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## **Standing Committee on Fisheries and Oceans**

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**EVIDENCE**

**Monday, December 5, 2016**

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**Chair**

**Mr. Scott Simms**



## Standing Committee on Fisheries and Oceans

Monday, December 5, 2016

• (1530)

[English]

**The Chair (Mr. Scott Simms (Coast of Bays—Central—Notre Dame, Lib.)):** Hello, everyone, and welcome to the Standing Committee on Fisheries and Oceans.

Before we get to the business of the day, before we get down to work, I would like to pass this along to the public as well as all of our committee members here. It's something tragic that happened recently.

Christian Brun has been a witness here for years. He's the director general of the Maritime Fishermen's Union and the president of the Canadian Independent Fish Harvester's Federation. Those are just two of his titles. He has passed away.

On behalf of the committee, we would like to send out condolences to his family. To pay our respects—I don't know if this has been done before—given his involvement in this industry and the times that he's appeared in front of us, I would like to ask everyone here in the room for a moment of silence for Mr. Brun.

[A moment of silence observed]

Thank you, everybody, for that.

There is one item that we have to address. In talking to my colleagues, I realize that there's a problem that has come up.

My apologies to the witnesses. We'll be there in just a few moments.

We have received hundreds of submissions. As you know, input to this study was through our website, the Standing Committee on Fisheries and Oceans. The deadline passed November 30 and we received hundreds. The process to have these submissions translated has now come to our attention. Just to give you an idea, well over 90% of the submissions were in one language, either French or in English, not bilingual. Therefore, as the rules dictate, in order for me to distribute them, they have to be in both official languages.

Because of the number of submissions we have received, it's going to take a lot of time. As you know, next week we're in camera, and we're coming with suggestions for recommendations to go into this report. I've been advised that a lot of them will not be ready in both official languages. As you know, if we are to distribute in one language only, we have to receive the unanimous consent of the committee to do this.

Are there any questions on this before we go to a unanimous consent vote?

We have been assured that eventually they will be translated and distributed to the committee; it just won't be any time soon. Therefore, I'm asking the committee for unanimous consent to distribute them to the committee in one language only, as is.

Mr. Arnold.

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

You said you didn't expect it would be any time soon. Are you considering that we would not see them in time to put our recommendations into the report?

**The Chair:** That is correct.

Mr. Doherty.

**Mr. Todd Doherty (Cariboo—Prince George, CPC):** Mr. Chair, I think on all sides we've expressed concern over the time frame that has been allotted to do this study. I think that, again, if we are going to do this properly, and indeed take into account all the testimony as well as the submissions, we need to provide enough time to be able to have all of the testimony before us in both languages.

• (1535)

**The Chair:** Okay.

Mr. Donnelly.

**Mr. Fin Donnelly (Port Moody—Coquitlam, NDP):** Thank you, Mr. Chair.

We knew that this was going to happen when we invited the public to provide comments from across the country. Even though the committee didn't have an opportunity to travel across the country, to go to the different coasts to hear from people, when we invite comment we should definitely take the time to hear in both official languages what those comments are. This is standard on every committee and has been the standard practice in the past, so we need to adhere to that practice.

**The Chair:** Do I have unanimous consent to distribute the input that we received, the deadline for which was November 30, in one official language?

Seeing none, they will be distributed when they have been fully translated.

Some will be forwarded to you. There are a few, not that many, that are in both official languages. We will distribute those. For the rest, we'll wait until we receive the translation of the documents.

Mr. Donnelly, please.

**Mr. Fin Donnelly:** Thanks, Mr. Chair. Could you give us an idea of when that would be? Are we looking at this year, or early next year?

**The Chair:** Realistically, it will be in the new year. Forget about December. It may be in January or around the first week of February.

Mr. Arnold.

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

At what point do we expect to be wrapping up our final recommendations for this report?

**The Chair:** For two meetings next week we'll have discussions on recommendations coming forward. Then we'll continue that discussion into February. We can carve out some time next week to talk about how we're going to handle the situation when we come back. I remind the committee members that we're also in the middle of two studies that we will also address next week. One we may finish; the other one, meaning the cod study, maybe not so much. We may have to look at that in February.

Mr. Donnelly.

**Mr. Fin Donnelly:** I have a question, Mr. Chair, on the schedule. We haven't published the schedule for next week.

**The Chair:** Haven't we published the schedule for next week?

**Mr. Fin Donnelly:** When are we deciding on that schedule, the agenda? Are we going into subcommittee at all?

**The Chair:** A subcommittee meeting was not planned. If you wish to have one, we can talk about that at the end of this meeting. If you want to consult with your colleagues, we can talk about a subcommittee meeting.

**Mr. Fin Donnelly:** I'm just curious; what's the plan for next week?

**The Chair:** Next week we have, obviously, the discussion, all in camera. We're discussing this study, the Fisheries Act review, for the first hour. For the second hour we will do the salmon study. On Wednesday, the first hour will be the Fisheries Act review. The second hour will be the cod study.

There was some talk of discussing Bill S-208, which was passed in the House of Commons. I'll put on my other hat now. As the mover of that bill, I'm electing to bring that to committee in February. It's not immediate, of course. The deadline is still out to April.

Mr. Donnelly.

**Mr. Fin Donnelly:** I guess that begs the question about having the environment commissioner come here before the end of the year.

**The Chair:** That's correct.

**Mr. Fin Donnelly:** That, I'm assuming now, is not happening.

**The Chair:** Unless you want to make a motion as such, yes, because the last time we spoke about it we agreed that we would focus on the Fisheries Act review and the other two studies we have to look at. The commissioner, we could possibly have in the new year if you wish.

**Mr. Fin Donnelly:** It was always my impression that we were looking at the end of November.

**The Chair:** We were, originally, but then we said we'd do the Fisheries Act review as a priority. Like I said, though, it's not written in stone. If you want to consult with colleagues and bring it up for discussion, you most certainly can. If you want to bring the environment commissioner in, that will mean that one of the things will have to be put forward.

**Mr. Fin Donnelly:** The timing for giving her notice to come would have to be now, because it would be Monday at the earliest.

**The Chair:** Correct.

**Mr. Fin Donnelly:** We're hoping that Wednesday is going to happen, as a committee, so....

• (1540)

**The Chair:** Mr. Sopuck.

**Mr. Robert Sopuck (Dauphin—Swan River—Neepawa, CPC):** Can we start with the witnesses? I think our time is going and their time is very valuable. These are very busy people. If we could start, this side would really appreciate it.

**The Chair:** That's a request, not a motion, obviously.

Is there any further comment on that? Seeing none, I will go to our study. Pursuant to Standing Order 108(2), a study of the review of changes to the Fisheries Act, we want to welcome our guests here today, who are joining us in person as well as through video conference.

From the Canadian Hydropower Association, we have Dan Gibson, who is a senior environmental specialist, together with Jacob Irving, who's the president. From the Canadian Energy Pipeline Association, we have Chris Bloomer, president and chief executive officer, who will be joining us by video conference from Calgary. From the Canadian Electricity Association, we have Francis Bradley, COO. We also have Jay Walmsley, senior environment specialist, aquatic, Nova Scotia Power. From the P.E.I. Aquaculture Alliance, we have Matt Sullivan, the executive director. From the Forest Products Association of Canada, we have Kate Lindsay, director, environmental regulations and conservation biology.

We will start with the Canadian Hydropower Association.

Mr. Irving, please proceed for 10 minutes.

**Mr. Jacob Irving (President, Canadian Hydropower Association):** Thank you, Mr. Chairman, Vice-Chairmen, and members of the committee.

I'm Jacob Irving and I'm the the president of the Canadian Hydropower Association. Our membership comprises the major hydro power generators in Canada and the industries that support them.

I would like to thank you for the opportunity to present today. With your permission I'll take some time to outline the importance of hydro power in Canada. My colleague, Dan Gibson, will then explain why the Fisheries Act is so important to our industry and provide some specific thoughts regarding this important legislative review.

The Canadian hydro power industry is world class. Not only are we the largest renewable energy producer in Canada, we are also the single largest source of electricity. Over 60% of the country's electricity comes from hydro power and because of hydro power Canada has one of the cleanest and most renewable electricity systems on the planet. Canada is the third largest hydro power producer in the world. This is impressive when you consider that number one is China with 1.3 billion people and number two is Brazil with 210 million people. Canada is third with only 36 million people. When it comes to hydro power Canada clearly boxes well above its weight class. Canada's installed hydro power capacity is over 78,000 megawatts, which is impressive. Even more impressive is our underdeveloped potential of 160,000 megawatts, more than double our current installed capacity.

Hydro power produces zero air pollution and it is as close to zero greenhouse gas emissions as you can get. Hydro power is essential in the fight against climate change and climate change poses a threat to fisheries in Canada and around the world. In fact, just last month Environment Canada released Canada's mid-century, long-term, low greenhouse gas development strategy during recent climate negotiations in Marrakesh. This document reviewed seven different independent studies that each described how Canada could reach its ambitious greenhouse gas reduction goals. The one common thread throughout all the studies was the unanimous call for a major increase in Canadian hydro power generation.

While it offers significant environmental benefits the industry recognizes that hydro power facilities impact the natural environment. This is why we are subject to comprehensive regulation at both the federal and provincial levels. Our members recognize that they have a responsibility to ensure their activities do not undermine the natural environment. That environment is particularly important when fisheries are involved, whether they are aboriginal, commercial, or recreational. Fisheries, like the hydro power industry, rely on healthy aquatic systems.

We continue to work collaboratively with indigenous peoples, stakeholders, regulators, and policy-makers. We appreciate the opportunity to address this committee in the same spirit.

At this point, I'd like to invite the chair of our fisheries working group, Mr. Dan Gibson, to present some highlights from our written submission.

Thank you.

**Mr. Dan Gibson (Senior Environmental Specialist, Canadian Hydropower Association):** Thank you, Jacob.

Good afternoon, Mr. Chair, vice-chairs, and committee members.

As Mr. Irving has said, it is important that the public trusts the effectiveness of the processes that safeguard Canadian fisheries. With regard to this, we welcome the opportunity to put our views before the committee today.

