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# **Standing Committee on Environment and Sustainable Development**

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**EVIDENCE**

**Tuesday, November 1, 2011**

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**Chair**

**Mr. Mark Warawa**



## Standing Committee on Environment and Sustainable Development

Tuesday, November 1, 2011

• (1100)

[English]

**The Chair (Mr. Mark Warawa (Langley, CPC)):** We will call the meeting to order. Welcome, everyone. Thank you to the witnesses for being here today.

We have three different groups that will be presenting, and each group has up to 10 minutes for presenting. We'll be following up with questions.

Thank you again for making yourselves available.

I'll start with Mr. Bennett.

Welcome. You have 10 minutes.

**Dr. John Bennett (Executive Director, Sierra Club of Canada):** Thank you, Mr. Chairman.

I'd like to start by thanking the committee for providing the Sierra Club with an opportunity to put some of our views on the Environmental Assessment Act on the table. I had hoped to present with our volunteer president, Paula Boutis, who is an environmental lawyer, but she's in court today. She sends her apologies.

I'd like to address basically three issues today with respect to the act. They are the campaign to marginalize and silence voices of the environment in Canada—

**The Chair:** Ms. Rempel has a point of order.

**Ms. Michelle Rempel (Calgary Centre-North, CPC):** The scope of our review pertains to the Canadian Environmental Assessment Act, and that particular point was rhetoric-driven.

**The Chair:** Are there any other comments on that point of order?

Ms. Leslie.

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

While I agree in some ways with what the parliamentary secretary is saying, I know that the Sierra Club intends to show the link between the two, and we have had questions to the agency about, for example, how cuts to the agency would affect their ability to do environmental assessments. I'd be interested in hearing what the Sierra Club has to say on it.

**The Chair:** Are there any other comments?

**Ms. Michelle Rempel:** We're interested in hearing fact-based testimony today, and we'd encourage the witness to do so as well.

**The Chair:** Ms. Murray.

**Ms. Joyce Murray (Vancouver Quadra, Lib.):** I think it's important to do our guests and visitors the courtesy of hearing what they have to say. They know what the subject of these committee hearings is.

**The Chair:** Hearing no more comments, I would encourage Mr. Bennett to make sure your comments are germane. The topic is CEAA and the legislative review of CEAA. Maybe it would be more appropriate to speak on marginalization and silencing voices on environment on another day. Let your focus be on CEAA, please.

Proceed.

**Dr. John Bennett:** As I said, I'm going to speak on three issues today. The other two are the decision to give responsibility for environmental assessment of energy projects to the National Energy Board and the Canadian Nuclear Safety Commission, and finally I'd like to talk about the perceived bias in the system.

Sierra Club Canada believes these issues are linked and that forces are afoot trying to lay waste to Canada's natural resources without thought or consideration for future generations. Today's profit is the only consideration, and our only protection against it is a strong, independent environmental assessment process. I fear we are headed in precisely the wrong direction. I hope this committee will be allowed to make appropriate changes to the act to remove the mistakes of the last few years.

Government and industry have no fear of good, sound environmental policy and assessment. Doing things right creates jobs just as well as doing things wrong, and it doesn't give us the same environmental, health, and social impacts as doing things in haste and badly.

Just to provide a short bit on the Sierra Club, Sierra Club Canada is part of the Sierra Club, which is the largest and oldest conservation organization in North America. We have been involved in conservation issues in Canada since 1963. A major part of that involvement has been participating in environmental assessment processes across the country, including participating in hearings on oil sands, pipelines, mega-dams, and nuclear power plants, as well as smaller, local issues, and we've done it with federal and provincial assessments.

In 2009 Sierra Club Canada challenged the legality of changing CEAA through a regulatory process. In 2010 the government apparently agreed with our interpretation and used the budget bill to redo the changes. In 2011 the government paid our costs. This is an example of haste making waste. Please don't make any more hasty decisions concerning environmental assessment.

This committee will be hearing from a number of lawyers, including my predecessor at the Sierra Club, who is an expert in the act. Therefore, my comments will be more on the philosophical and experiential nature of my own and the Sierra Club's experience with participating in environmental assessments and what kinds of things we think could make them better.

I'm sure you will hear from industry that the process of environmental assessment is a great burden and needs streamlining. In my 30-plus years of experience in this work, "streamlining" is a code word for weakening. The act should be strengthened and the scope of assessment broadened. Canada has signed binding treaties to reduce greenhouse gas emissions and protect biodiversity. Environmental assessment is critical to living up to our international commitments as well as the passing on of heritage to our children and our grandchildren.

Sierra Club Canada sees the announced intention to cut red tape and other changes buried in the budget bills as a plan to fundamentally alter the way environmental assessment is conducted. This is part of a wider anti-democratic campaign to marginalize and eventually silence the voices of the environment in Canada. This is one voice that won't be silenced.

The built-in review of CEAA—the purpose of this session—is the democratic way to revise the act. There was no documented need to alter the act prior to the review. The only reasonable explanation for using the budget bills to change environmental protection in Canada is fear of public scrutiny.

Previous reviews included consultation with stakeholders by Environment Canada.

This is where I'll make it relevant.

For 29 years the federal government worked with the Canadian Environmental Network, a body formed solely to assist the federal government in gathering advice and insight from 600 environmental organizations across Canada. Most are small groups of volunteers working to preserve our natural environment. These are the real-life, local volunteers who participate in environmental assessments, and they have far more to contribute here than I have to offer. The CEN did a tremendous job and made a huge contribution to ensuring that we had good environmental assessment legislation in Canada.

There has not been consultation with the stakeholders this time. The decision to stop consulting environmental organizations and withdraw support for the CEN at precisely the time CEAA is being reviewed clearly is no coincidence. It sends a clear signal.

The federal government has a complex environmental mandate and a relatively limited ability to gather input from all stakeholders. It does not make any sense to cut off a vital source of advice.

The decision to give authority for energy projects to the National Energy Board and the Canadian Nuclear Safety Commission was wrong. The fox has no business in the hen house. These bodies, along with the offshore oil boards, are too close to industry to provide the government with sound, unbiased advice. There is an inherent conflict of interest.

●(1105)

I have a document here. When I first saw it, I thought it was Bruce Power's annual report, but in fact it's the Canadian Nuclear Safety Commission's annual report, and it says clearly on the front, "Fact: Nuclear in Canada is Safe". I'm not going to dispute that here today, but that is quite questionable. If it had said, "Canadian Nuclear Safety Commission: Regulating to Make Nuclear Safe," it would be acceptable, but this is propaganda for the industry on behalf of the regulator. Isn't it the business of the industry to promote itself, not its regulator? On seeing this, isn't it reasonable to conclude that the Canadian Nuclear Safety Commission is biased? They have now been given authority to determine whether or not we're going to build nuclear power plants in Canada.

The primary function of both of the NEB and the Canadian Nuclear Safety Commission of was to set standards for everything from pipeline valves to radiation that a member of the public can be exposed to. In order to accomplish this kind of regulation, the agencies must work closely with the industry and expertise becomes mobile. It's not unusual for individuals and consultants employed by these agencies to have spent much of their careers in the industry, which they look forward to returning to. This is particularly true of the Canadian Nuclear Safety Commission.

The role of the environmental assessment is much larger, requiring greater scope and enough separation from project proponents to be unbiased adjudicators. Panels require a wider expertise than understanding the technical issues surrounding proposed projects. The environmental impacts go beyond the project's fence. Economic and social impacts for local communities, and whether or not there is a better alternative to a project, all have equal weight in the process.

Often during hearings the conclusions of the regulator are called into question by public submissions, and it is the regulator who is making the ruling. This is clearly an inherent conflict of interest and creates an impression of bias. For example, last year the Canadian Nuclear Safety Commission granted permission to Bruce Power to export 1,600 tonnes of nuclear waste to Sweden for recycling. This consisted of 16 steam generators. Only after a vocal campaign by the Sierra Club, dozens of municipalities, and aboriginal organizations did the CNSC even decide to allow public submissions.

Bruce Power's plan to refurbish the Bruce generating station had undergone an environmental assessment in 2005. At the time, Bruce Power specifically stated that the 16 steam generators were to be kept at the Ontario Power Generation waste facility. It's the view of the Sierra Club and several others that the fundamental changes from an approved project should trigger a revisiting of the environmental assessment, and that this decision should be made by a body independent of the regulator. When I raised this issue at the CNSC, the president responded by asking me if I was anti-nuclear, and then asked his staff if they were wrong not to recommend a revisiting of the environmental assessment. You can imagine what they said.

The CNSC focused only on issues surrounding the transport of waste, and rightly so, as a regulator. But it ignored the wider issues that would have been the concern of an environmental assessment—things like how this project fits into Canada's long-standing policy of storing waste at reactor sites and not allowing contaminated materials to circulate in the environment. Effectively, the CNSC allowed Bruce Power, a private company, to change Canada's nuclear policy and ducked its responsibility to properly assess all the issues. This would not have happened if the roles of regulator and assessor were separate, as they should be.

I would also like to raise the issue of bias in the choice of panel members for hearings. Who is qualified and how should a panellist be chosen? There's no public input. A panel is announced and a few months later a list of individuals is released. There is no consultation, no nominating of panellists, yet the decisions they make can have implications for Canadian law and society no less significant than judges.

I don't wish to impugn the reputations of members of any panel; I'm sure all the people who have participated have been admirable individuals. However, I just want to give you my experience of the last time I appeared at an environmental assessment. It was—

• (1110)

**The Chair:** I'm sorry, Mr. Bennett, your time is up. I look forward to hearing more from you during questioning.

The next is Ms. Jackson, and you have up to 10 minutes. Thank you.

**Ms. Jennifer Jackson (Executive Director, Canadian Water and Wastewater Association):** Hi. Thank you very much for this opportunity.

I am Jennifer Jackson, executive director of the Canadian Water and Wastewater Association.

The Canadian Water and Wastewater Association, or CWWA, as we are more colloquially known, would like to present our views on the statutory or seven-year review of the Canadian Environmental Assessment Act.

This is the first time CWWA has presented before the standing committee on this subject. However, we have been regularly consulted by staff of the Canadian Environmental Assessment Agency on proposed changes that may affect our sector.

The CWWA is a unique industrial trade association. We were founded on the recommendation of Health Canada and Environment Canada staff with the assistance of the Federation of Canadian Municipalities. This occurred 25 years ago; this year we are celebrating our 25th anniversary. CWWA has evolved into the national voice of Canada's water industry.

We are comprised of utility members from small, medium, and large municipalities all across Canada and utility commissions, equipment suppliers, and environmental consulting and engineering companies that provide services to our members. We also represent Canada's water industry both nationally and internationally.

