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EVIDENCE

Tuesday, April 27, 2010

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Chair

Mr. James Bezan

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• (1535)

[English]

The Chair (Mr. James Bezan (Selkirk—Interlake, CPC)): We're going to call this meeting to order. We have quorum.

I apologize for the delay. I believe everybody was in the House listening to the ruling by the Speaker, which of course is still taking place. We'll have to catch up with the news after the committee meeting.

We do want to welcome everyone to our twelfth meeting. We're going to continue with our study on the Species at Risk Act, under section 129, pursuant to Standing Order 108(2).

We have a number of the NGOs joining us today. From the Canadian Parks and Wilderness Society, we have Éric Hébert-Daly, national executive director.

Thank you for joining us.

From the World Wildlife Fund—Canada, we have Peter Ewins, a senior officer for species conservation.

Welcome.

Presenting together, we have, from the David Suzuki Foundation, someone who's no stranger to this committee, and that's Rachel Plotkin, their biodiversity policy analyst; and from Ecojustice Canada, via video conference from Vancouver, Keith Ferguson, staff lawyer.

You have someone there with you, Mr. Ferguson.

Dr. Keith Ferguson (Staff Lawyer, Ecojustice Canada): I do, Mr. Chair. I have Susan Pinkus, staff scientist, with me.

The Chair: Perfect. We have her on the agenda as well.

With that, we're going to open the meeting with the opening comments.

Mr. Hébert-Daly, I'll turn it over to you to begin.

You have ten minutes or less. Thank you.

[Translation]

Mr. Éric Hébert-Daly (National Executive Director, Canadian Parks and Wilderness Society): Thank you very much and good afternoon.

First of all, I would like to thank you for this opportunity to share the Canadian Parks and Wilderness Society's views on your five-year review of Canada's Species At Risk Act.

My name is Éric Hébert-Daly and I am the National Executive Director of the Canadian Parks and Wilderness Society, or CPAWS. With me is Aran O'Carroll, National Manager, Legal and Regulatory Affairs and CPAWS' national lead on our Boreal Campaign.

Our presentation will focus on the challenges and opportunities of implementing the Species At Risk Act, based on our longstanding interest in conserving Canada's boreal forest, and in particular, on our work to protect the iconic boreal woodland caribou. The image of the caribou appears on your 25 cent coin. The caribou is also a barometer of the health of the boreal forest.

• (1540)

[English]

CPAWS is Canada's pre-eminent community-based voice for public wilderness protection. We've played a lead role in establishing over two-thirds of Canada's protected areas since 1963. That includes, of course, one of the big campaigns around the Nahanni, and the big success that we had by this particular Parliament.

With 13 chapters in nearly every province and territory, and the support of over 40,000 Canadians, CPAWS is one of the larger grassroots organizations in Canada. Our vision to keep at least half of Canada's wilderness and public wild spaces wild forever is a vision that we've been promoting for the last little while. It's certainly one that we share with our partners at Mountain Equipment Co-op, who have worked with us on the "Big Wild" campaign, people on the Boreal Leadership Council, which includes oil and gas companies as well as forestry companies, conservation organizations, and first nations.

CPAWS has played a supportive role in the establishment of SARA. It is something we've been taking very much to heart. We're members of the minister's species at risk advisory committee, and my colleague Aran co-chairs the national advisory group on the recovery strategy for the woodland caribou.

Across Canada, CPAWS staff have been instrumental in developing recovery plans and gaining habitat protection for woodland caribou in their regions.

[Translation]

We fully agree with the comments of our SARAC colleagues in their presentation to this committee to the effect that SARA is fundamentally well designed. If we take a closer look, we see that it is the implementation of SARA that has proven to be the biggest challenge for us. I have provided the clerk with a document that goes into more detail than I ever could in the ten minutes allotted to me.

[English]

We'd like to put three recommendations before you today. First, ensure you get SARA implementation correct, particularly around the boreal woodland caribou; second, adopt a bold new federal leadership role in wilderness conservation and look particularly at issues of collaboration; and third, take immediate action in a very urgent case that's happening right before our eyes, which is the work that's happening around new park establishment and how SARA can tie into that.

[Translation]

Critical habitat is defined under SARA as the habitat necessary for the survival or recovery of a species at risk. The minister is responsible under the act for approving recovery strategies for species that identify critical habitat, to the extent that it is possible to do so, based on the best available information and the measures outlined to conserve this habitat.

[English]

Woodland caribou are a perfect example of why we need a more coordinated approach to conservation in Canada. With a vast range, woodland caribou in the boreal are listed under SARA throughout the country, with the exception of the populations on the island of Newfoundland, although even those populations are on the decline.

An umbrella species that really signifies the health of the boreal forest and its wetlands, woodland caribou require large intact wilderness areas to survive. If their habitat is fragmented by roads, farming, logging, mining, and/or energy development, the predator-prey dynamics change, because it allows the predators to have better access to the caribou. It tips the balance against the caribou, which, as we've seen, can disappear within a few decades.

We've been trying for about seven years to in fact address this particular problem. We know that the problems of implementation of SARA have been at the heart of our issues. The good news is that the effort has resulted in a state-of-the-art scientific assessment of the critical habitat needs of the species. The bad news is that we still await recovery strategies under the act, and while they were originally expected in 2007, they are now expected in the fall of 2011. Meanwhile, caribou populations continue to decline.

[Translation]

We have learned from this experience that the Species At Risk Act has great potential as a federal tool to conserve the habitat of species at risk. However, on its own, the legislation is inadequate. Wilderness conservation on the vast scale required by wide-ranging species such as the woodland caribou calls for concerted action by many stakeholders.

● (1545)

[English]

As a country, we really need to apply our collective abilities to become a global conservation leader. That means we need to bring together governments' legislative powers to protect species and establish protected areas, industry's ability to adopt more sustainable practices, aboriginal people's traditional knowledge of our ecosystems, scientists' growing understanding of conservation biology, and the citizenship of conservation organizations such as our own.

We recommend that the federal government kickstart a new era of integrating nationwide and federal government-wide initiatives for conservation and work collaboratively with provincial, territorial, and aboriginal governments and major industrial and conservation groups to find a world-leading conservation vision for Canada that will protect our natural heritage.

[Translation]

An important part of this process would be the development and implementation of a joint strategy, one that involves all stakeholders and not just people who work in silos, with a view to conserving the critical habitats of boreal woodland caribou. Such a plan would go a long way toward securing resilient, healthy ecosystems that will provide a future for generations of Canadians.

[English]

Last year, as I mentioned earlier in my remarks, with the support of the Dehcho First Nations, the Government of the Northwest Territories, and CPAWS, Parliament unanimously approved a significant expansion of the Nahanni National Park Reserve in the southern portion of the South Nahanni River watershed.

Now Parks Canada is planning in fact to create another park, called Nááts'ihch'oh, a national park reserve in the headwaters of the South Nahanni watershed. This is in fact a park that covers a pretty important part of caribou habitat, breeding grounds, and in fact it is a place where caribou spend winters in the adjacent Nahanni National Park Reserve. With the right boundaries for Nááts'ihch'oh, virtually the entire range of the woodland caribou herd could be protected within these two parks put together. But the current proposed boundaries for the park leave out parts of the South Nahanni watershed that are in fact critical to the future of woodland caribou in the Nahanni.

By ensuring that the boundaries of this latest park protect the critical woodland caribou habitat, the federal government could, in a very real way, demonstrate what it is that we need to do in terms of a coordinated approach to conservation so that the work of Parks Canada and the work of this particular act can achieve real outcomes for wildlife on the ground.

[Translation]

In summary, we urge your committee to take the following action: show that SARA can be effective and can work well with a national recovery strategy for boreal woodland caribou; adopt a new federal leadership role in wilderness conservation, while working of course with the provinces; take immediate action as a new national park is established in the Northwest Territories to ensure that federal conservation tools work together, in this case, SARA and the creation of new parks.

[English]

Thank you.

The Chair: Thank you very much.

We'll continue with Mr. Ewins, who will give his opening comments on behalf of the World Wildlife Fund.

Dr. Peter Ewins (Senior Officer, Species Conservation, World Wildlife Fund (Canada)): Thank you, Mr. Chair.

Good afternoon, and thank you all for this opportunity to share WWF's experience and views with your committee.

We have supplied a full 12-page written submission to your committee, but here we will present only highlights. We've also supplied for the translators today a copy of these shorter remarks.

My name is Peter Ewins, senior officer for species conservation. With me is Jarmila Becka Lee, who's our conservation science adviser.

SARA and its associated programs have great potential to help recover Canada's disappearing species and prevent more species from being added to the list. However, the steadily lengthening COSEWIC list signals very clearly that the combined efforts of international conventions, domestic laws, accords, agreements, policies, programs, stewardships, and partnerships are not yet working properly. Efficient and effective implementation of SARA has yet to be achieved. Today we'd like to elaborate on four main recommendations.

One, critical habitat should be identified in recovery strategies based on best available information, recognizing that at least for currently occupied species ranges, key habitat needs to be fully protected. The federal government's reluctance to do this to this point has been contrary to the purpose of SARA and some of the legislation's underlying principles and requirements.

Two, the multi-species approach, using ecosystem-based management tools reflective of regional variation, should be utilized widely now in order to swiftly address the backlog of required recovery strategies and action plans, and thereby to efficiently achieve SARA's goals.

