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Chair

Mr. Ben Lobb

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● (1535)

[*English*]

The Chair (Mr. Ben Lobb (Huron—Bruce, CPC)): Good afternoon, ladies and gentlemen, and thank you to everybody for being here.

We have a very full afternoon from 3:30 p.m. to 5:30 p.m. I believe we have six guests, two panels, and we're going to get started right now.

From the Sierra Club Canada Foundation, we have Mr. John Bennett. You're up, first, sir, if you're ready.

Mr. Murray Rankin (Victoria, NDP): On a point of order, Mr. Chairman.

I wonder if I might present a notice of motion at this point before the witnesses start. It has to do with the Pest Control Products Act review and it would be very short.

The Chair: Would you rather do it when it's your turn?

Mr. Murray Rankin: Okay.

The Chair: That would be a lot easier.

We'll let them do their presentations and then during your time you can bring forward your motion.

Mr. Bennett, you have 10 minutes.

Mr. John Bennett (National Program Director, Sierra Club Canada Foundation): Mr. Chair and members of the committee, I want to thank you for this opportunity to address you and talk about the Pest Control Products Act and more specifically, about the Pest Management Regulatory Agency that operates the act.

First, just a bit about the Sierra Club. The Sierra Club is a foundation. It is part of the oldest environmental organization in the world, dating back to 1892. We have been working in Canada to preserve and protect the natural environment for more than 50 years.

I'm the national program director, based here in Ottawa.

We believe that fundamental to all good environmental policy is transparency and public involvement in decisions that impact us all. To that end, I reviewed Mr. Aucoin's testimony before this committee last week. I wouldn't say he misled you, but I would certainly say that the reality is much different from the way he described it.

He made a point of telling you about the consultations that they do on their decisions about a whole bunch of things. What he didn't tell you was that they have 30 consultations a year. But their consultations don't come until after the decisions are made and you aren't allowed to see what kind of scientific basis those decisions were made from. When you're offered an opportunity to comment, you can't really comment effectively because you can't review the science that the PMRA reviewed in order to come to its decision.

It's not a real consultation in any sense of the word. It's a public relations exercise in order to put a check mark on the box at the end of the day that, well, we had comments.

He also told you that you could inspect all the scientific data that the PMRA uses to make its decisions. What he didn't say was that if you want to inspect the data, you have to go to Heron and Riverside, in person, to the library and look at the data on a very antique set of computers and a really hard database to read. It's there if you can go, that's true, but it's not in a format that is of any use to the researchers who might need that data or for us trying to determine whether or not decisions were made. Also, you're not allowed to see the most important documents, which are what they call data evaluation records. This is the record of the data and what process they used to come to the decisions that they came to.

They're approving pesticides and these are poisons and toxins, but you're not allowed to understand how that decision was arrived at and that's a really important point because you cannot effectively comment on a decision if you don't know how that decision was arrived at and you aren't allowed to see the same data as the government people.

Then he also mentioned that if there's a decision that any member of the public doesn't like, they can ask for a review. That's true. In September 2013, that's over 15 months ago, Sierra Club Canada and a number of other environmental organizations filed a notice of objection, asking for a review of the decision to re-licence clothianidin, which is one of the neonicotinoid pesticides. That's 15 months ago and we still haven't got a review. What we have got, after a press release and a press conference last March, was a letter from them saying we'll give you an answer in June. In June we got a letter saying we'll give you an answer in the fall and we haven't heard anything since.

That's 15 months and in that 15 months four more neonicotinoid pesticides have been registered. There's lots of time and staff to provide services to the pesticide industry to register pesticides, but there's no one and no time to actually give us that review that we have the right to. That's a really critical point.

That brings us back to the registry. He talked about the fact there's an online registry of all the pesticide information. Well, it's just a big list. It's not searchable. You cannot easily find any information unless you know exactly what to look for, exactly when it happened. You can't find it. I asked my staff last summer to look in the registry and determine how many neonicotinoid pesticides were on the market on a conditional licence. A conditional licence is yes, you can go ahead and sell it, but we'd like further scientific information, which is a whole other issue, but we'll get to that.

When we found it, we had to reprogram the database, download it all and reprogram it so that we could actually determine that information that should have been easily obtainable. What we found was that 55 of these pesticides have been on the market on conditional licences.

We wrote to the PMRA and asked them for a copy of the science that was a condition of the licence. Were those conditions met? When were they met? What we got back was a letter—and there's a copy of it in the presentation—telling us that everything is fine, that rigorous science is used by the PMRA, and we did not need to worry, but no mention of giving us any science or any indication of the dates when that science arrived.

Then, last week I was invited here. Last Thursday, I was invited here, and last Friday morning, I received another email from the PMRA. Now they're telling me that they're in fact going to provide that science. Do I have a right to it or don't I have a right to it? Do I have to appear before a parliamentary committee in order to see science from a government agency?

I think the last point I want to make before I go to our recommendations is that we're talking about licensing poisons and toxins. The decisions are of a critical importance, and we should be using the precautionary principle while we make those decisions. The precautionary principle says to us that if there's any possibility that something could go wrong if we allow this on the market, then we shouldn't do it. But that's not what happens with our Pest Management Regulatory Agency. It says we're not sure about a whole bunch of stuff, so we'll give you a conditional licence. You know, some of those conditional licences go back to 2004, so some products have been on the market for 10 years on a conditional licence waiting for more science. According to the latest communications from the PMRA, they've got all the science now, but they still haven't made it public. We should really have a system in place where the precaution and the onus is on the manufacturers to prove it absolutely isn't a problem—not on the public to prove that it is a problem after something bad has happened, like we've seen across the world in terms of neonicotinoid pesticides. There are studies from all around the world indicating that these pesticides need to have greater restrictions, yet we're not seeing any movement in that direction in Canada outside of the province of Ontario.

That brings me to our five simple recommendations.

The precautionary principle should be in the act. It should say that we don't do things unless we're absolutely sure, and if there's any question, we don't do them.

The act should be amended to ensure that not only do you have to prove that a pesticide is safe, but you should also have to prove that it's actually needed. There are 7,000 pesticide compounds registered in Canada. I think we've got most of it covered, and if we're going to put a new one on, shouldn't we be taking an old one off? Will we just keep adding them?

All qualified requests for a reconsideration of a PMRA decision should result in a mandatory review, to be held within a specified period. Now, a few years ago, Parliament saw fit to change the Environmental Assessment Act to limit the amount of time taken to assess a major project to two years. We're 15 months into a request for a hearing on one pesticide—15 months.

The public should be informed at the beginning of the process, not at the end. The only way we know when a pesticide is registered is if somebody is watching the PMRA website, or watching for the ads from the pesticide companies. We need to be informed at the beginning.

We should build into the act a citizen review committee with some experts to review PMRA decisions, policies, and practices, and advise the minister. Right now, the only advice about the workings of the PMRA to the minister is coming from the PMRA. We think that there should be some outside overview of that, so that the PMRA can be brought up to date. It insists that it has rigorous science. It has rigorous science but its rigorous science is 20 years old. There are much more effective means of studying the impacts of a pesticide in the environment than the system used presently by the PMRA. We need a systematic approach to determine the effects of a pesticide. We don't do that in Canada.

Thank you very much, and I'll be glad to answer questions later on.

● (1540)

The Chair: Thank you, Mr. Bennett. You get an A-plus for time. There's no doubt about that. You're right on the money.

Next up we have Mr. Friesen. Go ahead, sir. You're from the Farmers of North America.

Mr. Bob Friesen (Vice-President, Government Affairs, Chief Executive Officer, Farmers of North America Strategic Agriculture Institute, Farmers of North America): Thank you very much, Mr. Chair and honourable members. It is a pleasure for me to be here.

I'm here for Farmers of North America. I used to be a farmer myself in Wawanesa, Manitoba, which I always considered to be the insurance capital of Canada. I was a turkey and a hog producer in Wawanesa.

Farmers of North America is a national farmers business alliance. It's made up of farmer members. We have about 10,000 members across Canada, and our members vary in size anywhere from 500 acres up. We have a member who has 60,000 acres which, just to put some perspective on it, is about twice the size of Vancouver. In total, our members are responsible for about 20 million acres. Our farmers business alliance is what we consider to be a private sector solution provider. We don't buy or sell anything; we simply create a crosswalk between our farmer members and our input supply partners. It was started in 1998 by a grain farmer from Swift Current, Saskatchewan, and it started out as a group of farmers getting group discounts. It moved from there very quickly to major fertilizer and crop protection programs. We've now reached the third phase—while we've still maintained the first two—where we create opportunities for farmers to invest in the value chain. A good example of that is ProjectN, our $2-billion, farmer-owned fertilizer manufacturing project. It is going along really well and we're very excited about it.

Our interest in the act is very specific. Our number one mission at Farmers of North America is to maximize farmer profitability. Our interest in the act is very specific to ensuring that it creates a framework within which we can have regulation that helps farmer profitability and farmer cost competitiveness. We have an extremely important—and in this case we're talking about crop protection products—crop industry, grains and oilseed industry, in Canada. It's worth anywhere between $30 billion and $35 billion. The crop protection input costs for farmers in aggregate in Canada is somewhere around $2.5 billion; that's the third largest input cost that farmers have, behind fuel and fertilizer.

We can't emphasize enough the importance of driving everything we can towards improving farmer cost competitiveness because they have to compete against, and within, very integrated industries with U.S. farmers. I can't help but think sometimes that whenever we negotiate a trade agreement with another country—and they're really important for our agricultural exports—we should always scrutinize to see how we can harmonize our regulation as well, so that our regulation doesn't make us less than competitive with players in industries in other countries. To that end, I want to congratulate and applaud this government for its initiatives in removing all the regulatory impediments to cost competitiveness that we possibly can. That's extremely helpful because we do have redundant regulation that impedes cost competitiveness, and this government has been zealous in doing that. I would like to implore you, however, to remind the departments and agencies, once in a while, that they share the same zeal that the government has in making sure that we are cost competitive.

