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Chair

Mrs. Deborah Schulte

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● (1600)

[*English*]

The Chair (Mrs. Deborah Schulte (King—Vaughan, Lib.)): I'm going to bring the meeting to order. I'd like to get the meeting under way. The minister has to be out of the room at 4:30, and we have our industry panels coming in.

I want to welcome the minister.

Thank you very much, Minister Garneau, for joining us today with your team. We're very much looking forward to your statements, and it is great to have you kicking off your portion of Bill C-69. It's great to hear what you have to say.

We'll have a quick round of questioning. We're probably going to get only one round. You're all going to get your six minutes, but you may want to share that time with other members so that everybody can have a chance to ask a question. I know there is an eagerness for that.

I'm going to open the floor right now to the minister.

Hon. Marc Garneau (Minister of Transport): Thank you, Madam Chair.

[*Translation*]

Madam Chair and honourable members, I am pleased to meet with the committee today to talk about Bill C-69, an act to enact the Impact Assessment Act.

Canada is fortunate to be surrounded on three coasts by the Pacific, Arctic, and Atlantic Oceans, and is also home to countless lakes and rivers. I have had the pleasure of travelling coast to coast to coast to see these waters first-hand, and the special pleasure of being able to see the vast network of lakes, rivers, canals, and oceans that form our great nation from space. I can tell you that even from space, you can clearly see that lakes, rivers, and other water bodies are a key element of our transportation network.

I have also had the pleasure of hearing from Canadians about their passion for boating, be it in their canoes, kayaks, sailboats, motorboats, or larger vessels.

There can be no doubt that Canada relies on all of its navigable waters for recreational use and for the movement of goods and services. Indigenous peoples also exercise their rights in these waters.

[*English*]

Canadians want to ensure that navigation on these waterways can be protected now and in the future, including on our heritage and longest wild and free-flowing rivers. They expect that their public right of navigation is being protected.

When I was appointed Minister of Transport in 2015, the Prime Minister gave me the mandate to review the Navigation Protection Act with a view to restoring lost protections and incorporating modern safeguards. After an extensive review and consultation process, we are now proposing to amend the Navigation Protection Act and create the new Canadian navigable waters act to fulfill this commitment and better protect the right to travel on all navigable waters in Canada.

The new Canadian navigable waters act is the product of more than 14 months of consulting with Canadians, which began with a study of the previous government's changes by the Standing Committee on Transport, Infrastructure and Communities.

Madam Chair, I would like to take this opportunity to thank the standing committee for the time it dedicated to this study and for its recommendations. The standing committee's work provided a solid foundation for the new Canadian navigable waters act.

The proposed Canadian navigable waters act was also informed by the views of indigenous peoples, provinces and territories, industry, recreational and environmental groups, and the general public. Waterway users have told us clearly that they want oversight on all navigable waters in Canada, more transparency and clarity around processes and decisions, greater partnership opportunities for indigenous peoples in administering navigation protections, and observance of the need for processes to remain efficient and predictable.

The proposed Canadian navigable waters act addresses these concerns. The act will contain a new requirement for approval of major works that significantly impact navigation on all navigable waters, such as large dams or other works, and authority for the Minister of Transport to regulate obstructions on all navigable waters.

[*Translation*]

Madam Chair, the government is committed to open, accessible and transparent processes. It is a question of public trust.

The Canadian Navigable Waters Act would provide better rules that will deliver greater transparency about proposed projects that could affect navigation, to make it easier for Canadians to have a say in projects that concern them.

We recognize that, to participate in decisions, Canadians need to know about projects before they are built. The Canadian Navigable Waters Act would require that project proponents notify and engage with potentially affected communities and waterway users before construction of a project takes place on any navigable water.

Should this early engagement leave unresolved navigation-related concerns for works, the government would now have the ability to review these concerns and require the proponent to seek an authorization if appropriate. This new resolution process would give Canadians a better and more modern way to raise navigation concerns for a project proposed in any navigable lake or river in a more efficient, timely, and modern manner.

The act would also require that the department establish a new public registry to house project information and information on decisions. This would help communities stay informed, participate in decision-making processes, and access information over the long term.

● (1605)

The Canadian Navigable Waters Act also provides for an improved, more inclusive schedule, allowing a layer of extra oversight to be provided for navigable waters where it is needed most, including those of particular importance to Canadians and indigenous people.

[*English*]

I must recognize the critical role the navigable waters have in supporting the indigenous peoples of Canada and their ability to exercise their rights. We have heard that water is critical to their way of life, and the Canadian navigable waters act has been proposed to further our goals for reconciliation in a number of ways, but most importantly, to facilitate partnerships between Canada and indigenous peoples in administering the proposed act within their traditional territories.

The proposed act supports a strengthened relationship with indigenous peoples based on recognition of rights, respect, cooperation, and partnership that is responsive to indigenous peoples and that aims to secure their free, prior, and informed consent. The act would require consideration of and protection of indigenous traditional knowledge and the consideration of any adverse effects that decisions may have on indigenous rights.

We also recognize that stronger navigation protections are only of value to Canadians if they can be robustly enforced. That is why the Canadian Navigable Waters Act would include new modern enforcement powers and stronger penalties.

[*Translation*]

Madam Chair, the proposed Canadian Navigable Waters Act is an important element of the proposed new impact assessment system that will protect our environment, our fish, and our waterways, while rebuilding public trust and respecting indigenous rights. This new system will require a rigorous assessment of a full range of impacts for projects that have the potential to pose a significant risk to the environment in areas of federal jurisdiction.

Furthermore, the proposed changes to the Fisheries Act will restore protection measures for all fish and fish habitats and create new fisheries management tools to enhance the protection of species and ecosystems. This broad new system will consider a whole range of potential impacts for any project designated for review—not just on the environment, but also on communities, health, indigenous peoples, and jobs. Decisions under the Canadian Navigable Waters Act will be fully integrated into this new impact assessment system.

[*English*]

To sum up, this proposed legislation will provide navigation protection for all navigable waters as a significant contribution to the new impact assessment system. It will also create more accessible and transparent processes, making it easier for indigenous peoples and the public to engage in projects that affect their communities and to resolve navigation issues of concern to them. Our navigable waters are the common heritage of all Canadians, and the right to travel on them must be protected. The proposed new Canadian navigable waters act will do this.

Thank you.

The Chair: Thank you.

Before I open to questions, I'll introduce your team.

You have Martha Green, senior counsel at legal services; Michael Keenan, deputy minister; and Nancy Harris, executive director for regulatory stewardship and aboriginal affairs.

Thank you very much for joining us today.

We'll start with Mr. Fisher.

Mr. Darren Fisher (Dartmouth—Cole Harbour, Lib.): Thank you, Madam Chair. Given the shortness of time, I'm going to share my time with Mr. Amos.

Thank you, Minister, for being here with your team.

As you know—we've talked about this before—Dartmouth, my hometown, is known as the city of lakes. I assume you've seen it from space. Protecting these lakes in the city of lakes is incredibly important to my community and to me.

The historic Shubenacadie Canal Waterway flows through my riding, through the lakes, and into the Shubenacadie River. This is a historic waterway that was first used 4,000 years ago by the Mi'kmaq. The entire waterway is used by first nations, paddlers, boaters, anglers, and others.

I've read many positive comments on this legislation. This is a great quote from someone who actually sat around this table, NDP MP Wayne Stetski. He says:

> It is a reversal from the actions taken by the former Conservative government and it helps protect our lakes and rivers from damaging development or dumping.

I've also read concerns about this legislation by the WWF and other environmental organizations:

> Give all lakes and rivers the same heightened level of oversight that is currently reserved for a few designated or "scheduled" rivers.

