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# **Standing Committee on Aboriginal Affairs and Northern Development**

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**EVIDENCE**

**Thursday, March 25, 2010**

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**Chair**

**Mr. Bruce Stanton**



## Standing Committee on Aboriginal Affairs and Northern Development

Thursday, March 25, 2010

• (1530)

[Translation]

**The Chair (Mr. Bruce Stanton (Simcoe North, CPC)):** Good afternoon, committee members, witnesses and invited guests. Welcome to the fifth meeting of the Standing Committee on Indian Affairs and Northern Development.

Pursuant to the orders of the day and to Standing Order 108(2), today we will be discussing Northern Territories Economic Development: Barriers and Solutions.

[English]

Members, we have witnesses with us today, but before we begin, because this our first meeting resuming consideration of the study we were working on in the second session of the 40th Parliament, as a matter of protocol we should formally adopt the motion to resume the study of northern territories economic development: barriers and solutions.

I understand the wording of the motion has been circulated to you. It reads:

That the committee resume its study of northern territories economic development: barriers and solutions started in the previous session, and that the evidence and documentation received by the committee during the second session of the 40th Parliament on the subject be taken into consideration by the committee in this session.

Do we have a mover for the motion? It is moved by Mr. Dreeshen.

(Motion agreed to)

**The Chair:** We continue.

There is a second motion, or budget, rather. The budget for the resumption of this study has been circulated to you. This is a routine aspect of our business, committee members. Typically each committee is allowed at each session a global envelope that it uses for the expenses of the committee. I think you have a copy of it. It's on legal-sized paper. I would entertain a motion to adopt the budget expenses for this study, which you'll see come to a total amount of \$39,500.

It is moved by Mr. Dreeshen.

(Motion agreed to)

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

Now we'll go to our witnesses.

I welcome two witnesses today, and I would like to start by offering our apologies. We had a couple of false starts here. We had

both of the agencies involved with us here today scheduled to appear at earlier meetings. Because of scheduling problems, we had to cancel on them. Finally we were able to make this, and I appreciate your patience.

Today we welcome Ms. Sheila Leggett, vice-chair of the National Energy Board, and Mr. Steve Burgess, executive director of project reviews and operations for the Canadian Environmental Assessment Agency.

The normal format is a ten-minute presentation, and then we go to questions from members.

Let's begin with Ms. Leggett.

**Ms. Sheila Leggett (Vice-Chair, National Energy Board):** Thank you, Mr. Chair.

Good afternoon.

[Translation]

Good afternoon.

Mr. Gaétan Caron, the Chairman of the National Energy Board, extends his apologies to the committee. He was unable to be here today as he is attending to duties associated with the evaluation of the Mackenzie Gas project application.

I am not in a position to comment on the content of the application, as it is an ongoing proceeding before the Board. However, I can update you on the remaining process for consideration of this application. The NEB's oral hearings are scheduled to resume this coming March 29 to deal with updated evidence. The NEB panel will hear final arguments beginning mid-April. The NEB expects to release its regulatory decision in the fall of 2010.

The NEB is an independent federal agency that regulates several aspects of Canada's energy industry.

[English]

Our purpose is to promote safety and security, environmental protection and efficient energy infrastructure and markets in the Canadian public interest within the mandate set by Parliament for the regulation of pipelines, energy development, and trade.

Of particular note for this committee would be that NEB regulates all oil and gas exploration and production on non-accord frontier lands; for example, the Northwest Territories and Nunavut and certain offshore areas. The NEB reports to Parliament through the Minister of Natural Resources. The NEB has regulatory responsibilities under the National Energy Board Act, Canada Oil and Gas Operations Act, known as COGOA, and Canada Petroleum Resources Act, known as CPRA, relating to environmental protection, safety and conservation of the resource.

It also has responsibility for conducting environmental assessments under the Canadian Environmental Assessment Act and under the Mackenzie Valley Resource Management Act. Indeed, the National Energy Board has been considering the environment in its decisions since its inception in 1959, and under the Canadian Environmental Assessment Act since 1995.

The NEB has developed a strong capability with respect to environmental assessment, with about 45 environmental, socio-economic, and stakeholder engagement specialists on staff. Currently, the NEB conducts about 20 to 30 screening and comprehensive study types of assessments per year.

The National Energy Board is active and effective in Canada's pursuit of a sustainable energy future. This requires us to consider the economic, social, and environmental aspects of all facilities applications when we make a decision about whether the proposed project is in the public interest.

The board believes in a goal-oriented approach, where regulatory expectations are clear and companies determine the means to achieve the objectives. Recently, the regulations for drilling and production under COGOA were updated to reflect this regulatory best practice. The board also believes in regulatory accountability and has committed to service standards for all of its applications processes.

The board believes that regulatory processes should result in better outcomes, such as the best evidence possible from a broad base of parties when an application is being considered and better environmental protection throughout the life cycle of all approved projects. The board does not believe that process for the sake of process adds value to Canadian society.

I've spoken briefly about the Mackenzie gas project to the extent I can in terms of timelines. I would just note that in following those timelines, we will meet all the obligations that we set out and signed for in the 2002 cooperation plan.

Other activities that we're preparing for in the north include getting ready for exploration drilling in the Beaufort Sea in the 2013 to 2017 timeframe. In order to be ready for that, we are in the process of conducting a review of our policy on same-season relief well capability. Part of this review will include a technical conference in Inuvik. The policy will guide applicants on the board's expectations regarding the capabilities an applicant would need to demonstrate in the event a well goes out of control.

As part of the Government of Canada's commitment to the Inuvialuit under the Inuvialuit Final Agreement, the NEB is working with a number of government departments, the Inuvialuit, and the regulated companies to demonstrate preparedness in the unlikely event of a spill from regulated oil and gas activities.

There are a number of companies planning to conduct marine programs in the Beaufort Sea, Lancaster Sound, Baffin Bay, and Davis Strait.

The NEB also anticipates dealing with an Alaska gas pipeline proposal in the future, either as an application to the NEB for the proposed Denali Alaska gas pipeline, which is in partnership of ConocoPhillips and BP, or in a support role to the Northern Pipeline Agency in the case of a proposal for an Alaska gas pipeline by TransCanada and ExxonMobil.

You asked us to talk about barriers and solutions, and we've identified two barriers from our regulatory perspective. I've talked about COGOA and CPRA. They were both designed in a different era of oil and gas development for large-scale offshore projects like Hibernia, and we're finding that they're not well suited for the increasing variety of and smaller scale projects now being contemplated in the north. The NEB is responsible for the oil and gas development components of these acts. However, the acts themselves are administered by INAC.

The second aspect we wanted to bring to your attention was the shared mandates of various assessment and regulatory bodies in the north, which result in regulatory complexity and uncertainty for potential investors.

Moving forward to solutions, I want to talk to you about some of the current solutions we're working on now, as well as a suggestion for a future solution. Our current solutions speak to the second barrier I identified of regulatory uncertainty. We have spent a lot of time and effort in the past and present, and anticipate doing so in the future, working with northerners to find holistic solutions to northern energy matters.

• (1535)

One of the ways we do this is through a very active participation in the Northwest Territories board forum, in which our chair, supported by staff, is very engaged. This group of regulators is developing strategies to achieve regulatory efficiencies without compromising effectiveness or jurisdiction.

This work has been very helpful for the board. As a result of it, we've developed a number of partnerships that we formalized in memorandums of understanding to align and coordinate processes. We have an existing MOU with the Mackenzie Valley environmental impact review board on a cooperative framework, as well as one with the Northwest Territories water board on cooperation with respect to downhole injection. We're in the process of discussing other potential MOUs, including ones with the environmental impact screening committee, the environmental impact review board, and INAC.

