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## Standing Committee on Natural Resources

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EVIDENCE

**Tuesday, December 5, 2006**

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**Chair**

**Mr. Lee Richardson**

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• (1545)

[English]

**The Chair (Mr. Lee Richardson (Calgary Centre, CPC)):** Good afternoon. Thank you for your attendance.

To our guests, I'm sorry we're a little late, but I guess you understand, having been through this process before. We've just had a vote in the House.

I'd like to welcome, from the Canadian Environmental Assessment Agency, Jean-Claude Bouchard, Scott Streiner, and Peter Sylvester. Thank you for coming.

I'd like to welcome as well, from the Cumulative Environmental Management Association, Judy Smith and John McEachern. Thank you for coming.

I think you're aware of the proceedings we have been following in recent times. This is really just an information session. We'd like you to provide the committee with some background and then respond to questions on it. I think you'll find that there is a great interest in these matters subsequent to our visit to Fort McMurray. If there is any sort of specific direction to your testimony today, it might be in relation to our current study, which is about the oil sands and the federal government's role in the ongoing development of those oil sands.

Without further ado, I'd like to begin by asking you to give a short presentation, perhaps one from each side. I'll leave it to you to decide how you want to divide that time. Then we'll follow with questions.

Have you discussed among yourselves who will begin, or would you like me to choose?

**Mr. Jean-Claude Bouchard (President, Canadian Environmental Assessment Agency):** I thought you would tell us who would start.

**The Chair:** The agenda has it that we're starting with the Canadian Environmental Assessment Agency, so perhaps you would like to begin, Mr. Bouchard.

**Mr. Jean-Claude Bouchard:** All right.

Thank you very much for giving us an opportunity to talk to you about the work of the Canadian Environmental Assessment Agency, and in particular the work we do on the oil sands.

We've prepared a presentation that shouldn't take too long. It was distributed to you. I'll do the first part *en français* and the rest of it in English. Later my colleagues and I would be pleased to answer your questions.

[Translation]

The presentation that we prepared for you is essentially going to cover three subjects. To start with, I will be talking to you about the general meaning of the term "environmental assessment," including the federal environmental assessment process and the role of the Canadian Environmental Assessment Agency. Then I will be talking to you about our cooperation agreement with the Government of Alberta and, finally, our experience to date with environmental assessments and oil sands projects.

I should begin by telling you that the Agency is involved in the major projects. Each year in Canada, various federal departments perform 6,000 environmental assessments, and the Agency is very closely involved in the biggest ones.

The purpose of an environmental assessment, as you know, is to determine a project's potential negative effects on the environment. That allows us, before the work begins, to decide how to mitigate or avoid those negative effects. In the case of a mining project, for example, simply relocating a road to avoid crossing wetlands can have very positive effects on the environment.

At the federal level, the environmental assessment allows the public to have a say. This is an important component. It gives interested Canadians the opportunity to say what they think about a project and to inform the Agency and federal ministers of the effects it may have.

A good environmental assessment allows us to avoid major environmental damage. At the Agency, we often use the following example: if there had been a good environmental assessment process at the turn of the last century, that is, in 1900, we would not have to spend \$400 million or \$500 million today to clean up the Sydney tar ponds in Cape Breton.

The Canadian Environmental Assessment Act was adopted by Parliament in 1992. It came into force in 1995, and was amended in 2003. The biggest amendment that year was to confirm the Canadian Environmental Assessment Agency's role as the coordinator of environmental assessments.

It is important to note that the Canadian Environmental Assessment Act is very similar to the American act adopted in 1970. The basic principles are the same. The environmental assessment process and the roles of the various federal organizations are similar.

The Act applies to project proposals requiring a federal decision. A federal environmental assessment must be performed in the four following cases: first, when the federal government is the promoter, when it is building a structure, for example; next, if it is funding all or part of the project, municipal infrastructures, for example; then, if the project is being carried out on crown lands, in other words, if the promoter is using lands that belong to the federal government; and, finally, in all cases where a permit issued by a federal body is required, such as when the use of explosives requires a permit from Natural Resources Canada.

The responsibility for environmental assessments, as I said earlier, lies with the federal department involved. In the case of the oil sands, the decisions that serve as the trigger often involve the Fisheries Act. That is the case when the Department of Fisheries and Oceans feels that the project could have a negative impact on fish habitats. On other occasions, is the Department of Transport that sets off the environmental assessment because it must issue a permit to use a waterway under the Navigable Waters Protection Act.

• (1550)

There are three types of environmental assessment. First, there is what is known as screening. This involves small projects, known as ordinary projects, and represents 95% or 96% of all federal environmental assessments.

The second category is known as a comprehensive study. These are much bigger and more complex projects. Projects of this type are included in a list in the Canadian Environmental Assessment Act.

Finally, the third category involves very large projects that are likely to have a major environmental impact or that are controversial and about which there is a great deal of concern. In those cases, the Minister of the Environment, most of the time on the agency's recommendation, appoints a panel to review these projects.

[English]

Slides 5 and 6 list some of the agency's responsibilities and duties relevant to oil sands environmental assessments but also relevant to all projects.

A lot of effort at the agency goes into supporting independent review panels, which are appointed by the Minister of the Environment. Those are for the big projects, and sometimes the controversial ones.

For projects assessed through a screening or a comprehensive study, the role of the agency is as a coordinator. When you have more than one federal authority or department involved, we're responsible for making sure they're well coordinated and are working well together. That's basically what we do.

As indicated on slide 6, we have a participant fund, and that's a characteristic of the federal process that you don't find in most, I would say, of the provinces or in other jurisdictions. Our participant fund supports individuals and non-profit organizations that are interested in a project and want to testify or make a contribution. It helps ensure that our review panels get community, aboriginal, and expert knowledge about the possible effects of a proposed project.

In the case of the Muskeg River mine expansion project, which I'm sure you're familiar with, we have allocated \$100,000 in

participant funding for three organizations. First, there's \$23,000 for the Athabasca Chipewyan First Nation industrial relations corporation; \$41,000 for the Mikisew Cree First Nation; and finally, a little bit more than \$34,000 for the Oil Sands Environmental Coalition.

The agency also negotiates agreements with provinces and territories to prevent duplication and hopefully achieve our goal of "one project, one assessment". This is relevant to the way we work with Alberta in the case of the oil sands, and I'll give a few more examples later.

Turning to slide 7, the Canada-Alberta Environmental Assessment Cooperation Agreement was first signed in 1993, but it was amended and revised and renewed in 1999 and in 2005.

The fundamental principle behind those agreements, and the one with Alberta in particular, is that we want a single cooperative assessment that will meet the requirements of both the federal and the provincial legislation. There's no point, if we can avoid it, in subjecting a project or a proponent to two different, separate, independent processes. We're trying to do it together.

For example, under this agreement, we set integrated information requirements for the proponent and we can establish joint review panels where both governments appoint panel members. In the case of Alberta, the Minister of the Environment at the federal level appoints members, who are in turn appointed by the provincial cabinet, and vice versa. Each jurisdiction then takes the results of that cooperative environmental assessment to make its own decision about the project.

On slide 8, in the case of Alberta, what we typically do is work with the Alberta Energy and Utilities Board, which holds hearings. The Minister of the Environment appoints a representative to be on the Alberta Energy and Utilities Board, who in turn is appointed by the provincial cabinet, and vice versa.

The hearings are conducted by this joint panel. But then there's the participant funding, which is a characteristic of the federal process, that kicks in. So we allocate some funding, which again is managed by the joint panel.

Again, the joint process determines what kinds of mitigation measures are necessary for that project to go ahead, and then both governments make their respective decisions on going ahead or not going ahead. Actually, I shouldn't say going ahead or not going ahead with a project. The answer is never not to go ahead with a project; it is to list a series of mitigation measures. On a few occasions, the mitigation measures are so demanding that the project will not proceed, but we have only very few examples of that, I would say.

•(1555)

Cumulative effect is a challenging part of what we have to do. We're assessing project by project, and yet it is a requirement of the federal legislation to take into account cumulative effect. Joint panels have in their terms of reference and mandate the necessity to deal with cumulative effects. The difficulty with cumulative effects is that there is no cookie-cutter approach. There is no textbook approach to assessing all that, but it is being done to some extent, and to a great extent in some cases.

On slide number 9, finally, at the federal level, an environmental assessment informs the decision that departments need to take. So with a good environmental assessment, Transport Canada will then decide, yes, you can go ahead with that project but you have to do such and such a modification so that it doesn't interfere with navigation on that body of water. Fisheries and oceans will make a decision on the project, but also include some mitigation measures so that it doesn't have a negative impact on fish habitat.

