



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Natural Resources

RNNR • NUMBER 133 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Tuesday, April 9, 2019

Chair

Mr. James Maloney

Standing Committee on Natural Resources

Tuesday, April 9, 2019

• (1535)

[English]

The Chair (Mr. James Maloney (Etobicoke—Lakeshore, Lib.)): Good afternoon, everybody. Thank you for joining us this afternoon.

We have three witnesses. We're going to go until five o'clock. We'll get through two rounds of questions, I anticipate, then we're going to have some committee business after that.

With us, we have Mr. Grant Sullivan who is the executive director of Gwich'in Council International. Thank you for joining us.

By video conference, we have Ellis Ross, member of the Legislative Assembly of British Columbia. Hopefully you can see and hear us.

We also have Nils Andreassen, the executive director of Alaska Municipal League.

Gentlemen, the process is that each of you will be given up to 10 minutes to deliver some opening remarks. If you go over 10 minutes, I may have to interrupt you and bring things to the next stage. Hopefully, I won't have to do that. Following that we'll have questions from around the table.

Mr. Sullivan, why don't we start with you since you are in the room?

Mr. Grant Sullivan (Executive Director, Gwich'in Council International): Good afternoon, everybody.

My name is Grant Sullivan. I'm the director of energy for the Nihtat Corporation. In the north we wear multiple hats, so I'm also on the Gwich'in Council International, but I'll be representing the Nihtat Corporation today.

I'd like to thank the committee for inviting me here today.

I am from Inuvik, Northwest Territories, a community of 3,200 people on the Mackenzie delta 200 kilometres north of the Arctic Circle, where the sun does not shine for 30 days a year but glows for two months straight in the summer.

My comments today will relate to the Nihtat Gwich'in experience with energy projects in the Inuvik region.

The Nihtat Corporation is wholly owned by the Nihtat Gwich'in Council located in Inuvik, Northwest Territories, with the Gwich'in settlement area. The Nihtat Gwich'in is one of the four designated

Gwich'in organizations established under the Gwich'in Comprehensive Land Claim Agreement, one of the modern land claim agreements that exchange undefined aboriginal rights for defined treaty rights.

The Nihtat Gwich'in are landowners and rights holders, and well as decision-makers for our lands. We believe that sustainable economic development will come through homegrown solutions by people who know our communities and who know how to adapt projects and ideas to our local circumstances so that they are achievable and enduring.

The mandate of the Nihtat Corporation is to enhance the quality of life of Gwich'in participants through the creation of and participation in meaningful economic opportunities in a sustainable and responsible environment.

My remarks today will focus on suggestions for best practices that come from my practical experience as an indigenous business person leading projects in, and on behalf of, my community.

In my view, existing approaches to project development need to be expanded to accommodate evolving views and perspectives regarding consultation, engagement and investment, and to remove existing roadblocks to indigenous participation and investment.

There is growing recognition today that the environment for doing business with indigenous peoples must evolve beyond simple community engagement undertaken during project planning to include consideration of, first, the United Nations Declaration on the Rights of Indigenous Peoples and the principle of free, prior and informed consent; and second, the Truth and Reconciliation calls to action.

Call to action 92 calls for corporate sector commitment "to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects."

I will offer two broad recommendations today on the path forward, based on my experience with energy projects in Inuvik.

My first recommendation is to shift focus from externally driven major projects to empowering indigenous communities to develop energy projects that reflect community values and provide long-term benefits to the community.

At this time there are no large-scale energy projects being planned in Inuvik or in the wider Gwich'in settlement area. However, the community has significant past experience related to the failed development of the Mackenzie Valley pipeline project. This experience and the experience with the Inuvik high point wind project underline the need for a new approach to development going forward that is community driven as opposed to being externally driven.

After discussing each of these briefly, I would like to tell you about a new approach taken by the Nihtat toward planning and development of renewable generation in our community.

The experience with the Mackenzie Valley pipeline highlights shortcomings inherent in relying on large international companies to drive development in our communities.

The pipeline was originally proposed in the early 1970s, six years before I was born, but has yet to be built today.

The participants in the pipeline were some of the largest oil and gas companies in the world, such as ConocoPhillips, Shell, Imperial Oil and ExxonMobil. When the project was rebooted in the 1990s, it also included a provision for 33% ownership by the Gwich'in, Sahtu and Inuvialuit people.

The decision to permit the pipeline in the 1970s was delayed by the Berger inquiry. Later efforts to resurrect the pipeline also failed.

In December 2017, it was announced that the conglomerate developing the pipeline would dissolve and the pipeline, with an estimated cost of \$16 billion, would not be built. After this announcement, the local community was left to figure out how to pick up the pieces and carry on.

This experience taught me that in order to succeed, energy projects need to start with and be driven by the community. This helps ensure that projects are planned in a manner that aligns with the community's interests and needs.

The Inuvik high point wind project is currently being planned and developed by the Government of the Northwest Territories and the Northwest Territories Power Corporation within the Gwich'in settlement area. Here we have a small, local renewable project planned to displace fossil fuel generated on an isolated remote grid.

● (1540)

Two stages of the feasibility assessment were taken between 2016 and 2018 as part of the planning for this project. For each feasibility assessment, a competitive tender was issued, and in each case the Nihtat, partnering with other consulting firms, bid on the work and won. This allowed the Nihtat to have active involvement in the project planning and development, and in my view, the Government of Northwest Territories and the Northwest Territories Power Corporation benefited from our local knowledge and insight into the project.

Being involved in the project planning in this manner was critical to our understanding of the project and planning for the local electrical grid. While a two- to four-megawatt wind project is small by most standards, it would be a big deal for this community and our local grid. However, while the Nihtat were keenly interested in

advancing the project, there was no long-term Government of Northwest Territories or NTPC strategy to ensure an ongoing role for the Nihtat or for the community, beyond project development and construction.

As announced on November 13, 2018, the \$40 million of funding needed to proceed with this wind project has been committed by Canada and the Northwest Territories government. The project is currently poised to proceed.

An investment opportunity was proposed by the Government of Northwest Territories for the local Gwich'in; however, the terms offered by the GNWT provided negligible, if any, benefits for the community and were not reasonable, attractive or acceptable to us. Failure to resolve this one key requirement is the only obstacle today preventing this very worthwhile local project from proceeding.

The Nihtat Corporation is advancing a number of small renewable energy projects at this time that are driven by local interest and needs, and will build local capacity and develop long-term revenue streams for the community from renewables. I would like to take a few minutes to highlight some of these developments.

With funding support from the northern REACHE program, initial studies were taken to understand the cost of fossil fuel generation in Inuvik and the other Beaufort delta communities. With further funding, support was translated into a broader study related to understanding potential fossil fuel uses, costs and greenhouse gas emissions by sector for the Beaufort delta communities, as well as an assessment of options to reduce fossil fuels uses.

The Nihtat began to look seriously at options for solar development in Inuvik. With funding through CERRC and CanNor, the Nihtat is pursuing a number of smaller renewable projects focused on reducing fossil fuels in Inuvik. These are locally driven and owned, and will provide long-term business opportunities and revenue stream for the Nihtat.

Developments currently in the planning stage and planned to be completed this summer, 2019, include ground-mounted solar installations for two commercial properties and the installation of solar panels on the rooftops of 32 residential homes. These are exciting opportunities for the Nihtat and for the community.