Our members provide drinking water, waste water, and storm water services to Canadians through the provision of critical

infrastructure. We have members in all the provinces and territories of Canada. The water and waste water industry in Canada has been estimated at \$10 billion nationwide, with our members being responsible for almost \$7 billion annually.

Most of our members operate on limited municipal budgets in a not-for-profit context. We are the voice of the professional management charged with providing what is largely acknowledged as invisible infrastructure in Canada. Due to the diversity of size and geographic location, each of our utility members faces different challenges in balancing environmental protection and public health goals.

Concerning the CEAA review, CWWA municipal and utility members are in a unique position of both conducting, and benefiting from, effective environmental assessments. If others, usually upstream of facilities, conduct an environmental assessment and the resulting projects negatively affect water quality, the services of our members' drinking water or waste water operations may also be impacted. However, most of my comments today will be concerning the EA process. This is because our members routinely conduct environmental assessments that may be carried out under provincial, territorial, or federal EA legislation.

Canadian municipal water and waste water projects may be captured under the jurisdictional purview of CEAA. Applicable triggers include federal fish habitat permits under the Fisheries Act. Water projects also may affect species protected under the Species at Risk Act and the Migratory Birds Convention Act. Often, water projects may impact federal lands or CEAA is triggered by municipalities receiving federal government infrastructure funding. The construction of new plants or major expansions of existing water or waste water treatment plants will also generally trigger provincial EA, municipal class environmental assessment, or equivalent permitting processes.

I am here today to talk about two main sector concerns: the EA process and harmonization.

In regard to the process, the federal EA approval is just one step in a series of required permitting approvals for complex municipal projects. The federal regulating departments will not entertain applications and will not issue regulatory permits until after the federal EA approval is obtained.

Our members were clear that there are frustrations and an increased amount of time in dealing with projects that involve both the federal and provincial EA processes. They report that involvement of the federal EA process in their projects tends to add considerable time and of course considerable costs. In the case of the Halifax Harbour Solutions Project, which involved the creation of three new sewage treatment plants, it took four years to obtain the federal approval in 2003. We are told that accounted for between \$1 million and \$2 million in additional costs, including the required follow-up monitoring programs.

Regulatory certainty is a theme that is dear to the hearts of our members. In 2010, we supported the establishment of timelines in the comprehensive study regulations, which have now been implemented. However, when we asked our members about imposing timelines during federal screenings, which is the classification that affects the vast majority of water and waste water projects, the reaction was mixed.

Within the screening stage, environmental impacts can vary from project to project due to differing locations and the sensitivity of the environment. In most cases, the identified mitigation measures tend to mean that best management practices are implemented. However, the advantages of a screening process are that in almost every project, it does help the proponent identify site-specific mitigation and adaptation practices that can and will and should be implemented. The required work varies depending on the locale and the type of proposal.

As a result, we conclude that more work may be needed to see whether or not legislative timeframes can be inserted and effectively implemented in the screening process. CWWA is willing to work with the CEA Agency and the Minister of the Environment to see if there is a way to insert legislative timeframes into the process in a way that balances the needs of our members in managing projects and those of the CEA Act.

•(1120)

In regard to harmonization, as CEAA has evolved over the years there has been recognition of significant overlap between the federal and provincial EA processes. Both promote meaningful public participation and evaluation of a project's potential negative adverse impacts on the environment.

In 1998, the federal government and all provinces, except Quebec, signed the Canada-wide accord on environmental harmonization. As of today, all of the provinces and territories have entered into the subagreement on environmental assessment, with the exception of Quebec.

In theory, then, EA processes at both levels should be planning processes used by the proponents, whether that proponent is the federal government, a municipality, or a private sector individual or organization.

In its purest sense, harmonization should lead to one project assessment, negotiated schedules between the parties, one consultation process, and, if necessary, one public hearing process.

In consultation with practitioners in the field, CWWA has been told that harmonization has had mixed results and it has not had the

desired impact. The reasons for this are varied, and in our view they are as follows.

The provincial EA processes tend to be a planning process. They tend to be a forward-looking analysis incorporating the needs and alternatives to the problem that's trying to be addressed. The federal EA process does not specifically incorporate this at the application stage, and as such the federal EA process is usually started and applied for later by the project proponent.

The EA process itself has to be distinguished from the regulatory decisions that follow the EA process. However, in practice, these two items get quite mixed up. Determination of the federal permitting triggers in the federal EA process are sometimes more suited to the stage of detailed design engineering. At that point the decision has already been made and a preferred alternative or option has been selected. Thus, many managers and practitioners in the field describe federal environmental assessment as a back-end process that requires more detailed work up front, making the harmonization between federal and provincial processes challenging.

The federal EA process, the CEAA agency, and the relatively recent Red Chris mining decision by the Supreme Court of Canada have provided much more guidance to proponents on the need and requirement to perform cumulative impact analysis. Until recently, this has not been emphasized as much in the provincial process.

I'll skip our recommendations and end by saying that municipalities are partners in the achievement of environmental goals in Canada. We look forward to a positive and collaborative relationship with you on this review of the act and any future work tasked to the Minister of the Environment and the Canadian Environmental Assessment Agency.

Thank you.

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

The next witness is the Canadian Electricity Association, and we have Ms. Schwartz and Mr. Toner.

Who will be presenting?

Ms. Schwartz, you have up to 10 minutes.

•(1125)

**Ms. Sandra Schwartz (Vice-President, Policy Advocacy, Canadian Electricity Association):** Thank you very much, Mr. Chair. *Merci beaucoup.*

Members of the standing committee, I'm pleased to appear before the committee today to provide the Canadian Electricity Association's perspective and views on the Canadian Environmental Assessment Act and our recommendations for changes to this act.

[*Translation*]

The Canadian Electricity Association thanks the committee for giving it this opportunity to submit its concerns and recommendations with regard to the act.

[English]

The Canadian Electricity Association members generate, transmit, and distribute electricity to residential, industrial, commercial, and institutional customers on a daily basis across Canada. We represent all aspects of the electricity system.

I am pleased to be joined today by Mr. Terry Toner. Terry is the director of environmental services for Nova Scotia Power Incorporated and the chair of our association's stewardship task group. This task group deals with a wide range of issues relating to electricity and marine species and fisheries, including the Species at Risk Act and the Fisheries Act. He is also the vice-chair of the Canadian Environmental Assessment Act joint working group that we established with our colleagues at the Canadian Hydropower Association. The joint working group developed the submission that we've tabled today, containing the recommendations that I'll outline this morning.

Canada is a world leader in non-emitting and lower-emitting electricity generation. According to Stats Canada, roughly 80% of Canada's electricity is currently generated from non-emitting and lower-emitting sources, such as hydro and, to a lesser extent, wind, solar, and tidal. Canada's electricity sector mostly interfaces with the Canadian Environmental Assessment Act through hydroelectric generating facilities, though there are some other touch points with the act through wind projects and transmission and distribution projects as well.

The timing of the committee's review is especially important, given the pressing need for significant investment in Canada's electricity infrastructure. We often talk about natural resources being the backbone of our economy, but we rarely ever think about the role that electricity plays in our economy.

Our system has had competitive prices at its core for the duration of its existence, with lower prices than in many other parts of the world. This is a tremendous competitive advantage for Canadian business—the product of the foresight of our parents' and grandparents' generations, who built the stable and reliable system that we've come to depend on.

The electricity system—also named the grid, as you may all be aware—is the largest and most complex interconnected machine in North America. It's safe, solid, and well-maintained, but it is also showing its age. Like other major infrastructure, our electricity system is in need of major transformation and investment, as our current system is outdated.

Today, the challenge faced by the electricity sector is three-pronged. We need to replace aging infrastructure while simultaneously managing new demand; achieve continuous improvements in emissions reduction efforts; and incorporate digital technology to progressively replace analog equipment.

As a result of this investment deficit and the new pressures on the system, estimates range globally—from the International Energy Agency as well as from a recent report that the Conference Board of Canada put together—to indicate a minimum of \$293 billion over the next twenty years is required. That's approximately \$15 billion per year. These funds are required on electricity infrastructure to maintain existing assets and meet market growth.

In the last decade, these infrastructure projects have faced growing legislative and regulatory complexity, characterized by lengthy and often duplicative regulatory processes. In some cases, regulatory approval processes and construction periods for electricity infrastructure projects can take more than 10 years, from project initiation to grid connection. Of this 10-year period, approximately four years are spent in the federal EA process.

The Canadian Environmental Assessment Act is a central part of the EA process. But because of the existing complex nature of the act and its interaction with other legislation, as Ms. Jackson pointed out, it contributes to unnecessary delays in project assessments. At times, it results in no additional positive environmental outcomes. In addition to the federal complexity, there are duplicative provincial processes as well.

This statutory review that's currently taking place provides an opportunity for you, as committee members, to recommend changes to the act, which will facilitate required investment in electricity infrastructure renewal while ensuring positive environmental outcomes. I will stress that we, as an association, also want to see positive environmental outcomes from any legislative changes required.

• (1130)

We'd like to emphasize that increased efficiency and coordination is needed across the suite of environmental legislation and regulation, and that improvements made to the federal environmental assessment process should not be done in isolation from the overall federal regulatory regime.

As I mentioned, currently the typical timeframe for approval of major projects in Canada is four years, not counting the studies carried out by the proponents themselves. This is troubling for our industry. In addition to the pressing need for infrastructure renewal across Canada, these types of utility investments are sensitive to market timing and cannot be postponed due to regulatory delays and entanglement.

Changes to the act should be targeted at enhancing the coordination of the assessment of processes across jurisdictions by facilitating the one project/one assessment principle, with assessment being led by the best-placed jurisdiction. I will note that we're not the first witness you've heard from, nor shall I suggest we will likely be the last who has made this important recommendation.

The joint brief we've done together with the Hydropower Association, which you've received today, outlines the sectors, priority issues, and recommendations for changes to the act. These include avoiding duplication between federal and provincial EA processes through equivalency agreements, focusing the triggering of the act on projects where it can bring added value and by optimizing scoping mechanisms. Second, we recommend ensuring consistency between assessments and authorizations; third, improving timelines; and fourth and finally, allowing for the benefits of a project to be included in the process through a sustainable development approach, rather than a continued focus on adverse environmental effects.

Our colleagues from the Canadian Hydropower Association will address the issue of duplication in greater detail during their appearance, which is scheduled for November 15. Our focus today is on the latter three of these priority issues.