You will see in our written submission that, at this time, we are not persuaded that the Fisheries Act needs substantial redrafting. Protections, however, can be strengthened most effectively through policy and guidance measures.

The amendments in 2012 did not, we believe, weaken its effectiveness, as it still provides a sound framework for fisheries protection. In fact, from our perspective, some of the amendments actually strengthened the legislation. One example is the increased authority for enforcement and penalties. The amendments also made explicit, in the new section 6, the factors that must be taken into account in ministerial decision-making.

To this end, some of the loss of public confidence in the Fisheries Act might be traced to the manner in which the amendments were made and to a misunderstanding of the act's original purpose.

With the precedent established through the Supreme Court of Canada rulings, we believe that the act is intended to manage Canadian fisheries, not simply individual fish. This is not a concept that was introduced in 2012. There are decades of jurisprudence stating that this was the legislation's original and continuing purpose. However, we do think that protection regimes can be improved.

We believe that Parliament, in considering changes, should be guided by the principles of good regulatory policy and practice that are important for our industry: clarity, consistency, efficiency, and transparency.

With regard to clarity and serious harm, perhaps the most controversial change to the act in 2012 was the merging of two previous elements of the old act. Sections 35 and 32 were merged into what we now know as section 35, which addresses both harm to fish and the alteration of fish habitat. The critical element of this section prohibits serious harm to fish, which is defined as "the death of fish or any permanent alteration to, or destruction of, fish habitat".

In our submission, we suggest a more precise definition of "serious harm" that focuses attention on harm or habitat alteration that will have an impact on fish populations at large. Without that clarity, the existing definition could be interpreted to include the incidental loss of an individual fish with no material impact on the fishery at large. Similarly, when it comes to habitat, without clarity on the serious harm to fish, we believe that the existing definition could also be interpreted to include elements of fish habitat disturbance that in no way result in material impacts to fish populations.

For these reasons, clarification of the meaning of serious harm would guide our industry in making decisions, would strengthen industry's confidence in the regulatory regime in Canada, and would make efficient use of regulatory resources within the various departments, focusing them on the true threats to Canadian fisheries.

With regard to existing facilities and consistency, given hydro power's long history in Canada, the industry is concerned about how the act will deal with existing facilities moving forward. As you may know, there are over 400 existing hydroelectric facilities in our country. Most were approved and constructed before the current provisions of the Fisheries Act in the mid-1970s.

We believe that it would be inappropriate, therefore, to broadly apply the act retrospectively. However, in certain situations where ongoing operations of an existing facility are causing serious harm to fisheries, we would certainly agree that the act should address these in a focused manner.

We would also expect that significant changes or retrofits to our existing facilities would be encapsulated in the current act moving forward. Otherwise, where there are stable fisheries around existing facilities, retrospective application of the Fisheries Act serves no useful purpose from a regulatory perspective. We hope and we trust that policy documents would reflect that clearly.

On efficiencies and fisheries management objectives, which was a new element to section 6, among the factors that the minister now takes into account are fisheries management objectives. These can be very useful to our industry when designing facilities and operations to avoid unwanted impacts to fisheries. Unfortunately, in many parts of our country, FMOs are not clearly articulated and must be developed by the relevant authorities. Industry, the fisheries, and other stakeholders would like to see these developed throughout Canada in a timely manner.

● (1545)

On resourcing, and further on efficiencies, our greatest success in working with regulators before and since 2012 has been achieved through co-operation. Much more can be achieved when governments and industry experts coordinate their efforts in finding solutions, which has been our experience since 2012 in the explicit language around building stronger partnerships with industry.

To this end, however, our industry believes that the most important reason the public may have lost some of their faith and trust in the fisheries regulations is perhaps due to some of the departmental reductions that have occurred. Our members have found that the experts with whom they had once worked from Newfoundland all the way to B.C. have experienced some loss on the ground with these experts. They have either moved on or are simply no longer with the department. This makes for less understanding and less strength in our relationships with our regulators. We believe the government should give serious consideration to restoring some of these lost resources with the objective of re-establishing the productive working arrangements that have existed.

On offsetting and banking, and, again, efficiency, regulator guidance for offsetting of impacts by investments in fish productivity in other sites needs to be developed further. This practice, broadly understood as habitat banking, has tremendous potential for our industry. It allows flexibility for both industry and regulators to accommodate industrial activity, while maintaining healthy fisheries. We have elaborated on this in detail in our submission, and we believe it has been a forthcoming benefit to the 2012 amendments.

In closing, I've only really been able to touch on some of the elements that we've included in our submission, but I will reiterate several key points that will perhaps lead to discussion and questions. First, we believe habitat protection is still a fundamental element to the 2012 amendments. Second, a stable regulatory regime that is clear, predictable, transparent, and efficient best serves fisheries and the hydro power industry in this country.

Further, hydro power projects are capital intensive and they last a long time. We must be able to make investment decisions with confidence within a stable regulatory regime. There are several key critical concepts in the existing act that need to be clarified, most importantly, serious harm to fish. We believe this can be addressed through policy. However, if Parliament determines that a legislative adjustment is a better way to proceed, it can be accomplished through a simple amendment that we have included in our submission.

Further, I would like to emphasize that the ultimate success of the fisheries regulatory regime rests upon the people who administer it. To that point, we would love to see successful, qualified, skilled professionals in the department to work with in re-establishing those relationships. Finally, as my colleague Jacob has mentioned, hydro power is one of Canada's most powerful weapons in the fight against climate change. We need regulations that enable its development while ensuring Canadian fisheries are protected.

Thank you very much. I welcome your questions.

● (1550)

**The Chair:** Thank you, Mr. Gibson.

We certainly will, in just a few moments, but first joining us from Calgary, through video conference, we have Mr. Chris Bloomer, president and CEO of the Canadian Energy Pipeline Association.

You have 10 minutes or less, sir, for your introduction.

**Mr. Chris Bloomer (President and Chief Executive Officer, Canadian Energy Pipeline Association):** Thank you, Mr. Chairman.

Good afternoon. As mentioned, my name is Chris Bloomer. I am president and CEO of the Canadian Energy Pipeline Association. We represent 12 major transmission pipeline companies, operating 119,000 kilometres of pipelines and transporting 97% of Canada's crude oil and natural gas production.

CEPA is pleased to participate in this review of the Fisheries Act. It's through periodic review of legislation and regulatory processes that we ensure that the goals of policy and legislation are met. We are participating in all the related federal reviews and consultations, including NEB modernizations, CEAA 2012, and the Navigation Protection Act.

Before I get into specific comments, I would like to comment on what CEPA believes are the fundamental principles of effective regulation that apply equally to all the reviews. The most effective regulatory framework for all stakeholders is one that is clear, efficient, and comprehensive. In particular, the process should be science- and fact-based, conducted by the best-placed regulator, avoid duplication, outline clear accountabilities, contain transparent rules and processes, allow for meaningful participation, and adhere to the need for timeliness. We support any efforts that the government makes to achieve these outcomes.

With respect to the Fisheries Act, I'll provide some comments in three specific areas: first, a brief overview of the methods used for installing pipelines across water bodies; second, the impact of the changes made to the act in 2012; and finally, the importance of maintaining a single best-placed regulator, the National Energy Board.

CEPA's members reviewed their practices both before and after the 2012 changes to the Fisheries Act. They examined the way data was collected and analyzed, and the mitigation methods and best practices that were already in place. This process revealed that the thousands of watercourse crossings our members completed followed well-established, best-practice construction methods.

There are two main construction practices, excavating a trench or using trenchless methods. When practical pipeline companies use a trenchless method, which involves horizontal drilling or micro-tunnelling beneath the water, this method does not require any direct excavation of banks or bed of water body, and can be used as long as the banks and surrounding lands are stable. The trenchless method minimizes or eliminates altogether any impacts to the water body and serious harm to fish and fish habitat. In certain circumstances where site-specific geotechnical conditions may prohibit the use of trenchless crossings, a trench through the watercourse is required and is constructed so as to minimize impact.

The pipeline industry has conducted hundreds of EAs and has prepared as many permit applications. It has therefore developed best practices and a deep understanding of the potential environmental effects of watercourse crossings and their impacts. We have experience and confidence in the effectiveness of the construction and mitigation practices for watercourse crossings.

This brings me to our second point, the impact of the changes made to the act in 2012. Through the review of construction methods and industry best practices, our members confirm that these methods continue to be as effective in protecting fish and fish habitat as they were prior to the 2012 changes. The concerns expressed by various groups regarding 2012 changes to the act tend to focus on the fact that fewer authorizations are required under the revised legislation. While fewer authorizations are required, the effort that the pipeline companies must invest to determine whether to apply for an authorization under the Fisheries Act has not changed. This is because the act still requires the protection of commercial, recreational, and aboriginal fisheries.

The practical measures that pipeline companies used before the 2012 definition changes under the act are the very same measures that have continued to be used after 2012 to avoid serious harm to fish. The changes in 2012 also allowed for project proponents to

engage a qualified environmental professional to prepare a self-assessment for a project and identify appropriate mitigation methods to address any potential impacts. This has been a positive change, because it has allowed professionals with knowledge and expertise of aquatic habitat, pipeline construction, and operations to apply best practices to meet regulatory requirements.

To build on this positive change, CEPA believes this review of the act provides an opportunity to introduce revised DFO-issued operational statements that existed under the previous act. These operational statements provided valuable guidance to project proponents.

● (1555)

In essence, nothing has changed from the practical perspective for the pipeline industry, and the CEPA supports a review of the act that is focused on the enhancing the actual protection of fish and fish habitat rather than the number of authorizations.

The last point I would like to make relates to the role of the NEB and the Fisheries Act authorizations. In 2013, DFO and the NEB signed a memorandum of understanding that gave the NEB responsibility for reviewing applications under the fisheries protection provisions of the Fisheries Act.

Under the MOU, the NEB is responsible for assessing the potential impacts of pipeline projects to fish and fish habitat and determining whether mitigation strategies are needed to reduce or prevent those impacts. If the NEB determines that a project can result in serious harm to fish, it will inform the DFO. The DFO will then review the project and determine whether an authorization is required. However, if the NEB determines the project will not result in serious harm to fish, the project applicant does not have to make a separate submission to DFO for the review.

