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# Standing Committee on Environment and Sustainable Development

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**Thursday, April 22, 2010**

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**Chair**

**Mr. James Bezan**



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• (1535)

[English]

**The Chair (Mr. James Bezan (Selkirk—Interlake, CPC)):** I call this meeting to order.

We're running a little late. We had an exciting afternoon in the House, with the arrival of all of the Olympic athletes and the Paralympic athletes. It was fantastic seeing all of those great representatives of our nation in Vancouver.

We have an agenda before everyone. This is meeting 11. We'll go for one hour with the Congress of Aboriginal Peoples. We have Mr. Alastair MacPhee, and he's joined by Joshua McNeely, who's no stranger to this committee. He was here just a week ago.

Then by video conference we have, from the Walpole Island First Nation, Councillor Kennon Johnson. Welcome.

You have somebody with you there, assisting you.

**Mr. Kennon Johnson (Councillor, Walpole Island First Nation):** Good afternoon. Clinton Jacobs is with me.

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

We're going to break at 4:30. Then we'll have the National Aboriginal Council on Species at Risk, NACOSAR. Dean Holman, the coordinator, will present to committee for one hour.

At the end of that meeting we'll save some time to have a quick in camera discussion about the Species at Risk Act report, how we move forward, and possible future panels. That shouldn't take too long.

We'll proceed to opening comments, beginning with Mr. MacPhee for ten minutes or less, please.

**Mr. Alastair MacPhee (Policy Advisor, Congress of Aboriginal Peoples):** Good afternoon, Mr. Chair and members of the House Standing Committee on Environment and Sustainable Development. Thank you for the invitation to appear before this committee as it undertakes the five-year review of the Species at Risk Act for the purposes of section 129.

I am pleased to have with me today my colleague, Joshua McNeely, who has been on the front lines of SARA implementation.

It's a pleasure to be here today on the traditional and unceded territory of the Algonquin peoples. Here at the intersection of the Ottawa, Gatineau, and Rideau Rivers, aboriginal peoples met, traded, and negotiated for generations.

Aboriginal people are the traditional keepers of Mother Earth, and we have a solemn duty to prevent species from becoming at risk and to protect those at risk. On this 40th anniversary of Earth Day, it's appropriate that we are talking about this environmental issue.

The Congress of Aboriginal Peoples is one of the five national aboriginal organizations that represent aboriginal peoples in Canada. Our constituency is made up of status and non-status Indians living off reserve and Métis. CAP has been in existence for 39 years and has been involved in all of the major constitutional events during this time. We were the first national aboriginal organization to establish a bilateral relationship with the federal government.

The UN Intergovernmental Panel on Climate Change has stated that the surface temperatures of the earth are warming up at unprecedented rates, and that climate change will directly and negatively impact the spatial and temporal conditions in which species currently live. DFO scientists have clearly stated that climate change will have significant and widespread impacts on species at risk. Climate change will accelerate, and we need to have the flexibility to adapt to this reality.

With a rapidly changing climate, the David Suzuki Foundation estimates that 45% of Canada's habitat could be lost by the end of the century, along with 20% of species and vulnerable ecosystems. This is a legacy that none of us wants to pass on.

Beginning in 1998, CAP participated in an aboriginal working group focused on species at risk. We sometimes had different political views, but by and large this did not prevent us from working together. Our mutual concern was Mother Earth and the protection and recovery of species at risk. This aboriginal working group was responsible for the high profile of aboriginal interests in SARA.

The Species at Risk Act went through a lengthy process before coming into force. Bill C-65 died on the order paper in 1997. Bill C-33 died on the order paper in 2000. And Bill C-5 finally passed in 2002 and was proclaimed into law in June 2003. When the House of Commons standing committee went through the process of dealing with Bill C-5, the resulting legislation included a significant role for aboriginal peoples. This was no accident, because the aboriginal working group had worked on the various bills leading up to the Species at Risk Act.

In 2003, the House of Commons Standing Committee on Environment and Sustainable Development unanimously passed section 8.1 of the act, which launched NACOSAR. This was a strong endorsement of the role that aboriginal peoples should play in species at risk. It's the only place in Canadian legislation where an aboriginal council advises a minister of the crown. NACOSAR also provides advice and recommendations to the Canadian Endangered Species Conservation Council, comprised of the FPT ministers responsible for wildlife species.

The aboriginal traditional knowledge subcommittee of COSEWIC is a major achievement, as it's where aboriginal traditional knowledge is considered in the assessment of species of risk. A recognition of the importance of ATK in SARA is vital to success.

CAP believes that the voice of aboriginal peoples is strongest when it's a united voice. We do not view the species at risk agenda as a place to pursue narrow political interests or to engage in political posturing. The elders have repeatedly told us that this is a time for all aboriginal peoples to speak and act on this critical environmental issue. The Species at Risk Act clearly sets out that aboriginal people must have a full opportunity to participate in its implementation from beginning to end.

• (1540)

Loss of diversity is considered one of the world's most serious environmental problems. We know that a useful yardstick for measuring the health of a country's biodiversity is the number of species at risk. In Canada, that number is growing. The more work that COSEWIC undertakes, the more species are added to the list. COSEWIC has classified 598 species in various risk categories. There are only 180 recovery strategies in place. One action plan has been completed, two are proposed, and five are in draft.

The architecture of SARA, as some of you already know, is a species approach, and at some point a fundamental shift to the ecosystem approach needs to take place. You've heard this before from the Auditor General, from the Stratos report, and from numerous other witnesses at this table. The numbers tell the story. If we continue on the species approach, we'll never catch up.

From your work on this committee, the members understand that the Species at Risk Act is a complex piece of legislation. It deals with three federal departments, interjurisdictional issues, a wide variety of stakeholders, and aboriginal peoples. It's actually hyper-complex.

Back in 2003, when SARA came into force, it brought many new responsibilities to Environment Canada, the Department of Fisheries and Oceans, and Parks Canada. To be fair to these departments, the implications for delivery were not well known, and it was only through experience that they came to understand the real scope of this legislation. Similarly for aboriginal peoples, we were unsure how NACOSAR, the ATK committee, and the national aboriginal organizations would interact to ensure that the essential role of aboriginal peoples occurred in the conservation of wildlife.

For DFO to deliver on SARA requirements for aquatic species, they relied on volunteers, non-governmental organizations, universities, and aboriginal organizations. This is one of the fundamental aspects of this agenda. The cooperative voluntary

approach is the linchpin of the SARA process. CAP is pleased with the proactive approach of DFO. We've developed a positive relationship. We've worked on many species at risk, such as the porbeagle shark, American eels, banded killifish, the wolffish, the piping plover, and Atlantic salmon.

The Species at Risk Act is well written and includes many sections that reference aboriginal peoples. In addition to the legislation, there are other processes where aboriginal peoples are engaged. For example, Parks Canada has established an aboriginal consultative committee that advises the CEO of Parks Canada. CAP would like to participate on this committee and be engaged with PCA.