I'd like to start by addressing the disconnect between the EA process and subsequent permitting. There's a lack of clarity surrounding how CEAA and other triggering acts interact. In addition, once a project is approved to go forward, the roles and responsibilities of federal authorities are poorly defined. This disconnect does lead to inconsistencies between requirements agreed upon in the EA and those needed for getting authorizations.

I'll provide you with an example from a hydro power project in Manitoba. In this case the responsible authority, the Department of Fisheries and Oceans, demanded that additional work be done after the completion of the EA. This included additional research and mitigation beyond what was agreed to during the EA phase, resulting in significant delays in authorizations being issued on a just-in-time basis right before construction was scheduled to begin.

To ensure consistency between the assessment and authorization process, we recommend that decisions made under the act be binding on responsible authorities that administer the triggering acts and other authorization processes. Proponents should also be able to opt for the concurrent review of authorizations and permits during the EA process.

Timelines are also a key concern for industry. An average of four years to move through the process is unnecessary. Regulations establishing timelines for comprehensive studies that were adopted in June were a good start. However, the proposed time limit isn't strict enough, nor does it take into account the whole process. Limits should be established for all types of assessments and for all authorization processes, from the time an application is filed all the way to completion.

In addition, the act is outdated. Its sole focus is now the avoidance of adverse environmental impacts. I will remind members that the original intent of environmental assessment globally, not just in Canada, was not to halt or stop projects, but to mitigate for or remove environmental impacts prior to moving forward.

The net effect of a project should be factored into assessment decisions, along with socio-economic impacts. The bottom line is that positive environmental effects of a project should be a factor in assessment decisions.

Other equally important recommendations include the avoidance of duplication, the importance of focusing on triggering at an appropriate level, and optimizing scoping mechanisms. In other words, keep it focused on the key issues. The EA process was not intended to be minutiae; permits are focused on small detail, not assessment itself.

• (1135)

**The Chair:** I'm sorry, Ms. Schwartz, your time has expired. We look forward to your further comments during questioning.

Colleagues, we did get briefing materials from the Canadian Electricity Association and from the Sierra Club. The briefing will be coming from the Canadian Water and Wastewater Association very soon. The invitation was on short notice, and that's why it was difficult for them to get them to us any sooner.

Again, thank you to the witnesses.

We will now begin our first round of seven minutes.

The first speaker will be Mr. Woodworth.

**Mr. Stephen Woodworth (Kitchener Centre, CPC):** Thank you, Mr. Chairman.

And thank you to the witnesses for being with us today and sharing your insights into the act. It's quite a mouthful, really, because the act is complex and there are a variety of issues we have to consider.

Before I get into questioning, though, would another minute or two have allowed you to complete your presentation, Ms. Schwartz? You were cut off.

**Ms. Sandra Schwartz:** No, that's fine. I've made my main recommendations. The rest of my presentation was strictly focused on the one project/one assessment proposal, as well as concluding remarks.

Thank you very much.

**Mr. Stephen Woodworth:** I do want to pick up on a couple of things you said and try to put them together.

One is that you pointed out there is a pressing need for investment in electricity infrastructure, something like \$293 billion over the next 20 years. In addition, you also told us about the complexity of the federal assessment process and the fact that roles and responsibilities are poorly defined, leading to inconsistencies between requirements at the assessment stage and the permitting stage. I wonder if those things can be put together.

Does this complexity and the number of different authorities involved in a project affect the investment available for such projects? Can you comment on that?

**Ms. Sandra Schwartz:** Yes, I'll comment on the first part and then allow Mr. Toner to answer more directly, based on examples on the ground.

With respect to the \$293 billion for required investments, we are at a point in Canada at the moment where we need to make investments today for those electricity electrons to flow 10 years from now. If we look at project initiation through the assessment phases, etc., to grid connection, that is a 10-year process. We know that with demand increases, with technological changes, we will need the process to improve now in order for investments to flow so that we've got electricity 10 years from now.

It really is a critical time in our industry now. We cannot wait for assessments to change, for the processes to go through another five years. The moneys need to flow now to enable those investments.

Essentially what we're looking at in terms of any changes to federal legislation—and this is not the only act we're looking for changes to—is to enable those investments to flow at a time that's critical for the sector.

**Mr. Stephen Woodworth:** Would it be fair to say that if these problems go uncorrected, the money is going to go elsewhere?

**Ms. Sandra Schwartz:** Perhaps Mr. Toner can answer this from a company's perspective.

**Mr. Terry Toner (Representative, Canadian Electricity Association, and Director, Environmental Services, Nova Scotia Power Inc.):** Well, at the end of the day, I think many of the utilities are invested here in Canada; they're not going to be able to pick up and leave.

We need to provide the service, but it's going to create additional costs that will not bring additional value. Some projects may get selected that fit the timeframe, but they may not be the optimum projects that we would want. We might select shorter-term projects, but perhaps with more planning we would have selected something with a longer horizon that may have met the needs over a longer period of time.

**Mr. Stephen Woodworth:** I regard this as somewhat critical. I think hydroelectric power offers a very clear way to minimize the issue of carbon footprint and greenhouse gases, so I think it is incumbent upon the government to encourage investment in that sector.

I also want to ask Ms. Jackson about the Halifax Harbour Solutions situation.

I think I understood you to say that it was about four years for that environmental assessment and about \$1 million to \$2 million of additional cost. Is that correct?

• (1140)

**Ms. Jennifer Jackson:** Yes. That came from the senior staff person responsible for the project, who is still working for Halifax Water.

**Mr. Stephen Woodworth:** I assume that delay had business implications, but that project eventually went through. Are you aware of any projects of a similar nature that have been cancelled because of the additional cost and delay attributable to assessments?

**Ms. Jennifer Jackson:** I'm not aware of any cancellations; however, there have been considerable delays to projects.

**Mr. Stephen Woodworth:** And I assume that the people who are carrying out these projects, the workers and so on, simply don't have a job until the project is actually approved and permitted to go ahead. Is that correct?

**Ms. Jennifer Jackson:** It depends on who's been contracted to do the work, whether it's public sector or private sector firms or consulting firms.

**Mr. Stephen Woodworth:** All right.

By the way, do you know how many employees your sector has?

**Ms. Jennifer Jackson:** No, I don't.

**Mr. Stephen Woodworth:** Ms. Schwartz, do you know how many employees there are in your sector, the people you represent?

**Ms. Sandra Schwartz:** I'm looking to my colleague over here to answer that question.

It's hundreds of thousands. Thank you, John.

One point I do want to make on the cost side—it is important in our sector, and I think probably Ms. Jackson would echo this in the municipal waste water sector as well—is that the costs are ultimately borne by the ratepayer. These are not necessarily costs that are borne by companies themselves. Although initially they are, they are still—

**Mr. Stephen Woodworth:** They're passed on.

**Ms. Sandra Schwartz:** They're passed on with increased electricity rates.

**Mr. Stephen Woodworth:** Thank you.

Do I have any time left, Mr. Chair?

**The Chair:** You have about 45 seconds.

**Mr. Stephen Woodworth:** In that case, I'll just defer to the next speaker.

**The Chair:** Thank you.

The next speaker is Madame St-Denis.

You have seven minutes.

[Translation]

**Ms. Lise St-Denis (Saint-Maurice—Champlain, NDP):** My first question is for Mr. Bennett.

Could environmental rights be included in the Canadian Charter of Rights and Freedoms, for instance in conjunction with other explicit human rights such as the right to life and personal security?

[English]

**Ms. Michelle Rempel:** A point of order, Mr. Chair.

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

**Ms. Michelle Rempel:** What is the relevancy to the scope of the study?

**The Chair:** I would encourage Madame St-Denis to ensure that the questions are germane to the discussion and the review of the CEAA.

Thank you.

**Dr. John Bennett:** I would think it's absolutely germane to the discussion. Yes, it should be a right; it should be enshrined that we are not going to use this country without protecting the environment, so that we can pass it on to our children and our grandchildren. We support that.

We have supported efforts to have a Canadian environmental bill of rights drafted and presented. We'd like to see it in the Constitution as well.

[Translation]

**Ms. Lise St-Denis:** Ms. Jackson, do you feel the preliminary assessments performed under the Canadian Environmental Assessment Act are sufficiently stringent, if only with respect to documenting harmful effects on drinking water in Canada, on its quality and accessibility?

[English]

**Ms. Jennifer Jackson:** No, I think the act itself is accessible and transparent. I believe public participation in the act may or may not be encouraged, depending on which way a project is screened, whether it's just a screening process or whether it goes through to a comprehensive study or has been referred for mediation. So it depends on the different project and the amount of public scrutiny it gets. But in theory, all of the process should be equally accessible to the public, and we haven't heard of any complaints regarding the public as to this process.

As I've already said, we represent our members who are dealing with the process and hiring consultants to get their project through the environmental assessment, whether it be federal or provincial or both.

• (1145)

[Translation]

**Ms. Lise St-Denis:** Your association has positions on many topics, both normative and technical ones. Could you walk us through the process that allows you to determine your positions, and the effect they may have on private sector decisions on industrial matters?

[English]

**Ms. Jennifer Jackson:** We consult with our members. We have various technical committees. We didn't have a lot of time to consult for this appearance, but we did put out a general notice to all the members of our technical committees asking them to provide their input. We also sat down with a prominent environmental assessment practitioner from a local engineering firm and asked about the firm's experience, because they represent municipal water, waste water, and transportation projects locally, and asked them for their input, because we only had a couple of days to come up with our presentation. And then we also reviewed some of the information that we could find online through other parties who were likely to appear today and next week.

[Translation]

**Ms. Lise St-Denis:** Does the Canadian Environmental Assessment Act generally cover water purification projects in the areas that are furthest away from Canada's large centres?

[English]

**Ms. Jennifer Jackson:** For major expansions of treatment plants, usually there is a federal trigger, which can be through different processes, such as if the project involves an impact on federal lands, if a project is receiving infrastructure funding from the federal government, and if there is the need for permits, either through the Fisheries Act or for the Navigable Waters Protection Act. It really depends on where the project is located in Canada and the type of potential impacts the project may have.

As my colleague said, when our members are looking at these projects, it's generally a long-term planning process. It takes 10 to 15 years to site a new waste water treatment plant, design it, build it, and operate it. When they engage consulting firms to do this sort of work, they're always looking as far in advance as possible at all the preferred alternatives. If there are triggers under the federal act, will they have to do a harmonized federal-provincial EA? Again, it depends on where the projects are located, the receiving waters impacted, etc.

[Translation]

**Ms. Lise St-Denis:** Why did Quebec not sign the harmonization agreements?

You said that Quebec was the only province that did not sign the harmonization agreements between the federal and provincial governments and your organization. What were the reasons for that?