When the project is at the panel level, the Ministry of the Environment receives a report from the panel, and then the various departments involved have a look at this report and prepare a proposed response for cabinet, for the government, and that's done jointly.

Projects assessed through a comprehensive study or review panel also require a follow-up program. So it's one thing to do the environmental assessment, but as the project is being done or completed, you have to follow up. We have to do a couple of things. One of them is first of all to verify that our predictions about the impact on the environment or the result of the mitigation measures is really what is taking place. The second part is to determine the effectiveness of mitigation measures and see if we have to modify what we do. It's the concept of adaptive management. After the fact, as we monitor, we may go back to the proponent and say, given what's happening, you may have to modify this, that, or the other thing.

On slide 10, I give you a list of the major oil sands projects that have undergone a federal assessment. I'm talking about the big ones here. Some oil sands projects also have been assessed through screenings, the lowest level of environmental assessment. A couple of examples are True North's Fort Hills and Suncor's Voyageur, which were two projects assessed mainly by Fisheries and Oceans at the screening level.

On page 11, I've tried to give you some idea of the outcomes—what kinds of conditions we impose on a proponent. When we put that slide together, I said to my colleagues, first of all, some of you will have to explain to me some of the terminology here. If I had a problem, I decided I would at least explain to you, respectfully, what some of the words mean.

On the benthic zone, I'm referring to the Jackpine project, where we talk about the benthic macroinvertebrates and monitoring that. The benthic zone is the lowest level of a body of water, and it's inhabited by organisms that tolerate cool temperatures and low oxygen levels, called benthos or benthic organisms. A macroinvertebrate includes snails, worms, crustaceans, and leeches. The presence of pollution-sensitive macroinvertebrates indicates that

the body of water is healthy. In other words, if those creatures that are sensitive to pollution live there, it means that the water is okay. On the other hand, if you have excessive presence of pollutant-tolerant macroinvertebrates, then that means that the water is probably very polluted because they're the only ones that can live there. So that's the type of monitoring program that we've asked to have done on the Jackpine project.

On the next one, Horizon, we refer to fish-tainting compounds. By-products of oil sands extractions that enter into water bodies typically alter the taste and odour of fish, making them not very attractive. So the minute you find that, then you know you've had an impact.

•(1600)

Those were a few examples, and there are many others, but I thought I would do that.

The last slide, number 12, is entitled, "The way ahead". There are a number of things happening that we need to pay attention to at the agency, and our colleagues at the more active departments on environmental assessments are paying attention to them.

First, Natural Resources Canada is forecasting \$60 billion of oil sands projects between now and 2013. This is a lot of work for us and for key departments, and we're going to have to find a way to face that volume of work.

Two, there's the Government of Alberta's multi-stakeholder oil sands consultation that was launched, and we're participating in it. It's a higher-level regional environmental assessment, if you wish. The Government of Alberta is trying to assess what's going to be the impact of all the development in northern Alberta. We have a couple of representatives on that committee. We were invited by the provincial government, and we're very active on it.

A third issue, which is increasingly complex, is the approach for consulting aboriginals. There are various court decisions that say that we have to consult aboriginals very early in projects. As a federal family, we need to develop a coordinated approach and the policies that go with it. If we don't work diligently, this could be a showstopper.

Finally, you probably know that our legislation, the Canadian Environmental Assessment Act, is due for an automatic review in 2010. I would like to think that the committee that is going to be managing this review will be interested in the experience we've had, particularly with oil sands.

I'll stop here, and I will be pleased to answer your questions later with my colleagues. Thank you very much. *Merci beaucoup.*

•(1605)

**The Chair:** Thank you, Mr. Bouchard. That was very comprehensive. I appreciate it, and I'm sure you will have caused our members to have a number of questions to ask you.

Before we do that, we're going to hear the next presentation.

I wanted to mention that in your closing remarks you mentioned the Government of Alberta multi-stakeholder oil sands consultation. We had hoped to have Vance MacNichol here today as well, but they were not able to conclude with sufficient time that he's able to announce it. He thought that perhaps you would like to announce the results of their consultations in Alberta, before we get it in front of our committee, so we can understand that.

Mr. MacNichol and the Alberta government multi-stakeholder program will not be appearing today, and it's unlikely we'll be able to hear them before Christmas. I just want to let the committee know that. But as soon as it's completed, we will receive a copy of the Alberta multi-stakeholder report.

With that, I would like to proceed.

Ms. Smith, are you going to lead off?

**Ms. Judy Smith (Vice-President, Cumulative Environmental Management Association):** I will, thank you.

Good afternoon, ladies and gentlemen. Thank you very much for inviting us to share with you the important work that the Cumulative Environmental Management Association is doing in the Wood Buffalo area.

My name is Judy Smith. I am currently the vice-president of CEMA, and I'm one of the original founders of the organization, which started back in 1997. With me is John McEachern, who is the executive director of the association.

Today I will provide you with three sets of information: first, some background on our organization to help you understand what we do; second, the current focus of our work; and finally, in conclusion, some comments on the challenges we face and what we are doing to address these challenges.

I have brought a brochure with me that we will be sending you electronically. It has more information on CEMA, and also the website, which you can look at, which will give you even further information.

First, let me tell you a little bit about our background, the mandate, and the organization of CEMA.

CEMA is a registered not-for-profit non-governmental organization established in Alberta in June 2000, although the work of this group officially began in 1997. CEMA provides a forum for stakeholders to discuss and resolve environmental issues related to development.

Note that when I say "development", I'm not talking only about oil sands development or oil and gas. It includes other types of development, such as forestry, gravel pits, and linear disturbances. More specifically, the mandate of CEMA is to make recommendations on how best to manage cumulative impacts from development, and hence protect the environment and the Regional Municipality of Wood Buffalo.

These recommendations and management frameworks are based on scientifically founded limits, on the values of the regional stakeholders, and we use information from existing scientific research as well as traditional environmental knowledge. Where information for decision-making is lacking, CEMA funds experi-

enced researchers from around the world, and frequently over several years, to fill knowledge gaps.

CEMA has made excellent progress. To date, more than 150 technical reports have been prepared and over 20 workshops have been held by CEMA, the findings of which form the basis of management recommendations that are provided to provincial governments and to industry on approaches to protect the environment.

CEMA uses consensus-based decision-making at all levels of our organization. This process results in scientifically based recommendations that are acceptable to all CEMA members.

CEMA's member board consists of 47 organizations. The organizations represent six environmental groups, nine first nation and Métis groups, seventeen industries, and fifteen government groups at the local, provincial, and federal levels.

The primary products of CEMA include recommendations on management systems and management objectives to address concerns related to air, land and reclamation, and water. Five working groups and three committees of CEMA develop these recommendations that are referred to the appropriate regulatory body for implementation. Such agencies include Alberta Environment and Alberta Sustainable Resource Development.

Now I'd like to say a few words about the work we have completed, the work that is under way, and the work that's planned at CEMA.

The regional sustainable development strategy developed by Alberta Environment in 1999 has largely guided CEMA's work plans for the Athabasca oil sands region. This initiative identified 72 priority environmental issues in the region. CEMA is responsible for addressing 35 of these issues. Other RSDS issues are being addressed through other regional committees or by the provincial government.

In 2004, CEMA established a five-year strategic plan to provide better focus and direction for our work. At this time, industry also established a five-year, \$20 million budget to provide long-term funding for the establishment of regional management systems.

• (1610)

Since the inception of CEMA, six final recommendations and a seventh draft management framework have been forwarded to the Alberta regulators. This work has covered air missions, land disturbances and reclamation, and in-stream flow needs.

I'll list for you the six final recommendations for the oil sands regions: a trace heavy metals management framework in 2001; an acid deposition management framework in 2004; a landscape design checklist in 2004, ecosystem management tools to minimize habitat fragmentation in 2004, the third edition of the landscape capability classification for forest ecosystems in 2006, and an ozone management framework in 2006. In addition, a significant body of work and draft recommendations on an in-stream flow needs management system for the lower Athabasca River were provided to the Alberta government and the Department of Fisheries and Oceans at the end of 2005. This information is being used by the governments to develop a water management framework for the lower reaches of this northern river system.

As I noted, CEMA's work is accomplished through five technical working groups and through the traditional environmental knowledge committee, the communication committee, and the management committee. I won't go into the details on each of these groups. Suffice it to say, we have a significant amount of work on our table.

