of SARA has been that 84% of all the species at risk are declining primarily because of habitat loss and degradation. Can you help Canadians understand? And I don't mean this in any negative way, but it appears from testimony we've heard so far that everything is okay. But I need to hear more about what we're not doing on critical habitat. What are we not doing to identify critical habitat? What could we be doing better in that regard?

Mrs. Cynthia Wright: Mr. Chair, I would like to make two points. On the first point, about what are we not doing, we are having a scientific challenge to understand what is critical habitat. We can understand what habitat is, but what is the habitat that's absolutely critical to the survival and recovery of the species? It sounds simple in legal terms, but it's often very difficult in complex biological terms. As I said, fundamentally we don't have a lot of knowledge about a lot of these species. Pardeep mentioned that we

often have enough to assess the status but not how to go forward on recovery. That scientific challenge remains.

That being said, considering the precautionary principle and considering where we're at in habitat protection, not necessarily critical but habitat protection, there are a couple of points the committee might want to consider. This piece of legislation doesn't act in isolation. Collectively, governments in Canada have protected almost 11% of terrestrial habitat through parks, federally and provincially, etc.

The government's natural areas conservation program, which gave \$225 million to NGOs to protect ecologically sensitive lands, is well on the way to its goal of over 2,000 square kilometres of ecologically sensitive land. They're almost at one-third of that already, and they only started in 2007.

The other program I mentioned, the habitat stewardship program for species at risk, is funding Canadians, particularly private landowners, to protect habitat for species at risk. It has already put over 200,000 hectares into private protection and done an improvement on roughly the same amount of habitat. So while we're struggling with the challenge of designating critical habitat under the act, we're not sitting idle in actually protecting habitat.

●(1040)

Mr. David McGuinty: So then one of the challenges you are facing is that you don't have enough science.

Mrs. Cynthia Wright: It's fair to say that I don't think any country has enough science to understand the species and what habitat they need and how to protect it adequately. That's going to be an ongoing challenge for all countries.

Mr. David McGuinty: I'm sure it is, but here in Canada how much are you able to earmark and dedicate to science for critical habitat every year?

Mrs. Cynthia Wright: I'd have to get you the numbers, because the science is also giving broader guidance on recovery. It's not just critical habitat; there are other things, like reintroduction. We spend a fair bit of money on captive breeding, on whether we can reintroduce species. So I'd have to get a breakdown of that detail for you.

Mr. Justin Trudeau: Is it less than the \$2 million?

Mrs. Cynthia Wright: The \$2 million is only on the assessments. If I understand the member correctly, he's getting beyond the assessments into the recovery strategy. So it's significantly more than that.

Mr. David McGuinty: Am I right that 84% of the species at risk are declining primarily because of habitat loss and degradation?

Mrs. Cynthia Wright: I'm not sure it's as high as 84%. I don't know that number.

The COSEWIC assessments often identify the threats. Habitat is frequently at threat; it's not the only threat. There's pollution, over-harvesting, climate change, and a number of other threats.

Mr. David McGuinty: Mr. Wong, can you comment on how well you are doing with ecological integrity buffering and connecting our national park system? We can commit to setting aside a quarter of Canada's land mass, but if these things aren't connected and buffered properly for species, particularly predatory ones, is it going to work?

Mr. Mike Wong: One of the key programs we instituted, following the ecological integrity panel, was a nationwide monitoring and reporting system. This is the science-based system that will tell us how well we are doing. We completed that task for all our southern national parks this year, and we are challenged by some of the logistic issues of implementing this monitoring program in many of our northern parks because of their size and isolation.

Time will tell, and this monitoring system will be able to determine and answer the question you posed to us on whether we are improving and maintaining the ecological integrity of all our national parks.

The Chair: Thank you.

Monsieur Bigras.

[Translation]

Mr. Bernard Bigras: Thank you, Mr. Chairman.

I would also like to have a better understanding of habitat and critical habitat. There is something I would like to understand about polar bears—not to dwell on this subject too much. Given that we know there has been a significant reduction in sea ice, what impact does this have on the habitat of the polar bear? Do you have a report that would explain why this species was placed on a list of species of special concern, rather than a list of threatened species?

Is sea ice not the habitat of the polar bear? Is it a critical habitat? Can you clarify, please?

[English]

Mrs. Cynthia Wright: I have a couple of points on that, if I may. COSEWIC did an intensive report and it's available on their website. Yes, they considered sea ice. They considered the importance of the annual sea ice, which will continue to form as long as the earth continues to rotate around the sun. So that's an important consideration.

Yes, they were concerned about the long-term implications of the loss of permanent sea ice, and they said that would have an impact over three generations.

For all of those reasons the independent science panel—not Environment Canada—has come with the assessment of special concerns.

● (1045)

[Translation]

Mr. Bernard Bigras: I understand that in determining whether a species is threatened or whether it is of special concern or otherwise, consideration is given to anthropic issues, those having to do with human activity.

Is the issue of climate change part of the analysis in classifying species? Is it considered, or are only human activities or very specific projects considered?

