



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Fisheries and Oceans

FOPO • NUMBER 116 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Thursday, November 1, 2018

—
Chair

Mr. Ken McDonald

Standing Committee on Fisheries and Oceans

Thursday, November 1, 2018

• (1130)

[English]

The Chair (Mr. Ken McDonald (Avalon, Lib.)): Good morning, everyone. Pursuant to order of reference of Wednesday, June 6, 2018, this is a study on the situation of endangered whales, motion M-154.

I'll start off by apologizing to our witnesses who have been here waiting. We had an unexpected vote which delayed us.

With the permission of the committee, what I would like to do, instead of losing a full half-hour to the first group, is shave 15 minutes off each one. We'll go until 12:15 p.m. and then switch to the second group and go until 1 p.m.

Does anybody have a problem with that? Is that okay?

Some hon. members: Agreed.

The Chair: Perfect.

First of all, I'd like to welcome our witnesses for today.

Mr. Ray Harris, Co-Chair of the First Nations Summit, is here in person.

By video conference, from the Tsleil-Waututh Nation, we have Gabriel George, Manager of Culture and Language; and Spencer Taft, Project Manager, Cumulative Effects.

Again by video conference, we have Teresa Ryan, Post-Doctoral Research Fellow, Forest and Conservation Sciences, University of British Columbia, as an individual.

Welcome to all of you.

We'll start with the statements.

Mr. Harris, you're up first for seven minutes or less, please.

Mr. Ray Harris (Co-Chair, First Nations Summit): [*Witness speaks in Hul'qumi'num*]

Thank you so much for inviting me to be here.

I had a wonderful flight last night and I hope to fly back soon.

We're all very concerned about the whale that we're talking about, the southern whale in our waters that we share with the Salish Sea. Most of you would have your own thoughts about the whale, but I want to give you a bit of mine and some of our people's thinking and our intimate relationship with the whale.

We have a long relationship with the whale. We have many ceremonies, traditions and customs of our people that revolve around our relationship with the whale. It's a spiritual relationship that is hard to describe. I don't want to describe it to you, but I want to let you know that we have this wonderful relationship with the whale. We have songs and dances to celebrate with the whale. We have songs and dances for when we call upon the whale to help us in times of need.

The whale is closely described by our people, as it was told to me, that at the start of creation, before the beings were set up in a hierarchy, we were similar to the whale, so similar that they still breathed air like us. They raise their young and they look after their young for generations. They have extended families that they use to look after each other, which is the same as us. They eat the same food as we do. We're so close to them in those descriptions that we're worried.

We also face the same thing as the whale. We're near extinction. We can honestly say that we know how it feels. We're expressing what the whale is expressing.

A couple of months ago, we got heartfelt messages from around the world regarding the mother whale that held on to her young for some 17 days or more. They were concerned about a loss. There were two losses recorded, but particularly, the mother whale, as our people look at it as a message that we need to share with the world. Something has gone wrong and we need to call upon each and every one of you to help us. Each and every scientist, each and every community, each and every fisherman needs to help us look after the whale, so that the whales can recover in the Salish Sea.

We're so concerned that we're making journeys like this to speak to strangers all over the world to make the effort, so that you know that we love the whale and we want to ask for your help and assistance. We can point fingers here and there and everywhere, but responsibilities have been taken by departments, like the Department of Fisheries and Oceans. They fell down on the job, in terms of the habitat and the responsibility they have for looking after the salmon in the Salish Sea. You need to know that.

• (1135)

We're worried about the term that's being used by Transport Canada that describes the way the oceans are now when tankers are moving here and there. I forget the term, but it includes the territory of our people.

For your information, as colonizing happened and reserves were being set up, as they hit the west coast, the tribes got small, little reserves, small, little plots of land. To justify that, they said that the tribes relied on the sea for all their needs. In fact, some of those reserves are called fishing stations, so we can access the seas and the beaches, the clam gardens. There's more reliance now on our traditional foods than ever, so we need to be mindful of that.

It's the same as the whale. You hear now and then that the whale is starving to death. Can you imagine, on the west coast of Canada, the west coast of British Columbia, that something is starving to death? It's horrible.

That's why I came here today, to talk to you and tell you about us. We're worried about the scientists. They kind of favour industry. We see there's pull and push on the scientific community, and we lose, and the whale loses.

In your deliberations, as time goes on, I beg you to be mindful of whose interest is being served by all this data, the mountains of data that are going to come at you.

The last thing I would say is that the availability of prey for the whale is of utmost concern. It will take hard decisions to satisfy that. You can satisfy it today by eliminating some of the competition the whale has for the prey, but it's a tough decision, a political decision. It's a tough one, and if you need help with that, we'll help you.

• (1140)

The Chair: Thank you, Mr. Harris. Anything that you feel you didn't have a chance to say, hopefully in the rounds of questioning, you'll be able to add at that time.

Next up, from the Tsleil-Waututh Nation, we have Mr. George and Mr. Taft.

I don't know if only one of you is speaking or if you're splitting your time, but either way, whenever you're ready, you're good for seven minutes or less, please.

Mr. Gabriel George (Manager, Culture and Language, Tsleil-Waututh Nation): [*Witness speaks in Hul'qumi'num*]

It's my pleasure to be here today at the behest of my nation to talk about something that's very important to our family. In our language, Tsleil-Waututh [*Witness speaks in Hul'qumi'num*], we call ourselves the people of the inlet, and it refers to the Burrard Inlet. Our family has been on these shores for thousands of years. My late grandfather talked about our hunting trails that today are known as Robson Street and Thurlow Street, where we used to hunt for deer.

We've seen huge impacts to our lands and to the environment. One of our [*Witness speaks in Hul'qumi'num*] is my [*Witness speaks in Hul'qumi'num*], my great, great, great-grandfather, [*Witness speaks in Hul'qumi'num*]. He could talk to the ones that lived in the water, to the fish, to the killer whale and to all the creatures that lived in the water. When he passed away, he was laid to rest on a little island, [*Witness speaks in Hul'qumi'num*]. Just across from that main village is an island. Today, they call it Boulder Island. The area I'm talking about is Belcarra. That island eventually became private and they said we had to move our [*Witness speaks in Hul'qumi'num*], our respected leader—we had to remove his remains from there. They paddled him to where our reserve is now [*Witness speaks in*

Hul'qumi'num]. Two killer whales went beside the canoe and escorted him to where our reserve is—Burrard Inlet 3, Indian reserve. Then, when they brought him up the trail to our cemetery, the killer whales didn't go under. They didn't turn around. They backed out of Burrard Inlet. Our word for Burrard Inlet is [*Witness speaks in Hul'qumi'num*]. That's where we get our name, Tsleil-Waututh.

The elders said they never came back. For many years they didn't come into our waters. In the last 10 years or so, maybe a little more, we've had the odd sighting. When we lose important people, they seem to come in. To our people, they're a barometer of many things. The killer whales disappeared like my elder Ray just said. That's how we almost died off, and the killer whales disappeared at that time. They're starting to come back. I don't think it's a coincidence that they're coming back at a time when our voice is being heard more. When people are listening to us a little more, they're coming back again.

To us the killer whale is a barometer of the environment, of our spiritual health and our physical health. We don't separate all these things, the rocks, the plants, the animals. We consider ourselves all one part of that. It's a more holistic approach that even western education is starting to recognize and value.