The NEB's assessment of the impacts to fish and fish habitat takes place during its comprehensive review of pipeline applications, which avoids duplication and has proven to be effective and efficient. The NEB assessment considers whether the proponent plans to follow standard improved mitigation methods that are specific to pipelines. This is helpful because, as a best-placed regulator, it applies its unique knowledge of the history and success of these mitigation methods and uses this information to determine whether or not the project is likely to cause adverse effects.

The MOU gives the NEB the power to monitor a project to ensure it complies with the conditions of the Fisheries Act permit after it has been issued. This complements the NEB's life-cycle oversight of pipelines, from design to abandonment. Essentially, the process triggered by the MOU avoids having two departments perform the same assessment.

We don't believe that the delegation to the NEB has resulted in loss of protection or weakened the protection of fish or fish habitat associated with pipeline projects. In fact, it created a more efficient permitting process that resulted in better outcomes by reinforcing accountability with a single regulator. An integrated approach, including the initial assessment of harm to fish or fish habitat, takes into account the full range of safety and environmental concerns and allows both industry and the regulator to work together to more effectively achieve better outcomes.

To this end, CEPA recommends that the current MOU between the NEB and DFO be maintained. Any changes that are made to the act should be focused on making improvements that ensure the continued protection of fish and habitat related to fisheries. This could include reissuing guidance materials to be used in the assessment of work in or near watercourses.

CEPA recognizes that having our lakes and river beds protected is important to Canadians, including pipeline operators. When pipelines cross water bodies, industry takes care to protect the area during the entire life cycle of a pipeline.

Thank you for this opportunity. I look forward to your questions.

•(1600)

**The Chair:** Thank you, Mr. Bloomer.

Now we go to the Canadian Electricity Association, with Francis Bradley and Jay Walmsley.

Who will be speaking?

[Translation]

**Mr. Francis Bradley (Chief Operating Officer, Canadian Electricity Association):** We will share the microphone.

**The Chair:** Okay.

You have the floor for 10 minutes.

**Mr. Francis Bradley:** Thank you.

Mr. Chair, members of the Standing Committee on Fisheries and Oceans, thank you for inviting the Canadian Electricity Association to appear here this afternoon and to take part in your review of the Fisheries Act.

[English]

I'm very pleased to represent the Canadian Electricity Association, along with a colleague, Dr. Jay Walmsley, who is a senior environmental scientist with Nova Scotia Power.

Together we're going to provide you with the electricity sector's perspective as it relates to the Fisheries Act, but first a few words about the association.

CEA is the national voice and forum for the electricity sector across Canada, and this year we're celebrating our 125th anniversary. Our membership comprises 37 generation, transmission, and distribution companies from across Canada. Our members provide the electricity service to customers in all of your ridings. Our membership also includes nearly 80 manufacturers, technology companies, and consulting firms, representing the full spectrum of the electricity value chain.

Since 2009, the association has provided national direction on industry sustainability efforts through our sustainable electricity program, which is a triple bottom-line program focused on economic, social, and environmental performance consistent with national and international principles of corporate sustainability.

Electricity is, in a word, indispensable. It's indispensable to the quality of life of Canadians and to the competitiveness of our economy. In fact, in 2015, the electricity sector contributed \$30 billion to Canada's GDP, making it a significant contributor to the Canadian economy.

In addition, over 80% of electricity generation in Canada has no greenhouse gas emissions, making it one of the cleanest in the world, and it's with pride that I tell you that no other Canadian sector has reduced its carbon footprint to the extent that our sector has. Since 2005, this sector has reduced GHG emissions by 30%, and it's expected to decrease significantly more by 2030, through more efficient technologies and increased investments in renewable power.

Federal environmental legislation, like the Fisheries Act, is critical in this regard. The electricity sector is committed to protecting and conserving our natural resources and natural heritage for future generations. CEA and its members are supportive of the government's desire to review the act and incorporate modern safeguards into its implementation.

We recognize that the changes made previously to the act, while generally positive for our sector, might have resulted in a perception of lost protections, but for the electricity sector, the act continues to provide the same level of protection as before 2012, and in some cases has strengthened protection. Examples include strengthened requirements around the industry's duty to self-report serious harm to fish, the duty to take corrective measures to prevent or remedy adverse effects, and increased penalties and enforcement.

However, the act has been significantly constrained through the lack of adequate policy and definitions, and a reduction of staff at DFO regional offices. In this respect, we have 10 recommendations we would like to put forward for the committee's consideration, for both changing the act and enhancing public trust. You'll find those in the brief we provided to the committee.

I'm going to ask my colleague, Dr. Jay Walmsley, to speak to those recommendations.

•(1605)

**Ms. Jay Walmsley (Senior Environmental Scientist, Aquatic, Nova Scotia Power, Canadian Electricity Association):** Thank you, Francis.

In the interest of time I will provide a quick overview of our recommendations. Additional details can be found in the CEA's written submission.

I will start with the three recommendations for amending the act itself. Firstly, we believe that the Fisheries Act requires a clear statement of its purpose and the principles that guide its application. The purpose of the Fisheries Act should be to provide for the sustainability of Canada's marine and inland fisheries by ensuring that environmental, economic, and social considerations, including the impact on other water resource uses, are systematically taken into account in the management of fisheries, and the conservation of fish and fish habitat. The underlying principles should be ecosystem-based management and sustainable development.

Secondly, the definition of "serious harm" needs refinement. The definition of "serious harm" should focus on the sustainability of fisheries by protecting fish populations or stocks, and not individual fish, and it needs to still cater for both harvest fish and species at risk. We also believe the act would benefit from a definition of what constitutes the sustainability of a fishery.

Thirdly, there is a need for the act to make provision for the long-term authorization of facilities. The act currently does not specify a time limit nor expiry of Fisheries Act authorizations and as such leaves this to the discretion of the minister. In addition, there is no process in the act through regulation or in policy to formally amend or extend Fisheries Act authorizations. This creates uncertainty for the electricity sector where many activities and ongoing operations are long term.

The association also believes that there is a need and an opportunity for the federal government to enhance public trust in the act, mainly through the implementation of modern safeguards. We would like to offer the following seven recommendations.

One, we would like to see an increase in staffing and funding to the DFO fisheries protection program. This would ensure that staff are active in the field and understand the activities and operations that they are required to authorize.

Two, we believe that there should be more focus placed on supporting and encouraging partnerships and stewardship activities, including broad area planning initiatives to protect and restore fish habitat.

Three, there is a need for fisheries management objectives to be documented up front as part of the initial review process. This will assist in determining whether or not there is a commercial, recreational, or aboriginal fishery that requires protection and what is required to ensure its ongoing sustainability.

Four, with regard to offsetting harm, we would like to see more innovative and modern approaches to offsetting residual project impacts. Some of the approaches that could be considered include conservation agreements, correction of legacy issues, and third-party offset habitat banks.

Five, a public authorization registry of Fisheries Act authorizations should be developed to increase transparency and accountability in the authorization process.

Six, DFO should consider developing a risk-management approach to authorization. This could take into consideration established fisheries management objectives, mitigation of adverse impacts, significance of effects, and the ongoing sustainability of

fisheries. A risk-based approach could also be used for existing facilities that predate the act.

Finally, the federal government could consider incorporating approaches by reference into the act. A good example of this is the incorporation of class authorizations for routine operation and maintenance.

This concludes our recommendations. I will now hand back to Francis.

[*Translation*]

**Mr. Francis Bradley:** Thank you, Jay.

In closing, I would like to say that we believe our recommendations regarding the Fisheries Act are balanced and will support our sector's mandate, which is to provide Canadians with secure, reliable and sustainable energy.

[*English*]

Thank you for your attention. We look forward to the dialogue.

**The Chair:** Thank you, Mr. Bradley, and thank you, Dr. Walmsley. We appreciate that.

Now we go to the P.E.I. Aquaculture Alliance and executive director Matt Sullivan for his intro. You have 10 minutes or less, please.

**Mr. Matt Sullivan (Executive Director, P.E.I. Aquaculture Alliance):** Thank you, Mr. Chairman. Thank you, committee.

As mentioned, my name is Matt Sullivan, and I'm the executive director of the P.E.I. Aquaculture Alliance. Our organization is a non-profit association that represents the aquaculture industries on P. E.I., the primary industries being the mussel sector, cultured oysters, and a smaller finfish industry.

I'm just going to give a brief overview of the three sectors and what they mean for P.E.I. and talk a little bit about the environmental stewardship that the industry leads. I'll end with a few thoughts our industry has on the Fisheries Act.

I'll start with the mussel industry. It's a very important industry for Prince Edward Island. It creates a lot of employment and economic generation in the rural areas of P.E.I. Mussels are farmed in the waters of P.E.I. It takes one to two years to grow the mussels to market size. All the seeds are collected naturally in the water; it's very much a natural process. Mussels are harvested all year round. Even when we have ice, they go out on four-wheelers and whatnot, so for 52 weeks of the year we are harvesting mussels on P.E.I.

The industry is moving a bit towards a certified organic product. The fundamental change, though, is... They are organic to begin with. Mussels eat phytoplankton, and the industry is very cautious in how it treats the environment they are in. It is going towards this, but it's really just record-keeping and costs. The mussels process is pretty much organic to begin with.

Mussel production is year round, as I mentioned, and employs about 1,500 people in P.E.I., which in a small province of 140,000 is pretty significant, especially in the rural areas.

I'll talk for just a minute about the oyster industry. The oyster industry is an important industry in P.E.I. It's a growing sector. The demand for oysters globally is huge, so we're just trying to keep up with demand. There are two methods by which oysters are grown. There is bottom culture, which is spreading seed on the bottom of the lease and then harvesting them several years afterwards. The amount of time it takes depends on what bay they are in, but it could be from five to seven years.

The more modern technique for growing oysters is in suspended bags and cages, where they are closer to the phytoplankton in the water, which is near the surface. That shaves off the length of time needed to grow the product, and it's a higher-quality product as well.

There are about 15 oyster processors on P.E.I. and there are several hundred oyster growers. Again, it's a growing market. There are a lot of young people getting into that business too. It's not just in P.E.I. that it's growing. It's an opportunity for all of Canada. Basically all the Maritime provinces have very strong growth plans for oyster production.

