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Chair

Mr. Mervin Tweed

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• (1115)

[English]

The Chair (Mr. Mervin Tweed (Brandon—Souris, CPC)): Good morning, everyone. Welcome to the Standing Committee on Transport, Infrastructure and Communities, meeting number 23. The orders of the day are, pursuant to Standing Order 108(2), study of the current status of navigation protection of the Canadian waterways, including their governance and use, and the operation of the current Navigable Waters Protection Act.

Joining us today from the Federation of Canadian Municipalities are Mr. Don Johnson, who is the president of the Alberta Association of Municipal Districts and Counties; Mr. David Marit, president, Saskatchewan Association of Rural Municipalities; and Ms. Susan Irwin, who is a senior policy and research analyst.

For the committee's information, we have circulated the document. You may see some variance between the presentation and what's in the actual document, but I think it'll all come clear as we go through it. I hope everyone has that.

Dave, please proceed.

Mr. David Marit (President, Saskatchewan Association of Rural Municipalities, Federation of Canadian Municipalities): Thank you, Mr. Chairman.

It is indeed an honour and a privilege for us to be here today. I want to thank the committee for giving us this time on the agenda.

My name is David Marit, and I am the president of the Saskatchewan Association of Rural Municipalities. With me today is my colleague Don Johnson, who is the president of the Alberta Association of Municipal Districts and Counties. In addition to our regular duties as presidents of these associations, both Don and I are also active on the FCM board of directors. In particular, Don is currently the chair of FCM's rural forum.

I want to thank you very much for inviting the FCM to appear before this committee. We are pleased this committee appreciates the impact of the Navigable Waters Protection Act, or NWPA, on municipalities across Canada and understands the need to amend this 1882 legislation.

The provincial transportation departments and municipalities are jointly responsible for the construction and maintenance of highway and road networks as well as water management infrastructure. For these departments and municipalities, the NWPA is the most problematic of all regulatory legislation. It is the most time-

consuming, and in our opinion, the approval process does not often result in substantive positive changes.

We are encouraged that Transport Canada recognizes the burdens of this outdated legislation and has proposed changes to the act. While we are supportive of the intent and much of the content of the amendments proposed, our recommendations go somewhat further.

Representing municipalities, we would like to express our support for the recommendations that Alberta Transportation has established. In particular, Alberta Transportation has indicated several concerns with the NWPA.

First, the current process is lengthy, with approvals regularly taking one year but sometimes extending beyond two years.

Second, the act is applied very broadly to extremely small watercourses that are not used by boaters and have no prospect of being used as such.

Third, Transport Canada often requires accommodation for boat passage, and alternative methods such as portages are regularly rejected. We can give you many examples during the question and answer period. I hope we can discuss it there.

Finally, despite past interpretations of the act, there are no grandfathering mechanisms. To be more specific, for many decades the NWPA was only applied to watercourses having commercial navigation, thus rarely in prairie provinces. However, many of these works in the Prairies are now considered unlawful and are required to go through the application process to become lawful before any repairs are made.

All these points, as made by Alberta Transportation, are relevant to municipalities, as infrastructure ages and works require improvements and repairs. The application of the act is, in our opinion, too expensive and involves lengthy processes that do not benefit water navigation.

I'll now turn it over to my colleague.

Mr. Don Johnson (President, Alberta Association of Municipal Districts and Counties, Federation of Canadian Municipalities): Alberta Transportation goes on to make 10 specific recommendations to the NWPA. Taken directly from its discussion draft on the NWPA amendments, these recommendations include.... Just to give some context, we worked considerably with the Department of Transportation in the province of Alberta because of concerns over a large number of years, and we support those recommendations we're including. We're not plagiarizing them but we're adding a little bit of a municipal flavour as well. That will come out as we go on.

Number one, include a definition of navigable waters that will preclude the need to assess that on a case-by-case basis.

Number two, amend the definition of work to allow the exclusion of minor works or those that have little or no impact on navigation.

Number three, remove paragraph 5(1)(b), specifying start and completion times for the projects, to allow for flexibility.

Number four, remove the reference to the four named works in subsection 5(2).

Number five, amend subsection 7(2) to indicate that renewals of approvals on expiry are automatic. The onus of expiry should be placed on Transport Canada. If no problems are identified, then the renewal should be automatic.

Number six, replace the term “bridge” with “work”, and in section 8, replace the date May 17, 1882, with January 1, 1995. This would help to address the grandfathering issue, as we discussed earlier, and we'll talk a little bit more about that later.

Number seven, delete the expensive and ineffective advertising requirements in section 9.

Number eight, delete the words “in the opinion of the Minister” from subsection 10(1) to avoid the necessity of approvals for routine repairs.

Number nine, amend the act to include inspection powers for navigable waters protection officers, as proposed by Transport Canada.

Number ten, avoid the unnecessary increases in maximum fines as proposed by Transport Canada, since it already has the authority to demolish works.

While municipalities agree with these recommendations, we would like to take this opportunity to draw your attention to the importance of definition. This is one of the key areas of our presentation today. This was Alberta Transportation's first recommendation and, in our opinion, the most important to municipalities. Currently the term “navigable waters” is very poorly defined and is generally interpreted as being any body of water on which a canoe can be floated. This broad definition leads to significant and, in our opinion, unreasonable impediments to legitimate and necessary undertakings by municipalities. As such, we recommend the following elements be included in a revised definition of navigable waters for the NWPA.

A navigable water is a water body designated by a government authority as a navigable water for the purposes of managing development over, under, and adjacent to it in a manner that will reasonably protect the navigable water for transportation, commercial, or recreational uses.

For further clarity, a navigable water:

(a) must be, for at least three consecutive months of the year, capable of supporting typical transportation, commercial, or recreational type floating vessels that draw a draft of at least one metre;

(b) must be at least two kilometres in length and contain no fixed and permanent restrictions for floating vessels referred to earlier, and may include a single body of water, or only a specific section of a water body—for example, a continuous two-kilometre stretch of a stream—which is in total five kilometres long, or a two-kilometre continuous stretch of connected water bodies—for example, a lake plus a river plus another lake;

(c) may be a man-made or naturally occurring water body—in Saskatchewan and Alberta in particular, because of irrigation, we have a number of man-made reservoirs that are fairly extensive in length and width and require bridges across them.

In addition, a water body meeting all these criteria may be nominated for designation as a navigable water by one level of government only, either municipal, provincial, or federal.

• (1120)

A nominated water body must be designated as a navigable water body through a process of public review and provincial approval. A joint federal-provincial approval process would apply for nominations in which there are interprovincial or international navigational issues associated with a designation or a non-designation of a nomination. Once a water body is designated as a navigable water, it may be de-designated by following a process similar to that which led to the designation in the first place.

We strongly believe that if these components of a definition were adopted, the act would be clearer and more practical and would ensure safe and effective navigable waterways for Canadians.

In conclusion, we would like to stress that the Alberta Transportation recommendations have been developed after comprehensive research, and we support the direction in which they have gone. Our proposed definition was developed through discussions with and feedback from municipalities that have been and that are adversely affected by the act's current application. We have heard many stories from communities that have dealt with serious time delays and cost overruns, and we'd be more than happy to share a few of these stories with you when we answer your questions.