My second recommendation is that long-lived capital investments should provide the opportunity for project benefits and community involvement that extend beyond project planning and construction. This may include equity ownership, partnership and having indigenous proponents.

Impact and benefit agreements and favourable procurement practices have a role in creating indigenous business opportunities; however, these are short-term measures that tend to focus on planning and construction. These measures often do not provide the long-term opportunities or involvement that the communities are seeking.

In our Inuvik region, for example, the structure of how federal investments are flowed through the territorial government has become a major impediment to indigenous development. This has been experienced by the Nihtat Corporation. In our experience, restrictive conditions are added at the territorial level that result in the indigenous organization having less leeway to negotiate favourable contracts.

We see policy objectives for renewables to displace existing fossil fuel heating in our regional GNWT buildings, but to date there has been no effective Government of Northwest Territories policy established to work together successfully with indigenous investment on these projects.

The Government of Northwest Territories' energy strategy lays out two paths for community participation in renewable electrical generation.

• (1545)

The first one is that the community invests in its own electrical project with payments from the electrical utility based on the value of diesel fuel displaced by the renewable. The second is that the community or indigenous government provide debt financing for the government or the Northwest Territories Power Corporation with payments at a low-risk return, consistent with the investment terms of the GNWT. However, we see renewable electricity caps and other GNWT and Northwest Territories Power Corporation conditions that effectively limit the future development of renewables in Inuvik. Despite an increasingly favourable investment climate, indigenous-owned corporations do not have access to financing at the same rate that the Government of the Northwest Territories does.

The Chair: I'm going to have to ask you to wrap up very quickly, Mr. Sullivan.

Mr. Grant Sullivan: Okay.

Here are a few short, concluding summary suggestions.

The federal departments must strongly be encouraged to review bilateral agreements with territorial partners to ensure that local first nations, Métis and Inuit have an equal opportunity to partner in a sustainable future. Small, remote northern communities like Inuvik have unique energy needs that provide a strong foundation for pursuing smaller and more sustainable community-based renewable energy developments. To succeed, the expertise of locals needs to be recognized and leveraged. Finally, small energy projects in our communities do make a big difference, and they do matter.

Thank you.

The Chair: Thank you very much.

Mr. Ross, please go ahead.

Mr. Ellis Ross (Member of the Legislative Assembly of British Columbia, Skeena): Thank you.

We were talking about best practices for indigenous engagement. I just want to tell you that the best practices are here in B.C. That's the way the LNG project got approved for LNG Canada. It was a \$40-billion project and it was 15 years in the making. I know they've been in B.C. for six years, but really it's 15 years since LNG first came to our table.

It's been a painful exercise, because in 2004 when the Haida court case came out—the duty to consult and accommodate—nobody really understood what that was, including first nations. Everybody is trying to figure this out.

In the three years after the court case came out, industry and governments were still following the same old playbook. It was basically just come and sit and talk to the first nations, but there was no real sincerity about doing anything. There were a lot of hard meetings there that were taken. I'll just give you an example of some of the things that were said at our table from industry after the court case came out. This is what industry said to us at our table. “We are here to listen, but we're not obligated to do anything. You know the federal government fully supports our project.” My favourite one was always, “Our interests are more important than yours.”

Look at the context of what was going on in my territory, Kitimat. At one time it had the highest per capita wage earners in Canada, but if you went seven miles down the road to my community, we had nothing. We were broke. We were in deficit. Canada was always coming in and threatening us with remedial management and third party management, but we turned that around. Once we turned it around to become a healthy organization, we turned our efforts towards economic development, specifically engagement with major project development.

I started as a council member in 2003. I worked there for eight years before I became a chief. Then I resigned as chief to run as an MLA, to see if I could get LNG across the finish line. However, in those days, in 2003, I believed the rhetoric that industry was bad, the government was bad, the white man was bad, and we needed to kick them all out. It wasn't until my fellow councillors told me that I should review some more of the issues, especially on poverty and unemployment, that I realized I was living the wrong story.

I turned my attention to how I could fix the poverty and unemployment. The programs we developed were mainly around reducing the welfare list, which didn't make any sense, as I concluded a year later. They also revolved around education, which also didn't make any sense after a year, because in both cases there was no opportunity for a job.

If anything, when I realized I had to change my approach, there were two things I wanted to do: empower individual first nations members in my community, and get my council off the dependency of federal program dollars.

When we're talking about the LNG story in B.C., we're talking mainly about the approach the B.C. government took. They came to it kicking and screaming, just like everybody else. In most cases, I saw a distinct difference between the way the province was consulting versus the feds. I understood it. Ottawa is too far removed.

However, B.C. was consulting on the ground on a daily, weekly, monthly basis. They're still consulting today on the permits that have to be implemented under the environmental assessments. At the same time, I had to change the mentality and the approach of my people towards our structure, towards economic development and towards engagement with government.

In 2010, I hired my first lobbyist for the council. The directive to him was that he should teach us about government—teach us about what government is trying to achieve. When my council realized that we were trying to actually achieve the same things, it paved the way for LNG, especially in 2012, when Christy Clark came to help us get LNG across the finish line.

Back then, as chief councillor, my request to my members was to find a way to raise the welfare rates. I even got a request from a band member to co-sign for a truck, even though he didn't have a job. Today, because of the LNG agreements, the conversation is completely different, absolutely turned around on its head.

Now we have the younger generation—I'm talking 30 or 40 years old and younger—not wanting any council help. They're not wanting handouts. They're getting mortgages in their own right, buying their own vehicles and going on holidays. Going on a holiday might seem like a trite type of perk when you're talking about first nations, but we're talking about people who could never even fly to Vancouver, let alone the Philippines, Las Vegas or beyond.

•(1550)

I know you guys are short on time here, but some of the things I see that held us up and are continuing to hold up first nations in B.C. are in three categories: politics, misguided policies and manipulation.

In terms of politics, there is still this narrative here that somehow we have to keep first nations with programs and program dollars. There's this idea that somehow we have to get them back on the land, when on the other hand first nations are already combining those two interests on their own. They don't need that from any level of government.

If anything, if we're talking about what is good practice in terms of getting a project across the finish line, we're talking about implementing case law. We're talking about implementing the Haida decision, and we're talking about section 35 of the Constitution, because those principles are actually fairly sound. There's not some distinct road map that comes underneath it, but those principles are good principles for everybody to follow. That's what made LNG successful in B.C. Now we're starting to go the other way.

The other way I'm talking about is the United Nations Declaration on the Rights of Indigenous People. I don't oppose this. What I don't understand is what the principles behind it are. How do you define it? How do you legislate it, given the principles of case law and how all three parties in terms of LNG are all starting to understand the rules of the game, and we're all trying to go after a common goal?

I'm seeing this in the legislature in B.C. One of the biggest issues in B.C. was consent versus veto. I could see the politics around it. In fact, the B.C. government in its environmental assessment categorized consent such that it will allow the first nation in

question to have consent, but only in specific areas, and only if the government allows them to have it.

I don't think that's what the first nations were thinking about, and this is the problem with UNDRIP. In my opinion, UNDRIP came 37 years too late for B.C. We could have used that before section 35 of the Constitution came in 1982, but right now Canada and B.C. have defined rights and title in consultation to such a high degree. Why do we want to undo all this with vague, unclear principles that aren't based in case law?

This is very confusing for the layman, but it's very clear for the leaders at the B.C. level, leaders at the federal level and progressive first nations leaders who can see a road map to prosperity and away from the poverty and unemployment.