So, it's up to us, and that's why I'm here today at the behest of my nation to plead with you, like our dear elder put so well, to do the best we can to protect the killer whales, to protect [*Witness speaks in Hul'qumi'num*], what we call it in our language, to look after them.

It means so much to our family and to our health. In our community, the languages were wiped out in one generation from the residential schools. We're working hard to bring that back. When I look at the whole history of my people, I see it all coming together through one thing, through this killer whale. It's all connected in our world view, in the way we see things and the way our old people see things.

• (1145)

Like my dear elder Ray had expressed, I express to you to consider *qullhanumucun* in your work.

I'm going to turn it over to my colleague Spencer at this time.

[*Witness speaks in Hul'qumi'num*]

Mr. Spencer Taft (Project Manager, Cumulative Effects, Tsleil-Waututh Nation): Thank you, Gabe, for that, and thank you for touching on the relationship between the Tsleil-Waututh and the killer whales. Obviously it's a topic that warrants much further discussion and exploration, but in these time limits, this is what we'll present. I'll get right into our specific recommendations to the committee.

We have outlined four specific recommendations. They're included in the written submission, so you can follow along.

The first one is that the federal government consult and engage with indigenous groups to amend the definition of “critical habitat” under the Species at Risk Act to consider continued indigenous cultural use. We've provided an example of proposed language to that effect.

The second recommendation is that the federal government base southern resident killer whale critical habitat on pre-contact or pre-industrial environmental conditions as opposed to current environmental conditions, because we truly believe that only maintaining habitat that's currently suitable for the resident killer whales will maintain only current population trends, which we all know are quite dire.

In accordance with the first two recommendations, our third recommendation is to designate Burrard Inlet and the Fraser River estuary as critical habitat for the southern resident killer whale so that it's connected and continuous with the rest of the critical habitat in the Salish Sea.

Our fourth recommendation is really a point of support. We want to express that Tsleil-Waututh supports the additions to the southern resident killer whale critical habitat put forth in DFO's amended recovery strategy for the killer whale, which came out earlier this year.

Those are the four specific points that we wanted to recommend to the committee with respect to Tsleil-Waututh's concerns around the killer whales.

The Chair: Thank you, gentlemen.

We'll now go to Ms. Ryan for seven minutes or less, please.

Dr. Teresa Ryan (Post-doctoral Research Fellow, Forest and Conservation Sciences, University of British Columbia, As an Individual): Good morning.

[Witness speaks in Sm'algayax]

My name is Sm'hayetsk, Dr. Teresa Ryan. I am Tsimshian, from the north coast of British Columbia. I presently live in Vancouver and am employed as a post-doctoral research fellow at the University of British Columbia in forest and conservation sciences. My training is in fisheries aquatic ecology. I'm also appointed by Canada to the Pacific Salmon Commission's Joint Chinook Technical Committee. I'm the first northwest aboriginal person appointed to both of these roles.

I've had opportunities to participate in a variety of sessions for southern resident killer whales, including two out of three in the bilateral Canada DFO-U.S.A. NOAA series of workshops on prey availability for southern resident killer whales. I wasn't able to attend the third workshop because the AAROM funding was not available in the next fiscal year.

I also work at the port of Vancouver enhancing cetacean habitat and observation, ECHO, program, along with my colleague Ray Harris. I was the first nations panel chair at the Government of Canada symposium on southern resident killer whales. I've worked at UBC on the availability of prey for southern resident killer whales and at the Prince Rupert first annual whale festival, and I am on the Fisheries and Oceans Canada Pacific region indigenous and multi-stakeholder advisory committee, which is meeting at this moment.

My research interests have focused on the application of ancestral knowledge systems in resource management. I have several years of experience along Canada's west coast in fisheries—

I'm sorry. Would you like me to slow down?

• (1150)

The Chair: No, go ahead.

Dr. Teresa Ryan: I have several years of experience in fisheries and forestry resource management. I also work with the Assembly of First Nations in Ottawa on ACCAE and the First Nations Advisory Committee on Species at Risk.

I prefer the term “aboriginal” versus “indigenous” because etymologically, the source of the term “aboriginal” means “from within”, which is more consistent with an aboriginal world view. The term “aboriginal” is also consistently used in Canada's legislation, including in section 35 of the Constitution, where ancestral knowledge systems are protected as aboriginal rights.

Northern and southern resident killer whales are an intrinsic component in aboriginal cultures and continue to be revered as iconic and majestic. They are part of our clans. Gispwudwada and Tsimshian are clans. We have a clan that is entirely killer whale. Our naming system has killer whales within it. It tells us the story of our relationship to killer whales and provides an identity.

They're an indicator of health for the Pacific Ocean ecosystems and provide us with an indication of our future human health.

Resident killer whales and humans rely on the same food sources—chinook and other salmon—and we are witnessing killer whales starve to death. Chinook salmon has special significance to first nations in British Columbia as a food source and as part of the legacy of first nations cultures, including their connection to killer whales.

Ancient aboriginal fishing technology, such as the use of stone tidal salmon traps, captured high volumes of fish. I'm presently working on a project to test these stone traps to see if we can use them to rebuild salmon populations. Our technology has been evidenced by archeology as existing more than 5,000 years ago. Our longevity working with these species is a record that speaks for itself.

We also made sure there was consistency in the size and abundance of resources, which was much different in the past from what it is now. We relied on large salmon, and we actually made sure that those large salmon made it up to the spawning grounds.

Some of the large salmon that killer whales depend on are the Babine stocks of the Skeena River system, the Elwha chinook of the Juan de Fuca Strait, and the Columbia River June hogs. Those are very large salmon. The Elwha stocks are in recovery after the removal of two dams. That's a very large fish that likely was a dominant source of food for southern resident killer whales. The Columbia River June hogs were extirpated because they couldn't get past the hydro power dams on the Columbia River.

In the past, our strategies incorporated allowing the largest fish and female fish to pass through to escapement, facilitating consistent quality of reproductive success for larger fish.

Today, many U.S. tribes are working to restore salmon. First nations in Canada would also like to work to restore salmon populations for a variety of reasons, including providing salmon for the resident killer whales.

I was able to participate in a technical team of scientists and review of status for southern B.C. chinook stocks. We observed that a couple of stocks indicated an unexpected status in forested areas recently disturbed by the mountain pine beetle. In our discussion, we realized that DFO did not have adequate resources to pursue a research investigation on the effects of forestry operations on watersheds.

We are keenly aware that forests are being clear-cut at exorbitant rates in many areas of the province. At present, there is an operation in Tsitika watershed on Vancouver Island that may be causing harm to Robson Bight with increased sedimentation and other impacts. Robson Bight is a belly rub peat for resident killer whales.

We know that there is also tremendous risk of oil spills. Here's an example. There are two ecotypes—those are genetically and behaviourally different groups of killer whales—known in Cook Inlet, Alaska. There is a resident pod, AB, and population of transient killer whales, AT1. Killer whales of both ecotypes died during the *Exxon Valdez* oil spill in 1989. The AB pod is showing slow recovery but is still below their pre-spill number. The AT1 population is functionally extirpated with seven remaining individuals, including two females that are beyond reproductive capacity. That's a concern for us on this coast given the changes we see coming down the road.

• (1155)

When we work with government, we have opportunities to capitalize on some momentum and address those areas where we have capacity shortage. We know we want to help restore salmon, but we also want to do it in a manner that's consistent with our world view.