Three, conservation agreements under SARA sections 11 and 12 should be used widely by the Government of Canada as well-proven mechanisms for enhanced stewardship and fair incentives for achieving multi-species recovery, including by designing an approach that integrates the section 73 permitting with conservation management needs.

And four, on conservation financing, the federal government must promptly review the available innovative mechanisms and then develop and sustain significant new funding vehicles in order to radically improve implementation of SARA via effective partnerships and financial leveraging.

The WWF has learned a few things in conserving Canadian species at risk in the field over the past 40 years, including co-founding COSEWIC, serving on various recovery teams, and funding hundreds of species at risk projects, especially via the multi-partner endangered species recovery fund, ESRF, which we administered for that period. This and our global experience on similar issues will underpin our submission to you today.

For 20 years, since 1988, the ESRF provided support to high-priority species projects that assisted in the recovery and protection of at-risk wildlife in Canada and their natural habitats. Over that period of time, \$10 million was awarded to over 770 species at risk field research and recovery projects, led by scientists and local conservation partners. Further, matched at least one to one by the recipients, over \$25 million was ultimately invested into species recovery efforts across the country.

Sadly, two years—2007 and 2008—of delayed federal funds to the ESRF partnership model forced field project crews to front-end the costs of approved projects, and with no firm evidence of major change to this untenable situation, WWF has since been unable to continue with the ESRF partnership funding model. The federal government's main SARA funding vehicle, the habitat stewardship program, HSP, is similarly hampered by consistent delays in project approvals and funding delivery.

Turning to critical habitat, since 2003 there has been abundant evidence from various species with good ecological survey data that, contrary to the wishes of Parliament in enacting SARA, government departments have been highly resistant to identifying and protecting critical habitat. Clearly, SARA goals cannot be achieved until this situation is reversed.

Your committee will already have read of this in the 2006 Stratos evaluation and the 2008 Auditor General's office report, and heard it on June 2 of last year in the submission by the minister's advisory committee, SARAC, of which I am a member.

● (1550)

It has been suggested to you that federal protected areas and habitat protection and stewardship programs were taking care of habitat needs of SARA-listed species—i.e., instead of identification and protection of their critical habitat. However, a recent *Conservation Biology* journal paper by the University of Ottawa clearly refutes this, as regions in Canada with the most threatened species have few or no protected areas.

The multi-species approach, currently, relating to 359 endangered, threatened and extirpated species listed by SARA, really tells us that there are only 76 finalized recovery strategies posted on the SARA registry, of which 65—or 86%—are single species, and only 11 are for multi-species strategies, with a range of two to nine species per recovery strategy.

In other words, we have a huge backlog in the system of now overdue recovery strategies, and the multi-species approach has been totally underutilized to help clear this backlog.

Past federal reviews have recognized that the single-species approach to recovery is slow and inefficient overall, but four years later remarkably little concrete progress has been made. Two good multi-species recovery initiatives under way include those for the 34 endemic freshwater mussel species in southwestern Ontario, and also for the 100 species at risk in the Garry oak ecosystems of southern British Columbia.

The multi-species ecosystem-based approach should be applied much more extensively in Canada. SARA goals can only be achieved with very strong integration of long-term species recovery strategies and values into regional land and resource use planning, the comprehensive regional strategic environmental assessments that are required now, and careful sequencing and coordination with other government department programs, policies, and financing. This will all greatly help reduce the recovery strategy backlog and prevent the addition of new species to schedule 1.

Conservation agreements: SARA sections 11 to 13 clearly outline stewardship and conservation agreements as very important tools for species recovery and prevention of species from becoming at risk. But as of April this year, no conservation agreements are in place under SARA. This is very troubling, given the experiences in Canada and elsewhere in the world.

I'll give you just three examples of how conservation agreements are working quite well for multiple species and their habitat needs.

Firstly, in the mid-1980s, as part of the broader prairie conservation action plan, WWF initiated Operation Burrowing Owl, which engaged 2,500 farmers and landowners in Saskatchewan, Manitoba, and Alberta.

Secondly, Ducks Unlimited Canada has secured and enhanced millions of acres of wetland habitat through such conservation agreements with private landowners, ensuring strong implementation of the North American waterfowl management plan.

And thirdly, for the past 30 years in the U.K.—and I was involved with these programs—under legislation comparable to SARA, successful species habitat conservation has been achieved via conservation agreements with numerous landowners.

Therefore, WWF recommends that the Government of Canada quickly initiate a top-priority global review of conservation agreements used in biodiversity conservation, and then develop and implement plans for using SARA's conservation agreements with tenure-holders across Canada, ideally linking to any section 73 permitting.

And finally, conservation financing: past reviews of SARA have all recognized that implementation and results have been challenged

by low financial priority afforded to species recovery programs. WWF has been at the forefront of some major initiatives around the world, working to set out creative new approaches to financing. These initiatives illustrate very well the biodiversity and local livelihood benefits of creative conservation financing mechanisms.

One example is the monarch butterfly conservation fund, which involves an expanded forest reserve to protect the monarch's wintering habitats in Mexico by addressing the socio-economic needs of local communities. Endowed with a \$5-million grant from the Packard Foundation, \$1 million from the Mexican government, and \$0.25 million from local states, and facilitated by WWF Mexico, most of the 38 communities living within the reserve boundaries have now signed up with the fund and are committed to protecting the forest, and hence the monarchs.

Also, a recent report by the United Nations Development Programme, the Global Environment Facility, U.S. Forest Service, and the Commission for Environmental Cooperation highlights how market-based schemes can preserve species at risk by incorporating the cost of habitat destruction into the costs of development.

• (1555)

We urge the Government of Canada to look very thoroughly at the spectrum of financing mechanisms available for species recovery and to develop and sustain significant new conservation-financing vehicles in order to radically improve on SARA's implementation.

In conclusion, Mr. Chair, all recommendations of the past reviews of SARA's implementation should be addressed swiftly and in full by the federal government. Canadians clearly do not want to see the species at risk continuing to grow. We urge your committee to make bold recommendations for the Government of Canada to elevate the priority and efficiencies afforded to SARA's implementation.

Thank you. We'd be happy to answer questions.

The Chair: Thank you.

We'll turn it over to Ms. Plotkin and Mr. Ferguson.

I understand you'll be going back and forth with your presentation. We'll see how this high tech works out.

Rachel, you have the floor.

Ms. Rachel Plotkin (Biodiversity Policy Analyst, David Suzuki Foundation): Thank you, Mr. Chair and members of the committee, for the opportunity to present before you today.

I'm Rachel Plotkin, with the David Suzuki Foundation.

On the screen before you are Keith Ferguson, staff lawyer for Ecojustice, and Susan Pinkus, scientist for Ecojustice.

As the chair mentioned, Keith and I will be going back and forth delivering the presentation.

Our four organizations—the David Suzuki Foundation, Ecojustice, Environmental Defence, and Nature Canada—submitted a comprehensive written brief to you in July 2009. We submitted an update to that brief to you last week. As well, hopefully you have before you the deck from which we're going to be making our presentation today.

Three of our organizations are also members of SARAC, and we helped draft the documents you received from SARAC, which represent the first stage of industry/NGO collaboration to assist you with your review.

We do hope that further collaboration will allow us to provide you with an additional collaborative brief.

Please note that throughout our presentation, when we say “scientific”, we mean western science, aboriginal traditional knowledge, and community knowledge on the biology of a species.

If you're following your deck, on the second deck there is a slide is entitled “General consensus: SARA shortcomings”. As you have heard, implementation of SARA, to date, has been disappointing. The good news, however, is that we do believe that things are starting to improve on some fronts.

I will now hand over to Keith, who is going to walk you through some of these recommendations.

• (1600)

Dr. Keith Ferguson: Mr. Chair, can you hear me? We are having a few technical difficulties at this end. If I do cut out, perhaps Rachel could take over for me.

The Chair: We can hear you, so you're good to go.

Dr. Keith Ferguson: Okay, thank you. Let me jump in.

Some of the improvements in implementation are, we believe, a result of some of the legal challenges brought under SARA. The number of such court cases brought by environmental groups has been small and they were brought as a last resort to address draft policies and decision-making that appeared clearly inconsistent with SARA. For example, two court cases addressed the identification of critical habitat. In both cases, the court found the decision-making to be contrary to law and commented on the inconsistency of draft policies with SARA.

As these cases show, failure to identify critical habitat has in a number of cases been due to draft policies that were inconsistent with SARA rather than due to the lack of science. We provide details on these cases in appendix 23 to our original brief and update.

If you'd like to follow along with me in the slides, I'm now at the slide headed “Recommendations”, with a list of ten recommendations. We do not recommend a change to the fundamental structure of SARA, but we do have what we call the top ten. These we believe

are the most important and feasible recommendations at this time. I'll briefly go through each of the ten.

Number one is “listing”. Obviously, great care needs to be taken if a species assessed as at risk by COSEWIC is not to be listed, given that not listing could result in the eventual disappearance of the species from Canada. However, we have seen significant inconsistencies in listing decisions between different types of species, between species located in different provinces, and among the agencies, as detailed in our brief last summer. One of the reasons for such inconsistencies appears to be a lopsided consideration of costs and benefits. Potential short-term economic costs of listing are considered, but the long-term cultural and ecological benefits are often not taken into account. Our recommendation for listing is that all such costs and benefits must be carefully considered before any decision to not list a species.

