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Chair

Mr. Chris Warkentin

Standing Committee on Aboriginal Affairs and Northern Development

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• (1540)

[English]

The Chair (Mr. Chris Warkentin (Peace River, CPC)): Colleagues, I call this meeting to order. This is the 55th meeting of the Standing Committee on Aboriginal Affairs and Northern Development.

Today, colleagues, you know that we have a representative from the Government of Yukon with us. Ms. Henderson joining us from Whitehorse. She's a representative of the government and a member of the Department of Justice.

Ms. Henderson, thank you so much for joining us today. We apologize for the delayed start. We had a prolonged question period today, and it deterred some of our members from getting here on time. We appreciate your joining us. Then we will have a number of questions to ask you, and we look forward to that.

First we'll begin with your opening statement and then we'll turn to questions. Thanks again for being with us today.

Ms. Laurie A. Henderson (Managing Counsel, Legal Services Branch, Department of Justice, Government of Yukon): Thank you.

Thank you for providing the Yukon government the opportunity to comment on these changes.

By way of background, I will note for you that the Yukon Surface Rights Board Act has its origins in the Umbrella Final Agreement and the 11 Yukon first nation final agreements that have been signed into effect by the Government of Canada, the Yukon government, and 11 Yukon first nations.

Chapter 8 of these agreements established the framework for the Surface Rights Board legislation, and the Yukon Surface Rights Board Act came into force on February 14, 1995. Additional responsibilities of the board are established in other pieces of legislation, including two Yukon statutes: the Quartz Mining Act and the Placer Mining Act.

The amendments to the Yukon Surface Rights Board Act that are contained in Bill C-47 have been under discussion for some time. The Yukon government was first contacted about the amendments in the fall of 2011 by officials from Aboriginal Affairs and Northern Development.

In January of 2012 there was a meeting between federal officials and Yukon government representatives to discuss the proposed changes. That meeting was followed up a number of months later in

August with a letter, wherein the federal government was actually seeking views on the specific changes that are now in the bill.

In September of this year, Yukon advised those federal officials that it had no substantive comments on the proposed changes. That continues to be the case today; the Yukon supports the changes and believes they will make board operations more efficient and cost-effective.

Two of the changes in Bill C-47, particularly the amendment of section 10 and the amendment of section 11, which authorize a member whose term has been terminated or expired to continue to act as a member until a decision has been made on the matter before the board, will ensure efficiency in resolving disputes. Without this provision—and we have certainly run into this situation with other boards and committees in the Yukon—if a member's term does expire or is terminated prior to rendering a decision, the hearing may have to be restarted, and that obviously would incur additional costs for both the proponents and the board officials. The Yukon government sees this change as quite positive, and it is welcomed.

The third change in Bill C-47 involves the amendment to section 23 of the Yukon Surface Rights Board Act. This one requires the auditor of the board to audit the accounts, financial statements, and financial transactions of the board each year and to report on the same to the board and the minister. In the Yukon's view, this change again will help ensure financial accountability and transparency in the board's financial management. As it does for the other amendments, the Yukon supports this change and sees it as an improvement over the past arrangement, whereby the financial statements were actually audited by the Auditor General of Canada.

In conclusion, we would like to reaffirm the Yukon government's support for these three changes. Thank you for the opportunity to appear today.

The Chair: Thank you, Ms. Henderson. We appreciate that opening statement.

We'll now turn to our colleague, Mr. Bevington, for the first seven minutes of questions.

Mr. Dennis Bevington (Western Arctic, NDP): Thank you, Ms. Henderson. I appreciate your being here today. I'm sure that we'll get some valuable information from you about this process, which is a bill that contains acts that affect all three northern territories.

In the surface rights legislation of the Yukon, you have five members on the board. Two of them are appointed by the Yukon first nations. Is that correct?

Ms. Laurie A. Henderson: I believe that is correct, yes.

Mr. Dennis Bevington: What percentage of land in the Yukon is held by first nations under their comprehensive claims?