Key projects currently being completed include the following: developing a management system for terrestrial ecosystems and landscapes; designing a management framework for trace air contaminants; setting water quality objectives for the lower Athabasca River; developing a watershed integrity management system for the Muskeg River; developing a nitrogen management framework for eutrophication; revising existing reclamation practice guidelines; and creating new predictive models for reclamation activities, such as the design event at lakes. Some of this work is expected to be completed by 2007, while other projects will extend into 2008 and beyond. Much of the work we do in the area of reclamation best practices and guidelines will continue for several years, as new research is completed and new technologies are developed.

The traditional ecological knowledge committee was established to guide the work of CEMA in the integration and use of traditional knowledge in our baseline studies and in our management systems. We know the incorporation of this traditional knowledge is key to developing best products and will result in the strengthened recommendations for the protection of the environment.

The last topic I'd like to talk about is the challenges and opportunities for our organization. As I said in the introduction, CEMA is a non-profit organization. The strategic direction of CEMA is set by our members board and is crafted by including input from all of the members. As I'm sure you can appreciate, finding balance and consensus amongst 47 members with a wide diversity of views and interests is a challenge in itself.

I would like to speak to four challenges we are facing with our organization. They are, first, developing clarity of our mandate with other parties, and indeed within our group; revalidating environmental priorities in the oil sands region; the complexity of our work and timeframe expectations; and lastly, communication.

I'll just say a few words about each of these four items. On developing clarity of our mandate, I need to be clear here. CEMA is an organization that brings together a diversity of stakeholders, as I described a few minutes ago. The strength of our work lies in the involvement of this diverse membership in designing regional

environmental management systems. We have active participation by government departments working alongside industry, environmental, and aboriginal groups. CEMA's role is complementary and supportive to the role of government and developing policies and regulation but is not meant to replace the responsibility and accountabilities of the various levels of government. CEMA makes recommendations on ways to improve existing management systems. The government is responsible for reviewing, revising if need be, and implementing and enforcing the management recommendations.

The next challenge we face is revalidating environmental priorities. The regional sustainable development strategy and the environmental priorities in the oil sands region were set back in 1999. It is now time to revisit this strategic framework, update regional environmental issues, and reset priorities in the regional municipality of Wood Buffalo. For example, groundwater is a higher-profile issue now amongst the aboriginal groups, and greenhouse gases and climate change are not being managed under CEMA's mandate. The revision of this strategy has already been recommended to Alberta Environment by CEMA.

• (1615)

The third challenge I'd like to speak about is the complexity of CEMA's work and the timeline expectations. The original thinking was that the RSDS issues could be addressed over a five-year period. Six years into CEMA's work schedule, we can declare that the time estimate was unrealistically short.

We also know that the work we are undertaking is paradigm-shifting. We are also dealing with groundbreaking scientific work that integrates traditional ecological or environmental knowledge. It takes time to do this right, and doing it right is extremely important.

The design of the CEMA process, with a consensus-based board of 47 members, adds to the complexity and timeline to move work forward. You may ask if it is worth the extra time. My emphatic answer would be yes. The recommendations that we have completed are built on a solid foundation of involvement by our stakeholders and on consensus. We believe the additional time taken for public discussions through the CEMA process will be time saved during the implementation phase of the recommendations by the government.

We have many pressures on our time and resources. I am pleased to say that we have tremendous support from our funding community: the oil sands industry. Many of our members, including government departments, contribute significant amounts of in-kind resources, through staff assigned to various CEMA working groups. All of our members participate, though from many of their perspectives they do not have the capacity to participate at the level they would desire.

At the same time, we experience constraints on our ability to move projects as quickly as some parties may want. To continue to increase the rate at which we develop environmental management frameworks, CEMA is implementing an improved goal-setting and performance-tracking system, providing training in project management, requesting increased participation by senior government representatives, and pursuing methods to increase levels of accountability and participation by all organizations on CEMA. In addition, the use of regulatory backstops to ensure the completion of key management systems on set timelines is being reviewed.

The last topic I'd like to speak to is communication, which is our fourth challenge. One of our shortcomings at CEMA has been our failure to communicate adequately about the extensive groundbreaking work we have done in developing regional environmental management systems for the Wood Buffalo region. To correct this important oversight, we have hired a communication officer and re-established a communication committee. We are developing a communication plan for both internal and external stakeholders.

In closing, I would like to say that CEMA is conducting paradigm-shifting work that is producing robust management recommendations that are supported by multi-stakeholders and are based on science and traditional environmental knowledge. CEMA has a pivotal role in designing regional world-class management systems to address the cumulative effects of development and to protect the air, water, and land in the Regional Municipality of Wood Buffalo.

That, ladies and gentlemen, is the brief from CEMA.

• (1620)

**The Chair:** Thank you very much, Ms. Smith.

Well, again there's lots of information to absorb, and we've just begun.

Who will we start off with today? I will now move to questions, and I'm going to ask Mr. Cullen to begin the questioning today.

**Hon. Roy Cullen (Etobicoke North, Lib.):** Thank you, Mr. Chairman.

Thank you to all the witnesses today.

The notion of cumulative impact is something that I find very interesting and intriguing. Now, to the Cumulative Environmental Management Association, you're a not-for-profit; you would identify projects or areas to review based on your board of directors and the priorities that you see. You would write reports, and you would input them into various processes that are going on, but you don't really have a decision-making capability. But I accept and I appreciate the fact that you're doing a lot of excellent work.

To the Canadian Environmental Assessment Agency, the part that concerns me—we were just up there—is that if you look at what's there to date, I think you could make an argument that it may not be sustainable currently, especially as it relates to the water resources, the impacts on the Athabasca River Basin, etc. But if you look at what's coming, which is alluded to here in both presentations, there are 40-odd projects. And I gather that CEMA's mandate does not extend to climate change or CO<sub>2</sub>; I presume the Canadian Environmental Assessment Agency would be seized of issues like

that. I'm not sure. Maybe Mr. Bouchard, when I've finished, you could respond to that. My concern is in terms of cumulative impact.

Mr. Bouchard, could you tell me what triggers an assessment? You talked about certain more junior-level assessments, or minor assessments. Is it a dollar figure? Is it something that is set by other criteria? And who decides which agency would have an interest or a lead? For example, in two of the projects that you looked at, you talked about Transport Canada and Fisheries and Oceans. Who would be concerned with issues around CO<sub>2</sub> production, around the impact on the water resources in the area? Who would decide who is going to be the lead on the assessment? Is there a danger—that's the other question I have—of a number of smaller incremental projects getting under the radar and our missing out on the cumulative impacts?

I see that there is this multi-stakeholder exercise, but I presume that would have been initiated by the Alberta government, I'm not sure—maybe with your encouragement, hopefully. How do we make sure as we move forward that this is sustainable, and that we don't miss the big picture in terms of cumulative impacts, not only in terms of water, in terms of CO<sub>2</sub>...?

I don't know if you would be interested at all—it would be included in either of your mandates—in looking at the way we're using our natural gas resources. I think there is an issue around whether this is the most efficient use of our natural gas resources.

I'll stop there. Maybe, Mr. Bouchard, you could start, and then, Ms. Smith, you could comment on that.

• (1625)

**Mr. Jean-Claude Bouchard:** You've asked a lot of questions, and I'll do my best to answer them. If you don't mind, I'll ask my colleague Scott Streiner to give me a hand as well. He was taking copious notes here.

First, the obligation to do an environmental assessment is triggered by a number of factors. We can't decide not to do one because we don't like it.

For example, if the federal government is the proponent, if it's something the federal government builds, you automatically have to have a federal environmental assessment. If we transfer a piece of crown land to a proponent or to another government, whatever that proponent does with the piece of land triggers the necessity to have a federal environmental assessment. If we fund a project in total or in part, there's the obligation to have a federal environmental assessment.

Finally, in any circumstance where a federal department issues an authorization or a permit... I gave the example of the use of explosives. What we find more often is that if you want to build something that will have an impact on the water or on fish habitat, automatically Fisheries and Oceans gets in there.

At any rate, the federal government issues lot of permits, and in all of those circumstances there is an environmental assessment. Typically there are 6,000 every year, and that number is growing.



So it's not a question of deciding that we're going to have one or not going to have one. It's in our legislation. We have to perform them.

There are different levels, as I explained. Screening is for the small projects. You also asked who decides if there's a comprehensive study. There's a list attached to our legislation that says a hydroelectric project of such-and-such a magnitude requires automatically a comprehensive study, which is a very detailed environmental assessment. Then the Minister of the Environment has the authority to bump that up to the creation of an independent panel of experts to review a project. That's the way it works.