Just as a couple of notes on the finfish sectors in P.E.I., we really don't have adequate water depth for cage culture, so all of our finfish is land-based. We have a handful of companies. They're mainly hatcheries where they grow the eggs, and they'll do the grow out and later production in other provinces in Canada.

I want to talk a little bit about the environmental responsibility that the industry leads. The P.E.I. aquaculture industry is very innovative and recognizes that it will have better businesses by treating the environment well, because it is essentially reliant on the environment to feed its shellfish so that they grow.

●(1610)

The aquaculture alliance has developed a few key documents that help to lead the industry on the environmental responsibility side of things. First of all, we have shellfish aquaculture industry environmental policy that states the industry's position on sustainable management, water quality, ecosystems, and waste management, among other things. We also have the shellfish aquaculture environmental code of practice, referred to as SAECOP. This really outlines the best practices as to how to ensure environmental responsibility while also having maximum product quality. This industry is committed to managing aquaculture operations in an environmentally friendly and sustainable manner. The commitment is really demonstrated through those initiatives I just mentioned.

I'd also like to add that our organization has a full-time biologist on staff. He's our research and development coordinator. This is key for the industry in that, if there are any challenges or whatnot with the environment, our R and D coordinator is the lead on that, leading any science projects and whatnot. We collaborate with government, with academia, with the industry, and other partners to be the lead on this research.

I have a couple of comments to make on the Fisheries Act, and how it affects the aquacultural industry. I've only been in my role for about a year and a half, so I wasn't in place before the changes to section 35 took place in 2012. But in speaking to others involved in the industry, it was found that the changes that were made were positive ones that had good outcomes for the aquaculture industry.

An example of what was felt to be a positive outcome is that there's a more streamlined approach to proving low-risk projects, such as, say, oyster aquaculture leases, which is deemed a low-risk activity. It simply means there are less challenges and fewer time delays in trying to move things forward.

From the perspective of aquaculture stakeholders, it's strongly felt that we have made progress since 2012. We'd be reluctant to work backwards and become more restrictive in terms of processes, where, as mentioned, shellfish aquaculture is fundamentally a low risk to habitat and the environment to begin with.

I would also like to share one thing. From the aquaculture side of things, we're dealing with the Fisheries Act. I'm on the board of directors for CAIA, which is the Canadian Aquaculture Industry Alliance. They've been advocating for many years for the development of an aquaculture act. I just want to share a bit of a good news story on P.E.I., in that we have been able to collaborate with the provincial government and DFO to work through some of the challenges in lieu of an aquaculture act. We have developed a committee, which has several of my board members and me on it, and the provincial department of fisheries and DFO, to talk about interim measures to address some of the regulatory challenges of the oyster aquaculture industry.

Basically, we've developed a system where growers have an option to apply for an annual introductions and transfers permit, or licence, that will give them permission to conduct off-lease maintenance activities and lease-to-lease transfers. This licence will reduce the current administrative burden on the government side and allow industry to work in a way that makes sense and whatnot. When I say that, it's a great collaboration that we've done on P.E.I. to help the industry move forward, basically in the absence of an aquaculture act.

I want to close by saying that the P.E.I. aquaculture industry recognizes the interdependency between a vibrant, sustainable shellfish aquaculture industry and the health of the marine environment. The industry believes that shellfish aquaculture can be undertaken in harmony with the environment, and that the sustainable use of the marine environment is a shared responsibility requiring a climate of co-operation among all resource users and regulatory authorities.

Thank you.

●(1615)

**The Chair:** Thank you, Mr. Sullivan.

Now, last but by no means least, the Forest Products Association of Canada, Kate Lindsay, director of environmental regulations and conservation biology.

Ms. Lindsay.

**Ms. Kate Lindsay (Director, Environmental Regulations and Conservation Biology, Forest Products Association of Canada):** *Bonjour à tous.* Good afternoon, everyone. Thank you for the opportunity to provide our perspective as you conduct a study on the review of the federal Fisheries Act.

I am here today representing the Forest Products Association of Canada, or FPAC, which is the voice of Canada's wood, pulp, and paper producers nationally.

Forest product companies employ more than 230,000 Canadians in 200 rural communities from coast to coast. FPAC members sustainably manage approximately 90 million hectares of land in Canada. That's an area approximately twice the size of Sweden, or two and a half times the size of Germany.

Our member companies are responsible for 66% of certified forest lands in Canada. Our members manage forests in a manner that supports economic, environmental, and social sustainability, and we work closely with indigenous communities from coast to coast. Repeated surveys have shown that Canada's forest sector has the best environmental record in the world. In short, we take our environmental responsibilities very seriously.

I would like to highlight a number of mechanisms that could be used as modern safeguards for protecting fish and fish habitat in Canada, and these are relevant to the forest sector. These include the existing provincial regulatory context we operate under, forest certification, and the former DFO operational statements.

I will first expand on the provincial regulatory context for forestry activities.

The exact language and regulations within each province differ slightly, but consistently the forest sector develops long-term forest management plans that include many habitat and biodiversity objectives. We utilize stakeholder input and science-based approaches. Forest management plans are approved by the provincial governments, and companies employ both adaptive management and ecosystem-based management approaches.

Components of sustainable forest management also benefit and contribute to ecosystem services such as biodiversity more broadly, but also the health of fisheries, be they commercial, recreational, or aboriginal.

The forest sector has implemented best management practices, or BMPs, that take into account regionally appropriate science-based approaches for maintaining fish habitat. Often these have been developed with regional DFO staff, provincial governments, and internal forest company biologists and ecologists over the past decades. These forest management plans can refer to regionally relevant codes of practice such as the Foothills Stream Crossing Partnership in Alberta.

The second mechanism I'll speak to is third-party audited forest certification standards. These are widely implemented in Canada. As a requirement of FPAC membership, beginning in 2001, companies committed to certifying their forestry operations under one of three certification standards relevant in North America: the Canadian Standards Association, or CSA; the Sustainable Forestry Initiative, or SFI; and the Forest Stewardship Council, FSC. Canada is a world leader in this area with 43% of the total certified forests in the world.

One of the overarching and relevant requirements of certification is the requirement to conserve biological diversity, or biodiversity. Although the exact language differs among the three standards, there is a fundamental consistency in maintaining naturally occurring

ecosystems and habitat for species at risk, as well as habitat with high conservation value. This is built into current forest management.

Additional relevant requirements within the certification standards speak to the protection of riparian areas, which are the areas adjacent to permanent waterways; the protection and maintenance of sites that are biologically or culturally significant; the use of ecosystem-based management approaches; and the development of long-term research and monitoring programs focused on biodiversity.

The last mechanism I would like to discuss is the DFO operational statements, which were also mentioned by Mr. Bloomer earlier.

FPAC was a participant and lead organization in the national resource industry association partnership with DFO during the years 2005 to 2008. This is when parties came together to develop and test operational statements.

The operational statements were an effective and efficient set of guidelines, as well as a notification and tracking system. They outlined science-based timing windows and appropriate mitigation measures for proponents to undertake low-risk activities, both providing outcome-based objectives for avoiding or mitigating any impacts to fish and fish habitat, but also allowing DFO staff to focus on more time-intensive reviews on activities that were deemed higher risk to fish and fish habitat.

● (1620)

The current fisheries protection program at DFO no longer uses the operational statements. FPAC would like to encourage the department to revisit the progress made in developing and implementing guidance for conducting low-risk activities. Forest company staff biologists as well as contractors found the operational statements very useful in providing clear guidance for and explanation of the types of activities, mitigation measures, and timing windows. They were regionally appropriate as well.

In particular, we are aware that DFO has seen a three-quarter reduction of offices with habitat management staff and an overall reduction in regional staff. This is why we encourage DFO to explore existing mechanisms that are robust and implemented widely across the sector to help achieve modern safeguards, but in a streamlined fashion and with high implementation viability.

I would also like to quickly point out elements of the 2012 amendments to the Fisheries Act that we would like to be considered for being maintained, moving forward. These include equivalency of regulatory regimes that are deemed to meet or beat provisions under the federal Fisheries Act—this allows for a one-window approach in jurisdictions and has the potential to reduce regulatory duplication—secondly, the ability to recognize externally developed standards, as appropriate, to guide activities in and near water; and lastly, enhanced partnership opportunities to ensure that agencies and organizations that are best placed to provide fisheries protection provisions are able to do so.

In summary, we encourage the committee and the minister to consider the capacity of DFO in implementing enforcement provisions and regulations as you consider potential changes. We caution against adding further reporting or administrative requirements for proponents without adequate DFO staff to review and monitor for broader, cumulative effects.

In the case of forestry, we see an opportunity to first look to existing mechanisms, as I've outlined, to act as modern safeguards, and then to potential codes of practice or such guidance documents as the operational statements, which could be utilized in a streamlined fashion without adding regulatory duplication.

Thank you again for the opportunity to provide feedback on this important topic. I would welcome your questions. *Merci beaucoup.*

• (1625)

**The Chair:** *Merci*, Madame Lindsay. We appreciate this very much. Thank you again.

Now we go to our questions.

Let me again remind our colleagues to please cite the particular individual you would like to have answer the question, given that we have someone joining us by video conference.

To our witnesses, let me advise that if you wish to weigh in on a question being asked to someone else, raise your hand, but try to get the attention of the person asking the question, not me. When I give the floor to someone, it's theirs exclusively. You get the idea.

That being said, let me say, before I go any further, Mr. Long, it's good to see you.

**Mr. Wayne Long (Saint John—Rothesay, Lib.):** It's good to see you, Chair.

**The Chair:** We have a substitute today, Mr. Wayne Long, who is from the riding of Saint John—Rothesay, home of one of the great junior hockey teams, the Sea Dogs.

**Mr. Wayne Long:** That's right.

**The Chair:** I just thought I would throw that in for no reason.

**Mr. Wayne Long:** Thank you, Chair.

**The Chair:** It's not a problem.

Anyway, we go for seven minutes, to begin with, to the government side.

Mr. McDonald, take seven minutes, please.

