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CANADA

## **Subcommittee on Bill C-38 (Part III) of the Standing Committee on Finance**

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**EVIDENCE**

**Thursday, May 17, 2012**

—  
**Chair**

**Mr. Blaine Calkins**



## Subcommittee of the Standing Committee on Finance on Bill C-38

Thursday, May 17, 2012

•(0850)

[English]

**The Clerk of the Committee (Mr. Jean-François Lafleur):** Honourable members of the committee, I see a quorum.

I must inform members that the clerk of the subcommittee can only receive motions for the election of the chair.

[Translation]

The clerk cannot receive any further motions. He cannot hear any points of order or take part in the debate, of course.

[English]

We can now proceed to the election of the chair. Pursuant to Standing Order 106(2), the chair must be a member of the government party. I am ready to receive motions for the election of the chair now.

Mr. Allen.

**Mr. Mike Allen (Tobique—Mactaquac, CPC):** I would like to nominate Mr. Calkins.

**The Clerk:** Thank you.

It has been moved by Mr. Allen that Mr. Calkins be elected as chair of the subcommittee. Are there any further motions? Is it the pleasure of the subcommittee to adopt the motion?

**Some hon. members:** Agreed.

**The Clerk:** I declare the motion carried and Mr. Calkins duly elected as the chair of the subcommittee.

Congratulations.

**The Chair (Mr. Blaine Calkins (Wetaskiwin, CPC):** Good morning, everyone.

I appreciate the unanimous consent for my election to the chair. I would assume the fact that there were no hands raised opposed is a good thing. We're off to a great start.

I would like to thank Jean-François Lafleur for getting everything going in such a timely fashion.

As you know, colleagues, this is a subcommittee of the Standing Committee on Finance that was just given its mandate a short while ago.

I think it's best that we put this in context as we get going.

The second report of the finance committee was that:

A. pursuant to Standing Orders 108(1)(a) and 108(1)(b), a Subcommittee on Bill C-38 (Jobs, Growth and Long-term Prosperity Act) be established to examine the clauses contained in Part 3....

—that will be the part this subcommittee is tasked with—

...(Responsible Resource Development) of the Bill, provided that

(i) the subcommittee be composed of twelve (12) members including seven (7) from the Conservative Party, four (4) from the New Democratic Party, and one (1) from the Liberal Party, to be named following the usual consultations with the Whips,

(ii) the chair of the subcommittee be a member of the Conservative Party,

(iii) the subcommittee be empowered to send for persons, papers and records, to receive evidence, to sit during a time when the Committee is not sitting in Ottawa, to sit when the Committee is sitting outside the Parliamentary Precinct and to sit during periods when the House stands adjourned,

(iv) the subcommittee adopt the routine motions of the Standing Committee on Natural Resources, other than the creation of a subcommittee on agenda and procedure....

—so all of the agenda and procedure discussions that we will have, we will have as a whole subcommittee—

(v) the subcommittee finish its examination no later than 5:30 p.m. on Monday, June 4, 2012, and report its findings to the Standing Committee on Finance at the next available opportunity, provided that if the subcommittee has not reported by that time, it shall be deemed to have reported a recommendation that the clauses contained in Part 3 of Bill C-38 be carried;

Does everybody understand that? Does anybody want to go through the routine motions from the Standing Committee on Natural Resources? I think that would probably be a handy thing to have.

Does everyone have a copy of that? Is everybody satisfied with those routine motions?

**Some hon. members:** Agreed.

**The Chair:** Okay.

Given that this legislation has been before Parliament for quite some time—I see three ministers of the crown here—it is typical tradition that the first witnesses we hear from at a committee meeting be ministers, with their associated officials.

I see the Minister of Environment, Peter Kent, the Minister of Natural Resources, Joe Oliver, and the Minister of Fisheries and Ocean, Keith Ashfield, here.

Without further ado, Ministers, if you would like to take your places here, we can begin the hearings on this particular part of the legislation.

I welcome our analysts to the table as well. Thanks for joining us.

Thank you for coming, Ministers. I appreciate you being here on such quick behest from the subcommittee. We have a two-hour block of time here at this particular committee meeting. My guess is that you will be here to answer questions until you can—I'm guessing the first hour or so. You have department officials here who will be able to stay longer, if needed.

Colleagues, I think we should save some time at the end of this meeting today to discuss future business, if that's agreeable.

Does anybody want to have this televised? I will need a motion from the floor to have this televised.

• (0855)

**Mrs. Stella Ambler (Mississauga South, CPC):** I so move.

**The Chair:** Is anybody opposed to having this televised?

Okay. We'll have to suspend for a moment, and then we'll get going.

• (0850)

(Pause)

• (0900)

**The Chair:** We're back in action, ladies and gentlemen.

The cameras, I'm told, are running.

Ministers, thank you very much for being here.

I think we'll start in the following order. We'll start with you, Minister Ashfield, Minister of Fisheries and Oceans, for 10 minutes, then we'll move to Minister Kent for 10 minutes, and then to Minister Oliver for 10 minutes.

That's my understanding, unless there was some other agreement you had.

**Hon. Joe Oliver (Minister of Natural Resources):** It was the opposite.

**The Chair:** Was it? Okay.

Well, let's go in the opposite order. Far be it from me, as a lowly committee chair, to question a minister of the crown.

Minister Oliver, you have the floor for 10 minutes, sir.

**Hon. Joe Oliver:** Thank you.

[*Translation*]

I want to thank you for the opportunity to meet with the finance subcommittee with respect to responsible resource development. Accompanying me are the Hon. Peter Kent, Minister of the Environment, and the Hon. Keith Ashfield, Minister of Fisheries and Oceans.

We will all speak briefly about our shared interests in Bill C-38 before taking questions from the members.

[*English*]

Mr. Chair, members of the subcommittee, our government's top priority has always been to support jobs and growth and to sustain Canada's economy. Since we introduced the economic action plan to respond to the global recession, Canada has recovered more than all of the output and all the jobs lost during the recession. Since 2009, employment has increased by more than 750,000 jobs and is now

more than 260,000 above its pre-recession peak. It's the strongest job growth among G-7 countries.

Natural resources have always been the foundation of Canada's economy, and that remains the case today.

[*Translation*]

Canada's natural resource sectors employ 760,000 Canadians. Furthermore, the resources sectors generate billions of dollars worth of tax revenue and royalties annually, helping to pay for government programs and services for Canadians.

[*English*]

Our resource strength is set to continue to expand well into the future. We currently estimate that over the next decade there is the potential for well over 500 new projects and over \$500 billion in investments across the country in the energy and mining sectors alone. These projects will create an estimated 700,000 jobs and will contribute substantially to our country's economic prosperity. In fact, the numbers are growing as new opportunities are identified.

There have been suggestions that resource development only helps the west while hurting the east. This is inaccurate and divisive. Resource development, mining, forestry, and energy projects are happening across Canada, and they're helping every provincial economy.

In British Columbia they are rapidly pursuing the export of liquid natural gas, and three projects are moving forward.

In Alberta the oil sands are creating benefits across Canada, including Ontario's manufacturing sector.

In Saskatchewan they are increasingly pursuing their oil resources and potash, as well as uranium.

Manitoba has large hydroelectric installations that are providing cheap and clean energy.

Ontario is looking at the development of the Ring of Fire, a massive mineral deposit that has billions of dollars in potential.

Quebec, which has long been a mining and energy giant, is moving forward with their Plan Nord which would provide massive benefits to the Quebec government and each of its citizens.

New Brunswick has large forestry resources. Nova Scotia has offshore gas development. P.E.I. is investing in wind. Of course, Newfoundland and Labrador has benefited greatly from their offshore oil fields.

Last but not least is the north and its territories, which are largely untapped. The extent of their resource wealth is not fully understood, but its potential is enormous.

Of course, this is only part of the story. The resource sector does not operate in a vacuum; mines do not appear out of thin air. They require construction, huge capital investments, materials, and machinery. They require workers in every sector of the Canadian economy, especially in our manufacturing sector.

Jayson Myers, president and CEO of Canadian Manufacturers and Exporters, strongly supports resource development precisely because it helps our manufacturing sector.

To quote:

In total, [we] estimate that energy and resource companies invested more than \$85 billion in major capital projects in 2011, and [we think those investments will] double over the next three years. ... These investments...will drive new business for Canadian manufacturers in a variety of sectors ranging from equipment, structural steel, and metal fabricating to construction materials and parts suppliers. They will provide opportunities for engineering and construction companies, processing and environmental technology companies, and services ranging from accommodation, food, environmental, and resource services, through to land management, trucking, and distribution as well.

● (0905)

This type of investment will take place across Canada, helping all sectors of the Canadian economy. That is why it is so important to ensure that Canada has the right conditions to attract global capital in our provinces and territories. Canada must compete with other resource-rich countries around the world for these job-creating investment dollars.