In our process of working with northerners, we have learned much from northerners. As a result of some of those learnings, we've modified some of our processes in both northern and southern Canada to increase the ability of aboriginal groups and stakeholders to participate in our proceedings.

We have an aboriginal engagement program through which we go out and visit communities in advance of any application being considered. We inform them as to what the National Energy Board is, what our processes and mandates are, and how parties might be able to ensure that they are ready to participate in any process that we have that might come to their community.

We've also been told, both in northern and southern Canada, that our hearings tend to be intimidating and are too formal. Through the lessons we've been learning through northern Canada, we've been adapting our hearings while maintaining the natural justice principles that we need to, yet striving to make our hearings less formal and less intimidating so that we can hear from as broad a variety of parties as possible on the applications.

The NEB is striving, in close collaboration with northern boards, aboriginal groups, and stakeholders, to develop environmental and socio-economic assessment and regulatory processes in the north that are responsive to the aspirations of northerners for a sustainable future, are clear and well understood, have predictable timelines, are coordinated, and minimize duplication.

I spoke to the fact that I was going to leave you with a suggestion from our perspective about a future solution. I have mentioned the potential to modernize COGOA and CPRA. One suggestion we'd like to leave with you today is that in considering any potential modernization of those two acts, it would be a good idea to allow for participant funding programs to be developed, creating the possibility of substitution under the Canadian Environmental Assessment Act. This approach was recently announced in the budget speech for projects regulated under the National Energy Board Act.

Thank you very much for your attention. Those are my remarks.

• (1540)

**The Chair:** Thank you, Ms. Leggett. That's very helpful.

Now we'll go to Mr. Burgess from the Canadian Environmental Assessment Agency. Mr. Burgess, you have the floor.

**Mr. Steve Burgess (Executive Director, Project Reviews, Operations, Canadian Environmental Assessment Agency):** Thank you, Mr. Chairman.

I'm pleased to be here today, finally.

[*Translation*]

I hope that all committee members have a copy of my presentation. I would like to explain to you at this time how the Canadian Environmental Assessment Act works.

[*English*]

I thought I'd first give you a bit of a constitutional context. As you're probably aware, the environment is not really mentioned in our Constitution, but the courts have confirmed that this is a matter of shared responsibility, and that's a very important issue to remember as we go through this presentation.

Each order of government—provinces, territories, and the federal government—has responsibilities with respect to the environment and environmental assessment. These responsibilities require us to

work together with our colleagues in other jurisdictions to ensure that environmental assessment is done correctly.

Federally, as you're no doubt aware, the government has responsibility for matters such as navigation and shipping, fisheries, migratory birds, and so forth. Provincially responsibilities relate more to local works and undertakings, in particular natural resources and matters of a local or a private nature.

[*Translation*]

The original federal environmental assessment process was set out in 1974. The process therefore goes back a long way. The Canadian Environmental Assessment Act did not come into force until 1995. It is triggered by federal decisions about proposed projects, either as the proponent, source of funds, land administrator or regulator. The CEA Act applies to projects.

Furthermore, the Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals is a non-legislated process that requires federal departments to conduct strategic environmental assessments. It should also be mentioned that the CEA Act has limited application north of the 60th parallel where processes arising out of constitutionally protected land claim agreements with aboriginal peoples have been or are being enacted through federal legislation.

[*English*]

So there is relatively limited application of our legislation north of the 60th parallel.

You should have in your deck a map that describes the environmental assessment regimes in the north. Each of the land claim areas has its own environmental assessment regime. In fact, currently the Canadian Environmental Assessment Act applies most generally in the Inuvialuit settlement area under that region's final agreement, and only in a very limited way in the rest of the northern territories.

Some key features of the Environmental Assessment Act are that it's a self-assessment process. Hence, departments that have decisions to make with respect to projects are responsible for undertaking those assessments. Approximately 6,000 to 7,000 assessments are conducted every year across the country. Almost all of those are what we call screenings. For projects with more significant environmental effects, we require that comprehensive studies be undertaken, which are more detailed assessments, or a review panel involving public hearings. The idea is that the level of assessment is geared towards the nature of the project and the level of environmental impact that could occur as a result of the project.

Recently, as you're certainly aware, aboriginal consultation has become a very important issue for the government, and we have recently looked to incorporate the government's aboriginal consultation responsibilities into the environmental assessment process.

In terms of continuous improvement, there are a number of things that have happened and are continuing to happen with respect to the implementation of our act. In 2005 a cabinet directive was developed on implementing CEA. Essentially the objectives were to ensure a more timely and predictable environmental assessment process as a result of concerns that had been raised by proponents of projects, provincial authorities, and others.

In 2007 there was another cabinet directive aimed at improving the performance of the regulatory system for major resource projects, including, for example, mines, pipelines, hydroelectric developments, and so forth. The objective was to establish an oversight body called the Major Projects Management Office to facilitate the environmental assessments and regulatory processes to ensure they were applied in an efficient and effective way.

More recently, in 2008, there was an amendment to the Nunavut Land Claims Agreement, clarifying the relationship between the environmental assessment processes established under the land claim agreement and the Canadian Environmental Assessment Act, essentially so that the act would apply in a very limited way to transboundary projects, for example.

Then in 2009 there were a number of recommendations made by the Canadian Council of Ministers of the Environment for the improved integration of federal, provincial, and territorial environmental assessment requirements to improve harmonization, efficiency, and the rigour of the environmental assessments that are undertaken.

Mr. Chairman, that's my presentation.

Thank you.

• (1545)

**The Chair:** Merci, Monsieur Burgess.

Now we'll go to questions from members. We're going to begin this afternoon with Mr. Martin. It's a seven-minute round.

**Hon. Keith Martin (Esquimalt—Juan de Fuca, Lib.):** Mr. Russell is first, and then I will go next.

**The Chair:** Okay, sorry about that.

We're going to go to Mr. Russell. It's a seven-minute round, members, and we'll go through questions. I should tell you as well that we do have committee business today. We're hoping to finish at or before five o'clock, so we'll leave sufficient time to deal with some of our other business.

Let's go to Mr. Russell.

Seven minutes, Mr. Russell.

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

Good afternoon to each of you. It's good to finally have you before committee. As our chair said, we have endeavoured on a couple of occasions to hear your testimony at committee, so we're happy to have you here.

From listening to both of you speak, it seems that the NEB has a far greater presence in a lot of the northern projects. Is that a fair statement?

**Mr. Steve Burgess:** I can speak from our perspective. The NEB's mandate deals with oil and gas development in the north primarily. Our legislation applies more generally to any projects for which the federal government has decision-making power. These can include major resource developments but can also include smaller projects—for example, the construction of waste-water treatment facilities in some areas, or any other project for which the federal government makes a decision.

However, as I mentioned during my presentation, our application applies under very limited circumstances in the north as a result of the requirements set out in the land claim agreements—for example, the Mackenzie Valley Resource Management Act, the Nunavut Land Claims Agreement Act, and so forth.

• (1550)

**Mr. Todd Russell:** When it comes to the NEB, then, it seemed from your presentation that one could assume you have a strong environmental assessment component to what you do when it comes to oil and gas projects in the north, recognizing and respecting the various land claim agreements there, which have their own processes incorporated into them and certain constitutional responsibilities arising thereby.

However, does the NEB have a greater environmental assessment role to play than say CEAA, when it comes to oil and gas projects in the north? Just from listening to your presentation, it seems that way to me.