We want to thank you again for taking the time to listen to our concerns. We are confident that your committee will make the appropriate recommendations to the government for the necessary changes to this specific piece of legislation. We really do appreciate—and Dave mentioned this at the start—the opportunity to appear before the committee, and we further appreciate the government opening up this act to review, because it's problematic for a lot of us at the provincial, federal, and municipal levels.

Thank you, Mr. Chair.

The Chair: Mr. Bell.

Mr. Don Bell (North Vancouver, Lib.): Thank you, Mr. Johnson.

I noted in your presentation, further to your discussion about the changes to definitions, you made the following recommendation: “Remove the reference to the ‘named’ works from the Act to allow for the exemption of those works...”. Can you expand upon that?

•(1125)

Mr. Don Johnson: One of the previous presentations talked about the fact that when the original act was put together you had bridges, dams, and those kinds of things, which were impediments to boat traffic, commercial or otherwise. That was in 1882, and things have changed since then. When you get into dealing with that definition, if you change that up, there are other kinds of structures that might be impediments as well.

As well, when you have department staff who have to administer that, they have no flexibility, because those works are clearly defined, so they have to deal with that as specified. So if you change that definition of work to allow the exclusion of minor works, then that allows more flexibility in dealing with it.

Coupled with that are some prescriptive directions for the responsibilities of the officers, so they don't have too much latitude in coming up with new and creative ideas, which has been one of the problems we've had in the past.

I don't know if that helps to clarify it.

Mr. Don Bell: You also make reference to the environmental assessments, indicating that this adds a significant cost to municipalities, whether for David or you, Don. I wonder if you could amplify on that.

Mr. Don Johnson: One of the real challenges we have in rural communities is a capacity issue. We've shared with Minister Cannon some of the concerns we have, for example with tripartite funding programs into which the federal government puts in a third, the province puts in a third, and we put in a third.

One of the challenges we have with this is that once you make an application and you get the grant.... You make the application, and then the navigable waters people come and assess it, and it takes a little bit of time to do that. Once they've completed their assessment, it goes to the environment department for their assessment, and that takes another period of time. We also end up dealing with provincial regulations, and their departments of environment and transportation become involved. In some cases, we've gone a year to two years past the original approval date of the grant. Now the cost has changed significantly, particularly in Alberta right now, and you could double or triple those costs. In some cases it has added an additional \$500,000, which for a small municipality is a fairly significant cost. We have some examples of those kinds of things in the case of bridgeworks.

One of the challenges we have in the irrigation area is that irrigation canals, under the definition, are navigable waters, but the legislation under which irrigation districts operate does not allow any kind of vessel traffic on those waters. So they're not navigable by the local definition, but by the federal definition they are. So there is a conflict there.

We have significant bridgeworks. For example, in Alberta we have 10,000 bridges. The rural municipalities I represent have responsibility for 97% of those bridges. There are 9,700 bridges. Many of them are the irrigation district bridges, and it really ties up our timeframe and adds significant cost to it. At the end of the day, if you look at what's happening with provincial auditors general as well as the federal Auditor General, there is a lot of discussion about

value for money. Are we truly getting good value for that money when we're adding significant costs with these kinds of delays?

If we could retool the definition, I think it would probably eliminate a lot of the applications and, if we had more local responsibility for that, the necessity of coming forward.

Does that help?

Dave, I don't know if you want to add anything.

Mr. Don Bell: Yes, it does.

Mr. Marit, you were going through your list of ten points. I think it was you who had the ten points.

Mr. David Marit: Alberta had the list.

Mr. Don Bell: It was Mr. Johnson.

I presume you will be submitting that to us, because we don't have a copy of it.

Mr. Don Johnson: Yes, and I apologize for that. We've made arrangements, and we're having a draft translated into both official languages. We will have a copy of these ten specifics as well as the municipal request for further clarity on the definitions that I added at the end.

Mr. Don Bell: On item 9, you talked about deleting the reference to the minister in subsection 10(1). Item 10, as I recall, was to delete the fines, as the power to remove the work exists. I'd like clarification on item 9, your reference to the minister. On item 10, in regard to deleting the fines because you feel the power to remove those works exists, doesn't a fine act as a deterrent? Removing the works means that the cost is lost to the person who put the works there. Speaking as a former municipal politician, in municipal terms that somehow doesn't seem adequate.

Could you comment on those?

•(1130)

Mr. Don Johnson: I'll deal with item 10 first. The other one is item 8. You don't have that in front of you, and I apologize for that.

On increases in fines, I've read some of the discussion that you've had so far and some of the comments by Transport Canada on this. It seems to us that the current \$500 to \$5,000 is not really an impediment for a lot of people. If you look at what the cost is, particularly with delays, \$5,000 is very insignificant. For you and me and our pocketbooks, that's a lot of money, but on these kinds of things it's not.

One of the challenges coupled with that is that over the last 100 years there have been a lot of bridges constructed in Canada that would be termed unlawful under the legislation. In order to do repairs on those, they have to be made lawful, but how can you make them lawful without doing the repairs? You get into a circular argument with that. Do the fines really offer any impediment?

In terms of the legislation, if it were changed Transport Canada would have the authority to demolish a bridgework if it didn't meet the requirements or the standards. To me, that's a more significant penalty than a \$5,000, \$10,000, or even \$50,000 fine. I don't know what level you would put the fines at to make it a serious impediment. I think the removal of a structure would be more of a penalty and would really make people pay attention to it, so that when they're doing their engineering and their bridgeworks they're going to adhere to what the legislation says and make sure it's adequate so they don't have any chance of that happening.

Mr. Don Bell: Again, from my experience in dealing with things municipally...and I'm speaking now of North Vancouver, where I was the mayor at one point. And I'm not talking about navigable waters; I'm talking about fines against items that should have been approved appropriately but were built incorrectly. It's sort of "go ahead and do it, and beg for forgiveness later", but then arguing that removing something—which is always the ability of a municipality, at least under B.C. provincial law, where they have the right to remove structures that have been built but not approved with a building permit, for example—is an unnecessary burden and it's better to allow some kind of post-approval process. The fine seems to be an extra incentive in many cases, and that's the reason I asked the question.

Mr. Don Johnson: I think that's a fair comment about a municipality. I've dealt with the same thing. If somebody is building a structure that doesn't meet the code or the zoning requirements or whatever, then you have a stop work order issued and you give them some time to correct it. If you had a fine in there, it could have some deterrence. I've gone through the stop work order or removal of the structure as well, and it's been quite effective where we've had that done.

I'm not sure I can transfer that experience to the municipal side, because I've been exactly where you are, to a bridgework, when you're dealing with an order of government. Typically, even with irrigation canals, it's the municipality or the province that builds those structures.

Does the penalty apply the same way philosophically with an order of government as with a private citizen, where a fine might be a more effective deterrent? Does that make sense?

Mr. Don Bell: Do you want to comment on number 8?

Mr. Don Johnson: Number 8, yes, the opinion of the minister.

