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Chair

Mr. Blaine Calkins

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•(1920)

[English]

The Chair (Mr. Blaine Calkins (Wetaskiwin, CPC)): Good evening, ladies and gentlemen.

To our witnesses, I want to say thank you very much for your patience. I know we were scheduled to start at 6:30, but Parliament being what it is, we had some votes we had to deal with.

We have a full agenda here this evening.

From the Canadian Manufacturers and Exporters, we have Jayson Myers, president and CEO; from the Building and Construction Trades Department of the AFL-CIO, we have Christopher Smillie, senior advisor; from the Canadian Association of Petroleum Producers, we have David Collyer, president; from the Canadian Nuclear Association, we have Denise Carpenter, president and chief executive officer; from the Federation of Ontario Cottagers' Associations, we have Terry Rees, executive director; and from the Ontario Commercial Fisheries' Association, we have Mr. Peter Meisenheimer, executive director.

To our witnesses, our orders are those of the natural resources committee. For the first two hours we'll have presentations of up to 10 minutes from each of you, and then we'll have rounds of questioning from colleagues at the table.

I didn't solicit who would go first, so I'm just going to go based on the order you appear on the list.

We'll start with Mr. Myers, please, for up to 10 minutes.

Mr. Jayson Myers (President and CEO, Canadian Manufacturers and Exporters - Ontario Division): Thank you very much, Mr. Chair.

Good evening, ladies and gentlemen.

[Translation]

Thank you for the invitation to comment on Bill C-38.

[English]

Thanks very much for inviting me to appear at this subcommittee and to discuss the implications of Bill C-38 on responsible resource development in Canada. I represent Canadian Manufacturers and Exporters, as well as the Canadian Manufacturing Coalition, a group of about 50 associations that represent all sectors of manufacturing and industrial development in the country. The members of our associations jointly employ over 2.5 million Canadians.

I believe we're at a critical juncture in our economy. The global economy is presenting Canada with many challenges, but also with a historic opportunity to take full advantage of the immense potential of our natural resource wealth. Across Canada, over 500 major projects are under way or are being planned for over the next 10 years, representing half a trillion dollars of new investments in our energy and mining industries and related infrastructure.

These private sector investments will give a very badly needed short-term boost to our economy and to jobs. In the long run, they represent a significant part of our industrial infrastructure, offering long-term employment and export growth. However, they also offer something that is much more significant. Canada's real long-term opportunity is to develop a world-class manufacturing technology and services supply chain for these natural resource projects that will create high-paying, value-adding jobs on the basis of expertise that can be exported globally.

There's been a lot said recently about the impacts of resource development on Canadian manufacturers, and particularly about Dutch disease, the negative impact that a strong dollar has had on Canadian manufacturing—a strong dollar presumably driven as a result of resource development. There's no doubt that over the past decade Canadian manufacturers have faced significant challenges to their profitability and therefore to maintaining employment, to investing in new products and new processes, and to staying ahead in global competition. They face those problems as a result of the challenges of a rapidly appreciating Canadian dollar, the recession, increased competition from low-cost producing countries, uncompetitive regulatory regimes, the decline in the U.S. market, rising protectionism in key export markets, and continued escalation of labour shortages.

Canadian manufacturers are suffering from some of the symptoms of the Dutch disease, but I think this diagnosis is wrong, and I'm afraid that policy treatment based on faulty diagnosis will have damaging impacts on manufacturing and on the economy as a whole.

First of all, the strength of the dollar is a reflection of the weakness of the U.S. economy, which has had a far more damaging impact on Canadian manufacturers than currency appreciation. You can always improve productivity to offset a higher dollar. It's hard to replace 30% of your customer demand, which disappeared in a matter of six months at the end of 2008.

Despite the challenges faced by manufacturers over the past decade, I want to say that manufacturing is far from disappearing. Today, it's an innovative industry, it's flexible, it's driven by customer demand, and it's global, in terms of markets but also in terms of investment. Manufacturing represents about 10% of our total employment, about 14% of our GDP, and about 60% of all of the private sector research done in the country. In fact, today, manufacturers are creating more jobs in the services sector of the economy than ever before, in high-paying services jobs in logistics, in research and development, in technology, in engineering, in design, in financial services, and in business services, for example.

Today, Canada's manufacturers are developing new products for new markets, and many have found new customers as suppliers of the new energy, mining, and infrastructure projects across the country. These projects offer Canadian manufacturers, companies like Berg Chilling, Promation, and Aberfoyle heat treating, run by Harry Hall out in Aberfoyle, new business opportunities in new sectors of the domestic market. They've led to the development of new products and processes. They've provided them with new opportunities to sell, not only within Canada but in new markets around the world.

Rather than seeing natural resource development as a curse, we should recognize the opportunities these projects present to Canadians, do our best to facilitate their development, and ensure that we can leverage them to build new industrial, technology, and services capacity.

We support Bill C-38 because we believe that Canada needs to maximize our economic opportunities while maintaining the right balance between environmental protection and economic growth. We believe the approach proposed in this bill will continue to support responsible environmental protection and oversight, while greatly speeding up approval processes.

The development of our natural resources is a capital-intensive enterprise requiring high levels of investment years before a project begins its commercial activity phase. Today's approach to environmental reviews has created an uncoordinated, duplicative, cumbersome, and uncertain process for both domestic and foreign companies. This process is acting as a direct barrier to foreign investment in natural resources, and it's limiting our members' ability to capitalize on new supply chain opportunities. We believe a better approach is a "one project, one review" process with a clearly defined time period.

Our members have provided some current examples of the problems of duplication and unnecessary delays in the environmental process, whether it's Areva Resources Canada, which has had a 19-month delay in starting new environmental assessments for operating and constructing a uranium mine and mining facilities in northern Saskatchewan, with investments of over \$400 million and up to 200 construction jobs; or the Rabaska partnership, for instance, that's proposing to construct and operate a liquefied natural gas terminal near Beaumont and Lévis, in Quebec.

These projects all create significant on-site construction jobs, as well as directly sustaining and creating hundreds of jobs in the manufacturing services and technology sector, and jobs in metal fabricating, jobs in concrete, jobs in environmental technologies,

jobs in processing technologies, and in services, finance, engineering, and design. They support job creation across the economy.

While our oil and mines will be here for decades, the investment opportunities in this sector always prove to be very cyclical and sometimes unstable. We have to remind ourselves that Canada is not the only player in the global resource market and that many countries are competing for investment capital. This capital will flow where the environment for investment is the most beneficial. With a potential of over \$500 billion in major projects being developed in Canada over the next decade, we need to ensure that Canada welcomes this much needed capital in order for us to develop these resources to allow our businesses to take advantage of this tremendous unprecedented economic opportunity.

While we all agree that the protection of the environment must be addressed through reliable environmental assessments, we believe that efficient regulatory processes can go hand in hand with high-quality environmental reviews and effective regulatory enforcement.

The approach for environmental approvals proposed in Bill C-38 represents, in our view, a responsible and modern approach to regulatory management and oversight.

Thank you very much.

•(1925)

The Chair: Thank you very much, Mr. Myers.

We now go to the building and construction trades.

Mr. Christopher Smillie, please, for up to 10 minutes.

Mr. Christopher Smillie (Senior Advisor, Government Relations and Public Affairs, Building and Construction Trades Department, AFL-CIO, Canadian Office): Thanks very much, Chair.

I guess depending on where you sit tonight, where I am on the political spectrum is sort of up to you guys. I'm either on the left of you folks or on the right of these guys.

Thank you for the invitation, and good evening, Chair, members of the committee, fellow witnesses, and guests. We're the Canadian building trades and we represent more than 550,000 skilled trades folks in every province and territory. It's my pleasure to come to you today and give you what I call a tip of the spear view of what natural resource extraction writ large means to regular people in Canada.

From here on in, if the committee will indulge me, I'm going to refer to the natural resources extraction and economic benefit title as "energy projects", and that's where I'll focus my remarks today. I'm going to talk a little bit about what energy projects mean to job prospects, short- and long-term employment, and how energy projects make a difference right now in the skilled trades in Canada.

I've compiled information from some of our construction employers, companies small and large, who do energy project construction and maintenance work in every part of the country, and from the trades themselves, which actually do the work. Hopefully, when I'm finished you'll have an understanding of the importance of these energy assets to the Canadian economy.

I hope you'll see that energy projects or natural resource extraction, the economic benefits, should be considered as important to the national economy and to the communities you all represent around this table. They deserve serious consideration and rational debate on the future of Canada's place in the world. They deserve more than partisan attacks. They deserve more than blind obstructionism and sound bites by opponents. These endeavours have real world impacts for working people, their pay cheques, their jobs, and the food on their table.

We need a Canadian vision on this file. I usually have a quote in my presentations. I won't do that, but I think Alison Redford has it right in this case. If I were her advisor, I'd submit that an energy strategy, which she's pitching, should be coupled with a workforce strategy. This way, when the workforce is needed, when these projects move ahead, we'll have a rational undertaking in terms of workforce planning with some sort of energy plan.

Every energy project in this country, from North America's first commercial crude oil well, which in fact was opened in Ontario in 1858, just outside of Chatham, to the Suncors of the world, the Syncrudes of the world, the Imperial Oils of the world—these modern-day projects, and also the old ones, create an enormous amount of economic activity for every region of Canada.

Last week I visited a new \$7 million training facility in Calgary, which is fully funded by building trades members and contractors, by the way. The Boilermakers Local 146 in Calgary has about 3,500 welders on their roster, and I took a look at their job lists. Contractors call us and provide us with jobs they're hiring for. Every call for a welder out of this local in Calgary was for an energy project, be it the new Enmax plant in Calgary, Shell's Albion Sands, or the small metal fab shop in Calgary South, which by the way is fabricating pressure vessels for oil sands facilities 16 hours a day, seven days a week. So every single call that this local union hall had was for an energy-related project. All this economic activity is derived from Alberta's energy project envelope.

The operations manager at this facility told me they had workers from across Canada, places like Newfoundland, Nova Scotia, Ontario, and even the United States on travel cards through their local unions and their communities, to meet the demands of our contractors and some of the owner-partners at the table today.

At this office in Calgary they had 500 apprentices. These are people who are working their way through an apprenticeship program. It's a four-year program to be a welder in Alberta. This

means young people are learning a skill and building a life on these projects.

This is a snapshot of what happens all across Canada. It's not unique to Calgary. Unions train and manage the mobile workforce through a hiring hall at no cost to Dave's members or Jayson's members.

That's a real life example. Let's talk overall numbers. We estimate that at any given time, out of our national membership, about 45% of our people are actively engaged in oil and gas in some way, be it the oil sands in Alberta, refineries in Sarnia, the Lower Churchill project in Newfoundland, building potash mines in Saskatchewan, or New Brunswick, or even a natural gas co-gen facility in any number of large cities across Canada.

• (1930)

You may have seen those massive electrical towers along the sides of highways. Construction workers install and maintain that infrastructure. These lines carry electricity, which in Ontario comes from nuclear power.

Uranium being another natural resource, I thought it was applicable to this committee. At Point Lepreau, in New Brunswick, more than 10,000 construction workers are on the job at AECL, upgrading the facility to pump power around the east coast so that the lights stay on. It's another example of natural resource extraction, or uranium.

The connections here are obvious in the energy industry. The energy economy means jobs, no matter how you slice it. For those of you who are on the natural resources committee, you would have heard this pitch before, but I want to talk pipelines for a minute. It seems a topic of heated debate in Canada and the U.S., and rightly so. These are pieces of infrastructure that mean 50 or 60 years on the production side of the resource extraction.

Before I talk a little bit about what that means, what exactly is a pipeline? To me, a pipeline just connects jobs. You put a product in, but at each end of the pipeline there are jobs being created. The uninformed think a pipeline is just a few short-term jobs, but they're wrong. In the oil sands, for example, petroleum—however we define petroleum—is extracted. It can't be stockpiled for very long, except in expensive tankage, and it has to move to the next stage in the process. The extraction jobs and initial processing at that end of the pipeline are 50-year jobs that last for as long as the line is being used. It then moves to an upgrader, where it's turned into synthetic crude. A huge number of high-paying, skilled jobs are found here. They are also 50-year jobs. And there are more maintenance and operation jobs created over the lifetime of the plant than there ever were constructing it.

By the way—and, Dave, correct me if I'm wrong—currently Alberta upgrades about two-thirds of its own bitumen. The Keystone Pipeline will not send this stuff from Alberta. It's new production, and Keystone will continue to upgrade most of the extracted material in Alberta.

Then the synthetic crude moves to a refinery, where it becomes products. The same equation is present in terms of refinery jobs: sustaining construction, operations, maintenance—those are 50-year jobs.

The pipeline links those jobs together—both ends of the pipeline. If there's no pipeline, those other high-paying, high-skilled, and challenging jobs don't exist. The pipeline moves both the oil and the jobs down the line to the end user. Some of the finished product, after you refine it, then moves in other pipelines back to market.

There are really four major construction activities and four major skilled trades involved in pipelines: heavy equipment, sideboom operators, backhoe operators, pressure welders, etc. I think you guys get the point that these are complex projects.

I ran some numbers for the Northern Gateway pipeline. I know we've been talking about that one in the public domain. There are probably about 2,700 direct jobs for three construction seasons with just the installation of the pipe. Total jobs for a \$6 billion project are in the 12,000 mark right off the bat.

I wanted to mention to the committee that of the four pipeline jobs that are currently being worked in northern Alberta today—we call them pipeline spreads in the industry—there were a total of 2,633 employees at the end of March working on these things, and 811 of them were from outside Alberta. This gives you a really good idea of the national scope of some of these projects. It's roughly the same percentage found inside the extraction, the upgrading, and the refining plants. At the end of the day, the energy jobs are not merely Alberta jobs; they're Canadian jobs.

The payroll—I pulled some numbers just for interest, and don't tell anyone I got these—for the four spreads for a week was about six million bucks. So you can see the link.

I'm getting the hook here.

I just want to talk quickly about apprentices. We represent about 25,000 apprentices in Alberta. Every year about 40,000 construction

apprentices move through the training system in some way across the country.

• (1935)

If it's not welding pipes at an oil sands plant, or doing concrete, or excavation at Kearl Lake, it's about office towers in Calgary, and everything else, if it's associated with those kinds of builds.

The last thing I want to talk about is the diversification of markets. I think if Canada is serious about moving down the continuum of a developed country, we need to seriously consider diversifying our market beyond the United States. Gateway would give Canada another market for our oil and would not have us beholden to oil politics south of the border. Our natural resource pricing isn't dependent on one customer. Maybe we reverse the pipe from Alberta to Sarnia. It could be good for jobs.

There's been some discussion in the media on the regulatory system surrounding these types of projects, and that's what we're here talking about today. The position of our organization is that we support changes to the system to facilitate large projects, though not at the expense of safety or an environmental review, I think we would all agree.

The Chair: Mr. Smillie, I'm sorry, your time is up. Thank you very much for your presentation. I apologize. We have to stick to the rules of the committee.

Next on my list is Mr. David Collyer, president of the Canadian Association of Petroleum Producers, for up to 10 minutes, please, sir.

Mr. David Collyer (President, Canadian Association of Petroleum Producers): Good evening, Mr. Chairman and members of the subcommittee. My name is Dave Collyer. I'm president of the Canadian Association of Petroleum Producers. We represent Canada's upstream oil and gas sector, and our members produce more than 90% of Canada's petroleum resources.

I certainly welcome the opportunity to provide our perspective on Bill C-38, part 3, responsible resource development.

This bill is extremely important to our industry. It's going to help attract the investment required by the oil and gas sector to create Canadian jobs, economic growth, and energy security in an increasingly competitive global market. I want to really emphasize the global competitive environment in which we operate. LNG is perhaps a good example—a tremendous opportunity, we believe, to export natural gas from Canada's west coast. But our competitors in Australia and other countries are not standing still, nor are markets necessarily waiting for us to supply those particular markets. We need to be competitive, and a key part of that is the regulatory regime under which we operate.

In our view, the bill sets out a framework for legislative change that will significantly improve the regulatory review process for natural resource development projects without compromising Canada's strong record of responsible environmental performance and environmental outcomes.

Our industry is the largest single private sector investor in Canada. We invest over \$50 billion each year, and we employ well over half a million Canadians. We foresee opportunities to maintain or in fact increase that level of investment going forward. In fact, there are over \$120 billion in oil sands development projects in the queue. However, we will only attract that investment and the investment capital required to grow our industry if we're internationally competitive.

As we all know, capital is mobile. I think it's rather sobering that a variety of domestic and international authorities, including the International Energy Agency and the World Economic Forum, have characterized our current regulatory system as being overly complex, redundant and open-ended, and a significant threat to Canada's ability to attract the capital necessary to develop our abundant natural resources.

The current regulatory process has often led to project delays and cost escalation, which both defer and reduce the employment and revenue benefits accruing to Canadians from these investments. In some cases, projects have unfortunately been cancelled or deferred for many years without any discernible improvement in environmental performance or outcomes. In our view, that is clearly not in the public interest. CAPP is very encouraged by the measures within Bill C-38, which, if properly implemented, will address many of those issues.

We strongly disagree with those who allege that Bill C-38 will result in lower environmental standards or turn back the clock on environmental regulation. The existing regulatory processes, to review and approve, or not, industrial activity in Canada have developed incrementally over many years, resulting in a patchwork of requirements that are confusing, overlapping, often conflicting, and ultimately uncertain. The existing process undermines competitiveness, negatively impacts project economics, and does not contribute to better environmental outcomes. More regulation is not necessarily better regulation; in fact, it's often quite the opposite.

From our perspective, the key elements of Bill C-38 are the following.

First is one project, one review, with review by the best-placed regulator by enabling equivalency and substitution. In our view, that will remove unnecessary overlap and duplication, and it certainly does not mean a lower standard of environmental review.

Second is significant consolidation of regulatory review bodies for those projects that are under federal oversight, which, from our perspective, is a sound, common sense reform—a risk-based regulatory review process that focuses resources and effort on higher potential impact projects and in fact reallocates resources in a manner that should improve environmental outcomes for those projects that have the potential to have a higher environmental impact.

The final key element is greater clarity and predictability in the regulatory review process, specifically in regard to timelines, which is going to provide much greater certainty to project proponents in terms of the costs and resources they need to devote to the regulatory review process and should shorten the timeline between the identification of a project opportunity and the point at which a

proponent can make a final investment decision, thereby reducing uncertainty and complexity in the overall decision-making process.

● (1940)

I have just a couple of thoughts on implementation. I'd like to emphasize that the benefits that arise from this legislation outlined in Bill C-38 will only be realized if this legislation and supporting regulations are effectively and efficiently implemented in a manner that delivers the intended outcomes. It will be important to ensure that adequate federal resources are dedicated to fully implement the intended regulatory changes on an aligned, whole-of-government basis, and additionally, that collaboration and alignment among federal, territorial, and provincial government departments and agencies will be critical to delivering the intended outcomes, particularly as they relate to equivalency and substitution.

To conclude, in our view, we must continue to grow Canada's resource sector for the benefit of all Canadians, to provide jobs, economic growth, and substantial revenue to Canadian governments. As an industry, we will continue to do this responsibly and with a commitment to continue performance improvement under environmental policy and regulation that will deliver the outcomes Canadians expect and that compare very favourably with those of other countries with whom we're competing for investment capital.

We look forward to less but better process that will deliver more jobs, a stronger economy, and responsible environmental performance. In our view, Bill C-38 represents a practical, efficient, and effective framework for change that is long overdue, and from our perspective, it is time to act on this legislation.

Thank you, and I look forward to your questions.

● (1945)

The Chair: Thank you, Mr. Collyer.

We now move to the Canadian Nuclear Association, Ms. Denise Carpenter, president and chief executive officer.

Ms. Denise Carpenter (President and Chief Executive Officer, Canadian Nuclear Association): Good evening, Mr. Chairman, committee members, and members of the public. I'm here today to speak on behalf of Canada's nuclear industry.

The Canadian Nuclear Association has some 100 member companies, representing 71,000 people employed in the production and advancement of nuclear medicine, uranium mining and exploration, fuel processing, and electricity generation.

Our members will be affected by the amendments in the budget bill, in particular the amendments to the Canadian Environmental Assessment Act, the Fisheries Act, the Species at Risk Act, and the Nuclear Safety and Control Act.

Our members are highly familiar with this legislation, as we've complied with it for over 50 years. As a matter of fact, June 4 is the 50th anniversary of nuclear power generation in Canada. It will also mark our 50 years of safe operations and strong environmental stewardship by our industry.

Given our experience, we welcome the efforts to modernize Canada's regulatory system. In the World Economic Forum's 2011-12 global competitiveness report, bureaucratic inefficiency is the largest barrier to doing business in Canada. The report ranks Canada's regulatory burden the 48th highest out of 142 countries.

CNA members are optimistic that the proposed amendments will increase not only the efficiency but also the effectiveness of Canada's regulatory system. We expect the amendments to enhance job creation and economic growth and to protect the environment. This is good for Canada.