**Ms. Sheila Leggett:** I didn't want to speak about how busy CEAA was in the north. I can tell you with respect to oil and gas activity in the north, the National Energy Board has been quite busy with the NEB hearing process for the Mackenzie gas project. Of course there has also been a joint review panel that has been going on concurrently with that process, which was run through CEAA.

Also, in being proactive, there's been a lot of discussion in the north about potential future oil and gas activities and what those would look like. As I said, there is a realization that there is a lot of regulatory complexity in the north. The National Energy Board has been very involved in those discussions as we seek to figure out how we can have a process that will focus on merits and other aspects of a project, both the positives and negatives of a potential project, in a way that the process doesn't become the driver. What we want is the process to get to the facts and to allow the best decision in the public interest.

We're working with a number of the northern boards, as I said, and other stakeholders and parties in the north to make sure that the process is streamlined for the sake of the process itself, allowing us to consider the true content of an application before us.

**Mr. Todd Russell:** I noticed that CEAA has made some efforts, and I commend this. I've seen a difference in CEAA's approach to consultation with aboriginal people after the court decision in the cases of Haida Nation v. British Columbia and Taku River Tlingit First Nation v. British Columbia. I was involved with Voisey's Bay prior to that, and I was somewhat involved in the Lower Churchill after that. I did see a noticeable difference and an improvement, in my own opinion.

Did the NEB respond in a similar fashion to the legal duty to consult arising from the Haida and Taku River Tlingit cases?

**Ms. Sheila Leggett:** We have been responding to the legal duty to consult as the law has been generated, and have been striving to be proactive in going forward. Hence, we have what we call an enhanced aboriginal engagement program, which I briefly mentioned in my presentation. Under it we will go out to communities where there aren't even projects being contemplated, or we will go out to the general areas where future projects are being contemplated, to make sure that parties understand who we are and how they could meaningfully participate in our process.

**Mr. Todd Russell:** Very quickly, if I could, I'm going to refer our wonderful notes from our analysts, which state:

Budget 2010 proposes to provide \$11 million over two years to Indian and Northern Affairs...through the *Streamlining the Northern Regulatory Regime* initiative, to accelerate the review process for resource projects in the North.

That's one.

Page 96 of the Budget 2010 document *Leading the Way on Jobs and Growth* states that this initiative would "provide clarity and certainty for investors while ensuring that the environment is protected and that Canada's obligations under existing land claims agreements with Aboriginal groups are respected."

We don't know where the hell this is all leading, in some sense; it was only just announced in the budget.

We're wondering to what extent you have been involved in discussions with the federal government to determine how best to address the regulatory streamlining in the north. How have you been involved? And what role is each of your organizations now going to play in developing the federal government efforts to improve the northern regulatory regime?

• (1555)

**Ms. Sheila Leggett:** I can go first, if you want.

Gaétan Caron sits on the major projects management office deputy ministers committee. From our perspective, that has been instrumental in getting the various government departments and agencies to talk to each other, be coordinated, and understand what it takes to have the processes unfold in a predictable manner. I would suggest that the MPMO has been a huge aspect of that, as well as with setting up the northern projects management office, which is just getting under way. We fully support that initiative as well, and we are very involved in it.

We believe we're going to get to the best solutions by getting everybody talking to each other and figuring out the best pathways forward. That's the way we're involved from the federal government perspective as an independent agency.

**Mr. Steve Burgess:** As I mentioned earlier, our legislation applies relatively little in the north, so our involvement in the northern projects initiative is probably less than what it would be with respect to the major resource management office initiative that applies south of 60.

**Mr. Todd Russell:** Thank you.

[Translation]

**The Chair:** Thank you, Mr. Russell.

You have the floor, Mr. Lemay, for seven minutes.

**Mr. Marc Lemay (Abitibi—Témiscamingue, BQ):** I don't have any questions, Mr. Chair. However, I believe my colleague does.

**Mr. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ):** Thank you, Mr. Chair.

Thank you for coming here. I don't know if Mr. Burgess has travelled as far as Ms. Leggett to be here.

I am from Quebec and I see that your map does not include Quebec. I don't know what we did to scare you like that. Nevertheless, I'm curious to know exactly how northern aboriginal organizations are integrated into this process. I'm not saying that your ideas are better than the ones Quebec has, but perhaps Quebec could draw some inspiration from you.

**Mr. Steve Burgess:** Thank you, Mr. Chair.

An environmental assessment regime was in fact put in place further to the signing of the James Bay and Northern Quebec Agreement. This environmental assessment program is very well established.

Quebec Superior Court decisions have confirmed that the Canadian Environmental Assessment Act also applies to Northern Quebec.

Agreements have been concluded with the Cree and Inuit of Northern Quebec to harmonize the two processes. The process established further to the signing of the convention has a truly aboriginal flavour. With respect to assessments, we work very closely with aboriginal groups. They are involved at all times in the assessment process.

**Mr. Yvon Lévesque:** Northern development is not an issue that concerns us especially, because we're talking here about development north of the 60th parallel. Nunavik is a region in Quebec and is concerned by issues other than development in Canada's North.

In Chisasibi, for example, it was recommended that Fisheries and Oceans Canada conduct an environmental study of the eelgrass beds of James Bay. That recommendation was adopted a little over a year ago and we have not heard anything further. Will this study take many years to complete?

**Mr. Steve Burgess:** Mr. Chair, I'm not an expert on scientific studies. I'm not familiar with that particular study. However, scientific studies, for example, studies of natural cycles, can sometimes take years to complete. But I'm not familiar with the study you mentioned.

• (1600)

**Mr. Yvon Lévesque:** Is the environmental management process in the northern territories the same as what we see in Quebec, given the nations that inhabit the territories and the provinces' northern regions?

**Mr. Steve Burgess:** As I see it, there are differences. If memory serves me well, the James Bay and Northern Quebec Agreement dates back to the 1970s. This was one of the country's first land claims agreement. First nations living in this region have a long history of self-management. The systems in place may be a little more advanced than they are elsewhere. I know that the Canadian Environmental Assessment Agency and other departments work very closely with aboriginal groups in the north, particularly when it comes to environmental assessments.

**Mr. Yvon Lévesque:** Thank you.

**The Chair:** Thank you, Mr. Lévesque.

[*English*]

And now let's go to Ms. Leslie for seven minutes. Go ahead, Ms. Leslie.

**Ms. Megan Leslie (Halifax, NDP):** Thank you, Mr. Chair.

Thank you both for helping us with this, for shedding some light on what's going on.

I have a question about recent announcements in the throne speech and budget, changes to environmental assessments and more responsibilities being given to the National Energy Board. I'm wondering what you can let us know about how that happened. Was there a consultation with the National Energy Board and government? Was there a consultation with first nations? Anything you can tell us about that....

**Mr. Steve Burgess:** I can't tell you how that happened, I'm afraid. It was a commitment made in the budgets, obviously. However, I can tell you a little about what it might mean for the future.

•(1605)

**Ms. Megan Leslie:** That was my next question.

**Mr. Steve Burgess:** Perhaps my colleague can provide more information.

As you are aware, the National Energy Board regulates facilities such as interprovincial and international pipelines and international power lines under the National Energy Board Act. As well, the Canadian Environmental Assessment Act requires that environmental assessments be undertaken with respect to those facilities because of the regulatory decisions that the NEB makes with respect to them.