Ms. Laurie A. Henderson: I can provide that answer to you later. I don't have that off the top of my head. It is a relatively small proportion of the total land base.

Mr. Dennis Bevington: As a percentage, would it be less than 10%, less than 5%?

Ms. Laurie A. Henderson: As I said, I would be happy to give you an answer, an answer to the committee, even later today, but I don't know off the top of my head.

Mr. Dennis Bevington: Okay, very good.

You have yet to experience any claims in front of this board, is that correct?

Ms. Laurie A. Henderson: No, actually that is not correct.

Mr. Dennis Bevington: Okay.

Ms. Laurie A. Henderson: There was one hearing that the board was involved in a number of years ago, which involved a dispute between a mineral claim holder and the City of Whitehorse.

Subsequent to that hearing, although I am not familiar with the day-to-day operations of the board, I think it's fair to say its activity level is low.

Mr. Dennis Bevington: Do you have a free entry system in the Yukon for mine claims?

Ms. Laurie A. Henderson: Yes; for both quartz and placer mining, it is a free entry system.

Mr. Dennis Bevington: In your understanding of the surface rights legislation, if someone had a claim on a piece of land—had established a claim through the process of free entry—would this Surface Rights Board be utilized if there was a disagreement between the landowner on that claim and the people who wished to go onto the land to further explore that claim?

• (1545)

Ms. Laurie A. Henderson: There are a couple of ways in which the Surface Rights Board could become involved in those issues.

One is spoken to in the Yukon Surface Rights Board Act itself in terms of disputes involving settlement land, and that has to do with access and access conditions that could be imposed. I can give you an example under chapter 18 of the final agreements: for existing mineral claims and new mineral claims, there is a point where there is access as set out in legislation, and then there's a point where access requires consent of the first nation.

For example, if it is a new mineral claim, one that is staked after a land claim settlement has come into effect, low-level activities—activities that don't involve disruption or intrusion on the land any greater than hand labour methods—can occur. If you are going to do more than hand labour methods, you require the consent of the first nation that owns that land, the category B land in this case that I am using. If that consent cannot be attained, that's a matter that can go to the Yukon Surface Rights Board for conditions of access to be put on.

The second is under both the Quartz Mining Act and the Placer Mining Act, which again are Yukon statutes. If the mine recorder

determines that security is required before a person enters onto, in this case, category B land, and the amount of security that the mine recorder determines is not acceptable to either the miner—the claim holder—or the first nation, that dispute can also be referred to the Surface Rights Board.

Mr. Dennis Bevington: Would that apply as well to municipally held land?

Ms. Laurie A. Henderson: The latter one I spoke to does. Whenever land is owned or occupied by another party, the provision applies that relates to security prior to entry applies to various types of land, not just to land held by first nations.

Mr. Dennis Bevington: Under the free entry system, you can go anywhere and make a claim. If you are on someone else's land and establish a claim, at one point in time or another you will pretty well be guaranteed access through this process. The Surface Right Board cannot turn down access requests; they can only set compensation and conditions. Is that not correct?

Ms. Laurie A. Henderson: I'm going to respond to you, but I will premise my comment by saying your sound is cutting out a bit. The question, I believe, was whether or not it was really an issue of access as opposed to whether you can enter on to the claim.

Mr. Dennis Bevington: That's right.

It was to enter on to the claim, because the free entry system allows claims to be made in very many locations. Is that not correct?

Ms. Laurie A. Henderson: Yes, the free entry system certainly.... In terms of, for example, the quartz act, where the mines and minerals are under the control and administration of the Yukon government and the commissioner, there is a right of entry set out in the Quartz Mining Act and in the Placer Mining Act.

There are some parcels of land that are subject to prohibition of entry other areas that are set out in the act that are not open for entry. In the places that are open for entry, the issue is one of access and resolving access disputes between claim holders and those who hold that land when that land is not held by the government.

Mr. Dennis Bevington: Thank you very much for those clarifications.