[English]

**Ms. Jennifer Jackson:** That was before my time, and I do believe the reasons were quite political between the federal government and the Government of Quebec at the time. I wouldn't presume to provide any commentary on why there was no signing of the environmental accord at the time.

[Translation]

**Ms. Lise St-Denis:** Do I have time to ask Mr. Bennett another question?

[English]

**The Chair:** You have about 40 seconds.

**Ms. Lise St-Denis:** I'll ask the question.

[Translation]

How can we use the Canadian Environmental Assessment Act to force the federal government to respect the international environmental commitments made by prior governments?

[English]

**Ms. Jennifer Jackson:** Sorry. I didn't quite get the question.

**Dr. John Bennett:** She asked me.

I'd actually say that it would be your job. The only way to force a government to honour international treaties is for that government to be honourable with the international community and for members of Parliament to continue to raise the issue that Canada is in violation of a binding international agreement. We are in violation of the Kyoto Protocol and even the biodiversity agreement. We're ignoring that.

• (1150)

**The Chair:** Unfortunately, time is up, Mr. Bennett.

Thank you very much. Next on this seven-minute round is Ms. Ambler for seven minutes.

**Mrs. Stella Ambler (Mississauga South, CPC):** Thank you, Mr. Chair. Thank you to the witnesses for appearing here today.

My questions are for Ms. Jackson and Ms. Schwartz.

As you're no doubt aware, CEEA currently uses the "all in unless" approach. This means that projects are automatically subject to environmental assessments unless otherwise stated in regulations or legislation. An alternative approach used in many provinces and other countries is the list approach, which involves listing the projects that are subject to environmental assessments. Which approach do you prefer, the list approach or the "all in unless" approach?

Go ahead.

**Mr. Terry Toner:** The legislation in Canada, in the provinces, has matured over the last 10 to 20 years. CEA first initiated filling a broad mandate, but the legislation provincially now has the approach where there's a specific list, normally with a higher threshold for the triggers, because that's the intent of the assessment provincially. There are permit processes that exist.

The same is true federally. There are normally permit processes for many of the departments. But the assessment triggers are so low that they invoke the environmental assessment process very early on and take it into the domain of that level of detail that often is best left for permit-level discussions.

We're a strong advocate of revisiting the approach, and we would prefer to see it more project-specific so that the Canadian Environmental Assessment Act can play its part and other pieces of federal and provincial legislation can play their part. Together they can create a comprehensive but more efficient system for dealing with the review of projects.

**Mrs. Stella Ambler:** To be clear, a revisiting of the current approach?

**Mr. Terry Toner:** Yes, we would prefer the provincial style, with a list for larger projects or projects with larger potential for impact. That assessment would be directed there to be most efficient.

**Mrs. Stella Ambler:** Thank you.

**Ms. Jennifer Jackson:** There are lists at the federal level. There's the law list regulation.

To answer your question, we really think the provincial and federal environmental assessment legislation should mirror each other. That may mean that it looks duplicative. For example, we think the federal process should incorporate an assessment of need and alternatives to process, but in doing so the federal government

and the CEA Agency may not get all the answers to their initial questions. The questions that are posed from the responsible federal authorities are extremely detailed and time consuming.

**Mrs. Stella Ambler:** Do you mean in the process or later in permitting?

**Ms. Jennifer Jackson:** In the process itself, the questions and expectations for answers are extremely detailed. While we recognize the importance of those questions, we would also want the CEA agency to take a lead role in saying, "We need to keep on going. You need to accept that there is a preferred option on the table." The answers to those questions may come later in detailed engineering design work. It's not realistic to—

**Mrs. Stella Ambler:** Answer them all during the process—

**Ms. Jennifer Jackson:** —up front. Due to costs, any proponent for a major project will not want to do detailed design work for more than one alternative.

We want the CEA Agency to kind of review the extent of the information, ask up front, and then take a lead role in saying, "Yes, we understand you need the information, but that detailed information will come later in the process." It can come later in the process.

We've seen in the city of Ottawa, in a non-water and waste water context, how that can work, with the north-south light rail transit proposal. That project received federal environmental assessment, with the understanding that the detailed permit-type questions would be answered further on in the process. They got their federal EA approval, and then the city cancelled the project. But that was one example of where the CEA Agency took a really forward-thinking approach to the problem.

• (1155)

**Mrs. Stella Ambler:** So currently in the system the process does allow for that on a project-by-project basis.

Was the Ottawa project cancelled because of delays?

**Ms. Jennifer Jackson:** No. It was nothing like that—totally unrelated.

**Mrs. Stella Ambler:** Okay, just checking.

On that matter, would you say that the detailed questions are often not related specifically to the environment?

**Ms. Jennifer Jackson:** I wouldn't say that. They're definitely related to the environment.

**Mrs. Stella Ambler:** Do they sometimes get into the more business-related aspects of a project—more of the socio-economic impact? Do you ever find that?

**Ms. Jennifer Jackson:** I think those questions are fair to ask. Socio-economic questions should be raised.

**Mrs. Stella Ambler:** They should be part of the process.

**Ms. Jennifer Jackson:** Yes. We think there should be a modification of the current process. We think the current process is working; it can work better.

**Mrs. Stella Ambler:** If we were to move to a modification, perhaps a list approach, do you have any suggestions on how we could still make the EA process retain the environmental integrity of the process with that new approach?

**Ms. Jennifer Jackson:** I think if the CEA Agency was empowered and staffed properly to do the work it needs to do, then either a list or a non-list approach could work.

**The Chair:** The time has expired. Thank you.

The last seven minutes are for Ms. Murray.

**Ms. Joyce Murray:** Thanks for being here to help us understand your views on CEAA and what should be done to improve it, change it, or otherwise.

Mr. Bennett, I was struck by your comment that in a previous statutory review of CEAA, there had been consultation with industry by the environment ministry beforehand. Were any of the other members also involved in a previous CEAA review directly?

**Mr. Terry Toner:** No.

**Ms. Joyce Murray:** Could you speak to us a bit about the value you see of having a consultation with the department to maybe flesh out some of the complexities of the different views?

**Dr. John Bennett:** Absolutely. Consulting with people who have hands-on experience with the process and using that as the basis for making recommendations to the minister is far superior to the minister's making recommendations to the people who are actually involved in the process.

In terms of our sector, as environmentalists, we don't have the same access to resources to bring people together and move them around the country to actually do that. So it was very useful when Environment Canada actually brought people together and asked us what kind of input we wanted to make.

I'm not talking about the Sierra Club of Canada or the David Suzuki Foundation or Greenpeace, which are big organizations that have big budgets. I'm talking about the group in Lethbridge and the group in Yukon, which don't have a budget or paid staff but are actively involved in the process, dealing with issues and projects in their communities. They're being deprived of a voice in this process because of the way the government is behaving.

**Ms. Joyce Murray:** I presume it would be project proponents and business associations and so on that would have been consulted as well.

**Dr. John Bennett:** Absolutely. [*Technical difficulty—Editor*]... sometimes separately.

There was a process built towards the last review in which the government actually went out and sought advice before it went forward to the committee; then it went to the committee and there was further consultation.

It's critical when all the questions so far have been about how this affects industry. The two industries that are with me do great, important work, but they're fundamental public works. They would commit future generations to certain ways of doing things and certain environmental impacts.

If it's not worth spending a few years considering that, what's the point of having an environmental assessment? If it takes time, it takes time. We do have to understand the implications. We do have to investigate what's being presented that's going to commit us for a generation—if you build a coal-fired power plant, it burns for 45 years.

If it takes four years to determine whether or not we want to build another coal plant or whether that's the best kind of coal plant to build, I don't think that's a big penalty. I think the rest of society accepts that that's what we need to do. We're not just talking about speeding up the process; we're talking about protecting the environment, protecting future jobs and future livelihoods of Canadians.

• (1200)

**Ms. Joyce Murray:** Thank you, Mr. Bennett.

My guess is that nobody on the panel would disagree that there are some things that could be done to reduce timelines, just through bad process that can be cleaned up, and there are other things where it's appropriate and necessary for time to be taken to get them right.

The complexity of doing that with so many different factors to consider is why, it seems to me, consultation with industry and environmental groups by the department would be very valuable before bringing it to the committee.

Just an editorial comment. Having dealt, as a minister, with the Britannia mines disaster—one of the largest contaminated site problems, killing shellfish and seafood in Burrard Inlet for literally generations—I believe a four-year consideration of that project would have probably saved a lot of money, compared with hundreds of millions of dollars in cleanup later.

In order to be more effective for industry without compromising environmental protection, there is some discussion in terms of timelines. There has been input from witnesses about having a two-stage assessment process; one stage is a go/no go in a shorter timeframe. In B.C. the EA calls it an off-ramp, so if it's clear this isn't going to be a go, you get it out of the system so you can focus your resources on projects that have potential to be approved.

Can I hear a comment, from both Mr. Bennett and from one of the industry proponents, on that idea of a two-stage system?

**Ms. Sandra Schwartz:** If I may, I will again reiterate the point where the original intent of environmental assessment was not necessarily to halt or stop projects, but actually to ensure that environmental impacts were mitigated or removed.

**Ms. Joyce Murray:** Excuse me, I'd like to just comment on that.

Wouldn't it have been the purpose to halt or stop projects that clearly were going to have a far greater impact on the environment than society was prepared to accept?

**Ms. Sandra Schwartz:** If you can mitigate for those environmental impacts, that's what environmental assessment is supposed to look for. Then, ultimately, the proponents are to address those environmental impacts—

**Ms. Joyce Murray:** And—those two things, yes.

**Mr. Terry Toner:** With the two-stage proposal that you're suggesting, one of the tools that already exists, for example, is the strategic environmental assessment. In Nova Scotia most recently, we underwent a strategic assessment for the tidal and offshore renewable industry—in advance of even bringing forward demonstration projects—and the intent was exactly what you said. It was to get at some of the additional planning and broader issues, to see whether or not Nova Scotia and New Brunswick would be interested in progressing with that type of industry, which then allows more specific discussions. If that's a yes, we are interested in tiptoeing into that area, then both the projects and the reviews can be much more focused with that policy in hand.

It's not the only mechanism.

**Ms. Joyce Murray:** Thank you.

Can I hear from Mr. Bennett on what his view is on that?

**Dr. John Bennett:** We would agree. If there are things that shouldn't be done, we should identify those right away; then the process could be used to modify the ones that were going forward.

This is part of the democratic process in our society. We should look at this as not just a technical grading of proposed projects but of how society wants to go forward and what kinds of development it wants. So if something like that would contribute to that, it would give us an opportunity to put the arguments in focus—what we want to talk about in terms of issues on the table, before we get into the minutiae of the size of the pipe.