As my colleague mentioned in her presentation, the National Energy Board has a long history of conducting environmental assessments with respect to projects they have jurisdiction over. For many years now, we have undertaken joint reviews with the National Energy Board and the Canadian Environmental Assessment Act to ensure that the requirements of both jurisdictions are met in a single environmental assessment.

Our legislation has provisions in it that allow for the delegation of environmental assessments to other jurisdictions, or the substitution of our process by other processes in the case of public hearings—what we call review panels—if it's deemed to be appropriate. I would say first of all that nothing in the budget speech implies that there will be new legislation required in order for this to come about; in fact, it's been contemplated as a possibility in our legislation since it was enacted in 1995.

A few years ago we undertook a project with the National Energy Board to substitute the national energy process for our processes under the Canadian Environmental Assessment Act in the case of a pipeline in New Brunswick called the Emara pipeline. We did so to determine whether this was a feasible approach to undertaking a credible environmental assessment. An evaluation was undertaken of that substitution initiative; the evaluation found that it achieved the results of an efficient process, allowed an appropriate amount of public involvement, and properly addressed the environmental effects associated with the project.

I think the purpose behind the Speech from the Throne announcement, or the budget speech, was to give more impetus to this approach in situations in which our minister and the National Energy Board feel it would be appropriate to undertake an approach similar to what we did in the case of the Emara project in New Brunswick.

**Ms. Megan Leslie:** You mentioned that the changes don't necessarily mean that legislation needs to be created to make that happen. What about resources? Do you know if the National Energy Board will receive more resources to carry out this mandate?

**Ms. Sheila Leggett:** At the current point, I don't think there are any projects in front of us that will require additional resources to carry out this mandate. This is work that we have been doing, and as I said in my presentation, it's a matter of streamlining the processes so that we can focus on the outcomes.

One of the aspects that I alluded to quickly in my presentation was the life cycle of a pipeline. The benefit of the National Energy Board as a federal regulator in this jurisdiction is that we're not responsible just for making the decision about whether a project goes ahead or it doesn't; if the project is approved, and if, in the case of large projects, there's a recommendation to cabinet that a certificate be issued and cabinet decides to issue that certificate, we're then with that project all the way through to abandonment. The National Energy Board affixes conditions to any decisions it makes, and it follows those conditions all the way through. It allows the full life cycle of a project to be followed.

There are instances in environmental assessment of a panel making a decision at the front end but not having the jurisdiction to regulate all the way through. That's another aspect that is, in our perspective, very beneficial for making sure that we stick to what we're trying to do, meaning that if a project's been decided to be in the public interest, it gets built in a way that's safe and secure, respectful of the rights and interests of people around it, and environmentally mitigated.

**The Chair:** You only have about 30 seconds left, Ms. Leslie.

**Ms. Megan Leslie:** Thank you.

**The Chair:** Okay, thank you very much.

Now let's go to Mr. Duncan for seven minutes.

**Mr. John Duncan (Vancouver Island North, CPC):** Does that get added on to my time then?

**The Chair:** Well, you might wish it were, but unfortunately it's not. Go ahead.

**Mr. John Duncan:** I'll be asking some questions that probably sound pretty simple, but I do so just for clarification.

Decisions by the environmental assessment agency and the NEB are non-binding in both cases. Is that correct?

**Mr. Steve Burgess:** That's not a simple question, Mr. Chairman.

As I mentioned in my presentation, our process is essentially a self-assessment process. Before a federal authority can issue certain regulatory approvals, or provide funding that would allow a project to proceed or undertake a project directly, for example, it first has to undertake an environmental assessment. Those decisions cannot be made until that assessment is completed, and that would be the case for screenings and comprehensive studies.

In the case of review panels, they are independent panels of experts selected from outside government who essentially advise the government on issues related to the project, specifically whether or not the project is likely to result in significant adverse effects, and in the case of projects that could have significant effects, whether or not those effects are justifiable. Ultimately, in the case of review panels, it's cabinet that decides whether or not the project should proceed.

• (1610)

**Mr. John Duncan:** So in the case of the joint review panel for the Mackenzie Valley pipeline, were the people on that panel specific to that review panel and not some of the regular employees?

**Mr. Steve Burgess:** That's right. Those members were all selected from outside government and were appointed not so much to represent the areas from which they came but to be nominees or appointees from the various settlement areas, as well as from the federal government.

**Mr. John Duncan:** So is the terminology of "joint" in any way referencing CEAA and NEB? Am I correct or incorrect there?

**Mr. Steve Burgess:** In the case of the Mackenzie gas pipeline?

**Mr. John Duncan:** Yes.

**Mr. Steve Burgess:** The joint review panel is a panel that was established between the Canadian Environmental Assessment Act, or the Minister of the Environment in fact, and the Mackenzie Valley Environmental Impact Review Board and Inuvialuit Game Council. Those are the three partners in that assessment. The NEB process is being conducted separately but in a coordinated way.

**Mr. John Duncan:** Okay, so I have a question for Ms. Leggett. You received a report in December, along with the rest of the world, from the joint review panel. Now the NEB is saying it will have its report done by this fall.

**Ms. Sheila Leggett:** That's correct.

**Mr. John Duncan:** That's a pretty quick timeline. We had multiple timelines for the joint review panel. Is there a pretty high level of assurance that you'll meet that timeline?

**Ms. Sheila Leggett:** I can't speak on behalf of the panel, but that is what the panel has been stating in its press releases; and as I said, it is set to reopen the hearing. The bulk of the hearing is completed. The NEB panel has been waiting for the joint review panel report.

There is some additional evidence to be examined, starting next Monday the 29th, and then moving into final argument in mid-April, I think on April 12, and then with the predicted release of the NEB decision in the fall.

**Mr. John Duncan:** I'll ask another simple question that's probably not so simple.

If the Mackenzie Valley were in the Yukon, would the Yukon Environmental and Socio-economic Assessment Act have dealt with it?

**Mr. Steve Burgess:** Yes.

**Mr. John Duncan:** That's cool.

Does the NEB have a mandate in the Yukon at times?

**Ms. Sheila Leggett:** Yes, the NEB has its mandate with respect to oil and gas activities in the Yukon.

**Mr. John Duncan:** Plus power lines?

**Mr. Steve Burgess:** The NEB certainly has jurisdiction over the pipelines that would cross through international or interprovincial or inter-territorial boundaries.

**Ms. Sheila Leggett:** I'm sorry, I wasn't being clear on that.

**Mr. John Duncan:** My question was really about if it were internal to the Yukon.

**Ms. Sheila Leggett:** If it were internal to the Yukon, I don't believe so, because of devolution.

• (1615)

**Mr. John Duncan:** Given the long time the joint review panel took to report, obviously it wouldn't be done the same way now. Are there any suggestions for how that would be formatted to be different?

You're probably ill-suited to answer that question. Nothing has changed in terms of any statutory mandates or anything that would necessarily change that. It was a decision of the day, and it could be done differently in the future. Is that correct?

**Mr. Steve Burgess:** There's nothing today that changes how the assessment and the regulatory decisions on the MacKenzie gas project would be undertaken. My understanding is that the reference to substitution in the budget speech could apply to future projects, but not retroactively.

**The Chair:** Thank you, Mr. Duncan.

We'll now go to the second round, with five minutes for questions and answers.

We'll begin with Mr. Martin. I understand you'll be splitting your time with Mr. MacAulay as well.

**Hon. Keith Martin:** That's right, Chair.

Thank you, Ms. Leggett and Mr. Burgess, for being here today.

I'm going to pose a couple of questions and then Mr. MacAulay will pose his, and then we will listen.

You may not be able to answer this question, but if you could get back to the committee on this, I'd be grateful.