Our interest in the act, as I said earlier, is that it creates a framework within which we can have effective regulation. It doesn't matter what your interests are in the act; the act itself is really only as good as the regulation within it. To that end, our interests are very specific. We want lower-cost generic crop protection products for farmers because they help cost competitiveness. That is what our interests are all about. This is not a health and safety issue. We are looking for lower cost alternatives to products that are already on the shelf. Also, this is not about undermining the exclusive period that basic or original registrants currently have. This is not about undermining that exclusive period nor is it about undermining their ability to recoup some of their costs with data compensation, and I should say fair data compensation for data that is relevant and legitimate.

Once the health and safety issues have been addressed and the exclusive period is done, it's about getting a lower-cost generic product in the market as quickly as possible for farmers so that they can avail themselves of the opportunity to be more competitive.

● (1545)

The current regulation within the act has resulted, unfortunately, in basic registrants delaying the process and in some cases preventing generic companies from registering lower-cost generics.

As I said earlier, a very important component of reducing farmers' costs is to make sure that we get lower-cost crop protection products in the market as quickly as possible. Currently, Canada is one of the most difficult countries in the world to register a generic product. As a result, some generic companies have pulled out their applications and in some cases have revisited their business plan for Canada.

Only about 15% of our crop protection products in Canada are generic. That compares to approximately 50% in the U.S. You may recall that I said earlier we have a very integrated grains and oilseeds industry with the U.S., and so that definitely puts us behind the eight ball.

Let me give you some price comparisons. I know these products are probably meaningless to you. They are to me too because I'm currently not a grain producer, but I'll specify the products anyway. These products are all registered on both sides of the border by the same company. It's the same product registered on both sides of the border by the same company. Banvel II is three times more expensive in Canada than in the U.S. Refine Extra is double the price in Canada than in the U.S. Folicur is six times more costly in Canada than in the U.S. Tilt is triple the price, and Select is more than triple the price. This is all because of the fact that we don't have a regulation within the act that facilitates the expedient registration of lower-cost generic products. Farmers are looking for more options when it comes to lower-cost generics. Don't let anybody tell you any differently. Farmers are always looking to reduce their input costs whenever they can.

I'll give you an example. Farmers of North America, together with their input supplier, a few years ago finally, after many delays, managed to register a generic for Horizon. We called it Aurora.

We negotiated a price with our input supply partner at half the price of the prevailing market price for Horizon. As a result, other related products fell in price as well. We calculated that, over a 30-day period, we took $60 million out of the market. In other words, $60 million more stayed in farmers' pockets because we were able to register that generic product.

If you look at the $2.5 billion crop protection industry in Canada, if you start doing the math on 10% reduction in costs or 20% reduction—20% reduction on $2.5 billion is $500 million—I can assure you that would result in much less reliance on the part of farmers on government programs. It is all about cost competitiveness.

Moving on to the act, you're very familiar with the mandate of the act. It says:

> (b) seek to minimize health and environmental risks posed by pest control products and encourage the development and implementation of innovative, sustainable pest management strategies by facilitating access to pest control products....

And it goes on.

Innovation and sustainability apply to the generic products that farmers have access to as well. It's about cost-effectiveness. It's about creating regulation within a framework, the act framework, so that we can be cost-competitive, that we can be innovative, and especially within Growing Forward 2, in helping farmers be more competitive.

In reviewing the act, we need to ask the following questions. Does the framework of the act allow the minister to minimize health and environmental risks? That's absolutely important. Without compromising health and safety, does the act encourage implementation of innovative sustainable pest management strategies; in other words, cost-effective and sustainable products for farmers who are trying to improve their cost-competitiveness? In other words, does the framework allow for regulation that does the foregoing and encourages innovation and cost-competitiveness? In our case, beyond health safety and environmental concerns, it's all about giving farmers more access to lower-cost generics.

Is the framework effective? We believe it can do all of the above, except—and we're not suggesting that we reopen the act—there are a couple of challenges that we need to address and I'll quickly go over those.

● (1550)

One is section 66.(3) in the act, which calls for using the Canadian Commercial Arbitration Act when it comes to disputes in establishing compensable data when generics are registered. The Canadian Commercial Arbitration Act is binding and so in our case, if a generic applicant negotiates compensable data with an original registrant, they can't come to an agreement, they decide to take it to arbitration and the arbiter rules in favour of the innovator's number, the generic might say that in that case they can't afford to register the product and so they will not be moving ahead. Because the arbitration is binding, the generic would be required to pay it regardless of ability to afford to go ahead, pay the compensable data, and register the product. That needs to be fixed.

We've been told that there may be a fix without reopening the act and we're certainly looking forward to the PMRA addressing that. We implore this committee and the minister to continue to keep an eye on that to make sure that we can remove this impediment.

The other problem we have, and this again is about the fact that the act is only as good as the regulation within it, is that the regulation within the legislative framework has not achieved the PMRA policy for the protection of proprietary interest in pesticides. That policy objective is to provide favourable conditions for generic pesticide producers to enter the pesticide market and to increase the selection of products available to the user.

In conclusion, Mr. Chair, is the act effective? We believe it can be effective with effective regulation within it. The good news is that the PMRA is finally engaged in trying to come up with some solutions for the regulatory challenges we have within the framework. I would simply implore the minister and this committee to keep an eye on it to make sure that we don't lose momentum because it is imperative for farmers to have more access to lower-cost generics within the act and within the regulatory framework inside that act.

Mr. Chair, I will leave a document behind with the clerk that identifies the specific issue I talked about with regard to the Canadian Commercial Arbitration Act as well as some of the other recommendations we have regarding regulations within the act.

Thank you very much.

● (1555)

The Chair: Thank you very much.

Next up, from the Canadian Consumer Specialty Products Association, Ms. Coombs.

Ms. Shannon Coombs (President, Canadian Consumer Specialty Products Association): Good afternoon, Mr. Chair, and honourable members of the committee.

It is a pleasure to be here today to provide CCSPA's perspective on your review of the Pest Control Products Act.

My name is Shannon Coombs and I am the President of the Canadian Consumer Specialty Products Association. I have proudly represented this industry for 17 years and our many accomplishments as a proactive and responsible industry.

CCSPA is a national trade association that represents 35 member companies across Canada; collectively a $20-billion industry directly employing 12,000 Canadians in over 100 facilities. Our companies manufacture, process, package, and distribute consumer, industrial, and institutional specialty products, such as soaps and detergents, domestic pest control products, aerosols, hard surface disinfectants, deodorizers, and automotive chemicals, or as I call it, everything under the kitchen sink. I have provided the clerk with a copy of our one-pager that has a picture of our products. I am sure many of you have used them today.

Why are we here? CCSPA member companies that make domestic pest control products are regulated by the PCPA. Our final products are designed for consumers. We have personal insect repellents, ant traps, rodenticides, and wasp spray. The ingredients, end-use packaging, labels, advertising, and reporting are all regulated under this act. They meet the rigorous requirements of the Pest Control Products Act for safety, value, and merit. I brought a small sample of the products that some of our members make: bedbug spray, personal insect repellent, ant traps, and antibacterial cleaner. Products that are classified as sanitizers are also pest control products in Canada.

To put the domestic sales of pest control products in perspective—I know earlier this week you had the agriculture sector here—I would offer the following statistics. In the Pest Control Product Sales Report for 2011 it states that domestic pesticides account for 4.6% of all pesticide sales in Canada. Domestic products, are classified as antimicrobials, insecticides, and herbicides. Antimicrobials used primarily for swimming pools and spas account for almost 76% of all domestic pesticide sales. Insecticides account for 18% and herbicides 5%. It should be noted that the top 10 active ingredients account for 84% of the domestic sector of pesticides sold. Seven of the top 10 are pool chemicals.

In preparation for the presentation today I went back to the presentation that I made before this committee in April of 2002. I thought it would be helpful to reflect on where we were then and where we are now with eight years of experience with the legislation. Pesticides continue to make headline news and often for the wrong reasons. The message that the products are beneficial continues to get lost, which is unfortunate. That was the state of the issue then and it still is now.

The story is very different because of the modern legislation that this committee passed in 2002. The act put into place a rigorous, science-based system with checks and balances that serves Canadians well. They can be confident that the products they use in their homes to protect themselves from insects or weeds do the job. They are safe and they are effective.

Let’s evaluate the agency against the criticisms from 2002 and where we are today.

In regard to products under re-evaluation, there were 401 active ingredients that were identified in 1998 for re-evaluation. These re-evaluations are almost complete. The 15-year review cycle for re-evaluations commenced in 2006 when the act came into force. The approach for the 401 active ingredients was to conduct scientifically based reviews, to manage the workload effectively, and to work with industry to ensure that there were product changes, or label changes, or possibly even discontinuations of products. This is a very successful outcome of the work of the agency and the new act.

In regard to performance timelines, in 2002 the lack of the performance of the agency was at an all-time fever pitch when a 1998 report, the Nephin report, said that the agency was taking 40% longer than its counterparts to complete its reviews. This is no longer the case. The agency has worked very hard to develop performance standards and adhere to them. In the last three years it has met its performance targets for almost all submission types.

Since 2002 the PMRA has employed effective management tools, such as electronic submissions and pre-submission consultations, and addressed paper burden and unique Canadian data requirements to help our members bring innovative consumer products to market.

In 2002 sales reporting and the lack of transparency on how product registrations were conducted was an area that garnered a fair amount of criticism from stakeholders. Transparency is now a legislated requirement. There are registration decisions, products under review, the public registry, products being re-evaluated, comments solicited from the public on those actions, and annual sales reporting, plus a diligent process for collecting, evaluating, and reporting on incidents.

● (1600)

In our opinion, the PMRA raises the bar globally with all of these PCPA initiatives.

As an extension of the transparency initiatives, I would also like to mention the outreach conducted by the PMRA to various stakeholders through the work of the minister's pest management advisory council, an economic management advisory committee, and other work that it does with the federal, provincial and territorial committee on pest management and pesticides.

Those are just a few examples, but overall I believe we have a very modern piece of legislation that allows technology to come to Canada—products that are important to consumers—and allows industry to be competitive.

A predictable, science-based system exists and we all need a better way to communicate its successes to Canadians. There's been a great deal of improvement by the PMRA since 2002, when I appeared on the proposed legislation.