This is the fundamental reason why our government is committed to modernizing Canada's regulatory system. We need to ensure timely, efficient, and effective project reviews. This will keep us competitive with the likes of Australia and other resource-producing nations. We need a system that promotes business confidence and attracts investment while strengthening our world-class environmental standards. In short, we need responsible resource development.

[Translation]

Here's what this new legislation will achieve:

First, it will make project reviews more predictable and timely.

Second, it will reduce unnecessary duplication and regulatory burden.

Third, it will strengthen environmental protection.

Fourth, it will enhance consultations with aboriginal peoples.

[English]

To streamline and modernize our outdated regulatory system, we will take a whole-of-government approach. We want to put in place a new system of "one project, one review" that operates within a clearly defined time period.

Canadians understand that we do not have to choose between economic development and the environment. It is not an either/or proposition. A new poll conducted by Ipsos Reid shows that two-thirds of Canadians believe it is possible to develop our economy while respecting the environment.

The fact is our new plan will strengthen environmental safeguards, including tanker and pipeline safety. For the first time, it will provide enforcement of environmental assessment conditions under the Canadian Environmental Assessment Act. It will also strengthen enforcement with monetary policies respecting the National Energy Board conditions on new pipeline projects. So our changes make sense from both an economic and an environmental perspective. We Canadians have a wonderful new opportunity before us.

[Translation]

There is no better time to act than right now. We have to give ourselves every chance to compete for job-creating investment dollars from fast-growing markets in Asia and elsewhere.

[English]

We also know it is absolutely necessary to develop our resources in a responsible way. Responsible resource development achieves the balance we need. We will unleash the potential of our resource sector to create jobs across Canada while ensuring that our environmental protections are strong. That is what Canadians expect, and that is what our plan delivers.

Thank you, Mr. Chairman.

**The Chair:** Thank you, Minister Oliver.

Minister Kent.

**Hon. Peter Kent (Minister of the Environment):** Thank you.

[Translation]

Good morning, honourable members.

Mr. Chair, I am pleased to be here this morning as you commence your study of Bill C-38. I will focus my remarks on proposals for a new Canadian Environmental Assessment Act, as well as important changes to the Species at Risk Act and the Canadian Environmental Protection Act, 1999.

● (0910)

[English]

Some comments during the debate about this bill have emphasized the proposal to repeal the current Canadian Environmental Assessment Act. This is not accurate. The current act will be repealed and, I must emphasize, replaced with the proposals in Bill C-38 for new and effective environmental assessment legislation.

Environmental assessment is a key part of my portfolio. It's an important part of the government's plan to strengthen environmental protection today and for the benefit of future generations of Canadians.

[Translation]

This is why we have protected funding for the Canadian Environmental Assessment Agency at a time of fiscal restraint. Despite what the media has reported, there are no cuts to the agency's funding. In fact, the agency's budget will increase by \$1.5 million.

[English]

Sufficient and stable funding, when combined with the amendments two years ago to the Canadian Environmental Assessment Act, have laid the foundation for the fundamental changes proposed by Bill C-38. These changes will make the process more predictable and timely, reduce duplication, strengthen environmental protection, and enable meaningful consultation with aboriginal peoples.

As my colleague, the Minister of Natural Resources, has pointed out, these are the four pillars of responsible resource development. Some may erroneously view these as conflicting objectives. I do not. They are at the heart of Bill C-38 and the new environmental assessment process. I'm confident that Canadians will benefit from timely, high-quality environmental assessments that avoid duplication and needless double effort with provinces.

Bill C-38 will strengthen protection of our environment. With the time available I want to provide members of the committee with some of the highlights.

First, I've spoken in the House and elsewhere about the importance of enforcement. Bill C-38 builds on the past work of this government. This issue first came to the forefront through Budget 2008, which stated that:

Environmental laws alone are not enough to guarantee a cleaner, better environment. These laws also need to be enforced.

My predecessor followed through with the Environmental Enforcement Act that was passed by Parliament in 2009.

Bill C-38 builds on this excellent legislation by closing the enforcement gap for environmental assessment. The new Canadian Environmental Assessment Act creates a decision statement that will include enforceable conditions. These conditions are backed up by inspection powers to confirm that mitigation measures are being implemented. There are penalties ranging from \$100,000 to \$400,000 for violations.

Legislation is just part of the solution. The government has permanently increased resources to environmental enforcement by \$21 million annually to ensure that we have the officers, the equipment, the forensic science, and the tools to do the job.

[Translation]

Today, there are 50% more enforcement officers than there were just five years ago. They are stationed in offices across the country. They are working in the fields to detect those who violate our environmental legislation, and take action against them.

[English]

These officers will be able to inspect and take action on violations of the Canadian Environmental Assessment Act. These new enforcement provisions are complemented by a requirement for a follow-up program after each and every environmental assessment. These programs verify the accuracy of an environmental assessment's predictions and determine whether mitigation measures are working as intended.

This is the way we will identify environmental results. It's also a means to learn and build on past successes and avoid past mistakes. It is a means to improve the practice of environmental assessment.

The bill also includes new authority for the Minister of the Environment to launch regional environmental assessments in cooperation with other jurisdictions.

Currently, the act is restricted to a single-project focus. It is a challenge to assess cumulative effects of multiple projects and activities in a region experiencing significant development. The requirement to assess cumulative effects is nevertheless carried out from the current act—it is carried over, rather, from the current act. It is an essential part of the federal regime.

What we are proposing to add, Mr. Chair, is a new tool for regional studies to deal with the issue of cumulative effects. The Minister of the Environment will have authority to establish an independent committee of experts to conduct a regional strategic environmental assessment in cooperation with another jurisdiction. The results of these studies can feed into the assessment of specific projects, and the gains therefore would be twofold.

First, we will have a deeper understanding of the ecosystem involved. This will translate into better environmental assessments and approaches to mitigation. Second, by doing much of the upfront scientific work, regional studies will streamline project-specific reviews.

Mr. Chairman, once again, the conclusion is clear. We are proposing changes that support the four pillars of responsible resource development.

With regional studies, we have a tool that will promote timely and predictable project reviews. We will gain information that strengthens environmental protection. By working with the provinces, we avoid duplication. Finally, such studies provide an opportunity for aboriginal peoples to make their concerns known, thus informing later consultations with respect to specific projects.

Mr. Chair, there has been much talk and great exaggeration and misrepresentation about the changes to environmental assessments under the responsible resource development initiative. I've brought forward some facts to correct the record.

First, and most important, the Canadian Environmental Assessment Agency's budget is not being cut. Second, with new enforcement provisions, mandatory follow-up programs, and a new tool for regional studies, we are enhancing—not gutting, as some would perceive—federal environmental assessment.

Mr. Chairman, I'd now like to speak about aboriginal consultations.

● (0915)

[Translation]

The environmental assessment process is uniquely situated to assist the Government of Canada with its constitutional duty to consult and, where appropriate, accommodate aboriginal groups when their rights might be adversely affected by a proposed project.

[English]

Environmental assessment, Mr. Chair, starts early in the planning of a project, when it is still possible to design changes to reduce impacts. Changes to the environment that affect aboriginal peoples, including their current use of the land and resources for traditional purposes, are one of the “environmental effects” specifically referred to in this bill. There are also logical points in the process to directly obtain input from aboriginal groups to learn of their concerns and to develop means to avoid or reduce negative effects.

For these reasons, the government will continue to integrate, to the extent possible, aboriginal consultations into the environmental assessment process.

Budget 2012, Mr. Chair, provides the Canadian Environmental Assessment Agency with \$6.8 million per year to support consultations with aboriginal peoples. Of this, \$5.3 million is a renewal of funding first provided in 2007, and it is now being topped up by a further \$1.5 million in new money.

While the exact allocation of all these resources is still being determined, I can say that a significant portion will go directly to aboriginal groups involved in consultations. The remainder will be provided to the agency to support its involvement in consultation activities.

Mr. Chair, I want to assure all members of this committee that the federal government takes its responsibilities very seriously. This is why enhancing consultations with aboriginal peoples is one of the pillars of the responsible resource development initiative. Agency staff and review panels are engaging, and will continue to directly engage, aboriginal peoples in their communities.

As part of the responsible resource development plan, the government is also proposing some changes to the Species at Risk Act and to the disposal at sea provisions of the Canadian Environmental Protection Act, 1999. These changes allow legally binding timelines for permitting decisions to be set in regulations.

Amendments to the disposal at sea permitting process will also allow for permit renewals for routine, low-risk projects. They will change requirements to allow publication on the CEPA registry website, rather than in the *Canada Gazette*. This will create a more efficient and transparent process for issuing permits.