The manipulation I'm talking about is mainly coming from what is a big topic nowadays, and that's foreign influence. I came across this last year when I reviewed Vivian Krause's work there. By the way, I thought she was a conspiracy theorist as well, but when I looked at her facts, I started to see what she was researching in terms of the money coming across the border, the organizations actually using it and the charitable foundations that were abusing the legislation of Canada. I could see that this is a bigger problem than what was happening in my community.

Unfortunately, the aboriginal leaders in question don't see this. They are either ignorant about the whole issue, or they are apathetic. That's why this is basically being allowed to continue in first nations communities.

But 22 elected first nations leaders from Prince George to Kitimat and down the channel actually all approved LNG with no foreign influence, no third party influence, no NGOs, nothing. Now the question is who has authority in B.C. Is it elected leaders, or is it hereditary leaders?

When people talk about this foreign influence and these NGOs that are using this money coming across the border, they think it's just one direct campaign when in actuality it's not. This money and the organizations that do this spread their influence in a number of different ways, and they don't just go out directly to oppose projects. They actually spread their funding around and spread their people and resources around to different organizations and different people.

•(1555)

You'll find them in different ways. To the first nations' credit, a lot of the first nations on the LNG project started to keep them out. They said, "No, that's not our mandate. We're not trying to shut down projects. We're trying to raise the level of environmental standards here and we're trying to incorporate cultural standards", which actually happened in the LNG project in B.C.

In terms of best practices, the last thing I'll leave you with is that LNG in B.C. is a good story. The road map in terms of how it was done is a road map for best practices, but there are two big problems I see structurally with first nations in B.C. if we want to continue this. The first nations are sorely lacking in corporate memory, and they're sorely lacking in continuity. Whatever was done two or three years ago, or whatever that direction is, that can be undone in a few short years, because the institution is just not designed for long-term viability.

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

Mr. Andreassen.

Mr. Nils Andreassen (Executive Director, Alaska Municipal League): Thank you.

For the record, my name is Nils Andreassen. I'm the executive director of the Alaska Municipal League. It's in that capacity, and as the former director of the Institute of the North, that I am speaking to you today. I want to be clear that I am not speaking for, or on behalf of, indigenous peoples. Really, I want to reflect on roughly a decade's worth of work with the Arctic Council and with northern peoples. My comments will be in that regard.

I was able to facilitate a workshop in partnership with the Arctic Council just a few years back that was related to this topic of good practices and meaningful engagement. I'll read through some of the summary notes from that and then be ready to answer questions more specifically on some Alaska examples.

"Good" practice is challenging to define. For a government agency, good might mean consistent with current law and customary practice, and the ability to be impartial but responsive. For a project proponent, efficient but effective may be considered good, as they are concerned with timeliness as well as the outcomes of a decision. Generally speaking, decisions will reflect good practice when they work the best for most, and include or respond to all points of view. A good practice will allow an agency or government to quantitatively understand and assess impacts.

At the community level and for indigenous peoples, good practice will feel right if the ultimate decision is values-driven and reflects local feedback. Good practices should include effective coordination between agencies, between project proponents and the community, and between rights holders within the region. Good practices should include engagement that occurs early and often, and ultimately long before decision-making. That engagement doesn't stop with a decision, but the decision should be reported back to a community, with an explanation of how local and indigenous input was included. Good practices should include inclusiveness that spans different types of user groups and also types of knowledge or cultural context. They should also include the co-production of knowledge, which will result in the research used within that process, and have local and indigenous knowledge holders involved in each component of that process.

Meaningful engagement will reflect these practices. Meaningful engagement should feel like an equitable partnership between indigenous peoples, local rights holders and government agencies. This should be developed well before a project, but be demonstrated within a decision-making process with robust communication,

inclusion and respect. One of the challenges, however, of meaningful engagement is to determine the extent to which local and indigenous input impacts a project decision. How is that input weighted? Ultimately, who gets to decide whether a project should move forward or not?

The meaningful engagement of indigenous peoples goes well beyond consultation and includes both formal and informal versions. It enhances a project through the application of traditional knowledge and the inclusion of traditional knowledge holders. The idea of building relationships with communities goes well beyond consultation or most review processes. It extends into every facet of government, industry and research activities. The goals from this relationship-building are to understand indigenous cultures and knowledge, and to ultimately result in trust and respect for the region and peoples.

The history of projects and research in the region finds that time and time again, mistakes were made when local peoples were not included, and value derived when they were. Projects, whether driven by research or industry, are more successful when local and indigenous knowledge is embedded in the design, implementation and decision-making. The meaningful engagement of indigenous peoples results not just in better results or understanding but also in increased safety related to activities in the region.

As sovereigns, indigenous governments demand a more robust level of engagement and corresponding expectations. Expectations can range from being informed early in a project scoping, or even before scoping occurs, to follow-up throughout the life of a project. Multiple meetings with government agencies require multiple follow-up engagements that answer questions or provide additional information. Government decision-making should reflect a balanced approach to the need for economic development—including jobs to local residents, revenue to local governments and mitigation measures—and environmental protection and food security.

• (1600)

The disconnect between resources extracted from a remote region and the revenue that is reinvested creates a real sense of anger within a community that is struggling to see better education, public safety, lower energy costs, etc. Indigenous people should see their values reflected within a decision. This is how communities will know that they have been listened to and engaged with meaningfully. Values-driven decision-making will be a significant result of meaningful engagement, and ultimately it will be indigenous peoples who will determine whether an engagement has been meaningful or a practice best.

The diversity within a region requires a strong understanding of the relationships between and roles and authorities of individual rights holders. These different rights holders have different capacities to engage in an engagement process, and successful engagement often depends on collaboration. Those partners with greater capacity often act as conduits to or as go-betweens for other partners. The value of having capacity at the regional level is that coordination is more likely to result in informed rights holders.

Beyond the formal role of some rights holders, innovative approaches have been taken to ensure regional co-operation and communication. Regional organizations can be established to act as intermediaries between the communities and government agencies or project proponents. The goals here are not to replace or displace local rights holders, but to ensure effective engagement and to advocate in the interests of indigenous peoples in the region.

The role of intermediaries isn't to speak for indigenous peoples or communities, but to help facilitate meaningful engagement where none had existed. Additionally, intermediaries can serve to educate agencies and project proponents about the region. Regional government, for instance, already has resources that can be useful to a decision-making process, including community plans and regional plans.

Agencies often ask researchers before asking local peoples. Western science is approached and included first, as the baseline, after which indigenous peoples and knowledge are brought in. A better practice would be to organize these jointly. Consultation should inform a process from the beginning, with engagement throughout such that it isn't used just to comment upon already established research, project design and decisions.

Communities are experiencing fatigue from continuous engagement with little benefit. In general, consultation isn't reimbursed, promises to follow up aren't kept and decisions don't reflect what local peoples have said. There is little incentive to participate, beyond the dramatic potential negative impact that non-participation would result in.

Adaptive management requires adaptive institutions instead of requiring indigenous peoples to adapt. That management can and should include indigenous peoples and the increase we're seeing in co-management opportunities reflect some movement toward this goal. In many ways, the rights of indigenous peoples are embedded in their role in co-management such that they ensure and have control over their future.

Often the meaningful engagement of indigenous peoples is difficult for an agency if it means loss of control or decision-making authority, but collaboration is a key to overall success and agencies must be responsive.