While CCSPA is not proposing any amendments to the PCPA, I would offer one observation of the PMRA, and it is its lack of self-promotion. In the summer of 2011, CCSPA conducted consumer polling in the province of British Columbia on the subject of pest control products. In that polling, 71% of respondents stated that they were aware of Health Canada's role in approving pesticides in Canada, and 69% of respondents trusted Health Canada's regulation and approval of pesticides. To me this demonstrates that when Canadians know about Health Canada's role in the regulatory process, they have confidence in the regulatory process. Health Canada should be doing more to communicate the work that it is doing to protect the health and the environment of Canadians as it relates to pest control products.

As the committee prepares its report, you may wish to also comment on the PMRA's need to increase its communications and offer a recommendation, if you are of the same opinion.

Mr. Chair, I thank you for the opportunity to present today. I will be willing to take any questions the members may have.

The Chair: Thank you very much.

We've had our first three presentations. Now we're going to enter into our question and answer portion. Unlike last meeting when I was very generous on time, we're going to have to keep very tight on time so that we give everybody a fair shot. If I cut you off, don't be offended. That's just the way it's going to be today.

Mr. Rankin, you're up first. You have seven minutes, sir.

Mr. Murray Rankin: Thank you.

At the risk of eating into my time, I'd just like to make a housekeeping motion if I could, Mr. Chair. I've talked to you and the clerk informally about this idea. The suggestion is that the committee extend the statutory review of the Pest Control Products Act by two days in order to hear from additional witnesses.

My fear is that this statutory review just isn't going to give us enough time. There are a number of people on the Internet with a pent-up demand for this review—

Ms. Eve Adams (Mississauga—Brampton South, CPC): Mr. Chair, perhaps I may begin by welcoming our new committee member to our committee. I'm very much looking forward to working with him.

If I might very respectfully suggest that we move these discussions into our normal business meeting, I also have another item to raise, on behalf of a pregnant colleague of his. But perhaps we might shunt these discussions over to our business meeting?

Mr. Murray Rankin: I'm happy to do that. I just wanted to have it on the record that we believe there's not enough time for this review. I can move on and do that in a business meeting, as you put it. Frankly, I'd be happy to because I don't want to eat into my time for questions, so thank you.

With that, I'd like to turn to Mr. Bennett, if I could.

I'm a long-time member and supporter of the Sierra Club. I welcome you here. I'm a huge fan of your work.

I'm very troubled by the material you've brought to the committee today. It's consistent, frankly, with material I've heard from the Canadian Environmental Law Association. I guess I'd start with your concerns about transparency, which you've indicated today are serious.

As I read from your brief, you indicate that you are not able to know what science has been used or not used as the basis of a regulatory decision. The PMRA does an evaluation in secret and posts it for comment. Then you talk about lack of access to the key documents, which are the data evaluation reports.

I just want to understand, then, what the recommendation is that you would make specifically to amend the act.

● (1605)

Mr. John Bennett: That all the data is public.... The problem is that under the present act, the data is public. The PMRA has interpreted that it's the data. But how it handles the data...that document, they don't consider that data.

It's the road map that tells us what science they consulted, how they weighted it, what they discounted, what they included, and how they came to a decision. You can't see that when you're wandering through a library with antique computers on a day pass on Riverside Drive.

Mr. Murray Rankin: It's not merely a regulation that you need to amend. You believe the statute itself needs to reflect that requirement of transparency.

Mr. John Bennett: The statute should be clear that it means all the documents related to a regulatory decision.

Mr. Murray Rankin: The next point I wanted to raise involves your reference to the precautionary principle. Section 20 does refer to the precautionary principle.

Mr. James Lunney (Nanaimo—Alberni, CPC): I'm sorry to interrupt you, Mr. Rankin.

On a point of order, has a copy of Mr. Bennett's presentation been circulated? I certainly didn't receive it. Does the clerk have copies he can distribute to us? We're furiously making notes.

The Chair: I can speak to that briefly, and then if you want further clarification, the clerk can as well.

The document was about 50 pages in length in one language. In order to be fair, we need it to be translated, and doing takes an exceptional amount of time. It is in the course of being translated, I believe.

I'll turn it over to the clerk and he can provide you more information, but that's my understanding.

Mr. James Lunney: Mr. Rankin seems to be quoting from a document that the rest of us don't seem to have access to.

The Chair: The clerk can talk to that.

The Clerk of the Committee (Mr. Andrew Bartholomew Chaplin): Shortly after noon or 1:00 p.m., I sent a partial piece of the submission, including the letter from the PMRA and the letters that the Sierra Club Canada Foundation referred to in that. It was sent electronically just a couple of hours ago.

Mr. James Lunney: Apparently I didn't receive it, or at least it didn't show up in my book.

The Chair: In the letter they do reference a few letters, so the clerk had those translated. They are available right now, and the rest of them are being translated.

Mr. John Bennett: Mr. Rankin is a member of the Sierra Club. He actually got an email from me yesterday with a link. It was posted on our website.

The Chair: Fair enough.

Mr. Rankin, I can assure you that this isn't a billable minute here. I haven't billed you here, so you have a couple of minutes yet.

Mr. Murray Rankin: You're a very fair chair.

Transparency, putting the requirement for access to the data evaluation reports in the act, is a fundamental recommendation.

Then I was turning to the precautionary principle. Section 20 references that, but not, I think, globally. Your recommendation is that the precautionary principle be writ large in the statute, is that correct?

Mr. John Bennett: It is, absolutely, as well as that it be interpreted correctly. I believe that the PMRA interprets it backwards. The caution they take is to not offend the pesticide companies rather than to protect the public.

Mr. Murray Rankin: The other concern you've raised in your testimony today relates to conditional registration. I think you indicated that there are some products that have been conditionally registered for 10 years, if I'm understanding you, and yet they still have outstanding scientific reports, toxicity reports. We heard this in the context of neonics two days ago. Surely that's a problem with the statute, not merely the administration of the statute, if you're allowed to have conditional registrations go on and on and on, where key data is simply not available.

Am I understanding what it is you think the act needs to be amended to reflect?

● (1610)

Mr. John Bennett: In fact, part of the reason for the change from agriculture to health was concern about issuing conditional licences, and the practice hasn't stopped. In the documents, when you do get them, the PMRA actually states exactly how many conditional licences are still outstanding. The problem is it's hard to tell unless you get someone at the PMRA to actually tell you. You can't go to the registry. You can't go to a website and find these things.

This shouldn't be allowed at all. If you're following the precautionary principle and you need any more information about a pesticide, then you shouldn't put it on the market until you have that information.

Mr. Murray Rankin: Indeed you've spoken today about 55 pesticides that, based solely on conditional registration, remain on the market.

Mr. John Bennett: There are 55 pesticide products, and these are just the neonicotinoids. They're basically different formulations of four or five basic pesticides. Often we're talking about exactly the same chemical with exactly the same condition, and we're still waiting for those things.

When we know that minute amounts of these toxins can do such tremendous damage, this practice should not be allowed until we are absolutely sure.

Mr. Murray Rankin: The other recommendation you made at the end of your remarks was that the act should be amended to ensure that the need for a new pesticide be demonstrated as part of the approval process. You're suggesting that there be not only efficacy, environmental, and health requirements but also a justification for making this particular product available on the market. That's an interesting proposal.

Have I understood you correctly?

Mr. John Bennett: Yes, because we have so many chemicals in circulation now that, if we continue to add them, we will have continual problems. So if we're going to put forward a new chemical, we had better need it; there had better be a reason for doing so. If it's better at doing something than another product, then maybe that other product should be withdrawn, but we shouldn't keep adding to the total constantly.

Mr. Murray Rankin: Would the citizen review committee be in addition to or in place of the advisory committee that exists?

Mr. John Bennett: It would be in place of it, because what we have now is an “in crowd”. There's no way for us to access it; it's just another old boys' club. You really have to experience calling up the PMRA and asking a few questions to realize just how patronizing they are to the public: we don't know anything and we should just listen to them. When you ask them for details, that's when they stop giving you information.

Mr. Murray Rankin: I would say that the last observation may be more a function of the people appointed and the administration of the act than of the statute.

Mr. John Bennett: It may also have to do with the fact that they are way understaffed. If you try to get information from them, there's one person in the PMRA answering all the questions—one person. We know that, because we've talked to him. There used to be four, but that number wouldn't have been enough either.

Mr. Murray Rankin: Well, thank you for your very disturbing testimony.

The Chair: Thank you.

Ms. Adams, you're up for seven minutes, please.

Ms. Eve Adams: Thank you. It's a pleasure to have all of you here. Thank you so much for joining us.

Could you revisit your testimony for me? On the one hand, obviously, as you can imagine, we are deeply concerned—I myself as a mom and as a consumer—about what it is we put on the table and about what we put on the table in the most cost-effective manner possible. But I'm far more concerned about some of your other items: how we can ensure that the safety of what we put on the table is assured, and what more we could be doing to ensure that safety.

Mr. John Bennett: Well, we can make the process more transparent. We can make a statement in advance that we're not going to add chemicals to the environment just because a manufacturer wants to put that chemical on the market; that there needs to be a purpose for it and that there should be withdrawal of another thing. There should be a way in which, when we see that there's a problem, we can back out of it without it being a problem. With the structure and the way that decisions are made now, the regulatory agency becomes as defensive or more defensive of its decisions than the pest management companies.

● (1615)

Ms. Eve Adams: Could you walk me through that? Let's say that something is coming forward and that as consumers we'd like to put some concerns on the table. What happens at that point, and what recourse is there? What is the feedback mechanism at that point?

Mr. John Bennett: Our experience was when the European Union announced its decision on the neonicotinoids. We contacted the PMRA and asked them why Canada was not doing the same thing. When Mr. Aucoin was here, he said that they work with Europe and United States. Well, they do, until Europe makes a different decision, and then they turn away.

I was told that this neonicotinoid problem was isolated to a small area in southern Ontario and to a few isolated incidents because of the particular weather situation in 2012 and that this was the only problem; there were no other problems. But I very soon discovered that there are close to 1,000 studies around the world, all of them suggesting that we need greater restrictions on neonicotinoids.