[English]

Mrs. Cynthia Wright: COSEWIC did consider climate change and other activities in its assessment. They have a fairly rigorous criteria for determining what status they'll give to a species—special concern, versus threatened or endangered. And I'm sure Dr. Hutchings will be happy to explain that to you in detail when he comes.

So they were concerned about the long-term implications of climate change, and that was acknowledged by all parties that participated in the polar bear round table in January.

One other factor I should make sure members understand is the critical habitat requirement to designate critical habitat only comes with those species that are threatened and endangered. It's not a requirement under the act for those that are of special concern. But there are a number of parks, and the government announced last fall the identification of some new national wildlife areas that will include habitat for polar bear.

[Translation]

Mr. Bernard Bigras: Have you had some discussions regarding the polar bear with the American government in the context of a North American partnership designed to better harmonize north-south environmental policy—that is the policy of Canada and the United States?

[English]

Mrs. Cynthia Wright: Yes, the previous Minister of the Environment, Minister Baird, signed a memorandum of understanding for cooperation with the United States on how we would share the management of joint populations.

There is also a memorandum of understanding with all range states that have polar bears, signed in 1973. There is a meeting next week, if I'm not mistaken, with the range states in Norway that will include how governments globally can cooperate on the management and protection of polar bears.

[Translation]

Mr. Bernard Bigras: When was the last example of cooperation or discussion with the American government?

[English]

Mrs. Cynthia Wright: There are ongoing working-level discussions. At the ministerial level, it was last May.

[Translation]

Mr. Bernard Bigras: Were they official?

Mrs. Cynthia Wright: The last official discussions were last May. The work of officials is ongoing. My director general can confirm that for you.

When was the last time you spoke to your U.S. counterpart? Was that yesterday? It was yesterday.

Mr. Bernard Bigras: I see. Thank you very much.

[English]

The Chair: Thank you.

Ms. Duncan, the floor is yours.

Ms. Linda Duncan: Thank you, Mr. Chair.

Mrs. Wright, you replied to a question from Mr. McGuinty—and correct me if I'm wrong—that one of the significant problems in moving ahead on the habitat protection for species is the lack of scientific certainty and the need for more science. Am I correct that you said that?

Mrs. Cynthia Wright: I don't think it's scientific certainty; it's some fundamental understanding.

Ms. Linda Duncan: So there are still questions unanswered.

Mrs. Cynthia Wright: There are still questions unanswered on how species use habitat where they are, even.

•(1050)

Ms. Linda Duncan: Something that troubles me in this, and I'm no expert by any stretch of the imagination on endangered species law, is I notice that section 38 sets out the process for recovery strategies, and it very clearly states that the minister is bound by the precautionary principle. It states that in preparing a recovery strategy he may not postpone the recovery strategy and action plan for a lack of full scientific certainty. Is it not then true that if there are delays in finalizing these plans and making them legally binding, the reason being lack of full scientific certainty, the minister is violating his own law?

Mrs. Cynthia Wright: As I said, I don't think it's a question of certainty. We never have certainty in science. In the environmental field we're quite used to operating with a degree of uncertainty. But if you don't know if that species even nests there.... The piping plover example was very instructive. There was habitat that looked like perfectly good habitat, but we found they never used it.

Ms. Linda Duncan: If I can interject here again, my favourite topic—being from Alberta—is the woodland caribou. It's well known where the last of the habitat is. It's very small because of the tar sands, because of conventional oil and gas, because of coal mining, because of other developments in the eastern slopes and the northern area of Alberta. It was two years overdue, and then it's sitting in the minister's office now for seven months. Can we anticipate that the minister in fact will actually issue that plan within two months?

If we think there are further delays and if we are not waiting for scientific certainty, I have two questions. First, is it because the province does not want a habitat to be designated? Second, is there a problem in SARA that, unlike CEPA, there's no provision for an interim or emergency order? It may well be there, and you can correct me if I'm wrong—I'd be delighted if it is. If there is not such a power, would it be beneficial to add that to the act, given the fact that the very purpose and intent of the act is to take precautionary action to protect the species and its habitat before it's extirpated?

The Chair: Based upon some of the questions that were raised by Ms. Duncan, I'll just say this. As public servants, as you're aware, we do expect you to answer all questions put before the committee, but we know you have to balance your appearance here with the role you play as public servants in providing confidential advice to your ministers. So we will respect that you can't answer all the questions that are put before you as they relate to your relationship with the minister.

Ms. Linda Duncan: Perhaps, then, they need to clarify which ones they can't answer.

Mrs. Cynthia Wright: Well, I think the Minister of Environment has made it clear that he intends to release the report. There are emergency powers under the act. I'm forgetting precisely where they are in the act, but I do know that one is in the section in the 80s, and there's one earlier on. I think it's the one on emergency habitat. So there are two.

There is also an emergency listing, and there are emergency powers for taking action to protect a species and to protect its habitat.

So I think all the emergency powers are in the act, the equivalent of what the member might be thinking of under the Species at Risk Act.

Ms. Linda Duncan: Have you ever exercised those powers?