Upon reviewing the budget bill amendments, we found the following. Number one, the bill has taken great strides towards achieving the goal of one project, one review in a clearly defined time period. Number two, its reduced overlap and duplication will not only limit the one project to one review, but it will strengthen the environmental protection. And number three, the effectiveness of the amendments will be demonstrated through compliance with the newly established timelines and regulations.

Allow me to elaborate. With respect to achieving the goal of one project, one review in a clearly defined period, several of the amendments are aimed at reducing overlap and duplication through delegation, substitution, equivalency, and fixed timelines. We see all of these as useful options that should be available to all industries.

Amendments to the Canadian Environmental Assessment Act will allow the delegation or substitution of one environmental assessment process for another. This has the potential to reduce multiple layers of overlapping environmental assessment processes to a single, effective process.

We were extremely disappointed to discover that under this new act federal and provincial equivalency will not be made available to our industry. So our uranium mine members, which may be better served by a provincial environmental assessment process, will not have the same opportunities as other metal mines will have.

There's nothing to be lost in making federal-provincial equivalency available to all industries. The goal is not to reduce the environmental scrutiny that our industry is subject to, but to improve the overall regulatory system so that it fosters environmentally responsible economic activity.

We believe the reduced overlap and duplication will strengthen the environmental protection. Limiting one project to one review is not only more efficient, it's more cost-effective, allowing resources to be applied where they can achieve the greatest environmental benefit.

It's not difficult to imagine how some 40 different agencies, each with their own regulatory processes, could draw resources—valuable human resources—away from what matters to the environment. Resources, such as time and budget, could be and will be dedicated to improving oversight and therefore compliance. For example, the conduct of some 37 environmental assessments at Chalk River

Laboratories has consumed considerable resources. These resources could have been spent on environmental redemption or other beneficial environmental initiatives, rather than on the regulatory process.

• (1950)

We appreciate the renewed focus the budget bill brings to what matters to the environment. That being said, we believe the true blue test of the budget bill's effectiveness will be the federal government's ability to comply with the legislated timelines it has introduced.

The bill promises legislated timelines for a number of permits and authorizations. These timelines can take anywhere from two to five years to develop. The development of these supporting regulations is particularly pressing right now, today, given the proposed increases to penalties under the Fisheries Act and the establishment of an administrative monetary penalty system under the Nuclear Safety and Control Act.

There needs to be a clearly defined path to compliance. This will be provided in part through the newly developed regulations. As an industry, we are committed to working with the federal government to implement the budget bill amendments and to develop these supporting regulations.

In summary, our members are very supportive of a regulatory system that reduces duplication, establishes clear timelines, and focuses on what matters to the environment. We are optimistic that the budget bill amendments will increase the efficiency and effectiveness of Canada's regulatory system while protecting the environment. We see the modernization of Canada's regulatory system as a positive initiative for Canadians. It will allow Canada's nuclear industry to continue to provide highly skilled jobs, strong economies, and, above all, safe, clean, reliable, and affordable power in the energy-hungry world we live in today.

Thank you very much.

The Chair: Thank you very much, Ms. Carpenter.

We now move to Mr. Terry Rees, executive director, from the Federation of Ontario Cottagers' Associations. You have up to 10 minutes, please, sir.

Mr. Terry Rees (Executive Director, Federation of Ontario Cottagers' Associations): Thank you, Mr. Chair, members of the committee, and members of the public.

I'm disappointed I'm not addressing these comments and concerns, frankly, to the fisheries committee, and instead that these important matters are being considered as part of an unrealistically complicated, unprecedented omnibus finance bill. The timing and design of this approach short-circuits the democratic process, and it certainly doesn't allow for the type and amount of reasoned discussion that fundamental important public policy deserves.

The considerations in Bill C-38 related to Fisheries and Ocean's activities, mandate, and resources could have significant long-term impacts on the essential underpinnings of our communities and our economy. Despite the significant displeasure with this approach, I'm here to speak on behalf of the tens of thousands of waterfront property owners who help to form the backbone of our rural economies.

First some background. My specific interest here relates to my role with the Federation of Ontario Cottagers' Association. Our organization is a not-for-profit established 50 years ago to represent the interests of rural waterfront owners in the province of Ontario on all facets of community life. We currently count amongst our supporters 500 community groups that represent 50,000 families. In total, the residential waterfront community numbers approximately 250,000 families across Ontario. We also work collegially with waterfront organizations in a number of other provinces, and with industry, other not-for-profits, and government as part of numerous committees related to water, biodiversity, mining, land use planning, and resource management.

Our interests include fire and crime safety, safe boating, risk management for volunteers, sound land use planning and rural practices, and, most centrally, the promotion of sustainable and healthy rural waterfront communities. We are vested parties. We have member associations in over 380 of Ontario's 444 municipalities and many in Ontario's northern unorganized territories. All told, there are about 15,000 kilometres and 50,000 hectares of privately held waterfront lands in Ontario, which are some of our most ecologically sensitive lands. The residential waterfront property community owns over \$75 billion of residential real estate and contributes over \$600 million annually in municipal and school property taxes.

For over 50 years our primary interest has been on supporting thriving and sustainable communities and specifically the health of our precious aquatic resources. In addition to supporting private land stewardship, we rely on the rule of law to ensure our natural resources are managed and cared for. Our community inherently knows, and it has had it confirmed by at least two U.S. university studies, that cleaner water is positively correlated to higher residential property values and directly impacts the use and enjoyment of our homes and the health of our families.

Today I wanted to relay our specific concerns related to the proposed changes to the Fisheries Act and the significant negative implications that may result. The habitat provisions in section 35 of the Fisheries Act prohibit the harmful alteration, disruption, and destruction of fish habitat. That's been the basis for ensuring aquatic resources are not impacted by shoreline or in-water projects and that our fisheries are allowed to thrive.

Clause 142 of the proposed budget implementation act diminishes the existing law and as a result is bad for Canadians. It does this first by limiting prohibitions to only commercially important fish. Complex natural systems require healthy food webs made up of a variety of species, and I note that the large majority of at risk fish species aren't commercially fished. Secondly, clause 142 establishes a prohibition based on serious harm that's permanent. We feel this new definition is both unclear and ill defined, and thus is subject to

interpretation and will be challenged. Defining a serious harm that's permanent is problematic and will not simplify things.

Most provinces don't have laws making it an offence to harm fish habitat, and for those that do, these laws can be weak and discretionary. For many provinces, like Ontario, they rely on the Fisheries Act and their own regulations to protect habitat, and use it to ensure environmental assessment of major projects like mines, which are excluded from provincial environment assessment laws.

While an important piece of Canadian law, section 35 of the existing Fisheries Act is still overly discretionary and should be strengthened, not weakened. The act should be revised to require that industrial undertakings are economically and environmentally sustainable, they take a precautionary approach, and repair or avoid harm to aquatic habitats and species.

The proposed changes to the Fisheries Act are regressive. Instead of embracing ecosystem-based management, the changes narrow the provisions to protect fish and fish habitat to focus only on identified fisheries. Instead of limiting discretion or guiding decision-making under the act, they create a framework for suspending the application of conservation provisions altogether.

The national laws on our fisheries should provide a clear national standard for protecting fish and fish habitat. Yet clause 134 of the budget implementation act allows for certain provisions of the act or regulations to be completely relegated to provincial discretion, in which case the federal fisheries law is suspended and provincial law applies in its place.

● (1955)

Whatever its shortcomings, the existing law has breadth and consequences for offenders that are significant, including fines and jail terms. This is a deterrent that is potent and powerful.

I would like to conclude my remarks with some commentary about the investment our government is making in natural resources research.

Our water resources and the life they sustain are our most valuable resource. Our freshwater resources, our lakes and rivers, sustain our industry, are fundamental to agriculture, and are the foundation for all life on earth. Yet overall, we have a limited understanding of the dynamics of freshwater and their long-term health.

For almost 50 years, Canada's Experimental Lakes Area has been an incredibly valuable aquatic research facility, unlike any research facility like it in the world. This dedicated area of 58 small lakes in northwestern Ontario and their watersheds are an important natural outdoor laboratory to study the physical, chemical, and biological processes in actual lake ecosystems. The ELA has one of the longest, most complete, and unique sets of information on water quality in the world. This data is crucial for monitoring and developing sound environmental and industrial policy. Research at ELA makes, and has made, important contributions to decision-making on many issues, and these include: restricting phosphorus inputs to lakes, which combats undesirable algal blooms; it contributed to the Canada-U.S. Air Quality Agreement, which is a policy that limits air pollution from sulphur and nitrogen oxides and reduces acid rain; they've studied greenhouse gas production in hydroelectric reservoirs, the effectiveness of proposed legislation to restrict mercury air pollution, and the effects of releasing endocrine disrupting chemicals into our waters. These issues can dramatically impact our economy and Canadian society.

Investing in this important facility and its researchers will provide benefits through better understanding of our freshwaters for years to come.

The notion that private industry or universities will be able to dedicate themselves and maintain this research over the long term is simply false and unrealistic. The government must reconsider the decision to close this facility and reinstate our commitment to the knowledge it provides our industry, our governments, and civil society.

Canada's federal government needs to provide the conditions for rational and sustainable growth. This means providing clarity and accountability to everyone who has a stake in Canada. It also means a commitment to the scientific underpinnings that will drive innovation, strong and informed public policy, and a healthy and prosperous population.

Thank you.

● (2000)

The Chair: Thank you very much, Mr. Rees.

Last but not least, we have Mr. Peter Meisenheimer, executive director, from the Ontario Commercial Fisheries Association, for up to 10 minutes, please, sir.

Mr. Peter Meisenheimer (Executive Director, Ontario Commercial Fisheries' Association): Thanks for the invitation to be here.

I'm going to begin with a digression. Earlier in May I received a call to come to Ottawa to speak about Asian carp before the Standing Committee on Fisheries and Oceans, on a date that fell in the middle of a week that my wife and I had booked for holidays. She was very understanding and I came to Ottawa. It went very well. We decided we would take our holidays later in the month, and that would be fine. We were in the middle of them last week when I got a phone call from your clerk telling me that I was hopefully going to be able to come here on Monday evening to testify for Bill C-38's hearings. So somebody here owes my wife flowers.

Nonetheless, my invitation didn't arrive in time for me to put together a brief, and if my remarks have the feel of a stream of consciousness address, I apologize in advance, and I apologize to the translation services also for not having notes. I will be speaking exclusively in English.

I'm the executive director for the Ontario Commercial Fisheries' Association. I represent fisheries in Ontario, on the Great Lakes and its connecting waterways on Lake Nipigon and a number of inland waters in the province. We've been an industry that's been well-established in Ontario in its current European fishery form since the 18th century, and there is abundant evidence in the historical archeological record of a commercial fishery in Ontario for centuries before European contact.

We're nationally small but locally very important, and in some cases very important to the history, the culture, and the economy of the communities where we are engaged in business. I will say at the outset that I think the fishery in Ontario is unique and instructive. We prosecute the fishery alongside an extraordinary mix of other economic activities, large and small. We do it in water bodies that are much smaller in scale than some of the other fisheries that are prosecuted on the coasts and elsewhere in the country, where the impacts of other activities can become magnified by the scale of the habitat in which our fisheries exist.

As such, the full range of bad things that can happen when you get it wrong have happened to us over the years. It's perhaps for that reason that at least as it relates to the Fisheries Act provisions of Bill C-38, there was a great deal of consternation about the uncertainty that was being introduced into the mix by this legislation.

Let me give you a bit of history. Fish and fisheries have not done well in the interaction between our industry and other industries, whether they be other resource extraction industries or manufacturing or any of the other ways that people make money, big and small, in Ontario. That's true especially as it relates to habitat destruction and degradation.

Here's an example. There was an enormously productive spawning reef in the lower reaches of the Detroit River that produced vast quantities of cisco, white fish, and any number of other fish that were an important part of the Lake Erie fishery. That was dynamited for navigational purposes early in the 20th century, which would have been bad enough, except that instead of removing the blasting spoils in trucks, they just spread it over the remaining reefs in the river, which would have been available otherwise to the fish as spawning habitat had they removed it from the water and taken it away. They completely obliterated all possible spawning habitat from the lower reaches of that river.

The reason they did that was not that they were bad people; the reason they did that was that it was convenient. I suspect that for the most part, people in responsible positions in that project understood full well that they were eliminating spawning habitat at the time. They didn't have to, so they didn't. It was cheaper to do it the way they did, so that's how it got done.

• (2005)

We may think that we do things differently now, but I submit to you that when money is tight and budgets are close and circumstances are straitened and the competition is biting at your heels, people don't tend to do inconvenient things unless they have to. If there's a fudge factor that's involved, well, it gets invoked if it can be.

There are more examples. There were spawning reefs all over the Great Lakes that were removed for gravel and cobble to build roads, to build buildings, to do all manner of good things. Many of the buildings of a historical nature in Ontario that we admire were built with materials that were extracted in that manner. They're gone forever. Those habitats cannot be reclaimed except at enormous expense.

The number of wetlands in Ontario that have been demolished in one form or another, whether by filling them in to build on, by digging drainage channels through them to drain them dry for agriculture or other land use purposes, by any number of very ingenious techniques that have been devised—each and every one of those was a fisheries habitat, either directly or indirectly.

The point is that these things don't happen so much anymore. The reason they don't happen so much anymore is the result of a number of pieces of legislation or regulation, but overwhelmingly, the most important piece of regulatory paper that we have to stop that kind of thing from happening, and the reason that it is so rare, is section 35 of the Fisheries Act. That is a lynchpin of fisheries management in this country, and certainly in Ontario.

I have just recently been through an extremely worrisome exercise in Lake Erie again, which has over 80% of the commercial fishery in Ontario, where there were a number of proposals to put hundreds of wind turbines on the western basin of Lake Erie, which is the nursery of the lake. It was being pushed very aggressively by a provincial government that fancies itself to be environmentally sound, and they seem sincere in seeing themselves that way. They believe that renewable energy is an environmentally good thing. The hammer we had was the Fisheries Act, section 35 specifically, and boy, did we wield it.

When I look at the sorts of things that are being proposed now, my first reaction is that it's not very clear. It's not at all clear where this is going to land. I have to tell you, there is an awful lot of accumulated wisdom out there that could help you come up with a system for revising the Fisheries Act, and particularly the habitat regulations, because we think they could stand to be improved as well. There is a lot of wisdom in the industry. There is a lot of wisdom in academia. There is a lot of wisdom within the staff you employ within the public service and in other levels of government.

But it requires a proper process. It requires full stakeholder engagement from all sides. It requires detailed agendas to be drawn up and worked through in a way that does not put us in a position where the law of unintended consequences comes home with a vengeance.

I am somewhat mollified by some of what I have heard about some of what I was worried about in the bill, but when I read the

remarks of the minister with regard to what constitutes habitat, what constitutes a fishery, my worries are brought back with force.

I would say that we feel strongly that the Fisheries Act is due for a revisit, but a new Fisheries Act should incorporate strong safeguards for fisheries, potential fisheries, and fisheries rehab through science-based management, and I would echo Mr. Rees's comments about science and programs like the Experimental Lakes Area, which was instrumental in saving the fishery in Lake Erie. We wouldn't have saved it if we hadn't had the Experimental Lakes Area project, and full stakeholder engagement.

Do I have any time left at all?

• (2010)

The Chair: You have 10 seconds, Mr. Meisenheimer.

Mr. Peter Meisenheimer: Can I tell a short story?

Years ago when acid rain was still on the front pages, a friend of mine was working in Sudbury, at the regional office of the Ministry of Natural Resources, and he went door to door talking to stakeholders about plans to reintroduce fish to dead lakes. He went to a meeting with some people and got yelled at; they were really mad that their nice swimming pool of about 150 acres, which was as sterile as you could ever want a pool to be, was going to have fish in it. The excuse they gave was that fish pee in a lake. It turns out over time that the real reason they didn't want it was that fish meant a fishery and it meant having to share the lake. I would ask you, was that fish habitat?

The Chair: Thank you very much, Mr. Meisenheimer.

We'll now proceed to our rounds of questioning. The standard procedure that we follow at the natural resources committee applies here, and we have a seven-minute round, starting with Ms. Rempel.

Ms. Michelle Rempel (Calgary Centre-North, CPC): First of all, I'd like to send my regards to Mrs. Meisenheimer on behalf of Mr. Rempel, who is watching these proceedings on CPAC with a pizza box in front of him—so duly commiserated.

I want to start this evening with Mr. Collyer and talk a little bit about the process by which major projects are put forward in industry, certainly the planning process. It's my understanding that many of the projects in your industry contribute a great deal to the economy—I believe current forecasts show \$2.1 trillion to the Canadian economy over the next 25 years. Many of the planning processes related to these projects include evaluating windows to market, evaluating opportunity costs for the projects based on defined timelines for the products that will be produced.

Could you perhaps speak a little bit to the importance of ensuring a timely and predictable regulatory process in that planning process?

Mr. David Collyer: Yes, I certainly can, and thanks for the question.

Let me start by reiterating the point I made in my remarks about global competitiveness. I think it's really important to think about this in the context that we in Canada are competing all the time for markets, for suppliers, and for other dimensions of these projects against other countries and other corporations. We always need to be mindful that we're not doing this in a silo or on an island. We're very much part of an integrated and very competitive system.

In terms of how these projects get advanced, from my standpoint, this is all about integrating—from the point of identifying an opportunity to the point of an investment decision—a whole lot of complex factors that go into whether a decision is made to proceed or not at the end of the day. Largely, that process is about reducing and, where you can, eliminating uncertainty and risk.

The factors that go into these kinds of investment decisions are financing, cost structure, market windows, supplier opportunities, labour availability—a myriad of factors, all of which have bands of uncertainty around them.

The regulatory process is on the critical path in that decision process. So that's one factor that can have a significant bearing on the ability to move these projects forward and to hit market windows or to keep cost structure where it needs to be for the project to be successful.

I think the key point I would make is to say that clarity and predictability in the process—how it's going to work, what it's going to cost to enter into it, when might the party that's proposing the project expect a decision and, importantly, at that point, bring together all of those complex factors that enter into the decision to proceed or not—is extremely important.

So this is a risk management process, and the regulatory process is a key element in that overall process leading to an investment decision.

Ms. Michelle Rempel: Certainly, and it's interesting that you use the terminology “risk management process” and you talk about reducing uncertainty and risk, because as legislators looking at a regulatory system that should reduce risk and uncertainty when it comes to environmental protection.... I'm wondering if your member companies, after seeing some of the regulatory reforms roll out, would characterize the reforms such that they would have to have a lower standard of environmental scrutiny on their projects or that they felt they would be changing their processes to adjust for a lower standard of environmental scrutiny.

• (2015)

Mr. David Collyer: No. I think the answer is definitively not. We look at this entirely in the context of the process by which we get to regulatory decisions.

We don't see this in any way impacting or degrading environmental performance. In fact, I think there are a number of elements of what's being proposed that would bring more resources to bear on those projects that have potential for greater environmental impact. Therefore, I would argue to at least maintain, and I think reasonably it could be expected to enhance, environmental outcomes.

Ms. Michelle Rempel: We have established that the regulatory process ensuring transparency, predictability, and timeliness is important for rigour, but also to ensure that projects can go forward sensitive to investment.

Perhaps you could talk a little bit about the impact of your industry on the economy in Canada, in specific terms with jobs across the country. We've heard a lot over the last few months about how the energy sector perhaps is a detriment to the Canadian economy, and I'd just like to get your thoughts on that, with specific regard as well to aboriginal employment.

Mr. David Collyer: There are a lot of questions.

Ms. Michelle Rempel: Sorry.

Mr. David Collyer: I'll try to talk about all of them.

We're a major employer. We're the largest private sector investor across the country. We have a supply chain that extends into Quebec and Ontario, and there are many people in Atlantic Canada who work in the oil sands.

Some of you may have seen a recent ad we started running on the Prevost bus line in Quebec. They build the coaches that move workers back and forth between Fort McMurray and the oil sands projects. That's just an example of the kind of investment that's being made across the supply chain—it affects the whole country. So it's revenue to governments, it's jobs, and it's opportunities.

Aboriginal employment is extremely important to us. There are many examples of great successes in engaging aboriginal communities in employment and business opportunities. I would argue that it's an area where we need to get better. The Fort McKay Group of Companies, which works in the oil sands, is a fabulous example. But there aren't enough of those, so I think we need to work with governments and across industry to do better.

Ms. Michelle Rempel: It's my understanding, and we've heard this from some witnesses tonight, that we need to diversify our markets within the country to ensure that we have stability and other trading partners. Perhaps you could talk a little bit about why it's so important for us to diversify our markets, and how some of the regulatory reform changes included in this bill will help to see that goal through. Perhaps you could mention some of the challenges your member companies are facing right now in achieving those goals.

Mr. David Collyer: It's extremely important. Any supplier of anything wants more than one market. There is an opportunity to ensure that we have access to global prices, and there is an opportunity to ensure we have outlets for the products we sell. So it's extremely important.