Ms. Eve Adams: Mr. Bennett, I don't want to have you lose your train of thought, because I would very much like you to continue responding to that question. But my understanding is that in southern Ontario it was limited to a few farms, and as the ministries and folks worked with farmers, they changed the way in which their properties received the pesticides. Part of it was in the mechanisms by which they delivered the pesticides; part of it was the over-spraying into surrounding areas; part of it was due to the wind direction. I received a litany of rationales, frankly, as to why it had spread beyond the particular farms that were supposed to be using the neonics.

My understanding is that at this point, after working with the farmers, after educating the community, the incidence of this type of over-spraying and its impacts has been decreased by more than 70%.

Is that your understanding at this point?

Mr. John Bennett: No.

Ms. Eve Adams: I think that's the critical issue for you.

Mr. John Bennett: The Ontario Ministry of Environment and Agriculture, Food and Rural Affairs is putting restrictions on the use of neonic coatings on soybeans and corn, as they reject that industry portrayal.

The neonics are persistent. They get into the soil; they get into the water. There are studies in Ontario and in Quebec finding watercourses that are contaminated with neonics long after they should not be there.

What you have expressed is the popular way it's being expressed by the industry, but the 1,000 studies around the world all indicate that there are other problems.

Ms. Eve Adams: Mr. Bennett, how recent is that information?

Mr. John Bennett: How recent is it?

Ms. Eve Adams: Yes. When you say it shouldn't be getting in there, is that as of last year? Is that as of two years ago? Is it current?

Mr. John Bennett: It's current. More studies are being done daily.

Ms. Eve Adams: So currently you're aware of a study in which they have sampled the groundwater? Or what is it they are sampling that brings you to this conclusion?

Mr. John Bennett: In the last two years they have done sampling in Quebec rivers. In the last two years they have done sampling in watercourses in Ontario. Ontario is about to release its report on that study and map it out, for Ontarians to see where pesticides are persisting beyond the planting zone.

Remember, these aren't sprayed pesticides. They are actually coated on the seed, and once they get into the seed, they grow into the plant; they get into the nectar and the pollen. Controlling the planting will reduce the immediate impact, but still, when insects come along, any insect encountering the pollen or the nectar from the crop can be contaminated.

We lose insects, and we have studies indicating songbird losses, especially of the barn swallow in Ontario. They are disappearing because of the lack of food, because we're killing off all the insects, not just the bad guys.

Ms. Eve Adams: I suppose I'm a little bit concerned because I have received reports saying that in fact, as a result of undertaking mitigation, things have dramatically changed, certainly in southern Ontario—the number that has been stated to me is “decreased by 70%”—and that things are well on their way. So it's very disconcerting to have you come before this committee and share something that indicates that this may not be the case.

I will follow up. If you have further information, I'm happy to receive it.

● (1620)

Mr. John Bennett: I suggest strongly that you do, because I spoke yesterday to the Ontario Beekeepers Association about this. They are the ones who are reporting the bee losses.

Remember, the bees are the livestock of the insect world, so we can count them, but all the other insects we don't count as effectively. Without really expensive and complicated studies, we can't make exact determinations of what is happening. Those studies are being done in places.

But we know that there are significant losses in Ontario for beekeepers and that those losses continued last year. There wasn't the same dramatic kind of immediate death, but there were deaths in the last three years in mid-July, long after the planting session. The PMRA on its website says it doesn't have an explanation for the mid-July losses.

The Chair: Thanks very much. Our seven minutes are up.

Now we have Ms. Fry.

Hon. Hedy Fry (Vancouver Centre, Lib.): Thank you very much, Mr. Chair.

I want to thank you for coming. It was very interesting.

I was interested to hear from the farmers of Canada about the issue of accessibility, or the lack of it, to generic products that may or may not be just as good as the other ones on the market and less expensive, etc., and that give you a competitive edge. That's interesting.

I want to go to Mr. Bennett. The whole concept of the precautionary principle is something that we do in medicine: first do no harm. That's the best description of the precautionary principle. If you find that something is actually showing, even though at the beginning it wasn't showing any side effects and suddenly you see adverse effects occurring, then you have to go back and say that you need to check this out because you can't afford.... I was really disturbed to hear that you have people who have been extended conditionally for over 15 years.

The damage, as I said yesterday to someone, is a generational damage. A whole generation of people can be damaged by this kind of thing. I am concerned about that, and I'm concerned about the ideology that says a precautionary principle is a bad thing, because the primary reason for this act is to look at the environment and at the health and safety of humans. This should be the primary concern, and I think Mr. Friesen said that should be the primary concern.

My question for you is this. We have this problem with the human drugs in terms of the whole drug agency: we don't know anything that goes on in clinical trials. In Europe, many aspects of clinical trials are open to the public. Even in the United States the FDA does have the ability for people to see what clinical trials did show, without of course giving away the whole intellectual property of the particular drug itself. Yet this isn't happening in Canada, and the Auditor General said so. It's not happening with drugs. I wanted to ask you this: is it happening with the PMRA? Are they actually giving people information with regard to what clinical trials showed and are they posting adverse effects?

Mr. John Bennett: What they publish is a summary of their decision. They say, “These are the things we've seen and this is how much weight we give each part, so we're concluding that the risks are acceptable.” They don't give us easy access to the actual studies. They don't tell us what studies or how they have looked at each of those studies.

I'm not the best-qualified person to discuss this, but I spent the afternoon on the phone with a Ph.D. who wanted me to point out that their approach is not a modern approach. It's not a systemic approach that looks down the whole chain. Without being able to look closely at those studies to see when someone did a study if half the mice died or if three-quarters of them lost weight, and which is the most important aspect.... If only half of them died, that's a lethal dose, and we don't need to count.

Where they've really fallen down is on what are the sublethal impacts and what are the impacts of the derivatives. Once these neonicotinoids are in the soil, they break down into other things that are very persistent, and they can combine with other things in the soil and create new problems.

● (1625)

Hon. Hedy Fry: I understand that. I think that therefore I am hearing that there isn't the transparency. Would you like to see that strengthened?

Mr. John Bennett: Yes, absolutely, strengthen the transparency. Also, just to understand the problem of neonics is massive. Every corn seed in North America is coated with these toxins, as is every canola seed and almost every soya seed, and it's put on whether or not there's a pest there.

The first step, if you want to use the precautionary principle without actually taking them off the market, would be to say, “Show us that you need them before you spray it on every single seed.” That's what the Ontario government has done. It has said, “Show us that there is a need, that there is a pest there.” The EPA has done a study on soybean and neonicotinoids and concluded that they couldn't find any benefit. There's no general benefit from pre-treatment.

Hon. Hedy Fry: On Tuesday we heard some interesting testimony that people now have newer technology that does not allow for airborne pesticides because they're injecting directly into the soil, etc. Have any studies been done that you know of that look at water runoff? Are there pesticides in water runoff? Are they actually affecting the rivers and the streams, because we know that a lot of a farms.... I don't know about Ontario, as I don't spend a lot of time on Ontario farms, but in British Columbia we have little rivulets that go in between the irrigation ditches. Do they flow into a river? Do they actually increase pesticide risk?

Mr. John Bennett: A study done in Saskatchewan by a professor at the University of Saskatchewan found neonicotinoids in standing water and ponds around farmers' fields in Saskatchewan in the spring before planting. They were still there before the next season's sprayed seeds being put there. She related that directly to the drop in the number of songbirds in the area. She's an expert in songbirds.

Hon. Hedy Fry: Is there anything that you think would strengthen and rebalance this concept between the fact that we absolutely need, as a massive agriculture-producing country, to have good crops, to be competitive, and to be able to trade, and at the same time protect human health?

I know that Mr. Friesen said that's what he wishes to see.

Mr. John Bennett: Yes, he said that. He supports that there should be sustainability. I don't think sustainability means making pesticides cheaper. I think sustainability means helping farmers find ways to farm without relying on pesticides. That's a lot cheaper than generic pesticides.

Hon. Hedy Fry: Is there something you'd like to see in the regulations that would balance this appropriately?

Mr. John Bennett: I tried to capture that in proving the need for pesticides, but that's what's lacking. Once the pesticide is approved, then it's used. When it comes to neonicotinoids, it's used on everything, everywhere. You go to the nursery and buy a flower for your garden because you want to be a good gardener and attract bees, but you have a plant that's treated with neonicotinoids and you have no way of knowing.

The Chair: Thank you very much.

Mr. Wilks, you have two quick minutes. Then we'll suspend and have our new guests come in.

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you very much, Chair.

I thank the witnesses for being here.

Mr. Friesen, I have a wife who was born on a farm. Her dad still farms. He got out of the grain business some time ago because it was so costly for him. It became a challenge for him to do that, so he's gone into beef, obviously, and today he's doing quite well.

I want to come back to the comment that Mr. Bennett made with regard to "show us that the pest is in your area and that you need that pesticide". I get that part of it, but this is a pretty big country. Even just in looking at Saskatchewan, you can see the variations between southern Saskatchewan, central Saskatchewan, and northern Saskatchewan. They can vary in different ways, but farmers will all plant canola, they'll all plant lentils, and, if they can, they'll all plant peas.

What is the challenge in getting different forms of seeds planted in different parts of the province, based on the fact that a farmer would have to try to figure out whether he actually needs that type of seed with that type of pesticide or insecticide? For the farmer himself, that's bringing it right back down to the farmer who's going to plant that in the ground.

● (1630)

Mr. Bob Friesen: Well, you know something, you're asking the wrong person if you're talking about seed. As far as pesticide application is concerned, the PMRA also makes sure that a crop-protection product is registered for use. It's on the label: registered for use, depending on what soil zone the farmer is in and where that product could be used, etc. They manage very well, when you talk about southern Saskatchewan and northern Saskatchewan. They manage where the crop protection product can be used and where it can't be used.

Mr. David Wilks: Are farmers aware of the fact that if a farmer uses the wrong product within a zone—

Mr. Bob Friesen: Absolutely.

Mr. David Wilks: —he reaps the benefit of that problem as well? If something happens with that crop, he's responsible, because he should have recognized the fact that he was planting in the wrong zone.

Mr. Bob Friesen: That's correct.

Mr. Chair, if I may, since my name was invoked on another subject here, I need to make sure that it's on the record. Mr. Bennett said that by sustainability I meant a crop protection-free industry. Quite frankly, that's not at all what I said.

