



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Fisheries and Oceans

FOPO • NUMBER 117 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Thursday, November 1, 2018

—
Chair

Mr. Ken McDonald

Standing Committee on Fisheries and Oceans

Thursday, November 1, 2018

• (1530)

[English]

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

Pursuant to the order of reference of Wednesday, June 6, 2018, this is a study on the situation of endangered whales, motion M-154.

For this meeting this evening, we have witnesses from Fisheries and Oceans Canada. We have Philippe Morel, Assistant Deputy Minister; we have Adam Burns, Acting Assistant Deputy Minister; and by video conference, we have Patrick Vincent, Regional Director General.

As well, from the Office of the Auditor General, we have back again Julie Gelfand, Commissioner of the Environment and Sustainable Development, and Kimberley Leach, Principal.

Welcome, everybody. I know none of you are strangers to this committee, so we'll start off with your opening statements at seven minutes or less. I don't know if you're sharing the presentation or if there's just one person doing it.

When you're ready, Adam, please go ahead.

Mr. Adam Burns (Acting Assistant Deputy Minister, Fisheries and Harbour Management, Department of Fisheries and Oceans): Thank you very much, and I certainly thank you for having us here today. As you noted, I'm here with some colleagues from the department.

[Translation]

Thank you for the opportunity to be here today to discuss the situation of endangered whales in Canada.

As I'm sure you know, the government has been very actively engaged in implementing measures to protect whales over the last couple of years, and your work here in reviewing these measures, and what gaps may still exist, will be very valuable to us.

[English]

While we await your findings, the department continues to protect endangered whales. Just yesterday, Minister Wilkinson, along with his colleague Sean Fraser, the Parliamentary Secretary to the Minister of the Environment and Climate Change; and the Honourable Marc Garneau, Minister of Transport, announced a suite of additional measures that will help strengthen the protection and recovery of the southern resident killer whale.

The government has made an investment of an additional \$61.5 million and announced a variety of measures, including ones aimed at continuing to identify and protect new areas of habitat necessary for survival or recovery of the southern resident killer whale population, introducing important measures aimed at protecting and recovering chinook salmon stocks that are significant for the southern resident killer whales, expanding the vessel slowdowns to further reduce underwater noise, developing agreements with ferry operators and other marine industry partners to formalize current voluntary measures to reduce noise, expanding vessel monitoring systems and capabilities to develop real-time ability to avoid whale encounters, and providing funding to Ocean Wise for the development and deployment of a whale report alert system.

The government is also launching consultations with the marine industry on the development and implementation of noise management plans, advancing feasibility work on one or more southern resident killer whale sanctuaries within sub-areas of the critical habitat the whales use for foraging, and enhancing regulatory control of five key organic pollutants.

Whales in Canada face a complexity of threats, such as the availability of prey, increased noise levels from passing ships and pollution in the water. Over the past two years, the Government of Canada has made substantial investments to protect endangered and at-risk marine mammals and support their recovery. Since 2016, the government has invested \$1.5 billion in Canada's oceans protection plan, \$167.4 million in the whales initiative and, yesterday, \$61.5 million in measures directed specifically for southern resident killer whales.

[Translation]

With these investments, the government has taken and will continue to take significant actions to help protect marine animals from threats related to commercial fishing and marine traffic on all three coasts. This is especially true with regard to southern resident killer whales and North Atlantic right whales.

[English]

This suite of additional measures for southern resident killer whales, such as protection and recovery of chinook salmon stocks, will be accomplished through active collaboration with U.S. partners at both federal and state levels to harmonize protection measures on both sides of the border, which is critical, given the migratory patterns of the whales.

We're also pleased that other new measures, including speed restrictions for vessels and fisheries management measures in the Gulf of St. Lawrence, have been successful in reducing the risks for the endangered north Atlantic right whale population. In fact, thanks to the tremendous collaboration from the fishing and transport industries in implementing 2018 measures, there have been no observed north Atlantic right whale deaths in Canadian waters this year.

We continue to work with all involved as we review 2018 measures and improve them for 2019 based on this input and important new science advice we're expecting later this year. Just last week, Minister Wilkinson and DFO staff met with representatives from Atlantic Canada's fishing industry and indigenous groups, as well as marine mammal experts, to discuss the impacts of the 2018 fisheries management measures and seek input to help inform management decisions for 2019.

I would also like to highlight that the government has also made important investments in our marine mammal response program, providing \$1 million per year to the world-leading third party responder groups that are the backbone of this program. With this investment, the government is making sure that the capacity is in place within the vital network of third party responders to respond to marine mammal incidents, including whale entanglements, should they occur.

Further bolstering protections of marine mammals, recent amendments to the marine mammal regulations will provide greater protection for marine mammals, including Canada's at-risk whales.

• (1535)

[Translation]

These amendments include measures to reduce disturbance associated with vessel presence by applying minimum approach distances, which is a recovery objective for the southern resident killer whale, the St. Lawrence estuary beluga and the North Atlantic right whale.

Other added measures include mandatory reporting for accidental contact between vessels or fishing gear and marine mammals, and regulating marine mammal watching.

[English]

In order to address the risk of entanglement with North Atlantic right whales, several fishing gear management measures were applied to fisheries with a likelihood of interactions with right whales. Measures included reducing the amount of rope floating on the surface of the water; gear marking; additional identification of buoys; increased surveillance; and the requirement to report lost gear for all fisheries, an important step to reduce the risk of ghost gear.

The department continues to foster innovation in fishing technologies and methods that would maintain an active fishing industry while also reducing the risk of whale entanglements.

[Translation]

We will continue to collaborate to review, assess and recommend the implementation of measures to address the threats to marine mammals.

[English]

This review put forth by the standing committee will aid us in taking stock of present measures and provide the government with a focus for future efforts.

My colleagues and I would be happy to respond to any questions you may have.

The Chair: Thank you, Mr. Burns.

Now we go to the Office of the Auditor General for seven minutes or less, whenever you're ready.

[Translation]

Ms. Julie Gelfand (Commissioner of the Environment and Sustainable Development, Office of the Auditor General): Mr. Chair, I am pleased to be here today to discuss my report on protecting marine mammals, which was tabled in Parliament on October 2. I am accompanied by Kimberley Leach, the principal responsible for this audit.

Our audit looked at what the government had done to protect marine mammals from the threats posed by marine vessels and commercial fishing. In Canada, there are over 40 species of marine mammals—such as whales, dolphins and seals—and 14 populations are on the endangered or threatened species list.

We found that Fisheries and Oceans Canada, in collaboration with Parks Canada, Transport Canada and Environment and Climate Change Canada, was very slow to take action to reduce threats to marine mammals. Departments have several tools at their disposal to protect these animals. For example, they can establish protected areas, set speed limits for vessels, close or restrict fisheries and set distances for whale-watching boats.

[English]

We found that most of these tools were not used until the situation became severe. Twelve endangered North Atlantic right whales, which represent 3% of the world's remaining population, were found dead in the Gulf of St. Lawrence in 2017. The tools that were not used include the Species at Risk Act, marine protected areas and integrated fisheries management.

For example, we found the following.

First, only four of the 14 recovery strategies required under the Species at Risk Act were completed within the act's required timelines, and no action plans were completed on time. In 2017, only seven of 14 action plans were finalized and the rest remain incomplete.

Second, dealing with the issue of marine protected areas, we know that they are not necessarily established to protect marine mammals. In fact, only three of the 11 marine-protected areas established by Fisheries and Oceans Canada are intended to protect marine mammals. What we found was that fishing and shipping are allowed in over 80% of our marine protected areas in Canada.

Third, another tool that wasn't used was the policy on managing bycatch. Up to and including the 2017 fishing season, only eight of the 74 fish stocks that had interaction with marine mammals had management measures in place as required by the policy on managing bycatch. None of these measures included gear restrictions. In 2018, new restrictions were placed on fishing licences.

Fourth, if we continue to look at the issue of fisheries management, we see, in the case of the southern resident killer whale, that even though prey availability for that whale was identified as a significant threat to the species for many years, Fisheries and Oceans Canada had not taken action to implement quotas on chinook salmon fishing. The department announced such measures in the 2018 fishing season, which was subsequent to our audit period.