The participation of the national aboriginal organizations in the policy and planning subcommittee to NACOSAR is vital for the flow of the information to the council members and to assist in reaching consensus. CAP is opposed to the NACOSAR coordinator being housed outside of Environment Canada and the secretariat housed within Environment Canada. The role of the council is to advise the minister on the administration of the act. Currently the coordinator is housed outside, in the offices of the Assembly of First Nations, and is perceived to be influenced and biased in that location. In addition, if the coordinator for NACOSAR is working out of an office at the AFN, how can he be engaged with the administration processes of SARA?

In the development of recovery strategies, the aboriginal voice is lost. There is a need to strengthen the role of aboriginal traditional knowledge in the recovery strategies, action plans, and management. We are not expecting significant changes to this legislation; however, we would advise the following modifications to strengthen the ATK role in recovery strategies.

Currently, under paragraph 39(1)(d), the recovery strategy must be prepared in cooperation with:

every aboriginal organization that the competent minister considers will be directly affected by the recovery strategy

Because there's no ATK advisory body in the recovery and action plan stages, government departments and academics are leading the ATK gathering process without understanding the sensitivities involved. In some cases, we've had situations where ATK holders have been approached by multiple parties on various days seeking the same information.

In order to strengthen the role of ATK in recovery, CAP recommends that section 40 of SARA be modified to read:

In preparing the recovery strategy, the competent minister must determine whether the recovery of the listed wildlife species is technically and biologically feasible. The determination must be based on the best available information, including information provided by COSEWIC and the ATK subcommittee.

•(1545)

CAP would recommend that paragraph 41(1)(a) be modified similarly, so it would read:

(a) a description of the species and its needs that is consistent with the information provided by COSEWIC and the ATK subcommittee;

Then again, that 41(1)(b) be modified to read—

**The Chair:** Mr. MacPhee I don't believe you have to read through all of your—

**Mr. Alastair MacPhee:** You have each one of those in front of you.

**The Chair:** And you need to wrap up. You're running out of time.

**Mr. Alastair MacPhee:** Okay.

The non-derogation clause in section 3 of SARA is something we don't support. That's also in your recommendation. We don't accept it because it's not in the language of the Constitution, and it has to be rewritten to be consistent with paragraphs 25(a) and 25(b).

The compensation program is one of the remaining areas for which there's been no consultation on compensation, and it's been a long-outstanding issue. There's no policy framework on that.

Regulations and enforcement are things on which we've received undertakings in the past from CWS. We've been involved in drafting regulations and enforcement, but we've never been involved in that part at all.

To wrap up, we recognize that flexible approaches are needed to recognize cultural differences and sensitivities across Canada. We know from experience that capacity building is essential to build effective programs and policies. The key is to have multi-year funding that would enhance the species at risk and ecosystem recovery planning. A sharing of best and innovative practices under SARA would strengthen the involvement of aboriginal peoples and would be more effective in producing the results.

Thank you. *Meegwetch.*

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

Now we'll go by video conference to Councillor Johnson. Can you please give us your comments on behalf of the Walpole Island First Nation?

**Mr. Kennon Johnson:** Good afternoon, everybody. I certainly appreciate and thank you for this opportunity to speak on this review. I won't go into too much detail, as we have a number of comments to make.

The Walpole Island First Nation supports the intent behind the federal Species at Risk Act, to protect and conserve wildlife species. However, Walpole Island First Nation does not consider the single species focused approach taken by SARA will save species at risk. Walpole Island First Nation takes a more holistic approach that focuses on biodiversity and maintaining human ties to the land. Thus far, SARA has fallen terribly short in meeting the majority of its objectives.

Issues with SARA.

Cost: the recovery planning process has been carried out in an inefficient and ineffective manner. The only success stories to date appear to be those in which species have been found to have not been at risk in the first place. Walpole Island First Nation agrees with the intent of the convention on biodiversity. However, saying that a single species approach, as SARA does, fulfills the objectives of the convention is quite a stretch.

SARA has been in place since 2003, yet seven years later SARA-responsible authorities have neglected to develop the policies, procedures, and legal instruments necessary for implementing and upholding the act, especially where critical habitat designation and protection are concerned.

SARA-responsible authorities continually use a type of risk management approach that has them doing as little as they have to in order to uphold the honour of the crown when consulting with us. First nations should not have to take the crown to court to make it meet its duty to consult us properly. Tokenism on the part of SARA-responsible authorities when consulting with first nations must end. In what is supposed to be a time of reconciliation between Canada and aboriginal peoples, the inequitable burdens that SARA has placed on aboriginal communities have undermined that spirit at almost every turn.

The failure of the government to work in good faith with aboriginal peoples on the conservation of biodiversity, coupled with the failure to uphold the duty to consult stemming from section 35 of the Constitution Act, will ultimately lead to a major breakdown of relationships, Caledonia-type standoffs, and additional losses against the Canadian government filed by and on behalf of aboriginal nations.

NACOSAR is underresourced, ineffective, and inaccessible to aboriginal peoples. The little bit of funding that was designated for NACOSAR was not received. It lacks any staff or legal counsel. It is not effective as a serious mechanism for providing first nations input. The original concept for NACOSAR, before it got watered down when SARA was first enacted, should be revisited. That concept would have seen six aboriginal leaders forming a council with three federal ministers of the crown to provide advice to the Canadian Endangered Species Conservation Council.

Even though attempts have been made to carry out the section 35 Constitution Act duty to consult, resources for being consulted on a level playing field are rarely, if ever, taken into consideration. Attempts to identify critical habitat on privately held lands have elicited the destruction of would-be critical habitat, resulting in the destruction of species habitats with no legal recourse. Repeated attempts by Walpole Island First Nation to move forward with section 11, 12, and 13 agreements under SARA to support recovery and conservation actions have failed as a result of unwillingness and lack of cooperation by Environment Canada, the Department of Fisheries and Oceans, and Parks Canada.

•(1550)

Walpole Island First Nation's resentment about SARA: first nations are the only communities affected. Critical habitat designation is equal to a land grab if done without first nations consent. Critical habitat orders on reserve lands under section 58 should require first nations consent. On the lack of certainty and clarity on compensation, there is a lack of certainty about whether holders of certificates of possession under subsection 20(2) of the Indian Act and the first nations as a whole are included within the scope of section 64 of SARA. Also, if our traditional territory outside of our reserve, which includes our aboriginal title claim area, is affected by critical habitat orders, we have seen nothing to say that compensation would be awarded to us for those effects. Compensation should be awarded for these kinds of serious impacts on our rights and our claims.

On the growing population and housing shortage on Walpole Island First Nation and no accommodation for or consideration of this, the consultation requirements in SARA have led to nothing more than tokenism when our first nation has been consulted. When we provided input into the development of a recovery strategy, our input was not responded to in any detail and our input was not reflected in the strategy. There is little respect for what first nations communities are doing with respect to conservation.

Aboriginal peoples have different ways of caring for the land versus SARA's approach. For example, in Walpole Island First Nation, the land is us. Land is sacred, a sacred responsibility. We have different lists of species from SARA. We would include sweetgrass or other important plants in decline. We wouldn't prioritize species as in SARA. All are equally important. A holistic approach is necessary, rather than SARA's individual species approach.