Mr. John Bennett: No, I didn't say—

Mr. Bob Friesen: When I mentioned sustainability, that dealt specifically with the mandate of the act, which talks about sustainable pest management strategies. Let's remember one thing. I mentioned one product earlier. It's Folicur. Folicur is a crop protection product used to prevent a fungus in grain. The layman's term for that fungus is "vomitoxin". If anybody eats that grain.... Or in fact, I've seen it impact on people in dust; just from using the straw from that wheat, the dust will also affect people adversely.

The question is, should we be using a pesticide on this product? Well, of course. I mean, part of the risk cup analysis on that should be, what's the impact on humans if that fungus is in the grain? What's the impact on humans if that crop protection product is being used? So by "sustainable crop protection strategy" or "sustainable pest-management strategies"... it includes all of that. You can't take one and not use the other.

This is about crop protection products that pose the least risk to human health and safety as possible, but then this is also about providing farmers with a lower-cost product, products that are already in the market—so again, it's not a health and safety issue—so that they can be economically sustainable as well when they produce foods.

The Chair: Thank you very much.

Just so that everybody knows, there are blues that come up for each meeting, and so if anybody wants to correct the record, they have the opportunity to do it. I don't believe Mr. Bennett said that, but we'll give everybody the chance to go through the blues and make sure that what they said is in fact what they said.

We're going to suspend for a minute and come back with our next group and get right at it.

● (1630)

(Pause)

● (1635)

The Chair: Welcome back. We're going to try to keep on track here as best we can.

Mr. Gage, we'll have you go first while our technology is in working order, and then we'll go to our guests who are here in person.

Go ahead, sir; you have 10 minutes.

Mr. Andrew Gage (Staff Counsel, West Coast Environmental Law Association): Thank you very much for having me and for the opportunity to speak to the review of the Pest Control Products Act.

Since I began working at West Coast Environmental Law in 2001, I've had the privilege, among other projects, of working with groups of farm workers and the organizations that work with them and speaking with them about their exposure to pesticides. It's been said that the measure of a society is how well we treat the most vulnerable among us. With that in mind, I'd like to focus my presentation on what the Pest Control Products Act says about farm workers and how we protect them.

I should emphasize that I think many aspects of the act in general are sound, but I will be touching on some specific concerns around how the act and the implementation of the act have perhaps not protected farm workers as well as they should. I'm going to make four points.

First of all, the Pest Management Regulatory Agency makes unrealistic assumptions that the pesticide labels are fully complied with when it evaluates the impact of pesticides on farm workers. Second, there are some cases where there's been undue delay in putting in place protective measures for farm workers during the review process. Third, the PMRA does not currently consider the combined exposure from occupational exposure and non-workplace exposures when it evaluates the risks of pesticides for farm workers. Fourth, farm workers and others would benefit from increased public disclosure of data related to pesticide use in Canada.

On the first point, the assumption of 100% compliance, the PMRA relies very heavily on pesticide labels as a means of controlling exposure to otherwise dangerous products. Subsection 2 (2) of the act allows them to take into account the conditions or proposed conditions of registration, but as I understand it, the PMRA interprets that section as allowing it to assume that all the requirements of the pesticide label will be fully complied with, which is perhaps an unrealistic assumption, and certainly, we believe it is an unusual assumption.

The Pest Control Products Act was developed after extensive consultations by the Standing Committee on Environment and Sustainable Development, resulting in their “Pesticides: Making the Right Choice” report. At that time, the committee wrote:

> The use of pesticides should be investigated to determine whether end-users comply with label instructions. This will enable the PMRA (and indeed the government in general) to determine whether they can continue to rely on product labels as a key risk management tool.

That research has not occurred. The PMRA still does not know what level of compliance actually occurs on the ground in terms of those labels, yet they rely on them very heavily, assuming full compliance with them in determining whether there is a risk to workers' health and to the environment. It's our view that likely there is non-compliance occurring. The conditions that appear on pesticide labels are often fairly complicated, even for Canadians who actually read French and English.

A 2008 report, “Health Literacy in Canada”, highlighted that about 48% of Canadians have trouble understanding complicated written instructions such as those that appear on pesticide labels. Given that the pesticide labels are available only in English and French, there's even less basis for assuming compliance when we're talking about farm worker communities that may be predominately Spanish, such as the Mexican workers, or who may be Punjabi-speaking, such as occurs in much of the Fraser Valley.

Second, we know from talking with farm workers that they believe they're being exposed to pesticides, and there is some evidence from those conversations that label conditions are not always being complied with. Our own research was done around 2005 and involved two focus groups—relatively small groups—and a survey of 73 Punjabi-speaking farm workers.

We didn't have a lot of information about which specific pesticides were being used, so it was not possible to say conclusively whether the labels were or weren't being followed. However, there were some very suggestive results. Of the workers who reported applying pesticides, 30% reported that their employers had never provided them with any type of safety gear, and 64% of all the farm workers we surveyed reported having experienced some type of symptoms that were consistent with some level of pesticide poisoning. We gave them the various symptoms and asked them to rank whether they associated them with their use of pesticides.

● (1640)

Even when farm workers were provided with safety gear, they reported that they often did not use it. A more recent academic report involving surveys and a series of interviews with farm workers in the Fraser Valley in 2010 found very similar results.

In general, the PMRA has no actual evidence about what level of compliance is occurring in these communities. Therefore, this type of anecdotal evidence I think needs to be given some weight. The PMRA can, of course, take into account what's on the pesticide labels, but they certainly should not be assuming that they will always be followed.

Second, with regard to re-evaluations and farm workers, we know that the re-evaluations that occur can be very slow and that they can fail to provide interim protections for farm workers during that long many-year process, even where health risks are identified. A startling example of that is the review that was done of endosulfan. The re-evaluation started in 2002, and it wasn't until eight years later, in 2010, that the PMRA recommended the phase-out of the pesticide because of identified health concerns to the environment and to human health. Their recommendation came roughly two months after the U.S. Environmental Protection Agency had announced that it would be phasing out the pesticide.

The important thing here is that in 2004, two years into the process, the Pest Management Regulatory Agency proposed interim measures that were specifically intended to protect farm workers, because they had already identified that there were some health issues in play, but those interim measures were not implemented until five years later, in November 2009. Obviously a five-year delay in implementing protection for farm workers is troubling, but it doesn't appear to be completely atypical, even though the PMRA emphasizes that the endosulfan review was unusually complex. We're told that of 15 reviews where they proposed this type of interim measure, it took on average three years from when the measures were proposed to when they were actually implemented. In one case it took as long as seven years.

In our submission, where there is a potential risk to the health of farm workers, the PMRA must act with all haste to either confirm the risk or to implement protective measures that will actually ensure farm worker health.

Third, in terms of the risk assessment, the PMRA does not currently consider the workplace exposure of workers in combination with the non-workplace exposure. They interpret this as being the result of sections of the Pest Control Products Act that require them to consider aggregate exposure from non-occupational sources. But if you don't consider the two together, you're not adequately modelling and assessing the risk to one farm worker who does of course experience these exposures in both the workplace and when they're home, and who usually lives in an area subject to higher non-occupational exposure through drift, through contamination of water, and through other measures that are associated with living near or on farms. So we recommend that the word “non-occupational” be removed from the relevant sections of the Pest Control Products Act.

Finally, since 2006 the pest control products sales and information reporting regulations have required their registrants to report how much of each pesticide they've sold by province. The PMRA generates some general reports about trends and aggregate amounts of pesticides used in Canada, but the data itself is not available to Canadians. By contrast, several U.S. states provide full disclosure of what pesticides are used where, and often down to the county level. This allows groups working with farm workers and other vulnerable groups to have better information to inform and better protect farm workers.

In conclusion, the Pest Control Products Act was meant to take a precautionary approach and adopt strong protection for the environment and human health. As for farm workers, it has not yet lived up to its potential.

Thank you.

● (1645)

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

Next up is Ecojustice Canada.

You have ten minutes. Thank you.

Ms. Lara Tessaro (Staff lawyer, Ecojustice Canada): Thank you, Mr. Chairman and committee members, for the opportunity to appear before you in your statutory review of the Pest Control Products Act.

My name is Lara Tessaro. I am a staff lawyer with Ecojustice Canada. With me is my colleague Tanya Nayler, also an Ecojustice staff lawyer. Not with us today is our senior staff scientist, Dr. Elaine MacDonald. She is our scientific expert on pesticides and environmental health.

I should give a few quick words about Ecojustice. We are Canada's largest public interest environmental law organization. We have offices in Vancouver, Calgary, Toronto, and also here in Ottawa at the University of Ottawa. We are dedicated to defending Canadians' right to a healthy environment, and we do that by regularly advocating in court. We also work outside the courtroom to promote stronger environmental laws that protect the environment. Tanya and I also have the privilege of working with some of Canada's leading environmental groups on pesticides. I should note that our clients on federal pesticides matters include the Western Canada Wilderness Committee, the David Suzuki Foundation, and Équiterre.

I will note a few of the things we worked on together. We brought successful litigation against the agency in Federal Court, which forced the agency to comply with its duties to initiate 23 special reviews of active ingredients that are banned in the European Union for health or environmental reasons but are allowed and registered here. Those reviews are under way. As a second example, we jointly submitted a notice of objection with the Canadian Environmental Law Association objecting to the continued registration of clothianidin products. Mr. Bennett of the Sierra Club is involved in that as well. As he's already referred to it, I'll try not to repeat his remarks.

Overall, in our view this act is sound and is valuable. If the act were actually implemented properly by the agency, if it were implemented in a precautionary manner, then we think the act could achieve its primary objective. As I'm sure you all know, there is just one primary objective in this act: preventing unacceptable risks to people and the environment from pesticide use.

The Sierra Club has put before you some recommendations for legislative amendments. Generally we don't disagree with them—we think they're generally good recommendations—but Ecojustice's basic position is that at the present juncture, no significant or major amendments are actually required to this law. That being said, I don't want to suggest that the act is working as it should be working. It is not working as well as it should be working. Therefore, to assist the committee, we've identified three areas where we think some minor amendments may improve implementation and better protect Canadians' health.