**Mr. Ken McDonald (Avalon, Lib.):** Thank you, Mr. Chair, and of course, thank you to all the witnesses for presenting here today, both in person and by video conference.

My first questions will be to the Canadian Hydropower Association. You mentioned that you have some 400 sites across the country. I presume that hydro power to be from dams. Do all of these sites provide safe passage for fish going up those rivers, or if not, how many of them wouldn't?

**Mr. Jacob Irving:** Thank you for the question. I can answer that.

Not every facility would have fish passage included within it, but when we're looking at the question of fish passage in the hydro power facilities, whether it's a storage reservoir or a run-of-river operation, it really has to be looked at in the context of the environmental assessment for each project that is done. When exploring fish passage, sometimes the answer could be fish passage, if necessary, but not necessarily fish passage on every facility, always owing to the unique nature of each facility in question. For a large number of facilities already built in Canada it's good to mention that they are high-head facilities, as we call them. That means there is a large elevation drop between the reservoir and the power house. In such areas or instances, upstream fish passage in many cases wasn't possible to begin with, simply because of the elevation change. Obviously, a facility like that would not require fish passage, because it would make a change to the natural environment that was there.

In other cases, we've seen a desire to not include upstream fish passage because of invasive species issues. In some cases, you want to limit the passage of some of the new invasive species downstream, up river. I would just mention that in some cases fish passage is warranted and is a good idea for the local ecosystem, but in other cases, it isn't. We really need the flexibility on a site-by-site basis for each project to be able to determine if it's appropriate and where it should be built.

• (1630)

**Mr. Ken McDonald:** I asked that because in an earlier study that we were doing of Atlantic salmon, we had a witness present to us who indicated a facility in your provinces—I'm not sure now whether it was Nova Scotia or New Brunswick—where the dam blocked off the river and the salmon could no longer go upstream. They've been fighting to get that corrected but to no avail. I found it somewhat disturbing that a dam would go there and block off the migration of the fish to the spawning grounds, and basically kill off a salmon river. It was a productive river at one time, but they just can't get up to the spawning grounds.

**Mr. Jacob Irving:** I'm not familiar with this particular one, but if you like, we could look into that a bit more for you and maybe talk to the member about the project in particular.

**Mr. Ken McDonald:** Thank you.

Next, I'll direct a question to the Forest Products Association of Canada. Has your association noticed an increase or a decrease in authorizations issued under section 35 of the Fisheries Act? If so, has impact mitigation planning been affected by these changes?

**Ms. Kate Lindsay:** I was working at FPAC and I was working for a forest company prior to the 2012 changes. Much of what I spoke about today, a lot of what we call our BMPs, our best management practices or standing operating procedures, were developed during a previous modernization process of the Fisheries Act around 2009. Those are the operational statements I was talking about. The majority of the activities the forest sector engages in are watercourse crossings, primarily culverts or bridges, so it's either maintaining those culverts for fish passage or replacing bridges that require repair or maintenance. It was rare that we would go through an authorization process.

In the past, we would follow an operational statement or we would have a code of practice, similar to what I was referring to, where the province would require us to go through an authorization process, rather than DFO. In instances where we would require authorizations, they were for larger projects or activities. Sometimes on the coast we would do dryland sorts, where we may need to establish an area for wood or logs to get dropped off before they go into the ocean. It's those types of things. To answer your question, we didn't see a difference in authorizations pre- and post-2012. Essentially, the practices we engage in are practices we've developed with DFO staff in past decades, and we continue to do so.

The current system that DFO operates under is a self-assessment process online. I was speaking to the biologists before I prepared our submission, and they will, for a larger bridge where they have to replace a bridge and it means they would have to do work in the stream bed, provide what's called a request for review to DFO. More than 80% of those return back to the proponents saying that no additional approvals are necessary and to go and conduct the work as indicated. In the remaining small amount, they've just come back to ask for more information.

I hope that answers your question.

**Mr. Ken McDonald:** My last question would be to Mr. Bradley of the Canadian Electricity Association.

You said one of the good things that came out of the revisions in 2012 was that you've been able to self-report harm to fish or fish habitat. Can you tell me how that's working? Has there been much self-reporting done? How big have the incidents been, or have they not been noticeable at all?

**Mr. Francis Bradley:** Thank you very much for the question.

I'm thankful that today it isn't just an association person who's sitting at the table. We also have somebody who works for a company that owns and operates facilities and who can speak from the experience of her individual company.

•(1635)

**Ms. Jay Walmsley:** Sure. I'm with Nova Scotia Power, and we found the self-reporting to be quite onerous because every time there's a fish mortality, we are required to report. As soon as we become aware of a fish mortality, we look to see what happened and we phone the emergency line to ensure that we report on it. It's a fairly onerous thing for us to do.

**The Chair:** Thank you.

We now go to the opposition. Mr. Sopuck you have seven minutes, please.

**Mr. Robert Sopuck:** Thank you very much.

Mr. Bloomer, you said something that really jumped out at me. You talked about how the number of authorizations is actually less important than the actual protection of fish habitat. I think that is a fundamental principle. What's interesting is, for the activist community who has been represented here over the last few weeks, their measurement of the success of the Fisheries Act is authorizations. Of course, they're primarily lawyers—no slight intended to any lawyers in the audience. That, quite frankly, is a lawyer's point of view regarding authorizations versus the actual protection of fish habitat.

Can you elaborate on that statement? I think it's extremely important, Mr. Bloomer.

**Mr. Chris Bloomer:** Thank you very much for the question.

I think the point is exactly that. Before, you had the operational statements; now you have the MOU with the NEB where these things are assessed in the context of historical remediation effects. Bear in mind that the pipelines are only... The real impact is only when we go into water bodies and we try to avoid that, but there are established practices, remediation, and life-cycle authorities on that.

When you look at it in that context, you don't need an exhaustive review of every project that comes up. You can put it in the context of other projects and what remediation has been done. In the current process, the NEB will look at that and say that we have the processes in place, we understand the implications and the remediation, and we don't need to go for an authorization. I think that's an effective process.

**Mr. Robert Sopuck:** I have another question for you, Mr. Bloomer.

What is the effect of inefficient, duplicative, and lengthy assessments on capital investment in Canada? Do investors look at these processes and factor the length of the process in their investment decisions?

**Mr. Chris Bloomer:** Absolutely. I think that a lot of these projects that we're talking about today are major projects. They take years to get into effect, and as we said at the outset here, the principles of effective regulation are certainty, transparency, and timeliness—not necessarily timelines, but timeliness. I think where we got to, with the changes in 2012, did create more transparency. It created more timeliness, avoided duplication, and moved the process forward. From that perspective, I think it was an important change, and it is something that's factored into projects.

**Mr. Robert Sopuck:** Thank you.

FYI, one of my first careers was doing pipeline assessments in the Mackenzie Valley in the original Mackenzie Valley pipeline proposal, and then the second one came along. We're basically looking at 20 years of process, and there's still no pipeline there, and some twenty-odd impoverished communities. I very much agree with you, Mr. Bloomer, that lengthy and inefficient processes not only do nothing for the environment but they threaten much-needed employment.

I'd like to address my next question to Mr. Gibson and Dr. Walmsley because they both talked about habitat offsets. Right now, the no net loss provision and the habitat offsets are fairly rigid; it has to be on site. What if we had a Fisheries Act that focused on fish production and had a policy of no net loss of fish production, and then allowed project proponents to create that fish production in areas where people actually want to have fisheries enhanced or developed?

One of you could take that one on.

**Ms. Jay Walmsley:** I really like what we're seeing on the offsetting side. DFO has developed a policy for offsetting that allows for productivity.

• (1640)

**Mr. Robert Sopuck:** That's good.

**Ms. Jay Walmsley:** That means we can come up with some really innovative solutions for that. It's not based on like-for-like habitat, although that is one of the considerations. It includes things like stocking, and it includes things like.... It opens it up for very modern and innovative approaches.

**Mr. Dan Gibson:** Thank you. Just to add to that, this is actually a core concern for us and is also something that we want to continue to see established through habitat banking. The idea of ad hoc uncoordinated efforts—like for like—oftentimes fails in terms of expectations—

**Mr. Robert Sopuck:** Right.

**Mr. Dan Gibson:** —and quite often when we're monitoring, we're seeing those expectations come back.

On the idea of larger initiatives that are often more well established and more broadly supported by conservation authorities and by provincial governments, again, those are largely accepted by other stakeholders. As well, they get larger public support.

For example, in my province of Ontario, the restoration of coastal wetlands in the Great Lakes is largely accepted as being what will drive productivity in our Great Lakes. On the idea of aggregating projects and large proponent-led initiatives or third-party initiatives and opportunities for well-defined cumulative benefits, with compounding effects, these are really initiatives that as an industry we see as beneficial to gaining public support as well.

**Mr. Robert Sopuck:** I had the opportunity to do work in the oil sands a number of years ago, where I observed the ridiculous situation of a project proponent who was using a lake for a tailings pond actually having to dig another lake right next door to that one. You can't make this stuff up. They called it "Compensation Lake". The whole thing was completely absurd, given that southern Alberta, for example, is starved for fishing opportunities. Were the proponent allowed to spend those millions in southern Alberta, for example, and create fishing opportunities for citizens where they really wanted them, it would be a better situation. I really appreciate your answer.

Ms. Lindsay, you talked about codes of practice. My assumption is—Mr. Bloomer, if we have time, you could weigh in as well—that when industry develops a project or a program, the best codes of practice are built in from day one. Nobody goes in and designs with substandard environmental practices. These projects are environ-

mentally sound from day one, even before they go before any regulatory authority.

Would you say that's a fair statement, Ms. Lindsay?

**Ms. Kate Lindsay:** I would, yes, and in particular, I can speak to forestry, because we undergo a lengthy planning process for forest management plans. Often, these are 20-year plans that we put together, with multiple staff and multiple levels of government inputting into this in terms of expertise. Once that's proposed to the provincial government, there's a review process, an iterative process, whereby that's strengthened. Once it's approved, we have an annual operating plan that gets approved as well. There's a lot of input into that product once it's created.