If you make some of the changes that have already been recommended, where you're a little bit more prescriptive in terms of the powers of the officers, then you're not dealing with the minister. How many times is it going to come back to the minister? Is the bureaucracy going to come back, are the approval officers going to come back to the minister and get his opinion on that, or is it more effective to leave it at the other level, with the approving officers dealing with the municipal and provincial governments? That's what we're saying there. Does it kind of gum up the works, and is it necessary to have "in the opinion of the Minister" there and give him that responsibility? Ultimately, the minister has responsibility anyway.

• (1135)

The Chair: Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Thank you, Mr. Chair.

First of all, thank you for being here. Before getting into federal politics, I had the opportunity to work at municipal level. I was the mayor of a small village of 750 people for 18 years. I was president of the Union des municipalités du Québec from 1997 to 2000. So I understand your position.

My first question goes to Ms. Irwin of the FCM. I for one want to see the act amended. On the subject of environmental assessments, the FCM text says that, when a project is approved, the assessment can result in significant costs for municipalities. I understand that, but I think that you should mention that, just because the federal government is out of the picture, it does not mean that there will be no environmental assessments. You have other regulations to comply with. In Quebec, for example, you have the environment ministry. Municipalities often have to go through two assessments, one by the province of Quebec and a federal one.

When you produce a document, you cannot send the message that you want to save time and money at the expense of the environment. You have to meet environmental standards. The situation has become very complex. The legislation has been amended and things have been added. But the definition has not been amended, meaning that, for small works, there are huge delays and a good deal of money that has to be spent.

But, just because the federal government is going to get out of the area, it does not mean that you are going to be able to put up all kinds of infrastructure on the banks of your waterways. Cities and provinces have to meet environmental standards. You know Alberta's situation better, but that is the message I would like to hear.

[*English*]

Mr. Don Johnson: *Merci, monsieur Laframboise.*

That's a fair comment. I'm not sure we're suggesting at all that we not be subject to environmental responsibility; we're saying the process should be simplified. If you change the definition, with some of the recommendations we're making, that will simplify it and shorten up the timeframe. You will still have responsibility on the environmental side to meet the requirements.

I think one of the challenges we have is that many times we really don't know what the rules and regulations are, and there seem to be differing interpretations across the country. I've read some of the background. When we went through with DFO the last three years.... We now have a memorandum of understanding. The chairman was in Brandon in February, and we finally reached an agreement on how to make that more workable and more effective.

In Quebec there has been some discussion—I think it went to the Quebec Superior Court, and I apologize that I don't have that information directly in front of me—about the definition of navigable waters and the challenges they have, in the same way we're talking about today.

While I'm sensitive to what you're saying, as a municipality we're not saying we don't have that responsibility, because we clearly do. We need to have some clarity of the definition so we know what the rules are. If we can avoid some of the long and complicated assessment procedures...and to me there's no reason. Even for a good environmental assessment, it doesn't take a year to do an environmental assessment.

We also get involved with DFO, so there are provincial regulations on the environment, federal regulations on the environment, provincial regulations on engineering standards, and federal standards. There's a whole mix of regulations we need to be responsible to in making certain we do this correctly.

I absolutely agree with you that we need to be environmentally responsible, and we're endeavouring to do that. We're just saying to clarify the definitions.

We don't have the Environment folks here today. Maybe we need to talk to those folks about that to get some clarity on what their requirements are. We have had discussions. I think it will simplify it, shorten up the timeframe, and reduce the cost. At the end of the day, you and I get to pay.

I don't know if that answers your question.

• (1140)

[Translation]

Mr. Mario Laframboise: Go on.

[English]

Mr. Don Johnson: I'm not abrogating our responsibility.

[Translation]

Mr. Mario Laframboise: It is OK. That is what has to be clarified. Of course, we are going to ask provincial representatives to appear, but municipalities must not get the message that we want to save money at the cost of the environment. That is not the case at all.

You gave the example of Quebec, with which I am very familiar. Some naysayers use every possible piece of legislation, the Navigable Waters Protection Act, for example, or other provisions, to try to oppose projects. That has to stop. You are right, the rules must be clear so that environmental standards can be developed in a climate of respect. And we do not want to create a maze that would allow naysayers to use almost anything in order to oppose a development project.

Are you able to answer, Mr. Marit?

[English]

Mr. David Marit: I could say a lot on this one, because I've been taking the lead for a couple of years to have this act changed and reviewed. It goes back to examples of what has happened in provinces. We have many examples in our province of projects that have been delayed, and not for environmental reasons. That's the ironic part of all this. They were approved by the federal and provincial departments of environment, and fisheries and oceans.

I will give the example at this time of a bridge replacement at Whitesand River, located in the rural municipality of Insinger. The Department of Transport staff were insisting on a multi-plate culvert, at a cost of \$400,000 to the municipality, to accommodate possible

canoe travel. The Department of Fisheries and Oceans had already approved the use of three culverts, at a total cost of \$125,000. The project was held up for over a year and was only settled after the federal election. We came down and presented our case to the navigable waters staff and said that it made no sense. It was on a waterway that only ran for about three to four weeks of the year, but they were insistent that we had to have it for canoe travel.

That's why we're here today to have changes to the definition of what is a navigable waterway. It's important, and if we can move this small part of it, as far as we're concerned, it will be huge for our members, but it will be small as far as what's in the act and the legislation is concerned.

We have numerous examples of where the approval process has been done in different departments and ministries, but it's held up because of the Navigable Waters Protection Act. That's why we're here today talking to Transport on this issue.

The Chair: Mr. Masse.

Mr. Brian Masse (Windsor West, NDP): Thank you, Mr. Chair.

Thank you for appearing today.

I want to get clarification. We have the document from FCM here. You're representing FCM today, right? With respect to the 10 points, though—we'll get them later, and I understand why it's not always possible to get them here—why hasn't FCM endorsed them? What's the difference between those 10 points and FCM? I am curious to get the right distinction as to the difference.

Mr. Don Johnson: That's a fair question.

When it was indicated that we had to have the documents in for translation in both languages, we had a resolution that Mr. Marit brought forward, and we had approved it on that basis. We have had subsequent discussions with both transportation departments in Alberta and Saskatchewan, and Saskatchewan supports us.

In fact, in Victoria today there's a meeting of the four western ministers with regard to navigable waters and some other issues. They are probably going to designate one person to come and do the presentation. We didn't get that conveyed to us until after we had this; otherwise we would have included it.

Mr. Brian Masse: Right. So has FCM endorsed those 10 points?

Mr. Don Johnson: Not at this time.

• (1145)

Mr. Brian Masse: I know there is some overlap.

Mr. Don Johnson: Even with the document we sent, the FCM board as a whole has not endorsed the specifics in that. They endorsed the resolution they brought forward to have this opened up for discussion.

Mr. Brian Masse: I'm a former city councillor, and I used to participate, so I'm aware of that. That's why I want to make that distinction. It's important, because if you're presenting on behalf of FCM but you're presenting other things that haven't been endorsed by FCM, I want to make that distinction.