First, there are quite a number of pediatric cancers and congenital deformities in the first nations communities living around the tar sands. If possible, could you please release to the committee any environmental impact studies of the tar sands on human health and any subsequent studies that have been done to assess the impact of the tar sands on—

**The Chair:** Mr. Martin, I'm going to have to stop you there. It's probably a very appropriate question in a different committee, but our orders of the day are to address barriers to and solutions for northern economic development. So unless you can tie that in with some relevance, it really is a non-topic.

**Hon. Keith Martin:** Certainly, Chair. The relevance, of course, is that if you have sick people you don't get economic development. That's the reason. If you're sick, you can't go to work.

If you do have those studies, then I'd be grateful if you could release them.

My other question is that if a development project is taking place in a first nations community, what trumps what, the CEA or the environmental assessment done on the first nations community?

My colleague Mr. MacAulay also has a question.

Thank you.

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

I'm new to the committee, but welcome here.

Ms. Leggett, you were talking about your modified workings in the north. I expect you did that in order to involve more people in the local areas. Is that correct? You talked about how you modified the process. I'd like you to elaborate on that. I expect I know the answer, but...

**Ms. Sheila Leggett:** Shall I address this question first?

**The Chair:** Sure, go ahead.

If that's your only question, Mr. MacAulay, why don't we get a quick answer for that one? Then, with the time remaining, perhaps we'll come back to Mr. Martin's question.

**Ms. Sheila Leggett:** Thank you very much.

Are you referring to the comments I made about learning from northerners about our processes?

**Hon. Lawrence MacAulay:** Yes, exactly.

**Ms. Sheila Leggett:** I spoke about our enhanced engagement with aboriginals, as well as with other stakeholders. You are correct that the board has increasingly recognized how important it is that local parties know of the National Energy Board and what our mandate is.

**Hon. Lawrence MacAulay:** You mentioned how intimidating it was at one time, and I think that's what you were trying to explain—that it wasn't intimidating to the people who were involved.

**Ms. Sheila Leggett:** We've had that feedback from a number of hearings—not northern hearings, because we took a very different approach, but in southern Canada. I was referring to the learning we've had from working up north, where we've learned that we need to listen, and then we need to listen some more, and then we need to listen some more, and then we need to share ideas, and then we need to start talking ourselves.

We're not looking to develop solutions in the south and impose them in the north, because we know it's a different place. We've learned lessons from our hearings in the south with respect to parties; we have taken those same lessons and applied them.

When I talked about making our hearing processes less intimidating, that includes things as easy as having a this type of layout in the room, as opposed to having the panel up on a dais and far away from people. We also make sure we accommodate aboriginal groups and listen to their oral testimony, because we know that their traditions are not in writing and that their testimony is in oral form. Those types of aspects are what I was referring to.

In order to do that, we need to get out to the communities earlier, because they need to understand what our processes are in advance, as well as what they need to do to get their viewpoints across to us effectively on a proposed project. We've learned that a lot of people, parties who may not be sophisticated in some cases, will say by the end of the hearing, "If I'd known what this was going to be like at the front end, I would have been able to better prepare". We're learning that lesson and making sure we take the time to get out at the front end, so that when the hearing does come to a particular area, people are feeling well prepared and are able to give their evidence.

• (1620)

**The Chair:** We are out of time. On Mr. Martin's question, as it pertains to our study, if you are able to format a response on that and take a look at the debate when we're done, it would be most appreciated.

Now let's go to Mr. Rickford, the member for Kenora.

**Mr. Greg Rickford (Kenora, CPC):** Thank you, Mr. Chair, and thank you to the witnesses.

I am the member of Parliament for the great Kenora riding, so I'm happy to be involved in this discussion. I'm sorry, Todd, but it was high time that came out.

I want to bring to the discussion the McCrank report, which I hope you folks are aware of or have some appreciation or knowledge of. Is that okay?

**Mr. Steve Burgess:** I have to confess, Mr. Chair, that my knowledge of that report is limited.

**Ms. Sheila Leggett:** As is mine.

**Mr. Greg Rickford:** Briefly, in his report he noted that a northern projects management office, known as NPMO, should have a single point of entry and primarily do two things. First of all, it should assist in coordinating federal departments; second, it should liaise with regulatory bodies that apply to all projects, major and minor. This was a report this committee has dealt with, and in my view it has profound implications in today's discussion. It's not necessary that you have a complete sense or understanding of the report, but in a nutshell those are two key points as they might apply to the federal government.

Could you comment or elaborate on the plan for the NPMO? Specifically, do you envision the NPMO coordinating all relevant regulatory bodies as they might apply? This is what the McCrank report is effectively suggesting.

Also, how do you envision or recommend the NPMO play a coordinating role most effectively?

**Ms. Sheila Leggett:** First of all, I can tell you that we are supportive of the NPMO at the National Energy Board as a means of working effectively with groups to coordinate activities. The exact role and function of the NPMO as it has been established I'm not completely aware of, so I wouldn't want to speak outside of what that aspect of it is.

I would go back to my comments that our lessons learned are if we talk to each other and sit down and figure out what our roles and mandates are in our jurisdictions, through the Northwest Territories board forum we've found we've been very successful in being able to look forward to how we can develop processes. I would assume there would be a role for NPMO along those lines similar to what NPMO has been doing south of 60, which is allowing a coordination point for departments and agencies to talk to each other.

**Mr. Greg Rickford:** I would encourage you to take a look at that report. Certainly we've discussed it and worked with it here at the committee in the context of much of what we're talking about.

• (1625)

**Ms. Sheila Leggett:** I have read it, and the NEB is very familiar with it and is very supportive of anything that will allow minimizing any regulatory duplication.

The National Energy Board is very committed to making sure we achieve the best outcomes—hence my comments about not process for the sake of process.

**Mr. Greg Rickford:** Great.

My second question might be directed more toward you, Mr. Burgess. Again, just referring to the McCrank report by way of preamble, he noted that defining principal steps and standards could streamline the consultation process and lead to substantially improved relationships. I think part of the legacy here will be relationship building on so many levels.

The recommendation for the federal government was to give a high priority to developing a policy that outlines the roles of governments, boards, and participants in responding to the requirement, particularly for aboriginal consultation.

Importantly, our government has dedicated an unprecedented \$2.8 million over two years to the CEAA to support aboriginal

consultation in addition to participant funding programs for each agency.

Are we working simultaneously to improve consultation? Is there a consolidated, defined process in the works in these regards?

**Mr. Steve Burgess:** Certainly the government is taking its responsibilities with respect to aboriginal consultation much more seriously. The funding that is being provided to our agency for aboriginal consultation is extremely valuable. It's well understood that we have responsibilities to consult with first nations before we make decisions that could adversely affect them. That funding is being used to consult with first nations in the context of environmental assessments.

Our view is that whatever mechanisms we can put in place that will improve the environmental assessment process—to make it more efficient, effective—without adversely affecting the quality of the environmental assessments and ultimately the quality of the environment in the long term should be supported.

**The Chair:** Thank you, Mr. Rickford.

You were over a little bit. We gave you a little bit of latitude.

[*Translation*]

Do you have a question, Mr. Lévesque?

**Mr. Yvon Lévesque:** No.

[*English*]

**The Chair:** Monsieur Dreeshen.

**Mr. Earl Dreeshen (Red Deer, CPC):** Thank you very much, Mr. Chair.

Welcome to our witnesses today.

I am from the great riding of Red Deer, Alberta, and I have a couple of things.