In conclusion, where projects are successful, they have returned benefit to communities and engaged meaningfully. This is the result of partnerships that have been developed over time.

• (1605)

The Chair: Thank you very much.

Mr. Whalen, you're going to start us off.

Mr. Nick Whalen (St. John's East, Lib.): Thank you very much, Mr. Chair.

Mr. Ross, I'd like to begin with you and ask a couple of questions about LNG Canada's project. Maybe you can help us, first, at a very high level, to refresh our memories on the scope and magnitude of the project. You can also maybe quantify the financial value that the various indigenous groups, the province and Canada expect to obtain. Then I'll move on to some other questions.

Mr. Ellis Ross: I can't quantify the value to first nations because those are confidential to every first nation, but in talking with some of my fellow chief councillors over the days, some of the comments I heard were basically that these are our first steps out of dependence on the Indian Act. One of the first nation councillors to the north of me said that over the 20-year period, they expected anywhere from \$50 to \$60 million to be raised. This did not include the money they had already accepted in terms of engagement, capacity and those kinds of things.

It's interesting to point out, though, that LNG Canada took a different approach from their predecessor, Chevron, on the KM LNG project, which isn't quite up and running. In that case, the first nations formed a unit and went after the business opportunities as a group.

LNG Canada actually went individually to every first nation and signed individual IBAs. Either formula could have worked, in my opinion, but I think first nations are really going to gravitate towards the individual, one-on-one basis that LNG Canada brought in.

The amount of revenue, employment and training that's going to come to first nations along the pipeline route—and beyond, by the way—is quite substantial.

Mr. Nick Whalen: What is your understanding of an appropriate process to accommodate or arrive at some type of consensus if one of your members decided they want to pull out?

Mr. Ellis Ross: What do you mean, one of my members?

Mr. Nick Whalen: Now we're closed, but if, in the course of a negotiation, 25 indigenous groups within the community that you represent as a member of the legislature are in favour, one of the indigenous groups may decide along the way that they're not interested. What's an appropriate mechanism to try to achieve some type of consensus amongst the groups?

Mr. Ellis Ross: We don't have that problem. What we do have is a problem with the first nations communities, in terms of elected leadership. They all signed agreements that were basically, at a lower level, being consulted with their people. With their own mechanisms, they actually got agreement on how they could sign on to these projects. The problem with B.C. is there is some question on who represents rights and titles for these communities. It's never been answered in B.C. I know it's been answered in specific court cases back east, but it never had to do with major projects. It had to do with who represents a community in certain situations.

I don't know what a judge would say in that instance. In this case here, I was a part of both groups: the Chevron group as well as the LNG Canada group. I was brought in to see if I could actually talk to the first nations in question to describe the benefit and the process, and to see if we could actually get the other communities on board, in combination with what LNG Canada and the provincial government were doing with the community.

I don't think many people realize that the benefits that come to these first nations communities from the corporations are quite substantial. At the same time, the B.C. government was signing agreements parallel to that to address some of the issues that the company couldn't, like environmental stewardship. The first nations got agreements with both the B.C. government and the corporation.

•(1610)

Mr. Nick Whalen: Maybe I'll turn to you, Mr. Sullivan, because it sounds like Mr. Ross has been through a successful process where they were able to dot all the i's and cross all the t's, but it took a long time. You're talking about an energy project up north where you guys were very close to the finish line, but then couldn't get there in terms of the ongoing benefits associated with the electricity.

Do you think there are any commonalities in approach that might help a project like yours have the same success that LNG Canada had?

Mr. Grant Sullivan: I think the big difference in that project was the first nations came with money behind them. Right now, our wind turbine project in Inuvik is completely funded by the GNWT and by the federal government. There is no room for us in the way that the system was set up. We're literally coming to the table with nothing and there is a project being developed in our backyard, and we're not even allowed in to have those discussions. The Government of the Northwest Territories has actually pulled away from negotiations with the Gwich'in to discuss the development of that project.

Mr. Nick Whalen: Who is likely to be the primary market for the power?

Mr. Grant Sullivan: The utility would be the primary market.

The end-users will be the Gwich'in population. We'll be the end-users of that energy being created.

Mr. Nick Whalen: It's not for the whole Northwest Territories; it's for the local community.

Mr. Grant Sullivan: Yes, Inuvik is a microgrid situation, so the primary population of Inuvik are Gwich'in and Inuvialuit people.

Mr. Nick Whalen: It seems there that the problem is capital.

It's something we've heard about from a lot of different witnesses during this process. Do either of you have any suggestions of creative ways we can ensure that indigenous groups can participate with equity stakes or capital interests in the projects that occur in their backyard, especially when they're going to be the consumer market for the end goods?

Mr. Grant Sullivan: The bilateral agreements between the federal government and the Government of the Northwest Territories are where we need to start, because those agreements don't really address indigenous engagement and involvement in the projects. That comes after those agreements are signed, and the money has now been announced. That's something very specific that I think could happen that would change the situation for a lot of the communities and these projects being developed.

Mr. Nick Whalen: It's interesting. I know that in the case of municipal infrastructure, there's municipal, provincial and federal participation. It seems that for indigenous infrastructure, it would make sense for there to be territorial, indigenous and federal.

Mr. Ross, do you agree with that? Do you see some other way to ensure that the groups can have meaningful, long-term equity interests in projects that benefit them or impact them?

Mr. Ellis Ross: You know, it's an issue that I've faced for over 15 years, and I've had the option to do it at many different levels. Capital isn't the problem. There's tons of money out there.

In fact, at one point, I had a financial institution in New York that had \$2 billion to engage with major projects in Canada, but they couldn't do it. They couldn't invest, because most major projects come with financing in hand. They have preferred partners. This company in New York thought they would have a back door if they could finance first nations' equity stakes. I even had the Chinese Investment Corporation come to my table and ask whether they could finance our pursuing equity.

Back in those days, though, we never obtained any equity. We never owned a business. We were just starting to learn about rights and title. We were starting to learn the whole world of provincial politics, federal politics. I was one of the ones at my table who said I would prefer not to have equity, because we didn't have the corporate memory, the continuity, and we didn't know enough about the risk associated with having equity. We had to learn how to walk before we learned how to run.

My band now is getting into ownership of businesses using their own financing and their own connection with financing institutions, but it's very small scale. It's basically going with the idea of being vendors to service, what's happening in Kitimat right now.

In my experience, capital is not a problem.

Mr. Nick Whalen: Thank you very much.

The Chair: Ms. Stubbs.

Mrs. Shannon Stubbs (Lakeland, CPC): Thanks to all our witnesses for being here.

This last part of the conversation I think is also attached to similar concerns. We've all heard repeatedly about sufficient capacity and resourcing, even for participation in the regulatory review process. Certainly, indigenous communities engaging with companies and resource proponents for development is clearly a long-standing challenge, which obviously governments of all stripes will have to contend with. They are a key part in continuing to improve indigenous consultation on major resources projects, about which I know we are all concerned.

Mr. Ross, I have a couple of questions related to some of the comments you made in your presentation. You talked about the importance of empowering individual first nations through ensuring they have information to make informed decisions about resource proposals, and the priority to reduce poverty and increase jobs for indigenous communities.

You touched on something that I think Canadians are hearing more and more about, related to this potential disagreement between elected leaders of indigenous communities and other forms of leadership, such as hereditary leaders.