The Species at Risk Act amendments allow for longer-term permits and make the conditions for these permits enforceable. These changes will support effective protection of listed species, while allowing the government to issue authorizations for a time period better suited to large projects.

● (0920)

[Translation]

In closing, I wish all members of the committee well as they embark on this important study of the proposed Canadian Environmental Assessment Act, 2012.

Thank you.

[English]

**The Chair:** Thank you, Minister Kent.

Minister Ashfield is next for up to 10 minutes, please.

**Hon. Keith Ashfield (Minister of Fisheries and Oceans and Minister for the Atlantic Gateway):** Thank you, Mr. Chair, for the opportunity to outline the changes to the Fisheries Act that are proposed in the Jobs, Growth and Long-term Prosperity Act.

With regard to the broader Jobs, Growth and Long-term Prosperity Act, I am proud of the work that has been done to focus the government on better and more effective ways to contribute to our economic growth and job creation in a sustainable, responsible way, now and for future generations.

In today's economy, it's paramount to ensure that Canada's great natural resources, including the fisheries, are well managed. And with respect to fisheries, it's our intention to do precisely that. The proposed changes to the Fisheries Act do three things related to the protection of fisheries in Canada. First, it's about focusing our protection efforts where they are needed. Second, it's about regulatory clarity and efficiency. Third, it's about enabling partnerships with provinces and territories, aboriginal groups, conservation organizations, and others that care about fisheries protection.

I should note that the changes we have proposed do not change how section 36, the pollution provision, is applied at Environment Canada. Most of what I will speak to applies to fisheries protection other than pollution. The proposed changes enable us to focus our efforts on the protection of commercial, recreational, and aboriginal fisheries. This means moving away from the current rules where all fish and all habitats are subject to the same treatment. Under the Fisheries Act today, activities and impacts on an irrigation ditch on a farmer's field are subject to the same rules as a sensitive fish-rearing area on the Fraser River. The impacts on water bodies are subject to the same rules regardless of magnitude—from a dock at a lake, to a clear-span bridge, to a major industrial or resource development.

That is not a sustainable, not a common sense approach. Canadians expect us to focus our work on the protection of fisheries. The proposed changes will focus on recreational, commercial, and aboriginal fisheries. These changes will ensure that these fisheries are protected from a range of threats, including threats to habitat or non-authorized killing of fish in protection from aquatic invasive species.

The purpose section of the act clarifies that fisheries protection provisions are supposed to support the sustainability and ongoing productivity of the fishery. We are also providing enhanced tools for protection and compliance. The proposed changes include aligning the penalty provisions with the Environmental Enforcement Act. The changes would make the conditions of authorizations enforceable, so we can ensure that appropriate monitoring and reporting takes place. The changes enable the identification of ecologically significant areas that can provide enhanced protection in areas such as sensitive spawning grounds or where cumulative impacts are a concern.

Another objective of our government is to provide clear and transparent regulations, and we have proposed the regulatory tools to enable us to implement this effectively. One example is the identification of minor works. These are classes of works like cottage docks that would not require a permit. Another example is minor fisheries waters where we can identify classes of waters such as irrigation ditches that would no longer require a review of projects.

With these approaches, we can be clear about where the fisheries protection provisions do and do not apply. At the same time, we'll provide clarity about how the new provisions will apply. We have included a regulatory authority to establish standards for fisheries protection—for water flows or the passage of fish, or times of the year that projects can or cannot be undertaken to protect fish spawning or growing. Canadians expect us to be clear about the rules, where they apply and how they apply. We will also develop a regulation that clarifies for proponents what information we will require from them for a project review and how long it will take us to do the review for the purposes of issuing or denying a permit.

The proposed changes will provide new mechanisms to better coordinate with provinces and territories to address overlap and duplication. Where a provincial or territorial government has standards that meet or beat the federal standards, we can stand down and allow the provincial process to apply. We can even delegate the authority to make decisions if the appropriate mechanisms are in place.

● (0925)

As serious as we are about our focus on protecting recreational, commercial, and aboriginal fisheries, we are also serious about transparency, about clarity, and about efficiency. Canadians want to know what the rules are, how the rules will be applied, what is expected of them as proponents, and how long decisions will take. The proposed changes provide the tools to do this.

One of the changes that I am most excited about is enabling partnerships. I have already spoken about partnerships with provinces and territories to address overlap and duplication. But I am also talking about enabling partnerships with conservation groups and others who are passionate about protecting fisheries. We have good partnerships now with groups that represent the thousands upon thousands of Canadians who work with us to protect Canada's fisheries. But we know we can be better partners. So the proposed changes enable us to establish activities and programs and to enter into agreements with third parties to carry them out.

Conservation groups, angling groups, recreational fishing groups, and many others have told me about the important work they are

doing to protect Canada's fisheries and about their ideas to develop new, innovative approaches to achieve this. It is innovative and exciting to hear from groups with such passion and on-the-ground expertise. The networks in those groups are extraordinary. We need to work better through them to reach the general public.

To summarize, the changes to the Fisheries Act represent three components: a focus on the significant impacts to Canada's commercial, recreational, and aboriginal fisheries; tools to enable regulatory clarity and efficiency; and tools that enable partnerships with those who care about protecting fisheries.

I am excited about the prospect of these proposed changes. They will get us focused where we need to be focused; they will get us out of the ditches and the fields, and they will get us better connected with Canadians who are already engaged in this important work. With these changes, I am confident we will have the direction, the tools, and the partnerships we need to ensure that Canada's recreational, commercial, and aboriginal fisheries thrive for future generations of Canadians to enjoy.

Thank you, Mr. Chair, for the opportunity to be here this morning.

**The Chair:** Thank you very much, Ministers. I appreciate your ability to be here this morning.

According to the routine proceedings of the natural resources committee, the first round is a seven-minute round in which every political party will have one representative. The Conservatives will go first.

Mr. Kamp, you have up to seven minutes. Go ahead, please.

**Mr. Randy Kamp (Pitt Meadows—Maple Ridge—Mission, CPC):** Thank you, Mr. Chair.

Thank you, Ministers, for appearing.

Let me start by thanking you for your work on behalf of Canadians. I know it's not an easy job.

Minister Oliver and Minister Kent, you can relax for the next seven minutes or so because I'll be directing my questions to Minister Ashfield.

Let's start with what we do know, and that is that Canada's constitutional documents provide that the jurisdiction for seacoast and inland fisheries falls under the federal government. By way of your appointment as Minister of Fisheries and Oceans, it's your job to manage those seacoast and inland fisheries.

We've had a Fisheries Act for most of the time since Confederation. I think the bulk of it was written in 1868. The obvious question that occurs to me is, why change that? Or, to ask it another way, what frustrations have you and your officials experienced in your obligations to manage seacoast and inland fisheries, and how do the amendments that are proposed in Bill C-38 help you to better manage fisheries in Canada?

● (0930)

**Hon. Keith Ashfield:** Thank you, Mr. Kamp.

You're absolutely correct. We are dealing with an act that was written in 1868, and the last substantial amendments were in 1977.



Currently the minister is required to manage a very wide range of project-related impacts to fish habitats for all species. We're focusing, through the changes in sections 32 and 35 of the act primarily, on aboriginal, recreational, and commercial fisheries. We think it's important to do this.

We've had a lot of feedback from Canadians all across the country about the role of Fisheries and Oceans in many things they would not consider to be essential to the management of fisheries and certainly the long-term prosperity of the fishery. You know I've spoken about issues including such things as farmers' ditches. There are a number of them straight across the country that are frustrating for people, and quite frankly frustrating for the department because it's hard for us to manage all of those small projects.

We think it's best that our focus be on the fishery and the sustainability of the fishery. We think the role of the Department of Fisheries and Oceans should be fish and fish habitat and long-term sustainability and prosperity for the country.

**Mr. Randy Kamp:** Thank you, Minister.

We notice here the proposed change to section 35. I suspect that most Canadians are not aware of many aspects of the Fisheries Act, but many will have heard of section 35. It is sometimes called the "prohibition section" or the "have section". It says:

No person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat.

In the proposed change, is there a similar prohibition? It says:

No person shall carry on any work, undertaking or activity that results in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery.

Is that the equivalent prohibition? How do you see that as an improvement on the current section 35?

**Hon. Keith Ashfield:** The prohibition is a combination of sections 32 and 35 in the current Fisheries Act. It's basically a regulatory regime that enables the minister to manage activities and threats that impact the productivity of the commercial, recreational, and aboriginal fisheries. Any activity that causes harm to those fisheries is prohibited, unless authorized before proceeding.

The prohibition will apply where there is serious harm to fish, for example, the killing of fish or the permanent alteration or destruction of fish habitat that are part of the support of the commercial, recreational, and aboriginal fishery, or where they are likely to occur.