We also found that Fisheries and Oceans Canada lacked the resources and guidance to effectively respond to distressed marine mammals. There are about 900 incidents of distressed marine mammals each year, and very few people are trained to help.

• (1540)

[Translation]

The recent measures have been reactive, limited and late. The clock could well be running out for certain species, such as the west coast's southern resident killer whale, which has been listed as an endangered species for 15 years and whose population is now down to 74 individuals. There needs to be continued action from the departments to manage threats for all marine mammals.

This concludes my opening statement. We would be pleased to answer any questions the committee may have.

Thank you.

[English]

Thank you very much. We're ready to take your questions.

The Chair: Thank you.

Before I start the questioning round, I would like to welcome a couple of members to the committee today. They are Garnett Genuis from Sherwood Park—Fort Saskatchewan on the Conservative side, and somebody who of course needs no introduction to this committee, Mr. Scott Simms from Coast of Bays—Central—Notre Dame, Newfoundland.

Welcome to both of you.

First we'll go to the government side for seven minutes. Go ahead, Mr. Fraser.

Mr. Colin Fraser (West Nova, Lib.): Thank you very much, Mr. Chair. Thank you all for being with us today. I appreciate your presentations.

Mr. Burns, if I could start with you, I want to say that I very much appreciate yesterday's announcement regarding the significant investment, especially with regard to the plan for a sustained effort to recover the killer whale population.

Specifically with regard to chinook salmon, I'm wondering if you can expand on the investment that was made and how the investments the government is making will help increase the

population of chinook salmon. We know they are the main source of food for the killer whales.

Mr. Adam Burns: Absolutely. There are a number of components, but clearly prey availability is a key one for southern resident killer whales, and their preferred food is the chinook.

We're continuing to identify and protect new areas of habitat necessary for their survival. Protecting the habitat, protecting the foraging areas, reducing noise and all of those sorts of things help with their foraging activity.

I believe also that there is a component in there to enhance the hatchery production. That results in a focus on a specific type of chinook salmon from the Fraser River, and it would result in a return of about 30,000 additional chinook salmon. That is a very significant increase, especially in that subcomponent of the chinook population.

• (1545)

Mr. Colin Fraser: Is that a one-time re-entry of 30,000 chinook salmon as juvenile salmon, or is this a long-term, sustained effort that will take effect over time?

Mr. Philippe Morel (Assistant Deputy Minister, Aquatic Ecosystems Sector, Department of Fisheries and Oceans): It's a long-term, continuous production of chinook for as long as it's needed to support prey availability for the killer whale. It's not a one- or two-year project just to grow the fish. It's more than that.

Mr. Colin Fraser: We heard somewhat contradictory testimony regarding seals and sea lions, depending on which witness appeared before the committee. They may be a problem in terms of being a predator for the chinook salmon.

Does this plan address that issue, or what is the department's position with regard to the possible overpopulation of seals and sea lions and its effect on chinook salmon?

Mr. Adam Burns: There's a complex ecosystem consideration that goes beyond simply harbour seals eating salmon that are prey for southern resident killer whales. Harbour seals, for example, are themselves prey for other whale populations. A lot more scientific information would be needed before any type of intervention of that nature could be considered.

Mr. Colin Fraser: Mr. MacLean from Nova Scotia indicated to this committee that there were concerns among a lot of fishermen regarding the consultations that were taking place, especially in the snow crab fishery. He mentioned that the recent meetings with the minister—in Halifax, I think—were welcome, that it seemed as though things had improved, and that he was thankful for that.

I'm wondering if you can update the committee on work that the department is doing for outreach to the fishing community and the level of consultations that are going to be happening going forward.

Mr. Adam Burns: That's been a real focus of our activities this fall: ensuring we take the time to inform people about improvements in the management measures for 2019 based on stakeholder input, as well as the scientific information that we'll be getting later in December.

We've had a number of local discussions with harvesters across Atlantic Canada and Quebec around what worked and what could be improved in terms of the management measures going forward. That culminated in the round table that the minister hosted last week in Halifax. All of that information will certainly be a critical consideration as we move forward to finalizing improvements for next year.

Mr. Colin Fraser: I think it's really important that the whole fishing community is included in these sorts of decisions. Being from southwestern Nova Scotia, I know it was welcomed that there were representatives at that meeting from the lobster industry there.

However, I can't stress how important it is to make sure that not only are consultations done, but that they're seen to be meaningful among the groups that are involved. Thank you for that recent work.

If I could turn to another thing, earlier today we heard a proposed measure from the Gaspésie professional fishermen. They were comparing the standard in regulation or policy between Canada and the United States. The proposal is basically regarding the closure of dynamic grids. Right now if a single right whale is spotted, that may trigger a closure of the dynamic grid, whereas in the United States it's when three right whales are simultaneously present.

Can you comment on why there's a different standard, and if any thought has been given to matching up the standard with the United States?

Mr. Adam Burns: The establishment of the protocol in Canada is based on the suite of measures we had in place and we were able to put in place for 2018, so to compare one measure to one measure in the United States doesn't necessarily tell the full story. The measures have to be considered in conjunction with each other in achieving the level of protection for the right whales that is necessary to ensure their survival.

Certainly, though, the issue of the one whale versus three whales is something that will be looked at. It's something that we expect to hear more about from our scientists early in December.

It's certainly something that will be considered, but I can't speak to what the outcome of all of that process will be at this point.

Mr. Colin Fraser: Do I have more time, Mr. Chair?

The Chair: You have 19 seconds.

• (1550)

Mr. Colin Fraser: Well, then, I'll thank the witnesses for being here.

The Chair: Thank you.

Now we'll go to the Conservative side and Mr. Arnold.

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

Thank you all for being here—the Auditor General for the second time in a couple of weeks, and the officials from DFO.

I see in the announcement from yesterday, “enhanced regulatory controls over five persistent organic pollutants, including two flame retardants”.

There are obviously two specific pollutants that are flame retardants. Can you elaborate on what those are, where they're found and where they're used?

Mr. Philippe Morel: These are measures that are put in place by Environment Canada. I don't have the details on that.

The measures are either from Environment, Parks, DFO, or Transport. Those contaminants are from—

Mr. Mel Arnold: There are obviously two very specific ones that have been identified, but you don't know what they are.

Mr. Philippe Morel: I know one is PBDE, the flame retardant that they use in clothing, but I don't know about the other one.

Mr. Mel Arnold: They use it where?

Mr. Philippe Morel: It's used in clothing. Sorry, but I don't know the details about the other one.

Mr. Mel Arnold: Okay, thank you.

Mr. Burns, a few moments ago you were asked about competing predators on salmon, such as seal populations, sea lions and so on. You indicated that a lot more science is required before starting to manage those stocks.

How much more science is required when all reports are that the seal populations in that area of the coast are ten times or more than their historical levels? When does the science ever catch up to the reality?

Mr. Adam Burns: The issue here, of course, is that there is a broad ecosystem-based assessment that would need to be undertaken. There is no doubt that the seals you're talking about have salmon as a prey, for example—

Mr. Mel Arnold: It has been known for 10 years or more through studies on the Puntledge River, I believe, that the seal predation on smolts was obviously seen to be a problem. There was a management program put in place then. Now the numbers are 10 times that, from what I've seen and heard. Everyone is asking why something can't be done. What's the holdup? How much science do we need?

Mr. Adam Burns: It really is a matter of understanding what benefits would be achieved by population control. As an example, for the harbour seals, which I think are one of the main species we're talking about here, the studies we have show that in the Strait of Georgia, for example, only about 10% of their diet is made up of salmon. Their primary prey is—

Mr. Mel Arnold: That 10% is at a key time when those smolts are migrating out of the river and can be up as high as 90% of their diet. That science is there. Why the delays in DFO taking action?

Mr. Adam Burns: It really is about the ecosystem consideration there. Harbour seals are also the prey of other whale populations—

Mr. Mel Arnold: They are transient killer whales and there's no problem with their population numbers. Southern residents do not prey on seals or sea lions. Why the delay?