Minister, can you tell us a little more about why this distinction was made and why we wouldn't add all lakes and rivers to this list?

I'm also interested in how individuals will apply to have a waterway added to this schedule. I'm curious as to whether the average person with concerns is going to be able to navigate this process.

Thank you.

● (1610)

Hon. Marc Garneau: Thank you for your question, Mr. Fisher. There are several questions there.

First of all, I have seen the beautiful city of lakes myself. I lived in Halifax for many years and was often over in Dartmouth, so I have seen many of those lakes and, of course, the Shubenacadie waterway. I know how important it is.

The thing that's important to remember here is that the protections we are re-establishing, which were removed by the previous government, address all navigable waters in Canada, not just those that are in the special schedule—which, by the way, will receive additional scrutiny because of their particular importance, whether it's for commercial shipping, recreational purposes, or the protection of indigenous rights.

Anytime somebody wants to put a major work on a navigable water, it will have to receive approval. Anytime there's an obstruction on a navigable water, I have authorization to have it removed. Anytime somebody wants to build any work on any navigable water, there will have to be a notification process beforehand to say that this is what we would like to do. It will be examined very carefully, depending on whether it constitutes a major work, a minor work, or something in between. The protections are for all navigable waters.

Mr. Darren Fisher: Thank you, Minister.

I'll be looking forward to hosting on Lake Banook the 2022 Canoe Sprint World Championships.

I'm going to pass the remainder of my time to Mr. Amos.

Mr. William Amos (Pontiac, Lib.): Thank you, Minister, and thanks to the civil servants who support the minister.

This legislation comes after so many years of frustrated democracy. Just to set the context, in 2008, when the major changes were made to navigation protections, there were 10 meetings to discuss those changes and only 21 witnesses. In 2012, when further changes were made to navigation laws and buried in Bill C-45, the budget bill, there were two meetings. I would submit that we are emerging from what was previously an incredibly undemocratic process and bringing it back to a better democratic place. You are part of this process, and I thank you for being here.

As part of the stripping back of navigation protections, Canadians who care about navigation—many of my constituents in the Pontiac—were forced to resort to the courts. They were forced to rely upon their common-law navigation protections.

I would like you, Minister, if you would, to comment on where we've come from and where we're going, in light of that situation.

Hon. Marc Garneau: There's no question that the legislation that was changed by the previous government gutted the protections that existed for our navigable waters. I was there at the time. I remember spending a great deal of time on that particular act when the government decided to make the changes. It ended up making many navigable waters essentially unprotected, and that was a totally unacceptable situation as far as we were concerned. If you didn't like it, you could go to court. Of course, that's a very long and very laborious and sometimes very expensive process.

What we've done is change it by making the new Canadian navigable waters protection act apply safety and security measures to all navigable waters. As I said, if somebody wants to build something, there has to be a public notice. The information will be put in a public register held by Transport Canada. We will go through a process of determining whether it's a major work, a minor work, or something in between.

In some cases, if it's truly a minor work, it will be pre-approved. If it is a major work, something like a dam or some other major work, it will have to go through a very formal process, as you know. If it's somewhere in between, there will still have to be a process.

If it's in the special schedule, there will be the full-blown approval process. If it is not in the schedule, there will have to be a process by which it's determined whether it is acceptable or not. Instead of having to go to the courts, there will be a process that will be streamlined, whereby my ministry will make a decision on whether it constitutes an impediment to navigation.

● (1615)

The Chair: Thank you so much.

Mr. Sopuck.

Mr. Robert Sopuck (Dauphin—Swan River—Neepawa, CPC): The wilful ignorance shown by the government about this particular act is truly breathtaking. Since the government wants to conflate the protection of navigation with environmental protection, I want to ask the minister an environmental question.

Your government wants to impose a $50-a-tonne carbon tax. You have a science background; I'm looking for a number. How much will Canada's greenhouse gas emissions be reduced after a $50-a-tonne carbon tax is imposed?

Hon. Marc Garneau: Mr. Sopuck, did I hear you say you wanted to ask the Minister of the Environment? She's not here today. I'm the Minister of Transport. I'd be very glad to answer any questions—

Mr. Robert Sopuck: You sit around the cabinet table. I want a number.

Hon. Marc Garneau: I'd be very glad to answer any questions you might have on the proposed Canadian navigable waters act.

The Chair: On a point of relevance—

Mr. Robert Sopuck: This is very relevant. This government insists on conflating the environment and navigational protection.

The Chair: On a point of order, go ahead, Mr. Fraser.

Mr. Sean Fraser (Central Nova, Lib.): Thank you, Madam Chair.

My understanding of the Standing Orders, and correct me if I'm wrong, is that the question must at least be relevant, if not to the legislation we're dealing with, then to the portfolio of the minister before the committee.

Am I mistaken?

The Chair: No, you're not mistaken. That's why I suggested that we look to the relevance of the question with the minister who is in front of us today.

Maybe we can reframe the questions to be relevant to the minister who is with us today.

Mr. Robert Sopuck: I'm responding to the point of order. This is relevant.

None of you were here before. We have parliamentary privileges. This is the environment committee, and obviously the minister is refusing to answer a question about the environment.

I now relinquish the rest of my time to Ms. Block.

The Chair: Thank you.

Mrs. Kelly Block (Carlton Trail—Eagle Creek, CPC): I want to thank my colleagues for providing me with this opportunity to join them to question the Minister of Transport on part 3 of this bill, which addresses the changes to the Navigation Protection Act.

Given that you yourself, Minister, directed the transport committee to undertake a study on the Navigation Protection Act, and given the questions I've already heard coming from your colleagues on the other side, I would suggest that it may have been more appropriate for this bill to be split, so that the transport committee could have finished the work it began. Nevertheless, we on the committee are left to presume that all the work done by our committee has somehow found its way into this bill.

Given that the transport committee does not have the opportunity to ask questions of you on this piece of legislation, I would ask you to give us just one example, post 2013, in which navigation was negatively impacted because of the NPA rules' being in place and not the previous Navigable Waters Protection Act—just one specific example.

Hon. Marc Garneau: In my opening remarks, I thanked the transport committee, of which you are a member, for the very good work they did, which created a solid base on which to advance the amendments that subsequently came. I hope it registered with you when I thanked the transport committee.

With respect to splitting the bill, I believe—

Mrs. Kelly Block: I would like you to answer the question I've asked. I would like one specific example where the Navigation Protection Act impeded navigation in the way it was written.

Hon. Marc Garneau: I am not going to give you that example, but I will comment on your comments. The comment you made was that the bill should have been split. I believe that question was—

Mrs. Kelly Block: Madam Chair, point of order.

● (1620)

The Chair: What is your point of order?

Mrs. Kelly Block: I have asked the minister a question, and he has said he is not going to answer my question, but he is going to comment on my comments.

I would ask that the minister answer the question that I have posed to him.

The Chair: Okay.

I'll ask the minister if he could maybe answer the question.

Hon. Marc Garneau: Okay, I'll give you an example.

The Nass River was removed from the schedule. We put the Nass River back in the special schedule we're talking about today. We did this well over a year ago, because we felt that it was incorrect on the part of the previous government to remove the Nass River because of its importance, in this particular case, to the Nisga'a.

To finish, if I may, Madam Chair—

Mrs. Kelly Block: How much time do I have?

The Chair: Two minutes.

Mrs. Kelly Block: I have two minutes left.

You made a decision to add something back onto the schedule without any concrete examples of navigation being impeded on that body of water. Is that correct?