So we will still have the authority. We will have the responsibility to manage and ensure that fish are protected. This certainly does not impact it in any way.

**Mr. Randy Kamp:** Some have pointed out that the word "habitat" is sort of the centrepiece of the current section 35, and not seeing it in the new section 35 means Fisheries and Oceans has lost interest in protecting habitat and won't be protecting habitat in the same way. They believe, of course, that would be a short-sighted approach to protecting fisheries.

Do you have any comments on that?

**Hon. Keith Ashfield:** The word "habitat" has not been removed from the Fisheries Act. The term "fish habitat" is still included in the act, and the definition of that is very clear. Fish habitat means

spawning grounds and any other areas, including nursery rearing, food supply, and migration areas, on which fish depend directly or indirectly in order to carry out their life processes.

In addition, we've amended the act to include a broader set of threats to the fisheries, such as aquatic invasive species, the killing of fish by means other than fishing, and the destruction of habitat. So it's well defined in the act, and I'm quite confident. I don't really know where the idea came from that habitat was not included in the act, but it definitely is.

• (0935)

**The Chair:** Thank you, Mr. Kamp. Your seven minutes are up.

Mr. Julian.

[*Translation*]

**Mr. Peter Julian (Burnaby—New Westminster, NDP):** Thank you, Mr. Chair. I am going to share my time with Ms. Turmel.

[*English*]

I'd like to start with Mr. Oliver.

One of the most controversial aspects of this very controversial bill is the redefinition of those who are entitled to come to hearings. We've never had a clear answer on the definition around those people who can intervene in hearings and are directly affected, despite repeated questions.

When you talk about those directly affected, are you talking about those who live within one kilometre of a proposed project—or 10 kilometres or 20 kilometres, which was the exclusion zone in the recent Japanese nuclear disaster? Where is your cut-off? How do you define whether an individual or an organization is directly affected and whether or not they can attend public hearings for proposed new projects?

**Hon. Joe Oliver:** The first point is that the decision will be taken by the panels that are conducting the hearings. The guidance that is being given is to make sure the people who are directly affected and therefore have an interest in the project will be heard. I'm quite sure they will not be mechanistic about this, and if there will be an impact on people a little farther away, they would take that into account.

The other category of people who would be allowed to be heard would be experts whose expertise could add to the knowledge that's relevant for the panel to consider. The important point here is that there should be a relationship between the scope of the hearing and the subjects that are relevant to the people wishing to appear.

To give you an example of that, the Northern Gateway hearing does not include in its scope the issue of global warming and greenhouse gas emissions. Important though those issues are from a society perspective, they're not issues that are directly related to the project in question.

**Mr. Peter Julian:** But that is my question, Mr. Minister. How are you defining "directly related"?

This is a concern in British Columbia, as you know, where there's increasing feeling that Ottawa is just ramming down our throats a project that, if it is not properly environmentally assessed, could threaten thousands of jobs on the B.C. coast, in the fisheries and the environmental tourism industry, a project that provides for a few dozen permanent on-site jobs.

So my question to you, because clause 83 gives you that power, is how you have been defining "directly related" internally. What are the criteria you are using in what many British Columbians feel is an attempt to exclude them from hearings that have an impact right up and down the B.C. coast?

**Hon. Joe Oliver:** As I said, this will be a determination by the hearing panel, and the word "direct", I think, is pretty clear. It is those who would be affected by the project in question.

So that determination would be made on a reasonable basis by the independent panel.

**Mr. Peter Julian:** But you have the power, and you admit that you have the power, to impose that.

What you're saying is you're not going to share with us what criteria you were using internally in your ministry.

**Hon. Joe Oliver:** We're not...that type of specificity is not what I was talking about. That will be determined on a case-by-case basis by the panel.

● (0940)

[Translation]

**Mr. Peter Julian:** I will now turn it over to Ms. Turmel.

**Ms. Nycole Turmel (Hull—Aylmer, NDP):** Thank you.

My question is also for Minister Oliver.

I am going continue in the same vein. As already pointed out, this legislation gives you a lot of power, and yet you are telling us that you won't give the review panel clear instructions as to how to determine who will be directly affected and invited to attend the hearing to voice their point of view. That is the understanding and clarification we are looking for. How can you empower yourself, on one hand, and then say that there is free access, on the other?

**Hon. Joe Oliver:** As I said, we are going to establish general guidelines and principles that will be provided to the members of the review panel to specifically determine who will be allowed and who won't. That's what regulations are. We set out general principles, but the competent authorities apply them.

**Ms. Nycole Turmel:** My next question is also for Minister Oliver, but I am switching topics.

If we are to believe what the media are saying and what you have told us, you are going to give the Arctic a lot more priority in terms of development projects. The National Energy Board indicated, in its latest report, that it was extremely concerned about the size of the contracts that will be awarded because of the lack of resources. The report also mentions that the number of accidents has risen significantly over the past year. How do you plan to protect the environment while ensuring safety, bearing both of those considerations in mind? We have seen an increase in contracts and a decrease

in the number of employees in the working group, coupled with an increase in accidents.

**Hon. Joe Oliver:** First off, the number of public servants doing the reviews will not decrease in the least. On the contrary, it will probably increase. More money is going to the office, which, after all, is funded by the private sector. There is enough money for enough people to do the job in an independent and scientific manner. More projects simply means more money for these people to carry out their analyses.

[English]

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

Ms. Duncan, for seven minutes, please.

**Ms. Kirsty Duncan (Etobicoke North, Lib.):** Thank you, Mr. Chair.

I'd like to begin by saying that I am disappointed. Whoever took the decision to schedule our three ministers for one hour was not acting on the authority of this subcommittee. I feel it was presumptuous, it was undemocratic, and I think it's farcical to have three ministers appear at the same time for a total of one hour. Taking away time for opening statements and friendly questions from the government, that gives about 20 minutes for the opposition parties to ask questions of three different ministers on the 150 pages devoted to the environment in this omnibus bill.

Having said this, I will be sharing my time with my honourable colleague, Mr. MacAulay.

To the Minister of the Environment, looking for a very short answer, what percentage of current assessments will no longer receive federal oversight, given the repeal of CEAA?

**Hon. Peter Kent:** I'll give a very short answer.

Under the new regulations and the elimination of duplication with other authorities, provinces, and municipalities, the Environmental Assessment Agency will focus on major projects, which represent the most—

**Ms. Kirsty Duncan:** Sorry, I'm looking for the percentage.

**Hon. Peter Kent:** Well, that's a hypothetical question, because we don't know how many projects will be placed before CEAA to be assessed. The agency will assess the major projects with the greatest possibility of negative impact.

**Ms. Kirsty Duncan:** Minister, I'm going to step in. Surely the department has past data and will have a projection going forward in order to plan for resources.

● (0945)

**Hon. Peter Kent:** Year to year, the number of projects, the number of assessments of all sorts, those very minor and those major, varies significantly. There are over 2,000 assessments, for example, in recent years, that are subject to assessments at lower levels, screenings. At any given time, the agency is looking at between 100 and 200 major projects that represent a major possible negative impact on the environment.

**Ms. Kirsty Duncan:** It doesn't look like I'm going to get an answer here.

**Hon. Peter Kent:** Do your own reduction to percentages, 150 to 2,000.

**Ms. Kirsty Duncan:** What are the projected costs of changes to CEAA for each province and territory?

**Hon. Peter Kent:** Again, it's a hypothetical question. It depends on the province. Some provinces have more proposals before the agency than others. Some have a greater likelihood of an increase in project proposals in the years ahead. Again, that will depend on the specific province and the proposals placed before us—

**Ms. Kirsty Duncan:** Do we have numbers for the specific provinces?

**Hon. Peter Kent:** It is a hypothetical question. You can say in general terms that the provinces of British Columbia, Alberta, Saskatchewan, and Quebec—and increasingly, with the Ring of Fire, Ontario—will have an increasing number of project proposals, but again, the absolute number, and when they will come forward and in what calendar year, is a matter of speculation.

**Ms. Kirsty Duncan:** What assessments of the adequacy of the environmental assessment process in each province and territory have been conducted?

**Hon. Peter Kent:** Well, province to province there are different capacities to carry out assessments. The federal minister—and I'm sure you're aware of this through the proposed legislation—allows for substitution or equivalency agreements in the case of—

**Ms. Kirsty Duncan:** I'm asking you what assessments have been undertaken by the federal government on the adequacy of the assessment process in each province and territory.

**Hon. Peter Kent:** The assessment is ongoing from our continuing experience working with our provincial counterparts in carrying out environmental assessments. We well understand, and the law provides very specifically, that if a province does not have the capacity to undertake an environmental assessment, it will be done; the minister has the discretion to direct that it be done by CEAA.