Mrs. Cynthia Wright: We have made it clear to the province what those powers are, and we have had cooperation so far from the provinces. So we have not used those powers yet.

I just want to come back to the habitat issue, because there is a distinction in the act between critical habitat and habitat. That's the part, I think, that's challenging. Most of the time we know the habitat, or possible habitat. Whether that habitat is critical for the survival and recovery of the species is where the challenge lies.

Ms. Linda Duncan: Would it not be possible to in fact designate critical habitat, then await further science, and then adjust the boundaries of that critical habitat?

Mrs. Cynthia Wright: That's an issue the committee might want to look at. There are implications of designating land that may not, in the end, actually be used by species, because there are prohibitions that apply upon designation of that land.

Ms. Linda Duncan: But you could amend it later? In other words, the purpose of the act is to act in a precautionary manner, in advance of the species being extirpated.

Is it not more important to make mistakes in setting aside the wrong land, or a bit too much or not enough, rather than delaying and then having the species extirpated, or its numbers severely drawn down?

Mrs. Cynthia Wright: Our strategy to date has been to actually look at how much habitat is protected. Whether or not it is designated under the Species at Risk Act has been an area where we have not necessarily focused. So if I use the spotted owl as an example, that was a species where we pushed for protection and there was protection at the provincial level. We did designate it, based on what we knew and understood at the time and could scientifically defend.

The Chair: Thank you. Your time has expired.

Mr. Warawa, a final question.

Mr. Mark Warawa: Thank you, Chair.

Has SARA been fully implemented?

Mrs. Cynthia Wright: If by that you mean have we been through an entire cycle of assessment, recovery planning, action planning, monitoring and evaluation, yes, we have, for the Banff Springs snail, a species that has gone through the entire cycle. There will be others coming through the cycle in the coming year, but that was the first one through.

Mr. Mark Warawa: My next question focuses on socio-economic considerations. We've heard from the NDP that they would like to cripple the economy, shut down the oil sands, make all of Canada a critical habitat—

•(1055)

Ms. Linda Duncan: On a point of order, the NDP has never said that. The Conservatives have said that.

Mr. Mark Warawa: So my question is, among the provinces, industry, and environmental groups, who is saying to you that socio-economic considerations should be part of SARA, and who is taking the position that they should not be?

As we look to science to determine what is critical habitat, you've shared with us that information is limited. You did make a comment about an hour ago about existing infrastructure. If a farmer's field or a hydroelectric project already in existence is determined to be critical habitat for a species, what are the consequences for that infrastructure or farmer's field?

Mrs. Cynthia Wright: If land is designated as critical habitat, the act prohibits the destruction of that critical habitat. That's why we have to be precise about what is critical about that habitat. What can you not do? If you use the woodland caribou as an example, does it mean you cannot cut a tree in the boreal forest? That's where we need the science to be clear on what constitutes destruction, because you cannot destroy unless the minister has an action plan and says that the activity would be consistent with the action plan. So there is

a permitting process, but it has a very high threshold. Essentially, it's looking at that critical habitat being protected because it is essential for the survival and recovery of the species.

Where the act allows critical habitat explicitly to be used in the act is when you're identifying the measures to be taken in the action plan. So you will hear criticisms that we are considering socio-economics on the decision of whether or not to list a species when the act itself is silent on that. We are, as officials, advising the minister under the authority of the cabinet directive on regulation-making, and that cabinet directive does require the government to consider at least some degree of socio-economic implications upon listing. Because it's an order, it falls under that directive. And it is important to recognize that upon listing, criminal-law powers come into effect that prohibit the destruction of the species, the taking of the species, the killing of the species. So in order for the government to make a balanced decision, the cabinet directive applies so that those criminal-law powers come into it in an appropriate manner.

Mr. Mark Warawa: On my specific question, using the examples you used, a farmer's field or a hydroelectric plant, if an area is deemed to be critical habitat and there are practices existing on that land, what are the impacts on that infrastructure?

Mrs. Cynthia Wright: The act has a two-stage process for identifying and protecting critical habitat. So if the government put in an order on private land to protect that critical habitat, the farmer would not be able to plow that field, unless for some reason the minister could be certain it would not have an impact on the recovery of the species. In this case, we deemed that it would have had an impact on the recovery of the species.

Mr. Mark Warawa: Is there compensation to the farmer?

Mrs. Cynthia Wright: There is compensation allowed under the act where there are extraordinary losses. So there has to be a demonstration of what the extraordinary losses would be.

Mr. Mark Warawa: Is that defined?

Mrs. Cynthia Wright: That is not defined. The minister has to make those judgments in the context of the regulations. Given our other priorities for working under the act, we have not yet developed proposed regulations under that authority. It will be an area where I think there will be more attention in the coming year.

The Chair: Thank you. Your time has expired, and the time for our meeting has expired as well.

I want to thank all the witnesses for appearing.

I want to remind committee members to please forward to the clerk by the end of today your list of witnesses for our study on SARA.

With that, I'll entertain a motion to adjourn.

Mr. Jeff Watson: I so move.

The Chair: Thank you, Mr. Watson.

The committee is adjourned.

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