Hon. Marc Garneau: We listened to the indigenous peoples who live and have lived there for 10,000 years, and we decided that—

Mrs. Kelly Block: That's not my question.

Hon. Marc Garneau: Yes, I am telling you that the Nisga'a had made representation to us that the Nass River, which is in the very north of British Columbia, should be in the schedule. We said yes, it should be, because it is in that category of rivers that are important for indigenous rights.

The Chair: You may not like the answers, but the answers are coming.

You have a few more minutes if you want to ask another question that's not completely repetitive.

Mrs. Kelly Block: Thank you very much, Madam Chair.

I would just make one observation. We studied the Navigation Protection Act, at the direction of the minister, from October 2016 to February 2017. We heard from many, many witnesses. Not one witness could give us an example of where navigation had been impeded on a body of water due to the changes to the Navigation Protection Act.

The fact that you decided to make a change a year or so into your term was your own decision, but when asked, no witness could provide us with any examples, and that's the testimony that's available to the public today.

Hon. Marc Garneau: I am concerned about future generations as well, as we go forward, and that is why I am making the changes that are necessary.

In order to just complete, if I may, you said this bill should be split. I believe your party made that request to the Speaker, and the Speaker ruled that this bill did not have to be split because it was a bill that dealt with impact assessment. That was ruled on by the Speaker, and that is why this part, the Canadian navigable waters, constitutes a part of a very important bill, C-69, dealing with impact assessments on the environment.

The Chair: Thank you very much for that.

Ms. Duncan.

Ms. Linda Duncan (Edmonton Strathcona, NDP): Mr. Minister, I know you're fully aware that you have a great power. You have the unilateral power over navigation. It's a unilateral federal power, so unless you make a decision to protect a navigable river, there is no other recourse.

Your government also committed to strengthening this act, as well as other environmental laws.

There are definitely a lot of concerns that have been raised about the changes made by the Conservatives to this act, but there are equally a lot of concerns about this bill. One is that this Bill C-69 in its entirety has 800 clauses. One of the concerns that is being raised is that the impact assessment law does not include potential impacts to navigable waters as a trigger.

Prior to the changes made by the Harper government, there were two major triggers for federal environmental assessment: one was potential impacts under the Fisheries Act, and the second was under navigable waters. The third, but always confusing, was impacts to the rights of indigenous peoples.

Why has a decision been made not to include in the proposed impact assessment act, under clause 7, a trigger of a potential impact to navigable waters? Why is there a completely separate impact assessment process for navigable waters?

Hon. Marc Garneau: As you know, the Navigation Protection Act, or now the Canadian navigable waters act, and before that the Navigable Waters Protection Act, is one of the oldest acts in the country.

I just want to make the point that, as you said, I have a great deal of power. I take that job extremely seriously because of the importance of the common right of Canadians to have access to navigation on our waterways.

As I said, we have added further dimensions to it. It was intended as an act to cover the issue of navigation when it was originally created.

Now, to address your point about an environmental trigger, there is, through Bill C-69 and through the impact assessment process, the possibility of triggering environmental—and not just environmental, but as well other—concerns that may be expressed, whether with respect to health, whether with respect to community—

● (1625)

Ms. Linda Duncan: Would you answer why you have excluded navigable waters?

Hon. Marc Garneau: It is not excluded.

Ms. Linda Duncan: It is excluded from the list.

Hon. Marc Garneau: I'm sorry; maybe I didn't understand your point.

Ms. Linda Duncan: Proposed section 7—

Hon. Marc Garneau: Yes...?

Ms. Linda Duncan: —of the first part of Bill C-69 is fisheries.

Hon. Marc Garneau: Your question is why we removed the environmental assessment trigger. Is that correct?

Ms. Linda Duncan: That's correct.

Hon. Marc Garneau: Okay.

We did not remove the responsibility for an environmental assessment. It is covered in Bill C-69 through the impact assessment act.

Ms. Linda Duncan: We will just agree to disagree.

Hon. Marc Garneau: No, it's there.

Ms. Linda Duncan: My point is very clear—

Hon. Marc Garneau: Why would we want to remove that?

Ms. Linda Duncan: —it's not in section 7. Let's leave it at that.

Hon. Marc Garneau: Yes, we have changed it, but—

Ms. Linda Duncan: The decision was made not to put it in section 7.

Hon. Marc Garneau: —you would be incorrect to think that we have removed it. That is not the case. We have changed the previous act, but environmental assessments will be triggered through the impact assessment act.

Ms. Linda Duncan: Let me ask you a second question.

You spoke in your remarks about how highly you value impacts upon indigenous peoples. One of the greatest harms brought by the Harper changes was excluding the trigger of navigable waters for assessments of all the oil sands activities in northern Alberta, because of the interaction of all the streams, the marshes, and so forth.

The federal government also, in its wisdom—both the Conservatives and the Liberals—failed to look at the transboundary impact of the Site C dam upon the rights of indigenous peoples in northern Alberta to traverse.

There actually is a court case. Mr. Justice Hughes of the Federal Court of Canada found that any reasonable person would expect that the reduction of the number of protected waterways carries the potential risk of harm to the fishing and trapping rights of the Mikisew, thereby triggering the duty to consult. The area in which the indigenous people want to consult is the overall impact assessment, not a narrow process of simply looking at whether it is a minor or major impact.

One of the big issues is cumulative impact, and that's a significant issue that's been raised by a number of people. I wonder whether you can tell us how this new act, under Bill C-69, adequately addresses potential cumulative impacts, even of minor works upon minor waterways.

Hon. Marc Garneau: Yes, the intent is also to cover cumulative effects to navigation.

Ms. Linda Duncan: How does the act do that? Where in the act do you find addressing cumulative impacts?

Hon. Marc Garneau: It is section 7, if you want to look at—

Ms. Linda Duncan: Do you mean section 7 of the navigable waters act, the navigation act?

Hon. Marc Garneau: Let me first of all say that yes, because of the previous government's Navigation Protection Act, there were certain protections that were removed.

Ms. Linda Duncan: No—

Hon. Marc Garneau: You're right about that. That's why we have this new act, because we are going to be addressing through Bill C-69, through the impact assessment act, the issues that you have brought up specifically today. The importance of indigenous rights, environmental effects, health effects, cumulative effects—all of those things—will be part of the considerations with respect to impact assessment.

I recommend that—

Ms. Linda Duncan: I have one final quick question—

The Chair: Hang on, Linda. I'm sorry, but you're out of time. My apologies; there's never enough time for questioning.

Mr. Rogers.

Mr. Sean Fraser: Sorry, Madam Chair, I think I'm going to start with one quick question and share my time.

Thank you, Minister, for being here.

I was part of the transport committee that studied this—not at your direction, but perhaps at your invitation—and one of the things that I felt very strongly about during the last campaign was some of the changes that were made without sufficient parliamentary oversight in 2012, and 2008 before that.

One of the things we learned when we exercised some kind of a parliamentary function on this specific issue was that in fact the move towards a scheduled waterway had some benefits, but also some significant drawbacks in my opinion.

For example, drainage ditches that were filled seasonally could perhaps be captured when they may not need to be, but on the flip side many lakes and rivers that previously had protection were no longer protected, although there was a common-law right to navigation. There was no effective way for a citizen to have that right protected.

In particular, to go back to the example that one of my Conservative colleagues was seeking, I remember distinctly a witness from the Ontario Federation of Anglers and Hunters complaining that certain companies trying to build zip lines across rivers were preventing members of their association from enjoying the benefits of nature that they so frequently use.