Mayor John Helin of the Lax Kw'alaams Band was here at committee on February 5. He talked about the other point you made, how the foreign-funded, anti-energy activists were undermining the economic ambitions of first nations who want to develop their own resources. In his case, they came into the community and sowed division among community members and band leadership. They were claiming and posing publicly as hereditary leaders, in opposition to proposed LNG developments that the elected leadership supported.

The chiefs' council of the Lax Kw'alaams put out a letter that said, they "[do] not sanction inviting professional protesters from non-governmental organizations, and non Lax Kw'alaams First Nations members into their traditional lands in breach of ancient tribal protocols. [...] The unauthorized action by this renegade group has created needless confusion, damages tribal unity, and is insulting to tribal members."

In the context of best practices for indigenous engagement, I think there are many Canadians, and maybe even elected people, who question whether or not this is happening and is actually a thing. However, we've heard about it repeatedly from indigenous leaders.

Do you have any suggestions on how a government could effectively go about sorting out the various leadership structures and figure out who's actually speaking on the will of the communities?

Also, do you have any views on how it impacts first nations communities when governments impose policies and laws that were explicitly requested by foreign-funded activists, for example, the oil shipping tanker ban, Bill C-48, against the preferences of the locally impacted communities?

• (1615)

Mr. Ellis Ross: Okay, that's two questions.

I don't think government can do anything in terms of elected versus hereditary. Every community is going to have to figure that out for itself, because every community has evolved to a certain extent in terms of their leadership. Some have gone entirely towards elected leadership. Some have stayed with their hereditary. Some have actually created some sort of parallel co-operative process for that.

Even aboriginal people don't understand the difference between elected leadership versus hereditary. I've been to communities where members were questioning me on what I was doing. They didn't even understand the fundamentals of the Indian Act. They didn't understand that band councils just did not have authority to spend money that came from Ottawa. This speaks to the ignorance and apathy that band members have.

In amongst this confusion there's always an opposition group that will not support council no matter what. It doesn't matter what you do. You could have signed the best agreement in the world, they are still going to oppose it. I will give you an example. In the last LNG vote I had in my community, after very many votes our last LNG agreement came in at 92%, the highest rate we ever had...

By the way, if you want to see how out of control this can get, I suggest you find a court case that came out six or seven years ago called *Wilson v. Switlo*. That was my band. It tore our community apart. When you read the evidence in that you will not believe some of the things that happened and some of the things that were stated in my community. One of them was a letter saying that this person from the United States was actually mandated to bring 200 Gurkha soldiers into my little village to keep the peace. This is what we were trying to deal with. We can see this spreading across B.C. if not Canada because these foreign influence people come, they find the division point and they build on that. They have no interest in the community or the members themselves. I don't think government really has a part to play in it.

By the way, before I get to your second part, in terms of capital, I think there's a way for the federal and provincial governments to get involved with capital, not directly with money but actually think about an accommodation of the rights and title and say we can accommodate your capital needs through a loan guarantee as long as we know that the risk is so low that neither party is going to lose out. The business plan is there. In my accommodation to the first nations people as a fiduciary as well as the Crown, I'll give up a loan guarantee. That can solve a lot of problems with investors who are worried about investing with first nations.

I forget the second part of your question.

• (1620)

Mrs. Shannon Stubbs: It was on the impact on first nations' ability to pursue their own economic development opportunities when a government imposes legislation requested specifically by foreign-funded activists, like the oil shipping tanker ban in Bill C-48.

Mr. Ellis Ross: When I talk about what happened in Kitimat here, we're really talking about what happened in the last 12 years. That's a really short, condensed time frame to change the mentality and approach of first nations towards major project development. We've evolved. We've evolved so quickly. The new leaders coming up are more educated. They can read. They can write. They've been to business school. They're seeing the world in a different light.

Now that we've caught up with the rest of B.C. and Canada, B.C. and Canada seem to be going the opposite way. Members of first nations are now saying, "I'm getting very good benefits from this project. I'm getting a job. I'm getting revenues. I'm getting training. Now, what can I do next?"

A lot of first nations in northwest B.C. see the export of energy as the next big step. In fact, there's a group down in the Lower Mainland that's actually negotiating equity in the Kinder Morgan project. The Nisga'a Treaty, the northwest treaty in my region...they don't want to see that tanker ban. Lax Kw'alaams were out long ago thinking they didn't want to see the tanker ban. They see that as the next step.

The evolution has happened so quickly. I think these first nations leaders are expecting more from their governments in terms of what kind of policy and legislation is coming down that affects their economic development dreams.

The Chair: I'm going to have to stop you there.

Mr. Cannings.

Mr. Richard Cannings (South Okanagan—West Kootenay, NDP): Thank you all for being here today.

I'm going to start with Mr. Sullivan and the Gwich'in.

You touched on the Mackenzie Valley pipeline history and you mentioned that it was a failed project, or at least it never came to pass.

I wonder if you could comment on the evolution of best practices with regard to indigenous engagement in these projects. The Mackenzie Valley pipeline process was—and I think still is—seen as revolutionary in its time for the amount of engagement: going to every community, having hearings in the indigenous languages in each community. The outcome was not that it shouldn't proceed, but it was a 10-year moratorium to let the land claims agreements proceed.

Could you elaborate on something that you went through very quickly? In the nineties there was a new process. We started with an old process—big foreign international companies—and then in the nineties there was something else.

I'll give you some time to talk about where you see that things should go in the future.

Mr. Grant Sullivan: While the Mackenzie gas project did fail in the end—it didn't come to fruition—a lot of different factors played a role.

That being said, the Gwich'in gained a lot of capacity. When you look at the Inuvik wind project, for example, the Government of Northwest Territories put out two tenders to develop the feasibility work. The Neets'aiti were in a position to bid on that work because of our past experience with that process. Part of that bidding process, the feasibility study, also included community engagement. We are now leading the way in that for the government, as opposed to it coming in from us. We learned some very valuable lessons there in how things should be done and could be done.

What we've learned through that process, though, is a saying: "If you've been to one indigenous community, you've been to one indigenous community, and that's it." What it really comes down to is spending time, money and effort in those communities, to listen to the people, hear what they're saying and learn how to respond to them—fundamentally, what they want to see out of it.

• (1625)

Mr. Richard Cannings: To pick up from that in terms of each community being different and unique—something that I think Mr. Whelan touched on as well—you have differences of opinion between communities on one project. This can happen, as we've seen, when you have linear projects like oil pipelines. Communities that are perhaps closer to the jobs in the oil patch would see the benefits, and communities on the coast would see the disadvantages.

It's perhaps the opposite for gas, where you have lots of job opportunities on the coast and a lot of the ecological problems happening more in the interior.

I'm thinking of the Gwich'in and Old Crow. I've spent a bit of time in Old Crow, and I know the history and the importance to them of the caribou migration. Here you have the caribou that move from one part of the world to another, and you have the Gwich'in people in the Yukon, as I understand it, opposing the opening of the Arctic National Wildlife Refuge to oil and gas exploration. The indigenous people in Alaska have come out in favour of it. They see the benefits to them, I assume.

Can you comment on how to come to a decision when you have these opposing views of a single project?

Mr. Grant Sullivan: Using the Mackenzie Valley gas project as the example, to the north of the Gwich'in are the Inuvialuit. They would have received the majority of the jobs.