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

Thank you, Ms. Murray.

Next we have

[*Translation*]

Ms. Liu, who will have five minutes.

**Ms. Laurin Liu (Rivière-des-Mille-Îles, NDP):** Thank you.

My first question is for Ms. Schwartz.

On the Canadian Electricity Association website, it says that:

CEA and its members recognize the importance of EA because the process provides an avenue for mitigating environmental effects, provides communities a forum to voice their concerns and suggestions, and helps decision makers better integrate a project's environmental, social and economic considerations.

I find this very interesting, as you mention the importance of public consultations. Are we to understand that the association is in favour of an environmental process that would have greater credibility from the population's perspective?

•(1205)

[*English*]

**Ms. Sandra Schwartz:** I'll let you answer this.

**Mr. Terry Toner:** We're always interested in having the most credible of processes. I think the comments we raised in our brief and in our remarks by Ms. Schwartz were really directed at saying we want to see the right level of review for the right level of project.

So if broader planning issues need to be discussed, then they should be discussed and reviewed and vetted in either a strategic

assessment or a higher level of review. If we still get down to looking at projects, but at a high level, then those triggers should be at that high level for that comprehensive and significant review. As we get further into the process, if that project is to proceed, then there are permit mechanisms to deal with that.

What we have now is that when a review takes place, all those things are discussed in one review and it becomes very difficult to sort.

[*Translation*]

**Ms. Laurin Liu:** Forgive me for interrupting you. I thank you for your answer, but I wanted, rather, to hear your comments and your opinion on the part of the environmental assessment that has to do with public consultations. Is that a good thing for the industry?

[*English*]

**Mr. Terry Toner:** It's always of value, and industry, independent of the process and in advance of any project or initiative we bring forward, often engages in significant public consultation. On many of the projects I've been associated with over the past 30 years, if we have an interest in a project, the place we start is to understand and consult with people in that area.

**Ms. Sandra Schwartz:** If I can add to that, I think the important point is that our industry has a licence to operate. So for us to build, we must seek the public's approval to do that, and if the public says no, then we need to look at other options or other places to proceed with projects.

[*Translation*]

**Ms. Laurin Liu:** The members of your association often talk about the need for a more predictable environmental assessment process, so as to facilitate investments. Do you acknowledge that the best way to make the environmental assessment system more predictable is to ensure from the outset that a project is socially acceptable to the population?

[*English*]

**Mr. Terry Toner:** As utilities, we often are involved in quite far in front processes. Many of us are regulated within our province, as we are. We regularly undergo integrated resource planning exercises that are highly public and participatory in nature and are administered by the utility and review board or the equivalent board in that jurisdiction.

So it does provide for a fair amount of future evaluation of options and consideration and vetting of it and public comment on it, and we continue to benefit from that on an ongoing rolling basis as those are reviewed and renewed. And it has caused transformation in our industry.

[*Translation*]

**Ms. Laurin Liu:** Thank you.

My next questions are for Mr. Bennett.

Are you concerned that the environmental assessment process budget for consultations with aboriginal people is in jeopardy?

[*English*]

**The Chair:** You have 15 seconds.

**Dr. John Bennett:** I'm concerned about the whole process of consultation, that some of the changes that have been made will limit public consultation in the future, even possibly affect the—

• (1210)

**The Chair:** Unfortunately, your time has expired.

Next we have Mr. Sopuck for five minutes.

**Mr. Robert Sopuck (Dauphin—Swan River—Marquette, CPC):** I'd like to explore the distinction between environmental process and actual environmental results on the ground. By results, I mean the chemistry and biology of the environment itself.

Ms. Schwartz, presumably any project that's planned these days takes into account all the applicable statutes and regulations, like the Fisheries Act, SARA, the Migratory Birds Convention Act, and the various provincial regulations. It goes without saying that those standards are built into the project design, right?

**Ms. Sandra Schwartz:** Yes.

**Mr. Robert Sopuck:** So regardless of the CEAA process, a project will be built with the highest environmental standards of the day. In terms of environmental results, what is the value added of the CEAA process in terms of results? What will the final project have in terms of environmental effect?

**Mr. Terry Toner:** In many cases, as a project proceeds, there is some optionality that is part of what is brought forward, and often the process can inform. It provides an opportunity also—as was discussed with the last member—for public participation in various forms, which is helpful. Companies, utilities, entities bring forward projects, but we're not all-seeing and all-knowing. Only government is.

**Voices:** Oh, oh!

**Mr. Terry Toner:** As a result of that, the process adds a lot of value. We're simply trying to find a way to provide advice to your committee which will allow for that to take place in a more efficient manner.

**Mr. Robert Sopuck:** Yes, but again my focus is actually on environmental results, so for many developments that are out there.... In terms of pipelines, we know how to build pipeline crossings over streams; we know how to ensure a fish passage under highways, and so on. I think that actual environmental results are often lost sight of in this wrangling over process. It's actually the results that count.

Ms. Schwartz, again, in terms of multiple federal authorities, can you give an example of multiple federal authorities in terms of a project assessment, and what affect that had on that specific project?

**Mr. Terry Toner:** I guess I'm going to answer that.

There are many examples. Almost every project we engage in ends up with a number of triggers from the Canadian Environmental Assessment Act, so Fisheries and Oceans Canada, navigable waters, migratory birds, and therefore Environment Canada, and a host of other agencies can sometimes become involved, along with the province.

Examples could include everything from the Lower Churchill project being discussed in Atlantic Canada to multiple hydro facilities across the country. The challenge comes in trying to...as

you described, there is a very well-established understanding of what the issues are. It's surprising how long it takes to mobilize people from the various agencies and departments to come together and provide input, in terms of reference, or even to decide whether they're going to participate.

If we had a much more clear-cut process with a stronger lead, perhaps the agency or some other mechanism would provide for that more direct initiation of the project and the process, and would still allow departments—expert departments and decision-making departments—to play a role.

**Mr. Robert Sopuck:** I think the poster child for bad environmental process is the Mackenzie Valley pipeline.

I was involved with the environmental assessment of it many years ago, and a 34-year process resulted in no project and a number of very impoverished communities in the Mackenzie Valley, which will stay impoverished.

Can you talk, Mr. Toner or Ms. Schwartz, about the real economic impacts of these kinds of delays, vis-à-vis the knowledge that any project will be built to the highest environmental standards of the day?

**Mr. Terry Toner:** It's always difficult to exactly quantify the costs of delay, but every time there is a delay it certainly creates an opportunity to introduce additional studies, which sometimes add very little value considering the costs just for people to participate—even on the industry and government side—in the process in asking and re-asking questions and calling for review that has already been reviewed.

It tends to extend the timeframes, of course, with the costs of that. It puts in question financing mechanisms. I'm not an economics major, but it starts to enter into those difficulties.

• (1215)

**The Chair:** Mr. Toner, your time is up.

Thank you, Mr. Sopuck.

Next we have Ms. Leslie for five minutes.

**Ms. Megan Leslie:** Thank you, Mr. Chair, and thank you to all the witnesses for your testimony today.

With due respect to my colleague, Mr. Sopuck, I actually disagree that the only thing that matters is the end result. I think process is very important. Industry is very smart, and you know this. The term “social licence” comes to mind. Industry knows that in order to actually be successful, you need social licence from the community to say, “Yes, there is a robust process, and this company has fulfilled this robust process.”

My question is actually first to Mr. Bennett. When it comes to that aspect, the social licence the industry knows it needs, how do you see changing, fixing, scrapping, or tweaking the act to ensure a solid public consultation process? What are improvements that you would see?

**Dr. John Bennett:** We need to keep it independent. It should be independent of the regulators, those who are sitting on panels, when it gets to panels. They should be seen as neutral, and not be people who are associated with the industry they're assessing.

What I didn't get to say earlier was that when I appeared at the hearing for the nuclear plant at Darlington, sitting in front of me as the assessors were a nuclear engineer who had spent his life working for AECL and the Atomic Energy Control Board, and a former government minister who was responsible for and strongly supportive of nuclear power.

That was two-thirds of the panel. I don't think they made any improper decisions, but that sure gives the impression to the public that this is a fixed thing.

We need to have a system that's independent.

**Ms. Megan Leslie:** And impressions count.

**Dr. John Bennett:** They absolutely count. It's the reality.

So we need to have a system that's independent and that we can rely on, and there must be sufficient support and resources for the public to participate. The system now is incredibly Machiavellian. You apply for some funds to support your submission and you get a letter back telling you how much you'll get. It has nothing to do with how much you asked for or the real costs involved.

That's something that needs to be addressed as well: the public needs to be supported so that it can participate fully. It's not a system where you have a few people come and say their few words and then you listen to them, write it down, say thank you very much, and go ahead. This is how the Canadian Nuclear Safety Commission operates, by the way. They have hearings in order to let people yell at them and then they go ahead with their decisions.

So we need an independent system. If we're going to put more effort into CEAA itself, then CEAA needs to be bulked up. It has to have the capability to do it. What we're seeing is that we're giving it more authority and more things to do and then taking away its money. So I don't see how it's possibly going to work. Whatever changes are made, we'll be back here seven years from now, and they'll be saying exactly the same things because there will still be delays, because—

**Ms. Megan Leslie:** Well, on that, I use the words “tweaking”, “scrapping”, “improving”, “amending”, but maybe it's not about tweaking. Maybe we could take a blue sky approach. Maybe we could envision a different process. One of our previous witnesses talked about.... Actually, the Electricity Association said the original intent of the act was not to stop projects; it was to remove or mitigate an adverse impact.

One of our previous witnesses asked, what if we looked at a process that considered sustainability and gave recommendations about how to make things better, how to make a project better.

Mr. Chair, could you keep an eye on the time, because I would like an answer from Mr. Bennett and the Electricity Association if that's possible?

**The Chair:** You have a minute and 20 seconds.

**Ms. Megan Leslie:** I'll start with Mr. Bennett.

**Dr. John Bennett:** That's exactly what we need. We should be making societal decisions about how we want things to be developed and then work out the details of the projects as they come forward, instead of leaving it entirely up to projects to come forward from industry or from municipalities, or anywhere, and they're not part of a plan. We need a plan.

**Ms. Megan Leslie:** To the Electricity Association, what about this idea of sustainability as a mandate?

**Mr. Terry Toner:** It's built in to some of the integrated resource planning exercises that we are a part of.

**Ms. Megan Leslie:** Right.

**Mr. Terry Toner:** Therefore, we support that, because it leads to better projects that have more of a social licence and acceptance to bring them forward.