Mr. Adam Burns: You're right that the preferred food source for southern residents is the chinook food source. All I can tell you is that there is a broader set of considerations that need to be better understood.

Mr. Mel Arnold: Do you have population targets set for killer whales or for the prey species or their competing predators?

Mr. Adam Burns: I don't know in terms of the recovery plan for southern resident killer whales...

Mr. Mel Arnold: Wouldn't that be the first step in determining how many you really need and how many are environmentally sustainable?

Mr. Adam Burns: You're talking about for the harbour seal...?

Mr. Mel Arnold: I'm talking about harbour seals. I'm talking about orcas. I'm talking about chinook salmon. Do you have any targets or goals that you can be held accountable to?

Mr. Philippe Morel: For the killer whales, the target is an increase in population.

Mr. Mel Arnold: To what? Is this forever?

Mr. Philippe Morel: Well, we don't know, but certainly it's at lower levels since 1980. I don't have the exact number for where we should be, but right now what we're noticing is a decrease in the population that is constant over many years, and that is clearly related to the impact of noise, the reduction of prey, and some contaminants, so what—

•(1555)

Mr. Mel Arnold: You have no target numbers that you would like to bring it back to?

Mr. Philippe Morel: It doesn't work like that on recovery for species. There's no critical point at which we say it has recovered—

Mr. Mel Arnold: Has any species that has been listed as at risk ever been brought off that list?

Mr. Philippe Morel: Sure. There are some species. I don't have the names with me, but there are some species that were put on the list by COSEWIC and after a certain period of time were reassessed. COSEWIC does reassess the species, sometimes from endangered to threatened or of special concern, or they are just taken off the list. It does happen.

Mr. Mel Arnold: When could we expect some target numbers to be set for the chinook stocks, the seal populations and the killer whales?

Mr. Philippe Morel: I don't think you will see a target to say that 76, 85 or 100 is a target. It's about how they survive in the ecosystem, if they are in good health and if they can reproduce. Any increase will be analyzed by our science and the trends will be demonstrated to us, but there's no number. It's not an economic or a market—

Mr. Mel Arnold: There are no real goals so nobody can be held accountable.

Thank you.

Mr. Philippe Morel: Well, there's no way we can set goals on these kinds of things.

Mr. Arnold, I found the answer for the second retardant. It's HBCD. You asked for the two fire retardants.

Mr. Mel Arnold: Where is it used?

Mr. Philippe Morel: It's a flame retardant that's also used in clothing, mainly.

Mr. Mel Arnold: Okay. Thank you.

The Chair: Thank you.

Go ahead, Mr. Donnelly, please, for seven minutes or less.

Mr. Fin Donnelly (Port Moody—Coquitlam, NDP): Thank you, Mr. Chair, and thank you to our departmental officials and the environment commissioner and her team for being here today on this topic of whales.

My first question is for you, Mr. Burns. You referenced the \$1.5-billion investment. How much has been spent to date on that program?

Mr. Adam Burns: I don't have the number. That's something we can provide to you. I don't have it.

Mr. Fin Donnelly: Okay. Do you have a rough estimate, an idea?

Mr. Adam Burns: I wouldn't want to make a guess, but we can provide that information to the committee.

Mr. Fin Donnelly: Okay.

Mr. Philippe Morel: There are several reasons for that. It's multiple departments, so we don't have that with us. What I can say —

Mr. Fin Donnelly: How much has been spent in DFO?

Mr. Philippe Morel: I don't have the exact numbers for the OPP and DFO. What I can tell you is that last year we spent all the money that was planned for OPP and DFO.

Mr. Fin Donnelly: That doesn't really tell us much, though.

Mr. Philippe Morel: No, so we can provide you with the table of how much was planned and how much was spent, for sure.

Mr. Fin Donnelly: Thank you.

Specifically, how much was spent on protecting the southern resident killer whale? I'm assuming you don't know that either.

Mr. Philippe Morel: No, but it's something we can provide you.

Mr. Fin Donnelly: Yes, that would be helpful, because we're talking about endangered whales that have been listed since 2003, so if there's a protection plan with a funding announcement, you would think the department could target a certain amount of money to be spent to protect these whales.

Mr. Adam Burns: I know that in the OPP there's about \$800 million that is in investments directly and indirectly—

Mr. Fin Donnelly: I'm not talking about announcements; I'm talking about what's been spent. That's a big difference.

I get the investment. I get the announcements. I want to know what's been spent, because that's what people want to know. It's what the environment commissioner is telling us. It's what actions, what measures, have been taken, not what we're looking to for the future. I'd appreciate the committee receiving that information.

In that line, southern resident killer whales were listed in 2003. Why has it taken the government until this year to implement what you—and I hope we—feel are effective measures and actions with regard to noise reduction, prey and pollution for southern resident killer whales?

Mr. Philippe Morel: It takes time to have all the stakeholders engage in measures. It took also a lot of science, and we still need some science to define if the measures that are anticipated will have a positive impact and how much. The reason is not that we're not doing anything. It's that we had to prepare to make sure that the actions that were announced yesterday or previously in the whales initiative or in the OPP are supported by sound science and will also be efficient and measurable.

●(1600)

Mr. Fin Donnelly: That's fair. However, we knew in the nineties that these whales were in trouble. We knew in 2001 that they were going to be listed. They were listed in 2003. Are we talking two decades to do that kind of engagement and get the science that's needed to save this one particular segment of whales?

Mr. Philippe Morel: I don't have all the details of all the actions that were taken, but what was announced yesterday is additional measures. We've taken many measures in the recent past, and we've also taken other fisheries management measures over the last years, and we are implementing the action plan and the recovery strategy that is being revised right now. We put in place some critical habitats, also, to support the whales. What we've seen recently is more decrease, so we are responding with more action.

Mr. Fin Donnelly: One of the things the minister said in his statement was that he'll take a closer look at enhancing food sources for whales by putting money into a new hatchery to increase the stock of chinook salmon. I support that announcement, but why didn't the government implement a chinook enhancement or restoration or rebuild plan, say, a decade ago?

Mr. Adam Burns: This is just an increase in the level of hatchery production. There is existing hatchery production, which produces an estimated 100,000 to 300,000 adult chinook salmon annually. This is just an increase in that level. It's not the first time.

Mr. Fin Donnelly: I get that. The question, though, is why wouldn't the government take action, I'm saying 10 years ago, on something that they realized would take so long, with stakeholder engagement and with a science-based approach, which is important? Why wait until now when we know these essentially dying animals aren't increasing in this very critical...?

We heard testimony today from first nations in that area in the Salish Sea who say that these whales are connected spiritually to their way of life. That's a pretty strong statement of how connected these whales are, and there are 74. Many Canadians are wondering too why the government wouldn't have implemented some of these enhancement plans or rebuilding plans a decade ago. Even the environment commissioner has stated with regard to recovery plans that you have four of 14 strategies done, and zero done on time. It doesn't look like a good track record.

Mr. Adam Burns: The hatchery production of salmon has been in place for a number of years, producing large numbers of chinook salmon annually that have.... The minister announced yesterday that

would be increased, so it shouldn't be seen as the first time these actions have been undertaken.

I know a critical habitat was put in place as far back as 2009, so there is a history of measures related to this issue. Certainly over the last couple of years, starting with the oceans protection plan, a real focus has been put on an increase in activity.

Mr. Fin Donnelly: Okay, thanks. I'm almost out of time, but why hasn't an emergency order been issued?

Mr. Philippe Morel: The minister has the obligation under SARA to present an emergency order to cabinet when he's ready, and when he will be ready, he will do so and present the decision of cabinet, so that's something I can't comment on.

Mr. Fin Donnelly: Thank you.

The Chair: Thank you.

Now we'll go back to the government side for seven minutes. Mr. Rogers, go ahead, please.

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

Thank you to the witnesses for being here today. Ms. Gelfand is becoming very familiar. We've seen her on a number of occasions in different committees.