Mr. Don Johnson: They've endorsed the resolution authorizing us to prepare the background material for it.

Mr. Brian Masse: Right, but not the 10 points.

Mr. Don Johnson: The 10 points are part of the background.

Mr. Brian Masse: Some of it overlaps what they have here; there are three points. We're going to get it later. I just want to be able to—

Mr. Don Johnson: As the chair of the rural forum, it's my responsibility to take that resolution and prepare the background material in conjunction with staff, which we've done. Had we had the 10 points from Alberta Transportation, those would have been included in the original presentation we sent to you, which would have been authorized as the discussion process that was part of the resolution.

Mr. Brian Masse: Okay, I just want to make sure that we're clear on the FCM, and we'll look forward to those points. I know they do cross over quite a bit as well.

The department was here, and they had made the claim that a lot of the.... The Whitesand River is a good example, to a certain degree. I mean, the problem was that you didn't like the decision at Whitesand; it wasn't the process in terms of it taking a long time. You didn't like the decision, but you wanted to be able to challenge that decision a lot more quickly than what took place.

Mr. David Marit: That's right.

Mr. Brian Masse: The department claims that they're going through the minor stuff. They're cleaning that up. They have brochures and a whole series of different things. Can you provide some examples, beyond two years, that are sitting out there? They claim that those are a lot rarer today than they were before.

I'd like to provide you the opportunity to.... For instance, Whitesand is the one where the decision was made and you had to get back in the process to say that it didn't make sense for this particular project. It took a long time. But what about files that are not getting addressed or even examined?

Mr. David Marit: At this time I don't know of any, but I'm sure they are there. I'll give the example of what's happening in the northeast part of Saskatchewan right now.

We have a lot of bridges that have been taken out due to flooding. Those municipalities don't have the resources to replace them with bridges, and they are in the process of dealing with the navigable waters folks on putting steel culvert structures in. They haven't been approved yet. That's the timeline. What happens with a lot of this process is the funding requirement when you do get delayed. We have had a few cases where the projects weren't approved in time and they lost their funding. That is probably one of the key issues.

I can give you one that happened on a provincial highway, and I believe that was last year. I think I have the date here. No, it goes back even farther, I'm sorry; it was 2004. It was the same thing. The provincial highways ministry was dealing with navigable waters folks in a situation on a bridge. Navigable waters was adamant that it had to be high enough for canoe transport. The water does not run there for twelve months or six months or three months of the year, but they were insistent on it. They came to these terms. Highways would put up a phone on either side of the road so that if somebody was canoeing instead of portaging, they would phone the Ministry of Highways. Highways would come out and close the highway so they could portage across the highway to continue on their way.

That is the truth. That's a factual story. That process held up that project for months, and the road didn't get done that year. That's what is wrong.

Mr. Brian Masse: Yes, and can I ask you this, Mr. Marit? It's good to have specifics like that, because we hear a lot...and maybe what you guys are capable of doing through your contacts that others would not be to get those specific timelines and a little summary on those projects. I think we do need to challenge in a fair way what's being presented here. I think we need that evidence, and it's nice to hear of a particular project and some details on it, because it becomes more about generalities of late files and so forth.

But I think it's a fair process, publicly documented processes. I would much appreciate, and I'm sure the rest of the committee would too, getting those—when you can.

Mr. David Marit: I'll get started. Highways first applied on May 22, 2003, and the final approval came through on October 27, 2004, and that was only with those conditions. The call box had to have a 24-hour direct line. It wasn't for eight or 10 hours, it was for 24 hours.

● (1150)

Mr. Brian Masse: To the chair, what I'd like to do is get those examples from Transport Canada and their side of the story. If we want to understand how to fix what's happening, let's collect some of this evidence and present it and hear a response. Then we might get some commentary in terms of what Transport Canada feels is necessary to make things run smoothly.

Thank you for your evidence today.

Mr. Don Johnson: Can I just add one more example from Alberta?

I don't have all the details. This was written to me by Molly Douglass, who's the reeve of the County of Newell around the Brooks area of Alberta. If you know the geography of Alberta, it's on Highway 1 between Medicine Hat and Calgary. This had to do with an old bridge structure over a canal. Often culverts are more effective than bridgeworks and they're less expensive to put in as well. Just as Dave mentioned, when NWPA got finished with them, they wanted a sufficiently large culvert so a canoeist could go in sitting upright. It didn't make sense in this case because it's not navigable water; nobody is allowed to be in that area. It's on the Fisher Bridge, which was discussed for replacement. By the time the NWPA got finished with it, the cost had increased by \$500,000 and they still haven't built the bridge. And that was in 2003.

Mr. Brian Masse: At least you don't have the phone request.

Mr. Don Johnson: We didn't have the phone request. So there's another example. That's the kind of challenge we get thrown at us.

We had another one in Cypress County in southwest Alberta, which again involved an intermittent stream, and it was a combination of DFO and navigable waters. DFO wanted two culverts—one for the fish to go through and one for the rest of the stuff to go through, and I never understood that one.

Mr. Brian Masse: One might be a NEXUS lane.

Some hon. members: Oh, oh!

Mr. Don Johnson: They required a fish rest stop on the other side of the two culverts because the fish would be sufficiently tired from going through the culvert that they would need a place to rest up before they went further. In order to do that, they had to move some riparian area, which was a bunch of willows that were well established in this area. So they agreed and they moved the willows and all the riparian area died off. There are no fish in the stream, and it's an intermittent stream for three months of the year.

Those are the kinds of examples, and those are specific examples. The regulations might have been followed, but the application wasn't practical, from a point of view—

Mr. Brian Masse: That's helpful for us, to bring it to the level that I think a lot of people here can appreciate.

David.

Mr. David Marit: Mr. Chairman, just to add to that, it's not that we've ever said that navigable waters doesn't have a role to play. We've never ever said that. Our discussion, for the sake of argument, is where do they have that role to play? Do they have a role to play on a stream that only flows for three months of the year? We don't think they do. There is an agency that looks after that, and it's called the Department of Fisheries and Oceans, and they look after it very, very well. They have come a long way as far as dealing with municipalities goes too. To us, navigable waters has a role to play, but it's not in the realm of a waterway that only flows for three months. It's just not their place.

The Chair: Thank you.

I was going to suggest you might have had that project completed sooner, but you had to get an environmental approval for the telephone poles they would have to bring—

Some hon. members: Oh, oh!

Mr. David Marit: They did have to put signs upstream and downstream to let them know.

The Chair: I'm sure they thought of a cell phone at first, but then how long would that stay there?

Mr. Fast.

Mr. Ed Fast (Abbotsford, CPC): I'd love to continue with the examples that our witnesses have been sharing with us. It brings to mind the maxim, "the law is an ass".

The purpose of reviewing this is to make sure the law reflects common sense. Certainly it has a role to play, a very important role, but we also want to make sure it meets the needs of Canadians.

I'm going to start by trying to confirm the views that you represent, Mr. Johnson. You're here representing the Alberta Association of Municipal Districts and Counties. The views you are expressing are actually those of that organization. Is that true?

Mr. Don Johnson: That's true.