I'm curious how this legislation is going to ensure that those seasonal drainage ditches don't attract scrutiny, but that the lakes and rivers that the Ontario Federation of Anglers and Hunters were seeking to have protected still remain protected.

● (1630)

Hon. Marc Garneau: It probably helps if I read the broader definition of navigable waters that we put in place under this new act. It includes a body of water that is used, or likely to be used, as a means for vessel travel or transport—including as a means of travel or transport for indigenous peoples to exercise their rights—and where there is public access, two or more waterfront owners, or where the crown is the sole waterfront owner.

I think, probably, the defining of what constitutes a navigable waters act frames it properly.

Mr. Sean Fraser: Mr. Rogers, I believe, would like the rest of the time.

The Chair: Thank you.

Mr. Churence Rogers (Bonavista—Burin—Trinity, Lib.): In the interests of time, I won't get into a long preamble, but obviously Canadians across the entire country have concerns when they see changes to this kind of legislation.

I just have a couple of very brief questions.

The first is, are navigational issues, like speed restrictions, addressed?

What resources would be available to a community, group, or individual, if proposed work could impact someone's public right of navigation?

Hon. Marc Garneau: If you're talking about issues such as speed, that actually comes under a different act. That comes under the Canada Shipping Act, so it's not covered in the Canadian navigable waters act.

We recognize the fact, and I think the process we are putting in place will be a very straightforward process: if a particular individual or a particular group feels it's very important to have certain navigation protection measures put in place on any navigable waterway, then there will be a process for them to apply to have this river, waterway, or lake put on that special schedule.

We're going to make the process straightforward. We're going to make it clear, so that somebody, for example, who has very strong recreational priorities with respect to paddling or kayaking, and that kind of thing, is going to be able to make an application to say, this should be covered in a special way because it's a special one. Of course, indigenous rights are a very special category.

There will be certain heritage rivers, which, because of their value, we want to make sure are given a special scrutiny. When this bill becomes law, there will be the opportunity to add waterways to it, and that was very clearly indicated from the beginning. Perhaps citizens in your constituency may feel that they want to address a particular waterway in that manner, and we'll be open to that.

Mr. Churence Rogers: Thank you, Minister.

Madame Chair, I'm done. I'll pass the time to Elizabeth.

The Chair: Okay, you have one minute, Elizabeth.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): I appreciate that very much.

First of all, Minister, I want to thank you for the expanded definition of navigable waters. There is some lack of clarity in pursuing the legislative path in terms of navigable waters within the schedule and navigable waters outside the schedule, but this is a substantial improvement over what the discussion paper left us with in late June. I want to thank you very much for giving us this chance to protect our navigable waters.

How do you see the link working, in the time we have left, between the impact assessment legislation and this legislation?

Like my colleague, Linda Duncan, I would much prefer to see the trigger in place again, but I'm sure I'm running out of time.

Hon. Marc Garneau: Well, as you know, the impact assessment act will have a project list, and that is a list that will be having projects put into it. If something is in there, whether it's involved with navigation or installing a major work or a pipeline or whatever, it will trigger the impact assessment.

In addition, we have what we call our major work definition. So far, I've given the example of dams that have a major impact on a navigational waterway. We will also be looking to expand that.

Now there, it's with respect to navigation only, but the project list that will be within the environmental impact assessment act—which, as Minister McKenna has clearly indicated, I believe, will be populated with projects—will also include projects in which there could be an environmental impact on a navigable waterway.

● (1635)

The Chair: Minister, thank you very much. I know we're out of time and that you need to go. I appreciate your team being here with us and answering the questions.

I won't suspend, because there is a point of order here, but I'll let you go.

Hon. Marc Garneau: Thank you. It was my pleasure.

The Chair: We have a point of order.

Go ahead.

Hon. Ed Fast (Abbotsford, CPC): Thank you, Madam Chair, for the opportunity to make this point of order. It has to do with the votes that are happening tonight.

As you know, we had scheduled three hours for this meeting and we have another set of witnesses coming. The vote is going to cut a big chunk out of our ability to ask questions of those witnesses who are coming.

I would seek the support of the rest of the members of this committee to tack on to our committee time, at the end, the amount of time it takes to undertake the votes, because I'd hate to cheat our witnesses of the time they had expected to have with us.

The Chair: That is a point of order. I don't think we can do a motion on a point of order, but it's a suggestion—

Hon. Ed Fast: Yes.

The Chair: —that we'll take under advisement.

I am going to suspend while everybody else comes up to the table.

Ms. Linda Duncan: I have a motion to bring—

The Chair: Okay.

Ms. Linda Duncan: My motion is, if there is an opportunity, even at the end, can we bring the minister back, because we did not have him for the full hour?

The Chair: He has another obligation—

Ms. Linda Duncan: I'm not talking about right now. We were delayed because of the votes.

The Chair: We'll take that under consideration and see what we can do.

Ms. Linda Duncan: Could we have a vote on extending an invitation for him to return at some date?

The Chair: Can we leave it that I investigate it with him, or do you want to take a vote?

I think you might better leave it with me to investigate it, rather than take a vote. What do you think? I'm willing to go—

Ms. Linda Duncan: If people are amenable to that.... We said we'd like people back at the end, but at the very least I'd like to have him back—and his officials.

The Chair: Okay, I'm going to take that under advisement as a request. I'm going to pursue it.

I'm going to suspend temporarily, and then we'll investigate the discussion on extending.

● (1635)

(Pause)

● (1640)

The Chair: I'm going to bring the session to order.

Welcome, all of our guests.

While they're getting themselves settled, let me say that we have four companies with us. We appreciate their coming today. Unfortunately we have had a bit of a challenge with the schedule because of votes, and we have another set of votes.

We are discussing whether we might extend. I don't know whether that is something you're willing to do. I know you're supposed to end at 6:30, but if we need a little bit more time, is everybody okay?

I see nodding heads, so I hope.... We're just trying to work out on our side whether the members can get everything worked out to do this.

Let me introduce everyone. We have, from the Canadian Association of Petroleum Producers Terry Abel, executive vice-president. We have Paul Barnes, director, Atlantic Canada and Arctic. We have Patrick McDonald, director, climate and innovation.

We have, from the Canadian Energy Pipeline Association, Chris Bloomer, president and chief executive officer.

From Canadian Hydropower Association we have Eduard Wojczynski, president; Geneviève Martin, regulatory chair; and Pierre Lundahl, chief consultant.

From the Prospectors and Developers Association of Canada we have Lisa McDonald, executive director interim, and we have Lesley Williams, director, policy and programs.

Thank you all.

You have seven to 10 minutes for your statements, and then we'll get into the questioning round.

Terry, would you like to start?

Mr. Terry Abel (Executive Vice-President, Canadian Association of Petroleum Producers): I would be happy to. Thank you.

Good afternoon, honourable chair and members of the committee. My name is Terry Abel. I'm executive vice-president with the Canadian Association of Petroleum Producers. Joining me today are Mr. Paul Barnes, who is the director of our Atlantic Canada and Arctic offshore, and Patrick McDonald, who is director of climate and innovation.

We are very appreciative of the opportunity to address the committee today and provide some of our experience and thoughts that might help inform your review of Bill C-69.

Hopefully, many of you know that CAPP and its members are responsible for producing around 80% of all the natural gas, natural gas liquids, crude oil, and oil sands across Canada, including offshore resources. Our industry is the largest single private sector investor in Canada. In 2014, it invested at a peak of $81 billion and at more like $45 billion in 2017. Collectively, we employ well above 500,000 Canadians from coast to coast.