I come back to international competitiveness and the perspective of buyers. We hear from markets that they want certainty about when these projects will get off the ground. So we look internally at how this works for us. I think we need to look more globally and ask how this is perceived by the people buying the products we sell. A certain clarity and predictability in process is important, and we're competing with Australia and others that have a better process than we do.

The Chair: Thank you, Mr. Collyer.

Ms. Rempel, your time has expired.

Ms. Leslie, for seven minutes, please.

Ms. Megan Leslie (Halifax, NDP): Thank you, Chair, and my thanks to all of the witnesses for your testimony.

Mr. Collyer, we heard testimony about the Environmental Assessment Act at the environment committee. A number of industry representatives talked to us about this idea of social licence, the idea of having a robust regulatory process in place. This gives the public a reason to believe that a good assessment has taken place, and that companies should be allowed to dig or to pump or to extract. I'm sure you're familiar with it, because I've seen your ad campaign.

Mr. David Collyer: I am.

Ms. Megan Leslie: If a project goes through this regulatory process of environmental assessment, the National Energy Board may say, for example, "Look, there are some serious problems with this project that need to be addressed." Would cabinet overruling that decision help or hinder your social licence?

• (2020)

Mr. David Collyer: There are two dimensions. You have to back up and look at the policy construct in which the regulatory process is working. Some elements of project review are clearly in the purview of the regulatory regime. Other elements relate much more to broader public policy.

Ms. Megan Leslie: But you would have to agree that the public says, "Hey, it's an assessment process and these guys said no."

Mr. David Collyer: No, the answer I would give is that it's important to look at the reasons for a yes or no. The regulators have a responsibility to look at the regulatory framework, and they need to do that within a broader public policy context. I think the public can make a judgment about the reasons why cabinet or the government made a decision to support or not support the decision of a regulator.

Ms. Megan Leslie: We also heard from industry that proper funding of the Environmental Assessment Agency could ensure more efficient and effective environmental assessments and provide some of the certainty you were talking about. Would you disagree with that?

Mr. David Collyer: Clearly, the Environmental Assessment Agency needs to be funded to do what it's been mandated to do.

Ms. Megan Leslie: Ms. Carpenter, I was intrigued by what you were saying about money being better spent on environmental redemption than on environmental regulation. I wonder if you're implying that we would save money on the \$1 billion to clean up the Sydney Tar Ponds or the \$13 billion for Fukushima simply by eliminating some regulation.

Ms. Denise Carpenter: The example I was using was Chalk River, where there were 37 environmental assessments on the same site over time.

Ms. Megan Leslie: So you wouldn't apply that broadly to all projects.

Ms. Denise Carpenter: No, absolutely not.

Ms. Megan Leslie: Thank you. My next question is for Mr. Rees and Mr. Meisenheimer.

When I'm talking to folks in the community about changes to the Fisheries Act, often I get the response, "Well, I'm not that concerned

about fish." They don't see how it relates to their lives if they're not fishermen, for example, or if they're not anglers.

Can you talk a bit about the other implications of fisheries habitat, whether it's on water quality, for example, or on habitat generally?

Mr. Peter Meisenheimer: There are broad implications in a number of directions. There are broad implications to restricting the definition of habitat for fisheries that are largely a result of the fact that fish and fisheries are not things that we observe directly, which is why I think the people you speak to don't care. Out of sight is out of mind.

There is an enormous amount of uncertainty about pretty much everything we claim to know about fish and fish stocks, and the fisheries that are based on them. So when you make statements as are made in the legislation and the supporting documentation that I've seen with reference to section 35 of the Fisheries Act, that we can presume to know what will be a significant harm or what will cause destruction and we can regulate on that presumption, I think it is a denial of the reality of fisheries management.

The underlying truth about everything to do with fisheries management is that it's uncertain. You have to have some humility about what you're doing and you have to be precautionary at times. You have to manage from a risk management perspective. That requires good science. That requires that you view habitat broadly, so that the food base, the spawning, the flow of water from wetlands, all of these things are protected out of a full realization of just how much risk there is in the exercise.

On the other hand, by protecting fish habitat, you very broadly protect a whole lot of other values that are social values. Clean water, as Mr. Rees said, is good for property values. I'll leave it to him to talk about that, though.

Mr. Terry Rees: I'd like to just add that the fisheries have been a proxy for environmental conditions—the canary in the coal mine, if you will.

Protecting fish and the underlying conditions that allow them to thrive gives a level of certainty that's not really available through fisheries science, frankly. Given conditions in an aquatic environment that are healthy and thereby protecting fish habitat, you protect the underlying conditions required for healthy life of all kinds.

• (2025)

Ms. Megan Leslie: I often try to talk about the issue of the next generation of fish. So if you're not impacting this particular fish that exists at this time, it could have serious implications for the next generation, and therefore the things that eat those fish, for example.

Mr. Peter Meisenheimer: Yes. You talk about the next generation of fish. The next generation of fish could very well be produced in areas that didn't have any fish a generation ago. There is an enormous amount in Ontario and elsewhere in this country of highly degraded, formerly productive fisheries habitats. One of the concerns I have with this legislation is that it appears to define those places as not regulated by section 35 because there are no fisheries in those areas. There used to be, but there aren't now. They're not there now because there's dioxin in the sediments or because...there's a list, a very long list, of reasons why fisheries become degraded or disappear from areas.

To me, that is still a fisheries habitat. It should be treated as such and regulated as such.

The Chair: Thank you, Mr. Meisenheimer.

Ms. Leslie, your time has expired. Thank you very much.

Ms. Duncan, please, for seven minutes.

Ms. Kirsty Duncan (Etobicoke North, Lib.): Thank you, Mr. Chair, and thank you to all the witnesses for coming and presenting your testimony.

I'm going to begin with Mr. Collyer. Current oil sands production is about 1.6 million barrels per day, with not insignificant climate and other environmental impacts. Alberta has already approved over 5.1 million barrels a day in oil sands projects, which is more than a tripling of current production levels and will have a significant environmental impact. Some suggest a tripling.

Given the amount of production already approved, to what extent do you think we need to streamline approvals to further speed up development of the oil sands?

Mr. David Collyer: You're correct in saying that there are a number of projects that have been approved. I think this is about more than oil sands and it's about more than upstream development. The point that was made earlier was that we need to attach ourselves to markets. That requires pipelines. It requires other infrastructure that will need to be developed. So it's both a question of upstream development and looking down the value chain—

Ms. Kirsty Duncan: No. I've asked a very specific question, if you don't mind.

Given the amount of production already approved, to what extent do you think we need to streamline approvals to speed up development?

Mr. David Collyer: You're going to continue to see projects come forward. I would argue that we need to be competitive in that regard and give people who have a viable project an opportunity to get that off the ground and get through the regulatory process.

Ms. Kirsty Duncan: Thank you.

How do you anticipate that these additional environmental impacts from oil sands are to be reduced under the changes proposed in Bill C-38?

Mr. David Collyer: As I said earlier, I don't think this is about changing environmental impacts; it's about changing process. The environmental impacts will have to be assessed in a broader policy context than in a land use planning context. We're talking about the

regulatory review process for projects, and there are a number of different dimensions of environmental impact that need to be assessed as part of the project review. I don't think anything in this process change impacts that whatsoever.

There are a number of other elements that need to be addressed in a broader policy context. They'll continue to be addressed in that context, and they should be.

Ms. Kirsty Duncan: The additional environmental impacts, perhaps a tripling under the tripling of production...how will Bill C-38 reduce those impacts?

Mr. David Collyer: I expect it won't reduce the impacts. Those projects will continue to be evaluated as they were before. The outcomes will be assessed. If they can be mitigated, the projects will go forward. This is not about reducing environmental impacts; this is about improving process so projects can be properly assessed.

Ms. Kirsty Duncan: When they are properly assessed, that's usually included.

Given the increased scrutiny of the environmental impacts of the oil sands, how do you anticipate these changes to environmental laws in Bill C-38 will improve your industry's social licence to operate?

• (2030)

Mr. David Collyer: I think social licence is driven by performance, it's driven by how we communicate, and it's driven by the integrity of the regulatory process. I don't see anything in any of these changes that are being proposed that would negatively impact any of those. In fact, I see some things that will improve environmental oversight and regulation. If anything, if we have a more competitive and more credible regulatory process, which I think this will result in, that will be a plus, not a negative, in terms of social licence.

Ms. Kirsty Duncan: You think it will improve your industry's social licence to operate. Is that correct?

Mr. David Collyer: I think having a credible, efficient, effective regulatory process will improve social licence.

Ms. Kirsty Duncan: No, I've asked, will Bill—

Mr. David Collyer: That's what this is about.

Ms. Kirsty Duncan: Will Bill C-38 improve your industry's social licence to operate?

Mr. David Collyer: Bill C-38 will lead to credible environmental assessment more efficiently and more effectively than we do today, and that will assist in increasing our social licence.

Ms. Kirsty Duncan: Can you comment on how transparency on greenhouse gas emissions will be assured now that the government is repealing the Kyoto Protocol Implementation Act?

Ms. Michelle Rempel: Mr. Chair, a point of order.

The Chair: A point of order, Ms. Rempel.

Ms. Michelle Rempel: I believe the Kyoto Protocol Implementation Act is contained in another section of the budget implementation act. Our focus is on part 3.

The Chair: Ms. Duncan, Ms. Rempel has a valid point. Perhaps you could stick to the purview that we've been given by the parent committee, the finance committee, which is to study this particular section. I believe the Kyoto Protocol is in part 4 of the bill.

Ms. Kirsty Duncan: May I respond to that?

The Chair: If you so desire to use your time in that way.

Ms. Kirsty Duncan: Well, I think it's very significant. This is a point of order, so the time shouldn't count. Also, the repeal is part of this budget bill and is extremely important.

The Chair: Ms. Duncan, I've made a ruling. We were given a mandate from the committee. I don't have any authority other than that mandate that's been given to us by the finance committee to study anything outside part 3 of this particular bill. If we want to spend all of our time on points of order about what we're going to talk about and not going to talk about, we're not going to get through this in a very effective way.

Mr. Julian.

Mr. Peter Julian (Burnaby—New Westminster, NDP): A point of order, Mr. Chair.

First, of course, you don't subtract time from an individual who's questioning when a point of order is raised by the government.

Secondly, you've already ruled. A week and a half ago you ruled in this committee, when the minister raised the Kyoto Protocol, that information and subjects that the ministers had raised in their testimony were then subject to discussion by this committee.

The Chair: Okay, I'll respond to your point.

Mr. Peter Julian: You've already ruled, and you ruled exactly the opposite of what you're saying now.

The Chair: I'll respond to your point, Mr. Julian.

If you listened to what my words were in that particular case, it was brought up by a witness who was testifying before the committee. That was raised by the minister at their appearance at that particular session of the committee. I haven't heard the word "Kyoto" mentioned once by any of the witnesses who have testified here. That was the essence of my ruling.

Ms. Duncan, I can't do anything about the mandate we've been given, which is to study part 3 of this bill. If I'm out of line, please point out to me the section in part 3 that addresses the Kyoto Protocol and I'll have a look at it.

My understanding of the legislation is that the Kyoto Protocol is contained in part 4 of the bill, and therefore Ms. Rempel's point of order is valid, and my ruling is that the question is out of order.

Ms. Kirsty Duncan: Okay.

Again, to Mr. Collyer, the National Energy Board evaluates projects to ensure that they are in the public's best interest, meaning that decisions are based on evidence, hard facts, and science, not politics. Do you think politicians have the necessary expertise to

gather, synthesize, and analyze the vast amount of data collected for a pipeline review and to make an evidence-based decision?

Mr. David Collyer: What we've said consistently is that the regulatory process needs to be embedded in a broader public policy framework. I would expect the Government of Canada to defer to the regulator on those matters that are directly the purview and the expertise of the regulator. But I would also suggest that there may be occasions when a broader public policy is relevant to the final decision. That, I would argue, should be used selectively and carefully. But I think there is a time and a place for government to make decisions in the broader public interest.

Ms. Kirsty Duncan: I'm sorry, that wasn't the question I asked.

The question I asked was whether you think politicians have the necessary expertise to gather, synthesize, and analyze the vast amount of data. It is a very specific question.

Mr. David Collyer: I think they have expertise in public policy, and I think public policy is relevant to decisions that are being made about pipelines and other matters.

Ms. Kirsty Duncan: That's not the question. Could you answer the question, please?

The Chair: Go ahead, Mr. Storseth.

Mr. Brian Storseth (Westlock—St. Paul, CPC): Just because Ms. Duncan is not getting the answer she wants doesn't mean she should be badgering the witness. I think we've had a very productive committee hearing, and we should continue to move forward in that manner.

•(2035)

The Chair: Ms. Duncan, the witness has attempted several times to answer your question. I'm not sure that he's going to be able to give you an answer that is different from the one you already have.

If you have other lines of questioning, I'd encourage you to move on.

Ms. Kirsty Duncan: I'm guessing that my time is up. Is that correct?

The Chair: No, you have a little bit more time.

Ms. Kirsty Duncan: Okay, thank you.

Mr. Collyer, as you're probably aware, a team of Environment Canada's smokestack specialists, who travel around Canada measuring emissions and analyzing data to help industry, are being affected. They recently conducted research supporting federal efforts to produce a credible monitoring plan for pollution from Alberta's oil sands sector. Are you concerned that the cuts would jeopardize the government's plan to create a credible monitoring plan for the oil sands?

Mr. David Collyer: I can tell you with absolute certainty that we're not seeing any reduction in the amount of federal government engagement in environmental monitoring of the oil sands, so I'm not concerned about that.

The Chair: Thank you, Mr. Collyer, and thank you, Ms. Duncan.

We now move on to our five-minute round, starting with Mr. Allen.

Mr. Mike Allen (Tobique—Mactaquac, CPC): Thank you very much, Mr. Chair. I appreciate the opportunity.

Thank you to our witnesses for being here.

Mr. Myers, I want to go quickly to you. You talked a little bit about the current process being a barrier to investment. I have two questions.

First, can you comment a little on some of those barriers to investment? You also talked about world-class manufacturing, world-class resource development, and world-class environmental processes and stewardship. Do you see that this bill limits any of those objectives?

Mr. Jayson Myers: With respect to your first question, and building on what Mr. Collyer said, the issues around investment and the mobility of capital today are issues that affect resource development in every sector: resources, upgrading those resources, infrastructure development, and manufacturing and services.

These issues about an efficient regulatory process and the additional costs and uncertainties that are built into an inefficient regulatory process have major impacts on investment decisions and the return-on-investment calculation companies are making on a worldwide basis.

We are competing with jurisdictions such as Australia, for example, or Brazil, or many other countries in terms of where companies are going to put their investment. Anything that can be done to streamline regulatory processes—not to prejudge the outcome of those processes but to build a more efficient process, which I think will also be a more effective and a more certain process—I think is going to be beneficial for those investment decisions.

On your second question, I don't think there's anything in this bill that would undermine the effectiveness of our environmental process. This is, as Mr. Collyer was saying, a series of initiatives that, in my mind, simply streamline the process we're already going through. They will make it a much more efficient one and a much more certain one, from the point of view of investors.

Mr. Mike Allen: Mr. Smillie, I'd like to bring you in on the conversation here. Thanks for giving me the thumbs-up on that.

What would you assess are some of the challenges and problems your organization has encountered with the current regulatory system as it is? Do you see that this legislation as proposed is going to achieve the balance going forward that we need?

Mr. Christopher Smillie: The challenges we currently face are that there's uncertainty around when folks will actually be needed on the ground to build things. If there's a 12-year or 15-year regulatory dance for a major project, we can't look at our training scope and say we need to have 4,600 electricians or 4,600 boilermakers or 10,000 carpenters at a certain time.

At the end of the day, and because we're further down the food chain from some of the planning that goes on with Mr. Collyer's companies—we're trying to change that a bit—we are expected to have a workforce ready yesterday, as soon as we get the call from our construction employers.

What this would do, from our understanding, is it would give certainty around timing. It's either a yes or a no. When we're workforce planning, we can take a look at Nova Scotia or New Brunswick or Newfoundland and say we're going to have unemployed workers because we know the Lower Churchill is going to be done in 6.6 years. We're able then to go and grab the workforce that's necessary, be it in B.C. or in Saskatchewan.

When we're looking at our labour force planning for the future, either a yes or a no is a good thing. The uncertainty around knowing whether the project will be approved.... I think the Mackenzie gas line approval started before I was born. That gives you a sense of it. I mean, how do you plan for workforce development on a project like that when it takes 32 years or 33 years?

We see this as a way to partner with industry to know what's going to happen and when, and then we can work on our training system to make sure we're pumping out enough people to meet demand.

● (2040)

Mr. Mike Allen: How much time do I have left, Mr. Chair?

The Chair: Ten seconds.

Mr. Mike Allen: From your trades perspective, have you seen projects in certain regions of the country filter all through...and the benefits?

Mr. Christopher Smillie: In terms of training more people and being able to partner with industry to say this is what's happening in sort of a logical process, absolutely. We're contractually obligated to provide labour to some job sites, so it would definitely help with that.

The Chair: Thank you very much, Mr. Smillie.

Thank you, Mr. Allen.

We've now moving on to Ms. Ambler, for up to five minutes, please.

Mrs. Stella Ambler (Mississauga South, CPC): Thank you, Mr. Chair.

My questions are for Mr. Myers, Mr. Smillie, and Ms. Carpenter.

I'm curious to know what percentage of the average project is devoted to environmental assessments. I guess I'm trying to get at how energy is currently expended by a proponent of a project. You may not have exact numbers, but I'd like even your thoughts on whether it's too much or too little. I have a feeling that one of you might have some numbers on that.

Mr. Myers.

Mr. Jayson Myers: I think probably Denise is in a better position to give you an example of how much might be expended on a nuclear project.

Let me say, with respect to some smaller enterprises, that we'll not have to now go through this convoluted system of proposals that can take an environmental assessment that's done at a provincial level and seek equivalency on the basis of that. There are a lot of small businesses that go through that.

In many cases, it's a hard argument to make; there are no clear costs because the project never goes ahead in the first place. I think those are some of the costs we sometimes forget. These aren't just costs that larger companies have to go through before the projects get under way; this is also very much an issue about clearing the ground for some smaller businesses that are making proposals and who now don't have to go through this convoluted process.

Mrs. Stella Ambler: Sort of a spillover effect.

Mr. Jayson Myers: That's right.

Mrs. Stella Ambler: Ms. Carpenter, go ahead.

Ms. Denise Carpenter: Thank you for the question.

I don't have an exact percentage, but I can maybe paint a picture. If we have a limited amount of resources from a corporate point of view, from a government point of view, and from an NGO point of view, and those resources are deployed doing environmental assessments over and over again, to the same outcomes—what could we do with that resource if we weren't doing repetitive work? We could reassign that resource to do things that really mattered for the environment, whether it be compliance or monitoring in the future.

Mrs. Stella Ambler: In short, do you believe that the approach in part 3 of the budget we're talking about tonight is a good balance of environmental assessment of projects going forward?

Ms. Denise Carpenter: Sure. I ultimately believe that if we have one project and one review in a clearly defined time period and in a clearly defined process, it's going to be better for the environment because we can deploy resources to do other work.

Mrs. Stella Ambler: Thank you.

Mr. Smillie, will this new approach help your industry and specifically the workers on the ground who are training today for those jobs of tomorrow?

• (2045)

Mr. Christopher Smillie: In order to be a construction apprentice or in order to learn a trade, you have to be employed. You can't sit in a classroom and learn how to be a steamfitter. Eighty percent of your learning is on the job. Anytime we're able to increase the number of apprentices, or people who are training apprentices, is a good thing.

The employers we work for, I'll be frank, sit around and wait for environmental reviews before they put shovels in the ground. That means our hiring halls, through the unionized system, are responsible for finding employment for those folks. If it's not on a large energy project or a natural resources-specific project, then we have to find them work in the industrial ICI sector, building apartment buildings.

I would submit that the backbone of the construction industry—and I think the CCA, who represents all the companies, is speaking to you later—would be in the energy sector, related by volume.

Mrs. Stella Ambler: In other words, are you saying that it's really not even a matter of jobs lost, it's a matter of never having had them because we're not creating those opportunities?

Mr. Christopher Smillie: Sure. If you have a regulatory system or people bogging projects down just for the sake of bogging them down, and those projects never see the light of day, with either a yes

or a no, then the skilled trades folks in the construction companies never go to bid on those jobs.

The Chair: Thank you very much, Ms. Ambler. Your time has expired.

Mr. Julian, for up to five minutes, please.

Mr. Peter Julian: Thank you very much, Mr. Chair, and thanks to all the witnesses for coming here this evening.

I'd like to start with Mr. Meisenheimer and Mr. Rees. Mr. Meisenheimer, please thank your wife for your presence here tonight. It's very important.