Walpole Island First Nation has different ways of working with people to care for the land versus SARA's approach; community-based conservation, use of and involvement with the land is critical. "Out of sight, out of mind" equals the biggest threat to habitat. We need to save the land and people at the same time. Each nation has its own approach to caring for the land. One solution doesn't fit all.

Walpole Island First Nation is doing something right. The first nation is an oasis of green with over 60 species at risk, compared to surrounding regions and non-native communities. Walpole Island First Nation equals good conservation. The proof is in the pudding: our first nation is home to some of the most diverse habitats remaining in Canada, including tallgrass prairie and oak savanna habitats, deemed globally imperilled due to habitat losses elsewhere; one of the largest contiguous tracts of woodlands and forests in southern Ontario; and one of the largest coastal wetlands systems in the Great Lakes basin and rich coastal waters.

Beyond SARA, Walpole Island First Nation wants to co-lead in its traditional territory with the federal crown on conservation and recovery planning and implementation, focusing on biodiversity. To achieve this objective, at least in part, SARA should be amended at least so that recovery strategies and action plans as well as critical habitat orders on reserve lands would require first nations consent. Walpole Island First Nation wants to govern species at risk work on

the first nations land base and to lead in policy and strategies throughout our traditional territories.

•(1555)

Walpole Island First Nation wants to share with others values and knowledge so that species can survive and thrive.

Original Anishnaabeg teachings and principles will lead to healthy land, people, and values in the future for the benefit of everyone.

Walpole Island First Nation wants what is shared to be honoured and treated with respect.

*Meegwetch.*

**The Chair:** *Meegwetch.* Thank you very much for your opening comments, Councillor Johnson.

We have roughly half an hour with our witnesses, so I'm going to suggest that we just do the first round of seven minutes each.

With that, Mr. McGuinty, could you kick us off?

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

Thank you, gentlemen, all four of you, for being here.

Could I start with CAP for a second and get a sense of this fuller integration of aboriginal traditional knowledge?

I am very naive in asking this question. I know a little something about ATK. But is it the view of the Congress that ATK ought to be treated equally with respect to, for example, scientific findings by COSEWIC? Should ATK knowledge be able to trump COSEWIC science? I don't understand exactly why there is this need, I guess, to more mainstream ATK knowledge. I guess by implication what you're saying is that aboriginal traditional knowledge is being ignored or marginalized or that COSEWIC science is trumping ATK. Can you help us understand?

•(1600)

**Mr. Alastair MacPhee:** Thanks for the question. I'll take one step backwards so you can see how this evolved.

When the original legislation was being negotiated, the aboriginal working group had a very firm position that there would be COSEWIC, which would be the scientific side, and there would be an ATK committee, which would be absolutely equal and parallel. We butted heads over that. I'm sure that my friends from Walpole Island remember that. Dean Jacobs was there. We spent a lot of time fighting over this. Finally, the aboriginal organizations compromised and agreed to an ATK subcommittee within COSEWIC.

So working out exactly how it works within COSEWIC has taken some time.

The important point I was trying to raise in my opening remarks is that this is only in connection with the assessment process. The big gap in SARA is on the recovery side. We want to see more ATK being used on the recovery side.

**Mr. David McGuinty:** In the first instance, Mr. MacPhee, then, can I take it that there is conflict between ATK and COSEWIC science?

**Mr. Alastair MacPhee:** I think that would depend on the issue. I'll defer to my colleague, Joshua, who might be able to answer.

**Mr. Joshua McNeely (Policy Advisor, Congress of Aboriginal Peoples):** Yes, there are instances when there is conflict, and in our view, that conflict is fine. The way it is happening right now with a lot of species is that we have science assessments and we have ATK backup to that scientific knowledge. Traditional knowledge, though, is very different from science in its world view, in its scope, and in what it considers relevant. Neither is better than the other. They are different ways of looking at it. If both are considered equally, we will have a much, much better understanding of the species than we would have if we used one science alone.

**Mr. David McGuinty:** Thank you.

To our representatives from Walpole Island, I'm having a difficult time understanding exactly what you're asking for.

Let me ask you this question. There seem to be all kinds of consultative processes inherent in this act. There is NACOSAR; there are other bodies like SARAC. You have emerging groups from industry and environmental groups coming together in frustration, trying to arrive at some kind of consensus.

Let's say one serious consultative process could be struck with aboriginal peoples, environmentalists, industrial interests, academics, and perhaps even labour representatives, representing in large part the interested stakeholders—I'm not trying to reduce aboriginal peoples to stakeholders, so bear with me. It would have more meaningful processes—for example, there wouldn't be a group chaired by an assistant deputy minister of the federal government, which in my view is a conflict. How do you chair a process that makes recommendations to yourself, for example?

Could you accept the notion of having one consultative body, where aboriginal peoples were fully and comprehensively represented, to advise on improving, or advise on these matters?

• (1605)

**Mr. Kennon Johnson:** That's a somewhat complicated question. I look at it similar to the way I look at SARA. In our opening comments we said that no one shoe fits everybody. Even from first nation to first nation, what they request will be somewhat different. A lot of that is based on the traditions and teachings of each particular nation.

For example, the standards of the Anishnaabeg, which I come from, are somewhat different from those in a community like Six Nations. You can get the sense that there's no one simple answer. I wouldn't speak on behalf of Six Nations, or any first nation other than our own community.

Going back to our earlier arguments, that's why we were talking about a nation-to-nation approach. What Walpole Island requests

would be somewhat different from any other first nation due to the complexity that our first nation faces. We're unique in the sense that we're butted up against the Canada-U.S. border, and our homeland is home to the Three Fires Confederacy, which includes three nations as a whole.

I'm not sure if that helps you, but that's the best way I can explain it at this time.

**The Chair:** Thank you very much. Your time has expired so we'll move on.

Monsieur Bigras.

[*Translation*]

**Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ):** Thank you very much, Mr. Chair.

To say the least, this is complicated, I feel. Let us try to sort it all out. As I understand it, you want aboriginal traditional knowledge, ATK, to play a greater role in COSEWIC's work.

But in the Species at Risk Act, there is no definition of aboriginal traditional knowledge. My question goes principally to the representatives from the Congress of Aboriginal Peoples.

Do you think that there should be some kind of definition? At the moment, we are essentially in limbo, just like our legislation.

[*English*]

**The Chair:** Mr. MacPhee, do you want to answer?

**Mr. Alastair MacPhee:** Yes. I hope that a representative of the aboriginal traditional knowledge subcommittee will actually show up to speak directly to this committee. I think that would be a better approach. But in our view, the people on the aboriginal traditional knowledge subcommittee, the subcommittee of COSEWIC, act as what we would call pathfinders. They really direct the research to the appropriate people in the community who are the holders of the aboriginal traditional knowledge.

One problem that has arisen is in the recovery stage. We have multiple teams heading out, because it's a complex act, as you recognize. You have, for example, DFO out looking for the traditional knowledge, you might have Parks Canada out there, and you might have the Canadian Wildlife Service, so it's a bit chaotic. We've certainly heard from various elders who have told us that they're tired of being pestered by so many different people knocking on their doors. So the recovery stage needs to be straightened out in the process area.