Our offshore oil and gas and natural gas projects, located generally quite a way offshore—200 to 500 kilometres offshore in Newfoundland and Nova Scotia—have brought tremendous benefits to Newfoundland and Nova Scotia over the years and will continue to do so for some time.

As you know, the International Energy Agency continues to project that energy demand will grow worldwide by more than 30% by the year 2040, and growth in that demand will happen in both oil and natural gas, with hydrocarbon resources continuing to make up the lion's share of energy demand across the country, although renewables are growing substantially.

CAPP believes that Canada is well positioned to become the supplier of choice for oil and natural gas resources, given our world-leading responsible development practices and the fact that we have some of the largest and highest-quality reserves of oil and gas in the world. It's therefore imperative that Canada remain competitive with other oil and gas-producing jurisdictions; otherwise, Canada loses not only the opportunity to generate economic value from this industry, but also the consequential global reductions in GHG emissions that flow from Canada's being a more responsible producer of those resources.

I am going to introduce my comments today focusing on the competitiveness of our industry and on some aspects of the bill that can create uncertainty and further erode the global competitiveness of the industry. I'll touch on such things as transitional provisions, timelines, early planning, review panels, and regional strategic assessments.

We understand that the government's stated objective is to restore public trust in its environmental and regulatory review processes, something we absolutely share as an objective. We also want to ensure, however, that any changes restore confidence in the investment community.

Our industry is very challenged these days. There is a highly competitive global competition for capital resources, and Canada needs to remain competitive, if we're going to bring capital into Canada. Unfortunately, today Canada is attracting more uncertainty, not more capital, and we will continue to lose investment and jobs if we do not have a system of clear rules and decisions that are final and can be relied upon.

I'd like to point out that a 2016 WorleyParsons study of environmental assessment practices worldwide observed that while Canada has an EA process that is one of the most thorough and comprehensive, it also currently has “one of the most expensive time, and resource consuming EA processes in the world”.

Unfortunately, CAPP and the investment community today see very little in Bill C-69 that will improve that status. A simple example of this growing uncertainty is found in the transitional provisions within the draft impact assessment act. Current provisions require that assessments initiated under CEAA 2012 but not yet complete would generally have to continue and be completed using new legislation and rules. Specifically, the language in the bill that might allow an assessment to be completed under the current legislation, CEAA 2012, is actually very subjective and does not provide clear certainty as to which process will apply. If the intent of those provisions was to have those started in 2012 continue, we would argue that you could make this far clearer and more certain within the current language.

● (1645)

Requiring a new proponent, if that is the intent, to follow the new regulatory process midstream would run the risk of essentially taking processes back to the starting line. For example, we would point to offshore exploration drilling programs. There are four currently in Newfoundland. We see substantial risk that all the work undertaken today could be deemed incomplete. Therefore, they may have to restart and follow an entirely different process, which would add more time and more uncertainty for our investment community.

We simply propose that the government confirm that all projects in flight within federal, provincial, or territorial processes not be revisited under the new legislation.

Madam Chair, CAPP supports maintaining legislated timelines that we see both in CEAA 2012 and within proposed Bill C-69. However, it's not evident that overall, the regulatory review timelines will be any shorter than the current process. With the addition of early planning and no clarity regarding the time frames for review and information requests, and a number of opportunities sprinkled throughout the legislation to extend those timelines, we and the investment community generally conclude that we only see an increase in timelines overall.

We fully support the concept of early planning. I would note that it is normal practice by CAPP's members and our industry in general to engage early with stakeholders that may be impacted by proposed developments. We support the government's involvement in a more formalized process of early engagement as it provides an opportunity to get an early understanding of issues and clarity for all. It also gives stakeholders an opportunity to address issues that we often find come up in our project reviews that actually have very little to do with the project. They're much broader in nature.

For early engagement to be effective, however, all parties must be committed to the process and held accountable to meaningfully engage and honour timelines and their respective roles. We believe that without setting clear expectations for the stakeholders, industry, and government, the commitment to, and the introduction of, an early engagement or early planning process is likely to continue indefinitely and do nothing to support timelines improvement.

CAPP believes that, should the proponent and the agency at the end of the process not be able to agree on the scope of an EA, there needs to be some mechanism to actually bring discipline and closure to that process and actually let an EIA continue.

I'd like to flag something very specific to our offshore in my final comments. The way it's currently written, all offshore-designated projects would require a panel review. With that panel review come timelines that are at least twice that of the review by the agency. We do not believe there's any justification for a process that would effectively double the timelines, which we would expect would be at least four years, particularly as the potential effects of offshore oil and gas projects are well understood.

We have had numerous environmental assessments completed and reviewed in Canada both by CEAA and the offshore boards and decades of environmental effects monitoring in Canada as well as internationally that can contribute to practices that are pretty much standard at this point and are adopted in all jurisdictions across the world.

It's our view that a review panel that combines the experience and expertise of both the impact assessment agency and a specialized regulator, such as the offshore petroleum boards, should actually be able to decrease the regulatory review time required, not double it, as would currently be interpreted with the way the legislation is written. CAPP recommends that the requirement for offshore operations to require a review by panels be removed.

Our industry is also very supportive and sees the benefits of regional impact assessments as are enabled under the draft legislation. We note that they can include such benefits as improved environmental effects assessment and cumulative effects assessment. They would probably help a lot with stakeholder fatigue by not having to do the same things over and over again, and should afford some regulatory consistency and efficiency.

This approach is something that's used internationally. We would point to jurisdictions, such as Norway, that have already used that.

● (1650)

We continue to support the idea of regional impact assessments, and we recommend that, if we're going to go that route, a list of the completed and accepted assessments should be maintained and should ultimately form part of exclusion criteria for the project list that's going to be developed as well.

We believe it can be a powerful tool provided Canada, the provinces, and the territories, work together to complete assessments. However, as currently written, in Bill C-69 we really see no mandated timelines, no confirmation of the inclusion of provinces or life-cycle regulators, and really no guarantee that the process will be successful or will actually be utilized within the assessment process that Bill C-69 talks about.

I will wrap up quickly here, Madam Chairman.

CAPP again thanks you for the opportunity today. We urge you to carefully consider some of our feedback today, and we recommend changes that will resolve investor confidence, help Canada fully realize the significant economic value of our industry, and ensure the resulting global environmental benefits that flow when Canada is the supplier of choice.

Thank you again.

● (1655)

The Chair: Thank you very much.

We definitely do want to hear from everyone, and we want to get to questions. I know everybody is very keen to question, so I am going to be a bit strict on the timelines.

Mr. Bloomer, you have the floor.

Thank you.

Mr. Chris Bloomer (President and Chief Executive Officer, Canadian Energy Pipeline Association): Thank you very much for the opportunity to present to this committee.

This point in time represents the culmination of a long process of consultation, of input and so on, and a process that CEPA, the Canadian Energy Pipeline Association.... It also represents 97% of the volume moved from production in Canada into the U.S. We look forward to your comments.

I'm going to be fairly direct, fairly straightforward in my comments and look forward to your questions.

We remain fully engaged. We've submitted a submission already, and we will continue to follow up with further consultations. First I'd like to give you a brief "state of the union" for the energy sector. It's not good news.

In the two years leading up to this bill, you can pick your poison: policies, including a tanker moratorium off British Columbia's northern coastline; proposed methane emission regulation reductions; clean fuel standards; provincial GHG emission regulation; B. C.'s restrictions on transporting bitumen; a lack of clarity regarding the government's position on the implementation of UNDRIP and FPIC; and the fierce competition from energy-supportive policies in the United States, etc. The cumulative effect of these policies has significantly weakened investor confidence in Canada. It is seriously challenging the energy sector's ability to be competitive.