Mr. Ed Fast: And you're not specifically representing the FCM?

Mr. Don Johnson: Yes, I am.

Mr. Ed Fast: You are.

• (1155)

Mr. Don Johnson: I'm chair of the rural forum of the FCM.

Mr. Ed Fast: All right, but the presentation you've made today hasn't actually been reviewed by the FCM board as a whole. Is that correct?

Mr. Don Johnson: The resolution has been reviewed and passed. They authorized us to gather what information we could, and we've done that. It's included in our recommendations. We've had this discussion around the executive table with FCM, of which I am a part, as the chair of the rural forum. So we have full support—Susan can verify that—for what we're doing and what we're presenting today.

Mr. Ed Fast: Ms. Irwin, you're here representing the FCM as well?

Ms. Susan Irwin (Senior Policy and Research Analyst, Federation of Canadian Municipalities): Yes, I am.

Mr. Ed Fast: All right. I might want to hear from you a little later.

Ms. Susan Irwin: The submission that you received includes everything that has been approved by the full board. The other recommendations and information that is being provided by Mr. Johnson and Mr. Marit has been discussed by the executive committee, which also represents the entire board. If we don't have time to present things to a board meeting, our executive committee can make a decision on behalf of the entire board. Our board is made up of 75 members across Canada, so we only get together a few times a year. The executive committee has looked at this, discussed it, and supported it.

Mr. Ed Fast: For the most part, what you're telling us today makes a lot of sense. I'm not sure I share your views regarding the monetary penalties and fines.

Mr. Don Johnson: That's fair.

Mr. Ed Fast: I share Mr. Bell's view that they have a function to play as a moderate penalty system, and they can probably be useful to make sure we get compliance.

You focus most of your discussion on the definition of navigable waters. I'd like to go to recommendation number two in the FCM's submission—a request that the definition of work be amended to exclude minor works. Could I get you to expand on what you mean by minor works? Could you also provide us with some examples of situations where, using the current definition, minor works have been treated in a way that has resulted in substantial delays and increases in cost?

Mr. Don Johnson: We added named works that fall under the mandate and control of the act. These include bridges, booms, dams, causeways, wharves, docks, and piers. In fact, no type of work has ever been removed from the act, only added. That's why we were suggesting that there needs to be some clarity in this matter.

In respect of minor works, we're talking about bridgeworks over canals, intermittent streams. That's where we've received most of the challenges—intermittent streams in the spring where you get runoff and you need to put a new culvert in. Maybe you had a 40-inch culvert, but all of a sudden they want one that's large enough for a canoeist to go through sitting upright. Does that really make sense when you have an intermittent stream and you haven't ever had a canoeist on that stream?

These are the kinds of things we're talking about—bridgeworks over small intermittent streams, over canals, that type of thing.

In the municipal district of Taber where I sit on council in southern Alberta, we had the McLean Bridge replacement about six or seven years ago. In fact, navigable waters was one of the easiest groups to deal with. That was a major bridge structure. There were some major environmental studies done, and we met all of the requirements. It went relatively smoothly and navigable waters, of all the groups that we dealt with, was the least intrusive.

We had bigger problems with Alberta Environment. We had to feed the deer. We have two types of deer: whitetails and mulies. We also had to deal with leopard frogs, because they cross the road. So we needed a tunnel to accommodate the leopard frogs. That was interesting—not that you want to see frogs squished on the road. Alberta Transportation, Saskatchewan Department of Highways, Manitoba, and B.C.—they'll talk about this, I'm sure, in their discussions about minor works of this type.

I don't know if that answers your question.

Mr. Ed Fast: To a degree, you provided us with your fairly expansive proposed definition of navigable waterways. You didn't provide us with a definition for minor works, and that's why I'm asking the question.

Mr. Don Johnson: That's a fair comment.

Mr. Ed Fast: As with most things, the devil's in the details, and it would be very helpful to us as a committee as well as probably to the minister to have from your organization, the FCM, a proposed definition for minor works.

You may already have one, Ms. Irwin. You're the senior policy person here, and I don't know if you have something you can provide us with.

• (1200)

Ms. Susan Irwin: Not at this point, no.

Mr. Ed Fast: Okay, I will follow that up with a question regarding the number of applications. As far as you know, what percentage of applications for what you might classify as minor works are actually rejected under the NWPA?

Mr. David Marit: I guess I'll comment.

I don't know offhand what the number is as far as rejections go, but I think the number as far as delays are concerned would be significant, especially when it comes to the process when you're dealing with navigable waters. In a lot of cases we're dealing with federally funded dollars also to apportion whether it's a disaster or any other type of mechanism. So it really does delay the process.

Perhaps we could have a definition of minor works, and an agency that has moved a long way on that is the Department of Fisheries and Oceans. They have moved a long way on what they deem minor works. In our province in the spring we have significant flooding, and a lot of provinces do. We have roads washed and culverts washed. The approval process with them is, put it back the way it was and that's all we require.

At some time you have to put the faith into your public works people to be doing the work that they're doing and into your local governments to be doing it also. If I have a culvert washout and there are three six-foot culverts there, I'm not going to try to replace them with two six-footers, because I know it's going to be back the next year doing the same thing. That's, I think, where the term “minor works” has to be defined, to replacement, if it's a replacement issue.

Where we have a problem in our province—Don has alluded to Alberta also—is that we are in a huge infrastructure deficit with bridges also. We don't have nearly as many as Alberta, but we have in the neighbourhood of 2,500 or 2,600 bridges in rural Saskatchewan that were built in the fifties and sixties. The way the agriculture community is changing in Canada—not just in Saskatchewan but in Canada—with increased weights and increased distances and everything being hauled, our bridges can't take it. Our municipalities can't afford to replace bridge structures when you start talking about \$250,000 to \$300,000 for a 20-foot span bridge, where steel culverts can do the same thing at virtually a third of the cost—and they can. We comply with DFO in burying them 20% into the waterbed and that type of thing. So it works that way. We just have this issue with the navigable waters people, where they want the ability to portage through it.

Mr. Ed Fast: It has been suggested by some that changes to the NWPA are an attempt to circumvent environmental monitoring and supervision. It's my understanding that there are many other triggers beside the NWPA that would trigger environmental assessments. Is that your understanding?

Mr. Don Johnson: Yes, both federally and provincially.

Mr. Ed Fast: Even at the municipal level?

Mr. Don Johnson: Even municipally, yes.

Mr. David Marit: To me, the NWPA is more of a navigational issue, and I think if the committee can make a recommendation on that definition similar to what we have made here today to you on the definition of that waterway, it'll go a long way toward making things a lot easier to do in rural Canada. This isn't just an issue in western Canada; this is an issue right across Canada.

The Chair: Thank you.

Mr. Don Johnson: Mr. Chairman, perhaps I could respond.

Mr. Fast, in response to that as well, I want to emphasize this again—I said it earlier. It would be a mistake to think that municipalities are trying to encourage a change for any other reason than what David has really done quite a good job in outlining. There's been no discussion whatsoever around our table about the environmental issue and trying to skirt around that. It's strictly a timeliness and a cost issue, and there needs to be a greater degree of coordination between navigable waters folks and the environmental folks.