• (1610)

[*Translation*]

**Mr. Bernard Bigras:** I would now like to touch on the question of putting species on the list. The act provides for a nine-month timeframe. Officials have told us that they cannot comply with that timeframe because something more fundamental has to be dealt with, aboriginal land claims.

It is almost as if the officials are telling us that they are consulting you and that they are making sure that everything is going well. But you are telling us that there is not necessarily any consultation.

Do you believe that considering aboriginal land claims and observing them is a good reason for failing to put species on the list?

[English]

**Mr. Alastair MacPhee:** I'll turn that question over to Joshua.

**Mr. Joshua McNeely:** The nine-month timeframe is a little bit of a misnomer in the act. COSEWIC, when it delivers its report, doesn't deliver it to cabinet. It goes to the Minister of the Environment. The Minister of the Environment then delivers it to cabinet. When he delivers it to cabinet, that's when the nine-month period starts.

When the minister has it, there's a lot of discussion there as far as consultation is concerned. You can have short consultation periods of only a few months. I've had extensive consultation periods going on for a year or more. There are a number of species—cusk, for example, and American eel—a lot of marine species, actually, that were assessed in 2006-07, which still haven't been presented to cabinet yet for that nine-month period to start.

There is a lot of discretion there already, but at the same time, we still aren't seeing some of the consultation happening during that period—which we would assume is what the minister would be doing during that period, along with the preparation of the socio-economic impact statement and the draft of the risk assessment strategies, the RAS.

[Translation]

**Mr. Bernard Bigras:** Okay. I have no further questions.

[English]

**The Chair:** Fine.

Ms. Duncan, the floor is yours.

**Ms. Linda Duncan (Edmonton—Strathcona, NDP):** Thank you very much to both delegations for your testimony. It was very useful.

I'd first like to follow up the testimony of the representatives from Walpole Island First Nation. I noticed in your brief—and you may have addressed this when you presented—that you raised a concern about how the government is defining or constraining when it consults with a first nation. You seem to say that the government does consult if the species is located on the reserve lands, but if the species and habitat happen to be on traditional lands, less consideration is given to the rights and interests of the first nation. That issue was raised in previous testimony, and certainly by the people from the Athabasca/northern Alberta area. I'd appreciate it if you could elaborate on that a bit more.

**Mr. Kennon Johnson:** I will defer that question to our technician, Clinton Jacobs.

**Mr. Clinton Jacobs (Coordinator, Natural Heritage, Walpole Island First Nation):** We've had experience with consultations on various scales, as mentioned earlier. In our experience with consultation, the mentality has very much been that of a check box, and our input is not necessarily taken and integrated into these recovery strategies. We're slowly starting to get some consultation processes established for species within our traditional territory. That's being done through Parks Canada. Prior to that it was done primarily by Environment Canada, which was attempting to consult but didn't quite know exactly what to do. For a number of years now

we have had a consultation and accommodation protocol for our own first nation, and we've been asking them to respect that and to follow through with it. However, we haven't really got anywhere with that.

I can name a couple of recovery strategies where we've provided technical input, but there were no broad community consultations. Basically it was me and another staff person who reviewed these recovery strategies and provided some input and advice and recommendations. We haven't really seen any results from that. It's taken years.

Parks Canada, I think, has a good model for developing recovery strategies. They bring in a number of groups, first nations, municipalities, stakeholders, and MNR conservation authorities, and so on. They have a multi-day session where they draw up threats and recovery options, and so on. That can take anywhere from three to five days, and then within a month we see a recovery strategy physically in our hand. We were able to review it, whereas with Environment Canada, they have been working on recovery strategies and we only get drafts of the strategies—maybe more—and in some cases just questionnaires and not even a physical document. It has taken seven years and we're still waiting for a draft to review and to provide some input on. When we do get the strategies, our feedback and input are not necessarily incorporated.

So it gets frustrating, but now that we do have our own consultation and accommodation protocol, I think some of the responsible authorities or agencies are starting to see that. I think that for the past four or five years they really didn't know what to do for us in terms of consultation. They were busy trying to come up with policies but not talking to us about what was needed.

• (1615)

**Ms. Linda Duncan:** I wonder if I could just interject here, because I have other questions for you. My time is probably going to be running out. I'm sorry to cut you off, but I really value your input and I have a few more questions for you and CAP.

A number of people who have testified here have raised concerns that the government has not yet implemented the main instruments, the policies and regulations and procedures for implementing SARA. It sounds like that might be part of the problem.

When I was assistant deputy for resources in the Yukon, we actually implemented a protocol for the delivery of any science in the Yukon. That protocol included the point that first nations had to be involved in collecting the information and that they would be the first to hear the results. I'm wondering if one of the pieces that's missing is the following. You can advise me on this and we'll ask NACOSAR about it later. Is there actually a framework, or has there been consultation across first nations and Métis on how aboriginal traditional knowledge is to be collected?

My second question is whether some first nations and organizations do their own "science" in addition to collecting aboriginal traditional knowledge.

Whoever would like to speak first to that, go ahead. CAP?

**Mr. Alastair MacPhee:** We're negotiating with Environment Canada to review a whole suite of policies connected with the Species at Risk Act, and it's taken some time to get to that level. We haven't been involved in the regulations and some other aspects of this.

What you did in the Yukon sounds very interesting. I'd like to read more about it.

**Ms. Linda Duncan:** Mr. Johnson.

**Mr. Kennon Johnson:** One of the problems we face in our community with regard to ATK versus western science...I don't think it's a matter of meshing the two together. I think there could be a parallel process where each are given equal consideration and incorporated into the strategies, which becomes beneficial for all parties, so it's easy to understand.

Now in saying that, there are some difficulties in regard to aboriginal traditional knowledge, as not all of our elders will share the information. We look at our immediate homelands on the delta and what's going on beyond the delta, which is basically a desert once you get off the reservation, and you hit miles and miles of agricultural lands with very limited forestry and wildlife.

Our challenge is that our elders have a hesitancy to share all that information. They're more likely to share it with the community versus a non-native, as they have the mentality that the non-natives have had their chance to manage their lands. When you look at what they have done beyond the reserve, there's more of a tendency to share with a community member. However, they restrict some of that information, as they don't want it to be shared with others.

It puts us in a difficult situation. We want to improve things for everybody, and we face some of those challenges with aboriginal traditional knowledge.

•(1620)

**Mr. Clinton Jacobs:** Our first nation hasn't been involved in developing those regulations or instruments.

One good example is that under SARA there are section 11, 12, and 13 agreements that warrant the government to enter into agreements with anybody in Canada—any Canadians. We've been asking to get into this type of agreement with the crown for at least five years, and we have had frustration after frustration. We've been to every one of the federal agencies and met a stonewall. What we did was to develop our own...and we're willing to share that to start the process.

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

The time has expired.

Mr. Warawa will kick us off on the last round.

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

And thank you to the witnesses.

I'll be sharing my time with Mr. Shipley, because he has the honour of representing some of these people in Ottawa. When we hit around three or four minutes, please let me know.

My questions are for the representatives from the Walpole Island First Nation. I took a look at some pictures of it online, and it's a beautiful community.