Mr. Rees, you spoke about an unprecedented omnibus bill, and this is certainly extremely controversial. We've seen public meetings with standing-room-only crowds across the country. We saw just this morning in the *National Post* that Conservatives would lose 50 seats if there were an election today, in part because of their reaction to Bill C-38. There was even a Conservative MP a few days ago who said he'd be voting against Mr. Wilks from Kootenay–Columbia.

So there is a lot of controversy around how everything has been brought together in this bill.

The Chair: Mr. Julian, I have to recognize a point of order.

Mr. Storseth, go ahead.

Mr. Brian Storseth: Part of Mr. Julian's comments are not correct, and he knows they're not correct. I'd ask him to withdraw those, if not now, then later in the House.

The Chair: I don't know if that's necessarily a point of order, Mr. Storseth.

Mr. Julian, please continue.

Mr. Peter Julian: Thank you, Mr. Chair. It was a waste of time, unfortunately. I'd like to get to my questions.

Mr. Rees and Mr. Meisenheimer, one of the controversial aspects of this very controversial bill is the concept of direct involvement. Individuals, those Canadians who aren't defined as directly impacted by a particular project, could be excluded from hearings, either on a geographical basis—though we asked the minister a week and a half ago and he wasn't able to define whether it was one kilometre or three kilometres—or on a subject basis, which is more disturbing. The minister said that issues the government doesn't feel are appropriate are issues on which they can exclude potential witnesses from coming forward to a hearing.

I want to know, in both of your cases, if your organizations are concerned about this arbitrary definition now of who's excluded, who can't come through the door to testify on these important hearings that have a direct or indirect impact on their livelihood as a fisher or perhaps on their community, whether they're cottagers, vacationers, or rural Ontarians.

Mr. Terry Rees: Thank you for the question.

I think the notion is of some concern for sure, and frankly, I don't share the unbridled enthusiasm for how the process will work out in the absence of knowing what the regulations are going to look like. The fact that this bill is being put together so hastily means that all of those kinds of questions are of great concern to a lot of Canadians, certainly to all of our members. We don't know what that will mean.

We think notionally it can be an exclusionary part of the budget implementation act, and we'd certainly have some concerns as to whether it would be our community or others who would be excluded from the important public process. Frankly, we're already feeling excluded given the fact that this bill is being jammed down our throats.

Mr. Peter Julian: Thank you, Mr. Rees.

Mr. Meisenheimer, I'd like you to answer that question, and if you could go a step further, you talked very clearly about a proper process with stakeholders for revisions, for example, to the Fisheries Act. Do you feel that four nights of hearings during which this is being rammed through, as Mr. Rees so eloquently said, is appropriate consultation with stakeholders over such important changes to environmental legislation, the Fisheries Act, and the whole host of other legislation?

• (2050)

Mr. Peter Meisenheimer: Speaking from the perspective of someone who is in a fishery, no. There's an enormous amount that needs to be discussed about these issues, and much of it has actually been hanging about in the wings for quite a while. There's a lot of grist for the mill when it comes to revising the Fisheries Act out there, and there's some stuff that's not here that probably should be part of the process. That this is happening now in such an incomplete form is part of the cause of the unease. There's no understanding on our part as to the motivation for this at all. When people don't have answers, they don't have regulations that would fill in some of the gaps, so suspicions are raised and people start asking questions.

Mr. Peter Julian: Thank you.

I have one more question I'd like to direct to both of you.

You mentioned, Mr. Meisenheimer, that people don't do inconvenient things unless they have to. We now have a gutting of the environmental assessment process that excludes many Canadians on the basis of the issues they're raising or where they live. We have a process that allows the government to monkey with the NEB process, and we also have a process that ultimately is decided by a minister with cabinet secrecy.

Do both of you feel that this is an appropriate way of approaching environmental assessment, and do you think it leads to the kind of legislation that forces people to do things they might not want to do, but that it's important for public policy and the future of our country and our economy and our environment to do?

Mr. Peter Meisenheimer: The short answer is no. Again, that's an answer given partially in ignorance. I don't know why this is being done the way it's being done. Maybe somebody has a reason for it, but we don't know what that is. I would say that the issue of excluding people, which I didn't get to in the first go-round, is actually a real problem for us. We fish for the people of Ontario and for broader markets. We are the only means of access that most

people have to the crown's resource in Ontario. Most people don't fish and they don't want to. We do it for them. They have a right to an opinion about these fish, and yet they would not be deemed to be affected, as I understand the law as it's currently cast, and that's a problem.

The Chair: Thank you, Mr. Meisenheimer.

Mr. Julian, your time has expired.

Mr. Rees, perhaps in a future round of questioning you will have an opportunity to answer this.

Mr. Kamp, go ahead for five minutes, please.

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

Thank you, lady and gentlemen, for appearing before us. I appreciate the opportunity.

Let me ask a question or two of Mr. Rees to begin. Would it surprise you, Mr. Rees, to know that cottage owners regularly contact DFO when they want to build a dock or repair a retaining wall or to in fact express to their members of Parliament, in some cases, their thoughts on the lack of clarity at times regarding the indiscriminate approaches that DFO takes to these things?

Mr. Terry Rees: Thank you for the question.

It's not something I'm unfamiliar with. I frankly take a great deal of umbrage at the argument that it's waterfront property owners who want the rules to be softened. I think in fact that the Department of Fisheries and Oceans has simplified their *de minimis* type of activities on the shoreline through their operational statements. They did that a number of years ago. So there's quite clear direction for smaller undertakings at the water's edge.

Mr. Randy Kamp: I'm sorry to interrupt. My time is limited.

In fact, it's those same people who are telling us the system needs to change. These are some of the 7,500-plus reviews that DFO is asked to be engaged in every year. Fewer than 10% of those actually lead to the need for an authorization.

In the meantime, DFO employees are asked to look at that project and make a decision on it, while some would argue—I think we would argue—that those resources need to be more clearly focused on the high-risk projects. Many of those projects are very low-risk or no-risk, and we have DFO employees spending their lives assessing these programs when they need to be more focused. That, I think, is where this legislation is going. I hope you would agree that we do need that.

You mentioned in your comments that we're looking only at commercial—

• (2055)

Mr. Terry Rees: I might speak to that, if there's a question in there. I wasn't sure.

Mr. Randy Kamp: I don't know if there was a question there, so let me just ask you one.

You said in your comments that we're interested in only commercially viable fisheries, or something like that. That's not what the act says. It says we're going to focus on protecting fisheries of aboriginal.... You could argue whether food, social, or ceremonial fishery has any commercial.... And there's recreational fishery—I'm not sure how you define that one—and commercial fisheries as well. That's our focus.

There is a little bit of a lack of clarity on this. I think some of that came from comments on a leaked document that wasn't anything close to what we have here before us. Would you agree with that?

Mr. Terry Rees: I think you can't protect fish without protecting their habitat. As I understand it, we're going to be limiting the protections in the proposed act to limited and specific fisheries and fish species. I think my comments stand that the limits in the new act will weaken the protection for our aquatic resources. If you don't have clarity and consistency of the application of law, whether for the smaller undertakings...or certainly, when there's discretion applied to larger undertakings, where ordinary Canadians see that bigger enterprises get to flout the Fisheries Act and important regulations related to fisheries, that sends a really terrible message. It's going to lead to an eventual decline in the state of the resource.

Mr. Randy Kamp: Do you not agree that the prohibition to cause serious harm, which is defined as death or permanent alteration of habitat to fisheries—commercial, recreational, and aboriginal fisheries—and those fish that support them, is a broad approach to protecting fisheries in Canada?

Mr. Terry Rees: No.

Mr. Randy Kamp: Well....

Mr. Terry Rees: I don't agree that protecting specific fish against being killed is a broad approach at all. It's narrow, and lots of—

Mr. Randy Kamp: Sorry to interrupt. Is it your view—I think I heard Mr. Meisenheimer going along this line—that the Department of Fisheries and Oceans should protect every water everywhere that may have had fish, may have fish in the future, or may have fish now?

Mr. Terry Rees: The current act under section 35 protects fish and their habitat. That provides the conditions for healthy aquatic ecosystems. That's the type of regulation and law that we appreciate.

Mr. Randy Kamp: I want to ask Mr. Meisenheimer—

The Chair: Mr. Kamp, your time has expired. I guess we'll have to pursue this. In this particular case, Mr. Rees had the last word; last time, Mr. Meisenheimer had the last word.

I have to move on to Mr. Chisholm, for up to five minutes, please.

Mr. Robert Chisholm (Dartmouth—Cole Harbour, NDP): Thank you very much, Mr. Chairman.

It's an interesting discussion. I just want to go to Mr. Rees and Mr. Meisenheimer for a couple here. The others have gotten a fair bit of attention. I want to give you guys an opportunity—especially seeing as your wife has put up with so much over the past couple of weeks.

Isn't it clear, given some of the discussion here tonight, that really your concerns are just getting in the way of jobs? Your concerns about the Great Lakes, the fishery, and infilling are really just getting in the way of jobs.

Mr. Peter Meisenheimer: I've certainly had that said to me directly, but not by members of this committee. What is very difficult to tease out of this is what other possible explanation there might be. I'll be honest, when I look at this presented in the manner in which it's been presented, with the content it contains, that's my assumption of what lies behind it.

Mr. Robert Chisholm: Mr. Rees.

Mr. Terry Rees: I'd like to dispel the fact that this is a jobs versus environment conversation. I think sustainable, smart development is something that can happen. It doesn't mean a race to the bottom and trying to match the lowest standards wherever they exist in the world. I think we can uphold the standard in Canada that makes us proud and allows us to sustain our healthy communities for the future.

A visitor from Germany came last week to look at Lake Winnipeg with me. That's a dying lake. It's the tenth-largest freshwater lake in the world. He was aghast that Canada, which he thought was the leader in freshwater, would have such a degraded water source that covers a million square kilometres right in the middle of our country.

• (2100)

Mr. Robert Chisholm: That's interesting.

I take it that neither one of you was consulted about these changes before they came in?

Mr. Peter Meisenheimer: No.

Mr. Robert Chisholm: Were any of the other panellists consulted about these changes to any of the legislation that's included in Bill C-38?

Mr. David Collyer: I would observe that much of what's being talked about here has been discussed over a period of years, not weeks or months.

Mr. Robert Chisholm: I'm just asking if you were consulted on the changes in Bill C-38. Yes or no?

Mr. David Collyer: There have been numerous discussions with numerous parties, including CAPP—

The Chair: Mr. Anderson, on a point of order.

Mr. Robert Chisholm: I'm asking you to answer the question.

The Chair: Mr. Chisholm, I have to recognize a point of order, sorry.

Mr. Anderson.

Mr. David Anderson (Cypress Hills—Grasslands, CPC): As a parliamentarian, Mr. Chisholm should know that budget bills are discussed for months prior to their being introduced in the House. He's aware of that, so certainly many folks have had six months, eight months to be—

Mr. Robert Chisholm: That was helpful, David.

Mr. David Anderson: So everyone at the table here was able to participate in that.

The Chair: Thank you, Mr. Anderson.

Mr. Chisholm, continue with your questions.

Mr. Robert Chisholm: Thank you. I got enough of an answer there. That's good.

Mr. Meisenheimer, you gave the example of the Detroit River and the fact that it was dynamited to provide for navigation, to move things along. Did those spawning grounds ever recover? Do you see that kind of thing being possible again under the changes being proposed?

Mr. Peter Meisenheimer: It's a century later and we're still waiting. Those spawning grounds don't exist anymore. They were completely wiped out. They were the principal spawning grounds for those fish in that lake.

Mr. Robert Chisholm: Mr. Rees, if we had the opportunity, if the government agreed with us that the changes to the Fisheries Act, for example, were of sufficient concern—I think you've helped Mr. Kamp understand some of the implications of these changes—would you be in favour of the changes to the Fisheries Act being split out and going to the Standing Committee on Fisheries and Oceans? Do you think that would be helpful?

Mr. Terry Rees: Absolutely. It's essential.

Mr. Robert Chisholm: Finally, I would like to ask you to explain a bit more about the change in terms of why the death of a fish is such a concern when it comes to the integrated ecosystem as it relates to the fisheries.

Mr. Terry Rees: As I think Mr. Meisenheimer said, fish are a little out of sight, out of mind, so what happens under the water is really a bit of a mystery. Maintaining the conditions that allow them to thrive is indicative of the kinds of environmental conditions we all want to enjoy and see for our children. I think that preserving the conditions for fish allow communities to know that their ecosystems are thriving. We rely on that same water for our agriculture, our industry, and our drinking water, so in all cases, if you're protecting the fishery, you can be sure you're protecting other elements as well.

Mr. Peter Meisenheimer: When you say “the killing of fish”, you're referring to the definition of serious harm? I don't think you can possibly say beforehand in most instances what will or will not significantly harm a fishery. You can do things to assist an ecosystem that supports a fishery that absolutely nobody would predict would have deleterious effects. It doesn't happen very often, but it does sometimes happen that only with the wisdom of hindsight do you realize what happened.

Nonetheless, you can take a risk-based approach to these sorts of things. Uncertainty is king in fisheries management. If you don't have a system that's built around an admission of that, and tools for handling it in an open and transparent fashion, with some realistic limits put on it, you don't have a system that does the job, or can possibly be expected to.

The Chair: Thank you, Mr. Meisenheimer.

That's your time, Mr. Chisholm.

Mr. Peter Meisenheimer: Mr. Chair, I'm probably going to have to skip out now. I have a plane to catch.

● (2105)

The Chair: Oh, by all means.

On behalf of the committee, thank you very much for attending.

If you send me the address, I'll see what I can do about the flowers.

Mr. Peter Meisenheimer: I'll be sure to do that.

The Chair: All right.

Mr. Anderson.

Mr. David Anderson: Thank you, Mr. Chair.

Mr. Myers, you talked in your presentation about Canadians having world-class manufacturing, world-class resource development, and world-class environmental stewardship. I'm just wondering, do you see any reason why this bill limits any of those three?

Mr. Jayson Myers: No, I don't. In fact, I think what the bill does, by setting some timelines, by setting out a process that can actually be understood and that eliminates the duplication and the unnecessary uncertainty and time delays that are built into approval processes right now, is that it does not prejudice the outcome. It's simply to improve the process here.

If anything, the economist in me says that if we can make rules simple to understand and less expensive to comply with, and have a process that is speedy and that meets time requirements, then you will get better compliance.

Mr. David Anderson: Thank you.

Ms. Carpenter, in your presentation you talked about your support for these changes. From your perspective, how does a more efficient regulatory system promote growth in your industry? How do you see that working out in the future?

Ms. Denise Carpenter: As a market develops—and in our industry, it's a growth model at this point in time—certainty is what we need. It's the same with any other project, and it's the same thing Mr. Collyer said: it's a risk management process, and certainty in the regulatory environment is very important to that.

Mr. David Anderson: Okay.

Mr. Collyer, you talked about the main frustrations you see in the present system, but I'm just wondering if you can talk a little bit about how you see some of these solutions working. Ms. Carpenter has also referred to the one project, one review, and I think all of us think that will be a great improvement.

You talked about the consolidation of review bodies. I'm just wondering if you can talk a little bit about how that will improve the regulatory process, from your perspective.

Mr. David Collyer: I think that one is fairly straightforward. Rather than having a multitude of departments or agencies involved in the review process, single-point accountability goes a long way to making processes work better. I think it's as simple as that. It's consolidating the review responsibility in an agency or department that has the capability to do it.

Mr. David Anderson: I have to ask you a question. A little bit earlier, I think the impression was left by one of the opposition questioners that perhaps people would fudge their environmental requirements if they had the opportunity. Does your industry do that?

Mr. David Collyer: No. I think that's a very unreasonable assertion. Absolutely not.

Mr. David Anderson: Okay. I'm not sure if that's maybe tied to some of the comments that Mr. Mulcair has made over the past couple of weeks in his attempt to try to drive wedges between eastern and western Canada, but I certainly hope not.

To Mr. Myers, I'm just wondering if you can talk a little bit about how resource development helps communities across Canada, especially in the manufacturing sector. Tie a link for us a little bit between manufacturing and the resource sector.

Then perhaps Mr. Smillie can conclude about how that then carries down to jobs, particularly in rural areas.

Mr. Jayson Myers: Clearly, if you're building up a supply chain across the country, then you're employing Mr. Smillie's members in manufacturing, and this is exactly what we've seen. We've tended tonight to focus our comments specifically around oil sands. We've been involved for a number of years in building up a supply chain across Canada for oil sands development. Every year in Edmonton more than 300 Canadian manufacturers, more than 250 Quebec manufacturers, led by provincial ministers, come to a buyer-seller forum that is hosted by us and by David's association.

They've found as a result of that forum literally billions of dollars of contracts that have allowed companies like Promation, for example, an auto parts company that has developed an internal welding technology for pressure vessels in the oil sands, to be now one of the leading technology companies in the Canadian nuclear industry, with technology that it's exporting around the world.

Those types of opportunities right across the country have enabled many manufacturers to find new customers, bring new products to market, succeed in export markets, and employ Mr. Smillie's members.

Mr. David Anderson: If we were to stop resource development in the country, how many manufacturing jobs would be lost? Do you have any idea?

Mr. Jayson Myers: If we stopped resource development in the country, I think certainly the impact would be far beyond manufacturing. But I think for every job in the resource sector, you're probably looking at eight jobs around that in terms of manufacturing or services employment.

• (2110)

The Chair: Thank you.

Thank you, Mr. Anderson.

Mr. Myers, Mr. Smillie, perhaps you will get an opportunity in the next round of questioning to address that, but Mr. Anderson's time has expired.

Ms. Quach, for up to five minutes, please.

[Translation]

Ms. Anne Minh-Thu Quach (Beauharnois—Salaberry, NDP): Thank you, Mr. Chair.

I thank the witnesses for the information they have provided to us.

My questions are for Mr. Rees.

You talked about protecting the environment while contributing to the economy. This coincides with what the Commissioner of the Environment and Sustainable Development said to us. He stated that it was possible now to associate sustainable development, the protection of the environment and the economy. Indeed, studies show that several natural resource companies have made profits after having gone green. We are talking about billions of dollars.

You say that there has to be good management of aquatic resources for human beings and the economy to be in better health. I would like to know what you think of promoting and applying the precautionary principle. That means emphasizing and strengthening environmental legislation, and not curtailing it. In fact, in our consultations in Toronto, several people spoke highly of the precautionary principle.

[English]

Mr. Terry Rees: I think we have a long history in Canada of innovative manufacturing and resource extraction. It's often tied directly to leadership by government, whether it's the clean air act or it's the ban on phosphorus, for instance, where technology has been driven by a strong and informed government policy.

I also think on your precautionary question, since there are so many unknowns in environmental matters, that wherever you can take precaution to avoid a future harm, it's always cost-effective to do so.

I guess that would be my answer to that question.

[Translation]

Ms. Anne Minh-Thu Quach: Thank you.

I have another question. Still on the economy, certain European countries, and the State of California, have announced that they are going to limit their purchases of Canadian oil because of its enormous ecological footprint. This points to the fact that Canada should bring in more legislation regarding clean energy, and renewable and traditional energies.

Do you think that all of the legislation and late assessments constitute a problem for emerging projects? The provisions may indeed lead to late notices, assessments and late determination of criteria. This tool will probably be an obstacle for promoters, given that things are not clear. What do you think of this lack of clarity in the legislation?

[English]

Mr. Terry Rees: I think the barriers to trade are something that my other panellists here might have something more to say about. But I know there are certainly opportunities to avoid being cut out of certain markets if our technologies and our leadership on the environmental side tend to lag international standards. Europe tends to lead on a lot of standards, which from my experience in the mining industry drove a lot of Canadian practice and allowed us to continue to access those markets. I also know that the clean technology side of our manufacturing and industrial base is something that we have a huge opportunity to do with our resources. So I think, on both counts, showing leadership allows us to access markets we might not otherwise have access to. In the meantime, it will allow us to take a proactive and precautionary approach to the underpinnings of our environment.

[Translation]

Ms. Anne Minh-Thu Quach: Thank you.

I have one last question and it is related to your first comment regarding democracy and public participation in decision-making. We know that there are going to be fewer assessments and expert analyses done by civil society and expert groups. This will, however, impact the general interest, and the earth, water, and air quality, to mention only those. What do you think of the limits imposed on debate and on the parties that are directly concerned?

• (2115)

[English]

Mr. Terry Rees: One of my colleagues here mentioned the fact that the incremental changes over time have made the processes somewhat cumbersome, but they've also allowed for a lot of long-term public discussion about the implications of public policies and how they interact with various interests. By being hasty with making major reforms to important environmental and industrial underpinnings of our legal system and the laws that guide our development, I think there are going to be a lot of unforeseen costs related to interpretation.

Without the proper public consultation and a wholesome discussion about it, all of these changes...420 pages are a lot to digest. I think the average Canadian doesn't know what they're going to get and is likely not going to appreciate the details, especially since the regulations for all of these in the budget implementation bill are yet to come.

The Chair: Thank you, Mr. Rees.

Madam Quach, your time has expired.

Mr. Storseth, we have a couple of minutes left in this particular panel, and then it will conclude. We'll suspend right after that for a few minutes to get the new panel in and then we'll resume.