Now, what about the cumulative effect? As I said in my presentation, it's not always simple. Our legislation is structured to evaluate project by project, not necessarily to look at the whole of northern Alberta. But our act also says that we need to take into consideration cumulative effect. For example, the effect on the Athabasca River has been very much considered by every one of the panels that has been appointed in the recent past.

So yes, that is being monitored, assessed by scientists, and considered by the panel.

**The Vice-Chair (Mr. Alan Tonks (York South—Weston, Lib.)):** Mr. Bouchard, I'm sorry to interrupt you, but I want to give Ms. Smith an opportunity to respond as well on the cumulative effects, if I may.

Ms. Smith, please.

**Ms. Judy Smith:** Certainly, thank you.

There were a lot of questions asked in that one series of questions at the beginning, but I will say this. I think there's very much a general consensus among our members that on the air, water, and land side we're actually not near the levels or thresholds where emissions or water withdrawals, for example, would damage the environment.

The intent of CEMA is to design management systems for the future that will prevent damage either to the ecosystems or to the air or to the water. We are being proactive before the level of development would reach those management objectives or thresholds. I'm sure everyone around our CEMA table would support that statement, that we are being proactive to set up those management systems before we do have major damage in the region. I think that's a really important point that you need to remember.

I would also say that we are not decision-makers; we are helping to provide the tools for the decision-makers. So we are providing management recommendations that would be translated into policies or regulations that could be used by regulators as more development comes on board.

We do not have within our mandate right now the issue to address CO2 and climate change, but it is one of the issues on the RSDS strategy that I talked about. When we go through our clarification of mandate and reprioritization of environmental issues in the Wood Buffalo region, that is one that may come to a higher profile and be set as a priority.

The last thing I would say is that when cumulative effects assessments are done in environmental impact assessments in the

region, they do take into account all the projects in the region. You were talking about a "death by a thousand cuts" concept, and this is well known and it's being addressed at CEMA by setting in place these management systems. But when cumulative effects are done within environmental impact assessments for various developments in the region, we do look at not only existing projects and the applications but proposed projects in the region.

So we are looking at the maximum conservative levels of damage that could be caused to the environment, and CEMA is responsible now to help set the management systems and then provide those to the government to implement.

• (1630)

**Hon. Roy Cullen:** Thank you. I'm sure my colleagues will pick up on some of that.

Probably my time is up.

**The Chair:** It is.

**Hon. Roy Cullen:** Thank you.

**The Chair:** Thank you.

Ms. Smith, just for clarity, further to Mr. Cullen's question, you mentioned that you're not decision-makers. But did I sense from your presentation that you do have some authority for the implementation of these recommendations or monitoring of the effects?

**Ms. Judy Smith:** I can answer those separately. We do not have decision-making authority. We make recommendations and those recommendations go to the government. The government then has the choice to take those recommendations and implement them as they are, which they actually have for the six recommendations that we've given them, or they can take the recommendations and revise the recommendations before they implement them. So we do not.

We do have some recommendations that we've made to industry members, and the industry members have volunteered without regulatory implementation to use the tools that we provided at CEMA, but that's been on a voluntary basis.

There are two other regional committees in the area, called the Regional Aquatics Monitoring Program and the Wood Buffalo Environmental Association, that are responsible for regional monitoring programs for air and water and aquatic resources, but those are two separate organizations. CEMA, through the development of management systems, can make recommendations to those monitoring committees on future programs.

**The Chair:** Thank you.

I don't mean to take time from the questioners, so I will move now to Madame DeBellefeuille.

[*Translation*]

**Mrs. Claude DeBellefeuille (Beauharnois—Salaberry, BQ):** Thank you very much for your presentations.

I want to ask a few technical questions about the agency, because I don't know a lot about its role.

You report to the Minister of the Environment. Can she disregard the agency's recommendations?

**Mr. Jean-Claude Bouchard:** First of all, I report directly to the Minister of the Environment. To my knowledge, it has never happened that a Minister of the Environment has... It has never happened. So it's hypothetical.

**Mrs. Claude DeBellefeuille:** That's fine. I just wanted to compare your autonomy to that of the environmental consultation structures in Quebec.

**Mr. Jean-Claude Bouchard:** Which I know well, by the way.

**Mrs. Claude DeBellefeuille:** Which you know well.

I imagine that the oil sands development involved more review panels than comprehensive studies.

I also imagine that it is in the third category, given the development's environmental impact.

**Mr. Jean-Claude Bouchard:** More and more, the Minister of the Environment is appointing review panels, but not just for the oil sands. It's a very strong trend.

Previously, a Minister of the Environment would appoint one or two review panels a year. This year, if the trend continues, by the end of the month, she will have appointed some ten or twelve. That is the case with respect to the oil sands.

**Mrs. Claude DeBellefeuille:** How many environmental assessments were performed by panels for the oil sands project in Alberta? Earlier you mentioned 6,000 environmental assessments. How many review panels were there in connection with the oil sands?

• (1635)

**Mr. Jean-Claude Bouchard:** There have been only two to date, but there will be many others. So there have been two projects for which the Minister of the Environment has appointed a joint review panel with Alberta.

**Mrs. Claude DeBellefeuille:** What did they look at?

**Mr. Jean-Claude Bouchard:** The two projects in question are Muskeg and Kearl Lake. They are two big projects.

**Mrs. Claude DeBellefeuille:** These are new projects that have not yet started.

**Mr. Jean-Claude Bouchard:** They are not under construction because they are being assessed.

**Mrs. Claude DeBellefeuille:** They are not under construction because they are on hold. OK.

How many of these environmental assessments or review panels has your agency funded? Your agency has funded independent groups.

I'm going to make an observation, and I don't want to question the value of Ms. Smith's group. I notice that there are a lot of non-profit agencies that are consultants, lobby groups or advisory groups where the oil industry is very much involved because it funds them. In my opinion, being both judge and a party to the case removes some of their independence.

How many environmental assessments or review panels are awarded to groups that you have funded through the program you spoke of earlier? Is the oil industry part of these groups? In other words, are these groups completely independent?

**Mr. Jean-Claude Bouchard:** In every case where there is a review panel, we have a budget, a participant fund. As a result, in every case, we appoint a panel, often headed by our director in the region where the panel is sitting, as well as people from outside, and we review the requests.

We do not fund any group that has its own sources of funding. We do not pay anyone's operating expenses. In general it is community groups, citizens' groups, environmental groups and others.

**An hon. Member:** First nations.

**Mr. Jean-Claude Bouchard:** It's true that there are also first nations. There are many aboriginal groups.

**Mrs. Claude DeBellefeuille:** Regarding the two projects currently being studied by review panels, are you funding groups to help them participate in the hearings?

**Mr. Jean-Claude Bouchard:** Yes, absolutely.

**Mrs. Claude DeBellefeuille:** Can you give me their names?

**Mr. Jean-Claude Bouchard:** I could send you a list.

**Mrs. Claude DeBellefeuille:** OK.

When you make recommendations to the minister, are they implemented in a reasonable amount of time? How does that work?

**Mr. Jean-Claude Bouchard:** Yes, they are implemented. In the case of a project that has been subjected to an environmental assessment, she imposes requirements on the promoter. There is a whole series of conditions that the promoter must respect.

Our recommendations to the Minister of the Environment can be formulated in this way: in this case, Madam Minister, for all the following reasons, we recommend that you appoint an independent review panel; or in this case, a comprehensive study would suffice. We make recommendations of that sort to her.

As to the recommendations for the project, it is the promoter who must implement them.

**Mrs. Claude DeBellefeuille:** Since your role is to predict and assess the potential negative environmental affects and propose mitigation measures, I have a very simple question for you.

You know that this industry produces a lot of greenhouse gas emissions. I was surprised to note that, as part of your environmental assessments, you do not make recommendations about targets for greenhouse gas reductions, in light of climate change and our scientific knowledge.

I would expect that even before the studies begin, the oil companies would be obliged to reduce their greenhouse gas emissions.

**Mr. Jean-Claude Bouchard:** I'm going to ask Scott to add to my response afterwards.

If there are greenhouse gas reduction targets, they are taken into account during the assessment of individual projects and we ask that a certain number of mitigation measures be taken to reduce these emissions.

It is not our role to establish reduction targets.