As far as our National Energy Board is concerned, I was speaking with people from the oil and gas industry and they were talking about the regulatory processes they have. They indicated that they're probably the most stringent regulations in the world. They said the only country that perhaps had gone any further was Australia, and that's because it used the model we have in Canada to devise new regulations. There is a lot of work that has been done, and there are a lot of significant and important things that I think people should be aware of.

The other thing I would like to mention—one of our members mentioned it earlier when he was speaking about the tar sands—is that it's actually a process, and it is not really tar sands. It might be important for him to realize that even the NDP in Alberta recognize that it's no longer an accurate term and it's derogatory. I just want to put that on the record as well. When those sorts of things are mentioned, it irritates me somewhat.

To get to my point, you recently issued draft conditions for the approval of the Mackenzie Valley pipeline. I wonder if you could summarize some of those conditions and explain to the committee why you recommended them.

•(1630)

**Ms. Sheila Leggett:** I'm sorry, I can't; I'm not on the panel. This is the work of an independent panel composed of National Energy Board members and the process is under deliberation at this point. All I can speak to you about is the process.

**Mr. Steve Burgess:** I would simply add that the report of the joint review panel for the Mackenzie gas project came out last December with a series of recommendations with respect to the project and how the panel sees that project proceeding. The government is currently studying those recommendations to determine how best to respond. Ultimately it will be the government that decides whether, and how, the project should proceed.

**Mr. Earl Dreesen:** One of the other things we were presented with in budget 2010 was the red tape reduction panel, to review key areas of federal regulations. I'm curious as to what types of things you think might be applied to speed up some of the delays around pipelines and if there are other steps you could consider to have some of these projects continue in a timely fashion.

**Mr. Steve Burgess:** I'm not sure I can speak specifically to pipelines, but I can speak to resource projects in general. One of the tools that exists under our legislation is that we are able to delegate the conduct of environmental assessments to other jurisdictions. If our act applies to a project that is also being assessed provincially, through the Energy Resources Conservation Board in Alberta, for example, we can delegate the conduct of that EA to the provincial authority. That facilitates the conduct of EAs, simplifies the process for proponents, and so forth. The federal government does retain its decision-making responsibilities with respect to that environmental assessment.

We talked earlier about the substitution option that exists within our legislation.

From our perspective, those are the kinds of things we see as being feasible.

**The Chair:** There are about 30 seconds left in the time spot here.

Mr. Duncan, you wanted to add something?

**Mr. John Duncan:** In the budget there's a proposal to transfer responsibility from CEAA to NEB and the Nuclear Safety Commission for projects falling under those areas of expertise. Would that leave much room for CEAA in the north?

**Mr. Steve Burgess:** As I mentioned earlier, our act currently applies very little in the north. The environmental assessment process is established under the land claims agreements to trump—a word I heard earlier—our process. So our process only applies in very limited circumstances for projects of significant national interest or in transboundary situations.

**The Chair:** Thank you, Mr. Duncan and witnesses.

Now we'll go to Ms. Leslie, for five minutes this time.

**Ms. Megan Leslie:** Thanks, Mr. Chair.

I really don't have expertise when it comes to environmental assessments, but one thing I am concerned about is this idea of moving more of the powers from environmental assessments to the National Energy Board. There is a bit of a red flag there for me, so I'm hoping you can help me out with this.

I agree with Mr. Martin that any time we consider economic development we also need to look at the health and development of that region, of those communities. If we look at the impacts on Fort Chipewyan, Mr. Martin asked for results—any reports you have on health impacts. When it comes to the tar sands—and with all due respect to my colleagues, I think “oil sands” is a euphemism, so I prefer “tar sands”—how are you actually screening for environmental health impacts and impacts on first nations—more the how versus the results?

**The Chair:** Again, Ms. Leslie, you're tying it to some specific geography that's outside the context of our study. The issue is the importance of environmental assessments and protection of the environment to communities in the north. You have to connect the dots.

•(1635)

**Ms. Megan Leslie:** I absolutely understand that, but we have the National Energy Board here, and increasingly we're seeing environmental assessments being moved to them. The Athabasca tar sands.... It's not just one specific area. I think we need to know how the National Energy Board is actually doing environmental assessments. Maybe it doesn't need to be specifically about Fort Chipewyan, but how are they doing environmental assessments, no matter where they are?

**The Chair:** That's okay.

Go ahead.

**Ms. Megan Leslie:** Thank you for the clarification.

**Mr. Steve Burgess:** I think it's important to know that the National Energy Board doesn't regulate the oil sands. They are regulated provincially, so they don't have any jurisdiction in that area. I can say more generally that the environmental assessment process under CEAA includes an assessment of impacts on the environment and socio-economic effects, including impacts on human health. If there are issues resulting from a project that could have impacts on human health, they would be assessed through the environmental assessment process.

**Ms. Sheila Leggett:** I was going to say the same thing from the aspect of the mandate of the board. You want to think about it as far as once things cross lines—so either interprovincially or internationally. That's what falls within the mandate of the National Energy Board in terms of pipelines and power lines, as well as some other aspects of export and import.

On the aspect of substitution that you're talking about, which is the ability of the National Energy Board to undertake an environmental assessment of projects within its mandate, the National Energy Board believes this is a very positive step. Joint review panels in the past have taken some time to get established, as far as the process. We believe that by doing the substitution piece.... I wanted to make sure you knew that we had the expertise within the organization. In fact, I have a master's degree in environmental biology and I'm a board member. We've been doing this for 50 years. We just celebrated our 50th anniversary last year.

When you look at the mandate under section 52 for large projects under the National Energy Board Act, the board is required to take into account all aspects of anything that would be deemed in the public interest. The National Energy Board has always looked at the environmental, social, economic, safety, and security aspects of any proposed project. By going with the substitution approach, it allows us to be able to do that in a very coordinated fashion, while still following the requirements of the CEA Act and having it be ultimately the decision of the government.

Thank you.

**The Chair:** Thank you, Ms. Leslie.

I'm going to take one of the slots at this point.

To both of our witnesses, one of the things we have come up against in this study is the complexity of regulations as it applies to development in the north. So I appreciate your earlier comments, and we'll go back through that to try to make sure we completely understand.

I have two main questions. One is if you could summarize for us the triggers that would have you involved on a file in the north, north of 60. As I recall, Mr. Burgess, you mentioned it is limited, but at least if we knew what those triggers were....

The second part is some discussion and some good questions have been put around the recent developments and announcements on energy projects specifically to streamline that environmental process to the NEB. Could you give some confidence around the standards of environmental protection and measures being considered on energy projects continuing to be upheld? As you can imagine, there's been some commentary that this would somehow jeopardize the high standard of care in terms of environmental protection. I wonder if you could provide a comment on that.

So the triggers, and upholding the standards.

**Mr. Steve Burgess:** Certainly.

I have to preface this by saying I'm not an expert on the environmental assessment regimes in the north. Nonetheless, under the land claims agreements environmental assessment regimes have been established that apply in those territories. At the same time, they specify that the Canadian Environmental Assessment Act doesn't apply, except in very limited circumstances. The definitions of those circumstances, I would say, are a bit vague.

• (1640)

**The Chair:** Can you give some examples?

**Mr. Steve Burgess:** The circumstances under which our act could apply would be for projects of national significance or certain transboundary projects.

**The Chair:** What would be an example of a project that's national in significance?

**Mr. Steve Burgess:** Take a bit of a far-fetched example, maybe a nuclear plant in Yellowknife or something along those lines or some type of project that is new to the territory, which has significant concern from a public or environmental perspective.