**Ms. Kirsty Duncan:** I would ask that you table the results of these assessments with this committee.

**Hon. Peter Kent:** You'll be able to see that online with regard to the projects that are currently under assessment and those that are proposed. When the new act comes into effect—

**Ms. Kirsty Duncan:** No, I've asked that the assessments of adequacy be tabled with this committee.

I'm going to move on.

What analysis has been undertaken to assess the cost of liabilities that will arise under the new environmental assessment process?

**Hon. Peter Kent:** The new environmental assessment process is no different from the old environmental assessment process, except for the improvements that all three of us here today have listed for you.

**Ms. Kirsty Duncan:** Has there been an analysis to assess the cost of liabilities?

**Hon. Peter Kent:** There is a continuing assessment, based on the experience of federal assessments, joint panels with the provinces, and the provinces themselves in carrying out what used to be called

“comprehensive studies” and will now be called “standard environmental assessments”.

**Ms. Kirsty Duncan:** I'll ask one last question and then pass it to my colleague.

How do the liabilities under the new assessment process compare with the cost of liabilities under the old assessment process?

**Hon. Peter Kent:** There is no change.

**Ms. Kirsty Duncan:** Okay. Thank you.

I'll pass this to my honourable colleague.

**Hon. Lawrence MacAulay (Cardigan, Lib.):** Thank you very much.

Thank you, Mr. Chair.

Thank you for showing up for a few minutes, anyhow; it's good to get this chance to ask...because I also have great concerns about fisheries habitat. If you do not have habitat, you have no fish.

My question to the Minister of Fisheries is with regard to division 18 and proposed subsections 10(1) and (2).

It's my understanding, Mr. Minister, that it gives you the power to confiscate fish in order to pay for science in the Department of Fisheries and Oceans.

Also, with regard to the budget, I understand we're going to lose about 275 jobs, a lot out of the science area, and \$12 million for science. Is that loss on top of—

**The Chair:** Excuse me, Mr. MacAulay.

I have a point of order from Mr. Kamp.

•(0950)

**Mr. Randy Kamp:** On a point of order, Mr. Chair, it's my understanding that the terms of reference for this committee were to look at part 3 changes in Bill C-38. I believe that's in part 4.

**The Chair:** I believe Mr. Kamp is right.

I'm looking at our mandate from the finance committee for the subcommittee, and I'm also looking at what the analyst has just given me:

Division 18 of Part 4 amends the Fisheries Act to authorize the Minister of Fisheries and Oceans to allocate fish for the purpose

Our scope of mandate as a subcommittee, according to paragraph (v), is that we will look at part 3 of this particular bill.

So Minister, I guess the question that's been put is out of order, because it's out of the scope of the mandate of this committee. However, I will leave it up to your discretion as to whether or not you wish to answer.

**Hon. Keith Ashfield:** Thank you, Mr. Chair.

I'll attempt to answer the question, I guess.

Proposed subsections 10(1) and (2) grant the minister the authority to allocate fish for the purposes of financing scientific and fisheries management activities in the context of joint project agreements. That is true. But in terms of overall, in this year's budget we applied another \$10.5 million for the purposes of science.

Mr. MacAulay I have great respect for; he is wrong in this...in his thought process.

**The Chair:** Thank you, Minister.

That ends the first round of questioning. We will now move on to the second round.

I have Ms. Rempel for five minutes, please.

**Ms. Michelle Rempel (Calgary Centre-North, CPC):** Thank you, Mr. Chair.

I'll direct my questions to the Minister of the Environment.

Minister Kent, we've heard much from colleagues across the table about the Canadian Environmental Assessment Act's budget. We've heard allegations that the budget will be cut by 43%.

Perhaps you could clarify for members of the committee and shed some light on the inaccuracy of that fact, and talk a bit about the Canadian Environmental Assessment Act's budget and if there have been any jobs cuts to date.

**Hon. Peter Kent:** Thank you. I endeavour at every opportunity to correct my colleagues on the other side of the House.

As I said in my remarks, and as I've said any number of times since we began this dialogue, the budget of the Environmental Assessment Agency has not been cut. There are no job cuts. No job cuts have been made and none are contemplated. In fact, as I've said, the agency will receive funding through the major projects management office initiative that was renewed in Budget 2012.

The agency's 2012-13 budget, this fiscal year's budget, will be \$31 million, which is an increase of \$1.5 million over the amount originally slated to sunset. I think the opposition sometimes misunderstands the difference between sunseting funds for agencies that are required to be renewed over a period of years.... But this funding has been renewed, as requested, and this additional funding of \$1.5 million is intended, as I said in my opening remarks, to broaden our capacity to consult with aboriginal Canadians.

**Ms. Michelle Rempel:** Thank you.

We've also heard what I think are some misperceptions from various organizations across the country that the changes in this legislation will actually weaken the protection of the environment in favour of resource development, and that it would have Canada in violation of its environmental obligations under international agreements, including NAFTA. Perhaps you could shed some light on those misperceptions as well.

**Hon. Peter Kent:** I welcome the opportunity to reiterate the fact that the changes to the Canadian Environmental Assessment Act are to improve, to strengthen, and to contemporize the abilities of the government and its various agencies to ensure that resource development is conducted in the most responsible way possible, with an eye to protecting the environment.

We have new tools, which I outlined in my remarks, to ensure that proponents who receive clearance to go ahead with a project comply with the mitigation measures, and there are new provisions for significant enforcement of those that don't follow through. For the first time—again, as I mentioned—we are introducing enforceable environmental assessment decision statements under the act, which

will enable the issuance of binding environmental assessments on project proponents.

• (0955)

**Ms. Michelle Rempel:** In Budget 2012 there was an additional \$50 million over two years to be provided to the federal species at risk program.

**Hon. Peter Kent:** Yes.

**Ms. Michelle Rempel:** There are some amendments in this legislation that we're studying today that affect this particular program. Could you explain how the funding will help assist the protection of species at risk in Canada?

**Hon. Peter Kent:** Yes. Thank you.

As colleagues know, the Species at Risk Act is due for review and legislative improvement later this year, but there are a number of provisions within the Species at Risk Act that are impacted by this new legislation.

Essentially, as was mentioned by my colleague, at the moment, the issuance of SARA authorizations for major projects provides for three-year periods that must be regularly renewed, which is unrealistic in regard to larger projects like hydroelectric dams, for example, that have a time horizon of decades. So there is provision for ministerial authority to issue one permit, and to ensure that the conditions of that permit are met over a period of years, without the constant red tape of three-year renewals.

**Ms. Michelle Rempel:** Again, you spoke about how, under this proposed legislation, for the first time we're introducing enforceable environmental assessment decision statements under this new CEAA. Could you speak in a little bit more detail about that and how it actually helps strengthen environmental enforcement in this country?

**Hon. Peter Kent:** Sure. As I said, there will be significant financial penalties provided for those project developers who are not in compliance with mitigation. The mandatory follow-up inspections and monitoring will be required in every federal environmental assessment. We believe this adds both great value and significant improvement in terms of the environmental oversight and enforcement of the mitigation provisions that any federal panel would impose on a project going forward.

**Ms. Michelle Rempel:** It's also my understanding that for the first time we're providing federal inspectors with authority to examine whether or not conditions set out in an EA decision are met. Is that correct?

**Hon. Peter Kent:** Absolutely. That is correct.

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

Mrs. Ambler, you have five minutes.

**Mrs. Stella Ambler:** Thank you, Mr. Chair, and thank you to the ministers for being here today. My questions are for Minister Oliver.

Mr. Oliver, the leader of the NDP has argued that increased resource development benefits only western Canada and that in fact eastern Canada's manufacturing sector will be hurt as a result of further resource development. Needless to say, the western premiers were not pleased by this statement.

**Mr. Peter Julian:** A point of order, Mr. Chair.

**The Chair:** Mr. Julian.

**Mr. Peter Julian:** This is completely outside the committee's mandate. It has nothing to do with part 3 of the budget bill. I'd appreciate it if you would ask your Conservative members to stay within the committee mandate.

**The Chair:** I'm the impartial chair, Mr. Julian.

Would anybody on this side like to respond to that?

**Ms. Michelle Rempel:** Mr. Chair, I actually believe that pitting workers in one region against another directly pertains to the information contained in this bill, which is designed to promote jobs and economic growth in this country. I do believe, therefore, that Mrs. Ambler's line of questioning should be accepted.

**The Chair:** Well, it does address points that were raised by Minister Oliver in his opening remarks, and I believe it has been common practice that if ministers go there in their opening comments, members of the committee are free to ask some questions pertaining to that. As that testimony was heard here this morning—I certainly heard it—I'll allow the line of questioning to pursue.

However, Mrs. Ambler, I will encourage you to stick to part 3 as much as possible.

**Mrs. Stella Ambler:** I will. Thank you, Mr. Chair.

Could the minister please explain how these new provisions will benefit all regions of Canada?