A couple of questions I want to focus on are primarily on the east coast of the country, which I'm most familiar with, being from Newfoundland and Labrador in Atlantic Canada. We've heard from an array of witnesses from the shipping industry, the fishing industry and experts in the science field and so on, and they've talked about proactive measures that are happening now to protect the right whale after a disastrous 2017. Obviously we have to do something to protect these mammals. I've heard concerns, though, not so much from the shipping community as from the fishing community.

In your statement, Mr. Burns, you said, "In fact, thanks to the tremendous collaboration from the fishing and transport industries in implementing 2018 measures, there have been no observed North Atlantic right whale deaths in Canadian waters this year", which is great.

However, I get a sense from the people in the fishing industry, the unions and some of the people we heard from that they don't necessarily totally agree with some of the measures the department is implementing. For instance, lobster fishermen in P.E.I. and some of the groups in Grand Manan and the Gaspé peninsula talk about how the lobster industry primarily is the coastline, and it's done in probably less than 120 feet of water. Whales, they say, don't necessarily frequent that part of the bays and so on. They say when whales are spotted 10 kilometres or 15 kilometres offshore, all of a sudden their fishing industry is closed, which is devastating for the fishermen there who are making their living from the lobster fishery.

Has the department been paying close attention to these people and their concerns? They're certainly expressing their concerns to us about whether or not that's the right thing to do.

• (1605)

Mr. Adam Burns: Yes, we've certainly heard very loud and clear the views of the industry around, in particular, the point that you're making about the likelihood of the presence of right whales in those shallower water depths.

The reality is right whales are spotted within their range in those depths of water. We have sought additional science that, again, we'll be getting in December that would help us better understand what the likelihood of their presence in those shallow depths of water within the Canadian zone might be.

We certainly understand the impact these measures have had on harvesters, so we're certainly looking at it.

Mr. Churence Rogers: The other comment that a couple of gentlemen made, and one of the scientists we had that I think Moira Brown mentioned, was that some of the right whales were entangled in active fishing gear, yet some were entangled in ghost fishing gear.

What is the department doing about trying to clean up some of that ghost fishing gear?

Mr. Adam Burns: Certainly the issue of ghost gear is not unique to Atlantic Canada and Quebec. It's a global issue. Canada recently signed on to the global ghost gear initiative, which aims at reducing this problem globally.

We've implemented some measures this year, this past fishing season, around requiring the reporting of lost gear. Our fisheries officers have also taken opportunities to pull abandoned gear if they sight it. Certainly that is another area we'll be looking at strengthening.

Mr. Churence Rogers: You mentioned as well in your report that the measures included fostering innovation in fishing technologies and methods, and you said the department continues to do so. Can you elaborate on that a little?

Mr. Adam Burns: Yes, sure. It's the idea of being able to fish without the vertical lines in the water. They are the key risk factor for right whales in particular, in terms of entanglements. Technologies that would allow harvesters to set traps without requiring those vertical lines would go a huge way in solving the challenge of whales getting entangled. The technology is not fully developed such that it could be implemented in any sort of broadly used commercial application within the Canadian zone. There are some small fisheries in the U.S. that do have fairly broad application, but it's a small number of harvesters and very different circumstances than in, for example, the Gulf of St. Lawrence. However, we are very focused on working with harvester groups and industry, such as rope manufacturers and that sort of thing.

Mr. Churence Rogers: Thank you for that.

There probably are a number of questions I could ask, but I want to get to Ms. Gelfand for a second.

In your statement, in paragraph number 2, you mentioned there are about 40 species of marine mammals such as whales, dolphins

and seals and that 14 populations are on the endangered or threatened species list.

I just want to make this comment for the record. I can assure you that seals are not an endangered species on the east coast of Canada, particularly around Newfoundland and Labrador. I raised this issue yesterday. In fact, we need some firm action on how we're going to deal with these seals going forward, because they're doing tremendous damage. They eat chinook, and I can assure you they're eating cod as well. I just wanted to get that point in there, because we've discussed this in the Atlantic caucus and with different groups. I want to identify and flag that point.

I'm assuming your report is referencing most of the things that happened prior to 2018.

• (1610)

Ms. Julie Gelfand: When I indicated whales, dolphins and seals, I was giving examples of the types of marine mammals that we have in Canada, not that they were endangered.

I can tell you there is one small population of harbour seal that is on the endangered species list, and it's from Lacs des Loups Marins, so it's a very specific subpopulation. It is considered endangered. It was listed in 2017. That is the only one on our list.

Mr. Churence Rogers: Yes, and certainly it's not existing on the east coast.

Ms. Julie Gelfand: I did not mean to make it sound like harbour seals generally were endangered. I was giving you examples of marine mammals.

Mr. Churence Rogers: We're done.

The Chair: Yes, thank you, Mr. Rogers.

We'll now go to the Conservative side for five minutes or less. Go ahead, Mr. Calkins.

Mr. Blaine Calkins (Red Deer—Lacombe, CPC): Thank you, Chair.

Thank you to the officials for being here.

There's data from multiple sources that indicate the extirpation of the southern resident killer whale population is actually not in fact imminent. The population of the southern resident killer whale has fluctuated between 70 and 90 individuals since about the mid-seventies. Would you agree with that?

Mr. Philippe Morel: Yes, that's the case, but decreasing since the 1970s—

Mr. Blaine Calkins: No, no. That's just fine.

The current population is about—

Mr. Philippe Morel: If you want a complete answer, it's been decreasing since that—

Mr. Blaine Calkins: No, no—I know. I'm a biologist.

Let me make my point. This is my time.

The current population is around 74 or 76. Did I hear you say that correctly?

Mr. Philippe Morel: It's 74.

Mr. Blaine Calkins: They're in decline. They haven't shown an increase in population for how many years now?

Mr. Philippe Morel: I don't have the graph with me, but it's been constant for the last 10 years—

Mr. Blaine Calkins: Then they've either held or—

Mr. Philippe Morel: —or decreased.

Mr. Blaine Calkins: —gone down in the last 10 years.

Mr. Philippe Morel: Yes.

Mr. Blaine Calkins: Okay. Thank you.

Reports from NOAA indicate the probability of extirpation for the southern resident killer whale, under current conditions, which would involve these conditions from the last 10 years, is less than 10% in the next 100 years. While other sources increase this probability marginally to account for changing variables, the consensus indicates that the southern resident killer whale population will continue to exist for generations to come.

Is it not true that a recent decision to designate the southern resident killer whale extinction as an imminent threat under the Species at Risk Act was prompted or heavily influenced by pressure from Ecojustice, and that no additional scientific research or consultation with indigenous groups on this issue was done following that communiqué from Ecojustice?

I'm actually getting this from the "Southern Resident Killer Whale: Imminent Threat Assessment", in which paragraph 3 says, and I quote:

In January 2018, the ministers received a letter from EcoJustice, representing World Wildlife Fund, Natural Resources Defence Council, Georgia Strait Alliance, Raincoast Conservation Foundation and the David Suzuki Foundation

—it's publicly known that many of these organizations get funding from third parties and outside of Canada—

asking that the Ministers recommend to the GiC an emergency order to provide for the survival and recovery of the SRKW [so it happens soon]. EcoJustice requested that the Ministers form the opinion that the species is facing imminent threats from reduced prey availability, physical and acoustic disturbance and environmental contaminants.

In paragraph 1, it also said in this report, and I quote:

EcoJustice also provided supporting documentation in their letter to the competent ministers dated January 30, 2018. No new science advice was generated specifically to inform the assessment nor was the interpretation of the information or the conclusions reached in the assessment the subject of a scientific peer-review process.

When I asked Ecojustice this morning before the committee the question about whose idea it was to actually form the opinion that there was an imminent threat, they said it was clearly the department's. The department's documents say it was clearly Ecojustice.

Could you please tell me which is the truth?

Mr. Philippe Morel: It's certainly not Ecojustice's decision to say it's an imminent threat. It's the department that does that, based on science. When the minister is ready to take a decision with the science advice we provide to him and to Minister McKenna, both the competent ministers under SARA, they take the decision on the facts provided by the department and not in relation to any outside pressure coming from—

• (1615)

Mr. Blaine Calkins: Was the Department of Fisheries and Oceans ever threatened by legal action from Ecojustice since November of 2017 if DFO didn't close the areas that Ecojustice wanted them to close for recreational and commercial fishing?