Moving onto the next slide, recommendation two is “critical habitat”; as you've heard, loss or degradation of habitat is the primary reason for about 84% of Canadian species being at risk. Identifying critical habitat and recovery strategies is a key first step. Only after being identified can it be protected or at least considered in decision-making.

Now, some presenters have proposed to you that socio-economics should be explicitly required at this identification stage. We disagree for two reasons. First, there appear to be some misconceptions as to what happens after critical habitat is identified. Identification of critical habitat does not lead to automatic protection in most cases. Protection of critical habitat is totally discretionary other than for aquatic species or if the critical habitat is on federal land. The second reason is that socio-economics are already taken into account at three other stages under the act: first, at listing; second, if an order to protect critical habitat is passed and if so, a regulatory impact analysis statement is required; and third, socio-economics are again taken into account at the action plan stage. We therefore submit that there has to be at least one step in this sequence that remains scientific, and that should be the identification of critical habitat.

Moving along to number three, “recovery strategies”, there are a few improvements we recommend. First, we recommend they should, to the extent possible, include tolerance thresholds for disturbance. This would help clarify what can and can't go on within a critical habitat if it is to support species survival and recovery. It would also help interpret later steps under the act, such as what would destroy and what would effectively protect the critical habitat. To ensure that the best possible science is included, we recommend that all recovery strategies be drafted by teams that include independent experts from outside of government.

● (1605)

Moving on to number four, “definitions”, as you know, there are a number of key terms that are not defined in SARA. I would refer you to the SARAC definitions text for collaborative recommendations on a number of these terms. Two of the most important ones included in that text are the terms “survival” and “recovery”. We recommend that survival should be defined as a high probability of long-term persistence, and we recommend that recovery should be defined as a well-distributed population to meet the values of the species as noted in SARA's preamble, such as to perform its natural ecological functions.

Moving on to number five, “action plans”, as you've heard, there's very little experience to date with action plans. Only one has been completed. We therefore simply recommend that a mandatory deadline for action plans be added to SARA, and we also recommend that SARA require both recovery strategies and action plans to be updated when significant new information becomes available.

On number six, “safety net”, as I've already mentioned, for most species across the vast majority of Canada SARA's protections do not apply automatically. In such cases, SARA relies on the provinces to provide primary protection, although of course SARA does allow the federal government to step in and make a safety net order if a province is not effectively protecting. This might be thought of as an equivalency provision.

Unfortunately, this safety net has never been used in the six or seven years under SARA, and it's never been used despite, for example, the environmental community asking for it to be used for the spotted owl. At the time, there were only about 20 or so in the wild, but no safety net order was issued. Today the number of individuals in the wild is down to just seven, and the species is expected to be extirpated from the wild in the near future. We recommend, as an important first step to making the safety net process work better, clarifying the meaning of effective protection. Again, I would refer you to the collaborative SARAC definitions text, which provided the recommended elements of such a definition.

Under item number seven, “permitting”, there are a few obvious gaps that we recommend be filled, such as explicitly requiring that subsection 73(3) preconditions be met before all types of permitting. As you know, these preconditions require that impacts be minimized and that there be no jeopardy to the survival or recovery of the species.

Some presenters before you have suggested that long-term permits be made available. We certainly understand industry's desire for more certainty when they are making investment decisions that cover decades, compared to the kind of certainty that a three- or five-year permit can only give. However, we stress that if long-term permits are to be allowed, there must be sufficient safeguards in the act, and in particular, we recommend three things: first, a requirement for ongoing monitoring and reporting; secondly, regular review and sign-off by the competent minister as to whether the preconditions continue to be met; and thirdly, if those preconditions are not met, the minister must be required to amend or cancel the permit.

With that, I'll hand it back to Rachel to finish this up.

● (1610)

Ms. Rachel Plotkin: Thanks, Keith.

We're now on the slide entitled “Conservation agreements—incentives”.

We agree with other presenters that the lack of any concluded section 11 conservation agreements is an enormous missed opportunity, and that they should be utilized. However, we believe that conservation agreements should not, on their own, provide exemptions from the Species at Risk Act. The carefully drafted preconditions for permitting under SARA, such as not jeopardizing survival or recovery of the species, were intended to be the primary safeguard for exemptions. These preconditions must apply to all exempted activities. We do encourage further investigation of the use of conservation agreements in conjunction with permitting.

Now we move on to “compensation”. Similarly, we believe that species at risk and the ecosystems they compose provide important benefits to all Canadians and that no citizen should face an extraordinary burden from protecting them. We recommend, therefore, that government develop regulations to allow for fair and effective compensation in such cases.

Finally, on the last slide, is the recommendation “another review”. We recommend that there be another SARA review in five years, because right now that is not provided for in the act.

Thank you very much for your time. We'd be happy to answer any questions.

The Chair: Thank you both, Mr. Ferguson and Ms. Plotkin, for that informative presentation.

We're going to our seven-minute round. I remind witnesses to make your responses very concise, to make sure you get the information on the record that you wish to have there, and to answer the questions that the members are putting before you.

With that, Mr. McGuinty, would you start us off on the seven-minute round.

Mr. David McGuinty (Ottawa South, Lib.): Thanks, Chair.

Thank you very much for being here, everyone. *Merci d'être ici aujourd'hui.*

And thank you for coming in by camera; you look good on TV.

I want to explore a couple of themes that I think cut across all three of your briefs and your comments today. I take from a lot of what you said here today that SARA isn't working. It's not working. I think that's conclusion number one.

Number two, I take from all three of your briefs—you've all said this explicitly or implicitly—that there's a real opportunity for federal leadership through a national approach to conservation and species at risk.

I also see frustration with the fact that in the last several years you've seen all kinds of processes undertaken that haven't made a dent, whether it's the references to previous recommendations or past reviews of SARA by Stratos, the minister's round table in 2006, the non-advertised minister's round table of 2008, or the commissioner's report for 2008.

I want to ask you how important it might be for a federal government to convene a very serious first ministers meeting on species at risk. We've already called on the government, for example, within 90 days of the motion that was passed in the House on climate change recently. We asked the Prime Minister to call together a first ministers meeting to deal with the issues of climate change and the crisis in energy. We haven't heard back from the government, but on this file, given the federal-provincial differences, some of the very creative mechanisms that have been designed in the United States using ecological fiscal reform are fiscal measures that can help us achieve good habitat protection and other goals.

We've got SARAC, we've got NACOSAR, we've got ministers' round tables, we've got COSEWIC, and we've got an aboriginal traditional knowledge subcommittee of COSEWIC. Those are five processes that I can count. Would it be beneficial for us to have a national government admit that this is not working and that we need to re-examine how we do species at risk and conservation in the country? Would that be helpful to all three intervenors?

Éric, what are your thoughts?

• (1615)

Mr. Éric Hébert-Daly: As I mentioned in my brief, I think the important thing is that we do need to bring people to the table and make sure that the duplication that exists in the system and the many different processes is simplified.

Obviously there's a cost to doing conservation work, so I don't want to downplay the financial side of it. On the other hand, there are probably quite a bit of useful savings to bringing people together and looking at solutions together, so both levels of government...I would say there's not only benefit economically, but there's also benefit in terms of the outcomes. When we look at trying to make the type of connectivity that needs to be made for species in a lot of cases, and given the patchwork of federal and provincial jurisdictions, there has to be a way for us to be able to find those corridors and that connectivity in a way that makes sense for conservation on a broader scale. So we're not stepping on the toes of provinces or first nations, but at the same time bringing them together and talking through what those solutions are.

I would say a first ministers meeting is an interesting idea. I might even go further to say that it needs to incorporate industrial partners and first nations. It does need to be a rather interesting and more collaborative approach than I think we've had in the past.

Mr. David McGuinty: Mr. Ewins.

Dr. Peter Ewins: I certainly think that is one important forum to try to get a different kind of resolve and motivation in here. This one would be particularly helpful because the bulk of the species and the geography, in terms of what the species and their habitats need, are actually within provincial-territorial jurisdiction. The strong federal government leadership to implement this federal legislation clearly has a trigger role to play to bring on high-quality and priority

implementation of those provincial-territorial instruments and all associated programs, etc.

I do think overriding all that is the question of values. I want your committee to realize...the sort of comments Robert Bateman has made internationally. When asked to comment on why Canada hasn't solved all this—we are an affluent country with great conservation opportunity in biodiversity—his headline-catching but totally honest lifetime summary was that, frankly, we are too cheap.

So we don't value species in terms of what our moral and even our economic responsibility is. I think you're totally right: the ecosystem services natural capital fiscal reform, to actually value those services that the planet provides, and the species simply are telling us, as barometers, an essential part of that New Age 21st century discussion. I would like to think that not just first ministers but the finance ministers who are interested in this would pay great attention to that.

Mr. David McGuinty: Rachel.

Ms. Rachel Plotkin: Thank you for the question.

I think there is a consensus, almost, that the implementation of the act to date has been quite poor. I do hope, however, that it came across from our presentation that we believe the main thing we've been fighting for, which is the identification of critical habitat, has started to happen. I feel we've been fighting this uphill battle to get critical habitat identified, and right now we're at the very tip of the peak and starting to come down the other side. However, that presents a whole new slate of challenges under the act, such as once critical habitat is identified, how is it going to be protected?

I think there is an enormous opportunity for the federal government to work with the provinces as action planning unfolds. I would hate to see another six years of missed opportunities happen before the government gets the proper direction it needs to successfully implement the next stage of the act.