To address that, we went back and looked at the equity position. In my comments, there was the allotment of the 33%. While the majority of the jobs would be happening north of us, there would still be long-term benefits derived from the pipeline itself. That's fundamentally what we want to get to. It's not just about the immediate jobs procurement that happen in the rush; it's about the long-term development of these projects.

That's what we really want to see; that's what our communities want to see. I'm sure when you were in Inuvik it was probably booming, but currently.... It goes up and down. What we want to see is that nice, consistent, long-term revenue stream coming into us, so that those jobs are there and we can develop the capacity we need to develop.

That's the approach that we want to get to.

Mr. Richard Cannings: What is the situation with the caribou in Old Crow?

Mr. Grant Sullivan: For the situation with the caribou, it's not all indigenous. The Gwich'in nation as a whole have opposed the development of the drilling in ANWR, but there are different indigenous groups within Alaska that have that view as well. That being said, too, for the Mackenzie gas project, we would be one of the proponents in that project, and we can then help shape how that project is being developed and those critical areas that need to be protected.

Mr. Richard Cannings: Right.

You mentioned the wind projects and solar. We've talked a lot in this committee about getting northern and remote communities off diesel. How far along that path would those projects bring Inuvik?

Mr. Grant Sullivan: Right now we're looking at doing the two commercial properties.

Inuvik is a small microgrid. It's only about 3.4 megawatts. It's not a huge community; there are only 3,200 people. That being said, how much greenhouse gas we emit per capita far exceeds the rest of Canada because all our electric generation is based on fossil fuels. The wind project, for example, was looking at reducing the total diesel consumption by 80% in the community. That's significantly huge. With the solar projects, we're looking at saving roughly 25% of the commercial buildings' annual consumption. They are significant numbers for a community that pays 76¢ per kilowatt.

Mr. Richard Cannings: Thank you.

The Chair: Mr. Hehr.

Hon. Kent Hehr (Calgary Centre, Lib.): I'd like to thank the witnesses for coming and for this very compelling testimony. It has sparked my interest in numerous areas, but in particular I'd like to start with Mr. Ross.

Mr. Ross, you started out by saying how you saw agreements being interpreted by the courts—from Haida on down the line to where we are now—through a section 35 lens. You're trying to understand how free, prior and informed consent under UNDRIP fits in. I tend to see the issue a little more like you do—that these agreements and the duty to consult and accommodate will be looked at more through the section 35 lens.

I note the language of the more recent cases and how the courts are telling us to grapple with issues that come up from indigenous peoples in their negotiations on what an energy project would look like.

Did LNG Canada, in your view, take suggestions from the community, then change its plans and move forward? What did that look like? You said it's successful in your view, but were there instances where it had to go back and forth a number of times?

• (1630)

Mr. Ellis Ross: Oh yes, definitely. The difference in what LNG Canada did versus the projects before them was that even before they went through the environmental assessment process to apply for a certificate, they came to us. They talked to us. We laid out our concerns at a very high level, because that's what an environmental assessment does. They incorporated that into the environmental assessment process in their application.

When we got word back from the B.C. government asking us if we had any concerns about the application, we told them that it's already there, so let's get to the next step. After that, they'd do it under the permits they needed to explore their issues on the ground for the environmental assessment certificate. They came to us.

This is the value of a protocol with the proponent as well as a separate protocol with the government. Instead of just waiting for that permit to come through to our office to inform a referral, we'd always have our interests already addressed in the application itself. It saved a lot of time.

I know that companies spend a lot of time and money doing this, and I know the provincial government did the same thing, but it sure got us to the finish line a lot quicker. We were actually the main first nation to deal with. We had the shipping, the terminal and the pipeline all in our territory. Everybody else just had the pipeline or the shipping. Even the shipping was big.

I want to add something. In terms of the process with LNG Canada, it wasn't all left up to government, in our case. In some cases, it was up to us—the first nation—to reach out to other first nations that opposed the project and were only looking for benefits. We included them in our benefits under the umbrella of the IBA we signed, if they would actually sign on and support the project. This is a hands-on approach that has to be taken.

I know the Crown has the duty to consult and accommodate at the end of the day, but there are a number of different protocols that can help these projects along, in terms of best practices.

Hon. Kent Hehr: Your recommendation is early engagement: before you draft your plans, consult with the indigenous groups and that will guide the process going forward.

Mr. Ellis Ross: That is correct, without a doubt. The only way this works is if the first nations leadership in question has constant communication with their own membership. I know you can't legislate that. I know you can't put it into a policy, but it's a question I ask all the time when first nations people ask me about how to address this. I ask them, "What is your communication plan to membership? Is it in person, email or Facebook?" Some these issues are confidential. That matters a lot.

Hon. Kent Hehr: Okay.

My question for Mr. Sullivan is on some of these smaller projects. I can see how capital can be raised with a large project, say a pipeline, or something to that effect, because it has long-term benefits. For some of these smaller projects, is it more difficult to raise capital? What practices should governments or indigenous bands look towards, in doing any recommendations?

Mr. Grant Sullivan: Raising the capital isn't the problem. The business case for the wind project is fantastic. It's a good, solid business case. It's the way the system is set up as the territorial governments administer it. There isn't an opportunity for us to even be at the table with them and have those discussions.

In the ideal world, the solution would be a territorial government, the federal government and the first nations working together on these small projects. It's not a small project for Inuvik. It's \$40 million coming into Inuvik. That's a lot of jobs for us. The capital is not the problem, but then the GNWT is cutting us out, saying, "Well, we'll offer you a debt-financing package at the same rate we're allowed to get, which is basically 3%." There are not many first nations out there with a balance sheet strong enough to support a 3% debt-financing position.

• (1635)

Hon. Kent Hehr: Given that, government should be more flexible in possibly working with them on debt financing directly to the first nation. Would you not say that's probably the ticket?

Mr. Grant Sullivan: Yes.

Hon. Kent Hehr: Okay.

In terms of capacity building, Mr. Ross, you said you had to learn to walk before you could run. I think you said that in your testimony. Was there a way that LNG Canada helped build capacity? Were there issues they assisted with in that? How did you guys develop the capacity to take on an initiative like that, to be able to negotiate your business agreements? How was that able to get to that capacity?

Mr. Ellis Ross: It was trial and error. They weren't the first proposal to come to our territory. We had the modernization of the smelter there. At the beginning, we had a pulp and paper mill. Back in those days, we were just understanding risk and title. We were using our risk and title lawyers' offices, and getting consultants who actually worked at the outskirts of these industries. By the time the major LNG projects came along, we understood that we don't know the language of oil and gas. We have no idea. We don't know that language of high finance. Even business people located in Vancouver couldn't engage with these high-level lawyers and financial people from Texas and Alberta.

At great expense to our band, we brought in finance people from San Diego. We brought in a corporate lawyer from Vancouver who worked on major projects. We brought in a lawyer from Alberta who lived within the oil and gas industry. At that point, it wasn't us engaging at the table anymore. It was these people, who understood exactly what these people were talking about. That's how we got the deal we have today.

Hon. Kent Hehr: Thank you.

The Chair: Ms. Stubbs, you have five minutes.

Mrs. Shannon Stubbs: I would like to continue with Ellis Ross. I have a quick, straightforward question for you, which would probably seem like a miracle to my colleagues.

What is your view about what exactly the objective is of foreign and American-funded anti-energy activists, doing what they're doing in Canada? What are they trying to achieve?