The Chair: We'll now turn to Mr. Leef, the member from Yukon, for the next seven minutes.

Mr. Ryan Leef (Yukon, CPC): Thank you, Chair.

Thank you to our witness for coming today.

The Surface Rights Board deals with a host of... Well, as you accurately indicated, it hasn't really dealt with a tremendous volume of files. I think somewhere in the neighbourhood of 10 have made applications, and then one actually went to the board.

The board would review other land access issues, such as land ownership, for various enterprises such as outfitters or wilderness tourism operators and so on as well. Is that correct?

Ms. Laurie A. Henderson: There may be opportunities, depending on the facts, for individuals other than first nations to go to the board. I'm not aware of any applications that have been made in that regard, though.

• (1550)

Mr. Ryan Leef: Do you have any additional information in terms of what has kept the Surface Rights Board applications low in the territory?

When I think about my experience with the outfitting industry, as an example, the Umbrella Final Agreement outlines pretty clearly the conditions that require initial consultation with the affected parties first.

Does that system seem to be what helps keep the applications from going to the Surface Rights Board? Are there specific obligations spelled out in the Umbrella Final Agreement that direct that consultation between parties that have dispute?

Ms. Laurie A. Henderson: My comments on this would be purely anecdotal, because there is not—to my knowledge, anyway—any study or investigation on this.

You are correct that in many instances, particularly under the final agreements, there is a requirement for something to happen before it goes to the Surface Rights Board. It is the same as under the quartz and placer acts. Someone will make a decision. The parties are encouraged to work together. If that cannot be resolved by the parties, then an application can be made to the board.

Mr. Ryan Leef: Then, presumably on the strength of that application, could they say there hasn't been enough consultation or there hasn't been sufficient exploration of the facts, and the board could either turn those back or bring it right up to a hearing?

Ms. Laurie A. Henderson: While the board has the authority to call a hearing, my understanding of their processes is that they encourage mediation between the parties beforehand. That is not in the statute in all instances, but I think that is the practice of the board, yes.

Mr. Ryan Leef: So really the changes in this legislation to the Surface Rights Board, or a fair bit of them, are just about red tape reduction and some common sense amendments. You noted that the Yukon government didn't have a lot of substantive comments in respect to the changes that are being made.

Nonetheless, maybe I could get you to comment on the unique challenges, I think particularly in northern rural and remote Canada, around trying to find appointees to these sorts of boards, whether that's due to capacity issues or conflicts of interest, and where the changes to the section reducing liability for decisions made in good faith might help facilitate recruitment to the board.

What's your perspective on that?

Ms. Laurie A. Henderson: I think it's a useful addition to the statute. In the case of the Surface Rights Board, I don't think they have faced this before, but I think any individual who is contemplating being appointed to this board would be advised to think of this and find protection in this clause, or find some comfort in this clause, anyway.

Mr. Ryan Leef: Would that partly be because if something did come up to the board in the Yukon, there's potential that land access issues could result in decisions involving either long-standing historical rights or significant economic benefit that could generate some serious monetary impacts?

Ms. Laurie A. Henderson: I suppose it's possible, but absent a fact scenario for where this has happened, it's difficult to comment on it. Certainly in the present situation, all board members would be wise to think about this type of protection being provided when they are acting in good faith.

Mr. Ryan Leef: Thank you.

You did touch on members' terms expiring and how this change would now allow hearings to continue with the members who started the hearing, essentially, so we wouldn't need to restart them at additional cost.

Again, I appreciate the fact that there just haven't been a lot of these done.

Do you have a general comment or an estimation of what these sorts of things cost and what it would cost taxpayers if a hearing had to be restarted? I know there is complexity to the hearing and that it all depends on situational variables, but maybe there are some ranges. Do you have some comments specifically on that aspect of the change?

Ms. Laurie A. Henderson: I think it's reasonable to conclude that on a complex hearing, which some of these certainly could be—complex from a factual standpoint—it could cost upwards of thousands of dollars if you had to start over.