With respect to your question of standards, you should know that we have quite a long history of conducting joint reviews with the National Energy Board and rely, even today, on the National Energy Board's process both during and following the environmental assessment to ensure that environmental conditions are applied and implemented.

So the notion of a substituted process is not of great concern to us, because we're satisfied there won't be any reduction in the level of environmental protection that we have today as compared to what might occur in the future.

**The Chair:** Okay. Thank you.

Ms. Leggett.

**Ms. Sheila Leggett:** Just to build on Mr. Burgess's point, Mr. Chair, from the aspect of environmental outcomes, the National Energy Board is confident that by having a streamlined process we will be able to make sure we move toward even better environmental outcomes. So I would be able to provide you that confidence that we believe this is a positive step forward in the safe and secure regulation of oil and gas activities that are mandated under the National Energy Board.

Another aspect I'd like to follow up on is the conditions that get imposed with any decision. We have another whole set of operations staff whose mandate it is to be in the field during the construction of any projects, ensuring that all the conditions are met throughout the construction, and then that the conditions throughout the lifetime of the facility are also met, and then, ultimately, the abandonment of the pipeline. That was what I was referring to.

**The Chair:** So you have personnel who are actually on-site and visit the sites regularly through the course of its life as a project.

**Ms. Sheila Leggett:** Absolutely, and we actually have a risk assessment framework where, because we can't be everywhere across Canada at all times, we prioritize where we need to focus our energy and attention, both on the construction side as well as on the ongoing operations side.

**The Chair:** Okay, thank you very much.

All right, are there other questions from members?

We'll finish that part of our meeting today. Witnesses, we appreciate....

Actually, let's just take a two-minute break, shall we? We'll come right back to the table and then we'll get under way with committee business. We'll suspend.

•(1640) \_\_\_\_\_ (Pause) \_\_\_\_\_

•(1645)

**The Chair:** Members, let's proceed.

Before we get to the two motions we have before us, I have a couple of announcements I'd like to get through, because I know you'll be chomping at the bit to get out of here as soon as we finish with the motions.

You've been circulated on these, but I want to bring this to your attention. Next Wednesday there is an event in Ottawa, at the Novotel Hotel. It's being put on by the Ontario Native Education Counselling Association. You had an invitation that was circulated, but I will draw that to your attention. It's a launch of a report called *Walk in our Moccasins*. That is at 11 o'clock, on March 31. There is a reception to follow, which would be right after caucus, from 12 noon to 2 p.m. That's at the Novotel.

The second thing is that we've had a request from a delegation of Swedish parliamentarians who are going to be in the nation's capital on April 20 and 21 to meet with our committee. This is a Tuesday, by the way, the 20th of April. We have a meeting scheduled at 3:30 p.m. We typically have votes on Tuesdays, and then we could have our extra hour that evening. I have suggested that if they wish to meet members informally and we could get to the committee meeting room quickly after question period on that Tuesday we could meet with them in the committee room prior to the meeting at 3:30.

Please mark that in your calendars. It's Tuesday, the 20th of April, to meet with the Swedish parliamentarians.

The third thing is that we have had some questions from members regarding the meeting on Thursday, April 1. You know that will be the last day of the sitting before Easter break. We're scheduled to meet from 3:30 to 5:30, and some members are trying to make connections to get home.

Members, we have a couple of options, and I will take your direction on this. I believe there are discussions under way between the House leaders to possibly adjourn earlier that day, but I'm not privy to those discussions. However, we could either postpone the meeting and pick it up at a later time, after the break, or we could look at trying to schedule the meeting earlier that day, possibly in the 9 o'clock or 11 o'clock spot. At this point we have tentatively blocked a space for 9 o'clock, if members would prefer to do it earlier on Thursday, April 1.

On that point, is there any preference? Do I have any consensus on what you'd like to do? Would you like to postpone or go earlier in the day?

Mr. Duncan.

•(1650)

**Mr. John Duncan:** I'll move that we move the meeting to 9 o'clock.

**The Chair:** Is that okay with everyone?

[*Translation*]

**Mr. Marc Lemay:** We are talking about Thursday, are we not?

**The Chair:** Yes, Thursday.

**Mr. Marc Lemay:** That's fine with me.

[*English*]

**The Chair:** All right, is it agreed then?

**An hon. member:** There's no objection.

**The Chair:** There doesn't seem to be.

The room is 112-N. We'll get the notice out to you.

**Mr. Todd Russell:** I think we have probably scheduled a meeting that we wouldn't otherwise have had, because if the House rises early....

**The Chair:** All right.

Members, at our second-last meeting we adopted a motion to table Mr. Bagnell's motion. That motion had been put before us and we were in discussion. We are going to resume discussion on that motion. We don't need to read it again; it's part of the record.

We'll take any speakers on the motion at this point.

Mr. Duncan.

**Mr. John Duncan:** To be honest, I don't know how we can discuss either motion, Larry Bagnell's or Anita Neville's, without them here, so I move to table both motions.

**The Chair:** Well, it's a question, but I don't know that there's going to be a consensus on that.

We have a motion to table these again—in fact, postpone them—but we need to say what date we're going to hear them again.

Will it be Tuesday?

**Mr. Todd Russell:** Point of order.

When the chair introduced this motion, he said we already have a motion up for debate. On that premise, therefore, I would take it that it was duly moved. Then, of course, it is open for debate, because that's what the chair had indicated to us. Therefore, the motion's up for debate. That doesn't require, in fact, that a person be present to debate it. As I understand it, it is on the table for anybody who is present at the committee to debate.

Even if Mr. Bagnell is not present, it is possible for me to move it, and then put it on the floor for debate. Mr. Bagnell only gave notice that this business was coming up. When it comes to the floor, anybody can move it as an item of business. So if the chair is right in the first instance, I agree with that. If he's wrong in the first instance, I will move the motion.

**The Chair:** I thank you for your intervention, Mr. Russell.

In fact, there's nothing that requires the members who actually put the notice of motion in play to actually be here. Certainly in the case of Mr. Bagnell's motion, it is part of our business. We chose at the last meeting to continue to have it discussed. So it can be discussed, and the question can be decided here by the representatives of the committee here today, and those who are alternates. So we can discuss the motion.

I would say the same would be true for Ms. Neville's motion, because the idea of notice of motion is to make the committee aware of the question before them. It is really insignificant whether the mover is here to speak to it, because her colleagues can speak to it.

All right.

Do you have another point of order, Mr. Rickford, or do you want to speak to the Bagnell motion?

• (1655)

**Mr. Greg Rickford:** Just a comment.

I take Mr. Russell's point.

I guess part of the logic behind this is that the two motions are asking for studies. I'm confused, quite frankly. I'm not part of the subcommittee, but I know that we are already in the midst of a lengthy consultative process with witnesses and stakeholders on a northern development study. These motions represent two more studies.

I guess the question is, objectively, in the instance of Mr. Bagnell, who's a long-standing member of this committee, how does this fit in with the current work we're doing, and the commitments we've made to different timelines?

In the instance of Mrs. Neville, the question I would have is somebody who has been part of this committee historically, but has not been part of this committee since I've been here—for a year and several months—hasn't had a chance to appreciate what's contained in here.

I have other concerns specifically about her motion for the purposes of debating that motion, but I think that's part of the exercise we're going through here.

That's all.

**The Chair:** That's fair enough.

We are just going to deal with them one at a time, if we can. Perhaps we can dispense with Mr. Bagnell's motion first.

Is there any other discussion on the motion?

Mr. Duncan.