Mr. Ellis Ross: They're trying to shut down the energy industry, the forest industry and the mining industry. If it were about raising the standards and actually addressing climate change, some of the measures that have been put in place in B.C. should have been enough. Even with a commitment to improve on that, it never seems to be enough. There are always other challenges coming up, whether direct or indirect. The latest one was because B.C., first nations and Canada agreed with the \$40-billion LNG project. What comes next? A jurisdictional challenge on saying that Canada has some authority over the pipelines, because some of the LNG comes from Alberta.

Who thinks of this kind of stuff? A stall is just as good as stopping a project, in today's investment climate. That's what I see as the objective. I've talked to a number of these groups, and I've said it straight to their face. It's basically why my band wouldn't side with NGOs.

Mrs. Shannon Stubbs: I think that's why you're one of the most important elected leaders in the entire country. You're leading a fight that is imperative for every single Canadian citizen in every community in every province.

You made an interesting point earlier in your comments in talking about the best practices and the successes of the B.C. government in your negotiations, in the context of best practices for indigenous engagement on major resource projects. This is actually a point of concern for the Liberals' Bill C-69. As you probably know, the definitions of major and minor projects, the potential of in situ development to fall under the legislation, and the potential for—exactly as you just said—provincial projects and provincial jurisdictions to actually get caught up under that legislation will

not really be established until the details are, through the development of regulations out until 2021, so it remains a real risk.

There are also numerous indigenous leaders speaking out against Bill C-69, because in fact it really does nothing concrete in terms of expanding or increasing the rights of indigenous communities to a consultation or accommodation, nor does it increase the scope of the measures, really, or the imperative on government to fully meet the Crown's duty to consult. The removal of the standing test will ensure that literally anyone, anywhere, can intervene in Canada's review process for major resource projects, rather than having it be confined to locally impacted communities, Canadian citizens, locally impacted indigenous communities or subject matter and technical experts.

In the context of engaging best practices for engagement of indigenous communities on resource projects, would you agree that it is completely backwards that a major regulatory and impact assessment overhaul of research projects that explicitly relates to the duty of the Crown to consult with indigenous communities is actually in the Senate right now, weeks or months away from becoming law, and that only now is this committee actually doing an extensive review of best practices for indigenous consultation on major resource project development?

• (1640)

Mr. Ellis Ross: Well, it's not keeping up with what's happening on the ground in B.C., I can tell you that. It's interesting to see how first nations are viewing this, because everybody knows that in terms of rights and title, there is an economic component that has to be understood and realized by the Crown.

In this case here, I see that the Crown is actually ignoring that economic component that first nations are looking for. I know that it has probably advanced in terms of what's coming down the pike, but a lot of first nations are a lot different from what they were talking about 10 to 15 years ago, when they were actually just fighting for a chance to be heard.

Now, they're fighting for a chance to be heard and saying, "Let me be a part of developing the economic future of B.C. in Canada." That doesn't seem to be happening when there are basically going to be restrictions on what they can do in terms of exports on all commodities, not just oil and gas. There's this vagueness and lack of direction when it comes to aboriginal issues, especially economic issues.

The Chair: Thank you.

Mr. Tan.

Mr. Geng Tan (Don Valley North, Lib.): I want to invite my colleague Mr. Whalen to ask the first question.

Mr. Nick Whalen: Thank you, Mr. Tan.

Mr. Andreassen, I'll get you involved in the conversation here. One of the issues that our committee grappled with early in this study was with respect both to opening and to closing new areas to development. There's an obligation to consult with indigenous people, and there's some question on whether or not we've done as good a job as we should when we're closing an area to development as when we're opening it.

In Alaska, there are a lot of issues in the news today regarding whether or not President Trump has an ability to end the moratorium on Arctic drilling, but I would like to get a sense from you. To what extent were indigenous folks in Alaska involved in setting up the prohibition or the moratorium on Arctic drilling in the first place? How have they been involved with President Trump in removing it now?

Mr. Nils Andreassen: Certainly, Alaska is not any different in terms of the conflict that might be in place in a region, to the extent that President Trump is trying to remove the moratorium that President Obama put in place. Both had different levels of input from peoples in the region and conflicting input from peoples in the region.

I was going to suggest this earlier, in relation to the ways to increase indigenous corporation participation in projects, that one of the conversations about offshore development in Alaska...The indigenous peoples have village corporations and a regional corporation that engage in economic development activities. They became carried partners in offshore development or the potential there. That's one way, maybe, to approach that question: carried partners. There are no capital requirements up front, but they are able to be included in the process and can build capacity. Maybe there's some consideration for scaling that percentage of carried partnership down over time, as additional projects come forward.

I was going to throw that out as one answer to that question, but again, when it comes to limiting development in a region, I think we're talking, at least in Alaska's Arctic, about a region the size of a few, three or four, of the larger U.S. states. A moratorium or a removal of a moratorium for a region that extensive doesn't always make sense. What we've heard from many people in the past is that looking at a region at a more micro level might be more significant.

• (1645)

Mr. Nick Whalen: Thank you.

Mr. Tan.

Mr. Geng Tan: Let me ask a very general question to all of you. The committee has heard from many witnesses that indigenous communities have embraced the energy development project to improve their quality of life; however, this energy development project may also affect the cultural rights and identity of those indigenous communities. How can we address both at the same time? Are there good or best practices or bad examples that you can share with us?

Mr. Nils Andreassen: Probably Mr. Sullivan should start, but I think that, if a community indicates interest in a project, then it's up to that community to determine and evaluate how their interest and their lives are changed. I think that's part of empowering a community or a group of indigenous peoples: They get to choose and determine where energy development or economic development

impacts their culture and their livelihoods. Really, that's part of the decision-making process.

I would also say, as an example from Alaska, that we have the National Petroleum Reserve-Alaska where there's increasing petroleum development. An NPR-A working group directly involves indigenous peoples in decision-making related to projects in that region. There are also NPR-A impact mitigation grants. As production increases in the region—I think next year they're talking about \$20 million U.S. being available for those communities—it's directly up to those communities how they use those funds and how they mitigate negative impacts and also work toward positive solutions.

The Chair: I can give you another couple of minutes, and then I'll give you corresponding additional time, if you want, rather than do another round.

Mr. Geng Tan: Let me ask one more question to Mr. Sullivan.

You mentioned that there are applications for renewable energy in your community and also in a couple of other communities. You have lots of experience with the Indigenous Clean Energy Network. In general, do you foresee less reliance on diesel and more on renewable energy sources such as wind, solar or SMRs in Canada's remote north?

Mr. Grant Sullivan: I see a more diversified energy picture in our north. I don't think electrical generation diesel will ever be not in the picture for our communities. Diesel just has so many advantages. It's transportable, it's shiftable, it's high butane. There are a lot of gigajoules per litre of diesel fuel—it's a great fuel for that.

Do I think we could use it a lot better? Absolutely. Can we derive our energy from other sources? For sure. It's about the complementary package that we're bringing together. It's not just about the demand for the energy, but it's also about the supply. We need to address this with a holistic approach. It needs to be about how we use that energy and how we're getting that energy. Yes, it will always be part of the solution, but it's how we use it and how much we use.

Mr. Geng Tan: Thank you.

• (1650)

The Chair: Mr. Schmale.

Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC): Thank you very much, witnesses, for appearing.