As well, there is the time of both parties to the dispute, one of whom obviously has a financial interest, for example, in terms of the mining activity they wish to undertake, which would be even harder to estimate. With the time it takes just to get the hearing together, I wouldn't have any doubt that to reschedule a hearing would very quickly climb upwards of tens of thousands of dollars for a complex hearing.

• (1555)

Mr. Ryan Leef: Do the board set their own schedule? Would they set their own timelines, then, or are the timelines for results and conclusions set out in legislation for them?

Ms. Laurie A. Henderson: I believe the board has rules that speak generally to timelines and how they proceed from having an application in front of them through to going to mediation or to a hearing, if one is held.

Mr. Ryan Leef: Thank you.

The Chair: We'll now turn to Ms. Bennett for seven minutes.

Hon. Carolyn Bennett (St. Paul's, Lib.): Thank you very much.

Just to follow up on my colleague's question, this is a new thing for me that somebody, after their appointment was terminated, would continue to be able to render a final decision on hearings they've been part of.

Was that a recommendation from you? Had there been examples of board members leaving matters unresolved and others having to pick up their responsibilities even though they hadn't been at the hearings?

As well, has there been a high turnover on the board? Is there any reason for that? I'm just not sure where this came from, and I've not seen it before.

Ms. Laurie A. Henderson: With respect to the activities of the Surface Rights Board, I think you would have to direct that question to them.

I don't believe there has been a high turnover. I think this issue of board terms coming to expiry for one reason or another or ending for one reason or another has been an issue confronted in Yukon on a wide variety of boards that are appointed, and it has resulted in costs. I think this has been put forward as a useful provision, because absent this provision, if the member's term does expire, I would think that procedural fairness would suggest that you would have to restart the hearing in those cases.

While I do not believe this has been a crucial concern for the Surface Rights Board in terms of its practice, it has been an issue with a number of other boards and committees, and I think it is a reasonable thing to provide for the Surface Rights Board should this situation arise in the future.

Hon. Carolyn Bennett: This was part of the consultation. Obviously there were extensive consultations, as we heard, in Nunavut. I assume there was some consultation in Yukon.

You're saying the Surface Rights Board has been operating since the mid-nineties. Is this just a good idea, or is it something that's come out of the experience of the board that this would be a good thing to put into legislation? Was this your idea or the government's idea?

Ms. Laurie A. Henderson: I do not believe it was the Yukon government's idea. I think it was an initiative that was advanced by the federal government, in part, I anticipate, motivated by the work they were doing in Nunavut and the NWT, bearing in mind that many of the boards and committees that are still active in the NWT are active now in Yukon, but pursuant to Yukon legislation as opposed to federal legislation.

I think the board has asked for these types of amendments in the past. I do not believe that the Yukon government was the initiator of them, but it's certainly supportive of these changes.

Hon. Carolyn Bennett: Exempting board members from any liability, though, if it's determined they acted in good faith, is not something I've seen often before. Have there been civil suits against some of the members of the Surface Rights Board? What would be the legal test for knowing that somebody had been acting in good faith?

Ms. Laurie A. Henderson: To my knowledge, there have been no actions initiated against the Surface Rights Board members in the Yukon. It would be a fact-based test based on behaviour and on whether they could demonstrate bias and on how the board members individually or collectively were operating in good faith in terms of the nature of the decisions they made according to the rules of procedural fairness and natural justice.

•(1600)

Hon. Carolyn Bennett: In talking with people about this bill, I have heard some concerns about the proposed changes to the Oil and Gas Act in the territory that would repeal the need for Yukon first nations to consent to new oil and gas dispositions in their traditional territory, which was actually part of the devolution agreement in 1997. People are concerned that we're doing this at the same time they have concerns about the territorial legislation going in, which

actually says there doesn't have to be free, prior, and informed consent on traditional lands.

Can you explain that, or can you get back to me as to what I should be saying when somebody raises this kind of a concern about first nations traditional lands?