I'll just run through those three areas, which are, I should note, in our written brief. We did not have it translated in time. We have it here in English, so I assume the brief will be provided to you in English and in French in the coming day or two.

The three areas that we would propose for minor amendment are conditional registrations, which you've heard something about, public consultation, and transparency.

l would like to illustrate our concerns with an example, which is in our brief as well. As I noted, we have made an objection to the renewed conditional registration of clothianidin products due to concerns that these products may significantly harm bee populations. You might understand our surprise, then, when we learned that after receiving our objection, the agency has, in a non-public manner, continued to register entirely new uses of those same clothianidin products that are under objection. They did that with no public notice and with no opportunity for public comment. We only learned of those new uses because the agency indirectly referenced them in a document proposing new maximum residue limits for the newly registered uses of those products.

I want to be clear that clothianidin is perhaps the most controversial pesticide in Canada right now. So while it's under objection, wide objection, the agency, as you heard from Mr. Bennett, is delaying its response to those objections—it's a year and a half now—and yet it is nonetheless secretly, and quite widely, expanding the use of the pesticide under objection.

With that example in mind, I'll turn to our three recommendations.

The first issue we'd like you to consider is the agency's overreliance, as we'd characterize it, on conditional registration. As you know, section 12 of the act—quite appropriately, actually, in my submission—allows the agency, as a condition of a product's registration, to require registrants to produce more information. lt's a really common-sense provision, but it's been heavily overused. That was the finding in a 2008 audit by the Commissioner of the Environment and Sustainable Development, which found that the agency had made, and this is its term, “unsatisfactory” progress in remedying its heavy use of conditional registrations.

● (1650)

It's an especially overused practice for neonicotinoids. As of 2014, the majority of conditional registrations in Canada are for products containing three notorious neonic ingredients: clothianidin, imidacloprid, and thiamethoxam. For neonic products containing these three ingredients, the agency's widespread practice, as you've heard, is to allow them to be registered despite expressly acknowledging that there are critical data gaps on bee health. That is the definition of not precautionary.

The Environmental Protection Agency in the U.S. has also been audited over similar concerns with conditional registration. As a result, the EPA now publicly tracks conditional registrations online. The EPA reports conditional data requirements. It reports when the data that is missing is due, when it's been received, and whether conditions are being complied with. Canada, in contrast to the U.S., does not publicly track conditional registrations.

Our first, I'd say, quite modest recommendation is that section 42, regarding a public repository of information, should be amended to require that the electronic public registry include the same information about conditionally registered pesticides that is publicly accessible in the United States.

The second issue we hope the committee will consider is a need to improve and increase public notice and consultation, under section 28. In theory, section 28 is a good provision. In theory, it requires the public to be notified of and consulted on many pesticide registration decisions, but in practice the agency excludes the vast majority of registrations and the vast majority of amendments to registrations from any public notice or consultation. How does the agency justify this? The problem is not with the act. The problem is with sections 14, 15, and 16 of the pest control product regulations. In general, those three sections purport to exempt most conditional registrations and most amendments to conditional registrations from three things: public notice and consultation, the right of the public to file any objection, and certain transparency obligations.

The second reason for this practice of conditional registrations has to do with an agency policy. It's a submissions policy. The agency policy deems certain categories of registration applications to be minor, and you heard the executive director very carefully refer to how broadly they consult on major applications. The majority of applications are deemed by this policy to be minor applications, and the policy then purports to exempt from public consultation and notice all allegedly minor registration decisions. It does this without any regard for the particular pesticide at issue and how risky it might be.

Our second recommendation is simple: The committee should recommend repealing sections 14, 15, and 16 of the pest control products regulations.

The third issue we'd ask you to consider is one you've already heard a lot about this afternoon and that is the transparency and accessibility of the electronic public registry. Section 42 of the act requires the agency to include certain information in the electronic public registry. In practice, the information required to be there is not always there, and when it is there, it is extremely difficult, as Mr. Bennett noted, to search. It's a very difficult tool for the public to use. I would actually encourage—maybe it's better to say I'd dare—you members of this committee or your staff to try to use the electronic public registry. Try to use it to answer a question you have about a pesticide regulation or a general practice. I have a couple of examples of that, but in the interest of time, I'll leave them for any questions people may have.

Our third recommendation, which is a modest one, is that you add a provision to the act simply requiring the agency to audit the accessibility and completeness of its electronic public registry.

In closing, I will emphasize again that this act has strong potential to protect Canadians' health and to protect our environment. It needs to be implemented in a precautionary and transparent way, and we hope that message comes through in the committee's report.

Thank you, all, for your attention.

● (1655)

The Chair: Thank you very much.

Next up is Environmental Defence Canada.

Ms. MacDonald, go ahead.

Ms. Maggie MacDonald (Toxic Program Manager, Environmental Defence Canada): Thank you for this opportunity to address the committee and appear before you in your statutory review process.

Environmental Defence has been conducting research and public education on the issue of toxic pollution in Canada for over 20 years. In addition to writing reports on substances of concern and their impacts on human health, we are active participants in the stakeholder advisory council of Canada's chemicals management plan. We monitor emerging issues regarding potential threats to human health and environmental health. Our mission is to challenge and inspire change in government, business, and people to ensure a greener, healthier, and more prosperous life for all.

In order to assist members of the Standing Committee on Health with their review, we have prepared a short brief on the Pest Control Products Act. We were late as well in submitting our documents for translation. They will be provided to you once the translation has occurred. Please excuse us for that.

The primary purpose of the Pest Control Products Act is to "protect human health and safety and the environment by regulating products used for the control of pests". Environmental Defence views the act as an important piece of legislation, and it is also our view that significant amendments to the act are not currently needed in order to achieve the stated purpose of the act. However, to that end, we have identified an area in which the implementation of the act may be improved by the Pest Management Regulatory Agency.

Environmental Defence has some concerns with the implementation of the act with regard to the process of conditional registration, a theme you're hearing a lot about today. In this process, regulators allow for the pesticide registration to proceed, conditional on missing data being submitted at a later date. It is important for the PMRA to have the ability to apply conditions to registration. The concern is not with conditional registration in general, but rather with the renewal of registration when the conditions originally applied are not met within the allotted time.

In the preamble to the act it states that "pest control products of acceptable risk be registered for use only if it is shown that their use would be efficacious and if conditions of registration can be established to prevent adverse health impact or pollution of the environment". A lack of evidence of risk is not the same thing as evidence of no risk. Where data is lacking regarding the safety of a pest control product, there is the potential for pollution of the environment to be occurring. To prevent this from arising, research must be conducted to demonstrate the safety of a given product.

Conducting sound research does take time, and it is possible that in some cases requests for extensions may be made in light of challenges in gathering that data. But reasonable limits must be set in order to prevent pest control products from inflicting damage on the environment, and potentially the greater food web, and harming insect species on which we rely, all while we wait for more data to be provided.

This remains a central problem within the neonicotinoid pesticides —neonics for short—that are implicated in large-scale bee deaths. Controversy about bees has sometimes been described as a matter of opposing views, or as a communications issue, but public concern is merited when pesticide registrations are being approved based on incomplete science. The PMRA itself has referred to the lack of chronic toxicity studies in bees as a critical data gap, and yet, to the present, they have given conditional registrations repeatedly for neonics.

Regulators in other jurisdictions have made different judgments about the safety of neonics and have created prohibitions on these chemicals. Based on a review of currently available evidence, the Government of Ontario found sufficient cause for concern that restrictions on neonics are now being planned in this jurisdiction. A Government of Ontario document entitled "Pollinator Health: A Proposal for Enhancing Pollinator Health and Reducing the Use of Neonicotinoid Pesticides in Ontario" provides an overview of the issue, including references to studies that underline the risks posed by these pesticides and an overview of the provincial government's proposed plan.

The risks associated with neonics are well documented. In the Standing Committee on Health session dated January 27, 2015, Mr. Aucoin, executive director of the PMRA, stated, "In the context of neonics, first of all, globally there is a concern for pollinators and the troubles that pollinators like bees are having in terms of population declines...." Mr. Aucoin cites several factors as the basis for this concern, such as climate change, pests, and diseases. He also stated that, "Within Canada itself we have had some bee mortality incidents with neonics", while specifying that they have been restricted to soybean-growing regions of Ontario and Quebec.

● (1700)

Health Canada's PMRA investigation found that 70% of dead bees "had neonicotinoid residues present, while the majority of live bees did not have residues present. The weight of evidence indicated that exposure to neonicotinoids during the corn and soybean planting period contributed to bee mortalities in 2012 and 2013". The Environmental Commissioner of Ontario, in the 2013-14 annual report, found that "there is now clear evidence that acute exposure to neonicotinoid-contaminated dust is linked to mass bee deaths" and the PMRA's investigation into the 2012 and 2013 bee kills in Canada concluded that neonics were a contributing factor in many cases. Accordingly, in 2013, the PMRA declared that "current agricultural practices related to the use of neonicotinoid treated corn and soybean seed are not sustainable".

While some stakeholders may assert that further investigation should be undertaken before decisions regarding the use of neonics in Canada are made, evidence of harm is mounting. In accordance with the precautionary principle, steps should be taken to prevent further harm.

The fact remains that over 10 years ago there were critical data gaps. They are still not addressed. These products are still in use despite registration having been granted on condition that these gaps would be addressed. The deadlines have come and gone, and yet these products remain.

We recommend that the requirements for renewal of conditional registration be re-examined in order to prevent products for which inadequate safety data—for example, chronic toxicity data—is available from polluting the environment and causing undue harm to pollinators and other species.

In the January 27 session of the Standing Committee on Health, Mr. Aucoin described the PMRA's process as being based on "rigorous scientific risk assessment, both for human health and for the environment". He said, "We take a completely science-based approach to our decision-making. It's based on a foundation of data and information requirements that spans literally 200 studies or more."

Environmental Defence supports this rigorous, science-based approach. But where data is lacking, there ought to be a deadline imposed that is enforceable, in the spirit of the preceding statement by Mr. Aucoin, if it is to be upheld.