**Mrs. Claude DeBellefeuille:** On the other hand, you know that the assessments of the percentage of greenhouse gas emissions are documented. This is scientific data that you can't ignore.

Normally, your agency should make recommendations to the minister concerning the effort to make to reduce greenhouse gases and combat climate change. This should be part of your recommendations.

**Mr. Jean-Claude Bouchard:** The review panels' reports indicate the extent of the emissions and how much the mitigation measures will reduce them. The decision on whether or not to go ahead rests with the government, the Cabinet.

**Mrs. Claude DeBellefeuille:** I asked you a little earlier if the minister implemented your recommendations. Do you tell her what the effects of an increase in greenhouse gases will be and what the possible mitigation measures are, for example, quickly implementing the CO2 storage and capture technology? Do you recommend that to the Minister?

Are you telling me that the minister is not required to oblige the promoters to respect the mitigation measures that you propose?

•(1640)

**Mr. Jean-Claude Bouchard:** The final decision to authorize a project or not rests with the government or the Cabinet. It considers the report from the review panel, which indicates what can be reduced, what can be limited and what the impacts on the environment could be. It is never a black and white decision for us. It's the government that makes that decision, and not the agency.

**Mrs. Claude DeBellefeuille:** I know, but I'm going to ask my question again.

If you recommend that the minister have regulations adopted that establish standards for the promoter's greenhouse gas emissions, normally, she should implement your recommendation, since you just told me that the minister has never rejected a recommendation.

**Mr. Jean-Claude Bouchard:** Of course, but it's the Cabinet that, when all is said and done, decides whether the environmental impact is acceptable or not. Our role is to document and explain what can be done and what cannot be done. After that, the government decides.

We never recommend abandoning a project. We indicate what the project's impact is and to what extent that impact can be mitigated. It's well analysed; some reports are 400 or 500 pages long. They analyze all that and then they summarize it. Then, the government makes the final decision.

**Mrs. Claude DeBellefeuille:** Do I have any time left, Mr. Chairman?

[English]

**The Chair:** No, no. You have a minute. Go ahead.

[Translation]

**Mrs. Claude DeBellefeuille:** That's it for the moment.

[English]

**The Chair:** I just wanted to clarify that as well, because it was an interesting line of questioning that seemed to be somewhat circular in terms of the response, and I don't think he intended that.

I had a sense that she was trying to get an answer regarding specific recommendations that you had made to the minister that were or were not taken up. It is the case that you haven't made recommendations that have been declined, I take it.

**Mr. Jean-Claude Bouchard:** That's right. Maybe, Scott, you can help me.

**The Chair:** Mr. Streiner, could you add to that?

**Mr. Scott Streiner (Vice-President, Program Delivery, Canadian Environmental Assessment Agency):** The only thing I would add, as Jean-Claude said, is that the recommendations that come forward from the panels and are processed by the agency and put before the government can include anything that falls within the scope of the panel, including, potentially, air emissions.

The government ultimately makes a response to the panel recommendation. But then—and I think this may be the missing piece to answer the question—the federal departments that have to issue an authorization or a permit to allow the project to proceed can include, will include, those conditions in the permitting process. That's the mechanism by which the federal government can actually ensure the implementation of the panel's recommendations.

In the case of the oil sands, in most cases federal involvement is triggered by the requirement, for example, for a Fisheries Act authorization or an authorization under the Navigable Waters Protection Act. So DFO or Transport Canada will include recommendations from the panel that were approved by the government as conditions of authorization, before issuing the permits. That's the tool the government has to ensure the implementation of a panel's recommendations.

**The Chair:** Thank you.

Mr. Sylvester.

**Mr. Peter Sylvester (Vice-President, Policy Development, Canadian Environmental Assessment Agency):** Just building a bit on that response

[Translation]

as my colleague Mr. Streiner has explained, the mitigation measures to reduce the impacts are included in the permit issued by the department, the responsible authority. There is also a "follow-up" component. Those departments—the responsible authorities—also have an obligation to follow up to ensure that, over time, these mitigation measures have in fact been implemented.

That completes the implementation of that panel's conclusions.

•(1645)

[English]

**The Chair:** Thank you. That is clearer to me, and I hope to you as well.

Thank you for the questions.

In the course of Madam DeBellefeuille's questioning, she requested a copy of the list of those being funded in relation to oil sands projects and environmental assessments. On behalf of the committee, as Mr. Cullen and Mr. Harris both asked the same question of the chair, could I ask you to submit that information to our clerk, and then he would provide it to all of the committee?

Thank you.

Monsieur Bevington.

**Mr. Dennis Bevington (Western Arctic, NDP):** Thank you, Mr. Chairman.

Thank you to the members of the panel here today for your presentations.

Prior to 1992, we had a fairly major project, the Al-Pac project, that went through environmental assessment on the Seine River. There were some significant stoppages made to that particular project as it advanced. Maybe your legislation has weakened since then, but certainly the result of the environmental assessment of that project was a complete rebuilding of the project. So there is a bit more to it than that.

**Mr. Jean-Claude Bouchard:** If I may, I said earlier that the environmental assessment never says—I haven't seen it anyway—no, this project cannot proceed. It says this project can proceed, but if you have 95 complex measures that need to be put in place, or if you need to change the grid from this part of the river to the next one, that makes it uneconomical for a proponent to go ahead with the project. Those are the instances where a project will not proceed.

Maybe I didn't explain myself correctly, and maybe, Peter, you can help me.

**Mr. Peter Sylvester:** As a point of clarification, the statute on which most of our comments and interventions are based today is the Environmental Assessment Act, which came into force in 1995. Prior to 1992, this would have been under the previous regime, which was the environmental assessment review process guidelines order, which was similar in some ways to, but markedly different from, the statutory regime we have in place now.

**Mr. Dennis Bevington:** Regarding the process you follow now, I note that you have cooperation plans with the agencies in place. As an agency that judges projects, how do you prejudge the nature of the project, as to its place in the environmental assessment process?

To me that seems like you're putting the cart before the horse in terms of judgment. Even by having a sort of size allocation to a project, putting it in a particular category of assessment, this seems to prejudge the process.

**Mr. Scott Streiner:** I assume you're referring to whether a project is subjected to a screening, a comprehensive study, or a panel assessment.

**Mr. Dennis Bevington:** Yes.

**Mr. Scott Streiner:** In a sense, that was the wisdom of Parliament. The legislation lays out that there are certain thresholds over which a project shall be assessed through a comprehensive study. The comprehensive study regulations define those thresholds; the agency simply implements them.

The decision on whether or not to move from a comprehensive study to a panel level, which of course is the most public process, rests with the Minister of the Environment. She makes that decision under law, based on recommendations from whichever federal departments need to issue the permit. It's really part of the legislative scheme.

**Mr. Dennis Bevington:** When it comes to the definition of cumulative impact under CEAA, my understanding was that future developments were also included in the definition, so that when you are looking at a project, such as one of the oil sands projects, you can assume that other projects are going to come on stream, and you can set the project into a future of the oil sands industry that may include quite an additional number of projects. Is that correct?

**Mr. Scott Streiner:** Yes, that's right.

**Mr. Dennis Bevington:** Is that what is commonly done with your projects, then, that you're assessing the environmental impact of the withdrawal of water from the river in conjunction with as many projects as you would see on the horizon for this region?

• (1650)

**Mr. Jean-Claude Bouchard:** We do that—and when I say “we,” I mean the panel typically takes into consideration the work of CEMA and the work of other experts, and what we know of future projects. But again, we don't know all the projects that are being contemplated by this industry. We know some of them. We know what the territory looks like. We know what the prospects are. That's taken into consideration by the panel, getting advice, by the way, from scientists in the provincial government, the federal government, and the private sector.

**Mr. Scott Streiner:** The only thing I would add to that is this, and it comes back to Mr. Cullen's question as well. Clearly, the further the work of CEMA gets and the multi-stakeholder committee set up by the Alberta government gets in terms of establishing thresholds and frameworks with respect to a variety of issues—land, water, and air, on a regional basis—the more effectively panels will be able to factor these issues in. So they factor them in already.

But to come back to your question, to the extent that we have management frameworks at a regional level, that will assist panels in conducting that work. The panels very much look to the work of CEMA and other bodies conducting this kind of research.

**The Chair:** Ms. Smith, would you like to comment, please?

**Ms. Judy Smith:** Yes, if I could add to that, when we're developing the regional management systems on air, water, or land disturbance, or whatever it is, we have to determine what the cumulative effects will be. In there, we take into account the effects of existing projects, the ones that have just been approved, and we take into account future projects and their footprints as well.