Ms. Laurie A. Henderson: The issue of the Yukon Surface Rights Board amendments in Bill C-47 is totally unrelated to what the Yukon government has advanced in its bill with respect to amendments to the Oil and Gas Act. The Yukon government has indicated that it has undertaken and will, in all respects, continue to undertake and implement all those consultation requirements with first nations as required by law.

Hon. Carolyn Bennett: But that doesn't mean consent?

Ms. Laurie A. Henderson: I think that's an issue the government is considering. The status of the MOA is one that first nations have taken a position on, but it certainly is not related to these amendments at all.

The Chair: Thank you, Ms. Bennett.

We'll now turn to Mr. Leef again.

Mr. Ryan Leef: It goes by fast, doesn't it?

The Chair: It sure does.

Mr. Ryan Leef: Thank you, Mr. Chair.

Maybe for the benefit of the committee you could differentiate between category A lands and category B lands as found under the Umbrella Final Agreement, and tell us what those terms mean in Yukon and what they mean in terms of access rights on the surface and subsurface. I know we're not talking about subsurface stuff here, but there is certainly a distinction under the Umbrella Final Agreement and the self-government agreements of each of the individual first nations in Yukon, so it might be helpful for us if you could break down the differences between the two and tell us what they actually mean under the UFA.

Ms. Laurie A. Henderson: Sure, I'd be happy to do that for you.

Across the Yukon there are a number of traditional territories identified that relate to each of the first nations, and some of these traditional territories overlap. For those first nations that have entered into land claim agreements with Canada and Yukon, identified in each of their final agreements is land that continues to be crown land, land that was identified as what's called category A settlement land. On that land, the first nation has the equivalent to fee simple title in the surface and the equivalent to fee simple title in the mines and minerals as well as the right to work the mines and minerals.

They also have parcels of land that are considered to be category B settlement land, and on that land they have equivalent to fee simple title for the surface of the land, but the interest in the mines and minerals and the right to work the mines and minerals continue to be held by government.

The third category is fee simple settlement land. The distinction there is that title has already been raised to those parcels of land, whereas a title may not have been raised to the category A and category B lands. On fee simple settlement land, again the surface is held by the first nation. The subsurface—the mines and minerals, and the right to work the mines and minerals—continues to be held by the government.

Mr. Ryan Leef: Is it accurate to say there are also specific land site selections outside of, say, the government's category A and B selections within the traditional territory, and there are also specific selections by groups or individuals of that respective first nation?

• (1605)

Ms. Laurie A. Henderson: Each first nation has a number of site-specific selections. Some of those may be category A parcels or category B parcels. It also has some site-specific parcels, which are generally very small. They may relate to a trapper's cabin or a homestead cabin that has been used, but there's that additional identification.

Mr. Ryan Leef: Thank you.

When we're talking about the surface rights, in particular a small site selection like a cabin, that would obviously be taken into consideration by the government when development projects or proposals are being looked at for permitting authority.

What other considerations and what other bodies of legislation would be involved in decision-making to allow subsurface access where there is a potential surface conflict, or what sorts of things would a group or individuals be allowed to present to be considered when they have surface rights to something, but not subsurface rights, and somebody wants those subsurface rights?

Ms. Laurie A. Henderson: Are you speaking specifically to land held by the first nation, or more generally?

Mr. Ryan Leef: Well, let's talk about the first nation. I think there's some sense it would apply generally, but they certainly have specific rights and determinations under the Umbrella Final Agreement under which the Yukon Surface Rights Board has been developed, so let's just talk about that.

Ms. Laurie A. Henderson: Under chapter 18 of the Yukon First Nation Final Agreements, there are a number of provisions that speak in particular to mining rights. They vary, depending upon whether or not the mining right was obtained prior to entry into the final agreement, meaning before the land became either category A or category B settlement land. Access provisions are set out in that chapter that pertain to claims that were located prior to the settlement of the claim.