We are already in a time of profound uncertainty. New projects are grinding to a halt and we have major problems as a sector and as a country accessing new markets for our energy products to the world. The reality is that CEPA member companies, with material assets in other countries, are actively pursuing opportunities in those jurisdictions, and investment capital in the oil and gas industry is moving out of Canada. This is due in large part to the current regulatory policy uncertainty and the potential implications of any further seismic regulatory changes directly impacting the pipeline sector in Canada. The consequences are real, and the sector is suffocating because of it.

We believe that a majority of Canadians still appreciate the significant contribution the oil and gas sector makes to Canada's economy, and we hold firm to the belief that continued growth in the oil and gas sector is completely consistent with Canada's 2030 GHG emission targets. In the consultation process leading up to the tabling of this bill, CEPA took some comfort in assurances from the government that any new legislation will reflect shared values focused on a strong regulatory regime, relationship safety, environmental stewardship, public confidence, competitiveness, and the kind of certainty and clarity for a reasonable prospect of actually building a new major pipeline in Canada. In its current form, the bill cannot achieve that greater certainty, clarity, and predictability for projects that can extend hundreds if not thousands of kilometres across provinces, communities, and indigenous communities. In fact, it is difficult to imagine that a new major pipeline could be built in Canada under the impact assessment act, much less attract energy investment to Canada.

We are concerned that all this bill has done is frustrate regulatory reform in order to advance this government's climate change agenda and has baked too much broad policy subject matter into an otherwise very technical decision-making process.

With respect to the specifics of this bill, this process started with the Prime Minister's mandate letter to the Minister of Environment and Climate Change. The minister was asked to review environmental assessment processes to achieve three objectives: to restore public trust; to introduce new, fair processes; and to get our resources to market. With all due respect, CEPA does not believe the proposed impact assessment act would accomplish any of these objectives. Over the course of a year and a half of consultation, CEPA's 200-plus pages of submissions were meant to provide thoughtful and practical recommendations to address the government's three objectives. Our recommendations were premised on the underlying need to stem the erosion of Canada's competitive position in the natural resource sector. They were guided by key principles that we believe would have set the framework to meet all of these goals.

The first one is a process that ensures that broad public policy issues are addressed in more appropriate venues outside project reviews, a science and fact-based process that is coordinated and efficient, and provides clarity and certainty. The National Energy Board is the best placed regulator, with technical expertise and full-cycle responsibility for project reviews, operations, and maintenance. Regrettably, the impact assessment does not address these concerns. CEPA is disappointed that the proposed process appears to double-down on the very factors that created the toxic regulatory environment for major projects that this regulatory review process was intended to fix. The impact assessment does not address the pipeline sector's most fundamental concern: a process that is expensive, lengthy, polarizing, and ends with a discretionary political decision.

● (1700)

Bill C-69 has not addressed the need to find an appropriate venue to debate and resolve broader public policy issues. The bill is flavoured throughout with the government's commitment to meeting climate change objectives, gender-based analysis, indigenous reconciliation, and subjective and inherently unpredictable sustainability tests.

Despite CEPA's very strong recommendation to remove broader public policy from project-specific reviews, these issues are now explicitly included in the review process as factors to consider.

The impact assessment act will not achieve greater certainty, clarity, and predictability. Instead, it introduces a new regulatory agency and unique new processes and information requirements that have never been tested.

The public participation standing test has been removed. Science and fact-based assessments will now be obscured by the layering of other policy-based assessments that are ill-defined, fluid, and open to potential strategies of delay and obfuscation of the processes by groups opposed to any project. In short, we cannot see that timelines will improve; we expect them to be longer.

The National Energy Board, now the Canadian energy regulator, has effectively been sidelined with respect to major pipeline project reviews. CEPA consistently emphasized that the NEB was the best-placed regulator to oversee the full cycle of a pipeline from beginning to end. Instead, Bill C-69 carves out the review of major pipeline projects and places it with the new impact assessment agency. This new agency does not have the rich history of administrative decision-making and technical expertise of the NEB, now CER.

Instead, the new agency is mandated to perform a broadened role and assess a wider scope of issues, and is expected to implement the government's political agenda related to climate change, reconciliation, and gender objectives. It is not an independent, expert regulator. CEPA is not convinced that it will have the capacity to conduct these broadened political reviews, even with the announcement of $1 billion of new spending to support the implementation of the impact assessment.

Given these concerns, it is hard to imagine that any pipeline project proponent would be prepared to test this new process or have a reasonable expectation of a positive outcome at the end of it. With built-in climate change tests covering upstream and downstream emissions, it is preposterous to expect that a pipeline proponent would spend upwards of a billion dollars only to be denied approval at the end, because the project must account for emissions from production of the product to consumption in another part of the world.

If the goal is to curtail oil and gas production and to have no more pipelines built, this legislation may have hit the mark.

In conclusion, today CEPA has offered the views of member companies based on their direct experience in investing, building, and safely operating the energy infrastructure that supports the Canadian economy and the everyday lives of Canadians. Project proponents and their investors will continue to evaluate the feasibility of developing resource projects in Canada against other investment options.

The government's June 2017 discussion paper suggested a more balanced approach between the views of the more radical environmental elements and industry. This bill tilts the balance wholly in favour of the environmental perspective, some of whose goals are to keep fossil fuels in the ground and never see another pipeline built.

This bill will introduce even more risk and uncertainty. The net effect of the impact assessment is an impractical and unworkable process that will create unmanageable uncertainty and a decision-making framework that will insert broader policy issues squarely into a process that is not equipped to resolve them.

Finally, this bill does not provide a vision as to how it fits into Canada's achieving longer-term energy objectives; it does not reflect the reality of the importance that oil and gas will continue to play in the global energy mix for the next several decades; and therefore, it does not help Canada achieve full value of its resources in the world markets.

Thank you for hearing our comments. I look forward to questions.

● (1705)

The Chair: Thank you.

Ms. McDonald.

Ms. Lisa McDonald (Interim Executive Director, Prospectors and Developers Association of Canada): Thanks very much.

I'm Lisa McDonald, and I'm the interim executive director with the Prospectors and Developers Association of Canada. I'm joined here today by my colleague, Lesley Williams, who's our director of policy and programs.

I'd like to thank you for the opportunity to be here today to provide input on behalf of the mineral industry on Bill C-69. Our comments will focus mainly on the aspects related to impact assessments.

PDAC is the national voice of Canada's mineral exploration and development industry. We represent over 7,500 members from Canada and around the world. As the trusted representative of the sector, PDAC encourages leading practices in technical, operational, environmental, safety, and social performance.

Just briefly about the mineral exploration industry, it is a staged process of information-gathering with the hopes of discovering an economically viable mineral deposit, which is a little bit like looking for a needle in a haystack, quite frankly. Junior exploration companies do the bulk of this work in Canada. These companies are small. They have limited budgets and timelines. Most do not generate revenue and fund their activities by issuing shares. While some exploration companies may sell promising projects to mid-tier or major mining companies in order to take them through the assessment process and to be mined, a number of junior companies initiate the assessment process themselves.

Our remarks today will cover a brief overview of the mineral industry, two proposed amendments to Bill C-69, and comments on some of the key provisions in the act.

The value of Canada's mineral industry cannot be overstated. The mineral exploration and mining industry makes vast contributions to Canada. From remote and indigenous communities, rural areas, to large cities across Canada, it generates significant economic and social benefits for Canadians.

Our industry contributes more than 3% to the GDP. Valued at $89 billion in 2016, mineral exports accounted for 19% of Canada's total domestic exports. The industry employs nearly 600,000 workers across Canada, and it is also the largest private sector employer of indigenous people in Canada, and is a key partner of indigenous businesses.