We heard from CAP that there were multiple parties consulting with first nations groups. It was often the same questions being asked again and again, which brought up the question of how genuine or coordinated or valuable that consultation was.

Councillor Johnson, have you experienced multiple parties asking the same thing in consultation?

**Mr. Kennon Johnson:** Yes, we have faced the same situation here. It seems like one strategy after another comes in, and then the development happening within our territory warrants further consultations. It seems to be a repeated process in that community, and they get tired of it, or people lose interest.

**Mr. Mark Warawa:** Thank you.

In your submission you said:

Attempts to identify Critical Habitat on privately held lands have elicited the destruction of would be Critical Habitat, resulting in destruction of species' habitats with no legal recourse.

Could you elaborate on that?

**Mr. Clinton Jacobs:** It's something we came across. I don't know whether it was a Facebook page or a web page. It's actually not on our territory. I shouldn't say that; it's not on the delta, our first nation, but it's within our homeland territory. It's non-native communities or individuals who are doing this. They're concerned, particularly around the provincial endangered species legislation, that their voice is not being heard and that all the cost burdens will be on their shoulders to protect these species. It's something we came across recently, and we were wondering what the federal government, or even the province, would be doing to deal with this to address that issue. It's happening on our traditional territory, so we're concerned about it.

•(1625)

**Mr. Mark Warawa:** Thank you.

Are you suggesting that SARA may work for some first nations people, or it's not working? You're suggesting it won't work for you, but are you suggesting it may be applicable legislation for some? You're saying for Walpole Island First Nation it would be better if you managed it yourself. Is that correct?

**Mr. Clinton Jacobs:** Yes.

**Mr. Mark Warawa:** And the consultation to this point, you're saying, is disjointed and not adequate.

**Mr. Clinton Jacobs:** Absolutely.

**Mr. Mark Warawa:** Thank you so much. I'm going to hand it over.

Mr. Shipley.

**Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC):** Thank you, Mr. Warawa and witnesses. Welcome, at a distance, Mr. Johnson and Mr. Jacobs.

First of all, to the committee, you need to know that they've set up and have extensive research on the island in terms of species at risk. They do take that. I've visited and I was very impressed with it.

I do have a couple of questions.

Things are changing rapidly in the area of the Sydenham and the Snye, which had pollution problems. Actually they have now much improved in terms of those pollution problems, so there are some good things happening.

I think it was Mr. Johnson's comment that some of the species at risk are not species at risk sometimes. I think of one of the issues around the hickorynut mussel, which is in all our drainage ditches, plugging them up...and yet we have issues of moving ahead sometimes with some projects.

I'm wondering about that, because we're looking to move ahead, and one of the discussions they had is in terms of a wind farm operation. Do you see that as having any impact in terms of some of the issues you've brought forward concerning the species at risk, issues that touch on not only the species at risk legislation but also some of your cultural issues? Do you see that as a conflict?

**Mr. Kennon Johnson:** I think that's a direct conflict. One of the problems we're facing in our community right now is because we're being approached by multiple projects at this point and we cannot know where to begin to deal with all of these companies. There are many questions that we can't answer at this point in time, in terms of the use of the lake and the loss of fishing and hunting areas. In addition to that, nobody seems to be able to answer on the alteration of migration routes. Other shortfalls include saturation points within the area. How many turbines can be tolerated within this region before it has a major impact? There are going to be impacts from the beginning. A lot of those things seem to fall short. As a political person in my community, it's difficult in that I cannot give a response back to my community members to address those types of issues.

**Mr. Bev Shipley:** I'd like to move on to one other because I have very limited time.

It's just to help me understand NACOSAR, in terms of an organization that was set up under species at risk and has representatives of aboriginal people to represent aboriginal organizations. I'm hearing that NACOSAR is representing that larger group, but I'm also hearing from you that, no.... I'm not so sure they can speak for the group because each of you have cultural differences on the interpretation of the species at risk. Help me with that. Am I missing the point on it?

**Mr. Clinton Jacobs:** NACOSAR may be effective if they are provided adequate resources. We haven't had any reps come to our neck of the woods. We have to go where they are, so it is our resources that we're expending trying to meet with them, and it's difficult to speak to any one individual when they're all shifting around.

• (1630)

**The Chair:** Thank you.

Time has expired.

Mr. Jacobs, I want to ask a question for clarification. You mentioned that some critical habitat was destroyed on some of your traditional land, although it wasn't part of the first nation of Walpole Island. Can you elaborate on that a bit?

**Mr. Clinton Jacobs:** It was being proposed for destruction.

Basically we saw on Facebook that some landholders or individuals were trying to rally other individuals to destroy some habitat, and we were pretty concerned about that. I could see where they're coming from, because they're basically being told what they can or cannot do with their land.

**The Chair:** If they do destroy it or try to destroy it, that's a contravention of the act under subsection 97(1), because they're destroying critical habitat as to subsections 58(1), 60(1), and 61(1), so wouldn't—

**Mr. Clinton Jacobs:** Those are just proposed things. They were trying to rally some support to be able to go ahead with it.

Our question is, what will the government do, if they ever do...?

**The Chair:** I wasn't aware of this. Did you notify authorities that this was on Facebook and that there are individuals who are suggesting actually going out and destroying critical habitat?

**Mr. Clinton Jacobs:** We don't have an office to be able to contact anyone. I mean, who do we contact? That's one of the things.

**The Chair:** Okay. We'll raise it ourselves with Environment Canada.

With that, we're going to close off this round.

I want to thank our witnesses from Walpole Island, Councillor Johnson and Mr. Jacobs, and of course our witnesses from the Congress of Aboriginal Peoples, Mr. MacPhee and Mr. McNeely. Thank you very much.

We'll suspend. I'll ask our NACOSAR guest to come to the table.

• \_\_\_\_\_ (Pause) \_\_\_\_\_

•

**The Chair:** Order. We're back in session.

We're welcoming to the table Dean Holman, the coordinator of NACOSAR. Our witnesses from NACOSAR were a bit of a moving target for us over the past week, so we do appreciate your making it in. We received a copy of your presentation. We're looking forward to your presentation.

You have 10 minutes.

**Mr. Dean Holman (Coordinator, National Aboriginal Council on Species at Risk (NACOSAR)):** Thank you.

I am the new coordinator, hired in March of this year, for the National Aboriginal Council on Species at Risk. I have been asked to appear on behalf of former chair and current council member Beverley Jacobs, who sends her regrets, and I have also been given permission to speak on behalf of NACOSAR by the current chair, Chief Bill Erasmus, who also sends his regrets.

On behalf of the National Aboriginal Council on Species at Risk, I would like to thank the Standing Committee on Environment and Sustainable Development for organizing this meeting and accepting our submission on the five-year review of the Species at Risk Act.

I realize this is an opportunity to provide input for the legislative review. However, my speaking points support recommendation two and provide an explanation of NACOSAR's administration, which has been brought to light by numerous witnesses in the five-year review.

There has been confusion on membership and participation as a result of the March 1, 2010, termination date on the appointment letter from the minister, which has made it very difficult to reach quorum with the council. In turn, this has compounded issues surrounding solidarity and further challenges the need for meaningful and timely solutions.