Mr. Storseth, two minutes.

Mr. Brian Storseth: Thank you very much, Mr. Chair.

As a northern Albertan who actually lives and works in and around the oil sands area and has neighbours and family members who also depend on it, I can tell you—as you know, Mr. Collyer—that northern Albertans care more about the environment than most people I know. But they also understand the tremendous strides that

the industry has taken in the last several years in reducing its environmental footprint and how important that is to Albertans.

Now, we also understand that you need certainty when it comes to industry, and that the duplicitous regulatory framework of having to do several assessments on the same project can lead to significant setbacks. You've mentioned this, but can you affirm that this current process has delayed and in some cases cancelled projects?

Mr. David Collyer: There's no question that it has delayed.... I can think of a couple of examples.

There was a Shell project that I believe came forward in 2007. Their most recent mining development is still waiting for or I think just got terms of reference for the environmental review. In the meantime, the provincial review has been completed.

There's also the Total Joslyn project. I would acknowledge that the proponent there made some changes. That project took six years to get through the regulatory review process. There's no way you can attribute that length of review to the changes the project made.

Mr. Brian Storseth: Six years?

What effect does this have on your union workers, Mr. Smillie? On real people on the ground, what effect did these delays have for you?

Mr. Christopher Smillie: If there isn't other oil sands construction at the time or if there isn't other oil sands maintenance at the time to go to work on, it could mean essentially that those in the hall who I met in Calgary would potentially have to look elsewhere. Albertans, for one, might have to look elsewhere to find employment. If there's a surplus of 500 boilermakers or 300 welders and 700 carpenters, those folks are going to have to get on a plane and go work in Ontario or wherever.

Mr. Brian Storseth: As you said earlier, this affects—

The Chair: Mr. Storseth, I'm sorry, your time has expired.

Thank you very much to our witnesses here: Ms. Carpenter, Mr. Rees, Mr. Meyers, Mr. Collyer, and Mr. Smillie.

I'll get that pronunciation right eventually, Mr. Smillie.

Colleagues, we're going to suspend for a few minutes. I would like to be ready to resume with the second panel no later than.... Well, let's just go for 9:30. Thank you.

• (2115)

_____ (Pause) _____

• (2130)

The Chair: Colleagues, the sooner we start, the sooner we can go home and get some sleep, and it might just be before midnight.

This is the second hour of our panel here at our second meeting of the subcommittee of finance. From the Canadian Construction Association, we have Ward Prystay; from the Mining Association, we have Mr. Pierre Gratton, president and chief executive officer; and from the Saskatchewan Association of Rural Municipalities, we have Ray Orb.

We're simply going to do the same as we did last time. We'll go with ten-minute presentations from each of you. I will start with you, Mr. Prystay, and then move to Mr. Gratton and Mr. Orb.

Mr. Ward Prystay (Principal, Environmental Services, Stantec Consulting Ltd., Canadian Construction Association): Thank you, Mr. Chairman.

Good evening. My name is Ward Prystay. This evening I am here to provide testimony on behalf of Canadian Construction Association, or CCA, on part 3 of Bill C-38 regarding responsible resource development. I am a principal with Stantec Consulting, which is a member of CCA. I have 20 years of experience as an environmental professional, with the past 18 years as a fisheries and environmental assessment consultant.

The CCA represents 17,000 members across Canada working primarily in the non-residential construction business. As an industry, construction employs over 1.25 million Canadians and accounts for just under 7% of our overall GDP. CCA members are supportive of strong environmental assessment and permitting processes and believe they are an important contributor to sustainable development in our country.

With regard to the proposed changes of Bill C-38, I would like to comment on the amendments to the Canadian Environmental Assessment Act and the Fisheries Act.

During the parliamentary review of CEAA in November last year, CCA presented membership concerns to the House of Commons Standing Committee on the Environment regarding the efficiency and effectiveness of the administration of the act and the lack of certainty and predictability in its implementation. In particular, CCA raised concerns about uncertainty regarding triggering and timeliness of the process, the wasted resources applied to the assessment of projects and activities that have very little environmental risk, and the duplication of effort and process when both federal and provincial environmental assessments are triggered.

The changes to the Canadian Environmental Assessment Act in Bill C-38 address the concerns that CCA raised last November. I would like to touch on these.

With respect to uncertainty regarding triggering and timeliness of the process, the current CEAA framework triggers an environmental assessment by one of four mechanisms: when the Government of Canada is the proponent of a project; when it will transfer lands to facilitate a project; when it will provide funding to enable a project; or when it issues a permit or authorization identified in the law list regulations.

For private sector projects, it is usually a permit or authorization that triggers an environmental assessment. As a result, proponents must invest in a high level of engineering design at the planning stage of their projects to trigger CEAA. For environmental screenings there is no timeline for receiving formal confirmation that the act applies. The 2011 timeline regulations for comprehensive studies have been a distinct improvement, but they still allow three months for a decision on whether the Environmental Assessment Act applies. They also allow the agency to suspend the 365-day review process whenever a question is asked of the proponent.

Under the proposed changes, environmental assessments will be triggered based on project-specific thresholds identified by regulation when there is a direct linkage to federal areas of responsibility. This list-based approach of deciding which projects require an assessment was a recommendation of CCA last November, and it is fully endorsed by the membership. It removes uncertainty about the need for environmental assessment and will improve project planning. It will also free up federal resources from a bureaucratic interdepartmental coordination process that has no value from an environmental protection perspective.

The concern CCA raised regarding timeliness of the process is also addressed by the proposed changes. The key steps to triggering an environmental assessment are clearly defined in the new legislation, as are timelines for each of these steps. This will bring certainty to proponents at the early stage of the process. There are also timelines for reviewing the environmental assessment and for making decisions. This will provide significant certainty in project planning, regardless of the type of environmental assessment.

I have an important comment on the proposed changes to CEAA in regard to the beneficial use of government resources. Today there are 3,040 environmental screenings, 36 comprehensive studies, and 11 review panels active under CEAA. Many of these screenings are mere checklists for legislative compliance—they're not true environmental assessments. The new project-based threshold approach is expected to eliminate the majority of the small screenings that pose little to no environmental risk. In addition, the consolidation of responsibility for conducting environmental assessments—under the authority of the Canadian Environmental Assessment Agency, the National Energy Board, and the Nuclear Safety Commission—will result in the Government of Canada making one common decision for a project. It will no longer make the same decision five or more times for a single project through various departments.

● (2135)

With respect to duplication of effort and process where both federal and provincial environmental assessments are triggered, the proposed amendments will allow the federal assessment requirements to be addressed by provincial processes where they're equivalent. This will bring to life the philosophy of one project, one assessment.

Together, these changes will simplify scoping, improve the timeliness of assessments, and free up government resources to focus on assuring resource projects are constructed, operated, and decommissioned in an environmentally responsible manner.

We would like to raise one minor concern regarding section 67 of the proposed legislation. We are concerned that intervenors may use this clause as a basis for legal challenges against the federal government. In this section, where the federal government carries out a project that is not a designated project under the act, there is a requirement to confirm that the project is not likely to cause significant adverse environmental effects before proceeding, or if it would, that the Governor-in-Council would decide if the project is justified.

We believe this determination cannot be made without an environmental assessment that meets the standard of CEAA. We believe this is not the intention of Parliament, and we recommend considering an amendment that clarifies the basis and scope of this determination.

CCA has also reviewed and supports the proposed changes to the Fisheries Act. Specifically, CCA agrees with the addition of a purpose section of the act; revisions to the pollution prevention and fisheries protection provisions; changes that allow a single authorization to be issued addressing both fish and habitat together; and inclusions of a framework for improving the timeline for review of applications.

Together these will provide clarity on interpretation and application of the act across Canada, and will ultimately improve the efficiency of the approval processes for projects.

In conclusion, Mr. Chairman, CCA views the proposed changes within part 3 of Bill C-38 as a positive step forward. We believe the changes to CEAA will establish a regulatory framework that assures one project, one assessment. This will minimize duplication of process, improve timelines, and free up federal resources to tackle projects with the potential for greater environmental consequences.

In addition, the changes to the Fisheries Act will clarify the intent of the legislation to protect fisheries and ensure greater consistency in application of the act across Canada.

Together, these will provide greater certainty on the regulatory requirements and timelines for projects without lowering environmental standards.

Once again, thank you for inviting CCA to share our membership views on the changes to Bill C-38.

The Chair: Thank you, Mr. Prystay.

Mr. Gratton, for up to 10 minutes, please.

Mr. Pierre Gratton (President and Chief Executive Officer, Mining Association of Canada): Thank you, distinguished members of the committee, clerk, staff, and observers, for the opportunity to appear before you today in the examination of this important piece of legislation.

My name is Pierre Gratton. I'm president and CEO of the Mining Association of Canada.

MAC represents the national voice of the mining industry. We have members active in every jurisdiction in Canada, except for Prince Edward Island and the Yukon. We've been actively supporting the mining sector since 1935. We have members that produce a whole range of products, from base metals to gold and precious metals, iron ore, steel-making coal, diamonds, uranium, and oil from the oil sands. The industry in 2011 contributed some \$36 billion to the gross domestic product and employed over 300,000 workers.

For the record—this was not put in my remarks for the purposes of today, as we always include it—the industry accounts for more than 50% of freight revenues on Canada's rail system. Obviously we need a rail system that functions.

We represent over 21% of Canada's goods exported and about 3% of gross domestic product.

Our industry is also enjoying a period of some growth and prosperity. Notwithstanding the troubles in Europe and the slight slowing of the economy in China, we continue to enjoy commodity prices that we have not seen in many years, leading to new investments in every region of the country. We've estimated that some \$140 billion in new investments have either already been commissioned or could be commissioned within the next decade. For example, in Newfoundland alone we've seen mining production quadruple in the past decade. Quebec is poised to have the largest investment, at over \$4.6 billion this year, leading Canada in new mining investment in 2012.

So it is a pan-Canadian industry supporting communities across the country. That is why having an efficient and effective regulatory system that enables this industry to continue to grow and invest is important to us.

We also place a high degree of importance on responsible development. Through our Towards Sustainable Mining initiative, which is an award-winning program, we commit to public reporting on performance and third-party assurance. It's guided by a national advisory panel made up of representatives from many different walks of life across Canada.

Turning to our views on Bill C-38, note that our comments are based on preliminary analysis of the legislation. Certain questions remain regarding the bill's overarching impact, and we're still seeking clarity on them. With that caveat, I'll reflect our members' reaction to the bill.

As an industry that operates outside of urban Canada, we are pleased that Bill C-38 recognizes the importance of aboriginal consultation. A tremendous opportunity for mutual benefit and success exists and is being realized through the partnerships the Canadian mining industry has formulated and continues to develop with our aboriginal partners. Open and honest consultation is a cornerstone of developing those partnerships.

On the new CEAA, we do not expect it to have a dramatic substantive effect on mining projects. As we told the House of Commons Standing Committee on Environment last fall, great improvements in the process for mining projects came from the 2010 amendments. They cut out delays in starting federal assessments and allowed the federal process to start at the same time as provincial assessments.

These amendments, you may recall, addressed comprehensive studies—that level of review within the Canadian Environmental Assessment Act that represents the lion's share of mining assessments in Canada. Nevertheless, CEAA 2012 does promise additional significant improvements in clarity and predictability, as well as a reduction in duplication of process. As an association serving a diverse group of members, an important feature for us is that we will have an act that we will be able to explain for the first time since CEAA was created.

• (2140)

CEAA 2012 can be summarized on a simple flowchart. The current Canadian Environmental Assessment Act cannot be explained simply; the complex interplay of definitions and triggers and exclusion list and inclusion list left most people confused.

CEAA 2012 includes the features that we have been calling for, including one clear responsible authority; a clear and predictable process with defined timelines; sufficient flexibility to make common sense decisions; the screening process and the safety net process should ensure that unforeseen situations can be resolved; authority to initiate and to engage in regional studies, which was one of our recommendations last fall; substitution and equivalency where warranted; and an obligation on federal authorities to provide timely information.

There are, of course, some features of CEAA 2012 that will require careful implementation, such as enforceable decision statements. It will be important that the agency ensure that these are clear and feasible. None of these changes will affect the substance and quality of the assessment process. In fact, in our view, they will enhance it.

I would, however, flag one disappointment. Given that the projects where the Canadian Nuclear Safety Commission, CNSC, will be the responsible authority includes uranium mines and mills, the benefits of the positive regulatory reforms should be available to uranium operations to the extent possible, in our view. A uranium mining or milling operation has more in common with a gold mine, yet this industry continues to be treated as more akin to a nuclear reactor. As a result, the uranium mining and milling sector has been exempted from some of the most beneficial measures announced in the new CEAA, including equivalency, substitution, and screening out.

Furthermore, the timelines specified in the transitional provisions do not impact the current comprehensive studies where the CNSC is the responsible authority, when the same is not the case for those led by the National Energy Board. We have difficulty reconciling the different treatment in this regard.

We are less advanced in our understanding of the changes to the Fisheries Act. The incorporation of means for better federal-

provincial cooperation is valuable, as is the incorporation of a larger tool box for dealing with the act's absolute prohibitions, such as the possibility of regulations for section 35.

However, at this time, we are not clear about how the fisheries and pollution prevention provisions, sections 35 and 36 of the act, will work together in practice. Section 35 has been significantly amended; section 36 has not. As some members may recall from our visits in November of last year during our mining day on the Hill, we expressed concerns about the lack of clarity and consistency in how sections 35 and 36 worked together. For the mining industry this issue appears to be made murkier by the amendments. We are working with officials in both Environment Canada and Fisheries and Oceans to develop, we hope, greater clarity through regulations and guidance.

Thank you very much, and I look forward to your questions.

• (2145)

The Chair: Thank you very much, Mr. Gratton.

Mr. Orb, you have up to 10 minutes, please.

Mr. Ray Orb (Vice-President, Saskatchewan Association of Rural Municipalities): Thank you, and good evening.

My name is Ray Orb, and I am the vice-president of the Saskatchewan Association of Rural Municipalities. I am also the reeve of the Rural Municipality of Cupar, in Saskatchewan.

I would like to begin by thanking the subcommittee on Bill C-38 of the Standing Committee on Finance for inviting me here to present our views tonight.

SARM represents all 296 rural municipalities in Saskatchewan and acts as the common voice of rural Saskatchewan.

SARM serves as the principal advocate in representing the municipal governments of the province on priority issues, including the changes to the Fisheries Act being proposed through this bill.

Distinction of waterways. SARM applauded the federal government for the changes to the Fisheries Act that were announced in April by federal fisheries minister Keith Ashfield. The changes to the act provide the long-awaited distinction between vital Canadian waterways that support fish populations and smaller bodies of water that do not house fish. It is our understanding that the amendments to the Fisheries Act will focus protection rules on significant threats to fish and will set clear standards for routine projects concerning smaller fish-free water bodies.

Currently the Fisheries Act applies the same protection to rivers and streams as municipal drains and farmers' irrigation canals. This adds unnecessary costs and extended timelines to routine municipal road construction projects. For example, in 2011, in my municipality, we were involved with a culvert replacement project in a non-fish-bearing area. DFO required us to attain a permit, which caused a time delay, and the overall cost was increased significantly. The culvert accommodated drainage for farmland. There were no fish in the area, but the project was treated as if there were.

If DFO clearly defined waterways to allow an RM to determine whether or not they needed to consult with the department, it would expedite projects where DFO approvals aren't required. This will save RMs time, which is a priority in Saskatchewan, with its short five-month construction season.

In many cases, municipalities have been required to install larger culverts to accommodate the passage of fish when constructing roads around all bodies of water, regardless of whether fish were present or not. The rules need to be clarified to support municipal governments while continuing to protect fish habitat where fish are present.

The changes to the act are welcome news if they translate into allowing routine municipal road construction projects to proceed without unnecessary costs and delays in the future.

Avoiding duplication. SARM is also encouraged by the proposed changes to the Canadian Environmental Assessment Act of 2012, which will establish a new federal environmental assessment regime. We understand that for larger-scale resource projects this will mean that firm timelines will be placed on reviews, requiring that they be completed within two years. We hope these changes will foster increased cooperation between the federal and provincial governments when it comes to the environmental assessment process.

The province of Saskatchewan is experiencing rapid growth with our natural resource sector; therefore, allowing for a more streamlined approval process could mean increased economic activity to our province, which will benefit our members, the province, and the country as a whole.

SARM would hope that in the future a similar approval process could be implemented for municipal infrastructure projects as well. This will reduce the regulatory burden, which will help all levels of government.

Public cost share. SARM would also like to take this opportunity to express our concerns regarding the costs associated with implementing fish-accommodating structures that are required by the Fisheries Act when fish are present. The need for protection of fish and fish habitat is widely supported and is viewed by SARM as necessary to prevent the loss of this valuable natural resource. That said, we are concerned that the Fisheries Act continues to place the onus on the individual or municipality to bear the cost of compliance with the act. This includes the requirement to install larger culverts, and burying them underground in many cases, to accommodate fish movement. These requirements are above and beyond those that would normally be utilized in a typical road construction project, thus adding additional costs.

●(2150)

A good example of these costs comes from the RM of White Valley in the fall of 2011. The RM was replacing a culvert in one of their existing municipal roads that intersected a seasonal running stream. They consulted with DFO. DFO assessed the stream and determined that fish were present. DFO then required the RM to accommodate fish by installing a larger culvert, which in turn added \$28,000 to the overall road project costs. The taxpayers of the rural municipality are left to pay the additional costs of the culvert required to accommodate the fish. SARM does recognize the importance and value of protecting fish but believes it is a benefit that is realized by all of Canadian society. SARM would like to ask that the federal government share in these costs that are currently fully absorbed at the municipal or individual level.

In contrast, under the Species at Risk legislation, a landowner discovers that there is an endangered plant or animal living on his or her property. Compensation is paid to the landowner for the loss of the use of the property, thereby recognizing the public benefit. SARM would encourage the federal government to consider providing funding to municipalities and individual land owners for the costs they accumulate while taking measures to maintain fish and fish habitat.

Thank you for the opportunity to appear today. I would be pleased to answer any questions you may have.

The Chair: Thank you, Mr. Orb. I appreciate that.

Colleagues, we only have three witnesses who were able to attend, so we should get in a full round of questioning and everybody should have an opportunity to ask a full set of questions.

We'll start with our seven-minute round. Mr. Allen.

Mr. Mike Allen: Thank you very much, Mr. Chair, and thank you to our witnesses for being here.

Mr. Prystay, I picked up on one of your comments when you talked about the Fisheries Act. One of the things you indicated was a lack of consistency in the application of the act across the country. Would you care to comment on how inconsistent that is in its application and interpretation by different fisheries folk across the country?

●(2155)

Mr. Ward Prystay: Through the work we do in development projects across Canada, we see a substantive difference in how the act is applied, be it west coast, central Canada, the Prairies, the north, or Atlantic Canada. It comes down to the level of scrutiny DFO's habitat biologists place on the various projects, the level of data required to support a review, and the level of habitat compensation required when a project goes for an authorization. It's quite variable across the country, and it's even reflected in the operational statements DFO has across the different management units.

Mr. Mike Allen: As an engineering consulting firm, as Stantec is, do you see that working with some of these companies there's a significant difference in the cost of implementation of similar projects across the country?

Mr. Ward Prystay: The mitigation that's necessary to ensure that the resource is protected is really dependent on the habitat, the system that's being affected, and the species that are present. But we do see higher costs in different parts of the country. I think British Columbia and the Northwest Territories and Nunavut have much higher costs than you would see in many other areas of the country.

Mr. Mike Allen: Mr. Gratton, you were nodding your head on that. Would you care to comment?

Mr. Pierre Gratton: I would agree with what my colleague has said.

Mr. Mike Allen: Okay.

Mr. Gratton and Mr. Prystay, do you think you'll see any difference in the quality of the environmental submission you will be putting forth for each of your individual projects under Bill C-38 than you did before?

Mr. Pierre Gratton: I don't think it should make any difference. First of all, for mining projects we fully expect to have mines on the list that will follow in regulations, so we expect the same number of projects to be assessed in the future as have been up to now. In fact, we've even speculated that we might end up having more projects, as some brownfield sites, which are mines that are being developed on already disturbed mining areas, may fall under the new definitions. So we actually may see more projects assessed, but they will be assessed in a more timely manner.

There is the possibility, whether they're substituted to the province or whether there's an equivalency arrangement that develops or not, that we will, through these amendments, be able to see greater harmonization between the two levels of government.

If you look at where substitution will exist or equivalency will exist, it will be in jurisdictions where the provinces have been able to demonstrate that their systems of environmental assessment are comparable and equivalent to that of the federal government. In practice, at the working group level currently, when the Province of British Columbia, for example, undertakes an environmental assessment, the federal government officials are at the working group level participating, and then it's almost like they cross the hall and go into the federal office, and the same people from the province go over to the federal office and they participate in the working group assessment of the federal review.