Mr. Philippe Morel: No, we didn't feel threatened by Ecojustice or by any other group. They did send some letters, as many people send letters. The killer whale is one of the items the department receives letters on—from schools, individuals, MPs and members of legislative assemblies.

Mr. Blaine Calkins: Understood.

Mr. Philippe Morel: A lot of people write about killer whales.

Mr. Blaine Calkins: Yes. I don't envy your job, sir.

Voices: Oh, oh!

Mr. Blaine Calkins: The other question I have for you is this. In November of 2017, the department conducted numerous round tables and discussions with stakeholders to formulate what was supposed to be the plan going forward for closures. The industry or the individuals I met with seemed to suggest to me that the department officials recommended a completely different landscape in terms of what would be effective for closures, not starting at Otter Point but actually going out further. Do you know what I'm talking about when I say Otter Point? It's at the south end of Vancouver Island, just beyond...

At any rate, they basically told me that the closures actually didn't reflect anything that was agreed upon in those consultations with the fishermen and with the various stakeholders, and that the closures actually reflected the exact mandate that Ecojustice asked for.

Do you have any clarification for me on that?

Mr. Adam Burns: I wasn't involved in the specific issue at hand, but I can tell you that these types of management decisions would certainly be informed by the views of industry stakeholders and indigenous groups but also by the best available science. All of that would have been taken into account in the decision.

Mr. Blaine Calkins: Mr. Morel, my last—

The Chair: Mr. Calkins, you're way over time.

We'll now go back to the government side.

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

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

I'm not sure which official from DFO made the statement that you were pursuing harmonization with the U.S. on the closure regime to put in place when whales are sighted. I'm referencing the east coast. Could you elaborate a bit more?

Mr. Adam Burns: I believe that was me. It was in reference to southern resident killer whale measures, but I will say that we work very closely with colleagues in the greater Atlantic region of the U.S. national fisheries management service. We coordinate activities, share best practices around fisheries management measures, and collaborate on such issues as the gear innovation we were talking about earlier.

We are very closely aligned with U.S. colleagues. We meet with them on a regular basis about these measures.

Mr. Robert Morrissey: Okay.

I want to follow up on a question pursued earlier by my colleague. We had two briefs earlier today from two fisher organizations. One was the PEIFA and the other was the group representing the lobster fishers of the Gaspé. They were clear in their objectives—namely, to ensure the protection of the north Atlantic whale and at the same time mitigate the impact on their fishing footprint.

They questioned at length Canada's application of a closure protocol that is different from the one in the U.S. The reference was to the U.S. using the sighting of three whales versus one whale, which I believe you addressed. It really seemed puzzling, because they gave us an outline from the Gaspé, and the fishery was close to the shore in June, when they were fishing in seven and a half feet of water. Do you really think, or does evidence show, that a north Atlantic right whale would be found in seven feet of water?

Mr. Adam Burns: We're certainly going to look at this more closely and see if there are ways in which we can improve the protocols we have in place for 2019. I can tell you that there are incidents where whales are sighted extremely close to shore. North Atlantic right whales are sighted extremely close to shore.

Mr. Robert Morrissey: What's your definition of "extremely close"?

Mr. Adam Burns: I mean within a few meters of shore. It's very, very close.

Mr. Robert Morrissey: Don't you analyze the depth of the water versus proximity to shore?

Mr. Adam Burns: That is one of the questions that we're asking our scientists, and we'll have more information in December that will help inform those types of decisions, obviously.

• (1620)

Mr. Robert Morrissey: The other area of concern was the size of the—and I may have the terminology wrong—static zone. There are two terminologies they use on the establishment of the fishing zones, static and dynamic.

Apparently the U.S. uses a smaller...

Mr. Adam Burns: The U.S. uses a very different approach now. The U.S. has been engaged in measures to protect North Atlantic right whales like these for a very long period of time because their fisheries overlapped with the range of the right whales for a lot longer. We've only been at this for a couple of years in the Gulf of St. Lawrence.

One of the things we did this year was implement that static closure, which was meant to cover the area that accounted for 90% of the right whale sightings last year, the objective being to create a

bit of stability and to close off that area where we were quite certain the right whales would show up. They did, but they showed up in a slightly different range, a slightly broader range, and so we did have the dynamic protocol as well.

I think what you might be referring to is the area that we would close around the sighting of a single whale. Some expressed a view that it was too large an area, and again that's something else that we'll be looking at. We've asked for some science advice that will help inform that. We've certainly heard the views of stakeholders, and so we will be looking at that issue as well in terms of what area is closed.

The Chair: You have about 20 seconds.

Mr. Robert Morrissey: Do you feel you have enough data from 2018 to put a regime in place for 2019 that has a more minimal impact on the lobster fishery, particularly in northern New Brunswick in the Caraquet region and the Gaspé region, which were heavily impacted?

Mr. Adam Burns: We're going to wait for the science information that we'll be getting in early December, but certainly our objective is to achieve the protection of right whales that's necessary to ensure their survival and at the same time to minimize, to the extent possible, the impacts on harvesters. That's exactly what we're trying to accomplish.

The Chair: Thank you, Mr. Morrissey.

Now we'll go back to the Conservative side.

Mr. Arnold, you have five minutes or less.

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

For the DFO officials, I'm just going to quote from the notice about yesterday's announcement. Believe me, I believe we need to do everything we can to protect the whales and rebuild the southern resident killer whale stocks, but it says, "The Southern Resident Killer Whale is an iconic species".

What is iconic? How does a species become iconic, and are they managed any differently from a species that is not iconic?

Mr. Philippe Morel: I was telling your colleague earlier about the importance it has for the B.C. population and the importance it has also for indigenous people. Each of those southern resident killer whales is followed electronically by residents, so the value in the eyes of Canadians and indigenous people on the west coast is very high, and that's why we say it's iconic.

Is it managed differently? No. We manage all the endangered species and species at risk in the same way. What it means for us is that when it's iconic, the engagement is certainly more thorough. We need to engage more deeply with indigenous groups, particularly on the southern resident killer whale.

In B.C., salmon is also an iconic species. Every school has a program with salmon. We have the salmonid enhancement program, and it is very valued by the school system and people on the west coast of B.C.

Mr. Mel Arnold: Thank you for mentioning the salmonid enhancement program. That was a program that was going to be cut until there was enough uproar from the schools and teachers, and so on, that this government actually decided to reinstate and not cancel it, as had been originally proposed.

Could you tell us what is being done to monitor, enforce and penalize those responsible for unreported and illegal fishing?

• (1625)

Mr. Adam Burns: We certainly have fisheries officers who patrol and enforce all of the regulations.

Mr. Mel Arnold: Are they able to enforce offshore?

Mr. Adam Burns: We certainly do have offshore enforcement. Conservation and protection officers engage in patrols based on an intelligence-based system to determine—

Mr. Mel Arnold: I am aware of some of the patrols in the international partnerships and so on. In fact, I believe in one study I looked at, I saw that they had spent millions of dollars in patrols, basically, and had landed on four vessels and investigated, but there was never any evidence of any charges being laid or any actions against the guilty country. How can that be factored into the prey species management that's so important for this?

Mr. Adam Burns: Yes, illegal and unreported fishing is certainly a focus of international collaboration for Canada—

Mr. Mel Arnold: But I didn't see anything in this document yesterday that mentions any of that unreported, unregulated fishing.

Mr. Adam Burns: The measures yesterday were focused on a specific set of initiatives, but that's certainly not to minimize the importance of other initiatives that are already under way. We certainly collaborate with a number of other countries through various regional fisheries management organizations in a variety of capacities—science and other things—but also in terms of high seas enforcement.

Mr. Mel Arnold: Along the same lines, what has the department done to manage bycatch of these species that are so important on both coasts?

Mr. Adam Burns: Specifically, are you talking about chinook salmon?

Mr. Mel Arnold: I guess on the west coast that would be an example, yes. What has been done to manage the bycatch that happens there through gillnet fisheries, through the offshore marine fishery?