On March 29 and April 9 of this year, NACOSAR met and discussed council membership and ministerial appointments. The chair requested the opinion of Environment Canada's director of conservation service delivery and permitting, Mary Taylor, on the matter and it was confirmed under precedent that the council should remain intact and continue business as usual until the minister appoints or reappoints council members.

On April 9 of this year, our submission to the standing committee was briefly discussed, and it was decided amongst participating members that the council would submit a historical document appended to our submission and recommendations that were agreed upon in camera by the council in September 2009. Appendix I has not been circulated to the standing committee today because it is still being translated.

Since September 2009, the council has not formally met to finalize their submission in full, resulting in a historical document and current recommendations. Further to this, the council has not been able to recruit and retain an appropriate coordinator, which is the only full-time position dedicated to maintaining the council's profile and administration. This has disabled the council in its capacity to review and incorporate recommendations from aboriginal peoples who attended workshops facilitated for the purpose of gathering recommendations and creating dialogue on the administration of the Species at Risk Act, which has caused issues regarding our credibility amongst aboriginal organizations and others.

As the NACOSAR coordinator, I will be working with the council to introduce in-house solutions to rebuild current capacity in maintaining consistency, which will include planning ahead by revising the current work plan to provide more detail and align it with our funding; an official distribution list; communication mechanisms to increase NACOSAR visibility; engagement and cooperation with partners to the act; monthly council meetings, including financial statements; finalizing our terms of reference; finalizing our policy and procedures manual; and provision of training and orientation to the council and planning subcommittee on their roles and responsibilities.

However, this does not fully address the issue of turnover of administration and the short terms of council membership. In order to maintain momentum of the council, the members need longer terms and criteria on selection of candidates to assist the minister in the appointment process, along with multi-year funding accompanied by a multi-year work plan.

Further to that, the council has requested to meet with the current Minister of the Environment on more than one occasion, without a response from the minister or his advisers. As an advisory council to the minister under the act, this makes it very difficult for the council to operate in accordance with section 8.1 of SARA.

● (1635)

Having reviewed the Species at Risk Act and measured the lack of engagement and participation of aboriginal peoples in the administration of the act, and the lack of NACOSAR engagement with SARA partners, the council has come to the conclusion that the act has failed to ensure participation, engagement, and advice from aboriginal peoples who are proactively involved in prevention, identification, management, protection, and recovery of wildlife species.

In an effort to assist the Government of Canada in improving the substantive provisions of the act and strengthening its implementation, the council offers the following recommendations.

Please refer to recommendations one, two, and three.

I would like to thank the standing committee for this opportunity. The floor is yours.

● (1640)

**The Chair:** I believe everybody has a copy of the recommendations and the executive summary that was circulated in both official languages.

Ms. Duncan has a point of order.

**Ms. Linda Duncan:** I noted in their brief that they referenced the 2006 Stratos report that was not provided to us. I would ask that the report be provided to all the members of the committee so that in our deliberations we can take a close look at it. I managed to get part of it myself and I'll be asking questions, but I think it's important that all members see that report.

**The Chair:** I believe the Stratos report has been circulated to the members already. It was in the government binder that came out when we first started the SARA review. It's in the original binder that went out to committee members.

**Ms. Linda Duncan:** Was that before Christmas?

**The Chair:** Yes. It was in May 2009, a year ago. But you have it some place—hopefully in your office.

**Ms. Linda Duncan:** I would just encourage that it be reviewed.

**The Chair:** Now we'll have one seven-minute round.

Mr. McGuinty, please kick us off.

**Mr. David McGuinty:** Thanks, Chair.

Thank you very much, Mr. Holman, for being here.

When did you start this position?

**Mr. Dean Holman:** Officially it was April 1, but I actually started March 15.

**Mr. David McGuinty:** I was struck by some comments that I didn't completely understand: you made some comments about NACOSAR appointments and repeated requests to meet with the minister; that there are vacancies; and that NACOSAR's credibility with aboriginal communities has been seriously weakened. I suspect your power to convene them to participate has been weakened.

I'm struck, because in the brief we received from SARAC—another advisory body—it tells us that in 2008 the mandatory ministers' round table was not inclusive and not transparent. In fact, they went on to say that some members of SARAC didn't even know there was a 2008 round table being conducted. That set off alarm bells in my mind about whether or not the good folks who sit on SARAC are actually being meaningfully consulted—and even made aware of it.

Now you're saying that another equally important advisory group to the minister isn't really even functional.

How many appointments do you have right now? Are there normally six?

**Mr. Dean Holman:** That's correct. We have the chair, Chief Bill Erasmus; council member Beverley Jacobs; John Hanikenne; and Roger Gallant. We also have Larry Carpenter, but I haven't been able to secure his participation.

**Mr. David McGuinty:** Has he given up?

**Mr. Dean Holman:** That's basically what it comes down to, yes.

**Mr. David McGuinty:** He doesn't take it seriously.

**Mr. Dean Holman:** Larry has taken NACOSAR very seriously and has taken a very proactive approach; however, the dysfunction that has been going on for the last year and a half has basically caused him to lose faith in—

•(1645)

**Mr. David McGuinty:** It's not that he doesn't take NACOSAR seriously; he presumably doesn't take either the government or the minister seriously, which led him to.... We won't explore this any further. I don't want to get into finger pointing.

I just want to get a sense of your funding. What's your budget?

**Mr. Dean Holman:** I believe the budget is \$650,000 for NACOSAR.

**Mr. David McGuinty:** Is it per fiscal year?

**Mr. Dean Holman:** That's right.

**Mr. David McGuinty:** Okay.

Do you have a multi-year funding commitment? This is presumably an ongoing statutory responsibility of the government. It's under, as you say, section 8.1 of the act, which says there shall be a NACOSAR. Has that funding been stable over the last little while or...?

**Mr. Dean Holman:** I'll have to take the question under advisement.

**Mr. David McGuinty:** Okay.

In the last short while, how many times has NACOSAR asked the minister for an opportunity to meet?

**Mr. Dean Holman:** I believe the last time was a letter that was written by the chair directly to the minister. I believe it was sometime in 2009. I can't tell you the exact date right now.

**Mr. David McGuinty:** If I might ask you—and you may not be able to answer—I think I heard you say that there were repeated requests to meet with the minister and there has been no response.

Do I take it, then, that the chair and the members who sit at NACOSAR must take that as basically an answer, I suppose? Does the answer mean that either the minister is too busy to meet with you or that maybe you're not important enough to be met with, or—hopefully not—that we intend to wind you up and shut you down?

**Mr. Dean Holman:** I'm trying to answer very cautiously.

I would take any silence in response to a request from any individual or organization in particular not as an answer from that individual but possibly as a symptom of the process itself.

**Mr. David McGuinty:** That's very fair of you, and I respect that. It's taking it at face value to say that there may be something wrong with the process and keeping it objective.

I support your caution, but it's a \$650,000 organization that hasn't been able to meet with the minister after repeated requests. You say that your monthly meetings, your engagement processes, your terms of reference are not developed. You don't have multi-year funding to allow you to plan out. You've had no response from the minister to requests for meetings, and in your conclusion you said that the government has failed to consult with aboriginal people, at least certainly through NACOSAR.