For example, when we did the in-stream flow needs management system for the Athabasca River, which was in draft form and submitted to the Alberta and federal governments, we did a calculation on what the withdrawals would be, by various projects, from the Athabasca River in relation to the flows—the high flows and the low flows. So we actually do impact assessments within our organizations in order to understand what the maximum footprints are, to understand where we are in relation to the thresholds we're setting.

**Mr. Dennis Bevington:** So would that be characterized by an industry of 3.5 million barrels a day, 5 million barrels a day, or 7 million barrels a day? What did you use as your base for those calculations?

**Ms. Judy Smith:** That is a very controversial question. In some of the more recent working groups that I actually worked very closely on, we just went through that very debate. We went to the experts in our region. So we went to the regional infrastructure working group, where all the industry sits, and they provided all their best estimates of what their various footprints are. So they know what their reclamation would be, what their footprints are for clearing, what their water withdrawals are. So industry actually fits there and makes other stakeholders aware of what their footprints will be.

On that particular issue, we had discussions under the sustainable ecosystem working group, which is working on the landscape terrestrial management system for terrestrial resources. I think we finally decided on 4 million.

**Mr. Dennis Bevington:** Barrels a day.

**Ms. Judy Smith:** Right. And we did that because that came directly from our experts and we didn't want to second-guess what it should be.

**Mr. Dennis Bevington:** Thank you.

So I don't run out of time here, I just want to touch base with you on air emissions. I'm interested to know how, first, you monitor air emissions. Are you monitoring stack emissions? Are you taking air samples in the region? Are you monitoring the spread of air emissions outside the Wood Buffalo region?

**Ms. Judy Smith:** We have what we call the Wood Buffalo Environmental Association, which was established, I believe, back in 1995 when the first companies were mandated or required under Alberta Environment to set up a regional monitoring program. The program covers the entire regional municipality of Wood Buffalo, and we have a number of air stations that are scattered throughout the region, all the way up to Fort Chipewyan, and certainly around Fort McMurray itself, and around each of the facilities. So the operators designed or established their own ambient air quality monitors, and those are all then donated into the Wood Buffalo region.

Also, each company is required under legislation to do its own stack monitoring as well. So we do direct emissions from each project, we do the ambient trailers, and we do passive monitors throughout the region. It's probably one of the most extensively monitored air sheds in Alberta, and there are several air sheds that are set up using the same CASA, or Clean Air Strategic Alliance, approach.

• (1655)

**Mr. Dennis Bevington:** Are you monitoring outside the regions, though, especially to the east?

**Ms. Judy Smith:** Some monitoring stations have been set up in Saskatchewan, across the border. Saskatchewan actually sits on some of our committees.

**Mr. Dennis Bevington:** Thank you.

**The Chair:** Nice timing.

We'll move now to Mr. Harris.

**Mr. Richard Harris (Cariboo—Prince George, CPC):** Thank you, Mr. Chair.

Ladies and gentlemen, thank you for your presentations.

Mr. Bouchard, I want to focus in on some questions regarding the issue of funding for the groups you had mentioned. You named three, and I'm sure there are more than that.

Over the last five years, say, using annual averaging, approximately how much funding have you provided for groups, particularly in the oil sands project? And approximately how many groups would have been involved on an annual basis?

**Mr. Jean-Claude Bouchard:** We have an annual budget of \$1.5 million. If we need more money than that—and the budget has been increasing because of more and more activity—we go back to Treasury Board and eventually get more funding. But it's \$1.5 million right now for the whole country.

I could provide you with a list for the oil sands in particular. I don't have it in the notes we've prepared. But the example I gave is typical. In that particular case, \$100,000 was allocated and three organizations got it.

**Mr. Richard Harris:** Yes, I have that, and I wanted to go to that next. There were two first nation groups on that list, I think, with the Oil Sands Environmental Coalition. The \$100,000 there is divided up, of course.

What type of due diligence would be done to verify the relevance of their participation and their expertise to participate, to warrant, I guess, this type of funding? And what type of review is done of what they contributed to allow you to make a decision the following year, say, if you wanted to fund them again?

**Mr. Jean-Claude Bouchard:** I'll let Scott answer that one. He's the one overlooking all of that.

We don't fund on an ongoing basis, only for a particular project. Typically, if we say to a particular organization, "You've requested \$70,000, but we're giving you \$28,000," it's for that project. We don't fund them to operate.

**Mr. Richard Harris:** But if they came back the next year and said they wanted to participate in that next project, you would have some experience with them from the year before. That's what I was referring to.

**Mr. Jean-Claude Bouchard:** I would like Scott to explain to you how we decide how much money we give and that type of thing.

**Mr. Scott Streiner:** Thank you for the question, Mr. Harris.

Let me start by saying what we do for each of the panels and each of the comprehensive studies.

A public notice goes out and invites anybody from the public to bring forward an application. The process is wide open. Any individual, any organization is welcome to bring forward an application. When the applications come forward, they're assessed by an independent funding review committee that the agency sets up. That committee includes, as Jean-Claude said, several external representatives. That agency will assess each of the applications against the criteria for the program and it will determine exactly the kinds of questions you've posed. Does the group have some kind of relevant interest in the project? Have they proposed or provided information that's relevant to the comprehensive study or the panel? Are the costs the sorts of costs that we can legitimately cover? Those are not day-to-day operating costs of the organization, not lawyers to sue anybody, but expert advice, travel costs, things like that, so that they can actively participate in the panel process. On the basis of the review, the funding review committee submits recommendations, which then go through me to the president. He makes the final determination on the allocation of resources.

I think it's fair to say that the program is well regarded. It's generally accepted by both industry and environmental stakeholders that we do a good job of funding people in a manner that's appropriate. Follow-up on the specific allocations we give is done by requiring the submission of invoices. Where we have questions on whether the money has been used appropriately, we require reports and we require further documentation.

That's the process in a nutshell.

You've raised an interesting question: if there's a certain level of dissatisfaction—I think that's what you're getting at—with the quality of input provided by an organization in one set of hearings or in one process, would that be factored in?

To date that hasn't been the case. We haven't had situations where we've found that the money was used egregiously or was used inappropriately. If we did run into a situation where we felt that moneys had been misspent, first we would try to recover them. We have an obligation to make sure that taxpayers' money is used appropriately. That would be factored in subsequently. But to date we haven't had a situation where we've felt the money was misspent.

• (1700)

**Mr. Richard Harris:** I just have a couple of quick questions, I hope. When a proposed project is going to come under an environmental review process, is the developer of that particular project required to pay for the cost of the assessment review?

**Mr. Jean-Claude Bouchard:** Only in the case of a review panel. When the Minister of the Environment appoints a review panel, the cost associated with that review panel is borne by the developer. In other words, we invoice the proponent with the cost of operating that panel.

**Mr. Richard Harris:** Could there ever be a scenario in a review panel case that when people or groups were advocating against the project, the proponent would be in fact picking up the tab for those groups to argue against it?

**Mr. Scott Streiner:** Do you mean through the participant funding?

**Mr. Jean-Claude Bouchard:** Through the participant funding?

**Mr. Scott Streiner:** For the program I've just described?

**Mr. Richard Harris:** Yes.

**Mr. Scott Streiner:** That's not cost-recovered. When Jean-Claude says that the costs of the review panel are cost-recovered, it's the cost of administering the panel itself. The participant funding, which is awarded, all comes out of a special budget that is allocated by Parliament specifically for this purpose, so it's closed fund allocated for this purpose. The proponent does not pay for those costs, so there's no conflict of interest there.

The other point I would make in terms of cost recovery is that the only place in which the agency is able to recover costs from a proponent is in the case of a panel. But in the case of comprehensive studies, proponents are required to submit a detailed environmental impact statement as part of the environmental assessment process, and they will typically hire consultants to do that. So that's not cost-recovered by the agency or the government, but it's a cost borne by the proponent in bringing forward their request to government.

**Mr. Richard Harris:** Okay, last question, if I have time.

**The Chair:** You have three minutes.

**Mr. Richard Harris:** One more.

In your experience, have you ever had proponents together on a project who were arguing on both sides of the project, or has it primarily been, for example, environmental groups, first nations groups, and other groups that would be arguing against the project on a singular basis?