I'm not sure who to start with because you both talked about very interesting things.

You spoke last, Mr. Sullivan. We'll start with you. You were talking about local priority section and how important that is in empowering your communities and about coming up with solutions that fit your needs and are able to help the people within the community. You mentioned the current situation. In some cases you don't have a seat at the table; it's very difficult to get in. Maybe you could expand more about how local input is very important and how, when you have a need, whatever it may be, the community comes together. They start driving that forward rather than coming from the top down.

Mr. Grant Sullivan: The Nihtat Gwich'in were able to secure both feasibility studies of the wind project.

I'm going to give you another example of the value added that we bring as a community. I think this is the really important part. As part of the feasibility study, we needed to put up a meteorological tower. A met tower measures the wind speed on the site. Our met tower is still standing. It's the third one there. The Nihtat have done this type of work before; we work in the region. We recognize that global warming is happening and the tundra is heaving all over the place.

The way they were putting in met towers was as follows. They were 200-metre towers attached to cables with an anchor of about eight inches. That was what the spec was. Then they had three companies come up and put them in and they all fell down. These are all in remote locations, needing a helicopter to get into.

We talked to all the local contractors about what we thought about this and how we would solve the problem. Our solution was to have deadman anchors. They were actually two feet by six feet, each one, and there were 32 of them. It's still standing. We're getting the data we need.

If that approach had been taken right from the start.... This wind regime program has been going on for the last eight years. One of the reasons they couldn't actually develop the project is they couldn't get the data. They couldn't actually say, "This is the wind speed that's going to happen and this is the energy production."

If they had talked to us first and put that in first, the project probably would have been built already. We were actually adding a lot of value. If we weren't at the point where we are now with the wind project, you would have an indigenous group leading the feasibility study and the development of the project. You would have an indigenous group working in the project as a proponent, possibly in the project, and the benefits would be coming back to the indigenous population. It's really unfortunate that this project didn't happen. To me, it could have been the perfect example of a case study that I think we all wanted to see moving forward.

Mr. Jamie Schmale: I think local knowledge is a huge part of it. I'm pretty sure many of us around the table have seen situations in our own community where some local knowledge would have helped push a project or make a project more efficient in terms of getting it completed.

When you talk about using wind power, given the fact that you just talked about data, were there any other options you were looking at in terms of energy generation in your community?

Mr. Grant Sullivan: The Nihtat Gwich'in have basically tasked me with looking at all different types of renewable options. Like I said in my earlier comments, Inuvik has sun for basically 24 hours a day for two and a half months, and it's there all the time. It's consistently good.

In terms of solar irradiance, we compare it to Victoria. Now, it is very concentrated in that time frame, so our business model is basically that we're looking for clients that have high electrical consumption throughout the summer. We look at places with refrigeration—our local grocery stores, our hotels—and air conditioning.

The new client there, which should be of interest to Canada as a whole, is Canadian satellite stations. Inuvik is in one of the key locations for satellite reception. It's one of the spots where we can always pick it up, and the reception is amazing. NRCAN has put in significant money there. We're currently working with them, because every time one of those satellites moves, it consumes a bunch of energy, and the computers within them need to be cooled all summer long.

It's a really great business model for us. Canada has an initiative to push the satellite industry, and we have our solar to provide the energy to keep those buildings cool. It's a great relationship there, and we're only in the early stages of that happening.

• (1655)

Mr. Jamie Schmale: Also, I think, when you're talking about economic activity, having a reliable source of power is one of the first steps in order to start the different pieces moving. It looks like you're able to provide that for the most part.

Mr. Grant Sullivan: Yes.

Mr. Jamie Schmale: It's a little off topic, but as we get into the storage of the energy, how is that affecting you in the business right now?

Mr. Grant Sullivan: Storage will be a game-changer for us. In Inuvik right now, if you set your clock on a Sunday and go back to look at that clock on the following Sunday—a week's time—that clock will have a eight-minute difference; the hertz is actually what that is. As for the way it's done, they're called brown spots, and they cause interruptions in the computer services, in the electronics.

One of the reasons that the satellite stations are really interested in working with us is what we can provide, and we can level out those bumps. Every time there is a bump in the satellite reception when they're receiving information, while they just have a bump, an interruption, that whole reception is now at the back of the queue. Basically, everybody is fighting for time on the satellite, and it's minute to minute. If they get bumped, they lose their chunk of time. What we're offering with battery storage and solar is that consistent power curve so that those bumps don't happen.

The batteries are the big game-changer. I think the batteries should be deployed throughout all the communities, in conjunction with the utility as well, because they do provide so much consistency and levelling out of the power curve.

Mr. Jamie Schmale: Thank you very much.

The Chair: Mr. Cannings, it's over to you, to finish this off.

Mr. Richard Cannings: I think I'm going to finish up with you, Mr. Andreassen. You talked about participation fatigue in terms of communities engaging with project proposals, I assume, where people were given no compensation for taking part, they felt that they weren't listened to and the decision didn't reflect in any way the local view.

Our study is about best practices for indigenous engagement here in Canada, but we're looking to other countries, like the United States. What are the laws in the United States?

Here, if a community felt that it wasn't listened to, that the decision didn't reflect the local view and that all the consultation was just listening and writing things down.... We had a Federal Court of Appeal case on the TransMountain pipeline, which was quashed in part because the court found that the government people consulting were just "note-takers". They weren't really listening to the people. They wrote things down, but they made no attempt to reflect those views in the decision.

What might be the differences in the United States and how would the courts there see that consultation?

Mr. Nils Andreassen: My understanding is that the Canadian version is more formal, has stricter guidelines and, in a lot of ways, reflects best practice. At the same time, in the U.S. consultation, I think the agencies are given a lot more leeway to act in the interest of the project and the people, in a way that doesn't feel formal but is innovative and responsive.

There is some version of those two systems that might feel better to communities, such that it doesn't feel like you're checking a box and you do feel meaningfully engaged. That's less often about reimbursement, but it might be more about the capacity to be engaged.

Fatigue is having to come back every month or every day to respond to multiple industry partners and multiple agencies. I think there are 14 to 20 different U.S. federal agencies working on Arctic issues. In terms of the number of requests in that regard, to the extent that those can be streamlined, that would reflect a best practice. Ultimately, it's a question of whether that community sees benefits from the process.

I spoke earlier about the conflict within, and a moratorium or not. Groups that are often intent on restricting development are the most likely not to see benefits from the project, and groups that support development see that benefit accrue to their community.

Consultation needs to be structured in such a way that communities do see benefits, do feel respected, and that there are efficiencies and effectiveness within that consultation that reflect their time and their interests.

● (1700)

Mr. Richard Cannings: If a community went through a consultation process and then at the end of it felt that it wasn't adequate, is there any legal recourse for that community?

Mr. Nils Andreassen: My understanding is that it's not as well developed as in Canada. Certainly, a community could litigate but on more uncertain terms, I think.

Mr. Richard Cannings: Thank you.

The Chair: Gentlemen, thank you all for making yourselves available and attending today. Your evidence will be very helpful to the study that we're soon to be wrapping up, so I offer appreciation on behalf of all the committee members.

We'll suspend for two minutes, and then we'll come back. We're going to be in camera. Everybody's allowed to have one staff member with them during that period.

[Proceedings continue in camera]

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its Committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its Committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website at the following address: <http://www.ourcommons.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante : <http://www.noscommunes.ca>