The government symposium on southern resident killer whales resulted in a report that lists some specific outcomes and recommendations, identifying the Fraser River as a primary source of chinook for southern resident killer whales. We know that we want to engage first nations stewardship and the annual chinook salmon assessment. We need to figure out how to get that. We need to find those mechanisms to actually build the capacity that first nations need in order to participate in a joint effort.

The Chair: The seven minutes are up, Ms. Ryan. We have actually gone over quite a bit. I would hope that anything you didn't

have to say in your opening statement will come out in the line of questioning.

With that, we will go first to the government side.

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

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

If anybody hasn't had a chance to get their full piece in, you can submit it in writing, and it goes into the record so we can consider that as we go forward and make recommendations.

We've been hearing from a lot of people. Although the person who put forward this motion is from the east coast, she wisely included the southern resident killer whale as part of the study because she understood this was important and there were some dangers afoot.

So far we've heard the following: The availability of chinook salmon, the primary food source, is in trouble. There's ship traffic, especially noise, and it's not so much ship strikes on the west coast, which is more of an issue on the east coast. This is what we've heard. You can correct me if I'm wrong. There are toxins in the water, and there's the impact of seals and sea lions, which have had a significant increase in population.

Have we missed anything so far? Are there other factors? Raise your hand if you have something to contribute to this question. Have we missed anything that we should be looking at?

Ray, do you want to start?

Mr. Ray Harris: You might have covered it in terms of the noise, but that's a huge factor. Industries such as whale watching, BC Ferries or the ferry system and tanker traffic, I think should be looked at individually rather than lumped together. In terms of the noise, that's a recommendation.

Mr. Ken Hardie: Thank you for that.

Is there anybody else who wants to answer? Is there anything we have missed looking at?

Mr. Spencer Taft: I would have something to add.

Mr. Ken Hardie: Go ahead, sir.

Mr. Spencer Taft: It's really important to consider the long-term cumulative effects of changes in the aquatic ecosystems, for example, especially in a highly urban and developed area like Vancouver and Burrard Inlet.

Herring as a mid-level forage fish used to be incredibly abundant in Burrard Inlet. In 1882, a commercial herring fishery was opened by early European settlers. They primarily fished with dynamite. They would see a school of herring, throw dynamite in the water and scoop the herring out, so by 1898 herring were totally extirpated from Burrard Inlet and never came back.

For one thing, the archeological record shows that in some parts of Burrard Inlet herring made up upwards of 50% of the Tseil-Waututh fish diet. As well, it's an incredibly important food source for chinook salmon and chum salmon and the things the whales eat.

Mr. Ken Hardie: Thank you for that. I will have to intercept here because, unfortunately, we all have a limited amount of time to ask questions, and there's one I really need to get in.

We've flagged herring, particularly in Burrard Inlet. Thank you for that. On seals and sea lions, there seems to be a split opinion as to whether or not we need to apply some remedies there. If we do, is it just in spot locations where they are being very opportunistic versus something a little broader and more general?

Are there any more thoughts on that?

Ray, we will start with you.

•(1200)

Mr. Ray Harris: Just for your information, I do commercial fishing. My boys and I have two boats. We fish the whole coast, and it's changed in the last couple of years from where you hardly saw any seals or sea lions to not being able to get away from them. There are numerous sea lions and seals.

Mr. Ken Hardie: What should we do about that?

Mr. Ray Harris: There needs to be a cull. It's a hard decision that somebody has to make, but it looks like there's no other answer.

Mr. Ken Hardie: Maybe we can refer that to the others.

Ms. Ryan, do you any thoughts on that?

Dr. Teresa Ryan: Yes, [*Technical difficulty—Editor*]

Mr. Ken Hardie: I'm sorry. We can't hear you.

Dr. Teresa Ryan: I'm sorry. There we go.

The seal and sea lion populations are out of control, and they're having a tremendous impact on juvenile survival. We have numbers that we haven't seen maybe ever. The whole ecosystem is out of balance. There needs to be a cull coast-wide. There needs to be a very strategic approach in looking at how to do that effectively.

Mr. Ken Hardie: Okay.

We did hear other testimony which suggested that the transient population might come in and help take care of that. We would have to be very careful whatever we did, because we wouldn't want to harm that group.

On the impact of aquaculture, I'm thinking again specifically of the chinook.

Are there any reflections on that from anybody?

Again, I'll go back to you, Dr. Ryan.

Dr. Teresa Ryan: We do know a lot of science background behind aquaculture. We do need to do more. We need to be clear on whether or not there are impacts between wild and farmed fish. We need to just get the question answered, in particular for juvenile salmon.

We need to have the support systems for the Pacific region and for our first nations to understand if there's an impact on the juvenile survival of salmon in proximity to these net pens that are in a migratory pathway. We need to identify whether we should be mitigating the location of siting, working with the province to remove sites from migratory pathways for juvenile salmon.

We need answers to those questions quickly.

Mr. Ken Hardie: Thank you very much.

The Chair: Thank you, Mr. Hardie.

Now to the Conservative side, Mr. Arnold, please, for seven minutes or less.

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

I thank all of the witnesses for being available today. This is a very important study for both coasts—actually all three coasts. The study refers to right whales, beluga whales, blue whales and killer whales, but I think it can be applied to all whales right around the country.

Mr. Harris, you talked about the history and culture of your first nation. What I questioned the other day with some of the testimony was the population numbers, whether there had been any targets set. I'm wondering if there's an indication of what those historical population numbers were.

Mr. Ray Harris: There was, in our time, a comfortable number that we never had to worry about. Was there a decline? It never came into our thinking that there was a decline in the numbers. We don't have accurate, scientific, one, two, three numbers or those kinds of things. We didn't worry about it. We knew that they were healthy.

Mr. Mel Arnold: Has anybody discussed what potential target numbers should be for those populations of southern resident or any of those different subspecies of the killer whale?

Mr. Ray Harris: I think some are talking about historical numbers. I'm not quite sure whose history they're thinking about, but we're not getting any closer to the comfort level from our feeling.

•(1205)

Mr. Mel Arnold: Okay, thank you.

Something else that's been lightly touched on, but I don't think we've looked at closely enough, is the impact of waste-water discharges around some of the larger communities. Have those been a concern to the first nations as well?

Mr. Ray Harris: They're very much of concern.

Victoria as a city may be working on a treatment centre for their sewage disposal this year, but up until now, since the beginning of Victoria, it has been discharged. There's no treatment centre for the sewage disposal. Some other places, such as the little town of Ladysmith, do the same thing. There's very little treatment, and they discharge. There are three areas on the Fraser River in the Vancouver area that are causing concern about what is being discharged. We don't really know.

Mr. Mel Arnold: Thank you.

This is a bit of a touchy subject, but I'm sometimes known for being overly honest and up front. In one of my previous roles, I was in discussions with a first nations chief from Vancouver Island in which we talked about the traditional harvest of whales. They haven't harvested whales for a number of years, for a multitude of reasons, but in that conversation the chief asked me how I or my organization, as a conservation organization, would feel about their potential harvest of whales in the future.

It was a challenging question to me, but I'm going to pose to all three groups of witnesses here this morning the question of your positions on the traditional harvest of whales. I don't mean killer whales—I don't know whether anyone harvested killer whales. Have there been traditional whale harvests in any of your organizations?