I'd say we have a problem here with the process, this being one of the two primary consultative functions—or the three, including the ministers' round table—that were designed into the act to get a better application of the act and an improvement of the act over time.

What advice do you have for the committee? It may be too early into the job to know, but do you have any specific advice?

**Mr. Dean Holman:** Are you asking me as an individual or as a spokesperson for NACOSAR?

**Mr. David McGuinty:** I'm asking you as the spokesperson for NACOSAR.

**Mr. Dean Holman:** I definitely have to take that into consideration as well and provide you with an answer through a consensus or a meeting with my council.

**Mr. David McGuinty:** Okay.

Thank you very much, Mr. Chair.

**The Chair:** Thank you.

Go ahead, Monsieur Bigras, *s'il vous plaît*.

[Translation]

**Mr. Bernard Bigras:** Thank you, Mr. Chair.

Mr. Holman, I must say that I would not like to be in your shoes at the moment, because this must not be an easy situation. After your testimony, I feel very badly for you.

Could you tell us how you would describe the present state of the council? Would it be appropriate to use the expression “empty shell”? Later, we will see why we reached that point. How would you describe the present state of the council?

• (1650)

[English]

**Mr. Dean Holman:** That's a good question.

My description of the council is that basically you have individuals who have been involved in the Species at Risk Act for approximately 10 or 15 years, a much longer time than the five or six years that SARA has been in place. You have a body of individuals who started as an aboriginal working group. The vision of that working group has been carried on regardless of the actual changes or of how NACOSAR is written into the Species at Risk Act.

Their vision, I believe, is in conflict with their position or with the powers they are given under the act. That is sort of how I would describe NACOSAR as a whole.

[Translation]

**Mr. Bernard Bigras:** You say in your recommendation 2 that NACOSAR should have a bigger operating budget. We are not surprised when organizations like yours come to make requests like that, but I am struck by something in your recommendation 2: you feel that the council should have more administrative independence. It is as if you are telling us that you have to be accountable and that that perhaps is the basic problem.

Do you feel that this lack of independence has caused the council's current problems? How does all this play out? Why are you here today trying to tell us that there should be more administrative independence? What facts do you have that cause you to say that? What has happened that leads you to make that recommendation to us? Has there been interference from Environment Canada?

[English]

**Mr. Dean Holman:** You brought up a number of different points there. I don't think Environment Canada has interfered with NACOSAR. Environment Canada and NACOSAR haven't engaged each other meaningfully. They're at more of an intervening level rather than an influential level.

The council is basically asking for independence because of timing issues. The protocols that Environment Canada has to follow in its financial administration are very complicated, and it's come to a point where NACOSAR cannot enter into any contracts or even hire a NACOSAR coordinator independently. This is something that has put shackles on a body that's supposed to be providing meaningful advice to the minister, and it's unable to do it without first going through the processes of a government department.

[Translation]

**Mr. Bernard Bigras:** To your knowledge, has there been any direct influence from Environment Canada to change council decisions?

[English]

**Mr. Dean Holman:** There has never been intervention by Environment Canada to change a decision. Perhaps I'm coming across incorrectly. Environment Canada has been invited to the

meetings to provide support as a secretariat. That is their duty to NACOSAR, to provide secretariat support.

• (1655)

[Translation]

**Mr. Bernard Bigras:** I have no further questions.

[English]

**The Chair:** Thank you.

Go ahead, Ms. Duncan.

**Ms. Linda Duncan:** Thank you, Mr. Chair.

Thank you for appearing.

I understand the difficulty you're having. I'd say you're doing an admirable job, considering that you're new in the position. Congratulations on your appointment.

Your testimony raised a thousand and one questions that I'm not going to have the opportunity to ask. But I will throw a few questions at you. Do your best to reply.

Based on the testimony of the previous witnesses, the Walpole Island First Nation, they're frustrated; while they would like to provide input through NACOSAR, they have to pay their own way. That raised a question in my mind immediately. If you're given a budget of \$650,000, is there clear direction on how that's to be allocated, and is some of that money designated for outreach to individual first nations? Connected to that, what is the difference between the roles of NACOSAR and the ATK subcommittee of COSEWIC in consulting with individual first nations on species listings, recovery plans, and action plans? This may be something you're going to have to look into, because you're new.

I'm left kind of puzzled about what the respective roles are, particularly in gathering aboriginal traditional knowledge. What exactly are the expectations? And what is NACOSAR's role, if it is specified, in meeting with and gathering information from, specifically, potentially impacted first nations? Sorry, that's a lot. I'm just trying to give you an all-encompassing question.

Can you explain to me as best you can where you see the role of NACOSAR versus the ATK subcommittee? Are you given specific directions on exactly what you're to do? Or do you have some discretion? Or does the ministry say, “you will do this, this, and that with the money”, and direct what your daily activities are?

**Mr. Dean Holman:** If you'll excuse me for a second, I'm just going to call someone up to confer with.

**The Chair:** She can join us at the table if you want her to respond.

**Mr. Dean Holman:** Lola Antonius will respond to that question. Thank you.

**Ms. Lola Antonius (Policy and Planning, National Aboriginal Council on Species at Risk (NACOSAR)):** My name is Lola Antonius. I actually work with the policy and planning subcommittee of NACOSAR.

It's been my experience that NACOSAR has the ability to set its own work plan and can decide exactly how much is spent on, say, a workshop, communications, and different things like that. However, once they do that, it needs to be approved by Environment Canada. There's always been that lack of independence. That kind of answers the question you were asking earlier. Yes, NACOSAR can do this. However, it still has to be approved by Environment Canada. Once it's approved by Environment Canada, it has to go through their own bureaucratic process to get those funds available to, say, hold a meeting. And NACOSAR has recently been informed by Environment Canada that it now requires a month's notice or so before they can have a meeting.

**Ms. Linda Duncan:** What about my question about whether it's expected that NACOSAR will be the go-between in consultations with individual first nations on specific species or habitat? Is that a role for NACOSAR?

**Ms. Lola Antonius:** No, it can't be a role for NACOSAR. NACOSAR is just an advisory body to the minister on the administration of the act. Each first nation is a rights holder, and they must be consulted. NACOSAR has never acted as a consultative body.

**Ms. Linda Duncan:** When you provide policy advice, do you do outreach to the individual first nations?

**Ms. Lola Antonius:** We try to as much as possible. NACOSAR, in the past, since its inception, has held three national workshops on this act. From each workshop they've been able to produce workshop reports that clearly stated clear recommendations from as many people as we could get to these workshops.

However, it's very difficult for NACOSAR to go out and meet with every first nations community and aboriginal community. They've been trying to improve their communication. It took years—over five years—to get something as simple as a website. Again, part of NACOSAR's lack of independence really played a role in that inability to get a website up. We had to be very creative in how we set up the contracts, who would sign off on it, and how Environment Canada would pay for it.

• (1700)

**Ms. Linda Duncan:** Okay. I think that's more detail than I can absorb.

I'm also curious to know whether there is any kind of overlap of relationship between NACOSAR and the ATK subcommittee on advice to COSEWIC.