• (1620)

The Chair: Mr. Ferguson, you can give a very brief response, but Mr. McGuinty's time has expired.

Dr. Keith Ferguson: I don't think I have anything further to add.

Thank you.

The Chair: Thank you.

Monsieur Ouellet, sept minutes, s'il vous plaît.

[Translation]

Mr. Christian Ouellet (Brome—Missisquoi, BQ): I would like to direct my initial comments to Mr. Hébert-Daly. Earlier, Mr. McGuinty pointed out that the federal government had an opportunity here to adopt a single piece of legislation that would apply from coast to coast. Mr. Ewins also noted that the federal government had the authority to do just that.

Quebec challenges the federal government's jurisdiction over a number of areas. Therefore, I do not think this comes down to who has the authority to act. As Mr. McGuinty noted, it may have to do with one's overall view of the situation. I think this approach would work well for caribou that are confined to the North.

Why would we need a pan-Canadian approach for species that are also found in the United States? We have not heard anything about a pan-American approach. To my way of thinking that would be more logical since the animals roam back and forth across the border.

Mr. Éric Hébert-Daly: As a matter of fact, animals tend to disregard borders. That's a problem. In so far as jurisdiction is concerned, whether it be provincial, municipal, Canadian or North American, we need to come up with specific solutions for specific species. The current Species At Risk Act does recognize the fact that certain species are at risk. A plan is needed to deal with these species and that plan should involve all stakeholders, not only governments, but aboriginals and industries as well. It will depend somewhat on the habitat of the species concerned. As I see it, the point here is to try and come up with sensible solutions. Each case must be dealt with individually. This issue really has nothing to do with borders.

Mr. Christian Ouellet: I'd like to put the same question to Ms. Plotkin. From a legal standpoint, how do you feel about legislation that is designed to protect animals but that stops short at the U.S. border? Do you not find the scope of the legislation to be very limited, given that it only applies to part of the caribou's habitat?

[English]

Ms. Rachel Plotkin: Thank you for your question.

The way that I understand SARA to work is actually that the prohibitions apply primarily to federal jurisdiction, and that the only way the federal government would ever step on a province's toes is if a province didn't have its own measures to effectively protect the habitat of that species and the species itself from harm or harassment.

As long as a province comes up with its own legislation to effectively protect a species and its habitat, and as long as it enforces that legislation, then there shouldn't be any instance in which the federal government ever actually does extend its jurisdiction into a province.

[Translation]

Mr. Christian Ouellet: Thank you.

Mr. Ferguson, do you believe the government is protecting the caribou's critical habitat or do you feel instead that it is protecting the tar sands development which is adversely affecting this species? What is your take on the relationship between the tar sands and the caribou?

[English]

Dr. Keith Ferguson: Maybe Susan Pinkus, our staff scientist, could speak to that.

Ms. Susan Pinkus (Staff Scientist, Ecojustice Canada): Thank you, Keith.

What I would say about the protection of critical habitat for caribou, first and foremost, is that the federal government has

delayed beyond the legal deadline in identifying its critical habitat, and so we're watching this species decline precipitously in some areas in the absence of identification of critical habitat.

Certainly development by industry, including potentially oil sands development, is harming the species. We need critical habitat identification that's clear so that we can look at what sort of disturbance that habitat can tolerate and take the next step to actually manage the species for its survival rather than what I think we are risking now, which is presiding over its continued decline.

• (1625)

[Translation]

Mr. Christian Ouellet: In your opinion, is the act clear enough? Does implementing the act's provisions present a problem?

[English]

Ms. Susan Pinkus: I think it's the application in this case. The act allows us to identify critical habitat for the caribou. The act requires, or at least allows, the federal government to step in if provincial governments with caribou critical habitat under their jurisdiction cannot provide effective legal protection that prevents destruction of that habitat.

We need to implement the act and see if it's going to work. There is a good chance it would if we actually bit the bullet and did it.

[Translation]

Mr. Christian Ouellet: In your opinion, has the caribou rehabilitation program had some positive results? Since the legislation was enacted, have you seen any improvements in terms of protecting the caribou?

[English]

Ms. Susan Pinkus: I think there has been progress. We have an excellent scientific report identifying the critical habitat of the boreal caribou. Unfortunately, that report did not turn into a final recovery strategy and a legal identification of critical habitat. Further science is being developed all the time, so there's definitely been progress. I don't know how much progress there's actually been on protecting the caribou's habitat and restoring the damaged populations and preventing further harm to the populations that are currently stable.

Mr. Christian Ouellet: *Merci, monsieur le président.*

The Chair: *Merci beaucoup.*

We'll go to Ms. Duncan.

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

Thank you to all of you who are here, and thank you to those in beautiful B.C.—you rats; it's snowing here.

• (1630)

Dr. Keith Ferguson: It's raining here.

Ms. Linda Duncan: Those were really good briefs and really thorough presentations. They were greatly appreciated.

I particularly appreciated the effort you took to actually make recommendations on legal amendments. I think they'll be really useful to our committee. They certainly will be to me.

There are so many issues and there is so much we need to discuss. I'm probably going to be able to ask you only some of my questions. But I really appreciate the effort you've made to brief us.

I would like to start off with this issue of the safety net. It seems to be the running theme, which frankly has been with us for quite some years, not just under the current government. It's this issue of putting friendly federal-provincial relations ahead of anything to do with environmental protection.

I think you've already testified to the effect that the federal Minister of the Environment's power has never actually been exercised. As an Albertan, I have to say that I'm happy to see all the testimony about the woodland caribou. I can't even begin to count the number of presentations made to me, even before I was elected, on how desperate people are for action by the federal government on this because of the failure of the Alberta government. As my colleague has pointed out, the famous CEMA committee actually had a recommendation for action in the tar sands area, and the provincial government refused to act. I guess that raises this very question: at what juncture will the federal minister intervene?

Keith, I noticed that right away you raised the spectre of equivalency, which was my immediate reaction. Of course, that's the term used in CEPA. I'm wondering if any of you would like to speak to the issue of whether you think, perhaps, the provisions in law may be inadequate. Should we perhaps be taking the approach that's taken in CEPA? That is, the federal government will intervene unless the provincial jurisdiction or the territorial jurisdiction has what's considered to be equivalent legislation and an equivalent enforcement compliance strategy.

Now, it's been pointed out to me, in my reading, that the federal government doesn't have, I don't think, an enforcement compliance strategy on this act yet, and shame on them if they don't. I wish I could have raised that with the government.

What do you think? Keith raised this; or Rachel, or anyone else, might want to address this. It seems to be an issue that a lot of the witnesses have raised. I would welcome your elaborating a bit on how we address the problem of this provision. We have a species listed, but nothing is happening.

Ms. Rachel Plotkin: I'll let you take a stab at it, Keith.

Dr. Keith Ferguson: Thanks, Rachel.

I'd be happy to respond.

We do believe that federal leadership is critical for species at risk, but we also agree that a cooperative approach between the federal government and the provinces makes sense so long as the provinces are doing what they committed to under the national accord. That's the basis of the idea of the safety net: leave it to the provinces to begin with.

The provinces did commit back in the late 1990s to put forward new laws to protect species effectively. And some have. Unfortunately, others have not. Here in the west, in particular, we have very large holes in some of the provincial laws on species at risk. So we believe that the safety net does need to be given more teeth, yes. It must be a credible process under SARA such that the federal

government really will step in if the province is not living up to its prior commitments.

In our brief last summer—that's our July 2009 brief—we laid out in great detail how we think that "safety net with more teeth" approach could work. It would basically consist of a number of criteria the federal government would use to evaluate provincial laws. It would involve a gap analysis to look at provincial laws. And then it would involve some cooperation. Only at the end of that, if the province still refused to put in sufficient protections, would the federal government have to step in with a safety net.

Ms. Linda Duncan: Do you think there should be a timeline imposed on that?

Dr. Keith Ferguson: We do indeed, and we recommended timelines in our brief. We recommended 180 days for the initial gap analysis, and a further 180 days for the province to fix any holes. At the end of one year, the safety net would have to be used if the province was not effectively protecting.

Ms. Linda Duncan: Thanks, Mr. Ferguson.

I appreciate your mentioning the national accord, which I've taken a look at. And...well, that should be expediting action.

The second key issue that I've heard a lot of witnesses raise is the conservation agreements. We've heard Mr. Ewins say he is very enthusiastic about that. I've heard from other witnesses that they like the idea but they have some reservations.

I notice you made a number of recommendations on that. Some of the concern I've heard is that it shouldn't replace the terms of a binding permit.

I'm wondering if anybody would like to elaborate more on the conservation agreements, because we've certainly heard from industry, who are keen. I know you're trying to work towards an agreement, but it appears that you may not achieve an agreement before we finish our hearing from testimony. So I'm wondering also if you think it would be useful if we need some kind of recommendation for the department to support working towards an agreement to expedite the use of these instruments.

Dr. Peter Ewins: Thank you. That's a very "applied" question, which is WWF's most important issue here.

I think the potential is there. We're just not yet at the point where industry and conservation groups and others can actually go to government with a finalized game plan, which is why we're recommending that it be dealt with by a global review exercise promptly. There are certainly decades of experience in other situations highly similar to this one here. It's quite remarkable to a number of us, including industry colleagues on SARAC, who agree that this implementation tool has not been quickly brought forward onto the conveyor belt, and we're not seeing these agreements showcased in Canada.