So there is clearly duplication, and I would fully expect to see the same level of review carried out regardless of whether it's undertaken by the province on behalf of the federal government or whether it continues to be undertaken by the federal government.

Mr. Mike Allen: Mr. Prystay.

Mr. Ward Prystay: I don't anticipate any less scientific rigour in any of the reviews. The process is going to include both federal and provincial or territorial environmental assessment processes regardless, so we don't anticipate any reduction in the quality of the work or the level of rigour that goes into an environmental assessment.

Mr. Mike Allen: In the study that we're doing in the natural resources committee on resource development in the north, there has been some significant concern expressed in terms of the time it takes, and the difference in the time it takes, to get approvals. Sometimes you get approval, but then it might take you years to get permits for particular projects. One of the concerns out of that, obviously, is that investment capital will just flow somewhere else.

Mr. Gratton, could you comment on that in terms of what the potential loss is to Canada by not having an efficient and comprehensive system?

Mr. Pierre Gratton: Of course, it's a major issue. There are many different ways of looking at this. If you're a junior company trying to bring a mine into production, time is everything, and delays in projects, or the uncertainties built into projects that can lead to delays, can literally kill a project.

Larger companies that may have cashflow may be able to withstand the delays. In the past decade our industry has undergone significant consolidation, so we're often dealing with large, major multinational companies that have projects around the world, and they get to choose where they put their resources.

There's a project right now, for example, in Nunavut that has been put on hold for five years, a project owned by Newmont Mining. It is in large part because of the uncertainty and the time constraints that were involved in bringing that project forward that the company has put that on hold and decided to put its cash dollars into other projects they may have elsewhere in the world.

So this is very real today, and I would suggest that it's more real now than it used to be, because the industry is much more consolidated than it used to be.

● (2200)

Mr. Mike Allen: You commented briefly about the interaction with the aboriginal folks on the assessment of your projects, but also about the employment. I understand that mining can be the largest private sector...for aboriginal people in Canada, 7.5% of the workforce. How do you see that expanding and creating opportunities for our aboriginal people?

Mr. Pierre Gratton: It's very rare to see a new mine brought in today without an agreement of some kind, a socio-economic agreement, an impact benefit agreement, that includes as well employment guarantees, business procurement, etc. That is the way at present. It's certainly going to be the way of the future, and I think all of the new mining projects we're talking about over the next decade or so will include those types of agreements.

I think you will continue to see an acceleration of the level of participation of aboriginal people in our sector.

The Chair: Thank you very much, Mr. Allen.

Mr. Julian, you have seven minutes, please.

Mr. Peter Julian: Thank you very much, Mr. Chair.

Thanks to our witnesses for coming out tonight, particularly at such a late hour.

You know we're studying a very controversial bill. I've participated, and many of my colleagues have, in standing-room-only public meetings across the country on this. You've all seen the poll that came out this morning that showed that in part due to the reaction to Bill C-38, the Conservatives would lose 50 seats and would be returned to opposition if an election were held today. A Conservative member of Parliament, David Wilks from Kootenay—Columbia, said he'd be voting against the bill because of everything being thrown together and exactly because of that lack of clarity and that lack of predictability.

The Chair: Mr. Julian, I have a point of order from Mr. Storseth.

Mr. Brian Storseth: Thank you, Mr. Chair.

I don't mean to interrupt my honourable colleague's—my esteemed colleague's—diatribe, but he knows what he's saying is not 100% correct, and I'd ask him to correct the record.

The Chair: Mr. Julian, it is typical in most of the committees I've been at—while I think this is a matter specifically for debate—that impugning the motives or suggesting the motives that motivate another member of Parliament are usually considered out of order.

I don't want to tie the hands of members with their free time, but if you're going to continue down this path, I'm going to continue to get points of order. I guess at some point we'll have to decide whether or not this is going to be able to continue.

Mr. Peter Julian: I'm certainly not impugning, Mr. Chair. I'm praising the individual concerned.

But I'm getting to my question, which is exactly the point that both Mr. Prystay and Mr. Gratton mentioned, and that is clarity and predictability around a process. We had the ministers before us a week and a half ago. When we asked them about this very controversial measure around excluding people who are not directly affected by a proposed development, when we asked the minister to clarify how people would be excluded—is it on the basis of living one kilometre from a development or five kilometres?—the minister wasn't able to say.

He did say that the scope would include issues that in his mind were not directly impacted. He was talking about Northern Gateway hearings, saying the issue of global warming and greenhouse gas emissions would be something that he would feel he should exclude somebody from presenting. So the public reaction I've just mentioned, and that is all factually based, is something that I think your associations need to be concerned about: the fact that there is not that clarity or predictability around the process at all. Ministers can override the process, regardless of what recommendations are brought forward.

I want to put to you both—particularly you, Mr. Gratton, because I know in the mining association you're concerned about social licence. Do you not feel that this upheaval within our environmental assessment process and in the approval of energy projects as well undermines that social licence when the public very clearly sees the process is profoundly unfair?

● (2205)

Mr. Pierre Gratton: I think there are many measures in this proposed legislation with respect to CEAA that will improve the environmental assessment process. For example, it's going to be much clearer than it used to be. They're eliminating dead time and confusion at the front end of projects and throughout the process. Rather than having projects consulted on repeatedly, they'll be more streamlined. For example, I'll take the Mount Milligan project in north central B.C.—

Mr. Peter Julian: I'm sorry. I do have more questions for you.

I'll move on to the next question, which is—

Mr. Pierre Gratton: But I haven't finished answering.

Mr. Peter Julian: Yes, I realize that. I'm limited in my time, and unfortunately I keep being interrupted by the other side.

I'd like to go on to the concern you raised around—

The Chair: A point of order, Mr. Anderson.

Mr. David Anderson: Mr. Chair, if you won't step in here, I think we need to. Just because Mr. Julian doesn't like the direction the answer is going in...I think he should give the witness the opportunity and the courtesy and allow him to respond.

Mr. Peter Julian: I—

The Chair: I'll rule, Mr. Julian, thank you very much.

Mr. Julian, you may not like the answer you're getting, but we should be affording the witnesses, wherever possible.... However, I do like to respect the member's time, and this is your time.

Mr. Peter Julian: Yes.

The Chair: I'll let this one slide, but if you could be more succinct in your questions, you might get the answers you want. It's not my job to reprimand you, but in the future, if a witness is going to be making a point to a bona fide question that you've asked, I think it's only fair that all members of the committee hear the answer to that question. In this particular case, if you want to change the channel, you've got about four minutes left.

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

I will ask the witnesses to respond briefly. We appreciate their being here tonight. We do have many questions for them.

My next question is around what Mr. Gratton mentions, seeking clarity on a whole range of the bill's "overarching impact". I'm quoting from your paper, and thank you for providing it.

I'd also like to say this to Mr. Prystay. You mentioned earlier as well concerns around clause 67. The government has said there will be no amendments to this bill. The government has systematically refused amendments and has refused that clarity. We have four nights of hearings and then the government has signalled the bill will be rammed through.

Do you feel, with such an important process, with the questions you've raised here tonight, that this is an effective public policy process, to ram through, without amendments, legislation that you admit raised concerns and questions?

Mr. Brian Storseth: I have a point of order, Mr. Chair.

The Chair: A point of order, Mr. Storseth.

Mr. Brian Storseth: Thank you very much, Mr. Chair.

Once again, Mr. Julian is not exactly being factual. I don't recall the government saying there won't be any amendments. In fact, I believe that's what the committee is here to do; it's to put together a report, to make recommendations. So I hope Mr. Julian hasn't given up on the process already on the first day of hearings.

The Chair: I don't necessarily hear a point of order there, Mr. Storseth, although I think your point is well taken.

The witnesses have heard the question in the context framed by Mr. Julian. Perhaps you're prepared to answer, please, Mr. Gratton.

Mr. Ward Prystay: I was going to ask him to reclarify it.

The Chair: Mr. Julian, it doesn't appear that there is consensus of what you were—

Mr. Ward Prystay: Could you please clarify your question again?

Mr. Peter Julian: You raised concerns around clause 67. Mr. Gratton raised concerns around the bill's overarching impact. The government has said they are not going to provide for amendments, regardless of the opinions that have been expressed here. So do you feel that four days of hearings, if the bill is speedily adopted, which is what the government seems to be signalling, is appropriate for this kind of process when you've raised some legitimate concerns and questions around the bill itself?

Mr. Ward Prystay: The Canadian Construction Association has been consulted on concerns and issues that the membership has had with the Fisheries Act and with the Canadian Environmental Assessment Act, and we have provided our testimony here and we've provided testimony at hearings in the past as well. We've provided our input to the committee and to government, and it's up to you to do your job now.

Mr. Peter Julian: Mr. Gratton.

Mr. Pierre Gratton: With respect to some of the concerns we have with CEAA—well, actually we don't have any major concerns with CEAA. We think this proposed legislation is one of the finest pieces of work we've seen coming out of the federal government with respect to EA ever. But there will be the need for more clarity through regulations, which is normal.

What we're saying is we are looking forward to seeing what the subsequent regulations will look like because that will provide additional clarity to us, as we would with any other piece of legislation that has subsequent regulations.

● (2210)

Mr. Peter Julian: Thank you very much for your brief answers on that.

Mr. Orb, I'd like to bring you in—I think I have a few seconds left. And it's around the issue of the municipality, which you raised: the culvert that saved what was a fish stream and the fact that the federal government is not currently providing supports for these kinds of modifications that are very important.

In my municipality, which Mr. Prystay shares, the City of Burnaby has put a lot of money into ensuring salmon enhancement, and the salmon have come back wonderfully.

To what extent is that important, that rather than downloading costs on municipalities and provinces, the federal government actually supports the kinds of programs that allow the fish to continue running and provides for that protection of the environment? We've seen quite the opposite from this government so far—cuts in all of those fundings. Do you feel, and are you suggesting to this committee, that there needs to be funding provided by the federal government to support these important things?

Mr. Ray Orb: The short answer for that would be yes. We believe, as we have stipulated in our document, that where there are fish and there is fish habitat, there should be assistance from the federal government on this.

There is some assistance now. Some of these projects in my municipality were subject to a disaster last year. That was because of flooding. When the culvert washed out it had to be replaced. In that case, there was some assistance from the federal government and the province because they cost-share on that program.

The problem is that we had to put that culvert back to its state to look after fish, and in that case, there are no fish in that area and never have been. I've lived there all my life and I've never seen fish in that area. It complicates things.

The Chair: Thank you, Mr. Orb.

Mr. Julian, we're already about half a minute over your time.

Ms. Duncan, you have seven minutes, please.

Ms. Kirsty Duncan: Thank you, Mr. Chair.

Thank you to all the witnesses. I'm going to begin with Mr. Gratton.

As you alluded to earlier, I have a briefing note from your organization from January of this year praising the current process under the environmental assessment review. It says, "The amendments to CEAA made in 2010...were implemented quickly and competently by the Agency", and it has "provided mining project proponents with relief". It says, "For the first time, provincial and federal assessments are synchronized."

The Mining Association of Canada says its “primary interest in the review [of the Canadian Environmental Assessment Act] is to convey support for the new system brought” in, and to “renew funding for the Environmental Assessment Agency”.

My first question is, why did you ask for new funding for the agency, please?

Mr. Pierre Gratton: That funding is necessary to carry out environmental assessments of our projects and to do them well. It is our understanding that the funding has been renewed.

Ms. Kirsty Duncan: It was announced last summer that there would be cuts of 43%. We're hearing that it's not a cut of 43%, but I don't know what the figure is. We haven't been given that.

Were you surprised by the repeal of CEAA, yes or no?

Mr. Pierre Gratton: With the additional amendments to CEAA that have...?

Ms. Kirsty Duncan: No. There has been the repeal of CEAA. Were you surprised, yes or no? Give a one-word answer, please.

Mr. Pierre Gratton: No, I guess.

Ms. Kirsty Duncan: Why is that?

Mr. Pierre Gratton: I look at it as a continuation of the 2010 amendments, but to the other elements of the act, the screening level assessments and the panel review. They are largely consistent with what they had already done in 2010 to comprehensive studies.

Ms. Kirsty Duncan: What consultations did the government have with you regarding the new environmental assessment legislation?

Mr. Pierre Gratton: What consultations...? We certainly did what we could to present our views at every opportunity we had.

Ms. Kirsty Duncan: Did the government come to you, and did you have a formal consultation on this new legislation?

Mr. Pierre Gratton: I'm not sure I understand.

The Chair: Mr. Gratton and Ms. Duncan, I have a point of order from Mr. Anderson.

Mr. David Anderson: Ms. Duncan may have the same problem Mr. Chisholm had, which is that they don't understand that this is a budget bill and that we had six months of consultations, with people contributing to it from all across Canada. Thousands of people were able to contribute at hundreds of hearings, and the finance committee travelled across the country. So to ask someone if they have had a chance to participate in this bill is pretty much a ludicrous question.

• (2215)

The Chair: Thank you.

I'm going to hear from Ms. Duncan on this.

Are you talking to the point of order?

Ms. Kirsty Duncan: Please, Mr. Chair.

I'd like to be very clear. I understand what the budget consultation process is. I have asked a very specific question: what formal questions was MAC asked? Was there a formal consultation process?

The Chair: I heard your question.

Ms. Rempel, are you on the same point of order?

Ms. Michelle Rempel: Certainly, Mr. Chair.

To my colleague Mr. Anderson's point, there were also extensive consultations in the statutory review of the Canadian Environmental Assessment Act, which many partner organizations have participated in.

The Chair: On the same point of order, I'll hear Mr. Julian.

Mr. Peter Julian: Mr. Chair, this repeated bullying of opposition members trying to stop the questioning is completely inappropriate. I hope you will ask government members to control themselves and stop these bullying tactics.

The Chair: Oh, I hope we're not going to go down here.

Ms. Rempel.

Ms. Michelle Rempel: Mr. Chair, as a new parliamentarian, I certainly have been shocked by the comments of some of my colleagues opposite and the rhetoric of their prefacing. I would ask you to consider the definition of bullying prior to making a ruling.

The Chair: I don't think anybody is being bullied here. I think everybody at the table has had ample opportunity to make their cases.

Ms. Duncan, your line of questioning is yours to pursue within the context of the rules. However, I appreciate the points of order from all sides on this particular occasion. If members want to make the case for whether consultation has or hasn't happened, they are free to do so during their own personal lines of questioning.

Ms. Duncan, please continue.

Ms. Kirsty Duncan: Thank you, Mr. Chair.

May I ask the same question again? Is that your ruling?

Thank you.

The Chair: You don't need to use your time to ask it again.

Go ahead and answer if you would like, Mr. Gratton.

Ms. Kirsty Duncan: Mr. Gratton, could I have my answer, please?

Mr. Pierre Gratton: The problem is, I am not quite sure I understand the question. We did participate in the standing committee's review of the act.

Ms. Kirsty Duncan: I understand that. I was there. I have asked a question—

Mr. Pierre Gratton: We have participated and made our views known with respect to CEAA for as long as I can remember—for as long as I have been working at the Mining Association of Canada.

Ms. Kirsty Duncan: Okay, I'll move on.

Do you support the repeal of CEAA? Just give a one-word answer, yes or no.

Mr. Pierre Gratton: You asked me that already, and I said yes. With the replacement, I think this is a better bill.

Ms. Kirsty Duncan: Thank you.

In your press release of March 29, you seemed pleased that:

Of special note is a commitment to introduce the concept of “equivalency” in federal environmental assessments, whereby the federal government can accept a comparable provincial environmental assessment as its own. This will eliminate the need for two, duplicative reviews for a single project...

And it continues.

That really seems to be in opposition to your January briefing—

Mr. Pierre Gratton: It's not so. If you read our January briefing, we actually—

Ms. Kirsty Duncan: —where you say, “For the first time provincial and federal assessments are synchronized.”

Mr. Pierre Gratton: Yes, and our brief also actually then recommended that the government go further and bring forward the concept of equivalency. We very explicitly called for equivalency in our brief, which is why we're pleased to see it.

Ms. Kirsty Duncan: You said the provincial and federal assessments are synchronized, and...

Mr. Pierre Gratton: I apologize, but I suggest you read our brief. We actually explicitly called for—

Ms. Kirsty Duncan: I did, sir, and I thank you for that.

Mr. Pierre Gratton: We actually explicitly called for equivalency, and we've been advocating equivalency for several years now.

Ms. Kirsty Duncan: The Canadian Environmental Assessment Agency would be able to exempt a designated project from even going through the assessment process.

What are your comments on that, please?

Mr. Pierre Gratton: We have serious doubts that it would ever apply to a mine. We fully expect every mine to be subject to an environmental assessment. Whether it's substituted to a provincial government or not, it will be reviewed. We fully expect that and accept it as part of our responsibility.

Ms. Kirsty Duncan: Since you've brought up equivalency, I'm wondering whether you could tell me which federal laws are stronger than provincial laws.

Mr. Pierre Gratton: It can vary. There are a number of provincial water quality standards, for example, that are more stringent than the federal. But I think in this particular case you're talking about environmental assessments, so let's look at this.

The notion of equivalency, which we had recommended—

Ms. Kirsty Duncan: Actually, I'm going to do what Mr. Julian did, with respect. I am going to move on.

Are you aware whether any assessments of the adequacy of the environmental assessment process in each province and territory have been conducted and what the costs are to each of the provinces and territories?

• (2220)

Mr. Pierre Gratton: In the history of federal-provincial assessment, there has only been one mining project on which the two governments disagreed. In every other case, both assessments came to the exact same conclusion, which begs the question as to whether it's really necessary to have two reviews or whether you can't find a way for one level of government—

Ms. Kirsty Duncan: With respect, that wasn't the question.

Mr. Pierre Gratton: —either the province or the federal government, to undertake it.

Ms. Kirsty Duncan: With respect, that wasn't the question.

The question is, are you aware whether any assessments of the adequacy of the environmental assessment process in each province and territory have been conducted, and what are the costs to each of the provinces and territories, please?

Mr. Pierre Gratton: What are the costs to each province and territory? No, I can't say that I'm aware of that. I don't understand the purpose of the question either.

Ms. Kirsty Duncan: Are you aware whether there's been an assessment of the adequacy of the environmental assessment process in each province and territory? If you want to look at equivalency, this matters profoundly.

Mr. Pierre Gratton: Yes, and I think our provincial and federal governments can come to an understanding on whether, for example, the Quebec environmental assessment system, *le BAPE*, which is considered to be one of the strongest in the country, can cover off assessments of mining projects.

Ms. Kirsty Duncan: So you're not aware of any—

The Chair: Thank you, Ms. Duncan. Unfortunately, your seven-minute round has expired.

Ms. Ambler, you have up to five minutes, please.

Mrs. Stella Ambler: Thank you, Mr. Chair.

And thank you to our guests for being here tonight.

One of our earlier witnesses mentioned, to quote him, that “... young people are...building a life on these projects”. He was talking about oil sands projects specifically. He talked about some of these projects that are going forward, or that could be going forward, as “50-year jobs”, for which young people are currently training.

Mr. Prystay, as an organization representing contractors, how do delays in project approvals affect these young people? As well, how do they affect your stakeholders?

Mr. Ward Prystay: CCA members are able to take advantage of construction opportunities after projects have been able to complete their environmental assessment and permitting processes. If there are delays in those processes, there's no opportunity to start work.

Mrs. Stella Ambler: That's fairly simple, but a good answer. Thank you.

What is the value of investment on offer for construction related to responsible resource development?

Mr. Ward Prystay: Canada has recently become a global provider of natural resources and energy. A recent study released by PricewaterhouseCoopers has forecast that Canada's construction market will become the world's fifth largest by 2020, primarily on the strength of global demands for energy and natural resources. Only the United States, China, India, and Japan will rank higher. Some feel that Canada may even surpass Japan.

Canadians rely on foreign investments to fund these projects and bring the capital necessary for construction of these facilities. To secure these dollars, Canada really needs to provide investors with regulatory certainty. We expect that the proposed reforms will ensure that Canada is well placed to take advantage of this, with more than \$500 billion in major economic projects in Canada in the next 10 years.

Mrs. Stella Ambler: Thank you.

Mr. Gratton, as part of the statutory review of the Canadian Environmental Assessment Act, the environment committee heard examples, such as the park bench that needed an environmental assessment under the old process.

Do you think the new approach in Bill C-38 is more balanced? If so, what effect do you think it will have on the environmental assessment process?

Mr. Pierre Gratton: The Auditor General, in her 2008 review of the Canadian Environmental Assessment Act, concluded that the government was not able to demonstrate that the screening level was reviewed and had provided Canadians with any environmental benefit. That was largely the impetus behind the changes to clear out those lower-level screenings that take up a lot of time but don't actually protect the environment.

That being said, none of our projects are subject to screenings, so we didn't have an opinion and had no direct interest in whether they were eliminated or not.

We did see value from a government savings point of view. If you had fewer people doing screenings, you might have people available to do major reviews, which is where our projects fall.

• (2225)

Mrs. Stella Ambler: Do you think a two-year time limit is reasonable for large projects for panel reviews?