**Ms. Megan Leslie:** So it's something industry is already doing in some ways, with integrated resource plans?

**Mr. Terry Toner:** And we embrace that.

**Ms. Megan Leslie:** Right. I know the integrated resource plan in Nova Scotia very well. It's a beautiful document for integrated resource plan nerds like me.

Thank you, Mr. Chair.

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

Mr. Albas, you have five minutes.

**Mr. Dan Albas (Okanagan—Coquihalla, CPC):** Thank you, Mr. Chair.

I appreciate all of our guests coming in today to discuss this very important subject. I'm actually serving on the infrastructure committee. I have an interest in infrastructure, so most of my questions will be for Ms. Jackson.

In 2009, amendments were made to the exclusion list regulations for infrastructure projects. Further amendments to the act in 2010 made permanent these exclusions via the schedule to the act.

What has been the experience with the exclusions for infrastructure projects?

• (1220)

**Ms. Jennifer Jackson:** What has been the experience?

**Mr. Dan Albas:** Yes. What has been your experience with the exclusions for infrastructure projects?

**Ms. Jennifer Jackson:** The projects are still continuing, and they're still being captured, if necessary, under the federal Canadian Environmental Assessment Act, depending on other triggers, depending on whether there's involvement of federal lands or there are concerns about fishery habitat or migratory birds. So to a large extent those changes have not really affected our sector.

**Mr. Dan Albas:** Have there been any other environmental risks that have been managed for these projects?

**Ms. Jennifer Jackson:** There's always a host, a myriad, of environmental risks associated with these projects.

**Mr. Dan Albas:** Sure. As I said before, I'm more concerned with the infrastructure side, so I find it quite fascinating to look at a different facet of it.

Are there other types of projects that might merit a similar approach?

**Ms. Jennifer Jackson:** I'm not a transportation expert, but that would be something that could be looked at.

**Mr. Dan Albas:** Great.

This is a question for the Canadian Electricity Association, Mr. Chair.

Do you support the changes made to the environmental assessment in the 2010 amendments to the act?

**Mr. Terry Toner:** Yes, we're very pleased to see that as a very good start towards identifying some of the root issues and making some step changes. There are more changes to be made, but we are encouraged by those changes.

**Mr. Dan Albas:** Can you give an example of one of the changes and why you were satisfied with it?

**Mr. Terry Toner:** While they are still imperfect, I think the changes related to a comprehensive study and the 365-day limit, along with the other short limit of 90 days for the other section of it, at least provide some degree of capping on that. There are still lots of processes that happen within there, and there may be opportunities to further optimize that for smaller projects or projects that are just on the edge of those triggers, but that is a very helpful step forward.

**Mr. Dan Albas:** You mentioned this might help some smaller projects, and I noticed that earlier in your comments you mentioned that some short-term projects might go ahead, given some of the timelines, and that other more long-term projects might not go ahead.

Can you give me an example of what kinds of things you might get as smaller projects?

**Mr. Terry Toner:** The best example I can give is that most utilities—though not all—have an obligation to serve. At least we in eastern Canada do. We must provide electricity every minute of every day, so when someone flicks the switch on, we have to be there to provide it. Therefore, we choose which projects to bring forward based on whether or not we can meet that mandate.

So for projects that we might think would be better overall but that we just don't think we'll be able to get completed or get through the process in time...we still have to provide electricity. We're doing that through a variety of other means, not just ours. In many cases, there could be a call for electricity from independent power producers or through other means. So it's not restricted just to our own utilities.

**Mr. Dan Albas:** So when some might suggest that we have a longer review process, say one that might take four years, there is an actual social cost to the people who are depending on this kind of power in their communities.

**Mr. Terry Toner:** That's correct.

**Mr. Dan Albas:** What more should be done, in your opinion, with regard to changes to the environmental assessment?

**Mr. Terry Toner:** Timelines are an important consideration. I think working our way through the "one project, one assessment" idea is quite important, and figuring out how that happens is important. I draw upon the work of the regulatory advisory committee that has existed for many years since the early days of the act. It created and brought together folks from government, provinces, industry, ENGOs, and others to have input into some of the changes they were able to make, and a lot of good work was done to hear those various views. Among other things we've looked for obviously is consistency between the decisions that are made and the subsequent approvals. If there is a difference there, that's a mixed signal that can cause delays and costs. The Manitoba project that was mentioned earlier is an excellent example of that.

• (1225)

**The Chair:** Time is up.

**Ms. Sandra Schwartz:** I would just add two other things we also firmly believe: duplication with the provincial assessment process should be avoided, and the benefits of the project—and not just the risks—should be included in the assessment.

**The Chair:** Time is up. Thank you so much.

Next is Mr. Hyer for five minutes.

**Mr. Bruce Hyer (Thunder Bay—Superior North, NDP):** Thank you, Mr. Chair.

Mr. Bennett, you touched on this a little bit. In 2010 the government transferred responsibility for energy projects under CEAA, to the National Energy Board for pipelines and to the Canadian Nuclear Safety Commission for nuclear projects. I don't know if you're aware that the tiny Canada-Nova Scotia Offshore Petroleum Board and the Canada-Labrador board are responsible for offshore drilling.

Would you like to just comment a little bit more—and save me some time for one more question—about capacity and new resources that will be available to adequately do these jobs, if you know of any, and your perception of any other factors that are important?

**Dr. John Bennett:** We fundamentally disagree with doing that, especially with the offshore boards. If you actually read their mandates, they were set up to promote the offshore development, and they're also assessing the projects. So how do you get unbiased advice to government from an agency if you say, "Your job is to promote this, and your job is also to assess it"? You can't get the same thing. So that should not have been done.

It's the same with the NEB and CNSC. They have a regulatory role. They should be kept as regulators. They should not be actually making decisions about what should be assessed, and they should not be running the assessments. That should be a separate role for the agency that does assessments, because it's a wider and more important role.

**Mr. Bruce Hyer:** Thank you, Mr. Bennett.

This is a question for all of you. A number of previous witnesses have talked about how the present process seems to capture an awful lot of small and relatively insignificant projects and misses the big ones, the strategic ones, the big picture ones. I have an example to ask you about. If any of you are familiar with this, I'd love to hear your comments.

The Matawa chiefs in northern Ontario and others have come to me because they are concerned about the Ring of Fire project. It is huge—on the scale of Voisey's Bay, or perhaps bigger. They've been granted a comprehensive review study rather than a joint panel review. It seems to me that this would be a logical one for a joint panel review at the front end, with fewer problems in the long term.

Do any of you have comments on that? Do any of you share my concern as to why we're not doing a joint panel review for the Ring of Fire?

**Dr. John Bennett:** I agree that there should be a joint panel for the Ring of Fire. One of the problems we've seen in the changes is that we've given greater latitude to the minister to determine what has to be assessed and how it should be assessed. These shouldn't be political decisions. They should be public policy decisions that are put before an independent agency.

One of the determinants of whether you get a panel or not should be public concern over the issue. So if you have the constitutionally required consultation with the local community and it says, "We want a full panel", that should have some bearing on the decision to have a full panel or not.

**Mr. Bruce Hyer:** How much time do I have, Mr. Chair?

**The Chair:** You have about a minute and a half.

**Mr. Bruce Hyer:** Mr. Bennett, you're obviously passionate on this subject, so why don't I give you a minute and a half to speak on anything you'd like to add to what you've said today.

**Dr. John Bennett:** I would like to refute what was said about the Mackenzie hearings. If you look at the record closely, you'll find it was industry that caused most of the delays, especially in the last process. Imperial Oil was unable to provide the proper information in a timely way. It repeatedly asked for recesses, which resulted in a four-year process. That resulted in the last decision. That decision resulted in about 100 or so recommendations to make the project better, which would actually help those in the local communities looking for employment.

I totally disagree that this is always about the bureaucracy causing the delay. A lot of the time the delay is the direct result of the proponents being late, slow, inaccurate, and not doing their homework. If Imperial Oil had arrived at the beginning of those hearings with a full proposal and all the details, it wouldn't have taken four years.

In fact, I remember complaining that before Imperial Oil even announced they were going through with the project, 16 jurisdictions in Alberta and the Northwest Territories came together and said, "We'll have a joint system. You'll only have to go through one jurisdiction, even though 16 jurisdictions have authority here." So the regulatory process actually came together to make it as smooth as possible for Imperial Oil. To sit here and state that somehow it got in the way of a good decision is absolutely not true.

● (1230)

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

Our next speaker is Ms. Rempel for five minutes.

**Ms. Michelle Rempel:** Thank you again to all the witnesses for coming today. We certainly feel this is a very important act to review, partially because I think there's agreement around the table that it is critically important to ensure the sustainability of Canada's environment and natural heritage. I think that's a theme we've heard from many of our witnesses.

We're also hearing that we need to strike a balance and ensure that for projects going forward there's certainty in the regulations and transparency in those processes.

Along that theme I have a general question. Perhaps each witness here could give their specific thoughts on how we could reduce delays and redundancy, while ensuring that we have that balance in ensuring environmental protection and sustainability via this act.

Perhaps Ms. Schwartz can start.

**Ms. Sandra Schwartz:** I'll let Mr. Toner respond.

**Mr. Terry Toner:** We've provided some indications on our thinking in that direction. We believe the act needs to be revised, in conjunction with some of the other pieces of legislation, and set up in such a way that each process takes care of the issues and responsibilities under that act.

We're interested in seeing an environmental assessment look at broader issues and larger initiatives and permit processes—look at more detailed items. We're interested in seeing the federal and provincial governments continue to find harmonization and ways in which one review can be done, and each jurisdiction can take what they need from that to exercise their decisions. That's one of the areas.

Another area that I think is important, and where the federal government is taking steps, is dealing with the duty to consult with first nations. This is an emerging area of significant interest to all, and it needs to be done properly. It is also in its infancy right now, in terms of how the various departments can administer that responsibility under the act as they make decisions.

**Ms. Michelle Rempel:** Ms. Jackson.

**Ms. Jennifer Jackson:** We feel that CEAA has to work and take the lead as the clearing house of information, taking the lead where there are multiple responsible authorities. None of the departments want to take on the task, so we might as well give it to CEAA.

I feel that the CEAA could play a critical role in coordinating aboriginal consultation throughout Canada. Aboriginal communities are being swamped with requests to participate in provincial or national processes. They don't have necessarily the ability, the funds, or the time to participate in all the projects they may want to participate in. If CEAA can assist in that, I think that's a good place for them to start.

I think CEAA has to review the extent and the type of information it's asking for up front. It has to be a little more comfortable in not getting all the detailed responses and in leaving some things to the permitting process and detailed design phase.