Mr. Ray Harris: Maybe I could start it off.

Conservation is a primary thought that we have. At this point in time, that's the direction of our thinking. Maybe in a distant past when there was plenty, we wouldn't have hesitated to participate.

Mr. Mel Arnold: Does anyone else care to answer?

Dr. Teresa Ryan: Yes, I would like to.

The whale harvesting on the Pacific coast was done primarily by the Nuu-chah-nulth and the Haida groups. They hunted for grey whales. There isn't a group anywhere on the coast that hunted killer whales at all. There were one or two groups that might have chased them off, in river, but there was no hunting of killer whales.

To hunt for grey whales is an aboriginal right. It is still part of a cultural tradition and a source of food for communities. I participated in the Makah celebration at Neah Bay after their successful hunt in, I believe, the mid-1990s.

Yes, then, there is hunting. It is a part of traditions that were a part of the cultural world view before colonialism.

Mr. Mel Arnold: Thank you.

Would each of you like to make any comment on your traditional harvest of competing predators, such as seals and sea lions? Were those part of your traditional harvests as well?

Mr. Ray Harris: For us, it—

Dr. Teresa Ryan: I'll go first.

Yes. In fact, seal meat tastes really good, and so does smoked sea lion meat. I quite enjoy them. It is still a continuing tradition for us up on the north coast, most certainly. I know that there are groups around Vancouver Island who also participate in the harvesting of seal and sea lion meat for food purposes.

Actually, it was a part of the economy, in fact. There are dollar values associated with the exchange of seals and sea lions in the early colonial records.

• (1210)

Mr. Mel Arnold: Does anyone else have a comment?

Mr. Gabriel George: Yes, our Tsleil-Waututh people were renowned seal hunters. It's been a while since anyone in our families hunted seals for food and traditional food use, but we were renowned for seal hunting.

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

The Chair: Thank you.

Now we go to Mr. Donnelly for the remaining time, please.

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

I'd like to thank all of our witnesses for being here and for providing testimony on today's topic.

We're talking about how to help these threatened and endangered whales. Specifically, on the west coast, we're talking about the southern resident killer whale. They were first listed 15 years ago. We've seen not a lot of action on behalf of the government in the last 15 years. It's now coming to a point where we have 74 resident killer whales left. They're starving. Our scientists say that food or prey and noise and pollution are the main cause.

One bit of information is that in 1997, I received a name from the Squamish Nation, Iyem Yewyews, which means "killer whale". It's a name that I wear with pride. It's also a big responsibility because it really focuses on the work that I was doing with salmon.

The government wants to protect killer whales, but it also wants to dramatically increase oil tanker traffic in the Salish Sea, in Burrard Inlet specifically. Since our scientists have recognized noise as one key issue threatening the killer whale, and the fact that the port of Vancouver is a very busy harbour, I'm wondering if I could ask our Tsleil-Waututh representatives to talk about what impact increased tanker traffic could have on these threatened killer whales.

Mr. Spencer Taft: Yes, absolutely. It's a major concern for Tsleil-Waututh. We're currently commissioning and working with experts—whale experts, acoustic ecologists and people who study southern resident killer whales—to better understand the impacts of increased tankers in Burrard Inlet and in the Salish Sea on the southern resident killer whales specifically, as well as the environment in general.

Unfortunately, in this short period I don't know how specific I can get. We're developing a better understanding of the impacts, but it's something that we would absolutely invite further engagement in. We would happily discuss and share the results of our findings as we get them. We're expecting these reports within the coming weeks. It's work that's currently under way.

Generally, the impacts of marine shipping affects communication among the whales. Specifically, the southern resident killer whales hunt by echolocation. It's like sonar—like bats or animals like that. The sound disrupts both the communication among whales and their hunting techniques.

Mr. Fin Donnelly: Thank you, Mr. Taft. I appreciate your four recommendations. I would suggest that if you have further recommendations, for instance, on the oil tanker project or anything else that you think is relevant, you submit it to this committee for our consideration.

Mr. Harris, thank you for being here and for providing your testimony in person. You spoke about the spiritual connection to the whales for your people. You specifically mentioned the mother who carried her dead calf for those many days. You called on the government. You mentioned that DFO, or the government, has fallen down on the job in terms of protecting salmon.

I have two questions. What would it mean for your culture and your people to lose the whale? What do you recommend the government or this committee do to protect whales?

Mr. Ray Harris: Well, I think the government should listen to the local people, to the communities that are concerned. It should get the answers from us, get the proper story from us to look after the whale. The habitat destruction has happened in the Salish Sea, I would say almost past the point of no return.

I think that the Government of Canada.... I'll describe it this way, if I may. The oceans protection plan is a wonderful thing. It's kind of a mystery, and it's used to shut us up when we go to meetings and the government throws out this oceans protection answer. We think it's a good investment, but we don't really know what it is. It's a mystery. We say the government should also have an investment in the rivers, streams and creeks that the salmon rely on, the estuaries that the juvenile salmon rely on.

That investment in an oceans protection plan is seen by us as a way for the government to increase tanker traffic. That's what we see. We need to see the same kind of investment in salmon habitat protection that would increase the salmon.

• (1215)

Mr. Fin Donnelly: In the final 30 seconds, if, heaven forbid, we lose our southern resident killer whales, what would that mean to your people?

Mr. Ray Harris: We lost two whales late this summer, and our people went into almost a depression. We felt a very great sorrow for the loss, so I'm not even trying to fathom how we would feel if we lost any more, never mind the whole thing.

The Chair: Thank you, Mr. Donnelly.

Thank you to our witnesses who appeared both in person today and on video conference.

As we mentioned, anything that you don't think was heard from you at this session, by all means, please make sure you submit it in writing to the committee, and it will be taken into account for our recommendations.

Mr. Ray Harris: [*Witness speaks in Hul'qumi'num*]

The Chair: Thank you.

We'll suspend for a moment, just to change witnesses.

• (1215)

_____ (Pause) _____

• (1220)

The Chair: We'll reconvene and get started.

Before we move on, I neglected to mention the presence of Ms. Kelly Block here today, who is substituting in for one of the Conservative members, Mr. Doherty.

Welcome, it's good to see you here.

There is Jean Yip, as well, on the Liberal side, who is substituting in for Mr. Finnigan.

Sorry for that. I apologize.

We'll get to our witnesses as quickly as possible.

By video conference we have Margot Venton from Ecojustice Canada.

Also by video conference, from the Prince Edward Island Fishermen's Association, we have Ian MacPherson, the Executive Director, and Melanie Griffin, Marine Biologist and Program Planner.

Here in the flesh at the meeting is O'neil Cloutier, with the Regroupement des pêcheurs professionnels du Sud de la Gaspésie.

Thank you, all, for attending in whichever manner today.

We'll go right to Mr. Cloutier for his presentation of seven minutes or fewer. I know he's distributed a document, the staff are now trying to copy it in French as well.

Please begin when you're ready, sir.

[*Translation*]

Mr. O'neil Cloutier (Director General, Regroupement des pêcheurs professionnels du Sud de la Gaspésie): Thank you, Mr. Chair.

You'll be receiving a series of documents explaining lobster fishing in Gaspésie. You must know what this is about. In the Gulf of St. Lawrence, there are many disparities between the different areas. Gaspésie is a special area, as may be the case elsewhere.