The Pest Control Products Act is a key piece of legislation for the protection of human health and the environment, and improvements to the management of pest control products and prevention of pollution have, no doubt, occurred as a result of the act. Environmental Defence submits this brief regarding the implementation of conditional registration in the spirit of seeing the purpose of this important act fulfilled thoroughly and effectively for the benefit of all Canadians.

Thank you for the opportunity to present. 1 welcome your questions.

● (1705)

The Chair: Thank you very much.

Mr. Rankin, go ahead.

Mr. Murray Rankin: Thank you to all the witnesses for their very thoughtful presentations.

I'd like to start with Mr. Gage, not only because he's from my hometown but also because he's with an organization I chaired for many years and am very proud of. Thank you.

You made so many points in so little time. I just want to start with your risk assessment point.

You said the law doesn't consider both workplace exposure and non-workplace exposure. I think this was your third point. You thought the word "non-occupational" should be removed from the statute because it doesn't take into account people who have exposure both at home and in the workplace. Do I have that right?

Mr. Andrew Gage: That's it in essence.

I should have mentioned that I also did not get my full written submissions in on time for translation. They are with the committee now, so presumably you'll get them. I have a more detailed discussion there of the PMRA's approach.

As I understand the PMRA's position, there is a specific requirement for them to:

> consider available information on aggregate exposure

—that's the exposure of all the different ways someone comes into contact with a pesticide—

> to the pest control product, namely dietary exposure and exposure from other non-occupational sources.

They interpret that section as meaning the aggregate exposure assessment is focused on non-occupational sources of exposure.

When we asked them about this, they said that at the time the act was drafted, in 2006, methodologies actually didn't exist to combine workplace exposure with aggregate non-workplace exposure. The methodologies are in the process of being developed now.

From our point of view, if you can determine—thanks to your label conditions—that the workplace exposure of a worker is just below what you consider to be a safe level for the pesticide to be approved, and you then ignore a small amount of non-workplace exposure the person comes in contact with as well, you've really missed the opportunity for a more precautionary approach.

Mr. Murray Rankin: Thank you.

I'll go to a point that was made by you and Ms. Tessaro of Ecojustice and is very upsetting.

You mentioned, if I'm understanding you properly, that the regulations are.... Data is simply not available to Canada, you said, but full reporting is available to the United States in helping farm workers, for example, have access.

Ms. Tessaro, you suggest that section 42 be amended to require, if I'm understanding you, the same information that's available in the United States.

Essentially, if this is true, this lack of consistency and access to information on this, if your testimony is correct, certainly should be very disturbing to us.

Ms. Lara Tessaro: I'll let Andrew respond in a moment, but I just want to be clear about section 42. It does have numerous paragraphs that require numerous types of information to be provided to the registry, so I wouldn't want to suggest or to be understood to suggest that there aren't transparency mechanisms in place.

The provision that I was referencing about the EPA is very specific to conditional registrations. That's the piece the U.S. has that we don't have. Effectively, they require reporting on whether conditional registrations are being complied with. That's as a result of something analogous to our federal Auditor General doing a report of the EPA—

Mr. Murray Rankin: The fact remains that there's less information available in Canada in this context than there is in the United States.

Ms. Lara Tessaro: For conditional registration—

Mr. Murray Rankin: For conditional registration.

Ms. Lara Tessaro: —to the public, absolutely, yes

Mr. Murray Rankin: Mr. Gage, you were suggesting that regulations should be amended to a similar effect. Do I have that correct?

Mr. Andrew Gage: More or less. The examples I was speaking to were not U.S.-wide. It wasn't the U.S. EPA. It was particular states in the U.S. They have very detailed information on where and how pesticides are being used.

The PMRA already does collect data at a provincial level about what pesticides are being used and they do generate some general reports on that, but for anyone wanting to drill down to a more detailed level, the data isn't available.

Mr. Murray Rankin: In the interests of time, Mr. Gage, I want to go back to Ms. Tessaro. I only have a tiny bit of time and so many points remain.

As I understand it, you said that you believe the public registry should have an audit by the agency of how it is going, because you dared us to actually try to find something on it, and I've heard that from many people.

Shouldn't such a review be at arm's-length to the agency? It's the agency that set this up. Why would you have the agency do its audit?

● (1710)

Ms. Lara Tessaro: That's a fair comment. Again, I don't want to suggest that the agency posts no information. I don't want to be unfair to the agency. They do post some kinds of information.

Of the kinds of information that are missing more systemically, as I alluded to in my oral comments, there are two kinds of information that are particularly concerning.

There's a requirement in the act for the agency to publish to its register and its electronic registry the information that registrants rely on in support of their applications, but you generally cannot find that unless you're one Canadian lucky enough to live in Ottawa who can go to the reading room.

The second kind of information that's most often missing, and Mr. Gage referred to this—

The Chair: I'm sorry. We have a point of order.

You can continue your thought. It's just that we have a point of order.

Ms. Eve Adams: On a point of order—and Mr. Rankin, this is not to encumber your time, but just so you're aware—we're required by statute to conduct the statutory review of this legislation. This will come forward over and over again. That's not to say that we ought not to perhaps have an independent third party review, as you may be suggesting, but just so you're aware, that's why this is before us today at committee.

Thank you.

Mr. Murray Rankin: I'm certainly aware of that.

The Chair: Okay. That was 30 seconds, so we'll make sure that doesn't count.

Ms. Lara Tessaro: Thank you, Mr. Chairman.

The other piece of information commonly missing from the registry is that there's an obligation under paragraph 42(2)(e) that requires the agency to include on the registry the information that it itself considered when making a registration decision from the information provided by the registrant. It's very difficult to get a clear picture of exactly what record, if you will, the agency had before it in making any particular registration decision.

Mr. Murray Rankin: Ms. MacDonald, you were talking about neonics. You mentioned conditional registration, and I believe I'm right in saying that you've been waiting since 2003 for a chronic toxicity study for neonics. This continues to be outstanding, yet not only is the product available, but as we heard earlier, its uses have been expanded. If that's so, what would you recommend we do with the statute to address that serious problem?

Ms. Maggie MacDonald: There was a notice of objection filed by Ecojustice and CELA regarding this, which provides more details as well, for the curious. There were some amendments recommended by Ecojustice to section 42 that would be helpful. The public could at least know what data was on hand and what was missing. I would support those amendments that have been suggested.

I think it comes down to stricter enforcement when conditional registrations are being requested. It seems that this issue has come up for a few of the people speaking today. It is a concern, because just waiting for more data when there is more exposure occurring every day doesn't make sense.

Thank you.

The Chair: Ms. Adams.

Ms. Eve Adams: Thank you.

Thank you again for appearing before us. You've certainly provided very considered remarks, especially when you say that in broad strokes the legislation seems to be working quite well but you have a number of very considered suggestions to go forward.

Could you point me to perhaps another authority, another jurisdiction, another country, that does this really well and that we ought to be emulating? Who would you say is generally the leader on this internationally?

Ms. Lara Tessaro: I know that, unlike Mr. Gage, we have the advantage of being here, so I don't want to preempt his answers, but for me, the answer is the European Union, hands down. When it's making a decision about whether or not to register, for example, a herbicide for use in agriculture, the European Union effectively asks, under their plant protection legislation, "Do you have the information that demonstrates this product's safety?" If the registrant says they don't have that study, or they don't have the information proving safety, the European Union's response is that the product will then not be registered there.

That's the definition of the precautionary approach: if you can't demonstrate that something is safe, you can't rely on scientific ambiguity. The EU does that very well.

● (1715)

Ms. Eve Adams: Is that the issue here? From what I've heard today, it's not about the original registration; it's when subsequently concerns are raised, and we look then.

How does a jurisdiction like the EU deal with something that they've already registered? How are they periodically reviewing and revisiting and testing that in fact their original conclusions are still sound, are still in the best interests of their population?

Ms. Lara Tessaro: That's a fantastic question, and I'm not going to pretend to know the entire answer to that. I don't know what the equivalent is in the EU for conditional registration.

You do have to keep in mind that if the EU rejects a product for registration, it becomes a very proponent- or registrant-driven approach, right? The regulators wouldn't necessarily go back and look at it again unless a registrant brought forward another application.

As for what the analogue is in the EU for conditional registration, I don't actually know that.

Ms. Eve Adams: I suppose that's the issue that stands before us today, especially with something like neonics, where let us agree to disagree and simply say that they met every standard that was required when they were first registered. How do we then document and cause, or trigger, a test so that they need to be reviewed again so that—

Ms. Lara Tessaro: They didn't meet every standard when they were first registered.

Ms. Eve Adams: I appreciate that, but I want to come up with the most perfect system here. There will be others that come before us over time. Let us suspend disbelief for a moment and say that something comes before us, it meets the standard of the day, but of course with time, 20 years thereafter, it no longer meets the standard.

I say this as someone who sat on a corporate board and 40 years prior, long before I was ever born, someone had decided that they were going to use arsenic as a weed control mechanism. I was then faced, on a corporate board, with deciding how to go about remediating the lands, how to go about notifying the surrounding neighbours, how to actually invest and repair.

This is about creating wonderful public policy going forward. Let us say that decisions were made imperfectly at the time. What jurisdiction ought we look to for the clearest feedback mechanism so that we can improve over time?

Ms. Lara Tessaro: In terms of pesticide regulation generally, I wouldn't deviate from my answer that the EU is doing it in the most precautionary way.

Ms. Eve Adams: Okay.

Is there anything further you'd like to share with us at this point? I find the issues you're raising rather considered. Is there anything else we should be aware of; any other best standards out there?

Ms. Lara Tessaro: The only thing I would say is that hopefully there will be a bit more meat on the bones when you get our written brief. I'll leave it at that.

Ms. Maggie MacDonald: I would add that in terms of the need to expand this session it would be good to have more witnesses come forward. I want to support that point that was made earlier by one of the members.

Ms. Eve Adams: What type of stakeholder do you think we ought to hear more from?

Ms. Maggie MacDonald: It would be fantastic to have some physicians present, and more members of the medical and scientific community present, in my opinion.

Ms. Eve Adams: Physicians who've actually.... Okay.

Thank you.

The Chair: We have two minutes left if anybody else would like to ask some questions.

Ms. Eve Adams: I'm happy to take my time or share it with my colleagues.