**Ms. Lola Antonius:** No.

**Ms. Linda Duncan:** Is there no overlap of relationship at all?

**Ms. Lola Antonius:** NACOSAR does not get involved with the assessment process that the ATK subcommittee has. However, that said, the ATK subcommittee and NACOSAR have tried to work together, and in the past, usually an ATK subcommittee member has been involved in attending the policy and planning committee meetings. I don't know what has happened, but some of that process has fallen apart and the ATK subcommittee and NACOSAR haven't been able to work as closely as they would like.

However, they have met. They did have a meeting.

**Ms. Linda Duncan:** If I could move on to another issue, in your brief you raised the issue of lack of adherence to the section 35 constitutional rights on derogation and abrogation. That seems to be a common theme in all the first nations and Métis testimony here. Has the organization itself looked into mechanisms for how you could begin to address that?

**Mr. Dean Holman:** I'm going to defer to Lola. She's tied into the legal aspect of the act and she has more experience than I do.

**Ms. Linda Duncan:** Okay. I'm happy to hear from Lola.

**Ms. Lola Antonius:** Again, NACOSAR cannot hire its own legal experts, so they've had to do creative things to try to get work done on something such as that. Environment Canada just cannot hire a legal expert for NACOSAR. They've actually had to go through, for example, an independent consultant, who then hires a third party who then communicates with NACOSAR. So it has been very difficult to do any of that kind of work that they of course need to do.

**Ms. Linda Duncan:** I'm not specifically looking for a legal—

**The Chair:** The time has actually expired.

Mr. Warawa or Mr. Scott Armstrong.

**Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC):** First of all, happy Earth Day, and thank you for coming here. I can't imagine what it would be like to be named a coordinator and be told that in 21 days I'd be in Ottawa before a parliamentary committee. So you are doing a great job, and I feel for you.

I think you've done a tremendous job. The fact that you came here with some specific recommendations and some organization for your report shows that you're off to a very good start in your position.

I have just a couple of questions to ask about the last year or so with your organization, and then I want to talk about the future and ask some questions about what your plans are.

You are a newly hired coordinator. When was the last coordinator in place? How long of a gap did you have when the last coordinator resigned or was let go?

**Mr. Dean Holman:** We last had a full-time coordinator on March 31, 2009, basically a year ago. Then we had an interim coordinator, who was basically a person with an administrative background, filling the position just to keep communication going. There was a bit of overlap between her and my starting there, just so that she could—

**Mr. Scott Armstrong:** It was a transition time.

**Mr. Dean Holman:** Exactly.

**Mr. Scott Armstrong:** During that time of the year when you really had an interim coordinator, roughly how many actual board meetings took place where you had a quorum of the board?

•(1705)

**Mr. Dean Holman:** I'm sorry, your question was, when we had the full-time...?

**Mr. Scott Armstrong:** Over the year when you had the interim coordinator, did you have quorum, or did you actually have suitable board meetings?

**Mr. Dean Holman:** We had one suitable board meeting where we had quorum.

**Mr. Scott Armstrong:** That's over a year. So really your organization, because you're now in place, is off to a fresh start, and it's up to us as a committee to try to find ways to support you over the next year to get off to a fresh start.

You're working under a budget of \$650,000, and one of your recommendations says that you would like to see the budget increased at some point, at least to the amount originally established by the Treasury Board. Are you aware of what that amount was as originally established?

**Mr. Dean Holman:** Personally, I'm not aware of how much was originally established. Basically this recommendation is from the appendix that is to be submitted later on.

**Mr. Scott Armstrong:** I'm assuming that during your selection as the coordinator you had to provide some sort of vision or plan or strategic idea of what next steps you were going to take. Could you give me a brief rundown of what you see over the next three to six months, what you need to do to get this organization up and running to be an effective organization to support your vision statement?

**Mr. Dean Holman:** As a NACOSAR coordinator, I do have some discretion, but my vision is where I want to see the council go.

One of the first steps we need to take is to establish quorum. We need to have the appointments from the minister announced as soon as possible. We also need to have a meeting as soon as possible. I think the council has recommended May 20 and 21 to finish up unfinished business that we've had outstanding for quite some time.

At that meeting and in the three months, there are a number of points, which I brought up in my speaking notes, that I think would assist the council in regaining solidarity and focus on what we're actually meant to do, and that is to provide advice on the administration of the act to the minister. In doing that, we will gain the respect of the individuals who have lost faith in NACOSAR, but we will also gain more visibility, and I believe that visibility and communication are very important parts of outreach and of actually having the ability to do our job.

**Mr. Scott Armstrong:** I agree with you, and my advice to you as you're starting out in this position is that you should ask the ministry to make the appointments, get your council together, have a meeting, and then request a meeting with the minister, because you haven't had one in a while. That will automatically give you credibility, if you've had a meeting with the minister and you have your council together, to start representing the people you're supposed to represent across the country. Then you could maybe move into a sort of second phase, where you could approach the idea of having longer

terms for councillors and the multi-year funding you're looking at to make your organization very effective. And of course you need some sort of structured access to the minister. I think those were the three things you mentioned in your comments that you were looking for to establish yourself as being very effective.

I really appreciate you coming today. I know you're off to a fresh start. I encourage you to be assertive and aggressive, and I'm sure we will do whatever we can as a committee to support you.

**The Chair:** Thank you. I have a point of order here.

Mr. McGuinty.

**Mr. David McGuinty:** Thanks, Chair. It would be very helpful, I think, for the members of the committee to get some more information from NACOSAR. For example, are there annual reports? Are there financials available? I don't recall, Chair, through you, when NACOSAR was actually first formally constituted, what year that was.

It would be very helpful for us to get an idea of how well it has been working or not working, through those reports or through the financials. Are we able to get those, Chair, through you?

•(1710)

**The Chair:** Yes, I would ask that our witnesses, if they can, forward to us for consideration their annual reports. You did bring up the report from Treasury Board in one of your recommendations, and I was going to ask for further clarification of information that you could provide to us on what that really was.

**Ms. Lola Antonius:** NACOSAR actually did complete a 2006-07 annual report, and as far as I know, staff at Environment Canada have distributed that.

**The Chair:** Okay. We'll call for those papers then.

**Mr. David McGuinty:** Do we happen to know what year, Chair?

**The Chair:** She said it was 2006-07.

**Mr. David McGuinty:** That's the first report. When was NACOSAR created?

**The Chair:** When was NACOSAR originally established?

**Ms. Lola Antonius:** I believe it was right after the act, 2003.

**The Chair:** It was 2003-04. Okay.

I want to thank Mr. Holman and Ms. Antonius for coming to committee and presenting on behalf of NACOSAR under short notice. Knowing also that you just stepped into your role, we do appreciate your providing...I know the corporate knowledge isn't there, but I know you're very qualified for your position. Congratulations on moving into the coordinator's role and looking forward to hearing from you in the future as well.

With that, we're going to suspend. I'm going to ask the committee to stay in here. I would ask everybody who's not tied to a committee member to clear the room so we can get back to business and discuss the report.

[*Proceedings continue in camera*]





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