Mr. Adam Burns: I don't have all of the information in terms of specific bycatch measures that are in place in fisheries that may have a bycatch of chinook salmon, but certainly we are always looking at the total removals of a particular species and looking at management measures that can be put in place to reduce the incidents where incidental catch of a non-target species is occurring.

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

The Chair: Thank you, Mr. Arnold.

We will go back to the government side for five minutes or less.

Go ahead, Mr. Hardie.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): Thank you, Mr. Chair.

Thank you all for being here.

Mr. Burns, you've had a good afternoon here. Does the DFO have an official recovery plan in place for chinook salmon?

Mr. Philippe Morel: The chinook is not listed under a species at risk, so there's no action plan. It's because it's not listed.

Mr. Ken Hardie: Thank you.

Mr. Philippe Morel: We have a fisheries management plan for chinook that Mr. Burns can refer to.

Mr. Ken Hardie: As a commentary, some of the things that we've heard so far would include the health and size of the fish coming out of DFO-sponsored hatcheries versus others. In particular, there's one on the west coast of B.C., and they claim to have a much greater success rate. It would be worth casting your net as wide as possible to make sure that as you try to rebuild those stocks, you're doing it in a way that produces the results we need, which are big fish, which is what the orcas like to eat.

On seals, we have heard a couple of times from a couple of people on a couple of different issues in this story that, "Well, we just don't want to do something because we don't know enough yet. We don't have enough data." We heard that on vessel speed. We've heard it from you today on measures dealing with seals and sea lions. I guess the question becomes, when does the precautionary principle kick into gear?

Let's face it: It's pretty common knowledge, if you ask the indigenous people and the people who live close to some of those chinook-rearing streams, etc., that there are at least a small number of seals lying about with their mouths open, right? All we've heard is that there's a choice between a full-fledged cull, which some of the first nations talked about this morning, or at least targeted harassment to get rid of the ones that are causing the majority of the damage.

Is there a point at which you would apply the precautionary principle in the absence of the concrete or total surety of scientific data, which is always impossible to get? When would you do that? When would you make a move to do something about the seals?

• (1630)

Mr. Adam Burns: The consideration that would need to be undertaken there, in terms of the precautionary principle, is that it would go in both directions in terms of also needing to take into account the risks that a population reduction of harbour seals would potentially pose to other whale populations. That's not to say the ultimate decision couldn't be that there be a population control measure for harbour seals, but it would need to be taken in the broader context of the suite of measures that's being undertaken for chinook.

Mr. Ken Hardie: But, sir, we know the chinook are in short supply. We know that seals are not by a long shot. I think you could anticipate a recommendation when we make our report that we apply the precautionary principle in a way that at the very least intuitively seems to make sense under these circumstances.

That's it for me.

The Chair: Thank you, Mr. Hardie.

That leaves a little bit of extra time.

I know now that normally we would go to the NDP for three minutes. With the permission of the committee, I'd like to continue with five-minute rounds until we run out of the allotted time, if that's okay. Okay.

I see it is.

Mr. Masse, welcome to the committee, and the top floor is yours for five minutes or less.

Mr. Brian Masse (Windsor West, NDP): Thank you, Mr. Chair. I appreciate the opportunity to be here and follow up with some of the southern resident killer whale questions. I know the announcement was made yesterday.

What were the barriers to acting sooner? There's been a lot of discussion about the situation. Was there anything that prevented action sooner than just yesterday? I know there have been announcements going back to 2016, but not related to the southern resident killer whales.

Mr. Philippe Morel: I don't see any barriers. We've acted on many things since several years ago. They're just additional measures that are done, but I don't see any barriers being put to the department to act.

Mr. Brian Masse: Okay. It took some time.

At this point in time, then, do you have a priority list of how the money is going to be spent in terms of what could be the most effective way? I didn't see the particular announcement myself, but I know the money was.... Can you outline how you prioritize the \$61.5 million and how soon you expect to receive the directives for action? Have you measured how long it will take to get those specific actions for the funds?

Mr. Philippe Morel: Those actions are either completely new or built on previous actions. The details for the funding on each of these actions will come later, and will be announced by government when they will be ready.

Mr. Brian Masse: How did you come up with \$61.5 million, then?

Mr. Philippe Morel: We billed a proposal to the government, and they approved it. After that we worked out the details with central agencies such as Treasury Board and the Department of Finance. The details will be announced for each initiative in the near future.

Mr. Brian Masse: Exactly what initiatives do you have? Can you give us a comprehensive list, then, of the initiatives, or is it that you can't tell us—

Mr. Philippe Morel: What was announced by the minister yesterday is the comprehensive list of activities that are supported by the decision.

Mr. Brian Masse: What would be the priority? Do you have a ranking of three priorities of where the funding is going to go? The public is going to be interested in following where the money is going to be allocated, so do you have a—

Mr. Philippe Morel: Sure.

Mr. Brian Masse: That would be helpful.

Mr. Philippe Morel: We have a plan that we cannot share right now, but we have a plan to use the money over the next five years to support that, and it's based on the priorities and the research that we've done.

Mr. Brian Masse: Why can't you share that plan?

Mr. Philippe Morel: It's because I don't have the authority to share that plan at the moment.

Mr. Brian Masse: Who's stopping you from doing that?

• (1635)

Mr. Philippe Morel: I'm not stopped; it's just the government process to have the full authority, and right now I don't have the authority to share where each dollar is going.

Mr. Brian Masse: I'm not really asking for each dollar; it's just the \$61.5 million. You'll have to forgive me, because I spent most of my time here with Industry, Science and Technology. When there are announcements, say, in the auto sector or other types of initiatives, there's usually at least a ballpark figure or something, especially when you have \$61.5 million. You might be able to give us a glimpse. I'm not asking per dollar; I'm asking if half of it going to some initiative, or approximately how much. What are the priorities of where the funding is going to go? I think that's a reasonable request, especially given that the studies that you talked about were done....

Maybe you can reference which studies they were and what they've identified in terms of resources that might be necessary. Can you at least tell us the studies that were used and what resources they've suggested?

Mr. Adam Burns: Yes. There are sort of three broad categories of initiatives that were announced yesterday: one is around prey availability and habitat protection, another is around reducing disturbance—the work around vessels, primarily—and then the third is around reducing contaminants.

There are a variety of measures under each of those categories. Some measures are more costly than others, and more dollars doesn't signal a higher priority necessarily. It's around what a particular initiative costs. That would be how it was done.

For example, we've referenced a couple of times here the hatchery production, and I believe the announcement was \$500,000 to achieve that. It's a small component, but clearly the augmentation of adult chinook enhancement is an important component around providing the necessary prey for southern resident killer whales.

Mr. Brian Masse: That's helpful.

Do I have much time?

The Chair: You're out of time right now. We'll get back to you again.

Mr. Brian Masse: Thank you very much for answering.

The Chair: Now it's back to the government side—which is going to seem strange—to ask questions.

Go ahead, Mr. Simms, for five minutes or less, please.

Mr. Scott Simms (Coast of Bays—Central—Notre Dame, Lib.): If strange is required, I'm your man.

Thank you very much, Chair. That's a fine job.

I also want to say thank you to our panellists who are here today.

I'll come to Ms. Gelfand later, but first I want to reference your speech.

You say, "For example, they can establish protected areas, set speed limits for vessels, close or restrict fisheries, and set distances for whale-watching boats." All of that is a multi-departmental disciplinary action, obviously.

Mr. Burns, can I get you to comment on some of this stuff? With regard to some of the measures, I'm familiar with the speed limit for vessels. To a certain extent, I am familiar with protected fisheries. However, in the department's mind, what was the most effective tool when it comes to right whales on the east coast?

Mr. Adam Burns: Certainly the strategy this year focused on two key approaches. One was around the vessel speed reductions, because collision, with vessel blunt force trauma, was one of the key causes of mortalities last year. The other was entanglement.

With the time available to us, the approach that we took in 2018 was one of, to the extent possible, keeping fishing gear away from right whales entirely. That was the basis for the static and dynamic closures.