Mr. Pierre Gratton: Timelines are helpful and bring a rigour to the process. There are certainly opportunities within those timelines for federal officials to request new information. That's two years of government time, or one year under a comprehensive study, not the

whole time. But I think timelines help bring rigour and discipline, and that's important to us.

Mrs. Stella Ambler: And they bring some certainty for industry.

Mr. Pierre Gratton: Yes.

Mrs. Stella Ambler: Thank you.

I asked an earlier witness what percentage of the project investment—in your case, bringing a mine to production—is devoted to the environmental assessment process.

Mr. Pierre Gratton: I'm not exactly sure what dollar figure I would attach to the actual cost of bringing it forward. I would say that for junior mining companies, inefficiencies in that process can cost them the project completely. That's why timeliness and predictability are important to smaller companies. For larger companies, it helps them make informed business decisions.

The Chair: Ms. Rempel, you have five minutes, please.

Ms. Michelle Rempel: Thank you, Mr. Chair.

I'll start by talking about the CEAA funding process. Some of my colleagues have suggested that resources weren't provided, but in fact the funding was renewed and increased in the last federal budget. I just wanted to put that out there to begin with and note that Mr. Gratton's comment on that was correct.

Mr. Gratton, you talked about how this bill might improve environmental assessment. Perhaps you could also talk about improving environmental protection. The act strengthens the federal government's ability to follow up on environmental assessment requirements. Could you comment on that and on how you think some of your member companies will respond to those new requirements?

Mr. Pierre Gratton: Yes. Actually, this is a feature that you'll find at the provincial level. In B.C., for example, environmental assessments come with conditions—in some cases, many conditions. This is an example of the federal government catching up to the provinces and bringing forward this attaching of conditions to environmental assessments. Those can be very significant, and they are—it's one of the other features I was going to mention earlier—one of the ways in which this legislation actually enhances environmental protection.

Ms. Michelle Rempel: Great.

Now, I'm sure that some of your member companies obviously participate in international jurisdictions, not just in Canada. They have projects across the world. As far as stringency is concerned, how would you compare these new regulations to those of other jurisdictions around the world? On the other side of that question, perhaps, with the streamlining included in there, does that now provide Canada with a competitive advantage as far as investment is concerned?

Mr. Pierre Gratton: Well, we often look to Australia as a principal competitor of ours, and they've been able to complete environmental assessments in as little as six months to a year, or sometimes a year and a half. This brings Canada more in line with Australia, which is obviously something we welcome.

Ms. Michelle Rempel: Just to go back to my earlier question, do you feel that the level of stringency provided for in this component of the bill is on par with or exceeding that of other similar jurisdictions around the world?

Mr. Pierre Gratton: As I and other witnesses have said—including witnesses earlier this evening—I don't believe that these changes in any way.... It's all about process. It has nothing to do with the quality of environmental assessment. On the extent to which there are measures in here that you could say do affect the quality of review, I think it enhances them, such as what we were just talking about—the enforcement decision statements.

• (2230)

Ms. Michelle Rempel: Do you anticipate that your member companies will now be able to engage in a lower standard of environmental planning due to the changes in these regulations?

Mr. Pierre Gratton: Lower? No, certainly not.

Ms. Michelle Rempel: Wonderful.

Something that some of my colleagues might not realize is the impact of the regulatory process on junior mining companies. I think a lot of time has been focused on the larger companies, but perhaps you could speak a little bit to how a lack of predictability and timeliness can affect the business planning cycle and affect investment capital, specifically for start-up companies, for the junior companies in this country.

Mr. Pierre Gratton: Yes. Junior companies are by definition companies that don't have operating mines, so they don't have cashflow. They're dependent on raising investment capital in order to finance these projects. As I think we all know, particularly in these times, investment capital can be quite jittery, so time slippage or an uncertain regulatory environment can seriously impact the ability of junior mining companies to raise capital and then to continue to advance a project.

I can give you examples of where junior mining companies ultimately have to sell in order to have their project completed because they simply run out of time and resources.

Ms. Michelle Rempel: I notice that your association also is the largest private sector employer of aboriginal peoples in Canada. Can you perhaps expound a little on how these changes to the regulatory process with regard to predictability and timeliness might affect that workforce?

Mr. Pierre Gratton: Well, it's one of the issues that I wanted to touch on earlier, so thanks for that.

First of all, this legislation does enhance and put new resources into aboriginal consultation—the crown's consultation. Now, in industry, obviously, good companies consult early. They start at the very beginning and they continue it.

But the crown still has an obligation to meet. What we have found at both the federal and provincial levels is that governments often consult communities, including aboriginal communities, a multiplicity of times, and often on discrete elements of a project instead of the project as a whole. So it leads to consultation fatigue, and it also prevents communities from fully understanding what it is they're dealing with.

I see these changes and new resources as potentially enhancing the quality of consultation that will take place at the community level, including with first nations. I think that might actually help and support our industry in building those relationships, because it will contribute to a better understanding of what the projects really mean.

The Chair: Thank you very much.

Thank you, Ms. Rempel. Your time is up.

Mr. Chisholm, please.

Mr. Robert Chisholm: Thanks very much.

You know, there's no question that we don't want to unnecessarily create problems for junior mining companies and their investors and so on, nor do we want to contaminate a lake or a stream and kill fish, right?

Mr. Pierre Gratton: Of course.

Mr. Robert Chisholm: To a degree we have to find a balance there.

I do have some concerns. I'm really pleased that the government has been able to make you happy and the three people here happy, and a couple of other presenters in our earlier session are thrilled with the bill as it relates to the extraction industries. But I think you would acknowledge that there seem to be a lot of other people, and Mr. Julian talked about the town halls that we've had across the country.... Not everybody has been involved in direct consultations with the government on this, and increasingly, as people find out what's wrong here or what's in the bill, they're very concerned.

Would you not agree that that's going to create a problem? If you're happy with this, you may get this bill through and get these changes through, but if a great deal of society out there is as concerned as they appear to be, do you not run the risk of legal challenges from first nations communities, for example, from municipalities, from others who do not feel the government has given this whole process due diligence? You talk about certainty, but does that not create some uncertainty?

• (2235)

Mr. Ward Prystay: CCA is pleased with the legislation because of the regulatory process certainty it provides. It lays out the steps and the environmental assessment processes and provides timelines so that we can predict, looking forward, how a project will proceed.

The scoping of an environmental assessment, the consultation requirements, those are all established by the government staff working on the ground with each individual project, and those are always project specific. We look at the changes to the act in combination with the land use planning objectives that exist within certain areas, with crown policies for land, with the permitting processes that exist. We don't anticipate there's any reduction of environmental protection or environmental stewardship—

Mr. Robert Chisholm: Mr. Prystay, I don't mean to interrupt you, but you're missing my point. That is, you think it's great, but increasingly as other groups find out about this and what is being proposed, they're not very happy.

If we don't have a process where people can examine this, can have input, can make suggestions, and can feel that they're going to get their suggestions dealt with, you're running the risk of getting this bill through, getting the changes you love, but running into real problems down the road when you and the government try to implement.

Is that not the case, Mr. Gratton?

Mr. Pierre Gratton: I would say the current system creates lots of problems, and there's a lot of uncertainty on the landscape. We face litigation from environmental groups and first nations currently. I would suggest—

Mr. Robert Chisholm: So it's okay now that you're happy but other groups aren't. Is that right?

Mr. Pierre Gratton: No. I would suggest that the problems that have existed with the Environmental Assessment Act have to do with the lack of clarity around process. A better-run process, if implemented well—and I'll grant you that this will have to be implemented well, and I'm not going to say that the federal government—

Mr. Robert Chisholm: You don't have any guarantee that's going to happen.

Mr. Pierre Gratton: —has consistently implemented things well, but if they implement these processes well under the new legislation, it should make things better on the ground. It may actually reduce litigation and conflict—

The Chair: Ms. Rempel, on a point of order.

Ms. Michelle Rempel: You know, perhaps my colleague opposite would have more luck in his line of questioning if he clarified what he meant by “Are you happy?” Perhaps that's the hundreds of

thousands of workers known across the country that are represented by the people here—

Mr. Robert Chisholm: This is just foolishness.

Ms. Michelle Rempel: Perhaps that would allow the witnesses more clarity to answer.

The Chair: I think members have an opportunity through their own lines of questioning to make those points.

But, Mr. Chisholm, I do believe Mr. Orb indicated that he wanted to address your original question.

Mr. Robert Chisholm: That'd be great.

The Chair: Mr. Orb.

Mr. Ray Orb: The question you ask is a tough one. This is a huge bill. There are some things in this bill that our organization wanted to be brought in a long time ago.

There's reference also in this bill to navigable waters, and if you're familiar with that legislation, it's around 120 years old. It has to do with canoes travelling down waterways. It's obsolete; it needs to be revised.

Mr. Robert Chisholm: Have you had a chance to examine what they've done to it?

Mr. Ray Orb: It actually hasn't gone far enough. From our point of view, we would like to go back, and I think maybe this fall we'll get a chance to talk to the government about that. But you've touched on a question that's general.

Generally, I could answer that every person in this country can talk to their MP about this, if they're not happy with the bill. Or if there are things in the bill that they're happy about, well, that's fine too. I think that's how we operate as Canadians .

Mr. Robert Chisholm: Thank you, Mr. Orb.

The Chair: Thank you.

Mr. Robert Chisholm: I do have a specific question.

The Chair: And you're specifically out of time.

Mr. Storseth, five minutes, please.

Mr. Brian Storseth: Thank you, Mr. Chair.

Mr. Prystay, your organization represents how many Canadian workers? How many Canadian workers would be affected?

Mr. Ward Prystay: There are 17,000 members within CCA, and it employs approximately one and a quarter million Canadians.

Mr. Brian Storseth: Mr. Gratton.

Mr. Pierre Gratton: How many—?

Mr. Brian Storseth: How many Canadians are affected by your industry?

Mr. Pierre Gratton: We employ over 300,000 workers.

Mr. Brian Storseth: Mr. Orb, how many employees would there be through the SARM, Saskatchewan rural municipalities?

Mr. Ray Orb: I wouldn't be able to answer how many the assessment would affect—I can get the information to you—but there are a lot.

Mr. Brian Storseth: Absolutely. Plus, there's the building trades we had before and CAPP. I mean, we're talking about literally hundreds of thousands, if not millions, of jobs for Canadians—real jobs for real taxpayers—and the NDP seem to think it's just the three of you who are going to be happy with this and that this is foolishness. I think that's disrespectful to the organizations and the millions of Canadians who rely on their representation with these organizations.

I thank you for your input, and I would ask you the simple question. Do you think the government has done a good job with this legislation?

• (2240)

Mr. Ward Prystay: Yes.

Mr. Pierre Gratton: Yes, though I'd point out that we're not completely pleased. We don't completely understand what's being done to the Fisheries Act.

On a point of clarification, the assumption seems to be that we are delighted with every aspect of it. My colleague has indicated there are some areas where he wishes the government had gone further, and we have certain concerns with what's been done with the Fisheries Act. But overall, this is a positive step forward.

Mr. Brian Storseth: I did hear you right you when said this is one of the best pieces of legislation.

Mr. Pierre Gratton: On CEAA, it's a masterful piece of work.

Mr. Brian Storseth: Thank you.

Mr. Orb.

Mr. Ray Orb: I think the example that we're here tonight to be able to talk about this says the government did a good thing. These are things we're happy about.

Mr. Brian Storseth: I would also point out that I know the opposition likes to speculate a lot and hypothesize, but the fact of the matter is that there will be over 50 hours of testimony and study on this at the finance committee. There's going to be the equivalent of a month and a half of hearings on this aspect of it, at this subcommittee alone.

We're bringing in organizations such as yourselves who represent literally millions of Canadians. I think the government is doing an excellent job in making sure that input is being taken into account.

I would like to ask Mr. Orb a couple of questions.

Mr. Robert Chisholm: A point of order.

I'm just kidding. I couldn't resist. Sorry.

Mr. Brian Storseth: I understand that the opposition is trying to make light of it because they can't actually find any problems or criticisms with this legislation to date.

Mr. Robert Chisholm: Everyone else does then, eh, big guy?

The Chair: Mr. Chisholm.

Mr. Brian Storseth: Mr. Orb, I'd like to ask you a question on the real impacts this is going to have on your municipalities, on whether or not this is going to expedite the process for you and whether this is going to be a cost savings for Saskatchewan municipalities.

Mr. Ray Orb: You're referring to the changes to the Fisheries Act. I really believe it will save us hundreds of thousands of dollars. Right now, it will save us a lot of time.

Part of the problem is what's going on in Saskatchewan. Our economy is very strong. In some cases there's a shortage of contractors. I think from time to time the tenders for some of these projects come in a bit higher than they should because of that fact. So it will save a lot of money.

Mr. Brian Storseth: Thank you very much.

How much time do I have left, Mr. Chair?

The Chair: A little over a minute.

Mr. Brian Storseth: Mr. Gratton, with regard to the effects on aboriginal and rural communities, I know that in my rural communities your industry has had a very positive effect.

You talked about consultation. Can you go a little beyond that and talk about the effects of the positive economic impacts you have seen first-hand on aboriginal communities?

Mr. Pierre Gratton: One of the most dramatic in the Northwest Territories has been with respect to post-secondary enrollment. It has gone up, I think two orders of magnitude, among aboriginal young people over the past decade, as a result of the diamond mines, as Mr. Bevington would know. That's a transformative change when you see that level of increase. That has life-changing impacts on quality of life and so on.

Mr. Brian Storseth: Thank you very much.

The last thing I would point out is that hopefully Mr. Orb, Mr. Gratton, and Mr. Prystay can have some of their members attend some of these NDP rallies so they can stop holding them outside of phone booths and have them in real rooms.

Mr. Dennis Bevington (Western Arctic, NDP): I have a point of order.

The Chair: I don't recognize that a member of the committee is making a point of order, Mr. Bevington. You're not a member of this committee. I will grant you time to ask questions—

Mr. Dennis Bevington: Fine.

The Chair: —as a matter of members' privileges, but you're not a member of the committee.

I think that was a comment by Mr. Storseth, more than a question.

We'll now move on.

[Translation]

Madam Quach, you have five minutes.

Ms. Anne Minh-Thu Quach: Thank you very much, Mr. Chair.

Thank you. I am going to put a question to Mr. Gratton first.

Firstly, I must say that I understand that the mining and oil sectors, as well as the construction sector, are happy today, because the recommendations that you made are in the bill. We can't fault you for being happy about that. However, it is unfortunate that the recommendations of the population and environmental experts we consulted are not in the bill. That is why we are pointing to the flaws in the bill.

Mr. Gratton, here is my question: Did you do an analysis of the legal repercussions of the bill, and of the damage this government could sustain because of the legal action that could be triggered by the amendments?

• (2245)

Mr. Pierre Gratton: As I said earlier, it will depend entirely on the quality of the implementation of the legislation. If the evaluation process for a mine, be it in Quebec, Alberta or British Columbia, is well done, if our member companies do their work properly and develop good relations with the communities, including the aboriginal communities, there will be no conflict. This is a law that delineates the conditions governing environmental assessments; that is all.

Ms. Anne Minh-Thu Quach: Fine.

However, I am sure you know that many experts say that the deadlines are much too short to allow for exhaustive assessments in relation to large projects. You mentioned aboriginal consultations; you said that there would be a sufficient number of them. However, section 83 of the act to implement certain provisions of the budget proposes the addition of new clause 55 to the National Energy Board Act. This clause requires that any request for leave to appeal a decision to issue a pipeline certificate be filed in the 15 days following its publication in the *Gazette*. However, there is no provision stating that the parties concerned, which would include aboriginal populations, be advised of this publication in the *Gazette*. And so it would be difficult for the groups who would have 15 days to discover the order published in the *Gazette* by chance, to analyze, interpret it and challenge it.

Do you think that there will be more legal action challenging the projects, since there is a lack of transparency, and a lack of information for the population, including aboriginals?

Mr. Pierre Gratton: Excuse me, but are you talking about changes that affect the National Energy Board?

Ms. Anne Minh-Thu Quach: Yes, but I am also talking about the assessments.

Mr. Pierre Gratton: Honestly, as that part of the bill does not affect our members, we did not analyze it. So I have no comments to make on that. I think that you put the question to Mr. Collyer, from...

Ms. Anne Minh-Thu Quach: No, I did not.

Mr. Pierre Gratton: He would be in a better position to answer you.

Ms. Anne Minh-Thu Quach: But you agree that it is somewhat difficult, when people, including aboriginal people, have a 15-day deadline but are not told, that they...

Mr. Pierre Gratton: I really have no comment to make, because I have not examined this aspect of the bill.

Ms. Anne Minh-Thu Quach: That is fine, thank you.

I also wanted to come back to what Mr. Prystay was saying concerning the assessment procedures.

You were happy that the wait periods for the assessments were shortened, as you found them long. However, the environment and sustainable development commissioner was very clear on this. Why were the wait periods for the environmental assessments long? Because there were some communication gaps between the various departments and the federal agencies.

Do you think that Bill C-38 sets out any solutions to this lack of communication between the departments, which would explain why the timeframes have been shortened?

[English]

Mr. Ward Prystay: The proposed changes to the Canadian Environmental Assessment Act actually don't reduce the timelines. They actually provide timelines for the environmental assessment process, which is a significant benefit.

As an example, for comparison, the provincial environmental assessment process in British Columbia has legislated timelines that have been in effect since 1995. Those timelines include a 30-day review for the draft environmental assessment to make sure it meets the terms of reference for the project, a 180-day review period by the regulatory agencies, first nations, and affected local communities, and a 45-day ministerial approval time, so the province can get through the environmental assessment review process in 255 days. The federal government is giving itself 365 days to do what the province does in 180 days.

I think this demonstrates that the timelines here are generous and that they provide lots of opportunity for interdepartmental-like relationship-building and communication through the environmental assessment process.

• (2250)

The Chair: Thank you.

Madame Quach, unfortunately, your time has expired.

Mr. Kamp, for five minutes.

Mr. Randy Kamp: Thank you, Mr. Chair, and thank you, gentlemen, for appearing before us. We appreciate the clarity you've been able to provide to Mr. Chisholm and some of his colleagues.

Mr. Orb, I saw a statement that I think was from your organization that said Saskatchewan rural municipalities have been paying inflated costs to accommodate the provisions of this act for over 10 years. I'm taking from that that you don't think the status quo was adequate and it needed some changes.

Let me ask you then, given the direction that we've taken with these changes in Bill C-38, do you feel that what we've done here, by focusing attention on fisheries that Canadians value most, and the food fish and habitat that support them, is a better use of taxpayers resources than the current system, which requires DFO to protect all water bodies and species regardless of their value to Canadians?

Perhaps I can ask each of you that question, and I'll start with Mr. Orb.

Mr. Ray Orb: Yes, generally speaking, I think we agree that the current blanket approach does not do us justice, nor does it do the federal government justice. I think we could use that money elsewhere. We need to repair infrastructure all across Canada. I think we could use some of that extra funding to be able to do those kinds of things, certainly.

Mr. Randy Kamp: Mr. Gratton.

Mr. Pierre Gratton: With respect to fisheries, I'll elaborate a little on where our concerns lie.

When you're building a mine on a particular mine site, you're also governed by section 36 of the Fisheries Act, which governs what you're allowed to deposit. Strictly speaking, there's an absolute prohibition on depositing a deleterious substance in any water body. Although these changes for certain sectors of the economy might make it easier—for a lower-level impact it might make it easier to proceed, such as in rural communities. For mines, because we're also governed by section 36, it's not really doing that at all. We'll continue to have the same kinds of limits and controls on our activities that we've always had.

Mr. Randy Kamp: You're aware, though, that there are some changes to section 36 in this legislation as well.

Mr. Prystay.

Mr. Ward Prystay: I haven't had time to go into the details of the legislative changes to the Fisheries Act. However, in my review of it so far, I see one of the key improvements to be the addition of section 6, which outlines the factors to be taken into account when an authorization is to be considered, and that includes contribution of the fish to the ongoing productivity of a commercial, recreational, or aboriginal fishery; fisheries management objectives, which are established by Fisheries and Oceans Canada; opportunities for mitigation measures, which I fully anticipate will follow DFO's current hierarchy of approval, to relocate, redesign, and then mitigate; and then the public interest.

This really establishes a clear understanding of how Fisheries and Oceans will go about looking at each project.

With respect to the fish habitat itself, the definition hasn't really changed between the current version and the proposed version. It has been clarified, and I think the definition of serious harm also clarifies a lot of the areas that have been kind of grey zones within the current Fisheries Act.

Mr. Randy Kamp: Would you say you have some confidence that with the prohibition now being to not do serious harm to these fisheries and the habitat that supports them, fish habitat in Canada is still going to be protected where it needs to be protected?