• (1000)

**Hon. Joe Oliver:** Thank you for the question.

There is a misapprehension about the impact of resource development in Canada, and I think it's very important for people to understand that we are enormously blessed with immense natural resources that exist throughout this great country, resources that can be transformative for local communities and can create trillions of dollars in economic activity, hundreds of thousands of jobs, and hundreds of billions of dollars in revenue for governments to support important social programs.

Every region of the country will benefit, and the responsible resource development legislation is designed to deal with all projects, be they oil and gas or metals and mines. They will impact on the LNG projects in British Columbia, the oil and gas in Alberta, the Ring of Fire in Ontario, the Plan Nord in Quebec, and hydroelectricity in Newfoundland and Labrador.

There has been some talk about the so-called Dutch disease, whereby the existence of bountiful resources somehow works to the disadvantage of the manufacturing sector, and this has been recently debunked by two independent economic studies. One study under the supervision of the renowned economist, Jack Mintz, points out that in the states of Ohio and Michigan, the decline in employment in the manufacturing sector parallels that of the decline in Ontario, and has actually exceeded it. Therefore, the Canadian dollar had no relevance in that regard. The key challenge, of course, was competition from lower-cost producers, particularly in Asia.

I've travelled across the country and met with many companies, from St. John's to Vancouver, who are benefiting directly from the oil sands, as one example. A thousand companies here in Ontario,

companies across the country, are employing people and are benefiting in terms of revenue to provinces. So we're very fortunate, and we want to make sure that our legacy does not languish, that our resources are not stranded, that they're developed responsibly while protecting the environment, but that they're developed in the interest of Canadians from coast to coast.

**Mrs. Stella Ambler:** Thank you, Minister. That's especially reassuring for Ontario's manufacturing sector, which is hearing these same rumours.

The Governor of the Bank of Canada has highlighted the importance of diversifying our markets, which you mentioned, for resources and other products. He noted that emerging economies are growing exponentially faster than are advanced economies. Considering the amount of resources those emerging economies will need, what are the benefits of diversifying our markets, and how important is it to move forward quickly on this?

**Hon. Joe Oliver:** We have, with the United States, the greatest trading relationship in the entire world, some \$1.6 billion of trade every single day. And we want to nurture that relationship. But the other fact is that 100% of our energy exports go to the United States. It is always a problem to have one customer. In this case, the problem is exacerbated, as we've seen recently, by some political decisions that have put off the acceptance of the Keystone XL pipeline. But there is an ongoing economic disadvantage to that dependency on the United States, and that is the difference between the price of oil in the continental U.S. and the international price. This is costing us more than \$40 million every single day. The cost is \$135 billion over the next 25 years, just as a result of that price difference.

In addition to that, the United States is—

• (1005)

**The Chair:** Thank you, Minister. Sorry, we have to move on. We're already a little bit over. We're hoping you'll be able to finish up on that great thought.

**Hon. Joe Oliver:** These are some really good points.

**The Chair:** I know, Minister. As an Albertan, I agree with those points. But I have to be fair here.

Mr. Harris, you have the floor.

**Mr. Jack Harris (St. John's East, NDP):** Thank you, Mr. Chair.

I want to suggest that having three ministers, pleased as we are to have them for an hour, is not an adequate way to properly assess the impacts of this legislation.

Since I have only five minutes to try to deal with these issues, I want to focus on some of the concerns that have been raised about the Fisheries Act changes, including the concerns of two former Conservative fisheries ministers.

One of them, Tom Siddon, said:

This is a covert attempt to gut the Fisheries Act, and it's appalling that they should be attempting to do this under the radar.

John Fraser, also a Conservative fisheries minister back in 1984, expressed his concern about eliminating appropriate safeguards and a lack of "understanding, intelligence or wisdom".

Let me start, Minister Ashfield, with the factors to be taken into account to allow activities harmful to fish. Absent from these fundamental environmental principles, such as the precautionary principle and the ecosystem approach...they are removed from the proposed changes. There were changes proposed between 2006 and 2008 that were meant to “modernize” the Fisheries Act. These fundamental principles were included in that.

They're not here. Why is that, Minister? Is it because you now have a majority and you feel you can throw these fundamental principles to the wind? This seems to be something that the scientists and biologists have taken as being extremely important to manage the fisheries and manage habitat. You have removed them. Why?

**Hon. Keith Ashfield:** Thank you, Mr. Harris, for your question.

What we're proposing is to focus the Fisheries Act on fish and fish habitat together with commercial, recreational, and aboriginal fisheries. We think it's important to focus on these areas. The approach is to manage serious harm to fish that contribute to those fisheries and that support those fisheries.

From an ecosystem perspective, the changes in no way limit the ability to manage serious harm. To the extent that streams and other water bodies support fish and contribute to these fisheries, they will need to be considered. Discussions with stakeholders will be ongoing to determine the policy framework we have to have in place to go along with the legislative changes we're proposing.

**Mr. Jack Harris:** Minister, you have not carried out any consultations thus far, because 625 scientists are complaining that you're undermining the protection of fish and fish habitat. You said in your opening remarks that protections have not been impacted in any way. Yet you've defined serious harm—it's the only thing that qualifies as serious harm—as the killing of fish or the permanent alteration of habitat.

That's a new definition. There are, of course, tremendous effects that can happen to others and to nature because of a temporary change. In fact, the first nations have already come out and complained that using the word “permanent” leaves the whole field open to something temporary, but maybe for a long period of time, that causes serious changes to their habitat, whether the temporary period is during a construction phase for a pipeline or whether it is for a lease of some kind. It is very disturbing that your serious harm doesn't include mutations of fish or blinding of fish or anything else that could happen. It has to be killing of fish or permanent alteration of habitat.

Why have you gone so far in changing that?

• (1010)

**Hon. Keith Ashfield:** Thank you, again, for the question.

In terms of the consultation process, we've had many discussions over many years with all of our stakeholders, whether it be aboriginal groups or whether it be municipalities, provinces, and territories. The information we've received from them and the feedback we've received from them we've input into the context of our legislative changes.

Over the course of the next six months, we'll be consulting broadly with all of those individuals to develop our policy and the

regulatory process, and that will determine a lot of the outcomes of the act.

**The Chair:** Thank you, Mr. Harris. Your time has expired. I appreciate your line of questioning.

The ministers have been here 10 minutes past the one hour we've started already. To give us an opportunity to have adequate time to question departmental officials, I would like to thank Ministers Kent, Oliver, and Ashfield for coming today and for giving your testimony.

We will suspend for one moment until the departmental officials get here. Thank you.

• (1010)

(Pause)

• (1015)

**The Chair:** Okay, let's resume.

Colleagues, I don't believe we need to have any opening testimony from anybody here. That's my understanding, anyway. We've just heard from the ministers.

This committee is slated to end in 30 minutes. If we're going to have any opportunities for members to ask questions, and we're going to leave 10 or 15 minutes at the end for discussing committee business, I would suggest that we go into our first round, which would allow each political party one seven-minute question. Are we okay with that? Is that fine?

Mr. Khosla, you look like you have a question for me.

**Mr. Jay Khosla (Assistant Deputy Minister, Major Projects Management Office, Department of Natural Resources):** That sounds perfectly fine, Chair. I just wanted to point out that we came prepared with a presentation, but I understand if you don't want to hear it.

**The Chair:** I allowed the ministers to go on a little bit longer. You may wish to submit your presentations. I think we can accept those presentations, if you have them in print, as part of our deliberations. Committee members will have an opportunity to review them.

Given the fact that we have limited time, I'm just looking for some guidance from the committee. Is this an okay way to proceed? That will give us an adequate amount of time, I think, to discuss future business at the end.

We have with us, from the Department of Natural Resources, Jay Khosla, ADM, major projects management office, and Adam Hendriks, director of operations, western Canada, major projects management office.

From the Department of Fisheries and Oceans, we have Kevin Stringer, ADM for program policy. From the Department of the Environment, we have Coleen Volk, who is the ADM for the environmental stewardship branch. From the Canadian Environmental Assessment Agency, we have Steve Mongrain, senior policy advisor, and Helen Cutts, vice-president, policy development sector.

From Aboriginal Affairs and Northern Development, we have Jean-François Tremblay, senior assistant deputy minister, and from the Department of Transport, we have Helena Borges, assistant deputy minister of programs.

Thank you all for being here. I appreciate your patience. I think we're just going to proceed with seven-minute rounds of questioning.

We'll start with Mr. Allen for seven minutes, please.

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

Thank you to our officials for being here.

I want to go on a few lines here. One is with respect to the federal-provincial overlap. Second would be public participation. And third, if we get the time, would be with respect to a focus on large projects.