As I said, the U.S. has been engaged in this for 20 years. They've implemented a variety of gear modifications and additional approaches, changes to season—

Mr. Scott Simms: You're saying that the—sorry to cut you off—speed limits were probably the most effective. That's the one I've heard about the most.

Mr. Adam Burns: Certainly from a vessel collision perspective, the speed reduction was key.

Mr. Scott Simms: Give me another perspective, or is that the only one?

Mr. Adam Burns: For fishing gear entanglement—

Mr. Scott Simms: Yes.

Mr. Adam Burns: —the key would be the closures.

Mr. Scott Simms: Was that also effective, or not?

Last year it was 12 endangered North Atlantic right whales representing 3% of the world's population, and so far this year, none. Can we definitively say that this stuff is working, or is there something else out there that we just don't know about? Is it a migration pattern?

Mr. Adam Burns: What I can say is that the presence of North Atlantic right whales in the Gulf of St. Lawrence this year was certainly similar to last year, and overlapping with the fishing grounds. We observed far fewer entanglements this year than we did last year, and no mortalities.

Mr. Scott Simms: Ms. Gelfand, in your speech you talked about 14 action plans, seven of which were not quite sufficient.

Can you give me an example of an inefficiency with some of those parameters that you measured?

• (1640)

Ms. Julie Gelfand: What we indicated in the Species at Risk Act was that they had 14 species. There were only four out of the 14 species that had their recovery strategies done on time. That means 10 out of 14 endangered or threatened species recovery strategies were not done on time. Most recovery strategies and action plans were late, although action plans for some of the species were finalized in 2017.

I think the main message of our audit was that—and, in fact, Mr. Burns said it—the U.S. has been working in this area for 20 years; he said that we've only been doing something for the last couple of years.

Our audit was saying exactly that. Up until the time that we had those 12 right whales found dead, all these tools that we had at our disposal were not being used very much. I can't say it was zero, but they weren't being used to the fullest to protect marine mammals.

Mr. Scott Simms: I see. Then it's an issue of being incomplete, meaning that they're under way but they're not going fast enough, or at least as fast as originally intended.

Ms. Julie Gelfand: Once a species is listed as endangered, you have one year to come up with a recovery plan. It's not happening for most of the species. If a species is listed as threatened, you have two years to come up with a recovery plan. That's not happening.

Mr. Scott Simms: That's for half.

Ms. Julie Gelfand: Sorry?

Mr. Scott Simms: None of that is happening, but for half of them it's much slower.

Ms. Julie Gelfand: Well, only four out of the 14 were done on time, so 10 out of 14 were late, anywhere from three years to potentially a lot more years late.

Mr. Scott Simms: Just so we're clear, it's under our own SARA.

Ms. Julie Gelfand: Yes, it's under the Species at Risk Act.

Mr. Scott Simms: I'm rushing along here, sir.

The Chair: You're short on time, sir.

Mr. Scott Simms: I'm short on what, sorry?

The Chair: Time.

Mr. Scott Simms: I was just checking. Can I have one more? Do you mean I'm done?

The Chair: You are now.

Going back to the Conservative side, Mr. Arnold, I believe you're sharing your time with Mr. Calkins.

Mr. Mel Arnold: Yes, I will.

The Chair: When you're ready, you have five minutes or less.

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

Auditor Gelfand, thank you for being here. In our discussions the other day when you were here talking about your actual audit, we discussed the limited scope of your audit—what you check for, and so on. I think we've exposed during our questioning during this study that there are a lot more issues that were beyond the scope of your audit.

Would you tend to agree, from what you've heard today, that there is certainly more that needs to be looked at in the way of auditing what's being done to protect whales on both coasts?

Ms. Julie Gelfand: What we found in our audit was that prior to those whales being found dead in the Gulf of St. Lawrence, there were tools available and that Canada wasn't really using those tools to protect marine mammals.

Since the time that those whales were found dead in 2017, we found that the department has, I want to say, kicked into gear. There's a lot more activity going on; however, we did not audit that. We mentioned all those activities in our audit, but because they've just happened recently, in the last couple of years, we weren't able to audit the effectiveness or to actually audit them. All we could do is say they are occurring.

Mr. Mel Arnold: You also weren't able to audit the other aspects affecting the killer whales on the west coast, such as prey availability and competitive predators and so on.

Ms. Julie Gelfand: That's correct. We were looking at species at risk. We were looking at the threats based on commercial fisheries and vessels.

Mr. Mel Arnold: Thank you. I'll pass the rest of my time to Mr. Calkins.

Mr. Blaine Calkins: Thank you, Chair.

I'll get a quick point of clarification from Mr. Morel, if I can.

When we were talking about the emergency protection order issue, you said that the minister hasn't decided when, so that tells me that it's a matter of "when" and not a matter of "if". Can you confirm that this is true?

Mr. Philippe Morel: What I referred to is that the Species at Risk Act does mention that when the minister finds there's an imminent threat and he feels there are no measures to address that imminent threat, he has to recommend to cabinet an emergency order, and then cabinet has to decide.

That's the process in the act.

• (1645)

Mr. Blaine Calkins: So it's not a matter of "when". It's still a matter of "if".

Mr. Philippe Morel: No, it's a matter of "when".

Mr. Blaine Calkins: It's a matter of "when". Thank you.

I have a question for you. Some of the witnesses who appeared before the committee testified that the last time the southern resident killer whale population increased significantly was in the nineties. Is that true?

Mr. Philippe Morel: I think so.

Mr. Blaine Calkins: They also made reference to the fact that in the nineties the hatchery program in British Columbia was churning

out about five to 10 times as many salmon as the current hatchery programs, which DFO operates in conjunction with partners, is churning out today. Would that be roughly true?

Mr. Philippe Morel: I don't have that information. I think the hatchery program also compensates for the low returns and may produce other sorts of fish when the returns are higher, so it's not a black and white answer that we can provide.

Mr. Blaine Calkins: No, I understand. I understand.

Many people who have spoken to me about this issue have told me that it's not just the number of pinnipeds that are present in the coastal regions right now that are affecting salmon populations, but it's actually where they are. The people from the salmon enhancement program and the various hatcheries that the salmon enhancement program works with have indicated to me, in conversations that I've had with them, that the pinnipeds are actually now moving well up into fresh water in order to eat these juvenile salmon.

Does the department have any information to substantiate that?

Mr. Adam Burns: I don't have any specific information around that. I'm not aware whether that's the case or not.

Mr. Blaine Calkins: Is it fair to say that the transient killer whale population that would feed on the pinnipeds would go up freshwater estuaries to look for pinnipeds or go up that far?

Mr. Adam Burns: I don't think so.

Mr. Blaine Calkins: I don't think so either.

I think Mr. Masse also asked you this question. I don't mean to belabour the issue, but could you give the committee any indication of how much of the new funding that was announced yesterday might be allocated to fishery enhancements through hatcheries?

I know that Mr. Hardie alluded to this. I think Omega Pacific is the name of the hatchery on Vancouver Island that is basically sitting there waiting for the Department of Fisheries and Oceans to purchase the 200,000 salmon that they have ready to release. I don't really know if orcas care if they come from the Fraser River or a river on Vancouver Island; they just want chinook salmon to eat.

In the past, the department has purchased salmon from that hatchery, which is sitting there waiting right now to sell them. Why is it not having any luck selling them to the Department of Fisheries and Oceans?

Mr. Adam Burns: I don't know the specifics of the case and the hatchery that you're referring to. I can tell you—I think I referenced it earlier—that the investment announced yesterday related to an increase of 30,000 adult chinook, and that was half a million dollars a year, and that would represent an estimated hatchery augmentation of about a million juveniles, starting in 2019.

The Chair: Thank you, Mr. Calkins.

We'll now go to Mr. Masse for five minutes or less.

Mr. Brian Masse: Thank you, Mr. Chair.

I'm just going to follow up on this. You can't provide any real details on the costing element, but what about a structure about timelines? You made a significant announcement of \$61 million. Is there any type of timeline, especially for some of the partners that are involved? What can people expect?