There are also access provisions that apply to new mineral rights, which would be ones that would be located after the land became settlement land, which means in this case that we're speaking only of category B land or fee simple settlement land. Those access provisions generally follow the pattern of, again, low-level activities that can occur either in accordance with the law of general application or with the consent of a first nation if it's a new mineral claim. If you exceed those levels, then consent is required, and if you can't obtain consent, that is when you would go to the Surface Rights Board.

Mr. Ryan Leef: Thank you.

I think you outlined nicely the complexity of some of the decisions that would need to be made if there were a surface disagreement and it had to get to the point of the board.

Comparatively speaking, if you feel qualified to comment, with the Umbrella Final Agreement, self-government agreements, category A and category B lands, site-specific land selections, 11 different self-governing first nations, and a couple of non-self-governing first nations, how do you view Yukon's model of dealing with surface rights access and dispute resolution in terms of efficiency and fairness and being able to deliver this effectively? How does it compare with other jurisdictions in the country?

Ms. Laurie A. Henderson: I'd be somewhat hard pressed, I think, to compare it to other jurisdictions in the country. That said, I think that within Yukon it's a model that provides for many opportunities for resolution of disputes.

There is a provision in the final agreement that sets things out. The processes are all in place. There's considerable work, I think, undertaken by both first nations and the Yukon government. It is the Yukon government that's dealing with the mines and minerals and the oil and gas, but there is a lot of opportunity, particularly in the mines and minerals area, for ongoing discussions and arrangements being negotiated between the first nations governments and the Yukon government. We do have the opportunity in the final agreement, in addition to the provisions that are there, to negotiate terms and conditions of access between the Yukon government and individual first nations. That work has started with respect to at least one first nation.

I think many opportunities have been put in place, and the process as a whole, the regime as a whole, is one that should lead to positive solutions on some of these questions. At the end of the day, if people feel they need to go to the Surface Rights Board, there is an impartial body there that is able to assist in resolution of those disputes.

• (1610)

The Chair: Go ahead, Ms. Crowder, for five minutes.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Thanks, Mr. Chair.

Relating to issues around consent, I think you're probably aware that the Council of Yukon First Nations and the Kaska Dena have both issued public statements with regard to the Yukon government's proposed changes to section 13 of the Oil and Gas Act. My understanding is that there were some concerns about the consent provision over new oil and gas rights dispositions for the Kaska in their traditional territories.

How do you think the Yukon government's proposed legislation will interact with the Yukon Surface Rights Board?

The Chair: Ms. Henderson, I don't know if you can hear me, but it seems as though there's been a disconnection of our video. Not hearing from you, I'm assuming that your audio has been cut as well.

Colleagues, we'll suspend for just a moment.

•(1610) _____ (Pause) _____

•(1610)

The Chair: The meeting is resuming. We'll call the meeting back to order.

Go ahead, Ms. Crowder, for five minutes.

Ms. Jean Crowder: Thanks, Mr. Chair.

Ms. Henderson, my question was with regard to public statements by the Council of Yukon First Nations and the Kaska Dena's with respect to the Yukon government's proposed changes to section 13 of the Oil and Gas Act, specifically with regard to the consent provisions. My question had to do with whether or not those proposed changes will have an impact on the Yukon Surface Rights Board.

My understanding is that part of what the Yukon Surface Rights Board will hear would be cases in which first nations feel there is no consent. If there isn't that consultation provision, do you anticipate that the Yukon Surface Rights Board may see more activity, or, with that change in the legislation, will they actually be able to hear those cases?

Ms. Laurie A. Henderson: I think the answer to that question is no.

The consent provisions in the Oil and Gas Act that are under discussion right now in the Yukon Legislative Assembly are related to consent of a first nation before an oil and gas disposition is made in their traditional territories, which involves the Kaska, the unsettled first nation.

The Yukon Surface Rights Board Act is specific to disputes between surface rights holders and people who may have a subsurface interest that they want to deal with. Examples might be a mineral claim in which a third party owns the surface on category B land where we have settled first nations or category A land or those types of situations. The issues the Kaska are raising about consent would not affect the operation of the Yukon Surface Rights Board Act.