Now, I know that we've heard a lot of noise and a lot of speculation out there that some major problem will happen because provinces might end up doing some of these environmental assessments. I know that in New Brunswick, at least, the entry point for the environmental assessment process is always the province. They're then supported by the federal government, from that standpoint, and agencies such as DFO.

I just want to understand what safeguards are in place to ensure that any review undertaken by a province follows the federal standards. And how do you anticipate this bill affecting federal-provincial cooperation?

**Mr. Jay Khosla:** I'll start, and then I'll turn it over to my colleague from the Canadian Environmental Assessment Agency to follow up.

You've touched upon a main aspect of the proposal we've provided today. I think the committee would be aware that provinces have been asking for some of the tools we're talking about today for quite some time.

What we're talking about are elements known as substitution and equivalency for us to harmonize practices better with the provinces. Of course, there are protection measures in the bill to ensure there are safeguards, that we're not going at this in sort of a holus-bolus way, but really it's to work better with the provinces.

Helen, I will turn it over to you to follow up on how substitution would work in particular.

**Ms. Helen Cutts (Vice-President, Policy Development Sector, Canadian Environmental Assessment Agency):** At the request of a province we would look at the conditions laid out in the act. The act is designed to ensure that the substantive elements of environmental assessment are carried out by a province. For example, we need to ensure the core elements, such as looking at the significance of cumulative effects, are addressed. We need to ensure there is an opportunity for public participation. Finally, with substitution, or with equivalency, we would require that the province prepare a report. On top of that, if we have the province carry out the project of assessing and making the final decision, we require that they carry out the enforcement.

The difference between substitution and equivalency is that in both cases we're trying to reduce federal-provincial overlap. With substitution, we have them carry out the process. They are the ones who are figuring out what the effects are, but at the end of the day both jurisdictions make a decision on the basis of that report. This allows the Minister of the Environment to determine the significance of effects.

With equivalency, we go one step further and allow the province to make that final determination.

Basically, the safeguards built into the act are to ensure that if the federal government is making a decision at the end, it has all the information it needs to make a sound decision. If the federal government is not making a decision at the end and is ensuring the province is going to make that decision, the safeguard is that they are carrying out the enforcement measures.

• (1020)

**Mr. Mike Allen:** There's always the idea of downloading. Is it fair to say that if a province doesn't have the capacity, the federal government is not going to leave the stage on this?

I mean, are you going to pick up to make sure there's no overlap—I guess that speaks to my point of federal-provincial cooperation—or are there going to be some negotiations to ensure there is no gap in that process?

**Ms. Helen Cutts:** I want to emphasize that these new tools of federal-provincial cooperation were put in at the request of the provinces. In 2009, the Canadian committee of ministers of the environment endorsed a report in which it recommended that jurisdictions add additional tools for cooperation.

We will never be in a situation where the federal government will say to a province, "We want you to do this." We are not dictating it. The way it will work is that it will always be up to the province to say, "Look, we think we could do this. We're already doing a process, so we're not asking to do something different."

They're already engaged in looking at that line, so they could come forward and say, "Rather than both of us being there and trying to work together, why don't we just do it?"

**Mr. Jay Khosla:** Could I supplement, if you don't mind?

The bill clearly lays out that the province has to meet the federal standard. The point on no gaps is that if they have to meet the federal standard and carry forward the review in that regard, there would be no gaps. So it's upon a request of a province, and then they must meet the federal standards.

**Mr. Mike Allen:** Okay. When the ministers were here, Minister Ashfield talked about a lot of small projects, especially with fisheries.

We see that a lot in rural areas. There are farmers installing pipes and wanting to change pipes for drainage and things like that, and it's a pretty burdensome system.

I just want to know when we're reviewing the projects how we're going to make sure there's a differentiation of minimal to no risk and how we'll make sure we focus on the projects that are causing the major risk.

**Mr. Jay Khosla:** That's the fundamental point behind the package. We're consolidating responsibility for these reviews under the three main agencies. To this point, there have been more than 40 departments and agencies involved in environmental assessment. We're now putting it into the hands of the agencies that are best placed to do that. As a result, through the focus of our resources, we feel the reviews can be managed better and in a more timely way, but also more thoroughly. At the end of the day, we aim to do both by focusing on the significant adverse environmental effects of major resource projects that move forward through the Canadian Environmental Assessment Agency.

Also, there's a whole host of other environmental regulatory framework initiatives out there that will sort of cascade through the process as well. The idea here, though, is to target our resources through consolidation, do reviews in a more timely way, and also, at the end of the day, put safeguards in for environmental protection. The ministers mentioned the issue of a certificate, so we'll be looking at these projects through a life-cycle process.

To this point, a lot of the focus has been on the front end of the project. Now we'll be looking at beginning to end, to make sure these projects are developed in a sound and thorough way, protecting both the environmental and economic interests of the project.

• (1025)

**The Chair:** Thank you, Mr. Allen. Your time has expired.

Mr. Julian, you have seven minutes, please.

**Mr. Peter Julian:** Thank you, Mr. Chair.

And I thank the departmental officials for being here. As my colleagues have expressed, though, we are very concerned that we had three ministers here for 35 minutes beyond their own statements. In each of the cases, there were obviously many, many more questions to ask the ministers. We certainly hope that as a committee we'll have that consensus to bring the ministers back the week after next when we start our hearings.

As you are here, I'll follow up on a question I asked Mr. Oliver, with our colleagues from the Department of Natural Resources. I asked him to define how "directly affected" is being interpreted within Natural Resources. He seemed to indicate that people or organizations that are concerned about climate change might be excluded from the public hearings around this process. I'm not sure if he was expressing a personal opinion or whether he was expressing a departmental evaluation. So I'll ask you the same question I asked Mr. Oliver, which he didn't seem able to respond to.

Is it persons living two, five, or ten kilometres away from a project who are excluded? Is it people who are expressing certain opinions, such as tying in these new projects to climate change, who are excluded? Are they excluded on the opinions they're voicing? Are they excluded because they're not directly affected because they live 100 metres beyond the exclusion zone? What are the criteria the department is using to evaluate whether somebody can actually attend and give voice to their opinion in the public hearing process?

**Mr. Jay Khosla:** Thank you for the question.

I'll follow on what the minister said. Really, the policy rationale behind this links into one of the main pillars of the package, which is

more timely and effective reviews. What we're talking about here in terms of "directly affected" will vary on a case-by-case basis, on a project-by-project basis. These are tools we're putting into the tool kit for managers of these projects—panel managers in particular—to be able to manage the process effectively and efficiently.

In the past, "directly affected" has kind of referred to three main areas. We're looking at really focusing our reviews to ensure we're hearing from the right scientific and technical folks. Aboriginal people certainly have big interests in these projects—we know that—so we want to make sure they're included. Also, we want to include people who live close to these projects or within proximity. Those are some of the criteria that have been taken into account in the past, and we'll likely rely on those in the future.

**Mr. Peter Julian:** You can understand the concern when you just said, "live close to these projects". We have a very controversial project in northern British Columbia, the Northern Gateway, which threatens thousands of jobs and provides for a few dozen permanent on-site jobs. There is massive, significant concern right through the region. When you say "live close", are we talking a hundred metres, one kilometre, ten kilometres? What is the department using to evaluate how to exclude individuals, citizens, who are concerned?

**Mr. Jay Khosla:** Thank you for the question.

I'll just make two points on this. First and foremost, when I said scientific and technical expertise, that's one criteria; living close is another. These are criteria that are general in nature. They're not necessarily mutually exclusive, if you will. At the end of the day, this will be defined by the panels and they way in which they run it. These are types of criteria that will be incorporated. It's much the same, if you will, as—

**Mr. Peter Julian:** Sorry to interrupt. I am limited in time. Has the department done an evaluation? Is there a department document that you can share with us that shows the type of criteria, how you define living close or not, and how you define what issues should be brought forward or not? Is there anything you can share with us?

• (1030)

**Mr. Jay Khosla:** We don't have—as I said, it will be done on a case-by-case basis and a project-by-project basis. Those will be developed over time, as these projects move forward.

**Mr. Peter Julian:** But as part of the production of this bill there must have been some evaluation of how this would be defined. We have this massive bill brought forward that has—many people are concerned about stripping away the environmental protections, which, in northern British Columbia and I can tell you on the B.C. coast, we feel very strongly about. There must have been something, at some point, within the Department of Natural Resources, some evaluation of who was going to be excluded by this.

You're saying there's no document and no discussion. This was just thrown out here to Parliament, but there was never any evaluation done by the minister or by the department? Is that true? There's nothing you can share with us?

**Mr. Jay Khosla:** No. I'm saying the projects vary in size and scope, so we're building in the flexibilities. These are tools that are being put in the tool kit to allow panel managers to have the flexibility, not necessarily to exclude folks but to maybe focus the reviews.