That being said, the Canadian mineral industry faces fierce global competition for investment. In fact, Canada is starting to fall behind its competitors in a number of areas, indicating its decline in attractiveness as a destination for mineral investment. From 2012 to 2016, there was a prolonged downturn where investment in the sector severely declined around the world. Investment has started to return and has strengthened globally, however, in Canada mineral investment has stagnated and it is not recovering as substantially as in other jurisdictions.

A number of factors affect the decisions made by investors about where to invest, and by companies about where to explore and mine. Investment, both foreign and domestic, is particularly sensitive to legislative and policy changes. These generate uncertainty and unpredictability. An unpredictable, complex, and inefficient regulatory regime that is not well implemented will increase risk and deter investment and, consequently, exacerbate the waning of the Canadian mineral industry's competitiveness.

In order for the Canadian mineral sector to regain strength, we are proposing two amendments to the legislation that are critical to our industry.

We are proposing that the committee consider amendments regarding transition. Bill C-69 proposes that when the impact assessment act comes into force, projects that are being assessed under CEAA 2012 would have their assessment continued under the new act, unless they are in the final phase of the process. Industry recommends that the transition provisions be amended so that projects being assessed under CEAA 2012, or those that will enter the process before the coming into force of the new act, must be allowed to continue under CEAA 2012 unless the proponents specifically request the transition. This amendment to transition is critical. Otherwise, it would be extremely disruptive and cause uncertainty for industry, which will ultimately have a negative impact on investment.

Our second proposed amendment relates to the assessment of uranium mines and mills under the new act. We recommend that, similar to any other designated mining project, designated projects that are uranium mines and mills should undergo agency assessments with full access to provisions for co-operation with provinces and indigenous groups.

● (1710)

In its current form, Bill C-69 would preclude co-operation and agency assessment for all designated projects that are regulated by the CNSC.

With respect to the provisions, we understand that critical regulatory policy decisions remain to be developed with regard to the implementation of the new act, and these could materially influence the assessment process for project proponents.

We would like to briefly offer comments on some of the other key aspects proposed in Bill C-69. In general, we support Bill C-69 expanding the scope of factors and effects to be assessed, but there are potential implications to be considered. This expansion of scope will result in significant increases in the amount and type of information required and studied in project assessments. This could exacerbate the time and cost burden. Of particular concern are the ways that this will impact the ability for exploration companies to advance good projects.

Further, the collection, analysis, and weighting of impacts related to these diverse areas can also pose challenges. Views on whether an economic or social impact is positive or negative can be subjective and difficult to quantify. The weighting of various impacts is also not straightforward, particularly in the absence of any plan or guidance on how the various factors should be considered. The new process will require very clear, transparent guidance outlining the impacts that will be considered, the methodologies for the way these elements will be studied, and the weighting of impacts against each other.

With respect to cost recovery, PDAC urges careful consideration in terms of its implementation. Fees required should be transparent and predictable, and proponents should not bear undue burden of the costs for the assessment process. Some jurisdictions already have cost-recovery mechanisms for permitting and assessments. Imposing additional fees for the federal process would mean a duplicate cost for what is ideally intended to be one process, one assessment. This is particularly critical for junior exploration and development companies because, as mentioned before, they have very limited funds and generate no revenues.

Cost recovery, at a minimum, should have a clear, predictable, reasonable set fee per assessment; be linked to various guarantees, including timelines of process; and exclude out-of-scope costs such as policy development or regional assessments.

With respect to timelines, Bill C-69 proposes legislated timelines for project assessments, a provision that PDAC strongly supports. Clearly defined timelines are essential for the certainty that proponents and investors require, leading to a predictable, timely process. PDAC recommends that timelines should allow for alignment with the assessment process of other jurisdictions and enable co-operation, with the objective of one project, one assessment. We also recommend that the factors for suspension of timelines be clearly defined, and limited to specific circumstances to avoid endless delays and undermining predictability.

The mandatory early planning and engagement phase, if designed and implemented well, could provide more clarity for proponents and predictability for the process. That said, some important elements to consider are that officials must have the resources, both human and financial, to provide a proponent with a forward-looking permitting plan. Early planning could adversely impact proponents, particularly mineral exploration companies, as it could require various studies earlier on in the process than previously through CEAA 2012.

Proponents must have the ability to amend the project during the planning phase in response to indigenous and community feedback without having to restart the process from the beginning.

Bill C-69 outlines a more prominent, formalized role for indigenous peoples and traditional knowledge in the assessment process. PDAC supports meaningful participation by indigenous communities in project development and throughout the life cycle of a project. The mineral industry, as a leading practice, builds strong partnerships and seeks input on aspects related to their projects, and also guarantees economic opportunities for indigenous communities. As such, much of what is in Bill C-69 reflects the reality of current practice in the mineral exploration industry.

Furthermore, Bill C-69 proposes that the new agency would coordinate crown consultations and require, by statute, the consideration of potential impacts on indigenous rights. PDAC supports the crown or its delegated authority taking responsibility for fulfilling its duty.

● (1715)

We urge government to assess and outline its requirements for consultation and accommodation with indigenous peoples, to develop a transparent consultation plan that conforms to the tenets of consultation as articulated by the courts, and to assume its responsibility in the process, including for related costs.

The Chair: Can I get you to wrap up?

Ms. Lisa McDonald: A strong and globally competitive Canadian exploration and mining sector will be well positioned to deliver local, regional, and national benefits.

The Chair: We're hearing the bells right now, so I have to get agreement from the committee. I'd like to hear the last witness before we break to go vote, if you don't mind.

Let's have Mr. Wojczynski.

Mr. Eduard Wojczynski (President, Canadian Hydropower Association): Thank you, Madam Chair.

I'm Ed Wojczynski, president of the Canadian Hydropower Association. With me are Genevieve Martin of BC Hydro, who is chair of our regulatory processes working group, and Pierre Lundahl, our chief consultant with the Canadian Hydropower Association.

The CHA is the national voice of the hydro power industry. It represents generators, manufacturers, engineering firms, and construction companies. Hydro power, as I think you probably already know, supplies over 60% of Canada's electricity. It is our largest generation source, and has made Canada's electricity system one of the cleanest, most renewable, and most reliable in the world.

Hydro power has virtually no greenhouse gas emissions, and it has a key role in achieving Canada's climate change targets. Studies indicate that to meet our 2030 and 2050 commitments, Canada needs to electrify the economy and further reduce the greenhouse gas emissions of the electricity sector, among other measures. This means doubling or even tripling electricity generation by 2050 through a major expansion of hydro power, in concert with wind, solar, maritime, and geothermal power.

Our industry is up to the challenge. Canada still has vast amounts of hydroelectric resources that can be developed. For this to happen, though, Canada needs a predictable and timely project review process that engages all stakeholders and indigenous peoples and has the confidence of the public. Bill C-69 will, in the view of CHA, bring us closer to that objective.

CHA generally supports the bill, but there are some important improvements that are still needed. We are pleased that a number of the suggestions we made in response to the government's 2017 discussion paper are in the bill.

The bill has many good elements, but today we will focus on further suggestions to improve the process. We will later provide the committee with a written submission commenting on several areas of the proposed legislation, and we will suggest specific amendment wording in that submission. We will also provide comments on revisions to the Navigation Protection Act, which we have some concerns with as well. This afternoon, we would like to highlight five recommendations on the impact assessment act.