**Mr. Jean-Claude Bouchard:** I can't recall.

**Mr. Scott Streiner:** I wouldn't want to answer definitively—and we can look into this a little bit further—but I would say that are essentially three groups. There are the two you've described. Probably the majority of people who seek funding and come forward are not arguing vigorously to stop the project or to let it go as proposed. Normally what they're arguing for is modifications to the project to reduce the environmental footprint. I would say that's the majority, but we have examples of each of the other groups that you've described as well.

**Mr. Richard Harris:** Okay, I think I have another minute here. Your agency falls under the environment minister's department?

**Mr. Jean-Claude Bouchard:** The minister, not the department.

**Mr. Richard Harris:** Under the minister, right?

**Mr. Jean-Claude Bouchard:** Yes.

• (1705)

**Mr. Richard Harris:** I don't know if this is a state secret, but what is the annual budget for your agency?

**Mr. Jean-Claude Bouchard:** The annual budget is \$16 million. We have 150 employees altogether and we have six regional offices in Halifax, Quebec, Toronto, Winnipeg, Edmonton, and Vancouver.

**Mr. Richard Harris:** Okay. Last question. Typically, what mechanism would be used to flow money through to proponents? Would it come through a particular panel that was set up? Would the funding come through them or would it come through, say, somebody like Community Futures or some agency that is already established as a cheque-writing agency?

**Mr. Scott Streiner:** No. It's a direct contribution. A contribution agreement is signed between the agency as a representative of the Crown and the recipient to funding under the participant funding program. So we use a regular contribution agreement.

**Mr. Richard Harris:** So your agency can actually cut the cheque?

**Mr. Scott Streiner:** Yes, we can.

**Mr. Richard Harris:** I see. Okay. Thank you, Mr. Chair.

**Mr. Jean-Claude Bouchard:** If I may, Mr. Chairman, \$1.5 million a year is the fund that we have. Mackenzie gas is a separate project when it comes to participant funding. There was a special allotment made by the government for Mackenzie. I wanted to be specific on that one.

**Mr. Richard Harris:** Does your agency ever do environmental assessments on impacts of natural disasters or is it strictly development projects?

**Mr. Jean-Claude Bouchard:** It's projects.

**The Chair:** Mr. Russell.

**Mr. Todd Russell (Labrador, Lib.):** Thank you very much.

I have a comment as to the participant funding. Being on the other end as president of the Labrador Métis Nation, I would certainly advocate for more participant funding. Most organizations that go through that avenue just cannot participate in a meaningful way in these panel discussions.

We got \$13,500 for participant funding. Voisey's Bay Nickel Company spent \$17 million or something in that range under environmental assessment down in Labrador trying to compete.

It seems to me—and my friend said it's an advocacy thing—the proponents will try to minimize any negative impacts, and they will bring every expert to the panel, when we are in that stage, to say that it has just about no impact. They will line up their experts. If you have the money, you pay for them and you bring them to the table. Those who say it has an impact then bring their experts. So you have this toing and froing, and somewhere in the mix you come out with something.

But the scoping of projects I think is a fundamental question, because how they're scoped really determines the nature of the assessment—whether it is a screening, whether it is comprehensive study sometimes, or whether the minister decides there's a public interest to going through the panel, so to speak. How do these things in the tar sands get scoped? With all of this activity happening, I would think the least you'd see is a lot of panels, to be quite honest—as least, from what I know about it. It seems that the way the proponents are scoping their projects is a key element.

**Mr. Scott Streiner:** Let me respond quickly to your first point about participant funding. There is no question that there are more asks on the program than there is money. Of course we do our best to allocate the budget that has been made available to us, but there is no question that many applicants would appreciate having a richer program.

On the issue of scoping, you've absolutely hit on a fundamental issue. It clearly is critical. For those who have been less involved in this, scoping is really determining what the boundaries are, what

project it is that will be assessed through the environmental assessment process.

The federal government scopes its involvement, and the provincial government scopes its involvement. Sometimes the scope of project to be assessed is the same, and that can sometimes facilitate a harmonized process between the two jurisdictions. Sometimes it's different, because the specific federal interest may be more limited. There may be, for example, a situation where a federal department is issuing a permit for one specific aspect of a much larger project, and because the province is looking at the larger project, the federal department may decide that it is going to scope only to the smaller element or component of the project.

So it varies from project to project. Then the determination ultimately lies with the federal departments, the responsible authorities who have to make a decision.

But certainly the scale and the depth of the environmental assessment are shaped by the scoping decisions that are made by government.

● (1710)

**Mr. Todd Russell:** That is crucial in this, because how you scope it determines the nature of the assessment.

Let's say we move to a panel. Then I think another critical point is the terms and conditions, or what is to be studied at the panel, what the panel is to review. It is absolutely critical. If you don't ask the panel, for instance, to look at CO<sub>2</sub> emissions or greenhouse gases or climate change, you'll never get a recommendation coming out the other end, basically. So it depends; what you put in determines what comes out the other end from the panel.

Has there ever been a panel that has looked at CO<sub>2</sub> emissions or greenhouse gases as part of their review in the oil sands?

**Mr. Scott Streiner:** Have greenhouse gases ever been included in the terms and conditions? Yes, greenhouse gas emissions have been included in the guidelines for panels.

**Mr. Todd Russell:** Has there ever been a recommendation from a panel regarding CO<sub>2</sub> emissions?

**Mr. Scott Streiner:** I would want to go back to check. There have only been two joint panels that have reported to date, between the federal and provincial governments. I would want to go back to check the recommendations.

In terms of the scoping panel, can I just clarify one issue? The scope that the government departments establish to assess a project will shape the nature of the assessment, including whether it is a screening or a comprehensive study; the referral to panel doesn't depend on the scope. I think this is an important point. The referral to panel depends on whether or not the department deems the potential environmental effects to be significant and on the level of public concern.

So the scope doesn't determine whether it goes to a panel level, but the scope will determine screening versus comprehensive study.

**Mr. Jean-Claude Bouchard:** The panel is also independent and may decide, for good reasons, to study a particular part that is not specifically mentioned in the terms of reference.

**Mr. Todd Russell:** I have just a very quick additional question.

On the aboriginal consultation, I think we're talking about the Haida case and Taku case in B.C., and maybe some others after that. How far along is that? It is causing some trepidation within the aboriginal community, and maybe within the business sector as well, those who are going ahead with projects. How far along are you with it, and what's the interim policy?

**Mr. Jean-Claude Bouchard:** Scott is spending a very significant portion of his time on that.

**Mr. Scott Streiner:** Certainly whenever a major project is proposed in traditional territories, the Government of Canada recognizes that it needs to engage with aboriginal people. There is not, at the moment, an official Government of Canada policy that covers all consultation with aboriginal peoples in all situations, but there's a commitment to respect the jurisprudence that you're talking about.

You're absolutely right. It has been coming up more and more since the Taku and Haida decisions, and we're still in a learning period. We're only two years after those decisions, and so federal departments, sometimes under the guidance of the agency, will get together when there's a major project and major impacts on aboriginal communities and we will look at mechanisms for engaging aboriginal communities and for allowing them to provide input into the environmental assessment process.

But I don't want to suggest that there's a cookie-cutter solution to this. As you know, across the country, the nature of aboriginal claims, whether or not they're settled, and the size of projects vary. So we try to adapt the approach in each region and each project. But we are heavily engaged in the issue.

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

We're going to have to move on if we're going to get this round in.

Monsieur Ouellet.

[Translation]

**Mr. Christian Ouellet (Brome—Missisquoi, BQ):** Thank you, Mr. Chairman.

I know that you are in a difficult situation. I would say that you are between a rock and a hard place. I am going to give you an example. I was quite friendly with some people who worked at Hydro-Québec and who, for some time, were doing environmental assessments a lot

like the ones you do. The type of report they produced inevitably varied depending on the vice-president who was there. As you say, the minister has never refused your reports because you are smart enough to adjust yourself to her level. At one point, they decided that it didn't make sense to always do the studies internally and they decided to have the reports done by outside people, in order to reduce the level of criticism. They confided the task to outside engineers. What happened? When they were asked to do a study for a project that was to cross wetlands, they didn't say not to do it, because they would never have got another contract. When an important study was done for the Hertel-Des Cantons line, engineers, the people responsible, did it. They said that the project should go ahead, and yet that was criticized.

In your case, when you are asked to do a study on the oil sands, you know that there are significant greenhouse gas emissions, and your definition of the word "acceptable" will inevitably come into play. The groups may very well all come to testify before you, but yours will be there, and it's very variable. It can vary from none to all. You are obliged to set the bar at a certain height so that a given minister will accept it. It is a project that must be done. You cannot take the responsibility of stopping a project like the oil sands.