**Mr. John Duncan:** I'm not trying to pile it on, but Greg's comments about having a work plan are correct. We've already agreed to extend Tuesdays by an hour to fit everything in. Now we're talking about fitting something else in. You guys are probably all going to vote for this, and you're going to defeat us, so we'll be going in this direction, but I don't think we should be going in this direction unless, once again, we agree to do it outside of our regular Tuesday and Thursday slots, which are already committed to a work plan. If you're not prepared to do that, then you're not really that committed to the subject.

**The Chair:** Okay.

Monsieur Lemay.

[*Translation*]

**Mr. Marc Lemay:** First of all, I think we can adopt both of these motions today. Second, I think it is for the steering committee to decide when we will examine them more thoroughly.

I think we should adopt the motions and decide what to do once the steering committee has met, whether that happens to be next week or after we return from our break. I was told and I understood that this was how we were going to proceed. We'll see if we need to schedule another meeting. We can adopt the motions, go forward and then schedule meetings to review them.

[*English*]

**The Chair:** Merci, Monsieur Lemay.

Now let's go to Mr. Martin.

**Hon. Keith Martin:** The reason I think Mr. Bagnell is bringing this up now is that there's an urgency to this. There are 134 programs right now under the healing foundation, and most of those are actually at the end of the rope financially. I think the government has said they were going to allow just 12 of those projects to continue.

The crux of the matter is this. Close the projects down, don't allow the funding to happen, and not only will more than 122 projects fall apart, but there are thousands of people right now in treatment in those projects, and those are the people who will be abandoned if the healing foundation does not receive the moneys that it needs urgently.

So really it boils down to a matter of care: it's a matter of continuity of care, and it's a matter of enabling the people who are currently in the midst of their treatments to be able to continue those treatments to the end. Close off the moneys to the foundation and you deprive these people from being able to complete the treatments they're currently receiving. That's why we're bringing it up now, and that's why there's an urgency to this matter.

Thanks.

• (1700)

**The Chair:** Mr. Duncan.

**Mr. John Duncan:** Just for the record, Mr. Martin has already formed all his conclusions and come to every recommendation already before we've looked at the subject. I just had to say that; sorry.

**The Chair:** Okay.

If I could just comment, the motion doesn't speak specifically to timing. While it's true the deadline is March 31, members will know that's next Wednesday. I don't know that we're going to be able to meet on this before Wednesday. For that matter, I'm not sure how the findings in this meeting will necessarily be incremental to the decision that appears to have been taken in respect to the Aboriginal Healing Foundation. The minister did answer some questions on this subject when we had him in here for supplementary estimates. It's up to the committee to decide what you want to do with this.

Administratively, Mr. Lemay is correct: we make decisions about the committee's schedule in subcommittee. I would suggest that any motion that's passed by this committee that affects the schedule would be considered by the subcommittee in the normal course, unless the committee tells us to meet on a more urgent basis.

So without any other direction to the contrary, if these motions are passed, this business would come forward for the subcommittee at our next meeting.

**Mr. Marc Lemay:** I call the vote.

**The Chair:** Okay, we have a request to put the question on Mr. Bagnell's motion.

(Motion agreed to) [See *Minutes of Proceedings*]

**The Chair:** Okay. On the second motion, discussion?

Actually, this one has not been moved at this point. We've had a notice of motion on here. We will need someone to move the motion.

**Mr. Todd Russell:** I'll move the motion.

**The Chair:** Mr. Russell.

The motion's been circulated. Discussion?

Mr. Duncan.

**Mr. John Duncan:** This is a very complex motion, as you all know, from having read it. It's a complex topic. Every province operates child and family services differently, so we have a lot of factors to assess. I can't see how we could possibly meet the terms of this motion without multiple meetings, which I do not believe we have the time to do. But more importantly, the crucial factor is this matter is before the courts, and government members would be very limited in their ability to participate, to ask questions, and there's a possibility that we would not be able to attend at all.

So if you proceed with this, you proceed with being forewarned that this is the case. We obviously have no choice but to vote against this motion. This very question is being considered. It's before the courts.

**The Chair:** Just before we go, Mr. Duncan—

**Mr. John Duncan:** This is a patent, transparent attempt to politicize an issue that is before the courts.

• (1705)

**The Chair:** Is there discussion?

Monsieur Lemay.

[*Translation*]

**Mr. Marc Lemay:** When I read the motion, it struck me as rather complex. On that score, I agree with Mr. Duncan. I did some digging and found out that judicial proceedings had been initiated. It's clear to me that if we adopt the motion, the steering committee will need to be very vigilant when it comes to making requests of the department. I realize the government cannot say any more about this, as the matter is currently before the courts.

However, unlike Mr. Duncan, I would not go so far as to say that unquestionably, the goal is to politicize the debate. However, the current situation is clearly very difficult. We will of course support this motion, but I hope that Ms. Neville does not expect us to debate

it before the Easter break. I think it will be difficult to debate it before May or even before June.

It would at least be nice to be updated on the status of the court proceedings into this matter, to avoid duplication and, first and foremost, to avoid wasting everyone's time. I will probably ask the parliamentary secretary to bring us up to date on this when the steering committee discusses the amount of time that should be allotted to this motion.

I think we can adopt the motion, but the steering committee will need to be vigilant when the time comes to examine it.

**The Chair:** Thank you, Mr. Lemay.

Mr. Russell.

[*English*]

**Mr. Todd Russell:** When the committee will turn its attention to this issue is a matter for the subcommittee to decide. The government has the discretion to determine who should appear or not and what line of questioning to take, depending on the witnesses before the committee.

As far as I understand it, the federal government's action is not a technical matter, in that the Human Rights Tribunal doesn't have the jurisdiction to hear this particular complaint. There are many other issues around child and family services affecting first nations that are not impacted by that case, because the government is arguing it's a jurisdictional issue. There are many issues around the preventive model approach, whether the government has put enough money in, and how many kids are in care. I think we were all stunned by the department's revelation of how many aboriginal children are in care.

Even though the parliamentary secretary raises some concerns, I think there are ways we can mitigate those concerns and still have a fulsome hearing of the issue.

I'll leave it at that. I will vote for it. I'm sure that the member who initially moved this or gave notice of motion would be amenable to working with the subcommittee and the committee to make sure that we can make a hearing of this without stepping on too many toes.

**The Chair:** Thank you, Mr. Russell.

Mr. MacAulay.

**Hon. Lawrence MacAulay:** I agree with Mr. Russell. Of course she would be only too pleased to work with the steering committee. There are a lot of questions that should be answered by aboriginal affairs—that's what you're dealing with—on the fairness of funding, be it on reserve or off reserve. The questions are pretty fair. We as the committee need to know some of the answers to these major problems, and I certainly hope the committee will support this.

It first has to be set up by the steering committee and it has to find the time, but these are questions the government and the committee should have the answers to.

**The Chair:** Thank you, Mr. MacAulay.

Mr. Duncan.

**Mr. John Duncan:** In response to the suggestion that this is only about jurisdiction, there is a full range of arguments that are completely outside of that argument, but of course that is the specific argument that's being placed before the Human Rights Tribunal at this point.

There is a full range of objections, all of which could be at issue within the context of this motion. I'll leave it at that.

• (1710)

**The Chair:** I don't have any other speakers.

Just before we take the vote, there clearly are some administrative limitations to this kind of study. That will be something the subcommittee will have to consider carefully in its work.

I'll put the question.

(Motion agreed to) [See *Minutes of Proceedings*]

**The Chair:** All right.

There being no other business for the committee, the meeting is adjourned.

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