Ms. Jean Crowder: Is there another mechanism if they're not satisfied that they've been appropriately consulted? If the Surface Rights Board is not a place where they can take their complaint, is there another mechanism for them to deal with it? That's unsettled land, correct?

•(1615)

Ms. Laurie A. Henderson: It is unsettled land, so the options available to the Kaska if they feel that they have not been consulted in accordance with the law would be to seek redress in the courts. It's the same situation right now. There is nothing in the Yukon Surface Rights Board Act that has any bearing on the concerns that the Kaska have about the repeal of section 13.

Ms. Jean Crowder: For unsettled lands, their option—aside from the Kaska—is the courts.

Ms. Laurie A. Henderson: It's that, and the discussions they have with the government, but if they are of the view that the duty to consult that the government may have in an oil and gas disposition has not been met, this is the way for them to raise that concern.

That is the way it's been raised across the country in terms of concerns about a government not fulfilling its duty to consult. That's quite different from the issues under the Yukon Surface Rights Board Act.

Ms. Jean Crowder: I have a quick question about the appointment of board members.

For other territories, sometimes the appointment of board members hasn't been all that swift. Has that been a problem in the Yukon? Have there been gaps in appointments?

I'm not talking about the continuing cases, because you're right that it makes sense that if a tribunal member has started to hear a case, they should continue to hear the case. That's the case in other boards as well.

Have there been gaps in appointments?

Ms. Laurie A. Henderson: I think it's fair to observe that over the years there have at times been gaps in appointments, yes.

Ms. Jean Crowder: Has that created some difficulties for the operation of the tribunal?

Ms. Laurie A. Henderson: With regard to the Surface Rights Board, I would say no, primarily due to their relatively low level of activity.

With regard to other boards, when we've experienced this before, the issue has been addressed in large part, I would say, simply by devolution, since now it is the Yukon government that has responsibility for most of these appointments. Because we have administration and control over those resources—land, water—the delays that may have occurred previously are generally not an issue in the Yukon anymore.

Ms. Jean Crowder: With regard to the Auditor General, my understanding is that it's now going to be an independent auditor.

Will that have the same level of transparency that an Auditor General does for Canadians? I'm sure citizens of Yukon hold auditors general in very high esteem. Will an independent auditor have the same effect in terms of transparency and availability of the reporting to the general public?

Ms. Laurie A. Henderson: I believe so. The requirement is that the auditor, of course, will be required to operate under the generally accepted principles of accounting, as does the Auditor General, and that the report be made available to the board and to the minister. The practice of the board has been to release those reports publicly, generally as part of its annual report.

Ms. Jean Crowder: Thank you, Ms. Henderson.

The Chair: Thank you.

Ms. Henderson, we've come to the completion of our speaking list. I don't know if there's anything you want to finish off with, or if there are any questions that you want to clarify.

If not, we want to thank you for your time today. We appreciate...

I have one colleague who is looking to ask just a short question, if you've time yet.

Go ahead, Mr. Bevington.

Mr. Dennis Bevington: Thanks, Mr. Chair. I appreciate that.

There's a difference between what's been proposed for membership in the NWT Surface Rights Board and that of the Yukon, in that Yukon first nations appoint their members to the board.

Do you think it's been an acceptable solution for the Yukon to have the first nations groups appoint their own members?

Ms. Laurie A. Henderson: I would have to check the provision. I thought they were appointed by the minister on the nomination of the....

Mr. Dennis Bevington: Oh, yes. That's correct.

Ms. Laurie A. Henderson: I have not heard any significant concern about that method of appointment.

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

Again, we appreciate your testimony today. We want to thank you for making yourself available. We look forward to including your comments in our consideration of the bill. Thanks so much.

Colleagues, we will continue in camera to deal with some committee business. There are just a couple of things that need to be considered by the entire committee.

[Proceedings continue in camera]

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