That's kind of where I'm at. I don't want to keep going on about it, but I'm looking for a better picture of the operational mechanics that you can tell people about in terms of what to expect. I think people are excited to see something take place, but I think more details would have been helpful. Can you at least give me some time frames?

Mr. Philippe Morel: It's not a question of days. It's a question of weeks or a maximum of a few months to have the exact details that could be communicated. At the moment, unless the minister communicates it, it's not something that I can share with you.

Mr. Brian Masse: Okay.

I know that the Washington State task force had recommendations as well. Is there anything in the announcement about working with them with regard to their operations? I know that there's been some success in what can happen there.

I'm vice-chair of the Canada-U.S. parliamentary association. We do a lot of work with regard to the Great Lakes, for example. What can you share with us on that? Those are perhaps some of the best practices that we can see.

•(1650)

Mr. Adam Burns: Canada is closely engaged with Washington State and with the U.S. government around measures related to southern resident killer whales. We have representation on the governor's task force. Our minister, Minister Wilkinson, has met with Governor Inslee of Washington State. It's a very close collaboration. We're continuing to engage at senior levels with officials in the U.S. around these measures and the coordination of activities.

Mr. Brian Masse: Again, can we expect some joint participation and perhaps some of the funding to extend into that?

Mr. Adam Burns: For example, there's ongoing scientific collaboration.

Mr. Brian Masse: Yes.

Mr. Adam Burns: A good example is the work that was done around the whale called "J50" as it was sort of chased across the Canada-U.S. border and the coordination that had to occur there just from a permitting perspective to allow interventions to occur, should they be possible.

That work is ongoing. It's a daily activity, I would say, between officials in our Pacific region and the Pacific northwest operations of the U.S. fisheries service, as well as Washington State.

Mr. Brian Masse: Will there be...?

Again, I live on the Great Lakes, and I guess one of the more effective things we've done is that with the more recent announcements that have taken place there have more communications to and more education for the public. We have new systems whereby the public can actually track the work. A submersible—it's almost like a

submarine—goes around doing the work. We can follow it. There's a whole bunch of things in that.

Is there any of that kind of work that's going to be coming with this? Again, I don't want to get into stuff... I know that I keep referring to the \$61 million that was announced, but I'm looking for new things that are going to take place. I think it's important for public engagement, especially for regions like mine. There's a need to understand that the west coast is part of the ecosystems that need to be cared about, just like the Great Lakes in my region are important for the people on the west coast to care about.

There have been new initiatives and some exciting components there. In fact, we partnered with the University of Michigan on a submersible that people can track and follow. Are there some new projects and things that are going to be increasing public awareness and participation in trying to improve things?

Mr. Adam Burns: One of the things I can point out is that part of the announcement supported the development of a whale report alert system by Ocean Wise that provides real-time information on whale location so vessels can avoid disturbing them. That relates to what you're asking.

Mr. Brian Masse: Thank you, Mr. Chair.

The Chair: Thank you.

Now we will go back to the government side. Mr. Fraser, you have five minutes or less, please.

Mr. Colin Fraser: Thanks, Mr. Chair. I'll pass my time to Mr. Casey.

Mr. Sean Casey (Charlottetown, Lib.): Thank you.

Mr. Morel, I want to come back to some of the answers you gave earlier around an emergency protection order.

The nature of the question was that it's not a question of "if" but a matter of "when". Of course, I don't want you to breach cabinet confidentiality. I prefer that you don't, but in terms of a decision taken by cabinet, one would be the issuance of an emergency protection order. Another would be a decision not to grant an emergency protection order and another would be to implement other measures that wouldn't be an emergency protection order.

Am I right on what may emanate from cabinet around the obligations under SARA?

Mr. Philippe Morel: In terms of what I explained earlier, I realize the question on if and when was tricky, because the way you explain it is the right way. I told about the access the minister has to make a recommendation. It's not for the minister to decide if there should be an emergency order issued under SARA; it's for cabinet to decide. My answer should have been "if and when", because it's for cabinet to decide.

The rest is logistics of the Species at Risk Act. It's very precise that the minister needs to make such a recommendation to cabinet.

•(1655)

Mr. Sean Casey: Okay, thank you.

Also on the subject of clarifying, there's been a line of questions both today and when Ecojustice was here that seemed to suggest that a threat of litigation from Ecojustice was a substantial influence in decisions made by the department. Isn't it right that Ecojustice not only threatened litigation but is currently suing the Government of Canada?

Mr. Philippe Morel: Yes, that's correct.

Mr. Sean Casey: This threat wasn't just a threat. It materialized.

Mr. Philippe Morel: Yes, but I also said we're not acting based on threats. We're acting on the basis of science, and we're acting when we know these actions are the best actions we can put in place to support the recovery of a species. It's not based on the recommendations that come from any group, citizen, or external science. We base our decisions and recommendations to the minister and to cabinet on the science that is peer-reviewed by DFO.

Mr. Sean Casey: Okay.

With respect to the North Atlantic right whales, can you offer any commentary on changes in their migration patterns in recent years, and how that has affected the decisions the government and the department have had to make?

Mr. Adam Burns: I haven't noted yet, but I should note that until a couple of years ago the vast majority of North Atlantic right whales present within the Canadian zone were in the Bay of Fundy. In that area, the department has worked with the Grand Manan Fishermen's Association for a number of years on a mitigation protocol to avoid entanglements with North Atlantic right whales, and this has successfully produced many fishing seasons when whales and fishing gear were both in the water but entanglements weren't occurring.

It's important to note that while I referenced that we've only been at this for the past couple of years, I was referring to work in the Gulf of St. Lawrence. The work in the Bay of Fundy has been ongoing for a number of years.

The measures that have been put in place in the Gulf of St. Lawrence were put in place once North Atlantic right whales became an issue in the Gulf of St. Lawrence. Prior to that you would occasionally see one or two or what have you, but the concentration of North Atlantic right whales has only been in the Gulf of St. Lawrence for a short period of time, and that's the impetus for why the measures have now been put in place.

Mr. Sean Casey: I want to—

The Chair: I'm sorry, Mr. Casey, but we're out of time.

We probably have about two minutes at most if you have a question.

Mr. Mel Arnold: I want to carry on with the line of questioning from Mr. Casey, because I've talked directly to the people who were involved with the whale research and location research, and they had only started looking for the right whales in the location where they were found in the last two years. They had only started looking in the last two years. They don't know if they were there before or not.

I want to get to a question now.

In the announcement yesterday, there's a statement that speaks to advancing feasibility work on one or more southern resident killer whale sanctuaries within sub-areas of critical habitat the whales use for foraging.

Where will these be and how large will they be?

Mr. Philippe Morel: We just finished consultation on two new critical habitats. I'll just try to find the exact name of where they are.

Mr. Mel Arnold: You can provide that in writing to the committee.

I want to get to a question from my colleague Mr. Calkins.

Mr. Blaine Calkins: Ms. Gelfand, you've probably presumed from my line of questioning....

I appreciate Mr. Casey bringing some clarification to the issue. I don't know if it's possible, but at some point in time, I would be very curious to see, on behalf of the ratepayers and taxpayers of this country, just how much influence third party organizations sometimes have in influencing policy with the direct connections that they have. I don't know how deep the tentacles of Ecojustice and others go into departments and I'm not blaming DFO at all in any of this; I'd be very curious to see just how much influence they have through the threat of legal action and through the other types of discourse that they have, whether it's Environment Canada or Department of Fisheries and Oceans and so on. I'd be very curious to see what that is.

If that's an idea for you for a future audit, I would like to make sure that the policy-makers at the table here, regardless of their political stripe, are the ones who are dictating what the department officials should be doing.

I want to thank you all for being here today. You're all in a tough spot, and we put you in tough spots, but that's part of a robust democracy, so thank you.

•(1700)

The Chair: That concludes this part of our meeting today.

I want to thank again the witnesses who are here today. I want to thank Mr. Vincent for his patience. He sat there very patiently waiting for a question.

We're going to suspend for a moment as we go in camera.

[Proceedings continue in camera]

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

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its Committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its Committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website at the following address: <http://www.ourcommons.ca>

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

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante : <http://www.noscommunes.ca>