You're correct. These BMPs are standard operating procedures that we have for fish and fish habitat, and they have been developed and built over many years. First of all, when we plan where we're going to build roads, we avoid impacts to fish and fish habitat. Where we have to build an access point, we do so in a way that mitigates any risk to fish habitat. That is building on things like the operational statements. If in the future the department would want to go to a code of practice, then we would look to some of these very routine activities and look to build upon those BMPs in a recognized code of practice.

**Mr. Robert Sopuck:** I assume my time is up.

**The Chair:** Yes. Thank you very much.

Before we go to Mr. Donnelly, welcome to Blaine Calkins, whose riding is Red Deer—Lacombe. Is that correct?

**Mr. Blaine Calkins (Red Deer—Lacombe, CPC):** That's correct.

**The Chair:** Thank you for joining us.

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

**Mr. Fin Donnelly:** Thank you, Mr. Chair.

Thank you to our witnesses for providing your testimony on this important subject of the Fisheries Act review. I'll start with the Canadian Electricity Association.

You gave 10 recommendations. I assume that you've submitted those in writing. Thank you for doing that. You talked about, among other things, refining the definition of "serious harm". You also talked about defining the "sustainability" of a fishery. I'm wondering if you could expand a little more on that and what you think that might look like.

**Ms. Jay Walmsley:** Sure. I'll take that.

One of the things that we have strongly recommended is defining a purpose of the act. The intention is that the purpose of the act be the sustainability of the fisheries, but it's no use having a purpose without defining it in the act itself. In a sense, it's a bit of a housekeeping requirement, where we recommend that the sustainability of a fishery is the ongoing viability of a fishery.

• (1645)

**Mr. Fin Donnelly:** You would want that clearly stated in the purpose so that it can be a measure.

**Ms. Jay Walmsley:** We would like the purpose of the act.... Most modern acts—and you'll see it in the Oceans Act—have the purpose in their preamble, so it is very clear as to why the act is being implemented. The definition of “sustainability” is really a house-keeping thing to ensure that people understand what that is.

**Mr. Fin Donnelly:** You talked about uncertainty in terms of authorizations. I'm wondering if you could talk about what your association or organization would see as increasing certainty, while obviously at the same time protecting fish habitat.

**Ms. Jay Walmsley:** I think one of the concerns we've had, and I think it needs to be recognized, is that the new act has only been in place for four years. I think for the first two years DFO was trying to work out what it meant, so a lot of that created uncertainty for us. Also, obviously the staff workforce adjustment created even more uncertainty. There's a lot of that.

In terms of the actual “serious harm” itself, what we are finding is that the definition of it is being interpreted slightly differently in different areas. In some places it's being interpreted as all harm to all fish, because of the whole idea of an ecosystem-based approach. Where commercial, recreational, and aboriginal fisheries and fish that support those fisheries are taken into consideration, it really is all fish. However, not everyone is interpreting it that way, so it becomes very uncertain to us as to how to apply it.

With “death of fish”, it's the same idea as “serious harm”. What does “death of fish” mean? Is it death of a fish? Perhaps in the case of a species at risk, that is serious harm. Is it the death of 20 fish, 50 fish, etc.? Those things create uncertainty for us as to exactly what it means and what we should be doing to offset and manage it.

**Mr. Fin Donnelly:** Thank you.

If I could turn to P.E.I. Aquaculture Alliance, I have a couple of questions. You talked about moving in the direction of certified organic labelling. I'm just wondering why your industry wants that. What's the benefit of that?

**Mr. Matt Sullivan:** Market access and....

**Mr. Fin Donnelly:** You see that as improving market access, then.

**Mr. Matt Sullivan:** Yes, essentially if the competitors have that label, then the supermarkets or grocery stores ask why we don't have that certification. It's the same with a lot of the different certification schemes. A lot of them are essentially either to get into the grocery chains or it may mean something to the consumer.

I guess the point I was really trying to make was that the process is basically organic except for very minor tweaks, mainly, that they need to do more record-keeping.

**Mr. Fin Donnelly:** You talked about the desire for a Canadian aquaculture act. What about moving aquaculture under the Department of Agriculture, or would you see it more as remaining under the Department of Fisheries and Oceans?

**Mr. Matt Sullivan:** I think there would be some advantages to being paired with agriculture, but also there are some things in the Fisheries Act that are beneficial to the aquaculture sector as well, especially in regard to introductions and transfers, and whatnot.

I guess in terms of the aquaculture act, it's not so much something that our industry on P.E.I. is pushing for. The national organization,

which I'm on the board of, is pushing for that. There are probably more challenges in the finfish sector that the aquaculture act would support. On P.E.I. we've found a way to make it work, basically with good relationships with the provincial and federal departments.

**Mr. Fin Donnelly:** I'll turn to the Forest Products Association of Canada. You mentioned a number of suggestions: “equivalency of regulatory regimes”, “externally developed standards”, and “partnership opportunities”. I'm wondering if your association works with first nations on developing standards, policies, or even changes to legislation.

How involved is the association with first nations, for instance, on the Fisheries Act?

• (1650)

**Ms. Kate Lindsay:** I would say it's less so, specific to the Fisheries Act, but very broadly in terms of our forest management plans. When we undertake creating a forest management plan, local communities, indigenous and non-indigenous, as well as local stakeholders are part of that process.

It's actually largely run through our certification standards. Each of those certification standards undergo a process that stakeholders and indigenous groups feed into and review. Then, depending on the certification standard.... For example, in FSC, it's actually more of the concept of FPIC, so indigenous organizations need to essentially consent or approve the forest management plan. In other standards, it's more along the lines of, I guess, reflecting Canadian law currently on accommodating interests.

In some instances, the broad partnerships that we'd like to see are something that some of the other folks have mentioned in some of the offsetting, but with a rather more holistic, community approach. If there is a particular waterway or watershed that we're working within, we see benefit in engaging with all of the interests within the watershed.

For instance, in Cowichan, on the west coast of Canada, there's a watershed board. We take part as an industry association or as an industry component in that group. Cowichan Tribes is at the table. We look at where there's a need, and we focus stewardship activity where we would provide the benefit for the fish, which is important then to the communities that rely on them.

**The Chair:** Thank you, Ms. Lindsay.

Now to the government side again, we're going to Mr. Finnigan for seven minutes, please.

**Mr. Pat Finnigan (Miramichi—Grand Lake, Lib.):** Thank you, Mr. Chair.

Thank you to the witnesses for appearing in front of us today. If my voice wants to last for the seven-minute duration, I have a few questions.

I'll start with the Hydropower Association. In my province, we do have a major hydro dam that provides a good chunk of the power in New Brunswick. Its due date is pretty much up and we're going to have to look at different options. I'm not sure if it was Mr. Irving who said that most of the older dams have a higher head of water. I suppose Mactaquac would be one of those. I know there have been attempts to get the salmon and other species across, and it has never really worked right. When we were on our tour in the Miramichi, we actually had testimony to the effect that some of the first nations have lost many species of fish that they traditionally used to....

If it were to be rebuilt, could we build that in a way that we would include a passage for the salmon and other species?

**Mr. Dan Gibson:** Thank you. It's a great question. The fundamental questions around passage always have to do with the nature of the high head, so it's "Was there passage there prior to the establishment of the dam?" If there was, now that we are in the regulatory regime that we are, I think our delegation stated that we are happy to work within the Fisheries Act as it stands. That may include passage. I lived in New Brunswick for a year, and the issues with some of these east coast streams are invasive species like striped bass or smallmouth bass in the lower reaches of the river. Do we want those species up with the native species above the dams? We have to ask that question.

Then if we do decide to do passage, what is the level of effort required to maintain the ecological integrity, both upstream and downstream of the facility? Would that be physical sorting of fish as they come into the fishway, pushing the non-ideal fish back downstream and allowing the native, ideal species to come back upstream? There are instances where this is in place in the United States. However, there's a lot of intensity when it comes to that type of approach.

**Mr. Pat Finnigan:** Thank you.

Again, on water dams, I know there was a bit of controversy in Newfoundland this fall. Whenever you flood an area that has mercury contamination....

Does the present or past act mitigate...? Is there anything in there, or enough protection there? How do we handle that? Is that something we cannot avoid? How would you look at that at this stage?

**Mr. Dan Gibson:** Can I ask for a point of clarification? Are you asking specifically about mercury contamination?

**Mr. Pat Finnigan:** Yes, please.

**Mr. Dan Gibson:** I'm happy to try to answer that question for you, not considering the specific site that you're speaking of. I think one of the foremost mitigation measures for mercury contamination in large reservoirs—we're not building a lot of them anymore, but in the event that we do—is harvesting of the native vegetation around the potential inundation of the reservoir, so deforesting the area that will be inundated and trying to get that root matter and detritus up off the mat so that methyl mercury is not generated.

I think in some cases, the Canadian Shield, for example, where you have very shallow topsoil, very shallow organic matter on top of bedrock, to some extent it can be self-mitigating. You don't have that large amount of detritus that would generate the mercury

contamination. When it comes to the Hudson Bay Lowland areas, though, where you have a lot of the deposition from the glaciers, you would see that effect more. Again, it is a bit site-specific.

• (1655)

**Mr. Pat Finnigan:** Thank you.

Ms. Lindsay, on the forest sector side, specifically in the Miramichi, and I'm sure for other rivers, one of the main problems that we have noticed is the warming of the streams that feed the river. Thus, we're having warmer pools and it's very stressful on the salmon in the warm months of the summer. There's a lot of finger-pointing at the clear-cutting, where you're opening up the canopy that warms the springs.

You mentioned that we need to increase DFO staff to what it used to be. Would that suggest that self-assessment is maybe not the right way to go?

**Ms. Kate Lindsay:** I wouldn't say that.

**Mr. Pat Finnigan:** I know you wouldn't, but I was asking the question.

**Ms. Kate Lindsay:** I would say it's appropriate to have relations with local and regional DFO staff to set those appropriate buffer distances.

Essentially, we have implemented what we call riparian area buffers adjacent to the watercourses, such that we don't want the temperature of the stream to increase. They really shouldn't feel the effects of forestry. It should be a distance that they wouldn't feel any warming impacts from a removal of vegetation.