**Mr. Peter Julian:** But you have no documents—there were no internal discussions around how to define this?

**Mr. Jay Khosla:** It's defined in the legislation, as the words in the legislation.

**Mr. Peter Julian:** Okay.

Ms. Volk, on the Northern Gateway, I asked this of the minister early Wednesday morning. He wasn't able to come up with a response, but hopefully he would now. That is whether the Department of the Environment has calculated the probable increase in environmental incidents requiring response from the environmental emergency program if the Northern Gateway pipeline project is actually brought to bear. Has there been any evaluation done by the Department of the Environment?

**Ms. Coleen Volk (Assistant Deputy Minister, Environmental Stewardship Branch, Department of the Environment):** Thanks for the question.

That's a difficult question because I think what you're asking for is a statistical probability of an accident or a spill. It's a highly improbable event, with very significant consequences if it did happen. In terms of the statistical probability, the likelihood of its happening is very low.

**Mr. Peter Julian:** My question was, has the department done an evaluation of this? The oil spill response centre was closed in British Columbia. We have now lost any access west of the Ottawa River. The environmental emergencies program—the minister did admit on Wednesday morning that every few days staff from the environmental emergencies programs are called on site to spills. Was there any sort of evaluation done before that program was shut down in British Columbia, so there is no oil spill response from the federal government?

**Ms. Coleen Volk:** I'm glad you asked the question.

Our oil spill response capacity has not been shut down. What was eliminated—what is in the process of being streamlined—is our notification and coordination of routine incidents. That is not the centre that would respond in the event of a major spill. A major spill would most likely be led by the Canadian Coast Guard, by other departments. It would not be Environment Canada.

**The Chair:** Thank you, Mr. Julian. Sorry, your seven minutes are up.

Ms. Duncan.

At the expiry of your time, Ms. Duncan, this portion of the meeting will be over. I will suspend the meeting and we will go straight to committee business. I would ask that we wrap up here as efficiently as possible at the end of your full seven minutes.

Thank you, Ms. Duncan.

**Ms. Kirsty Duncan:** Thank you very much, Mr. Chair.

I would like to know the evidence, in the government's position, indicating that the repeal of CEAA and its new replacement will contribute to “better environmental outcomes”. That was reported in Budget 2012.

**Mr. Jay Khosla:** I'll start, and then, Helen, maybe you can pick it up.

There are several measures as part of the package, including the changes in the Canadian Environmental Assessment Act, that help with environmental protection. The most important of that is, of course, focusing resources on the projects that are the largest and that matter the most to the environment—

**Ms. Kirsty Duncan:** Sorry, I'm looking for a very specific—I'm looking for the evidence.

**Mr. Jay Khosla:** I'm going to go through some other elements that speak to environmental protection and that really matter for this package.

Certainly the idea of bringing forward a certificate process for proponents to manage the environmental assessment process and ensure that we're taking a life-cycle approach leads into the evidence.

Many of the changes we're talking about here have been requested through various stakeholder communities for a long time, so some of the evidence has led to the crafting of that. The certificate process is another key problem.

•(1035)

**Ms. Kirsty Duncan:** Can I just ask a question on that?

You said earlier that this was a request of the province. Jean Charest was in the papers a week or two ago saying he was quite surprised, because in Quebec they do this very well.

**Mr. Jay Khosla:** For sure, and I was referring to the substitution and equivalency provisions. Provinces that do those well will be able to engage in that process. We think we'll be able to work well with the Province of Quebec in terms of harmonizing our processes a little bit better.

Coming back to the environmental protection aspect, there are a whole host of other measures that are packaged with this bill, including greater inspections, greater pipeline inspections, marine safety inspections, and so on and so forth. A considerable amount of evidence has been brought to bear on these actions.

**Ms. Kirsty Duncan:** I would ask that we table with the committee the specifics of the evidence that this will improve environmental outcomes.

You mentioned pipelines. Is there going to be money in this bill to strengthen pipeline safety by monitoring whether regulated companies have prepared their emergency procedures manuals according to established legislation, standards, and expectations? This was a real concern of the environment commissioner.

**Mr. Jay Khosla:** The package brings forward a number of measures on pipeline and marine safety. In the budget document, \$13.5 million has been allocated for greater inspection capacity.

**Ms. Kirsty Duncan:** No—I've asked very specifically if there is funding to monitor whether regulated companies have prepared their emergency procedure manuals.

**Mr. Jay Khosla:** Yes. Part of that package includes annual sort of audits of their capacity to do that. Comprehensive audits will be doubled as part of the package.

**Ms. Kirsty Duncan:** That's good to hear, because in the past this was not done well. The environment commissioner brought that forward.

Will the money in this package be used to communicate any deficiencies to the regulated companies?

**Mr. Jay Khosla:** I can come back with answers. It's fairly technical. I would assume the answer is yes, but I don't want to mislead the committee.

**Ms. Kirsty Duncan:** Will this package be used to ensure any deficiencies are corrected?

**Mr. Jay Khosla:** Again, I'll come back, but I would assume the answer is yes. As part of an auditing function and an inspection function it usually is, but you're asking very technical questions, so we'll come back on those.

**Ms. Kirsty Duncan:** So you'll come back with those answers. I thank you for that.

Can you provide evidence in the government's possession indicating that the repeal of CEAA and the new environmental assessment process will "improve consultations with Aboriginal peoples"? Again, that's from Budget 2012.

**Mr. Jay Khosla:** That's speaking to the fourth pillar. I'm going to ask my colleague to speak on that, but certainly as part of this package, enhanced consultation with aboriginal peoples is paramount.

**Mr. Jean-François Tremblay (Senior Assistant Deputy Minister, Treaties and Aboriginal Government, Aboriginal Affairs and Northern Development Canada and Canadian Polar Commission):** The duty to consult is a constitutional obligation, as you know. We have been taking a lot of measures since 2004, since the decision from the Supreme Court on the duty to consult. The duty to consult happens when you have activities from the crown and rights that could potentially be affected. In that case, you need to think about what the consultation in place should be and also potentially about accommodation.

We have been hearing from aboriginal groups. We've consulted with them. We consulted with—

**Ms. Kirsty Duncan:** Could I interrupt? Could we table with the committee exactly which aboriginal groups have been consulted? When we brought this up at committee of the whole and we asked the minister, we didn't get an answer.

**Mr. Jean-François Tremblay:** I can look at it, but it's also consultation on a day-to-day basis. We have relationships with AFN

**Ms. Kirsty Duncan:** Could we table the specific consultations with this committee, please?

**Mr. Jean-François Tremblay:** Yes. We developed guidelines that are available, and they are on the Internet. You can look at them too. We have learned that there is consultation fatigue. There's an issue also of duplication of consultation. There is also an issue of making sure the consultation is meaningful, which means providing funding.

If you look at the measures that are in the deal, there is the idea of really going with a single window, which is that one organization of the federal government should be responsible for the consultation.

You also have the issue of working with provinces to address—

**Ms. Kirsty Duncan:** I'm going to interrupt there for a second, and I apologize—

**The Chair:** Ms. Duncan, sorry, your time is up.

**Ms. Kirsty Duncan:** I think I've got 40 seconds left.

• (1040)

**The Chair:** But we've got to move on.

**Ms. Kirsty Duncan:** I'm a marathon runner.

**The Chair:** Okay. Keep it to your last 40 seconds, then, and we'll be fine.

**Ms. Kirsty Duncan:** Thank you very much.

I'd just like to know what is the government's rationale for extending support for consultations with aboriginal peoples for a period of only two years, because this is a major ongoing concern.

**Mr. Jean-François Tremblay:** We'll see what will be the decision two years from now, but I was quite pleased that there was a decision for the next two years.

You're a marathoner, I'm a cyclist, so I'm going to go to the finish on this. The evidence is that we're going with a single-window approach, which means we identify the leads in the federal government, avoid duplication, try to avoid as much as possible duplication with provinces, and try to actually make sure that the consultation is meaningful, with funding, as you mentioned, but also making sure that we actually focus on the real issues.

**Ms. Kirsty Duncan:** Thank you.

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

This is going to bring this to a conclusion. I'd like to thank you all for coming here. Unfortunately, the amount of time that we had for you was usurped by the ministers staying on an additional 10 minutes for the benefit of the committee. I assume that if you're invited back to discuss this further, we could expect you to come back to the committee.

Thank you very much for your time this morning.

Colleagues, we're going to suspend for a few minutes. As is typical of the practice, as has been laid out by the finance committee, the natural resources committee typically does its business in camera. So we're going to suspend for a few minutes here, and then we're going to come back in camera.

**Mr. Peter Julian:** I have a point of order, Mr. Chair.

**The Chair:** No, it's done. We've got no time, Peter.

[*Proceedings continue in camera*]







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