I understand there is some discussion going on, and we've had those same conversations within our own provincial jurisdictions, with our respective departments of environment to make sure they're on side. So to us, I don't believe that's an issue at all.

•(1205)

The Chair: Mr. Zed.

Mr. Paul Zed (Saint John, Lib.): Ms. Findlay and I are going to share. We both have short questions, but I'll let her go first.

Ms. Martha Hall Findlay (Willowdale, Lib.): Thank you very much.

I have to say, Mr. Marit and Mr. Johnson, having been out in Saskatchewan and Alberta the last few days, and the fact that it was gorgeous weather here last week and it's now freezing cold.... I think we have the two of you to blame, because I'm pretty sure it was snowing out there.

Mr. David Marit: We've been told that quite a bit already in the last few days.

Ms. Martha Hall Findlay: I'm sure, and justifiably.

In a prior life I was actually head of a ratepayers association for a municipality that was primarily water based, so much of what you talk about hits home, needless to say.

I have a small question on the definition of navigable waters that you're proposing. Not having the full description in front of me, I wasn't quite clear on something. You mentioned the metre draft, to accommodate boats with a metre draft. That is actually quite a lot, so for an awful lot of smaller craft that's way more than enough.

Mr. David Marit: Yes.

Ms. Martha Hall Findlay: But I wasn't sure if you then added a discretionary piece and then at the end, as long as something met those other criteria, it then needed to be termed officially by a level of government a navigable water, or whether there was discretion in the ability of whatever government level was the right one to make that determination that the draft was the important part.

To clarify, it's not so much that I'm fussed about whether you have a metre draft or not. There are lots of situations, I suspect, where you have more than that, and that shouldn't in a discretionary environment be regarded as a navigable water, and many in the other direction. I was only curious about whether there was an opportunity at the municipal level for some discretion there.

Mr. Don Johnson: This came from Saskatchewan, so I don't know, Dave, if you want to comment. That was added as part of our discussions.

Mr. David Marit: We felt we had to have the draft in there because, if you have that draft, to us that meant that water is flowing

more than three months of the year. That's why we came up with that. We even wanted to put a width in there. We really felt there should have been a width in there too. That's something you may want to discuss: if you have draft and width, you can deem it as a navigable waterway.

To give you an example, in Saskatchewan and in many parts of this country, we have streams that run all year round and we call them streams. They're maybe five feet wide and maybe a foot deep and they're fed by springs, or whatever, but they flow a lot. There is a process through the Department of Fisheries and Oceans and the Department of the Environment to deal with those. We don't need navigable waters there too. That's where we're going here.

There is a place for navigable waters, but it's not there. And if you change the definition of what is a navigable waterway, you'll go a long way to help rural Canada.

Mr. Don Johnson: We support what Saskatchewan was getting at there, because if you have that one-metre draft, which I agree is fairly deep...I mean, you can have a cabin cruiser that wouldn't draw a metre. You've got more of them in Ontario than we have in Alberta. We truck them out to B.C., to the Shuswap or some other areas. The neat thing about Canada is that we get to go across this country and see a lot of the beauty that's there.

We've tried to balance this off. One of the things that we didn't put into the thing that we had discussed at home in my province with our membership was different ways of approaching navigable waters. There's five of them here, and I'll simply throw them out as an example.

First is waterways used for commerce and the transport of goods or commercial fishing. Then you get into a little bit of a different approach there.

Second is waterways that can be reliably navigated by vessels with a draft of one metre. They're saying the same thing there.

Third is waterways of a minimum width of five metres—which is what Dave was talking about—and an average depth greater than half a metre at mean annual flow. So you have to have more water. In other words, you can't have a four-inch stream, so you'd have to use a Zodiac with a jet outboard propulsion system on the back.

Fourth, excludes waterways used exclusively for recreation purposes. Does it make sense for navigable waters if it's recreational?

There is another one you could use as well: excludes waterways not regularly used for navigation. And that's what you get mostly in the Prairies. I would suspect that you get a lot of that in Ontario, in more recreational areas, and that's why the recreational thing.

So those are, I think, a little bit more common-sense approaches to that. And if you used that commercial definition, it seems to me it makes a little bit more sense. But if you use that draft, then that really eliminates all those small intermittent streams.

Maybe that's an exaggeration, but it makes the point.

•(1210)

Ms. Martha Hall Findlay: It was more just the discretion to say, even if it's bigger and deeper, an irrigation channel may actually be deeper than that and technically fit that one, but if there's no navigation on it at all....

Mr. David Marit: Right.

Ms. Martha Hall Findlay: I guess we're going to see more detail in terms of what you were reading—

Mr. David Marit: Yes.

Ms. Martha Hall Findlay: —so it'll be easier to look at.

Thank you.

[*Translation*]

The Chair: Mr. Perron.

Mr. Gilles-A. Perron (Rivière-des-Mille-Îles, BQ): Thank you, Mr. Chair. As the rookie, I am pleased to be at this table. Yes, I said rookie.

Madam, gentlemen, thank you for being here with us. This my first time on the committee.

Let me clarify one thing, Mr. Johnson. If I understand correctly, if I have grasped the definition of "navigable waters", inside a province, it should be the responsibility of the municipalities and the provinces. When a waterway becomes international—going from one country to another—the federal government could get involved.

You mentioned international navigable waters. Between provinces—for example, if a waterway starts in Alberta and ends up in Saskatchewan—if one province declares the waterway to be navigable and the other province does not, do you not think that the matter could end up in court? I agree with you that defining a waterway should be up to the municipalities and the government in whose territory it lies. That is my comment.

[*English*]

Mr. Don Johnson: If we've given the impression that we're saying just eliminate the navigable waters program and have it provincially, that's not what we're saying. We're saying some of these minor works perhaps belong a little bit more effectively in the responsibility of the provinces and/or municipalities. I think I made reference in my comments that international and interprovincial waterways need to come under navigable waters as well.

We're not saying eliminate the navigable waters program at all. There is a place and a role, and I don't think you can go away from that. We're not advocating; we're just saying to simplify the definition. On minor streams, perhaps leave that jurisdiction to the local areas, other provincial areas.

[*Translation*]

Mr. Gilles-A. Perron: Do you think that you would be able to manage the larger waterways inside a province? I am thinking, of irrigation canals, for example. Some of them can be huge depending on the amount of water in them. You surely have the ability at municipal and provincial level to make decisions.

[*English*]

Mr. Don Johnson: Just to clarify on the irrigation systems, the canals themselves aren't huge in terms of width. You might have one that's 50 feet across, maximum, and that will be a major canal, a feeder canal; and then you get into minor canals that feed off that.

In terms of the reservoirs, yes, many of those are very large, such as the Diefenbaker dam in Saskatchewan. It's a very large body of water. There's the Chin Reservoir in southern Alberta, the St. Mary Reservoir, and a number of other reservoirs, such as Horsefly Lake Reservoir, that are primarily for recreational use as well as for irrigation.