Mr. Ward Prystay: I think the focus of Fisheries and Oceans going forward is going to be on the really important habitats that

exist within Canada. It's interesting that the terminology refers to the contribution to the commercial, recreational, and aboriginal fisheries. I think most people don't realize that means the minnows and other fish that actually may not form a fishery at any one point, but feed fish that support a fishery will be protected. It does incorporate an ecosystem-based approach here.

• (2255)

Mr. Randy Kamp: Yes, and you're right.

Let me just conclude with one comment. Really, I think what you see in the act is a new strategic direction, and maybe to Mr. Gratton's point, it's kind of a foundation for a new policy framework that still is yet to be built through the regulatory process, which will require consultation. I think we look forward to working with all of your organizations as we work on that to provide the clarity that I think you're still looking for.

The Chair: I think we'll just leave that as a comment. Thank you, Mr. Kamp.

Mr. Bevington, for five minutes, please.

Mr. Dennis Bevington: Thank you, Mr. Chair.

I've found this discussion to be fascinating. I sat for a number of years on an environmental assessment board in the Northwest Territories. I know there are some things that are different between CEAA and the Mackenzie Valley Resource Management Act. One of the key elements, and I think this relates to a very important principle in our country, is the cumulative impact assessment. Within CEAA there were opportunities to look at future developments. If we had a mine in one area, and two or three other mines were being planned in that area, we could look at them and see what the combined impact of those mines would be, for example, on caribou herds. The linear disturbance of those might change the feature.

In the new act, is there any sense that we will be looking at future developments, that we will be considering the cumulative impact of developments? We're living in a world where there are seven billion people. We're living in a world where you're talking about hundreds of billions of dollars of investment in this country.

What is your industry's take on cumulative impact assessment? How does it fit in with what's happened in this bill?

Mr. Pierre Gratton: There is another measure of this proposed legislation, one that we had recommended and that we also see as an improvement towards environmental protection, and that is the regional study provision. We made this recommendation when we appeared before the standing committee in the context of the Ring of Fire.

To your point exactly, you've seen this with the diamond industry in the north, and we can see it in the Ring of Fire potentially going forward. A new mine comes in and we know there's the potential for additional mines in the future, so one looks at the environmental assessment of that proposed project, but then one wonders, what about the others that will come? What will that do to the region as a whole? Asking the proponent to answer those questions is unreasonable, in our view, and I think there's often an agreement on that.

Mr. Dennis Bevington: Is it unreasonable when you're developing a project to look at the induced impacts of that project, to look at all the things that happen around it?

Mr. Pierre Gratton: Companies do that, but with this provision

Mr. Dennis Bevington: Under law.

Mr. Pierre Gratton: Yes, it does happen under law. What this provision does, which I think is even smarter, is it allows governments to go in early, even independent of a project, and scope out the carrying capacity from an environmental and even a social perspective for a region before development takes place. This is something that's been a long time coming. I think it is an important feature of this legislation. We're glad to see it there.

Mr. Dennis Bevington: Under this legislation, do you feel that mining companies will be responsible for taking into account these regional studies when they happen? Is there any timeframe for those to take place so that we can put the context to regional development? Is there any sense that development must follow the creation of a regional context?

Mr. Pierre Gratton: Individual projects will be asked to account for cumulative impacts. What I'm saying is that there's a limitation to what an individual company can do. It's governments, actually, that have the responsibility to plan forward and that have the capacity to think outside the box of an individual project.

This new provision allows governments—provincial and federal governments, working together—to undertake that kind of regional assessment, and I think that's a good thing.

Mr. Dennis Bevington: If the regional assessment hasn't taken place, should the mining developments then take place in the absence of data about how induced development is going to occur? What do you want to put first here, the environment or development?

Mr. Pierre Gratton: Well, I think one can have both.

• (2300)

Mr. Dennis Bevington: If you don't have the studies done, how can you determine the cumulative impact of these developments?

Mr. Pierre Gratton: I think the challenge that governments always face is that in the absence of a project, it's hard to justify taxpayers' dollars going into studying a region. But when you have an Ekati diamond mine, the first, for example, or when you have the new project in the Ring of Fire, you have the impetus, the justification, for governments to step in and do that kind of regional review. We think that's a good thing.

The Chair: We have only a few seconds left, Mr. Bevington. Thank you very much for your line of questioning.

Mr. Anderson, this is the last question for the second round.

This committee hearing started at 9:32, so we have roughly 30 minutes left. We have a little bit of business to do.

I think we will actually have time for a third round. Does everybody want a third round? Do I understand that correctly? At this point, every member will have had an opportunity to ask a question, but if you want, we can proceed for a third round.

Some hon. members: Agreed.

The Chair: All right. Very good.

Mr. Anderson.

Mr. David Anderson: Thank you, Mr. Chair.

I want to thank the witnesses for coming tonight.

Mr. Orb, you may have addressed this a little bit earlier, but on the issue you brought up about routine projects, where you have municipal road construction and things like individuals' private property being impacted by some of these DFO issues, I'm just wondering.... Earlier tonight I think I heard someone say that we basically need to support all habitat, all past habitat, all possible future habitat. Do you think it's reasonable to apply the same rules to, say, that ditch near Cupar as we do to the salmon fisheries?

Mr. Ray Orb: That's a good question. I don't think it is fair to compare. It's something that I think is very diverse. Saskatchewan is unique in that sense, and probably some of the other farmland across Canada is too. It really doesn't have anything to do with fish habitat. If it's a farmer's drainage system or a canal or something like that on his farm, there is no fish habitat; they should be really almost exempt from something like that.

Mr. David Anderson: Some of that habitat is rarely damp, even, never mind water running across it, Ray.

Mr. Ray Orb: Yes. I mean, that's another issue. For some of those waterways, some years there is no water running at all. As you know, it is a dry region for the better part.

Mr. David Anderson: Okay.

Mr. Gratton or Mr. Prystay, I think one of you said that you believed there probably would be an increased number of projects from this. Half an hour ago one of the two of you made that comment.

Are you willing to accept an increase in the number of projects if they're done in a more timely manner? Is that a good trade-off?

Mr. Pierre Gratton: Are we willing to...?

Mr. David Anderson: To see more projects done if they're done in a more timely manner. I think the point was made that there likely will be more projects that will end up....

Maybe you were talking about your major projects for the EAs.

Mr. Pierre Gratton: Oh, yes. Well, it remains to be seen what the regulations say with respect to the list, but we expect that the same projects that are currently assessed will continue to be assessed and that there's the same possibility for brownfield sites. Given the improvements to environmental assessment and the fact that those same brownfield sites will be assessed by the province anyway—they are already assessed by the provinces—then we don't have issues with the fact that they might subsequently be included in federal assessment.

Mr. David Anderson: So set timelines take care of most of that—

Mr. Pierre Gratton: And the fact that they're now synchronized and there's the opportunity for substitution.

Mr. David Anderson: Can I ask you to draw a connection between aboriginal employment and a smoother regulatory system? What are some of the direct impacts it will have in those remote communities in order to have these systems? Christopher Smillie talked a little bit earlier about general employment being affected, but how will it impact aboriginal employment?

Mr. Pierre Gratton: Well, projects that proceed faster are projects that first of all will proceed; some projects die because they don't get to go forward.

When that comes, there's a lot of employment and business development through construction. Then your average mine has operational expenditures of about \$100 million a year. That's an awful lot of business procurement, a lot of which is locally supplied, often by aboriginal businesses.

These are all great opportunities for aboriginal communities.

Mr. David Anderson: Mr. Prystay, you mentioned earlier that you still see the fisheries changes as an ecosystem approach. Is that accurate? I think you said it's still an ecosystem approach. Is that an accurate outlook?

Mr. Ward Prystay: Yes. When I look at the factors to be taken into account in a decision for authorization, it focuses on a lot of the same principles that we see in DFO's current policy. I think a lot of it is going to come down to how DFO defines its policy and how they're going to implement this.

• (2305)

Mr. David Anderson: I think one of our other witnesses said this was not the case. Do you have any idea why this witness would perceive it that way?

Mr. Ward Prystay: Earlier, I talked about the regional differences in the application of the Fisheries Act. I think that may account for it. We see how the habitat provisions are applied in British Columbia, where you can have authorizations required for the removal of riparian vegetation. We don't see that applied consistently across Canada.

Mr. David Anderson: So just bringing consistency to this process

Mr. Ward Prystay: Just bringing consistency will significantly improve the application.

Mr. David Anderson: Mr. Orb, you're a municipal representative. Do you see how this legislation is going to make it easier for you to work with other jurisdictions, with the provinces and the federal government? You mentioned that you share some costs. But do you see any improvements, or is this pretty much a neutral gain?

Mr. Ray Orb: We hoped we would see some improvements, particularly where there is fish habitat. We don't feel it is fair for a municipality to bear the brunt of this. So maybe there should be something looked at in new regulations or legislation that compensates both the municipalities and the landowners. I think that would be very important.

The Chair: Thank you, Mr. Orb.

Thank you, Mr. Anderson.

We now have a little bit of time left in this committee meeting for the last round of questions. We have Ms. Rempel, followed by Ms. Leslie, and then Ms. Duncan.

We have a little bit of business we have to do at the end, so I'll ask you to keep within the tight timelines.

Ms. Rempel.

Ms. Michelle Rempel: I want to pick up on the line of questioning regarding cumulative impact. Earlier today we heard testimony from another witness who spoke about certain issues being process and certain issues being policy. This legislation seeks to ensure that the process for environmental review achieves a balance between environmental rigour and predictable timeliness. This way projects can be planned. There are equivalency and substitution measures in this act.

Mr. Gratton, please talk a little bit about how this might allow provinces more autonomy in aligning their review processes with land use planning, which is typically the jurisdiction for a cumulative impact analysis.

Mr. Pierre Gratton: Yes, that's how I think the regional study provisions under CEA could contribute to provincial land use planning. I think that's exactly what that new provision will help support.

Ms. Michelle Rempel: Would this give provinces like Quebec more autonomy in setting priorities for land use development and then applying that to the review process in a more efficient and streamlined manner?

Mr. Pierre Gratton: Yes, and I think the equivalency provisions or the substitution provisions will depend on where the federal government has determined that the provincial process is deemed to be equivalent and sufficiently robust, as I think it is in Quebec and British Columbia. It is an opportunity for those provinces to be able to make decisions about developments independent of the federal government. I think it's an incentive for provinces whose systems may not be equivalent to improve their legislation. I know that some governments, like Manitoba, are already looking at what they need to do to make sure their systems of environmental assessment are sufficiently robust so that they can carry them out independently of the feds.

Ms. Michelle Rempel: Have you or your member companies encountered successful instances of provincial land use planning that might tie in with these new regulations?

Mr. Pierre Gratton: There is land use planning under way right now in the Ring of Fire, so that would be one obvious opportunity. This legislation has to pass first, but should the province invite the federal government to participate, that would be one such opportunity.

• (2310)

Ms. Michelle Rempel: I think that's an excellent point to note.

Earlier, one of my colleagues opposite brought up a point. I believe the comment was something to the effect of whether shortening the timelines would be harmful.

Mr. Prystay, you mentioned that we actually have timelines. I think this is an important distinction to make. Could you talk about the effect of having timelines and predictability, specifically on your employment outlook forecast? How will the changes in regulations having that predictability affect some of your members?

Mr. Ward Prystay: The employment opportunities that come from projects that are generally subjected to environmental assessments really range by project. They range from tens to thousands of construction jobs and tens to hundreds of permanent full-time jobs. It really brings about more certainty in the timelines for the process, which gives investors greater confidence and greater likelihood to invest in projects in Canada.

Ms. Michelle Rempel: Thanks.

Mr. Orb, I'd like to go into a little bit more detail about some of the roadblocks in routine operations that your members, the rural municipalities you represent, may have encountered under previous, ineffective legislation. Could you perhaps give us a few examples of some of those roadblocks, how they affect your resourcing, and perhaps how the new regulations would affect that?

Mr. Ray Orb: You're talking about the Fisheries Act, I assume?

Ms. Michelle Rempel: Yes.

Mr. Ray Orb: Actually, it does a couple of things. It's the time factor, and I know in our case it was almost an entire month that we had to wait for the permit. In the spring of almost every year there is a disaster somewhere in rural Saskatchewan. Sometimes there are roads that are washed out or there are culverts that are washed out, and if those are deemed to be fish-bearing water streams, then DFO is consulted.

I know a few years ago there was a delay of almost two months before they got back to us. It's a long time, and I think it's really unfair to ask municipalities and ratepayers, who are mostly farmers, to have to put up with those kinds of delays.

Ms. Michelle Rempel: The culverts—

The Chair: Thanks, Ms. Rempel.

Sorry, we have to keep going with our questions here.

Ms. Leslie, for five minutes, please.

Ms. Megan Leslie: Thank you, Mr. Chair.

Mr. Gratton, I appreciate that you said in your testimony that you still have to figure out some of the changes to the Fisheries Act, and, Mr. Prystay, you said in your answers to questions that it's not something you looked at closely.

When it comes to the Fisheries Act changes, there is some strange drafting, in my opinion. I have tried to look at this section closely, and it says that habitat changes are going to happen in two steps. One section, 35(2), comes into force when this act is passed, and it's similar to what's in the law now, but then there will be another one, another section that comes into force later, whenever the government chooses.

I'm having a hard time understanding the way that's drafted. Do any of you have any insight? Mr. Orb, do you have any insight as to why it would be drafted that way?

Mr. Ward Prystay: My understanding and my interpretation of the way it's currently drafted is that the proposed subsection 35(2) that will come into effect with the legislation passing is strictly a clarification of the definition of a harmful alteration, disruption, or destruction of fish habitat. Essentially, they've added a comma to that definition so that it's understood that your disruption of habitat needs to be harmful to fish before an authorization is required.

The second part is the bringing into provision the serious harm aspect of subsection 35(2), which essentially prohibits serious harm to fish, and that is the death of a fish or any permanent alteration or destruction of fish habitat.

Currently, the prohibition is the destruction of fish, so DFO could essentially charge you for destroying a fish that's already dead.

Ms. Megan Leslie: Thanks.

Mr. Ward Prystay: It brings clarification to that, and my understanding is that the delay between the two is to allow DFO to get an appropriate update of its policy for the management of fish habitat.

Ms. Megan Leslie: I appreciate your explanation. It's the first time I have been able to hear an explanation, because normally—this is a fact for Mr. Storseth, my friend, who likes facts—budget bills are 30 pages, and this is about 430. It's these kinds of details that are so hard to figure out.

A news article is coming out tomorrow, where we have a rare show of solidarity across party lines, with four former fisheries ministers coming forward to say this bill is “watering down and emasculating the Fisheries Act”. Tom Siddon, former fisheries minister, says that “in devious little ways if you read all the fine print...they're making Swiss cheese out of [it]”.

That's my big problem with this. It's so big that we don't actually know what's happening.

Former minister John Fraser says that changes of this importance should be fully debated and not all lumped together in an omnibus bill, and that's exactly what we're trying to say here.

In that article, former minister Siddon also says, and this is a quote:

I know from many experiences, whether it's the issues of the gravel pit operators...placer miners...or pulp mills, that what they could get away with, they got away with, prior to 1985-86.

With that quote in mind, one thing I am worried about is that this bill creates an incentive to drain a lake, destroy fish habitat, and leave a hole where there wouldn't be fish. A hole that is a perfect place to put tailings in, rather than apply for a permit to add deleterious substances to lake water where there's fish. I think there is actually an incentive to drain lakes being created here.

Mr. Gratton, can you see this happening in your industry? Can you assuage my fears?

• (2315)

Mr. Pierre Gratton: The way Environment Canada is enforcing section 36 of the Fisheries Act today, no, that could not take place because it is their view that you cannot use section 35 to get around section 36. So in the case of the mining industry, no, there would not be a way around that because there isn't a way. If you had asked me this question 20 years ago, I might have been able to give you a different answer, but today, no.

Ms. Megan Leslie: That's as it stands right now. Are you worried about—can you assuage my fears about the changes coming?

Mr. Pierre Gratton: What we've seen is a steady increase in the application of section 36, at least to our sector. We might suggest that other sectors may not be regulated with quite the same degree of rigour as ours is, but in our case we could not drain it and then fill it in again. It would not be allowed. It would not be permitted through the environmental assessment. It wouldn't happen.

Ms. Megan Leslie: I'm very glad to hear that. I hope you're correct.

The Chair: Thank you, Ms. Leslie.

Ms. Megan Leslie: I assume I'm getting cut off.

Thank you.

The Chair: That's your five minutes. Thank you.

Ms. Duncan, go ahead.

Ms. Kirsty Duncan: Thank you, Mr. Chair.

We've heard that you're pleased with these changes. I'm going to give you what we've heard, from legal experts who work in this field to scientists. They feel that under the guise of streamlining to speed up review for industrial projects, the federal government says let provinces review major projects where possible. This will land projects, some harmful, in a patchwork of provincial environmental laws, many that are weaker than federal laws.

I'll give the example, since you said it happened once. A gold mine was approved and then the federal review rejected it. Let small projects go ahead without a review and you may be reducing regulatory oversight from 40 agencies down to 3. This will remove experts, and of those that remain, many have their budgets cut. People are concerned that there is a loss of responsibility for managing the environment.

To pick up on Ms. Leslie's comments, a few months ago we had 625 scientists sign a letter warning against changes to the Fisheries Act. We've had former Tory ministers speak out and the B.C. Conservative Party leader has also spoken out. A fish must have aboriginal, commercial, or recreational value before it is protected from serious harm. These terms are vague, and they're loaded.

What does “serious harm” mean?

Mr. Ward Prystay: Serious harm is defined in the legislation. It's essentially “the death of fish or any permanent alteration to, or destruction of, fish habitat”. Fish habitat is also defined in the legislation as the “spawning grounds...nursery, rearing, food supply and migration areas, on which fish depend directly or indirectly”. It's very broad, and that's very consistent with the current definition of fish habitat as well.

• (2320)

Ms. Kirsty Duncan: Well, there are those who are very concerned that the language is vague. You may increase the penalties in the bill, but the language remains vague and is full of loopholes. It may be doubtful that anyone would ever be prosecuted. That's a real concern of the legal experts.

Mr. Orb, the new law allows for significant power to be invested in the Minister of Fisheries. It allows the minister to make regulations. In some cases, they do not even have to be published. Do you think that's fair to your members?

Mr. Ray Orb: I actually wasn't aware of that in the proposed legislation. I think it would be an ongoing concern if we weren't aware of what the regulations were going to be, and I think that would be cause for us to have a meeting with the minister to discuss that. I think it goes to municipal governments being responsible. I certainly think our members are responsible and would continue to be so as far as the environment is concerned.

Ms. Kirsty Duncan: Thank you, Mr. Orb.

Mr. Gratton, given the increased scrutiny of environmental impacts, how do you anticipate that the changes to the environmental laws in Bill C-38 will improve your industry's social licence to operate?

Mr. Pierre Gratton: As I believe I've said, I think a clearer process and a more predictable one will provide everyone with greater certainty—including the public—and clear opportunities to participate. A well-run process under the new legislation should very much contribute to our industry's efforts to achieve its social licence.

But you know what? Our social licence is not achieved through legislation. It's achieved far beyond entering into an environmental assessment. It starts way earlier and it continues long after.

Ms. Kirsty Duncan: Thank you.

The new act will apply only to designated projects, but we don't know what those will be yet. Does that concern you?

Mr. Pierre Gratton: Insofar as our industry is concerned, as I said earlier, we fully expect it to apply to all mines, all major mines, including potentially some mines that currently don't fall under it.

Ms. Kirsty Duncan: Could I ask Mr. Orb the same question, please?

Mr. Ray Orb: I think that as citizens we are responsible. I think we're responsible enough to know what the regulations are and to know what the changes are going to be and be able I think to relay our concerns to the government.

Is that along the lines of what you're asking, or is it a specific question?

Ms. Kirsty Duncan: Yes, it's a specific one. The new act will apply only to designated projects, but we don't know what those are yet. We haven't been given that information. Does that concern you?

Mr. Ray Orb: Maybe in the days and weeks ahead we'll be able to get to the bottom of it to be able to fully understand that. I hope we can.

Ms. Kirsty Duncan: Thank you, sir.

The Chair: Thank you, Ms. Duncan.

Our time tonight has expired. I was hoping to have a little bit of time left to ask a few questions myself, but I think that in the interests of the day that's ahead of us tomorrow, I'll thank you for appearing here, Mr. Prystay, Mr. Gratton, and Mr. Orb. Thank you so much.

Committee members, if you will just bear with me for one minute, I think this is a simple matter. In order for us to pay for the expenses of our witnesses who are appearing here, the clerk has prepared a document requesting an amount of up to \$25,500 to conduct the business of this particular subcommittee.

I need somebody to basically move this motion: that the proposed budget in relation to the study of Bill C-38, part 3, responsible resource development, in the amount of \$25,500 be adopted, and that the approved budget be reported to the Standing Committee on Finance for adoption at the earliest opportunity.

Ms. Michelle Rempel: So moved.

The Chair: All in favour?

(Motion agreed to)

The Chair: Thank you.

The meeting is adjourned.

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