So it's not rocket science. There is nothing new to invent here. It just needs to be done in a prescriptive way, which is fair and effective, that actually brings on positive cooperation and stewardship and participation in this, without having to rely as much on the sticks and the truncheons, with all the safety nets that need to be there too. Industry wants the security; biodiversity wants the security; and environmental groups want the security. It's not difficult to do. It just needs to be brought forward and Canadianized.

The Chair: Thank you, Ms. Duncan. Time has expired.

• (1635)

Ms. Linda Duncan: Oh, no!

I'll take Mr. Bigras' time.

Voices: Oh, oh!

The Chair: I think Monsieur Ouellet did that.

Mr. Calkins, you're going to wrap up the seven-minute round.

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

Thank you, friends, for coming and bringing some very important information before the committee.

I just want to bring to the attention of members here that today, when I was looking at the species at risk website of Environment Canada, I saw actually a summary of the *Scientific Review for the Identification of Critical Habitat for Woodland Caribou, Boreal Population, in Canada* and the *Working Together to Recover Boreal Caribou* document, which are now published on the species at risk website. So it looks like Environment Canada is moving in that direction, and I'm sure that your organizations will be responding to the call for input on this very important issue.

I remember when I was a national park warden at Jasper. I was a back country warden at Willow Creek district north boundary. I remember riding into the Willmore Wilderness Park one day, and as I came over the crest of the hill I saw three woodland caribou down in a valley. I sat there for an hour and watched, and it was one of the better days I had as a national park warden. I remember being somewhat frustrated at the fact that this population.... It's been in decline. There is no secret about that.

This specific question is for you, Éric. As a Parks employee, it was very difficult for me at the time to bring this issue up. But if you take a look at particularly the range of the boreal caribou, we know that basically for the Howse Pass, the population there is extirpated. We know that in Banff the population is extirpated. We have recommendations here—this is a legislative review of SARA—yet Parks Canada, I believe, has a policy of no predator control; at least it did at the time when I was there.

If you take a look at some of the critical factors affecting boreal caribou, it would seem to me that some of these things within Environment Canada itself need to be addressed. I know that predator control is a sensitive issue, because obviously it irks...some of those deeper feelings. But when you have such tight ranges, such small areas as we do in our national parks, and such critical habitat, without effective management within those things....

I understand the philosophy and the ideal—I truly do—of letting natural systems take their course. I'm surprised there isn't a recommendation coming, particularly from Parks and Wilderness, along this line.

Would you care to comment on that?

Mr. Éric Hébert-Daly: Sure.

There's no question that the prey-predator relationships are a factor, but I think one of the key things, as I mentioned earlier, is that we're creating in some cases, particularly near protected areas already.... As you rightfully pointed out, the range of woodland caribou is quite large, so even a national park in a lot of cases can't contain the range of a particular woodland caribou or a particular herd.

What we have to do is think about what kinds of impacts we're actually having on the habitat of those caribou that are actually influencing the prey-predator relationship. That is where the creation of roads and where the creation of access ways, in fact, has become one of the bigger pieces of the puzzle.

Predator control has its place in certain circumstances, but the bigger factor, when we look at habitat, is more often how that habitat is fractured and how that creates an opportunity for predators more than it does protect the prey.

Mr. Blaine Calkins: Well, you're talking about the edge effect and all the things that happen along that line, whether you have a "no burn" policy, which creates some of the issues, or secondary succession, or forage—all of these things.

At any rate, I do understand that it's a sensitive issue to get into. In all fairness—although Aldo Leopold would disagree with me—I do think that predator control is actually a critical issue, and I think Parks Canada truly does. I would like to see somebody come forward with the courage to say that maybe we need to get at this.

The reality is that you can control all of these things outside the realm of national parks, but until you actually address them within the context of inside the boundaries of national parks.... I know it's sensitive, and I know it's a difficult issue, but I think it truly is the limiting factor that we have there. We have very few roads and highways through national parks. We have tried, to the best of our ability, to build wildlife corridors and bridges to make sure they're not impacted. We've got fences all the way along down the road, Highway 1 in Banff National Park, yet the population of woodland caribou still managed to disappear. So from that perspective it is frustrating.

I want to talk a little more about this whole concept of national parks, because it's very near and dear to my heart. When I went to university, we basically looked at a plan at the time that said about 12% of each of Canada's bio-zones, each of the ecologically sensitive regions, should be protected or preserved. There were nine when I was there. I don't know what has happened to those; these things change over time, of course. That 12% or 13% of each of these zones will likely come under irreversible alteration, whether building cities or roads or whatever the case might be, and the other 75% was left for sustainable development and sustainable management.

When we take a look at the Species at Risk Act and its implementation in conjunction with national parks, I do like the recommendation that we need to build more parks in areas where we have less than that 12% representation. Extending the Nahanni is a great thing, but we need to bring more protected and preserved areas into that.

Through this plan in species at risk, it doesn't directly address the habitat as well as it should. I think the problem with the implementation is that it's so broad, I actually feel sorry for any bureaucrat or anybody who has to implement SARA. I don't think it would matter if it was a Conservative government, a coalition government, or a Liberal government. I'm not looking to point fingers here; I think this thing is very hard to implement because it's so broad and wide-reaching that it loses some of its effect.

I would actually like to see more effort being put into preserving the ecological integrity of certain percentages of an area and let the natural systems take care of themselves and work within those kinds of parameters.

Do any of you want to comment on that?

● (1640)

Ms. Susan Pinkus: I would like to comment on that, thank you.

I think a really important thing to remember—I also learned about the 12% model in university—is that, among many things that have changed in our scientific understanding, that's one of them. What scientists are now telling us in light of things like climate change is that 12% is going to be woefully inadequate. So I think as much as we can do to lay out our national parks intelligently, to have more, that's a wonderful tool. But we really need to not focus on that instead of good management of these species, using SARA for that area that is supposed to be sustainably developed. So sustainable development means keeping species in places other than in national parks.

I think it's important to realize that some of our national parks may look big to a human, but the national parks, for instance, from which caribou disappeared didn't look big ecologically to caribou. They were too small. And the damage to the areas outside those parks impacted the animals that we thought the parks were protecting.

The Chair: Thank you.

Your time has expired.

We're going to start our five-minute rounds.

Mr. Trudeau.

Mr. Justin Trudeau (Papineau, Lib.): Thank you very much, Chair.

I'd like to start with a question, following up on what Mr. Calkins said on the issue of predator control.

I remember when I was first visiting, as a child, Banff National Park. I saw the great tunnels under the highway that were for the caribou, for the woodland creatures. Someone said, "Oh, yes, they're great; the wolves just park themselves beside them and know that their prey will come along through."

So there is a concern that our development is making things easier for predators, but I understand as well that the solution can't be simply to eliminate all of the predators, because there's no guarantee that the prey would then come back, if indeed, as Ms. Pinkus says, the protected area doesn't look large to a caribou.

For me this highlights one of the big issues that I've brought up a number of times, the implicit question. Much has been made, and rightfully so, about the expansion of the Nahanni Park by this current government. For me, the question of basing an ecological or an environmental strategy on creating more parks always begs this question: if you're protecting a particular percentage of Canada's territory, what are you implicitly saying about every area that you don't protect? I think that's the issue that SARA is here to address.

I have to say that I'm quite concerned. The testimony we've been hearing from industry, from ENGOS, and even from government has demonstrated that SARA is flailing, is not reaching its goal. There is a breakdown somewhere along the line. COSEWIC seems to work great. The science on identifying the species in peril is fine. It breaks down around habitat, and it breaks down specifically around protecting that habitat, actually implementing the recommendations that science is making.

I understand the desire to not be overtly political in all of this, but I'm wondering if indeed what Mr. Calkins said is true, that no government, given our current economic challenges and our current challenges as a society, would be able to implement SARA properly to protect our species at risk, and perhaps we should all just give up and just try to protect certain areas and hope that a few species end up surviving in there—which is not exactly what Mr. Calkins said, but is certainly one of the projections that one has to have.

I would like each of you to respond to that in the time available.

Rachel.

● (1645)

The Chair: There are about two minutes left among all of the witnesses.

Ms. Rachel Plotkin: I think this highlights one area where the act is right. The protection of most species at risk is not about creating specific small protected areas, nor is it about killing predators. It is about ensuring that there is enough habitat for species to survive and recover.

As, I think, has been referenced numerous times, there's an article about species at risk in Canada that identifies that for 84% of Canadian species at risk, habitat loss or degradation is the primary cause of their decline.

You might recall that in our presentation we talked about the need for recovery strategies to include thresholds of natural disturbance. I do believe that it is possible for governments to protect species such as caribou. I think that most forest managers also want to protect caribou. Most oil and gas operators want to protect caribou. No one wants to be the reason that the species becomes extirpated or is driven to extinction.

Therefore, the more knowledge we can have in recovery strategies about how much disturbance you can have in the range of a caribou, the more tools we will have to sit down with industry colleagues, with first nations, and with provincial and federal governments and say, okay, this is the area where caribou live. This much disturbance is possible before they start to decline. Where can we place the disturbance? How can we ensure that it impacts industry the least? How can we ensure that a first nation that might have an economic aspiration is able to do some industrial development in this range, but that we have the tools that are based in science to do appropriate management to ensure that species at risk persist in Canada?