The first document is entitled "Lobster Fishing Profile on the Gaspé Peninsula," which you can read in English. The document is very short. It describes our organization, the type of fishing that we do and how we coped with the closure of the lobster fishery in Gaspésie in 2018 as a result of the presence of a whale 18 kilometres from the coast.

The second document contains proposed changes. We'll discuss this matter in more detail. You should be aware that, if the measures included in the management measures for right whale protection applied in 2018 don't change, communities and fishers could suffer serious economic effects in 2019, in the event that whales are again found near the coast.

We must explain that, in 2018, at the start of the discussions between the fishers and the Department of Fisheries and Oceans, or the DFO, regarding the management of right whales, the fishers proposed a necessary cohabitation with the whales. We find that won't be able to absorb the costs involved in the aerial surveillance carried out by the DFO in 2018 for much longer.

The fishers should be able to help develop the measures that will protect the whales and should play a very important role in this process. To that end, we're proposing six changes.

First, the current measures focus on a single principle, which is the protection of whales. We think that a second principle must be added to improve the socio-economic situation, namely, the principle of cohabitation between right whales and populations living off the sea.

Our second proposal, explained on page 2, is the creation of an operating corridor for lobster fishers to a maximum depth of 120 feet. We'll gradually bring the traps toward the coastline and at a lower depth according to the presence of whales. In Gaspésie, the lobster fishery is extremely close to the coast, as you can see in document 1. When we finish fishing, we're stuck to the shore. When a whale is seen at a depth between 130 feet and 71 feet, the traps will be brought toward the coast at a depth of 60 feet. If a whale enters the area where the depth is between 70 feet and 40 feet, the traps will be brought toward the coast at a depth of 30 feet. If the whale enters the area where the depth is less than 40 feet, the fishers will remove their traps from the water. Lobster fishers have never had the opportunity to see a right whale up close, at least in Gaspésie, since they fish near the coast.

Our third measure is to reduce the closure duration of the dynamic area to three days if no whales are present in the area observed. When the department closes a dynamic area, the closure lasts 15 days. In our view, this is too long. In 2018, the whale that caused the closure of the fishery was 18 kilometres away from the coastline. It stayed in the area for only two days before retreating from the coast and joining its group. In a case such as this one, a 15-day closure is far too long.

• (1225)

Our fourth proposal is to suspend fishing in a dynamic area if three whales are present at the same time. According to the measures in Canada, a dynamic area must be closed as soon as a single whale is present. In the United States, three whales need to be present. If I recall correctly, the American government asked Canada to apply the United States marine mammal protection act. As a result, why should we be more Catholic than the Pope? Why don't our measures align more closely with the United States' measures, instead of being so stringent?

Our fifth proposal is to reduce the grid size applied in the closure of dynamic areas. The grids help manage snow crabs during the moult. The grids are six nautical miles wide by ten nautical miles long. We think that the grids are much too long, since they reach the coast. When a whale is 18 kilometres off the coast, the grids close completely. This affects the coast and prevents lobster fishers from fishing. Yet the whale is 17 kilometres from the lobster fishing gear.

Our sixth and final proposal is to reduce the number of grids closed during the closure of a dynamic area. When a whale is present

in one of the grids, the entire dynamic area is closed. The department closes eight grids adjacent to the grid where the whale is located, in order to give the whale sufficient space to swim. We think that the closed area, which covers about 50 square kilometres, is much too large. We're well aware that a whale that approaches the coast will return to the group. The results of the analyses carried out by the Department of Fisheries and Oceans in 2018 are as follows. The group is based in the centre of the gulf. A few whales separate from the group to roam around, but they return to the group one or two days later.

Why should fishers be penalized so severely and for so long? You should know that, in 2018, the lobster fishers in Gaspésie were the only ones who suffered such serious consequences. They incurred operating losses of \$2,774,000, which meant a negative impact in the field of about \$7 million. This impact is enormous for a medium-sized fishing industry. If the whales arrive in the gulf around the third week of fishing, so around May 15, it would be catastrophic for the fishers.

• (1230)

The Chair: Thank you, Mr. Cloutier.

[English]

We'll go now to our next presenter, Margot Venton from Ecojustice Canada.

When you're ready, go ahead for seven minutes or less, please.

Ms. Margot Venton (Director, Nature Program, Ecojustice Canada): I'd like to thank the committee for inviting me to appear today on the issue of protecting endangered whales.

I am a lawyer with Ecojustice Canada, and I am the Director of Ecojustice's nature program. I currently represent conservation organizations that have petitioned the government to issue an emergency order to provide immediate legal protection for endangered southern resident killer whales.

I understand that you heard about some of the specific measures identified in the emergency order petition from Christianne Wilhelmson of the Georgia Strait Alliance on Tuesday.

What I'm going to talk about today is why legally binding and enforceable measures are needed to protect critically endangered species like the southern resident killer whales. We've reached a point where the whales urgently need enforceable and enforced measures to restrict and rebuild chinook fisheries, especially in key foraging areas; to limit disturbance from vessels to ensure that whales can effectively and efficiently hunt, especially in key foraging areas; to aggressively address marine pollution, including the ongoing pollution from vessels; and to plan for and fully address the cumulative impacts of human activity in the Salish Sea before any further increases in vessel traffic are enabled through port development or export expansion.

Strong legal measures are needed today because we have failed until now to address key threats to the whales.

The southern residents were assessed as endangered in 2001. At that time, key threats that continue to be issues today were identified as the cause of decline and as barriers to recovery. These were reduced prey availability, marine pollution and physical and acoustic disturbance from vessel traffic and whale watching. Killer whale experts confirmed these key threats in 2008 and again in 2011 in the resident killer whale recovery strategy, and then again in 2017 in the action plan.

In 2011, the Federal Court of Appeal confirmed that the law required the government to legally protect those biological properties that make critical habitat useful for the whales: abundant and accessible chinook salmon; an acoustic environment that allows the whale to hear subtle clicks and distant calls so that they can hunt and communicate; and water free from harmful pollution.

The court also confirmed at that time that there were no laws to address ocean noise in critical habitat. There were no enforceable rules for whale watching, and there were no legal requirements to protect chinook salmon for whales.

Despite knowing about key threats for almost 20 years and being clear about regulatory gaps for almost a decade, there has been little or no action to date to address threats. The limited action that has been taken has largely been through voluntary initiatives, such as, for example, the Be Whale Wise boater education program and whale-watching guidelines. These voluntary approaches have failed to limit the whales' decline.

The emergency order petition identifies enforceable measures to address threats in the short, medium and long term. I don't have time to review it all, but I want to make four key points about the measures identified therein.

First, legally binding and enforceable protection is important for critically endangered populations. Voluntary programs and conservation agreements can play a role in species recovery. However, for species facing imminent threat of extinction, like the killer whales, there must be a regulatory backstop or enforcement mechanism. This is a population where every whale counts. There is no flexibility left in the southern resident killer whale population. They cannot survive the failure of a voluntary program.

Clear and enforced rules work to regulate conduct. As a result of mandatory vessel slowdowns, for example, on the east coast, no North Atlantic right whales were killed by vessel strikes in 2018. We need similarly strong, legally binding rules to protect the southern residents.