Those are our thoughts on the matter.

**Ms. Michelle Rempel:** Mr. Bennett.

**Dr. John Bennett:** Make it fairer. Make it fairer for the public to participate. Make it fairer for industry to participate. The agency needs to be invested in. It needs to be expanded. It has to have professionals who are responsible for public consultation and aboriginal consultation. It has to have professionals who are professional in judging and making the decisions it has to make. Get the responsibility out of the regulators, out of the NEB, out of the CNSC, out of the offshore oil boards. Those are the wrong places. That decision seems intuitively correct, but it's actually absolutely backwards and wrong. You want to make sure that the public has confidence in it. The public will never have confidence in a system in which we have to go and talk to the National Energy Board about whether or not an oil project is a good idea.

• (1235)

**Ms. Michelle Rempel:** Ms. Schwartz, CEAA is triggered when there is a federal decision about a project. Some projects have environmental effects on areas of federal jurisdiction that do not require an environmental assessment, because there is no associated federal decision. Instead of being triggered by a federal decision, shouldn't EA be triggered if there are potential environmental effects on matters within federal jurisdiction?

**Mr. Terry Toner:** The short answer is yes.

**The Chair:** Thank you.

Mr. Woodworth.

**Mr. Stephen Woodworth:** Thank you, Chair.

Mr. Bennett, I'm assuming you're aware of a gentleman by the name of Stephen Hazell. Are you acquainted with him? I have a copy of a paper he delivered on behalf of the Sierra Club of Canada to the Forum of Federations on September 14, 2009. I also have a paper he delivered to the Queen's Institute for Energy and Environmental Policy on April 15, 2011, and in it he spoke about the significant shortcomings of the Canadian Environmental Assessment Act. One that he identified was too much sweating of small stuff, legal requirements for small projects.

Do you agree that this is a significant shortcoming of the current Canadian Environmental Assessment Act?

**Dr. John Bennett:** I think we could make improvements in how we deal with the small ones, but I don't think there's too much sweat. The small ones can be important as well as the big ones. We don't want to have a system in which we don't look at all at the small ones.

**Mr. Stephen Woodworth:** Mr. Hazell presented a paper on October 14, 2010, as eco-justice counsel to the OAIA Conference. The paper dealt with revisiting the first principles of EA. It asked whether most CEAA screenings weren't rubber-stamping and a waste of time and resources, and whether CEAA would do better to focus on fewer large projects and ensure that EAs are done well.

Do you think those are important questions to be asked?

**Dr. John Bennett:** I'm not sure there was a question there.

**Mr. Stephen Woodworth:** Do you agree with Mr. Hazell that these are important questions to ask? Aren't most CEAA screenings

rubber-stamping and a waste of time and resources, and should CEAA focus on fewer larger projects and ensure EAs are done well?

**Dr. John Bennett:** When he said they are a waste of time and a rubber stamp, I think he was referring to the way the government has gone about doing it, failing to make sure those screenings are done properly. A lot of questions arise during screenings, and I've had a lot of people across the country pick up the phone and tell me this or that screening has missed something. I think that's what he's referring to. I represent an organization that has a lot of grassroots people in small groups across the country, and we want to make sure all the projects get the kind of scrutiny they require.

**Mr. Stephen Woodworth:** In the paper I just mentioned, one of the suggestions for reform that Mr. Hazell proposed was to focus CEAA on bigger projects, with better EAs, to ease provincial and private sector concerns.

Do you agree with that suggestion for reform from Mr. Hazell?

**Dr. John Bennett:** No.

**Mr. Stephen Woodworth:** Now, one of the projects that I think was discussed in our evidence was about an expansion of a maple syrup operation. I understand that CEAA requires an environmental assessment because it's funded by the Atlantic Canada Opportunities Agency.

Are you aware of the case I'm speaking about?

**Dr. John Bennett:** No, I'm not.

**Mr. Stephen Woodworth:** You're not.

Do you think that if a maple syrup bush is expanding it needs to be subject to an environmental assessment under the CEAA?

**Dr. John Bennett:** It probably should be reviewed, but it shouldn't be a significant burden or expense.

**Mr. Stephen Woodworth:** I guess there's a difference between an assessment and a permitting, and I wouldn't take issue that a permit ought to be obtained and that some review could occur at that time.

But do you think an environmental assessment is necessary for the expansion of a maple sugar bush?

**Dr. John Bennett:** There may be other issues involved, so I couldn't say without knowing the details of that particular bush. Generally speaking, if it's adding a few hundred acres next to the 200 acres they have, I wouldn't have a problem. But there may be other issues that are a concern. We'd have to look at the details.

**Mr. Stephen Woodworth:** The reason this becomes an issue is because of the "all in unless excluded approach" of the CEAA, which says that a sugar maple bush expansion must have an environmental assessment since it's not excluded.

Do you think that principle is a correct one?

• (1240)

**Dr. John Bennett:** Yes.

**Mr. Stephen Woodworth:** You do, okay.

**Dr. John Bennett:** You could put regulations in place on how you approach that. I'm sure that assessment did not have a full-panel hearing and it did not take five years.

**Mr. Stephen Woodworth:** No. In fact, 99% of the environmental assessments, as I understand it, are done by screenings.

**Dr. John Bennett:** Absolutely.

**Mr. Stephen Woodworth:** Nonetheless, it's still more than just permitting and perhaps using resources that might be better employed elsewhere. But I understand your position on the subject.

I did have another question for—

**The Chair:** Your time is up, Mr. Woodworth. It goes very quickly.

Ms. Duncan, you have five minutes. Welcome back.

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

Thank you all so much for coming. We really appreciate your time, your effort, and your testimony.

The 2010 changes to CEAA gave the minister the power to limit the scope of a project defined by a proponent that is subject to an environmental assessment. During the testimony, we heard the agency state that the minister has not yet used this power.

Mr. Bennett, I'm wondering about your opinion of this change.

**Dr. John Bennett:** I don't think that stage is the time for a political decision. The public should have a chance to have some input and reaction to a project before the minister decides not to have a hearing or that it's going to be divided into pieces.

That's an unnecessary power that I think the minister should not have, nor exercise.

**Ms. Kirsty Duncan:** Who should make scoping decisions under CEAA? I'll ask you that question.

**Dr. John Bennett:** Well, I think that needs to be made by the agency, but subject to an appeal, if those who are affected believe it should go further. As long as there's a process in which you can talk about whether or not a screening or scoping or hearing is going to happen, then it would be acceptable.

**Ms. Kirsty Duncan:** Okay. Several witnesses have agreed that federal environmental assessments should be broadened to include full consideration of economic and social issues, as well as environmental factors. They said this would facilitate an assessment of whether the project is in the public interest and it should go ahead.

Mr. Bennett, in your opinion, should CEAA be broadened to include a full consideration of economic and social factors?

**Dr. John Bennett:** Yes, it should. We should be looking at how these things all fit together.

The limitation of the system is that it works on one project at a time. If you look at the development in the tar sands, we've had several environmental assessments. None of them have actually looked across the fence at what was next door and what the cumulative impact was going to be—and that's just in terms of the direct environmental impacts.

If the country has made a commitment to reducing its greenhouse gas emissions, then that should be a factor in determining how one project fits into another project before we go ahead with it. Right now we're looking at each project on its own. When we've raised the issues of greenhouse gases, we've been told, "Well, that's not part of this project. That's the government's commitment. They'll handle that. It doesn't affect this project."

That's not acceptable. We need an integrated system that asks how this moves us forward in our overall objectives for the economy and the environment.

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

If the agency were the single federal body responsible for project assessment, including environmental, economic, and social, would its capacity need to be increased to properly evaluate all aspects of the project?

**Dr. John Bennett:** Absolutely. It has now been asked to take on the responsibility of several other departments. It's going to either need to import into its own operation the expertise those departments provided or it's going to have to hire consultants to supply it, so we have to invest in the agency to make it big enough and strong enough to do the work we want it to do. Right now it's being cut back rather than invested in.

**Ms. Kirsty Duncan:** Thank you, Mr. Bennett.

I'm wondering if anyone has a differing opinion, the question being, should this be brought in to include economic and social factors?

**Mr. Terry Toner:** I think obviously those need to be considered at the right stage, so it depends on the level of assessment you're talking about. If we are talking about a strategic assessment where you're starting to broaden your examination of an issue for an area or you're looking at a policy or you're looking at plans, that obviously is a place where that needs to be part of that discussion.

As you get into a project, if that has already been properly vetted then I think it needs to fit within the scope of how it fits within that policy decision that has already been made.

• (1245)

**Ms. Kirsty Duncan:** Would you like to include economic and social factors in EA?

**Mr. Terry Toner:** I'd like to see them in, in the proper way, and a consideration of benefits, not just impacts.

**Ms. Kirsty Duncan:** I don't have time to do this with you. If you're interested, you could submit to this committee what you consider would be the proper way.

I'll ask Ms. Jackson. How do you feel about economic and social factors being included in EA?

**Ms. Jennifer Jackson:** I think our members have already considered the social and economic impacts of their projects before they go forward. Before you decide to put in an additional water treatment plant, you're going to explore all the potential options, such as demand-side management and water efficiency for residential, commercial, and industrial sectors, before you see the need to go forward with the projects. So I think in our decision-making processes, even before we embark on the planning process, they've considered those factors, and because they are accountable to taxpayers then they have to do so.

With regard to scoping, I agree with Mr. Bennett that we feel that the scoping decisions, if they are appropriate, can be made fairly by the CEA agency.

**The Chair:** Time is up. Thank you so much, Ms. Duncan and Ms. Leslie.

Next is Ms. Rempel, for five minutes.

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

My questions again are for the Canadian Electricity Association and the Canadian Water and Wastewater Association.

There have been recent changes to the act. In July 2010, amendments were made to the act to make the agency responsible for comprehensive studies, and they included changes that will require an earlier start to the process.

Since these amendments came into effect, the agency has started all comprehensive studies in alignment with provincial reviews. Then timeline regulations came into force in June of this year for these agency-mandated comprehensive studies. These regulations now provide 90 days for the agency to determine whether to commence a comprehensive study in 365 days to provide a completed report for a final comment period.

We've been talking a bit about reducing delays but ensuring the integrity of the process. Perhaps you could speak about, first of all, if you're aware of these changes and how they've either improved or changed your experience with the process.

**Ms. Sandra Schwartz:** As we mentioned in our testimony, the regulations we're establishing, the timelines in particular, for comprehensive studies that were adopted in June were a good start. But we also feel that the proposed timeline itself is not strict enough and it doesn't take into account the whole process that's necessary.