So yes, there is a role to play there. What we're talking about primarily, from a municipal point of view, is the intermittent streams, the minor ones, those kinds of streams. So we're not saying, "No, Nav Waters, don't back out, leave it to us", because I think you have to have some consistency on a federal basis. There's a role for each one of us to play, but on the minor streams, the intermittent streams, those kinds of things, I'm not sure it makes sense to have the navigable waters program involved.

•(1215)

[*Translation*]

Mr. Gilles-A. Perron: In my opinion, that is the biggest problem we are facing at the moment. In environmental matters, for example, the municipal government has a role to play and has its regulations. Provincial and territorial governments also have their regulations and their role. The federal government has a role to play, just like its department. It takes years to get agreement between those three, four or five levels of government. That is what is happening in the examples you quote of projects on the ground that have been around for a number of years.

[*English*]

Mr. Don Johnson: The only thing I'd remind you of is that municipalities are creatures of the provinces, under the legislation and under the federal legislation as well. Under the Constitution, the provinces have been given responsibility to organize and set out legislation that governs the role of municipalities under the Municipal Government Act. We operate under that.

So whether you're talking about environmental issues.... We have an obligation to meet the requirements and standards of the provincial government and the legislation they have. We can't go off and set off something that's at variance, because the provincial legislation has primacy over anything that I might pass. If we passed something as a bylaw that contravened a provincial or federal statute, it would not fly; it would not be enforceable. Somebody could challenge us on that in court and say we don't meet that litmus test, and they would win.

So we're very careful in terms of our bylaws, when we craft those, to be in sync with both provincial and federal legislation. We can't violate that.

The Chair: Mr. Shipley.

Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC): Thank you, Mr. Chair.

Thank you, witnesses, for coming out.

One of the significant comments that have been made is, how do we get back to where there's actually some common sense in terms of dealing with issues? I want to just reaffirm to you, municipally, that municipalities are as environmentally conscious as anyone is, and so they've never—in the municipalities that I represent, some 13—ever wanted to skirt the environmental issue. What they do want is to have some sort of rationale that makes sense.

I almost believe there are kindred spirits between navigable waterways, Transport Canada, and DFO. I want to know, when you talk about your definition.... For example, a municipality has purchased a gravel pit and through that gravel pit there's a waterway. That waterway divides a great amount of gravel. Basically, that municipality was told not to even think about it; they cannot divert the stream, which—even though that stream likely runs water right now—I can tell you, in a month will have a gravel base—there won't be any water, there won't be any fish. There likely won't be anything in it for three or four months.

Because we cannot get away from the connection with DFO, will your definition help assist municipalities and others with those sorts of situations?

Mr. Don Johnson: I believe it will, and one of the things that our chairman was asked when we had the memorandum of understanding between FCM, the municipalities, and the federal government with the DFO was to provide precisely that kind of forum so that we can have a conversation and discussion about what makes sense to do that.

Quite frankly, when David and I were on this committee, we spent three years and made no progress, and all of a sudden, last year, it broke loose; the logjam broke, and we managed to sit down and work out some things that made really good sense. We set up this working group that I thought worked very well and came to an amicable agreement that made some sense to us.

I would suggest that kind of situation could even apply here with navigable waters. We'd suggested that to the chairman in Brandon, that we may want to give some consideration to setting up a working group between FCM and the federal government and the navigable waters folks, so that we could have some of these kinds of conversations on an ongoing basis, if need be. To us it makes a lot of sense to do that, because it has worked very well with the DFO folks.

I'm not sure if that's specifically answering your question about your gravel. I'm not an engineer.

•(1220)

Mr. Bev Shipley: No, but I think it's in the principle of it—

Mr. Don Johnson: Yes, exactly.

Mr. Bev Shipley: —because there's this barrier that comes up, and most of them just can't figure out why, because it doesn't make sense. There's no water; there's no habitation within it.

The second part of it is that you represent a number of rural municipalities, as do I, in terms of your chairmanship, Mr. Johnson.

Do you hear through your municipalities about private landowners? Do you hear from farmers, for example, who have a creek halfway or two-thirds of the way through their farm and they're just wanting to put in a culvert so they can get from one side to the other? What happens is that you tend to hear from people, "Well, I can't get permission, so I'll get repentance at some time." Then the weekend comes along, and they'll put the culvert in. That's not what they want to do, but when we put in barriers that they cannot overcome—either timeline or financially—then those sorts of things happen.

I'm hoping that in your discussions and in your recommendations—also when you come forward—that you can deal with those types of issues.

Mr. Don Johnson: I think that's fair. One of the things we've noted—and our provincial governments have noted this as well—is that we have a number of structures, culverts or otherwise, that would be considered unlawful under the current definition. That's why the grandfathering perhaps comes in there. That doesn't fully address the farmer or the rancher who wants to get across, and we've had many of those who just go ahead and do it because it makes sense. Or perhaps those things were put in when the homesteads were put in there and they had some water and they needed to get across to the other side, back in the horse and buggy days. If you've got a horse it's not hard to cross.

Mr. Bev Shipley: That's right. But these are issues that actually jeopardize our drainage people in our municipalities—

Mr. Don Johnson: Yes, they do.

Mr. Bev Shipley: —and they get caught. They don't see anything wrong with that, except that they know it's wrong and they've got to deal with these navigable waterways and DFO at some time later. So they get caught between.

Mr. Don Johnson: In fairness as well, we've had quite a little discussion in Alberta with regard to intensive livestock operations and feeding and bedding sites and not having them in proximity to even intermittent streams that others might be using for domestic water purposes. So there are fairly stringent environmental regulations around that. I sit on an advisory committee on that legislation in Alberta, and it has worked out very well, and we have producers at the table. So it's a matter of education.

The Chair: Dave.

Mr. David Marit: Thank you, Mr. Chairman.

Mr. Shipley, thank you for that question. We really see it in Saskatchewan, because agriculture has just taken on a whole new meaning. The farms are getting larger, and what we call local roads aren't really being used much anymore, other than by a piece of equipment moving from one quarter section to another. We have a lot of these structures there that are becoming what we would class in the municipal system as dangerous, to the point where we as municipal governments can be held liable if a farmer falls through them with a piece of equipment.

We would like to replace them with what we would class as a low-level crossing. We're ready to put concrete or rock or washed rock down so that the water flows through in the spring, and that's the only time it flows. Then the local farmer can use the road to access his land. We have some huge concerns on this one in our province, and it all comes back to when you start taking out bridge structures. Then you have to have approval from the navigable waters people on some of this stuff. When we look at it as a local issue, we're actually improving the flow and removing a structure, because it becomes a huge liability issue to our members, and that's a huge concern for us.

The Chair: Thank you.

I'll go to Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you, Mr. Chair.

Thank you, gentlemen, for coming here today and providing evidence.

I want to take us all back to 2004, if I may. For the record and as a matter of interest, I'm from Fort McMurray. I was running a nomination battle, trying to win the possibility of running for the Conservative Party. I represent High Prairie, which means I actually represent about 30% of the province, quite a piece. I met a gentleman by the name of Gerry Williscroft, who sat down with me for half an hour and told me all about the Navigable Waters Protection Act, which I had no idea of at the time, and told me all of the headaches and some of these stories that you have given us today.