Second, in some cases, such as with ocean noise, an emergency order or protection under the Species at Risk Act would constitute the only regulation of an issue. Ocean noise is not currently regulated under our existing Shipping Act scheme or any other law.

Third, using the tools under SARA is faster and more flexible than the normal regulatory process.

●(1235)

It takes a long time to pass or amend laws, as I'm sure you know, and it takes years to develop regulation. According to the regulatory impact analysis statement, consultation on the recent amendments to the marine mammal regulations began in 2002. It took 15 years to regulate approach distances. Sadly, by the time the 200-metre approach distance was made law, our understanding of the science had evolved to show that vessels within 400 metres of whales can interfere with echolocation. We can't wait another 15 years to make that change.

SARA provides innovative tools, such as emergency orders, that enable rapid, targeted, legally enforceable protection of species and their critical habitat.

Emergency orders for specific species tailor action to that species. They are more easily changed than regulations. You already heard concerns earlier in the week that we need to take a flexible approach to addressing issues such as ocean noise, because we don't fully understand the problem and many mitigation approaches are untested. SARA's tools reflect and respond to that situation. We need to use them.

Fourth, we cannot rely on short-term fixes intended to address existing threats to address the cumulative risk of increased development in the Salish Sea. Increasing vessel traffic beyond the current level can't happen until we better understand how quiet it needs to be for whales to forage efficiently and have a regulatory system in place to ensure that we can maintain ocean noise at that level.

Sadly, we've run down the clock on this species. We are past the time for voluntary solutions. The whales need us to use the power of the law, and they need us to do that right now.

Thank you.

The Chair: Thank you, Ms. Venton.

We'll now go to the Prince Edward Island Fishermen's Association.

I know there are two people, Mr. MacPherson and Ms. Griffin. I don't know if you're sharing your time or if one person is speaking, but when you're ready, you can start for seven minutes or less.

Mr. Ian MacPherson (Executive Director, Prince Edward Island Fishermen's Association): Thank you, Mr. Chairman.

Thank you once again to the Standing Committee on Fisheries and Oceans for the opportunity for the Prince Edward Island Fishermen's Association to present on the important topic of mitigation strategies for the North Atlantic right whale.

My name is Ian MacPherson, I am the Executive Director of the PEIFA. Today I am joined by our Marine Biologist and Program Planner, Melanie Griffin. Ms. Griffin has headed up this important file for the PEIFA and has an in-depth knowledge of our suggested strategies.

We would like to give a brief recap of what the PEIFA is advocating on this file, and discuss 12 specific recommendations we have made, not only to Fisheries and Oceans Canada, but also put forward at the recent minister's round table on North American right whales held last week in Halifax, Nova Scotia.

Federal Fisheries and Oceans Minister Jonathan Wilkinson stated last week that we need to come up with protocols that promote a coexistence of the fishing industry and the preservation of the North Atlantic right whale population.

The PEIFA has treated this issue very seriously, as right whale deaths were reported in 2017. Our focus was to provide our members with current and factual information. In April 2017, the PEIFA formed a new North Atlantic right whale multispecies working group to focus on this issue.

Presentations to our committee have included DFO, and renowned right whale expert Dr. Moira Brown. Dr. Brown's presentation helped us better understand the behavioural characteristics of these magnificent mammals.

We would like to note that the fishing sector has been getting much of the focus in mitigation strategies. It is equally important that the shipping sector also provide solutions, as the majority of the 2017 deaths were caused by blunt force related to large vessels.

In concluding my opening remarks, I would also like to express our disappointment that the lobster industry will not be appropriately represented at the upcoming National Marine Mammal Peer Review Committee. This committee will be discussing the risk of interactions with fish gear and collisions with vessels. It is our understanding that three representatives of the snow crab industry will be in attendance.

The primary reasons given as to why we could not participate was that the committee had been pre-selected, and the meeting room was at capacity and increasing the size of the room would create logistical issues.

I will now ask Melanie Griffin to briefly cover off our 12 recommendations.

We would then be pleased to answer any questions the committee may have.

● (1240)

Ms. Melanie Griffin (Marine Biologist and Program Planner, Prince Edward Island Fishermen's Association): Thank you.

Today, the closures have had little impact on the Prince Edward Island harvesters, but considering there's really only two years of historical data, the PEIFA is aware their distribution could shift based on their food source. This shift could put the whales in direct conflict with P.E.I. fishing grounds.

To monitor the impact on the industry in coastal communities, the PEIFA is preliminarily proposing the following management measure changes. Some of these have been overlapping with those of the Maritime Fishermen's Union as well.

The first one that we have is one that was mentioned by the MFU, and that is depth. To our understanding, the North Atlantic right whales have historically not been spotted in areas with less than 20

fathoms of water. The PEIFA proposes that no closure occur within 20 fathoms unless there is actually a whale spotted in the 20-fathom area of a dynamic closure zone.

Second, in terms of gear type, the PEIFA has harvesters in three different LFAs and the physical oceanography of the areas results in different gear configurations being used by different fishers. There's a document that was already passed out that lists the current standardized configuration, but what the PEIFA is proposing is that gear configuration include some options to better suit the fishing location, the limitations in that area and the physical oceanography of the area. This could include the option of weak links rather than sinking ropes. All species harvested and locations that they're being harvested from should not be painted with the same brush considering that they are all dealing with different scenarios.

Third is dynamic closures near coastal areas. The current grids being used for dynamic closures are all the same size, so this means closing large areas for one whale. While this seems fine in areas with less fishing activities, it could be modified in coastal areas where the abundance of harvesters vastly increases. If the 20-fathom exclusion zone is not an option, then the PEIFA proposes to reduce the size of the grids as they approach coastal areas as a gradient to reduce the amount of coastline affected by closures.

Fourth is the simplified reporting of marine mammals. In the past year, there were a number of different phone numbers and email addresses that needed to be used to report a marine mammal sighting. We could improve the reporting of this if it was simplified and the fishers had simply one phone number to call rather than seven.

Fifth is the snow crab opening. Currently, the snow crab fishery opens the same day for all harvesters. PEIFA proposes that this be flexible to open when it is safe for those who are ready and are clear of ice. This is a quota fishery, so the sooner fishers are on the water, the sooner they can catch their quota and be off the water prior to the arrival of the whales.

Sixth, on static and dynamic closures, the PEIFA proposes that all closures be managed through dynamic closures with no static closure zone. Alternatively, the PEIFA proposes that the static closure happen when a whale is confirmed to be entering the Gulf of St. Lawrence and not a chosen date based on historical data. In 2018, there was approximately one month of closed time in the static zone prior to the arrival of the whales. This closure should be minimized.

Seventh is the removal of traps in a dynamic area. We're proposing that this allowance be extended to 72 hours.

Eighth is the dynamic closure time. Based on the experience in 2018, the PEIFA feels the 15-day closure could be shortened to as little as five days.

Ninth is lost gear. PEIFA would like to see a mechanism to report found gear to offset the numbers presented in terms of lost gear. We run a gear retrieval program here in P.E.I., and all gear that is lost is actually partially found as well but that's not included in the reporting system.

Tenth, the PEIFA is requesting that DFO have a plan in place to promote factual information getting out to the media on what's being done in Canada.

Eleventh, 2019 will be the third year the whales are in the gulf, assuming they arrive, with mitigation measures only in place in 2018. Assuming this is an ongoing issue, the PEIFA feels flexibility needs to be built into the plan to ensure the health of the North Atlantic right whale population while minimizing the impact to the harvesters and coastal communities.