I would say it was helpful. We had constructive relationships with regional DFO staff, and through the operational statement program, it was a notification system. If we were undergoing a clear-span bridge or a pretty routine activity, we would notify DFO of that. It gave them the opportunity to essentially spot-check or to audit. They could come out and check to see if all of the operational statements or mitigation measures were being implemented according to what we had set out to do.

**Mr. Pat Finnigan:** Mr. Sullivan, regarding aquaculture, depending on what type of aquaculture, it is sometimes not well regarded, but I know you guys are doing mostly oysters and mussels.

You also do some finfish on land. Is that viable?

**Mr. Matt Sullivan:** Yes.

In terms of finfish, as mentioned, there is about a handful of companies, and really only one of them is doing the grow out on their land-based facility. Most of them are hatcheries and just egg production.

On P.E.I., they may be stage one, and then they'll be shipped to do the later stage development. It's a piece of the puzzle, I guess. Except for one company, it's not vertically integrated or the full process.

**The Chair:** You have a half a second, if you would like to say goodbye.

**Mr. Pat Finnigan:** Thanks.

**The Chair:** You nailed it. Very good, sir.

Now we're going over to the opposition.

Mr. Arnold, you have five minutes, please.

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

I want to thank all of the witnesses here today. Your testimony is certainly appreciated, and your time.

I guess my first questions would be for Mr. Gibson and Mr. Irving, and anybody else who wants to jump in. You talk about hydro dams and the high-head issues that are connected with those.

We've recently seen some changes on the Columbia River system, which flows initially out of British Columbia down through the U.S. They've made some significant changes to fish passage there, to where we now see a significant return of sockeye salmon in the lower Okanagan system.

I'm wondering if mitigation improvements to existing structures to allow better fish passage would be considered part of the offsetting requirements for new projects. Can you tell us if those types of improvements on an existing or a grandfathered system would be considered?

• (1700)

**Mr. Dan Gibson:** I think the field of fish passage is an interesting one.

To answer the question that came up earlier about the fish passage facilities at hydroelectric dams, I think in an anadromous sense, where you have saltwater fish returning to fresh water, we're much more often seeing fish passage at facilities on our coasts than there would be inland. The concept of fish passage is an interesting one, because that is an area where industry and Fisheries and Oceans have been able to develop some level of partnership and a lot of dialogue since 2012.

There have been a lot of advancements. There have been advancements, even on perhaps sturgeon passage at some facilities. Whether that equates to an offsetting method that goes into an authorization, I think those are table discussions that we are happy to have with DFO. However, as technologies advance, those would obviously be things that we look to incorporate at our facilities as we go through refurbishments and changes.

**The Chair:** Mr. Arnold, I have to interrupt for one second, and I sincerely apologize.

Mr. Bloomer, are you able to hear us?

**Mr. Chris Bloomer:** Yes.

**The Chair:** Your video feed has stopped here. I wanted to make sure you were still there. The only thing is that if you wanted to weigh in on the question, we would have no way of determining that. You're going to have to speak freely.

I'm not taking any time from you, Mr. Arnold.

Mr. Bloomer, if you're still with us and you can hear the proceedings, I'll ask Mr. Arnold to proceed.

**Mr. Chris Bloomer:** Yes, I can, sir.

**The Chair:** Go ahead.

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

That's relevant, because I want to pass part of this question on to Mr. Bloomer as well as Mr. Gibson and Mr. Irving. We've heard more than once now in these hearings that there was inconsistency in interpretation, application, and enforcement, both prior to and after the changes in 2012. Can you identify any specific areas where a better definition or intent within the act would be beneficial?

Maybe, Mr. Bloomer, since we can't see you, I'll allow you to answer first if you would.

**Mr. Chris Bloomer:** I'm fine on that question. I don't have any comment.

**Mr. Mel Arnold:** No, I was asking if there are any specific areas you could identify where a better definition is needed.

**Mr. Chris Bloomer:** I'll go back to Ms. Lindsay's question around best practices. In respect of the pipeline association and the pipelines, there are a lot of best practices that have been put in place over a long time. A lot of the definitions in place, a lot of the guidances, are pretty straightforward so I wouldn't recommend any changes in that regard.

**Mr. Mel Arnold:** You'd recommend just accepting some of those best practices rather than trying to define them in the act. Is that what I take as your recommendation?

**Mr. Chris Bloomer:** Yes, there's a long history of those practices. Just ensuring that they are being used is important, but I don't think we need to specify each and every one of them.

**Mr. Mel Arnold:** Thank you.

Mr. Gibson.

**Mr. Dan Gibson:** It's a great question. I believe that the one-window service approach implemented through the new Fisheries Act was something that held great promise for our industry, whereby you weren't necessarily calling your certain bio that you worked with well; it was going into the triage unit, it was going to a certain bio, and then it was established. That was something that was welcomed, but just to reiterate, it's very young in the implementation phase of this act.

We're tripping on things like "serious harm" where we're not seeing what we thought would be a consistent definition and interpretation. We are still seeing a bit of misalignment in terms of understanding. We would hope those things would be codified or clarified through the review. Serious harm is where it begins, and then it trickles down through the rest of the implementation of the act. That would be our desire.

**Mr. Mel Arnold:** Thank you.

I see Ms. Walmsley has a comment.

**Ms. Jay Walmsley:** Thank you so much.

I think one of the other areas that could be used is fisheries management objectives under section 6. Those clearly need defining at a regional level. We're really struggling with working out what that means, without having a clear definition.

• (1705)

**The Chair:** Thank you, Mr. Arnold.

Dr. Walmsley, thank you very much.

We're now going to go to Mr. Morrissey.

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

I have a question for Matt. You indicated that your industry, aquaculture, made progress with the changes to the Fisheries Act in 2012. Could you elaborate a bit on what allowed you to make progress as a result of the changes?

**Mr. Matt Sullivan:** It was the HADD acronym, and I'm trying to think what it stands for. It was essentially changes in regard to the habitat group that was involved and needed to provide input, and some of the things they were asking for such as video surveillance of benthic monitoring and things like that. There was some duplication with some of the federal partners involved in leasing. It was the habitat group, Transport Canada and whatnot. With the changes after 2012, there's more streamlining involved in that. Any applications for smaller low-risk projects such as getting an oyster lease didn't need to go through as much of the strenuous process of dealing with the habitat group.

**Mr. Robert Morrissey:** What stage is that at, Matt? It's not in the growing. Is it in the development and expansion of aquaculture development that you're finding it easier now?

**Mr. Matt Sullivan:** Yes, to be able to grow in a sustainable manner.

**Mr. Robert Morrissey:** A number of witnesses before the committee have raised the lack of clarity in a lot of definitions or terminology within the Fisheries Act, previously and even today. Would any of the witnesses care to speak on that side of it, or on specific parts? I know the act is quite broad. I believe, Dr. Walmsley, you touched on it as well.

**Ms. Jay Walmsley:** I think it has to do with serious harm, particularly. For instance, we have a facility at Nova Scotia Power on a river than has both inner Bay of Fundy salmon, which is a species at risk, as well as Gaspereau River salmon. "Serious harm" means death of fish as well as permanent destruction or alteration of habitat. What we find, obviously, is that fish going downstream are going through our turbines. We know there is a certain amount of harm there.

Harm for a species at risk versus harm for Gaspereau, which come down in the tens of millions, can't be the same. We're very much trying to—

**Mr. Robert Morrissey:** Is it not clear now?

**Ms. Jay Walmsley:** It's not clear. We haven't defined.... We're sort of defining as we go along.

We go to DFO, and our definition and attempt to do the right thing rests on how we relate to DFO, what we can come up with in terms of stewardship and partnership, and how we can offset in terms of things like live gene banking. We wonder if one salmon is worth 10,000 deaths per.... I don't know, and I'm pulling the numbers. This is what—

**Mr. Robert Morrissey:** You're making a good comparison.

In your testimony you made reference to having to report any fish mortality, but it's not quantified within the act. Am I correct on that? Is it one fish? If you see one dead fish are you supposed to report it?

**Ms. Jay Walmsley:** Our understanding from Fisheries and Oceans Canada is that, if it's one fish, we should be reporting it. What it doesn't say in the act—it's not specific—is how and when you report it prior to that. What we've done is report for our thermal stations. We actually give the notification in advance, and we say that, anything over and above that, we will report to the emergency line. Otherwise, we would be phoning up the emergency line every single day to say we have a death of a fish or we have a death of whatever.

We feel it's important to have some kind of methodology in place, so that they understand what our impacts are and so that we can mitigate those. At the same time, it doesn't require us to be clogging up the emergency lines, which also are for Coast Guard safety and other....

• (1710)

**Mr. Robert Morrissey:** I take it I'm through.

**The Chair:** Thank you, Mr. Morrissey. I appreciate it. Your time is up.

We now go to Mr. Doherty, for five minutes, please.

**Mr. Todd Doherty:** I just want to say thank you to the witnesses before us today. Time and again we've had panels. I thank everybody for taking the time to provide their testimony over the last weeks, but it is interesting having all industry here, because a lot of the testimony we've heard previously from environmental groups, and indeed from some activist groups, affirmed that the changes that were made in 2012 somehow made it much easier, and gave carte blanche to industry to go ahead and wantonly create projects.

For each witness who is here today, the changes that were made to the Fisheries Act in 2012 may have streamlined some processes, but in any way did they make it easier for you or your membership to go out, just start creating projects, and running amok, if you will?

I'm opening that up to all the witnesses.

**Mr. Dan Gibson:** I would welcome that question. Thank you very much.

Since 2012, CHA but especially my company, OPG, has not experienced that. We have experienced more regulatory interaction with DFO around Fisheries Act authorizations. Requests for reviews are the big ones, so in this feeling out process, in the first few years of the implementation, we've had 30 Fisheries Act requests for reviews. We are getting the same outcomes that we would have had over the four to six months previous to 2012, but we're seeing those same outcomes in about four to six weeks now, the same levels of protection, the same levels of security.

As OPG, I wouldn't suggest that we are seeing less in terms of protection. To that point, we've have multiple on-site audits with Fisheries and Oceans staff confirming that we are maintaining those same levels of protection.