I made a promise to him that I would bring it up, and I did, actually. Once I was elected, I brought it up to the Liberal government by way of a letter in 2004. Then when we formed government, I brought it up again. When I was appointed parliamentary secretary, I sent a letter to the minister saying the same thing. Indeed, shortly after that, in December of last year actually, the Prime Minister and the minister both talked to me about it. And here we are today; we've received a letter from the minister asking us to deal with this.

So that's where we come from. I wanted to use that as an example of politics being local and that it indeed comes from the top, and in this case it did. I was very pleased to see this process take place.

But today I don't really have any questions. I would like to hear some more examples, if I could—and not to say that I brought this up. I know that Monsieur Laframboise and other people have brought it up. We're very serious about it, because we know it affects people at the very local level, and that's why I wanted to bring it up. It's very important to us in government.

Could I hear some more examples of things you find and have heard of being very strange indeed?

• (1225)

Mr. David Marit: Thank you, Mr. Chair, and thanks for the question.

I guess as far as examples are concerned, we as an organization have asked right across Canada for examples. What we got back from quite a few, and even in our own province.... I actually spoke to the Institution of Civil Engineers in the province of Saskatchewan, the association, two weeks ago. I met with their executive, and they

said that the impact on program funding and on projects was from time delays. They said, how do you measure time delays?

As far as cost overruns are concerned, they had the same examples that we had, but said that on just about every major bridge project they were doing, it was navigable waters that was holding up their approval process, with time delays in some cases of anywhere from three months to well over a year. Their concern was the same thing: how do you measure the time delay in terms of dollars when you're dealing with program funding? You're speculating on what the increases are going to be from 2007 to 2008. You don't know what those cost increases are until you get to 2008, and you haven't been approved, and then you have to go and do it.

What has happened in many cases is that a lot of municipalities can't then afford to do the project. Now they're trying to find other means to do it, and that's where it becomes burdensome to our members right across Canada—and the territories, of course.

Mr. Don Johnson: I appreciate that the area you come from is one of the most environmentally sensitive and talked-about areas right now, because of the tar sands and what's going on there. There have actually been some very good things done in terms of reclamation in that area, which I don't think get enough credit in what's going on there. Those with questionable intent sometimes take advantage of those things for political purposes. I think it underscores the importance of making sure we're environmentally responsible in terms of how we deal with these things. I think that at the end of the day most of us want to be that way; most people I deal with, most ratepayers, certainly want to be that way. Many of them lack understanding of how to go about doing that, and that's our role, to educate.

Mr. Chairman, if I may respond in part to what Brian was saying, I think we need to go back to our membership across Canada and put out an immediate call again for some additional examples from every jurisdiction in Canada—the Maritimes, *la belle province*, and right through the Prairies and British Columbia, and the territories as well, where we have some of the most pristine land in this country that needs to be protected. We should ask for some additional examples and see if we can't bring those forward in the next couple of weeks.

I know you're probably getting towards the end of your deliberations and that you probably want to get to the end fairly quickly, and I don't know how quickly we can get those back, Mr. Chairman, but if we could have that latitude to probably provide some additional examples, we'll certainly provide some copies, as I said at the outset of our presentation today, of the specific points. But we should get some concrete examples from our membership that would be helpful and reinforce what was said today.

We know that they're there, because we hear about them all the time, just as you have.

• (1230)

The Chair: Indeed. Thank you very much.

David.

Mr. David Marit: Mr. Chair, I don't know if that's it for the questions, or if we're getting down to closing remarks, but as far as my closing comments to the committee are concerned, first of all, I really want to thank you, Mr. Chairman, and the committee, for hearing us here today and for undertaking this whole process. I can't stress to you how important it is to rural Canada to have the definition of a navigable waterway changed. That is number one. The definition has to move away from a water system that doesn't flow for more than three months—it has to. It's imperative if we want to build this country the way we want it to be built. There's an approval process that we have to go through in that regard, then. When we're applying to the federal government under the Building Canada Fund, or whatever programs are out there, and we're delayed and miss the application process, we lose the money.

So I can't stress to you, Mr. Chairman and the committee, how important it is for all of rural Canada to have this definition changed.

Thank you.

The Chair: Thank you.

Mr. Don Johnson: Thank you, Mr. Chairman.

I absolutely support what Dave has said. It's not exclusively rural Canada either. I've had some conversations with our urban counterparts in terms of the associations that also are part of FCM, and they really don't have a lot of examples to come back to. They haven't had a lot of issues. If you're in Calgary or Vancouver... You have the Lions Gate Bridge out in your area. I have family who live on the north shore. It's a beautiful area, but I'm sure there are concerns about it, because that's a fairly heavily trafficked area. It's probably one of the most heavily trafficked navigation areas underneath that bridge, and I'm sure there are some strong considerations there.

When we get out into the smaller outlying areas, we really speak to a capacity issue for communities. There are time delays. The money is simply not there when you're going back to local taxpayers to contribute their portion. So what we're trying to do today is appeal for...

We laud the work that's been done. We've read the Transport Canada recommendations, and we support the majority of them. We think they need to go a little bit further. We certainly concur with what our provincial governments are saying. There's been a strong concern expressed through our membership, and that's why the resolution to have us go forward and open discussions with the government passed unanimously at the FCM board table.

I would appreciate some consideration for perhaps setting up a working group that would, on an intermittent or as-needed basis, enable us, as a group of municipalities, to sit down with the navigable waters department, Transport Canada, which is responsible for that area, to see how we can help in facilitating this. My particular view of this, and I know Dave feels the same way, is that when we come to these things, it's not always about money. It's about money a little bit if we get delayed. Certainly that's a problem. But it's about changing the legislation and using a little more common sense to allow us to more effectively utilize the dollars, which, at the end of the day, we all have stewardship over for our ratepayers.

I too am most grateful for the discussion. We didn't think this was going to happen. We were told a year ago, no, there wouldn't be any opening of the legislation. So we're absolutely delighted, and we appreciate the efforts made by you folks in listening to us and others who will come forward, because there's a lot of technical detail. Again, I'm not an engineer, but I think I understand the practicality of making legislation more effective for our ratepayers.

So thank you very much, Mr. Chairman, for the opportunity to be here today. Hopefully we've answered your questions. You've given us some direction. We'll go back and do a little bit more homework and get that back to you.

Merci.

The Chair: Thank you very much. We appreciate your taking the time. I think the comment has been made a few times that it's not an issue that reaches out and grabs every Canadian, but if you've ever served municipally, provincially, or federally, it's an issue you are made aware of very quickly in terms of how it impacts the communities you represent.

Thank you very much. We appreciate it.

For the information of the committee, on Thursday we're going to consider our draft on rail safety. We all have our copies now.

On Tuesday of next week we will come back to navigable waters. We have several provinces that are going to present, probably as one.

Then on Thursday, May 8, we have our main estimates. The minister will be here, and we are making arrangements to have that televised, so I want you all to look your best on May 8.

Are there any other comments? If not, I'll adjourn the meeting.

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