Our sense is, and again we said this in our testimony, that limits should be established for all types of assessments and also for all authorization processes from the time the application is filed all the way through to completion.

**Ms. Michelle Rempel:** Ms. Jackson.

**Ms. Jennifer Jackson:** We were consulted on the changes to the regulations, and we support the changes to the comprehensive study regulations that went forward.

We have a mixed feeling about timeframes because some screenings, which are a vast majority of the environmental assessments that are done, do require more time, and to put in place timelines may just put in place some artificial timelines that can't be met in every single instance. So we're willing to look at the issue

more carefully with our members and consult more broadly and provide more advice to the CEA agency, if afforded.

**Ms. Michelle Rempel:** With regard to the change in timelines, are there specific projects that have been impacted by this, either adversely or positively, that you'd want to share with us?

**Mr. Terry Toner:** While it's very early in the game, we have a number of projects that are occurring across the country. One example is the maritime link project associated with the Lower Churchill, which is starting to benefit from the process, we hope. It's really too early to tell in that regard. We remain cautiously optimistic.

**Ms. Jennifer Jackson:** I'm not aware of any projects that are currently affected by the new timelines. Perhaps if we had more time to consult with our members, we may come up with something.

• (1250)

**Ms. Michelle Rempel:** An ongoing theme here has been the discussion of public consultation. You both touched briefly upon some of the proactive work for public consultation that your member companies, etc., undertake.

A statement was made earlier today that industry sometimes lets people yell at it and then goes ahead with its decision. Perhaps you could talk about some of your proactive processes that may refute that statement.

**Dr. John Bennett:** That's not what I said. Excuse me—

**Ms. Sandra Schwartz:** Just to clarify, I think what Mr. Bennett was actually saying was that it was a regulatory agency, not industry. I just want to clarify that from an industry perspective. I don't believe that was the comment that was made.

But perhaps my colleague could actually address, in more specific circumstances, the public consultation that goes on.

**Mr. Terry Toner:** Almost everything we do now has some element of public consultation, from rate applications to environmental assessment, to integrative resource planning, to simple day-to-day consultation with constituencies on a more regular basis in between regulatory processes to make sure we're getting that kind of input.

Across the country, we see some diversity, but there's a tremendous amount of public input, and collaborative public input. I don't think it's just public input. It's input from all the stakeholders in an area and from the first nations people. This is important. It's emerging. It's growing. There's a different attitude in industry in the last 10 years to embrace that, because it is the right thing to do, and we are trying to find the most efficient way for us to participate in that. We're not the only player in that.

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

Ms. Rempel, thank you.

Next is Ms. Leslie for five minutes.

**Ms. Megan Leslie:** Thank you, Mr. Chair. It's a great day when I get a second round. I was so worried about timing in the first round.

I wanted to share something with everybody here from the Electricity Association. Your CEO, Pierre Guimond, at the Atlantic power summit in Japan, gave a speech where he said:

Governments must exercise more leadership in supporting and enabling a long-term policy path for electricity. Governments can help electricity secure its social license and its enabling capital.

So it's a clear theme with your organization.

Mr. Toner, I just wanted to say that I like what you said about looking at benefits, not just impacts. That's certainly clear with the Lower Churchill Project, and it's something I've been wrestling with. There are the benefits of taking two billion cars off the road versus the impacts of the hydro project. There's a real balance there that needs to be struck.

I have a quick question for the Electricity Association. When it comes to the problems with timing and not being able to get things done quickly, I wonder how much of that has to do with the fact that the agency doesn't have enough resources. Do you think that's a factor? Do you think that even a small amount of more resources to the agency would speed up this process?

**Mr. Terry Toner:** There's no question that with the growth in the number of projects, at least in the region I live in, which is Atlantic Canada, it certainly has taxed all of the agencies, not just the Canadian Environmental Assessment Agency, but the Department of Fisheries and Oceans, other departments, and the provincial governments.

There is a tremendous amount of work that needs to be done, and at some level there may not be resourcing. Also, in consulting with both stakeholders and first nations, there's a potential for consultation fatigue. We have encountered significant challenge, and we are working with first nations in particular to see if we can't find ways to assist them to have that resource capability to participate in these very processes that occur under CEAA and provincially.

It is an ongoing challenge. Being more focused to get the right level of review for the right level of project is one way we can perhaps gain a little bit of efficiency and restore it.

**Ms. Megan Leslie:** Thanks very much.

**Ms. Sandra Schwartz:** Just to add to that, the bottom line is that with \$293 billion of investment required in the electricity sector over the next 20 years, with a streamlined process, with a more efficient process, that will help. But we have a large number of projects that are going to be required. So to answer your question, yes, additional resources in the right places....

**Ms. Megan Leslie:** Thanks very much.

In the time I have left, I have a question for the Canadian Electricity Association and for Mr. Bennett.

There is the perception that with industry and environment groups it has to be adversarial, where we have to protect at all costs and we have to deregulate at all costs. But in fact I know there is a lot of common ground in both "camps", if I can use that word.

Mr. Bennett, I'll start with you. Can you share with us, what is some common ground that you see with industry?

Then I would pose that question to the Canadian Electricity Association.

• (1255)

**Dr. John Bennett:** Well, we've heard a lot of it right here.

We think this should be an efficient process as well. We don't think we should be holding up good projects because we have so many bad ones and we can't handle it.

We agree that we need to have good, clean drinking water and good sewage treatment. We want to support those projects. We just want to make sure those projects go well.

If we're going to be spending multi billions of dollars on our electricity system, putting a few hundred million dollars into the environmental assessment side is a bargain. So we agree on a lot of areas and we talk to each other all the time.

Actually, the real divide is between government and environmental groups.

**Ms. Megan Leslie:** Touché.

**Ms. Sandra Schwartz:** And just to respond, my background comes from the environmental community. That's where I started my career. In my experience—both in my career in the environmental movement but now in the industry sector—we actually have quite a bit of common ground. It's a matter of finding processes where we can come together and finding where that common ground is.

It benefits both sides. It benefits proponents of projects, but I think it also benefits the environmental community to understand each other's frame. And really, we have and will continue to have many instances where we work quite closely with the environmental community.

**Ms. Megan Leslie:** Thanks.

**The Chair:** Your time is up. Thank you so much, Ms. Leslie.

The last round of five minutes is Mr. Woodworth's.

**Mr. Stephen Woodworth:** Thank you very much, Mr. Chair.

I'd like to go back and touch on something that Ms. Rempel talked a little bit about—the recent amendments that partially consolidated the authority for environmental assessments by making the CEAA responsible for comprehensive studies. I'm interested, particularly from Ms. Schwartz and Ms. Jackson, whether your members have encountered this new approach and whether they have rated it favourably. Has it been helpful or not? Do either of you know?

**Ms. Sandra Schwartz:** As Mr. Toner already pointed out, it's still very early in the process. We're not familiar with any particular projects that members have where that has been encountered, at this point.

**Mr. Stephen Woodworth:** Is that pretty much the same for you, Ms. Jackson, or not?

**Ms. Jennifer Jackson:** We supported the insertion of timelines in the regulations.

**Mr. Stephen Woodworth:** About the idea of the CEAA doing comprehensive assessments—

**Ms. Jennifer Jackson:** I don't have any knowledge about ongoing comprehensive studies affecting our member projects.

**Mr. Terry Toner:** We're supportive of that.

And we're also supportive of the role the major project management office has played in trying to bring together, along with the CEAA, some of the considerations.

**Mr. Stephen Woodworth:** As I understand it—and I don't really understand it very well—there is a two-step process involved right now, where a minister makes an environmental assessment decision and then a responsible authority makes an environmental assessment decision. Would you see a benefit to incorporating those steps with a CEAA process, that is, an agency process?

**Ms. Jennifer Jackson:** My understanding is that terms of reference are prepared and then a decision is made as to where the project will be slotted from there. That's fairly comparable to a lot of provincial environmental assessment projects. So we don't see that that process needs to be changed.

**Mr. Stephen Woodworth:** All right.

I was intrigued by one of the recommendations in your report, which was to focus the triggering of the CEAA on projects where it can bring added value. And I regret I got your report only today, and there is a page and a half or two pages of background there.

In the few minutes we have left here, I wonder if I could ask the Canadian Electricity Association to elaborate on the recommendation of focusing the triggering of CEAA on projects where it can bring added value.

**Mr. Terry Toner:** Today the triggers are broad and down to very small project size, where there are many screenings. If you were to talk to most agencies that have to execute those screenings, they would echo the comments you made earlier, that indeed they've put a lot of resources into some of them for perhaps marginal value, that they have processes already in place for their own act that deal with this. The Fisheries Act in particular is well-equipped to do that.

We're suggesting if the triggers had a higher threshold, and they could either be size of project or potential size of impact, as is often the case in provincial legislation, that would bring the focus of a full environmental assessment review on projects that would benefit from it and projects that are of a smaller nature—activities like best management practices or permitting or other mechanisms. The Department of Fisheries and Oceans has developed a risk management framework and a “pathway of effects” that they use very effectively now to try to deal with projects and match up the level of

effort of review and activity with the potential for impacts. I think we're advocating the same type of philosophy.

• (1300)

**Mr. Stephen Woodworth:** Thank you.

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

**The Chair:** You have 45 seconds.

**Mr. Stephen Woodworth:** I also wanted to ask for a bit of elaboration on another item I saw in your report dealing with the issue of federal and provincial harmonization, and that is the idea of process substitution. Could you elaborate on that in 30 seconds?

**Ms. Sandra Schwartz:** Process substitution refers to equivalency agreements, or equivalency with provincial legislation. The Canadian Hydropower Association will be here on the 15th of November and will be able to address that in greater detail. Most of their brief is focused on that.

**Mr. Stephen Woodworth:** I'll wait for that.

Thank you very much.

**The Chair:** Thank you very much. Time is up.

Just a couple of very quick comments.

I want to thank the witnesses for being here. You were asked informally for any briefing documents. Ms. Duncan brought that up. It's totally voluntary. Anything that would help the committee study is welcome, but you're not required to submit anything.

I want to thank Ms. May, who was here earlier and was here for most of the meeting.

Monsieur Choquette, thank you for being here. This has been very interesting and informative, edifying.

Ms. May asked me at the beginning of the meeting could she ask... it would have required one of the members to give up their slot and move a motion at the beginning of their speaking, saying they would like to give their time to Ms. May or Monsieur Choquette. It would be a vote then by a majority of the members, yes or no, if that person could take over that slot. That did not happen today, but will for future meetings, if that wants to be considered.

Thank you so much again for coming.

The meeting is adjourned.







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