**Mr. Todd Doherty:** Ms. Lindsay.

**Ms. Kate Lindsay:** It's the same for us. As I mentioned before, our BMPs are essentially the same post-2012 as they were pre-2012. What was an adjustment for us was the decrease in DFO employees. It used to be that you would pick up the phone and call your local office to ask a question. Now you're sent to the closest regional office. If you're in Manitoba, you're talking to someone in Burlington.

**Mr. Todd Doherty:** It didn't make it easier for you to get your work done.

**Ms. Kate Lindsay:** Yes, exactly.

**Mr. Todd Doherty:** Okay.

Mr. Sullivan.

**Mr. Matt Sullivan:** It made things a bit easier, or maybe not easier, but just got rid of some unnecessary challenges and avoided some time delays. Again, I'll echo what was said. It didn't have any sort of additional negative impact or less oversight either.

**Mr. Todd Doherty:** Mr. Bradley.

**Mr. Francis Bradley:** Mr. Gibson's company is also a member of CEA. His views are entirely consistent with the broad membership of the Canadian Electricity Association. The critical question is this: is the level of protection the same, or not, as prior to 2012? Our membership believes that it is consistent.

**Mr. Todd Doherty:** Mr. Bloomer.

**Mr. Chris Bloomer:** Thank you.

Yes, I think streamlined is the correct way to characterize it. With respect to what the pipeline industry does and how it responds to protecting fish habitat and so on, we would say, as I said in our statement, that we reviewed this and there is no change in terms of how we operate and what we do with respect to this fish habitat issue.

What has changed, though, relates to timelines and projects, and it's an important change. The previous process would come into play near the end of project evaluations and so on. It became very cumbersome and very time consuming to try to get the authorizations from DFO. This dragged out the timing of projects. Now it's identified up front and dealt over, if necessary, to the DFO for a review. If it's necessary, then we'll do a review and follow practice.

From the pipeline perspective, there is really no change in terms of how we approach, through best practices, dealing with the fisheries habitat issue. It has streamlined by putting this aspect of a project up front, rather than having it at the back end and being dragged out over a long period of time.

I would say that, from an efficiency perspective, there has been a very strong improvement. From a protection perspective, there is no impact in terms of how we deal with things, even over the life cycle of a pipeline.

• (1715)

**Mr. Todd Doherty:** I appreciate the comments.

I just want to take a moment to say thank you to each of our witnesses. This is probably the last time I'll be on the mike.

Thank you to each of you who took a look at this and gave a measured approach in providing some very good feedback on areas

where we could provide clarity that would make it easier for all, and on areas where we, perhaps, were deficient.

**The Chair:** Thank you, Mr. Doherty.

**Mr. Todd Doherty:** I just want to say thank you to the witnesses for attending today. Thanks.

**The Chair:** Now we go to Mr. Hardie for five minutes, please.

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

I just have a quick yes-or-no question for everybody. Again, we'll start with you, Mr. Bloomer, because we can't see you very well, although you've turned into a marvellous portrait on our screen here.

**Voices:** Oh, oh!

**Mr. Hardie:** Were you consulted on the changes that took place in 2012? Just answer with a quick yes or no.

**Mr. Chris Bloomer:** Were we consulted...?

**Mr. Ken Hardie:** Yes.

**Mr. Chris Bloomer:** Yes, we were.

**Mr. Ken Hardie:** Ms. Lindsay, was your group consulted?

**Ms. Kate Lindsay:** I was not at FPAC at the time. I've heard that there was very limited consultation.

**Mr. Ken Hardie:** Mr. Sullivan.

**Mr. Matt Sullivan:** I'd echo that.

**Mr. Ken Hardie:** Now I'd like to hear the answer from the electrical folk.

Go ahead, Mr. Gibson.

**Mr. Dan Gibson:** Yes. The answer from the CEA would be that, yes, we were consulted. Because of the very strong relationship we've had with the DFO, we've been consulted with for all the changes that have occurred over the last number of years.

**Mr. Ken Hardie:** Mr. Irving.

**Mr. Jacob Irving:** I would say that we were consulted. There were a number of formal processes—parliamentary processes, as well—where we were able to work through on this.

**Mr. Ken Hardie:** That's interesting, because a pretty common observation from the groups that have been described as environmental or advocates was that they had not been consulted. They felt rather out of the process of making these changes, and that led to some questions of confidence.

Mr. Bloomer, I'll ask this of you particularly. This last week or so, pipelines seem to be a fairly big issue out my way in British Columbia. On the issue of confidence, the fact that the National Energy Board is involved in the environmental assessment process of your projects causes some concern amongst others who would rather see your environmental assessments take place just like all the others that are required to take place.

Do you have a concern that there might be an uneven application of the oversight, the regulations, and so on, between the NEB and the Canadian environmental assessment authority?

**Mr. Chris Bloomer:** Thank you for the question.

No, we would not and we don't see any difference in how the NEB applies the CEAA rules, because they're the same rules. Some people take issue with some aspects of the NEB, but the key thing with the NEB is that, on this point, it's consistent with what the CEAA rules are.

What's important to understand is that the NEB regulates pipelines over their life cycle. The Pipeline Safety Act that went through Parliament recently increased the regulations and the requirements to report, and so on, on pipelines and environmental issues. The NEB has the authority over the life cycle of a project to enforce those environmental regulations through audits, and so on, whereas through the CEAA, CEAA will provide the approval but not the oversight.

I think it's important to make the distinction around pipelines that the NEB has the expertise, it has the technical horsepower to evaluate these things, and it is done very consistent, almost exactly consistent, with what the CEAA rules are.

• (1720)

**Mr. Ken Hardie:** Very good, I appreciate that. That's good insight on the lifetime oversight.

Getting to the electrical folks, both groups have mentioned that there are very few GHG emissions. You'd probably be forgiven for not factoring in two other things. First is the GHGs created when you actually make the concrete that goes into the dams, and second, as we've learned from some of the assessments of the Site C project in B.C., is the methane that's produced when you flood an area. With that, plus what we've seen now, especially in British Columbia, with more of a turnover to run-of-river projects and then the stuff Elon Musk is up to with his electricity-producing shingles, do you think the era of the big dam is going to come to an end anytime soon? Very clearly, there are significant habitat implications when you build one of these things.

**Mr. Jacob Irving:** I could answer on behalf of the hydro-power industry.

I'll probably harken back to what I was saying in the opening comments. The government's mid-century review of its climate strategy did a survey of seven prominent external studies talking about what needs to be done in order to lower greenhouse gas emissions in Canada. The one common element throughout all those studies was a call for more hydro-power generation. Precisely why is that, on a full life-cycle analysis, hydro power does have the lowest greenhouse gas emissions of any sort of generation. That includes methane emissions, as mentioned, as well as emissions again, in the full life cycle, from concrete, and so on.

Hydro power is something that already keeps Canada's emissions low, makes us have one of the cleanest, most renewable electricity systems in the world, and it's an area where we're able to grow and where we're able to back out some of the more emitting generation that still exists throughout Canada and replace it with hydro power.

It's also important to mention that hydro is an enabler of the other forms of renewable electricity. If you're interested in, say, solar power, wind power, or marine tidal kinetic, the one issue for all those

different forms is the variability of their generation. Sometimes their ability to generate doesn't always match the load demand.

**The Chair:** Thank you, Mr. Hardie. Thank you, Mr. Irving. We have to cut it there, sorry.

For three minutes, we'll have Mr. Donnelly, please.

**Mr. Fin Donnelly:** Thank you, Mr. Chair.

I'll ask this to the Canadian Energy Pipeline Association, and I'll pick up a little bit on where Mr. Hardie was going. Pipeline projects are a little controversial. They are magnets for controversy, at least in the last five to 10 years in Canada. There's certainly much concern. Many scientists, environmental organizations, first nations are concerned about the impact on fish, fish habitat, and watershed health.

Mr. Bloomer, do you see the changes that were made in 2012 as being helpful? Obviously, there's the concern about fish and fish health, and then there's also what happens in terms of public relations and providing certainty on both sides. Even as a local elected official, whenever I dealt with, for instance, developers in the city, one thing I heard about was certainty.

Do you have a reaction as to whether the changes provided that certainty you would need as an industry, building huge projects that are crossing many watersheds?

**Mr. Chris Bloomer:** I understand the question as being whether the changes to the Fisheries Act in 2012 created more certainty in the process.

**Mr. Fin Donnelly:** Right.

**Mr. Chris Bloomer:** The first point is that the things that go on to protect fish habitat and the assessment and the practices used to protect fish habitat for pipelines didn't change. What the changes to the Fisheries Act in 2012 did do, though, was provide streamlining so that you didn't get.... We heard about the manpower issues and so on with DFO at the time, prior to 2012. It was at the back end of the project process. Now it is able to be at the front end, and it helps with efficiency.

That efficiency doesn't necessarily signal certainty in terms of getting approved, but it does create an atmosphere where the timeliness is more understood.

• (1725)

**Mr. Fin Donnelly:** With the few seconds I have left, I'll go back to our energy producers. In terms of the 2012 changes to the Fisheries Act, you mentioned you favoured the increased enforcement penalties and fines. How has this impacted your association? How has this improved protection of fisheries habitat in hydro projects?

**Mr. Dan Gibson:** Thank you.

The problem statement that was given to us was on loss of protections and modern safeguards. What we wanted to articulate was that protections, in some cases, had been enhanced, even if they were more onerous on our industry. We wanted to send that confidence vote that where serious harm to fish was now the onus of producers to self-report on, that was not necessarily something that was... It was more a burden on industry, but it was something that was brought in through 2012 that enhanced responsibility of the producers.

I hope that answers your question.

**The Chair:** It's going to have to. I'm sorry. I have to call it there.

We have only a few minutes left, folks. Before we adjourn, I want to thank the Canadian Hydropower Association, the Canadian

Energy Pipeline Association, the Canadian Electricity Association, P. E.I. Aquaculture Alliance, and the Forest Products Association of Canada for being here today.

On Wednesday, our next meeting, we'll have Dr. David Schindler, Brenda Gaertner, the Nunavut Wildlife Management Board, the Prospectors and Developers Association of Canada, and the Pacific Streamkeepers Federation. That will be our last meeting with witnesses before we get into deliberations.

Thank you again to our witnesses. Thank you, colleagues. See you on Wednesday.

We're adjourned.

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