Mr. Éric Hébert-Daly: One example is in fact the Boreal Leadership Council, which actually does quite a bit of work in terms of pulling together industry officials and conservation organizations to sit down at the table and ask how we protect this particular area with a land use plan that is actually representative and that gives a good eye to conservation through that lens.

It's possible to do that. Certainly, if industry can sit at that table, there's no reason why a government can't sit at that table and work with us to try to find those solutions. I'm not pessimistic. I think the bones of the Species at Risk Act are in the right place. We just need to find ways to be able to take away the duplication and make it work for all of us.

The Chair: Mr. Trudeau, your time has expired. In fairness to the rest of the committee members, I have to keep moving.

Mr. Warawa, you have the floor.

Mr. Mark Warawa (Langley, CPC): Thank you.

Thank you to the witnesses for being here. I appreciate your dedication and your passion for the environment.

I would like to focus on socio-economic factors as critical habitat is being identified, and also on how that plays into sustainable development. It is a very important part of sustainable development that you provide for the needs of the present, of this generation, without compromising the needs of future generations.

So it is the environment. It is the economy. It is society. All the factors have to be in play.

What we heard as a committee is that socio-economic considerations are not considered when a species is identified as at risk. They are when it is with the minister and Governor in Council, but again, they are not considered when habitat is being identified. This is what we heard from the department; it may not be what I think I have heard from some of you today.

I've also met with some of you in my office and have met with industry and have heard that there were negotiations ongoing on with industry and ENGOs to find out whether there was a position whereby the two groups could meet and come up with a practical solution.

I am going to ask you, Rachel, because you are one of the people I met with and you mentioned that you were going to be meeting with industry, if the ENGOs and the industry have had a chance to come up with a compromise or a position where it protects the environment but also provides for the needs.

• (1650)

Ms. Rachel Plotkin: The collaborations for joint recommendations between NGOs and industry are still under way. I think we all hope that we are going to be able to achieve some collaborative recommendations that we can then bring before the committee before it is over.

Mr. Mark Warawa: Okay, thank you. If that comes soon, then please provide that to the committee.

I'm going to start with Mr. Hébert-Daly. Could you tell us why you think conservation agreements are not happening? What I heard from industry is that if they help a species at risk—help it to recover through good environmental practices—it could put the future of their industry at risk of being able to continue. If conservation agreements are not considered, and then...and that industry then would be exempt from SARA.

Could you comment on that?

Mr. Éric Hébert-Daly: I should probably turn that over to Peter, given that this is an area of his expertise and not mine.

Mr. Mark Warawa: Please.

Dr. Peter Ewins: Sure. Thank you.

I think it's pretty simple, really; it's just a question of the scale that we're talking about. Much as in a recovery strategy for a species that roams across large areas—migration across international borders, or provincial or territorial—they tend to need a lot of space and time annually. And that, by definition, involves lots of people who have tenures, interests, economic and other, in the land. The whole point about a recovery strategy and action plan is that it's to provide a prescriptive list of the things that the species needs to persist. That's the whole purpose of SARA.

Therefore, all you have to work out is what the mechanism is across that range by which that prescription will apply fairly to all the people who have interests in that same habitat. If you presume that the species' needs and the needs of that natural habitat are valued highly by humanity, then we will have a prescription that works. Right now there is no formalized range-wide plan, in most cases—one action plan—and so we have a sort of fragmented approach.

I think it's very interesting that the GEF and the UNDP and the U. S. Forest Service are coming up with reports about ecosystem valuation and development costs needing to internalize the prescriptions and costs that nature and we humans too need at that kind of scale. I think that's a very strong indication of how conservation planning for at-risk species—and preventing more species from becoming at-risk—is going to be addressed in the coming decades.

Mr. Mark Warawa: Do I have any time left for a quick comment?

The Chair: Barely.

Mr. Mark Warawa: Okay.

Well, I'm amazed that in the short four years we've been government, we have expanded protected areas by 30%. So we're heading in the right direction. Hopefully we keep the review of SARA non-political and we protect our valuable environment.

Thank you.

The Chair: Thank you, Mr. Warawa.

Moving on, let me say *bonjour, monsieur Gaudet*.

[Translation]

Mr. Roger Gaudet (Montcalm, BQ): Good day, Mr. Chair.

I have one or two questions for the witness. Were you consulted when the Species At Risk Act was tabled?

Mr. Éric Hébert-Daly: When the bill was initially tabled?

Mr. Roger Gaudet: Yes.

Mr. Éric Hébert-Daly: Yes, we were involved in the process. I believe all of my associates worked on this file.

Mr. Roger Gaudet: Two or three years ago, this committee held hearings in western Canada. The chair of the committee, Mr. Bezan, travelled with us. People shared with the committee their impression of Agriculture Canada officials. They maintained that our officials in Ottawa could not tell the difference between a cow and a carrot.

That's why I'm asking you this question. I believe Mr. Watson was also travelling with the committee. I'd like to know if federal workers know what a caribou is. I'm simply asking the question. If federal workers can't tell the difference between a caribou, a deer and a moose, it will be difficult to draft a good piece of legislation. Basically, that's the question I had.

• (1655)

Mr. Éric Hébert-Daly: Obviously, caribou have not roamed in these parts for at least 200 years, but that's neither here nor there.

Mr. Roger Gaudet: However, people can travel to see the caribou.

Mr. Éric Hébert-Daly: Yes, they can.

However, I honestly believe that some scientists are capable of identifying a caribou and determining what it needs to survive. I'm not about to go on the attack and say that federal workers generally cannot tell the difference between a carrot and a cow.

Mr. Roger Gaudet: I'm not being critical. It's just that 25 or 30 years ago, the fathers or grandfathers of the people seated here at this table were farmers. Everyone could identify the different animal species. Today—

Mr. Éric Hébert-Daly: It's a fact that as a result of urbanization in Canada, more and more, people are out of touch with nature. It's a problem, not only for governments and public servants, but for people in general. I quite agree with you on that score.

Mr. Roger Gaudet: Thank you. I have no further questions.

Mr. Ouellet will take over.

The Chair: You have three minutes, Mr. Ouellet.

Mr. Christian Ouellet: The other day, I saw a magnificent bear just 10 feet from my porch. I know my animals.

My comments are directed to all of you. In your presentations, you called for more conservation agreements. To date, the government has not implemented any such agreements. Why has the government been slow to respond and to implement these agreements? What types of challenges do agreements like this present?

[English]

Dr. Peter Ewins: The first answer I have is that I have no idea.

Mr. Christian Ouellet: Does anybody have an idea?

Dr. Peter Ewins: The second answer is that I recognize the budgetary constraints and a lot of process requirements within the SARA machine.

It's a fact that relatively small amounts of money have been secured to implement SARA. There's been a lot of design and process going on. It's probably fair, too, that after five to seven years, the honeymoon is still just coming to an end. SARA is now grown up, and it's logically the time to implement.

That's why I think your work is very timely—to prescribe what the priorities are for implementation. Let's pick a few well-chosen examples, make them work, and see in five years how it's worked.

[Translation]

Mr. Éric Hébert-Daly: To say that this legislation is now grown up conjures up a nice image. We're not quite sure how it's all going to work out.

However, I believe just as Rachel does that we have reached the peak, that is to say, that we have worked long enough on plans and structural issues to be in a position to do the job as it needs to be done. We should not be thinking about making too many structural changes at this time, because that would be a waste of the time that went into all of the preparations. We have to be careful about casting aside the work we have done, when the goal is to get results.

Again, it comes down to a matter of implementing the provisions. We're managing, but just barely. What we need are more creative approaches.

Mr. Christian Ouellet: Since I still have a minute left, there is something I would like the representatives of the David Suzuki Foundation and Ecojustice Canada to explain to me. You state the following in your speaking notes: "Conservation agreements should not be exempted from SARA prohibitions or permitting requirements. Section 11 and section 73 must work together." What exactly do you mean by that?

[English]

Dr. Keith Ferguson: I'm happy to take that one.

We have been hearing some suggestions, from others before you, that a conservation agreement should also count as an exemption from the prohibitions in SARA, and our opinion is that it should not. The reason we say it should not is that section 73 of the act, the common permitting section, has some very careful safeguards in there. In particular, subsection 73(3) has three carefully drafted safeguards to make sure the impacts are minimized from a permitted activity, to make sure that all of the reasonable alternatives have been considered, and to make sure there's no jeopardy to the survival or recovery of the species. If those three conditions are met, then a permit can be given out under section 73.

We do not believe a conservation agreement on its own, which wouldn't necessarily ensure all of those safeguards were in place, should also act as an exemption, but we think there should be some investigation by the federal departments into whether or not these two can work together. For example, could one agreement count as both a conservation agreement and an agreement under section 73 that meets those preconditions? I don't know. I think that's something for further study and investigation by the departments.

• (1700)

The Chair: *Merci beaucoup.*

Mr. Woodworth, you have the floor.

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

Thank you all for being with us today.

I think no matter what view you take of it, it is a challenging subject. As someone jokingly mentioned, we haven't had caribou around here for 200 years, and clearly that's because of the gradual interplay between human and natural environments. So we want to do what we can in an intelligent and thoughtful way to, as Rodney King would have put it, all get along together.