Twelfth, and finally, is the number of whales in a grid to urge a closing. We're suggesting that there be three or more whales present before a grid is closed.

● (1245)

The Chair: Thank you.

We'll go right into questioning on the government side for seven minutes or less.

Mr. Morrissey.

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

I compliment both organizations from the east coast on their list of recommendations. They are reasonable recommendations based on fishing practices and activities in the area.

My first question will be for Mr. Cloutier.

Nowhere in the recommendations or your brief was there any reference to mitigating or minimizing the impact on the fishing area versus if DFO has to make a decision, and it's going to err on one side or the other. If one has the option, should precautionary decisions weigh heavily on market access and protecting market access, primarily to the key U.S. market, which is still approximately 60% of our market area, or on protecting the maximum amount of fishing area to be used by fishers?

If you would comment, Mr. Cloutier, and then I would ask Mr. MacPherson to comment as well.

[*Translation*]

Mr. O'neil Cloutier: We believe that both concerns are valid. The market issue is very important, but we must still have something to sell. If we can't fish, we have nothing to sell.

All the proposals submitted to the department today, but also in June when it closed the fishery, are strictly intended to allow fishing activity while protecting right whales. We're giving fishers some of the responsibility for ensuring the survival of the whales.

We still believe that it isn't necessarily fishing that poses a risk to the whale, but the way that the fishing is done. We're working a great deal with the department, as has always been the case, and with fishers to ensure that they fish in an appropriate and reasonable manner.

In terms of right whale protection, fishing in an appropriate and reasonable manner means that fishers mustn't leave excessively long lines floating on the water. You must understand that, while hunting, a whale keeps its mouth open to filter the water. If a line is floating parallel to the whale, meaning on the surface, the whale will catch the line in its mouth. However, if the line is vertical and very tight, the line will touch the whale's nose and veer to the left or right. There's much less risk in the second case.

In addition, our fishers practise line fishing, which limits the number of lines. They attach six, eight or ten traps to a single large line that lies on the seabed, rather than using one line per trap.

[*English*]

Mr. Robert Morrissey: Thank you.

Ian.

● (1250)

Mr. Ian MacPherson: I would add our take. I guess last week we were encouraged by Minister Wilkinson's use of the term "coexistence", and I think that has to be paramount for any approach that we do. We'd like to move forward here, but in doing the reassessment of how 2018 came in, and some of those regulations, industry was disappointed. We had some good dialogue initially with DFO. Many of us attended the minister's round table—Mr. LeBlanc's round table—and offered our input. Unfortunately, there was no follow-up after that or discourse before the season came in, so a bunch of regulations and new things came in without some good dialogue with industry. I think we've learned from that.

As a committee, you probably heard two or three of these suggestions, maybe more, from different organizations. I can tell you we didn't do this as a group exercise, so the fact that you're hearing a number of these repeated means that they're things that make sense to the fishing industry. We hope that both the federal minister and the committee support these measures being put in place for 2019.

Mr. Robert Morrissey: Thank you.

I'm going to share my time with my colleague Mr. Fraser.

[*Translation*]

Mr. Colin Fraser (West Nova, Lib.): Thank you.

Mr. Cloutier, I have a question for you.

I gather that your organization's fourth proposal is to suspend fishing in a dynamic area only if at least three right whales are present at the same time. I gather that these are the American rules and that your organization wants the same rules for Canada.

Is it strictly a matter of remaining consistent with the United States, or are there other reasons for setting the number at three right whales?

Mr. O'neil Cloutier: The basic principle of the United States marine mammal protection act is that whales must be protected when they're feeding. However, it's recognized that this phase requires the presence of at least a few whales, in general a minimum of three, that hunt together. The whales push the food together and are therefore able to feed.

When we see a single whale, the whale isn't necessarily feeding. Instead, the whale is passing by and roaming around. As a result, we're arguing that the Canadian measures are far too stringent, given the basic principle of the American legislation. This principle, which the United States has asked Canada to apply in its territorial waters, is that the whales must be protected when they're feeding. This requires the presence of at least three whales.

Mr. Colin Fraser: That's fine, thank you.

[English]

The Chair: Thank you.

Now, from the Conservative side, we'll have Mr. Calkins for seven minutes or less, please.

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

To start, I'm going to ask some questions of our witness from Ecojustice.

Ms. Venton, the current closure of the recreational and commercial fishery zone off the southwest coast of Vancouver Island does not follow the boundaries that were agreed upon by a number of stakeholders, including department officials, as a result of meetings in November of last year. In fact, the boundaries that are currently under closure are exactly the same boundaries that were presented by Ecojustice to the minister. It came as quite a surprise to a number of fishing organizations, DFO scientists and DFO biologists that the boundaries they recommended are not the ones that are currently being imposed.

I'm wondering whether any action, any threats of legal action or anything of that sort, was taken by Ecojustice with respect to the minister's office, resulting in Ecojustice getting exactly the boundary closures they wanted, given all the consultations that happened that suggested the boundaries should be different.

Ms. Margot Venton: I should start by clarifying that several foraging area closures were proposed, and that the actual closures are not identical to the ones set out in our petition. For example, the approaches to the Fraser River are only a partial closure, and the areas along the Juan de Fuca are not actually the same as those proposed by killer whale scientists.

I can't speak to meetings I wasn't at in November—

• (1255)

Mr. Blaine Calkins: That's fair.

Ms. Margot Venton: —so I have no idea what different opinions may have been put forward.

The closure areas proposed in the petition are based on scientific information presented by whale scientists. I believe the committee heard from Dr. Lance Barrett-Lennard, who was endorsing and supporting the petition when it was filed in January. We believe

those full closures need to be put in place. They haven't been put in place as yet.

The Department of Fisheries and Oceans is in fact trying to run a trial on the west coast Juan de Fuca closures, in which they will compare open areas versus closed areas. As I mentioned, though, experimenting with this critically endangered population is not an appropriate thing for the government to be doing.

Basically, those full closures are what the scientists have recommended, and [Technical difficulty—Editor] is leading this policy-making decision because of the imminent threat to the killer whales.

Mr. Blaine Calkins: I'm glad you mentioned the imminent threat to the killer whales again. I'm not going to disagree that there is an issue with the population of the southern resident killer whales, but your use of the word “imminent” suggests that if we don't do something absolutely immediately, the killer whales will be extinct.

However, every report I see seems to suggest that there is a 25% to 50% chance of the population being extirpated within the next 100 years, and that the current population of 76 southern resident killer whales is not the all-time low. As a matter of fact, the traditional population of the whales is somewhere between 70 and 90 whales.

I'm not going to argue the conditions of the pods, and I'm not going to argue about their health and well-being. I'm not going to argue any of those things with you, but I'm just wondering about the use of the word “imminent” when the scientific community seems to suggest that the actual extirpation threat is less than 50% in the next 100 years based on current management strategies.

Ms. Margot Venton: Just to be clear, the imminent threat determination is made under the Species at Risk Act. That determination was made by the Minister of Fisheries and Oceans and the Minister of Environment and Climate Change in May. That was based on scientific assessment of the rapid decline that we've seen in the last few years and the absence of a successful birth in that population since 2015.