Mr. James Lunney: Are we going to get another round over here?

The Chair: Well, it just depends. We're getting tight on time.

Ms. Eve Adams: Go ahead, Mr. Lunney.

Mr. James Lunney: Thanks.

I appreciate your being here. It really would have helped to have had your written presentations, because you've presented a lot of technical information, and hopefully.... It's very helpful. We look forward to receiving those; it's a bit problematic today.

First of all, though, on some of the issues with neonicotinoids that you're raising, are you aware that in fact the PMRA is working on this with the Environmental Protection Agency in the United States? They have a study going on right now. "The Agencies are also working collaboratively on the re-evaluation of three neonicotinoid pesticides focussed on the risk to pollinators." They're working on that right now.

That's the first question, and in sequence to that, the Senate has taken on the issue of bee health in their agriculture committee, and I understand they've been hearing from witnesses. They are travelling the country and are taking this seriously. Have you presented to the Senate? Are you aware of these initiatives that are under way to try to resolve some of these concerns that have been raised today?

Ms. Maggie MacDonald: First, if I may, I'd like to speak to the issue of the written commentary regarding the process. The invitations to appear before the committee—much appreciated invitations to have the opportunity to be a witness—were received with only a few days' notice, which makes it difficult to submit within the recommended time period to have the translation done for the committee. I wanted to comment on that, because it's out of no disrespect that we were slow with our comments, and we really appreciate having these invitations.

We're aware of some of the processes that were mentioned, but there is a concern about having products continue to be on the market while more years of study are conducted. It's problematic when exposure increases while we wait for more data. That would be my remark.

Thank you.

● (1720)

Ms. Lara Tessaro: I would just add that, yes, we've been following the Senate proceedings, and some of the information I've provided around the very high proportion of conditionally registered pesticides that are neonics was information that I got from the testimony of the current Commissioner of the Environment and Sustainable Development before the Senate committee. We do follow those other proceedings very closely.

Mr. James Lunney: Have you presented to the Senate committee as well?

Ms. Lara Tessaro: We did not get that invitation, but I would welcome the opportunity.

Mr. James Lunney: Is that it for time? If we get a chance, I'd like to ask more questions.

The Chair: Okay. Very good.

Also, just to defend our quality analysts and clerks, they aren't to be blamed for the late invitation. I know that you weren't doing that, but just in case anybody thought that, we asked for witnesses in December and received them in late January. They're doing the best job they can with the time allocated, and that's why your invitations came when they did.

We're moving right along here, and we are running up on time, so go ahead, Ms. Fry, for seven minutes.

Hon. Hedy Fry: Thank you very much.

I just wanted to clarify some things.

I think it's interesting that you asked for physicians to be involved in this, because if you're talking about human health, it is something that I think physicians should have a say in.

When a drug is being considered for the market—and the best example, of course, is thalidomide—and it fulfills all the requirements and answers all the questions correctly—like neonicotinoids are doing—then everyone says it can go on. The thing about trials is that they are done on only a small group of people, on certain cohorts, and once they hit the general population—or, in the case of pesticides, the general environment and diversity of environment—in vivo, so to speak, certain things occur that did not occur in a controlled setting. When you are in vivo, you see what is happening and what did not happen in vitro. So you have to be able to track adverse effects.

Is the department doing a good job of tracking adverse effects? I heard from Mr. Gage that of course they're not doing any tracking of it in workers, but are they doing any tracking in, for instance, an area that says it is having trouble, in which bees are dying out when that's not happening elsewhere in Canada? We will want to track the specifics that are creating this problem in order to decide whether an adverse effect is actually applicable to a particular drug.

I want to know if this happens, because pesticides are a huge part of the food chain and what we eat and how we live, so they have a direct impact on human health. I'm not even talking about the environment right now, but as far as the environment goes, we see impacts on insects. The ecosystem gets disrupted. It is important for us to ensure that this is being tracked. What we call adverse reporting will come up after the particular drug or, in this case, pesticide has been out there for a while. Is that happening?

Ms. Lara Tessaro: The legislation doesn't actually envision an ongoing monitoring role for the agency. It obligates registrants to submit reports. There is also, as I'm sure committee members are aware, incident reporting. I'm not exaggerating when I say people die, because there have been incidents reported of people having serious illnesses related to pesticide use. But those are really the only key mechanisms unless you get into the world of the enforcement mechanisms such as inspection, etc. Right now there isn't any part of the act that contemplates an ongoing monitoring role.

Hon. Hedy Fry: I realize that.

So then should this be part of the act? What is the point? If you don't track the risks or the adverse effects of anything, whether it's a food, a drug, a pesticide, or whatever, which gets into food, how do you know if a thing is safe or not?

It just seems to me a common-sense question to ask, and I'm just wondering if you have a common-sense answer to it.

Should this be something we look at putting into the act? Is this piece needed to strengthen the act?

● (1725)

Ms. Lara Tessaro: I haven't really turned my mind to this in any depth before. As you're aware, there are obviously re-evaluation requirements. As new information comes to light from other jurisdictions or from within Canada, the act happily does provide mechanisms to ensure that as we learn more, as scientific knowledge increases, we have the ability to go back and review again. A special review mechanism is probably the most public-friendly version of all of those mechanisms, because the public has the right to ask for it.

Andrew.

Mr. Andrew Gage: I think you're quite correct that no one is in the field looking for this.

The other thing is, as you mentioned, the data isn't there outside of the PMRA itself for people to really realize that the effects they are seeing are actually linked to pesticides. I spoke about data being available in, for example, California. If they start seeing fish die off, they can find out that there was a particular pesticide used in that area in fairly significant quantities, and those connections can be made. If the data isn't actually available, then the provincial conservation officer who has observed a die-off has no basis for knowing that those pesticides might even be in play. So we miss opportunities to make those types of connections.

Hon. Hedy Fry: Can we add that in some way or incorporate that into the act in some way?

Mr. Andrew Gage: My suggestion is that you consider requiring the PMRA to collect more information from the registrants on what they sold where, which is not a perfect surrogate for where it's being used, but it's not bad, and that the information be made available in this era of online open data. That is a tool that's been used very impressively in a number of U.S. states.

Hon. Hedy Fry: Even if you don't do the work here and the data isn't online here, but another jurisdiction shows.... I'm back again to thalidomide. The United States did not accept it and didn't use it, but we had this information available. Some countries withdrew and recalled the drug sooner rather than later because they had better information.

Shouldn't we be sharing our information? I know everyone is going to say that the geography is different and everything is different. That's not the point. It raises the question: if the EU is saying that it thinks this is a problem, should that create an investigation in Canada? Shouldn't we be looking at that here without just passing it off and saying that it's a different part of the world and it doesn't apply?

Ms. Lara Tessaro: In fact, the EU has made some very important decisions banning certain neonic pesticides. We're saying exactly that: we should be taking a really hard look. It's not that the data on which those decisions in Europe were based isn't available. So far, only one Canadian jurisdiction, Ontario, has expressed an interest in acting on that.

Hon. Hedy Fry: I know you're saying that, but what I'm asking is this: shouldn't this be a requirement of the act?

Ms. Lara Tessaro: Honestly, I haven't.... It's a good debate. It raises a good question, but I haven't turned my mind to this. I would have to think about that more.

The Chair: Thank you.

I'm going to give this side a quick question and then we'll wrap up the meeting.

Mr. James Lunney: Thank you very much, Mr. Chair.

I apologize that the time is so short. It seemed to fly by, didn't it?

Mr. Gage, I thought you raised a very good point that we hadn't heard from others, and that is the assumption about labels, which is that they'll be followed. I want you to know that your point was noted. Challenging assumptions is what science is all about, isn't it? Thank you for raising that point.

I want to raise quickly the question about the precautionary principle, because I think I heard a different range of perspectives on what that actually means. What we heard from the earlier witness from the Sierra Club, Mr. Bennett, I think was almost an absolute: that if we don't have all the science and all the potential impacts, we shouldn't approve it. I don't know whether we ever have all the science on everything.

I heard a little bit of a different take from some of the witnesses at the table here. I know that we want maximum information, and my take on it is that this is the purpose of conditional licensing: when new information becomes available, they can respond quicker. Your objection is that it's not happening, I gather.

● (1730)

Ms. Lara Tessaro: I'm itching to answer this question. The precautionary principle only applies as a matter of law where a certain threshold is reached. This is codified in numerous international conventions. It's where there's a risk of serious irreparable harm; it's not every single time if every scrap of data isn't there or we can't act. In the context of neonics and admitted critical data gaps about toxicity impacts on bees, we would say that threshold was reached.

I also wanted to make one point of distinction between our views and those of the Sierra Club on the precautionary principle. Maybe it's a point that only an environmental litigator would love, but in our view, the agency is already legally required to make its registration decisions consistent with the precautionary principle. We say that's the case as a result of the Supreme Court of Canada's decision in the Hudson and Spraytech case a decade ago.

While we don't disagree that maybe including an umbrella reference to the precautionary principle in the act would be appropriate, we would view that simply as a codification of the existing state of affairs.

The Chair: Thank you very much.

We've had a two-hour meeting and then a few minutes over.

Thank you to everybody who has come in to be a witness. We're going to conclude our meeting.

Mr. Murray Rankin: Is this the time, Ms. Adams, where I should make that housekeeping motion that you suggested I defer until now?

Ms. Eve Adams: Sure.

Mr. Murray Rankin: May I?

The Chair: Did you already read the motion?

Mr. Murray Rankin: I've given it to the clerk. Perhaps he could give it to me. I simply suggest that the—

Mr. David Wilks: On a point of order, I'd say that you see the clock....

The Chair: Okay. Are you just going to read your motion, and then that's it? Or do you want to table your motion?

Mr. Murray Rankin: I was told not to ask it during the meeting, because we wanted to do it in a housekeeping session after the meeting. This would appear to be that time.

I simply suggest that we have more witnesses—two more days of hearings—because we've heard from people that doctors and provinces and others ought to be heard.

The Chair: I thought you had read your motion. That's my mistake, so I apologize for it.

File it with the clerk, and then we have business to discuss at our first meeting after the break and can discuss it then. Is that fair enough?

Okay.

The meeting is adjourned.