Power plants are another example. Nuclear power could replace natural gas, which is used to produce oil from the oil sands. What is your position on this? Nuclear does not produce GHG, but that is not where the problem lies. The issue is what to do with the nuclear waste. What will your position be?

• (1715)

**Mr. Jean-Claude Bouchard:** First of all, I would like to make a comment. The people that the minister appoints to sit on a review panel are chosen with care. Your colleague asked me if a minister had ever disregarded one of our recommendations. The agency recommends the members for that panel. We are very careful to ensure that these are people who, as far as we can know, have no conflict of interest whatsoever. Obviously, someone who works for an engineering firm would never be appointed to a panel. With the best will in the world, no one is impartial. We examine that with care, and the people appointed are generally people who have no links, however tenuous, to this industry. It is often people who are very well known within academia. They know the field well and they are going to ask the right questions. We do not decide where the bar should be set. They decide for themselves what is acceptable and what mitigation measures should be taken into account. In the case of nuclear plants, I imagine you are referring to Ontario.

**Mr. Christian Ouellet:** No, because Shell wants to do a project with the oil sands. You are going to have to look at it.

**Mr. Jean-Claude Bouchard:** When a project is presented to us, we will decide whether a comprehensive study or a review panel is required. We will then make a recommendation to the minister on the subject, but we are not the ones who will decide whether it is a good or a bad thing.



I imagine that, in the case of a nuclear plant, we will recommend the creation of a review panel. I don't want to presume anything, but for projects of that scope, we generally recommend the creation of a review panel.

**Mr. Christian Ouellet:** Just now, I had the impression that you would prefer the solution that is most reasonable from a financial point of view to the best solution technologically speaking. That is the impression I got when you responded to the other questions. You are more concerned about the fact that something must be doable. You thus favour the solution with the most realistic cost rather than the one with the best available technology.

**Mr. Jean-Claude Bouchard:** As a rule, we ask the members of a review panel, in our guidelines, to review the mitigation measures that are realistic. We are less interested in someone who thinks that they can invent a technology to clean the oil sands when no one has ever done that.

We defer to the review panel's expertise. That's all we say. We don't ask if it's feasible, if it's expensive or not. We don't impose any such criterion. We tell them to examine mitigation measures that are realistic, in the sense that we know that it has already been done and that it can be done again. We don't want to do research for the next 20 years to figure out if it can be done. That's what we say.

**Mr. Christian Ouellet:** In the case of Alberta's oil sands, we know that the technology to bury the greenhouse gases exists, but that it is expensive.

Given that this is the best technology for eliminating greenhouse gases that we know of, could you say, during an assessment, could you propose that it be used and that if it is not, the project cannot go ahead?

**Mr. Jean-Claude Bouchard:** We would not say that, but if a review panel wrote in its report that the development of the oil sands has such an impact that other GHG emissions cannot be allowed if the project is to go ahead, we would submit that to Cabinet. I repeat that it is the government that would make the final decision.

•(1720)

[English]

**The Chair:** Thank you, Monsieur Ouellet.

We have time for Mr. Allen.

**Mr. Mike Allen (Tobique—Mactaquac, CPC):** Thank you, Mr. Chair. I have two questions.

Ms. Smith, the first question I have is that I find this cumulative thing intriguing. With the area that is going to have to be developed in the north over a period of time, and potentially could be, the interaction between the cumulative group and the group that's actually exercising the assessments I find intriguing. In your group, how many people are actually on the ground, like employees, if you call them employees, doing the work that you talked about in these studies?

**Ms. Judy Smith:** We have the 47 organizations. Those organizations have at least one member, but when you look at our working groups, they actually have multiple members. Many of those individuals are on the ground working. In other words, when industry sends people there, they're experienced people, either on the effects or on the technologies. A number of the first nations

representatives are elders who are on the land. Some of them actually work on various projects. The federal and provincial representatives have all been up to the sites, and many of them are sitting on the joint review panels for the various projects.

**Mr. Mike Allen:** So in effect they're seconded resources basically. You get them from the companies and the stakeholders—

**Ms. Judy Smith:** Absolutely. In fact, one of the issues we have is adequate resourcing, and one of the recommendations we are making is that we need high-level representatives, decision-makers, coming to CEMA and we need them to spend their time participating and developing these management systems, which we believe will help protect the environment in the region.

**Mr. Mike Allen:** Which is always a challenge, seconded resources, right?

In your industry group, are all the major oil sand developers party to that, as part of your industry groups, or which ones are?

**Ms. Judy Smith:** Are they part of the industry group or part of CEMA?

**Mr. Mike Allen:** Do they contribute to your organization—Synchrude and people like that?

**Ms. Judy Smith:** Yes, all the major oil sands players, as well as members of the government, and so on, sit there. But yes, the industry players do sit there, and in fact, some of the provincial legislation approvals require that they sit on the various regional committees.

**Mr. Mike Allen:** So then, in fact, some of the work we saw them doing in the northwest—land reclamation and things of that nature—probably is part of this review process that you folks are doing, as well.

**Ms. Judy Smith:** It is. In fact, when I was talking about reclamation guidelines, those are the best-practice manuals that industry is required to prepare. We started those manuals back probably 10 years ago, and now we're going through iterations of those best-practice manuals and we're improving them as research comes to the table. So those are critical manuals for industry, and they're critical for reclamation in the region. And CEMA oversees those manuals with the multi-stakeholders.

**Mr. Mike Allen:** This is my last question. Is the integration point between the two groups, then, just so I get this right, the expert panels that you have? How that information, that feedback loop gets into.... I see CEMA doing their work; then I see a project that goes through an assessment; it gets an approval with mitigation—as you said, it's hardly ever unapproved—then they implement the project, then they mitigate, and then they have to do a review process. So I look at CEMA as kind of laying over top of this, feeding in to all those sections.

Is that kind of how that works?

**Ms. Judy Smith:** Indeed, many of the members of CEMA sit on many of the panels and vice versa. So there is an integration of the same people. That's one of the difficulties. The people who work with industry, the people who work with the federal and provincial governments, and the people who work with the first nations are also the same people who attend the hearing and participate in the review of EIA, so people have multiple tasks on their agendas. It's the same people, which is good, because everyone understands the issues.

**Mr. Mike Allen:** Thank you, Mr. Chair.

**Mr. Alan Tonks:** Mr. Chair, on a point of order, could I ask if Mr. Allen could use his time to ask Ms. Smith why CEMA is not mandated to make recommendations regarding CO2 and with respect to climate change—

• (1725)

**Mr. Mike Allen:** I couldn't have put it better myself.

**Mr. Alan Tonks:** —without opening another round.

**Ms. Judy Smith:** If you recall, when I was talking about what CEMA was doing, I was saying that we were answering some of the 72 issues that were raised under the regional sustainable development strategy. And when you look at the 72 issues, greenhouse gases and CO2 are one of the issues documented within that strategy. However, it was not identified by the stakeholders of the region as one of the high-priority issues to address, as one of the first environmental issues to be looked at, so that's why we haven't been looking at it right now. But I did mention that we believe now, after six years in operation, we should reassess the environmental issues and perhaps reprioritize. I won't guarantee that greenhouse gases would be on the top of the list, but there is an opportunity for it to change within that schedule of the work we do.

**Mr. Alan Tonks:** Thank you, Mr. Chair.

**The Chair:** Thank you for your question, Mr. Allen.

I think Mr. Cullen had a few more, but we've run out of time.

I'm going to thank the witnesses for their testimony today. I ask the committee just to hang in for about one minute after our guests have departed. Mr. Tonks has a bit of business to take up.

So I will thank you again for your appearance today and for great responses. Thank you very much for your time.

It's Mr. Tonk's day. Did you want to discuss a motion or committee business?

**Mr. Alan Tonks:** No. I was going to give a notice of motion with respect to BIOCAP, but BIOCAP, I am understanding now, is making a representation next Tuesday, and so I guess, Mr. Chairman, that it would probably be best to have the notice of motion after the BIOCAP representatives have made their representation. So I think I'll discuss that with the clerk.

I have just been informed that they are going to do that, and that might facilitate a better discussion with respect to the motion. But I hadn't been aware that they were going to make that deputation until just a few minutes ago.

**The Chair:** It's my understanding that we're going to be here next week, but I keep hearing from other avenues that we may adjourn as early as Friday. We know we'll be here on Thursday, two days hence, and we'll be hearing about nuclear on Thursday.

Thank you for your participation today.

With that, we're adjourned.

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