A couple of things to remember about the population of the whales when you're looking at the time frame you just referred to is that it starts after the removal of...the live capture of whales to put them in aquaria, which happened in the much earlier... With the southern resident population in particular, numerous individuals were removed over a period of decades to display in aquaria. The time range that I believe you're referring to starts after the end of that period. You're starting with a diminished population.

Also, it's important to remember that when you talk about extirpation, that's when the species is gone. With a long-lived population like the southern resident killer whales, a species can be effectively extinct, unfortunately, before there are actually no whales.

That's what we saw with the killer whale populations in Alaska that are now gone. They were deemed effectively extinct, unfortunately, while there were still actually whales alive.

Mr. Blaine Calkins: Are there any management plan proposals that Ecojustice would be prepared to support that don't involve the complete closure of recreational and commercial fisheries?

Ms. Margot Venton: I think we have to be really clear. We're talking specifically about chinook fisheries. We're talking specifically about the south coast chinook fisheries, not all chinook fisheries. As a response to the extremely poor returns this year, where we unfortunately [*Technical difficulty—Editor*] showed throughout the season almost a flatline return for these places. There are multiple conservation reasons why, at this moment on the south coast, we need to stop the commercial and recreational harvest of chinook in those key foraging areas.

That could change if those medium-term measures we're talking about were implemented, where we actually manage chinook for recovery as opposed to just exploitation.

• (1300)

Mr. Blaine Calkins: Thank you very much.

Mr. Cloutier and Mr. MacPherson, thank you for your testimony.

I'm just asking a general question. Based on the closures that happened, were there any recommendations that the fishermen were able to provide before DFO actually implemented some of the closures that they did?

[*Translation*]

Mr. O'neil Cloutier: The Department of Fisheries and Oceans didn't hold any consultations on the application of the management measures for right whale protection. At the time, the lobster fishing industry believed that the measures would affect only snow crab fishing, which takes place in the middle of the Gulf of St. Lawrence. We didn't have any discussions with department. On April 28, 2018, the opening day of the lobster fishery in Gaspésie, we learned that we would need to comply with measures, including very restrictive measures for lobster fishing.

[*English*]

The Chair: Mr. MacPherson, I'll allow a very brief answer, if you have one.

Mr. Ian MacPherson: I just want to mention some of the specific ones that might have come forth. Certainly there was a discussion around the seasons opening earlier. If the community did not have impacts from ice, they could go sooner. The rationale behind that, which was put forth some time ago, was that the sooner traps are in the water, the sooner they'll be out, hopefully out before the whales arrived in 2018.

The Chair: I'll close off by saying thank you to our witnesses. If you have a written submission that you can send with your recommendations attached, we'd certainly be open to having that to include in our final discussions.

Is the committee in agreement to extend the time?

Some hon. members: Agreed.

The Chair: We'll allow a round of questioning for Mr. Donnelly, for seven minutes or less.

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

I think we should look at planning a full round of questions. I appreciate the committee's indulgence.

Thank you to all the witnesses for providing testimony.

Ms. Venton with Ecojustice, I'd like to start off with you. I hope you can hear me.

Ms. Margot Venton: I've just lost it. Wait, I have you again.

Mr. Fin Donnelly: Okay. The government wants to protect whales and, specifically, the southern resident killer whales on the west coast, but it also wants to increase tanker traffic significantly with its proposal of the Trans Mountain pipeline. If that were to go through, what do you think that would mean, given that noise has been identified as one of the key threats to the southern resident killer whale? What would this project, if it were approved, mean for those whales?

Ms. Margot Venton: That's a really important thing to be aware of. During the first round of National Energy Board hearings, the board was presented with evidence produced by a collection of conservation biologists. It's an analysis called a population viability assessment, and it looked at the trajectory for population growth with different scenarios of increasing threat.

It found two really important things. First of all, it found that if the project went forward with the increased pressure from the shipping noise, which exacerbates the existing and apparently worsening situation with chinook scarcity, the population decline increased significantly. So we push the whales further toward extinction more quickly.

The other hopeful thing it showed us, however, was that if we can keep threats at bay and increase chinook, then we can actually push the population toward recovery, so that we aren't, although it seems dire, dealing with a population that can't [*Technical difficulty—Editor*]. In order to do that, we say we have to deal with existing threats. We have to take these urgent, quick actions to reduce the stress on the population right now. Before we consider any significant expansion of shipping traffic, we have to really understand that safe threshold, and we have to really understand what a biologically relevant amount of ocean noise is for this species, which is something we don't understand now.

We can't proceed, I say, with that project, based on the science, until we figure those pieces out and ask if it is even possible to mitigate noise, given the existing noisiness and busyness of the Salish Sea.

• (1305)

Mr. Fin Donnelly: Great. I think even the Federal Court of Appeal took that into consideration as well on this project. I appreciate your comments.

You've provided testimony to the committee saying that Ecojustice and other groups have already presented the importance of providing and of encouraging the government to issue the emergency order. You talked about SARA and using legally binding tools.

You provided some historical context from the turn of the century when we were looking at this issue when these particular whales were listed as threatened and endangered, and then in 2003 eventually listed. You also talked about cumulative impacts and said the government has failed to address key threats. I'm wondering if you could talk about how the government could address cumulative impacts to help these whales and why the government for 15 years, for instance, hasn't addressed these key threats.

Ms. Margot Venton: I honestly have no answer for why the government hasn't. I don't know why the government hasn't addressed threats to date. It is disappointing, but I think with respect to what to do now—and I am heartened by the clear interest and commitment to addressing this issue at this point—we need to look with respect at, for example, the ocean noise. We need to ask ourselves if there is a threshold for safe functioning ecosystems in the Salish Sea.

We don't have any regulation of ocean noise in Canada right now. We need to have that regulation in place to be able to cumulatively manage. I think we need to regulate shipping in the short term, obviously, reduce the speed of vessels where we can, consider the kinds of measures that are being considered right now, like lateral displacement, but longer term we need to take a more comprehensive approach. We need to regulate ocean noise.

I'm certainly heartened to see that provision has been made in the recent omnibus bill that would enable that regulation to happen. Our concern is that, as I said earlier, it could take years to get to that place of formal regulation. In the interim, we need to use those powers of the Species at Risk Act to regulate ocean noise to the degree that we can, based on our existing knowledge right now.

Mr. Fin Donnelly: Thank you, Ms. Venton.

In the remaining minute, I'd like to ask Mr. MacPherson a question.

You provided some reasonable solutions and suggestions, which you've identified in writing, and we appreciate that. In general, do you feel there has been any progress in terms of consultation with the fishermen in your specific association with the government?

Mr. Ian MacPherson: That's a standing offer to anyone in government.

I wasn't totally clear after the round table last week about how much interaction there's going to be between DFO and industry before the conditions are set for the 2019 fishing season. That's something we'll continue to monitor very closely, and as I stated very early on in our presentation, that was probably one of the biggest problems with last year. We had good consultation and good dialogue, but at the end of the day, if you don't know which conditions or suggestions are going to be adopted or not, that can be the source of a lot of frustration for the fishing community.

● (1310)

The Chair: Thank you, Mr. Donnelly.

Again thank you to our witnesses.

That concludes our session for today, so far. We'll have another one later today.

The meeting is adjourned.

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

SPEAKER'S PERMISSION

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

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

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

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

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

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

PERMISSION DU PRÉSIDENT

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

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

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

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

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