I was impressed by a comment in the World Wildlife Federation's submission, which I will just read back:

Most people involved with SARA have recognized for some time that the single-species approach to recovery is slow and inefficient overall. The well-attended December 2006 Minister's Roundtable (MRT) on Species At Risk identified the urgent need for a much stronger government lead on a multi-species and ecosystem-based approach to species recovery. The 2006 STRATOS review also made this recommendation (#16), and the government response agreed.

Now, I don't know all there is to know about that, but I happened upon some information regarding the natural areas conservation program, which, as of September 2009, had secured over 136,000 hectares of land protecting habitat for species at risk. That was over 60% of the target for the entire program, and it has been delivered in less than three years. Over the next few years, the program is expected to encompass more than 200,000 hectares of ecologically sensitive land across southern Canada. Another \$79.4 million needs to be transferred. It's expected that an additional two, or perhaps three, years will be needed to fully utilize the \$225 million, the almost quarter-billion dollars, dedicated to that program.

Am I right in making the connection that the program is a multi-species and ecosystem protection-oriented program?

I'm looking at Mr. Ewins because it's the World Wildlife Federation's submission, but first of all, I should ask you, are you familiar with that program?

Dr. Peter Ewins: Yes, thank you. It was in an earlier version. That's a prime example of creative leveraging. It's a great program, multi-species, habitat-based, securing management regimes for the long-term needs of species.

Mr. Stephen Woodworth: So I'm taking from those comments that you're supportive of the government's work on that over the last three years, and that you feel it has some positive implications and does meet the 2006 recommendations about securing ecosystems.

The other program I caught in this area is that over the last five years, Parks Canada has invested \$22 million in new initiatives to ensure the conservation and protection of Canadian ecosystems, including the diverse plants and animals in places such as the Garry oak ecosystems in southern British Columbia, the Grasslands National Park of Canada in Saskatchewan, the Thousand Islands ecosystem in Ontario, Kejimikujik National Park of Canada in Nova Scotia, and the Trent-Severn Waterway National Historic Site. I'm told that all of those are ecosystem approaches that integrate research, recovery activities, outreach, and education for an integrated approach to species recovery.

Are you also familiar with those programs?

• (1705)

Dr. Peter Ewins: Oh, yes, absolutely. I mean, this is a good start, but this is orders of magnitude less than what SARA requires.

Mr. Stephen Woodworth: Sure. And I'm not referring you to that in isolation. I also put it together with the almost quarter of a billion dollars in the natural conservancy.

So those are all positive things. I just wanted to make sure—because your report indicated that you felt there was not enough progress—that I was reading it right that at least we have made some....

Can I call it “significant” progress? Would that be correct?

Dr. Peter Ewins: Well, I'm trained as a scientist. No, it's not insignificant—this is a good start—but I think the litmus test of how we're doing is the nature of the COSEWIC list and the regular updates on the status of Canadian species, natural habitats, and ecosystem function. And those clearly, like a medical checkup, are showing you that you have a problem, and you're still not turning it around.

So that's the measure of significance.

The Chair: Thank you.

Your time has expired. Thank you, Mr. Woodworth.

Mr. Scarpaleggia.

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

This authority that we've been talking about, this federal authority to really take leadership on the issue and intervene with the provinces to protect species—where does that authority come from?

For example, in CEPA, the authority of the federal government to regulate or to make laws regarding the emissions of chemicals into the environment comes from a Supreme Court decision in a case called, I believe, the Hydro-Québec case.

Where does the federal authority derive from when it comes to the federal government showing bold leadership in interfering in provincial jurisdiction to protect the species?

Dr. Keith Ferguson: Perhaps I could take that one.

The constitutional authority for SARA was very heavily discussed when SARA first passed through Parliament. People as eminent as La Forest, the former Supreme Court justice, provided opinions.

The criminal law power is one of the heads under the Constitution that is considered to provide the federal government with jurisdiction over species at risk across the country. The “national concern” branch, under POGG, is another.

I should mention that I'm not a constitutional expert, but I would refer you to the debates from the last time, where this was thoroughly debated.

Mr. Francis Scarpaleggia: If the federal government were to exercise this power with respect to, say, the caribou, here's the specific case I have in mind. Caribou behaviour is influenced by things that happen apparently hundreds of miles away.

For example, according to Dr. David Schindler, the caribou are disturbed by SAGD mining activities in the oil sands on provincial land leases. How does the federal government deal with that issue? The caribou could be on federal crown land, yet they're being affected by industrial activity on provincial crown land that is 300 miles away.

If you were to invoke federal authority, which, as you said, flows from a number of sources, how would you use federal authority to solve this problem?

Dr. Keith Ferguson: I think the best I could offer there is the Species at Risk Act through the recovery strategy.... In a recovery strategy, we would get the team of scientists together to identify threats such as what you're discussing. They would come up with scientific approaches to dealing with those threats. They would identify the critical habitat that is scientifically necessary. Then we would shift to the next stage, the protection stage, where, hopefully, protection orders would then be put in place to protect that habitat.

• (1710)

Mr. Francis Scarpaleggia: Going back to what we heard in a previous hearing, we talk a lot about science and the need for science in creating recovery plans and so on. It's all very theoretical, and it all makes sense. But when you speak to federal officials, they say, “Well, you know, it takes a year to hire a biologist.”

Are there resource constraints on implementing SARA? It's fine to say that we need to do an evaluation of this, we need to do a study of that, we need to have a scientific opinion on this—and yet we don't have the capacity to do it all.

Ms. Susan Pinkus: Perhaps I could respond to that.

This touches on one of our more important recommendations, which is the composition of recovery teams. We have a situation right now where recovery teams exist inconsistently. What that means is that some species have a team of experts who assist the government in planning for them, and some don't.

What we are seeing here is a missed opportunity for those species that do not have enough independent experts on their recovery teams. It can take a long time to hire an expert scientist, but these recovery team members are experts who are leading in the conservation of these species. They work for free. They participate in these recovery team meetings because they want to contribute to the conservation of the species, and yet we're seeing inconsistent use of these invaluable people.

I think one of the problems here is clearly policy on implementation and not a lack of scientists ready to help the government know what these species require to survive or recover.

The Chair: Thank you.

The time has expired. That's my job, just to direct traffic around here.

Mr. Armstrong, you're on.

Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC): Thank you all for coming today. I've heard many interesting facts.

One thing that we discussed a great deal today is the fact that critical habitat is the cause of about 84% of the listing of species at risk. We've also discussed the fact that just the protection of caribou alone is going to require far greater square mileage than even our larger national parks have.

In order to implement SARA effectively, is it safe to say that the requirement for the protection of critical habitat would be absolutely massive?

If so, will private landowners be compensated at fair market value? Where would the government come up with the money to do this? That seems to be an issue we're going to face. Or is the recommendation that we simply expropriate land without providing fair market compensation, or maybe only limited compensation?

Where are we going with this?

Mr. Éric Hébert-Daly: The reality is that Canada's land mass is predominantly public. I mean, we have a public land mass. In fact, then, not only do we have a conservation opportunity internationally because of the size of our land mass, but we also have a political opportunity, and an ease of opportunity, with conservation given the amount of public land that is actually in Canada.

So while I agree there are perhaps circumstances where private land purchases and those sorts of things are critical to a specific habitat, the reality is that a lot of this work can be done on public land, and so it doesn't require the same type of investment you might see in private land acquisition.

Mr. Scott Armstrong: Thank you.

Mr. Hébert-Daly, in your opening comments, you stated that we have to take urgent action to establish some new expanded national parks, particularly in the Northwest Territories. Could you elaborate on the causes of that and why it is so urgent? You said it should be done immediately. What size are we looking at?

Mr. Éric Hébert-Daly: There is currently a proposal for a national park reserve in a place called Nááts'ihch'oh, which is just north of the Nahanni National Park, which was expanded last year. It's urgent because in fact it's on the verge of determining its boundaries.

Currently there are three sets of boundaries that are being proposed, and each of those particular sets of boundaries, even the one that has the greatest conservation of the watershed, excludes a rather significant section of caribou habitat. So that's why I say it's an urgent and rather immediate thing that is right before us, and it highlights the importance of collaboration, because while we have the species at risk legislation and we have the parks creation approach, we haven't put the filter of species protection on that particular parks proposal in the same way that we could have.

So one of the things that we've certainly been actively campaigning about and educating the public about is the whole concept of being able to protect the whole watershed of the Nahanni, not only for the protection of the park below it, which is the Nahanni itself, or for the protection of the caribou habitat that in fact we can do in that particular case. So you're right that caribou habitat requires areas that might normally surpass the borders of a national park, but in this particular case, we have the opportunity to do that and we're not. So there's a real urgent opportunity from that perspective, to protect, in this case, an entire herd.

• (1715)

Mr. Scott Armstrong: Thank you.

Mr. Ewins, you talked about having some recommendations for priorities for implementation of SARA. One of the concerns you had was that SARA was so broad—and there are limited budgets, of course, to do these things—that we're going to have to pick and choose, in the immediate future, where we place our priorities.

I'm just wondering what suggestions you would have, from your perspective, of what priorities you would put first.

Dr. Peter Ewins: From my lifetime experience in different countries and 20 years in Canada, I would say the first place to start is with our recommendation four. Follow the money: if there's no money there, you ain't going to achieve much.

So get that creative financing model implemented so that you put a federal dollar to work that levers five or six dollars out there. It has been done elsewhere. It's easy, and, you know, we haven't got surplus cash kicking around, so I can't work out why it hasn't been done already, but go do the homework and put it in place.

I would work backwards. I would go to the conservation agreements—our third recommendation—and I would work out the creative model that does satisfactorily build in monitoring measures, ministerial commitment, and review, and the industry permitting things, so that there is a fair and effective system in place.

As I said, I have no idea why Canada hasn't used these things. They work very well in other areas, even in Canada.

Those, for me, are the two top implementation priorities, beyond the obvious one that we all share, which is the common theme today—getting ahead of the curve and protecting habitat early, while you have the opportunity for conservation.

The Chair: Thank you.

Mr. Armstrong, your time has expired.

Mr. Watson, you have the last five-minute round.

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

Thank you to our witnesses for appearing here today.

I'm enjoying this, not just as a legislator, but a bit as a spectator as well, because some of the discussion is wide-ranging. We've been talking about national parks, and yet in my area—Essex is as far south as you can go in Canada—we measure on a much different scope, I think, a lot of our victories in habitat restoration. We measure in either single, double-digit, or low triple-digit hectares. We have more plant and animal species at risk than anywhere in Canada, and our challenges are pretty acute, so how this act plays out is of some real significance.

Potential new approaches for the government are also interesting. I'm looking at a Canadian response to the Detroit River International Wildlife Refuge in southeast Michigan and at whether there's a new approach that can be pioneered to bring new tools to bear in an area where most of the land is already occupied with agricultural, municipal, and other uses like that. Habitat restoration poses some significant challenges given competing land use.

I want to bring some of the discussion back to what the committee is actually charged with. And this is a legislative review; it's not a policy review and it's not a number of other things. We're looking at a specific piece of legislation and recommendations on what, if any, changes need to be made to that.

I was concerned about some of the preamble of a couple of our Liberal colleagues, who almost suggested that SARA should be tossed out the window and a new approach should start again.

I just want to start by getting on the record from each of our witnesses whether they accept that the fundamental architecture of SARA is good as a principled starting position, and then we'll work toward subsequent questions.

I'm not sure who wants to start on that answer.

Dr. Peter Ewins: I'll start.

I think the fundamental architecture is sound.

Mr. Jeff Watson: Okay.

Same here?

• (1720)

Ms. Rachel Plotkin: Yes. I would say the primary problems to date have been a lack of implementation and a lack of supporting policies.

Dr. Keith Ferguson: We agree here in Vancouver.

Mr. Jeff Watson: Thank you.

So in dealing with habitat fragmentation, we're dealing a little bit with “process” fragmentation, I think it might be fair to suggest. One of the key things that I find we're finding some conflict with is how do we get more action and perhaps less process? We had some of our aboriginal leaders here who were suggesting that we need more consultation and more steps along the way with respect to aboriginal participation. I'm hearing in some respects that the ENGOs are looking a little bit more at perhaps condensing some of the process.

Can you walk me through how we square the two away? We have obligations, of course, to consult with our first peoples. They're asking for more steps along the way. How do we reconcile that with the need for less process to get more action, for example? Can you help the committee walk through that a little bit?

Ms. Rachel Plotkin: I think I'll just take a first stab, and then Keith and Susan can join.

There are a couple of times when we've talked about timelines and also consultation as it pertains to timelines. I think there are a number of recommendations that you've heard to close some of the loopholes in SARA under the listing process. But we recognize that setting a finite timeline for consultations with aboriginal communities is outside of our purview.

I think what we would like to see from the act, or from policy supporting the act, is that government sets clear and transparent timelines for consultations. We have some species for which consultations have dragged on. A species such as the Peary caribou, which is recognized as endangered by COSEWIC, is just in a limbo of consultations for which we see no transparent end timeline.

I don't know, Keith or Susan, if you want to add to that.

Ms. Susan Pinkus: Speaking as a biologist, I would just add that from a biological perspective, the tension here is that the longer you wait for consultation—of course consultation is important, in particular with first nations—the more you lose your opportunities, the more you endanger your species, and the more costly and difficult it is to end up recovering it. I think that whatever decisions are made about how to take on consultation with first nations or any other stakeholder, it really needs to come back to that continually. We have numerous species that are likely to wink out or go beyond the point where we can effectively recover them while in extended consultation limbo for listing, while waiting for critical habitat, and while waiting for protection of critical habitat.

Mr. Jeff Watson: Okay.

I don't know if you've had a chance to weigh in on the particulars.

Mr. Éric Hébert-Daly: I think Rachel, frankly, has probably made the clearest point there. So no, I don't think there's anything to add.

Mr. Jeff Watson: Mr. Chair, how am I doing?

The Chair: You have time for one very short question.

Mr. Jeff Watson: You know what? I'm not sure I have a short question. I'd need to set it up, so I'll let it go for now.

The Chair: Thank you.

I have a couple of questions myself.

First of all, I appreciate your passion of wanting to protect endangered species and making sure that we identify critical habitat, and I appreciate the expertise that all of you have brought to the table and the comprehensive recommendations that you're all bringing forward.

I want to follow up on what Mr. McGuinty was saying about streamlining the process, that we have this multi-layered advisory role system. I'm just looking for some direction, I guess, on how we

might be able to streamline it. When we start looking at making these recommendations on how we tackle the whole process and making sure we address each and every need, but we have to go through all these different advisory boards and subcommittees, I just want to know if there's any way that we can strengthen some of the organizations, like COSEWIC, or if there is a different model that we should be looking at. And maybe, with your knowledge of what's happening internationally, there's a different way out there that we should be looking at.

So I'm open to some ideas here.

Dr. Peter Ewins: I'll jump in.

When you look at the front end of COSEWIC, I think you're totally right; it's well resourced, it has a great bunch of people involved, and it does its job. The faltering starts progressively as you get further down—i.e., let's implement this thing on the land when we haven't even got the prescriptions in place.

I think the process tune-up that's needed starts once the species...“big time”, when species actually make it onto the list, and its implementation.

I think you've heard today, certainly from a number of us, what our priority recommendations are for doing that. They're not incisive—“Right today, here's the prescription”—but it does logically involve the federal government initiating exercises to take the best of world experience and put it into play in form of a plan to implement. It is tied to finances. That's just the way it works.

In the U.K. when I was there, to reflect social values, which were quite high for biodiversity, the government put a significant amount of money on the table in the form of management agreements and compensation with tenure holders. The fact that we have nothing on the record yet shows me that Canada hasn't really started trying to implement this thing.

• (1725)

Mr. Éric Hébert-Daly: I would just add that part of the role that government can play is to help facilitate the ability of all those players to come together as often as possible.

I mean, to some degree your anxiety about the delay and the lengthening of the process can be somewhat mitigated by a deadline, but, more importantly, if the players are all at the table and talking to each other, then it doesn't become solely the responsibility of the government to try to figure out what to do: we all come together at a table and try to figure that out together.

I think those are often the ways that we've been most successful at doing conservation. One shouldn't limit that to outside the government realm.

The Chair: When we had National Chief Shawn Atleo from the Assembly of First Nations here, he was advocating that all first nations lands should be exempt from SARA, and that they would implement their own critical habitat and endangered species bylaws and legislation on their own lands.

I'm looking for some feedback on how people feel about that. Does anybody want to tackle that?

Dr. Peter Ewins: There are obviously commitments, conventions, that Canada has signed internationally to do this, so somebody has to be on the hook. Especially in the north and north of 60, where I'm more familiar with the situation, there are very complex and good processes in place to make smart, wise decisions affecting values like species, but it's pretty clear from the assessments in the COSEWIC ledger that things are not working, so somebody has to be on the hook.

For your committee, I can't say what I think is best, but the buck has to stop somewhere. What biodiversity monitoring is telling us has to be rectified and addressed by somebody.

The Chair: Does anybody else want to tackle that one?

Ms. Susan Pinkus: I think it's important to remember that a disproportionate burden has fallen onto some first nations land because of lack of protection of these same species on provincial land outside first nations land. I realize that provincial land is also first nations land in many ways, but I think proper implementation of the safety net, if necessary, and ideally of adequate provincial protections on the part of provinces dealing with these species is going to take some of that disproportionate burden off first nations land and create a situation in which SARA may be more workable.

The Chair: Thank you.

I think we're just about out of time. Plus, my cold is starting to flare up.

Go ahead, Monsieur Gaudet.

[*Translation*]

Mr. Roger Gaudet: I have one quick question, Mr. Chair.

Earlier, Mr. Woodworth mentioned the sum of \$225 million. How much money is left in this program that was launched in 2006? I don't need an answer this afternoon, but perhaps that information could be forwarded to the clerk who could then pass it along to us.

Thank you.

[*English*]

The Chair: Go ahead, Mr. McGuinty.

Mr. David McGuinty: On that point, Mr. Chair, I'd like to get a summary of that program and its expansion. I think that program began some 10 years ago. I think Mr. Woodworth neglected to mention that it was under Prime Minister Paul Martin. It would be important to look at the overall investment, not just the selective 52-month investment. Going back since the program began would be helpful.

The Chair: We'll get that information.

With that, I'm going to thank our witnesses again for their input and the great debate that we had today. We'll continue to formulate our discussions.

I want to remind Ms. Plotkin and all the NGOs that if you're going to get together with the industry and bring forward a common set of recommendations, you should please have them in by May 6.

With that, I will take a motion to adjourn, and then you guys can have your talk.

Mr. Christian Ouellet: I so move.

The Chair: We're out of here.

The meeting is adjourned.

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