First, focus the act on projects of national significance. Second, include guidance to the minister when she or he is thinking of applying the act to a non-designated project. Third, guide the ability to extend timelines. Fourth, set a time limit for the establishment of panels. Finally, provide the minister or the agency with a more explicit authority to issue a notice of commencement when a party is taking an unreasonable amount of time to respond, or refuses to respond or participate during the planning phase.

I would like to turn now to the first of these five items. The proposed impact assessment process, with its broader scope, two-phased approach, and large number of decision points, will be more challenging to manage and more complex than what we have today. It will call on specialists from many different areas. It will have to coordinate work from many departments and agencies. It will have to accommodate a large number and a broad variety of intervenors.

The complexity and overall effort required by governments, indigenous peoples, stakeholders, and the proponent argues strongly for focusing the act only on large projects of national significance. We suggest that this be added to the act's purpose statement, to assist in interpreting the bill. This would also guide development of the designated project list.

Large projects of national significance tend to be ones that have more impact than small projects. They involve more public concerns and expectations for a major review. Their proponents would be more likely to be able to manage the complexity and rigorous demands of the process. Projects of that scale already take time to develop and are managed by experienced teams with access to wide-ranging expertise.

If the regulations designating physical activities cast too wide a net, there are two risks. First, medium and small projects with significant benefits and minimal impacts might not be pursued. If the regulatory costs are unpredictable and potentially too large, and the review outcome is uncertain, then the financial viability of entire classes of projects could be undermined.

The other risk is that legislation leads the government to use its regulatory resources inefficiently. These smaller projects, with only minimal impacts, are likely already subject to provincial environmental assessment mechanisms. There are also federal statutes to protect various aspects of the environment such as the Migratory Birds Convention Act, the Species at Risk Act, the Navigation Protection Act, and the Fisheries Act, which is currently being made more stringent as we speak.

Turning to the second recommendation, the impact assessment act would also give the minister the discretion to assess a project that is not on the designated project list and thus would otherwise not qualify for review. Some sort of provision to this effect is necessary, and CHA supports that, but apart from the impact on indigenous rights, there are no criteria in the act to guide the minister's discretion.

● (1720)

As currently drafted, the minister may order an assessment on the basis of her opinion on adverse effects or on the basis of public concerns related to these effects—and that makes sense—but there's no explanation of the procedure or considerations that would help form that opinion. This is inconsistent with the goal of greater process transparency.

CHA recommends establishing criteria in the act to guide the minister's discretion. Our written submission will suggest specific criteria similar to those the government is already utilizing in development of the designated project list regulation. If it's good enough for the project list regulation, it's good enough to put in the act.

Geneviève Martin, my colleague from B.C. Hydro, will take over.

Ms. Geneviève Martin (Regulatory Chair, Canadian Hydropower Association): Thank you, Ed.

The next recommendations I'm going to speak to are going to echo what my PDAC colleague Lisa McDonald said so eloquently. Thank you.

Turning to our third recommendation, the act contains timelines for various phases of the assessment process. The minister would be able to effectively stop the clock should the proponent not provide the necessary information within the timeline required by regulation or other prescribed activities not be completed. This is reasonable, but we suggest that the impact assessment act provide the minister with more guidance about the circumstances that would justify this suspension of statutory time limits.

The minister may also give notice of a deadline extension of up to 90 days, and the Governor in Council may extend the original extension an unlimited number of times. Unforeseen circumstances might indeed arise when an extension would be justified, however we believe and recommend that similar to the requirements for the minister when extending the deadline, the Governor in Council should provide reasons for the extension to ensure it is applied in a rigorous and transparent manner.

Our fourth recommendation is as follows. The act provides up to 45 days for the minister to decide to refer a project for a panel review, however no time limit is provided for the next step where the minister establishes a panel with its terms of reference to undertake the review. We recommend the act establish such a timeline.

Here is our fifth and final recommendation. The act allows for 180 days with possible extensions for the planning phase. Many parties must be involved: other federal regulators, departments and agencies, provincial governments, indigenous governments and entities, stakeholders, and the general public. The proponent must be forthcoming with information to meet the 180-day deadline, however failure by other parties to participate in a timely manner has the potential to result in a decision by the minister to extend the timeline.

CHA supports the minister's ability to suspend timelines, should that be required, to facilitate input from diverse groups or for other appropriate reasons, however we suggest that should a party take an unreasonable time to respond, or even refuse to participate, the minister of the agency be given explicit authority to issue a notice of commencement. This would provide a balanced mechanism to ensure that all parties are engaging in good faith.

In conclusion, I would like to reaffirm the hydro power industry's support for the government's objectives in the impact assessment act. We support the assessment regime being rigorous, transparent, respecting the rights of indigenous peoples, and being based on thorough, evidence-based analysis to ensure sustainable development in Canada.

A rigorous process that has public confidence is essential to earning our social licence to operate.

Once again, we would like to thank you for the opportunity to address you this afternoon.

● (1725)

The Chair: Thank you very much for everyone's introductory remarks. They're very much appreciated.

I think I will get one questioner for six minutes before we have to go, so let's start with Mr. Rogers.

Mr. Churence Rogers: First of all, Madam Chair, I want to thank the presenters for being here today and giving a sure perspective on this legislation.

In particular, I want to ask a couple of questions related to Newfoundland and Labrador's offshore oil and gas; some of the issues have been raised with me and my fellow MPs.

I'll ask these couple of questions, and then maybe CAPP in particular might be able to address some of these points.

One of the complaints that my fellow Newfoundland and Labrador MPs have heard consistently regarding the 2012 legislation is that the C-NLOPB was not properly recognized for its role in environmental assessment.

First, from your perspective does this new legislation meet the needs of your organization by ensuring that the C-NLOPB's expertise is recognized?

Second, in other jurisdictions like Norway and the North Sea, we're told the exploratory joint permits are much faster. Are you confident that this legislation will lead to a faster process in which the C-NLOPB, as life-cycle regulators, will have authority over smaller projects like exploratory wells, once CEPA has completed the strategic environmental assessment?

Mr. Paul Barnes (Director, Atlantic Canada and Arctic, Canadian Association of Petroleum Producers): Thank you. I'll try to answer the questions there.

On the first one with respect to whether the new bill recognizes the offshore petroleum boards, there is some recognition for the boards, both boards, when it comes to the review panel, but in some other aspects of the act, there isn't. For example, the act talks about regional environmental assessments, and there's no wording in the act that gives any role for the offshore petroleum board in that process.

Even when it comes to the review panel process, in which the boards are recognized and have, potentially, an opportunity to provide two seats on the panel, they are only two seats out of five. They are recognized, and they may potentially play a role there, but it's not a full role, obviously, for the boards; it's in co-operation with the agency and some others who will be part of the panel.

With respect to your second question, and that is exploration drilling and whether it will be faster than the board process, the answer is simply no.

Exploration drilling, exploration projects, if they are on the designated project list, the way the legislation is currently worded, have to go through a review panel process. That is a process that could be as long as four years, which is extremely long for an activity such as an exploration drilling program. In the world and other global offshore jurisdictions, the average is about six to nine months to get an environmental assessment process through. That would be the typical process if the offshore petroleum board had been reviewing that type of activity in the past.

Concerning the new bill, as to your question whether it will be faster than the board process, the answer is no; it will be quite a bit longer.

Mr. Churence Rogers: Madam Chair, I'll pass the time—

The Chair: Go ahead, Will.

Mr. William Amos: Thank you for your testimony. It's appreciated, and I appreciate how each of your respective industries are focused on this issue, and it's a matter that you've invested significant time and effort into.

I think it's a fair statement that our government believes that the public trust needs to be restored. I note Mr. Abel's comment that restoring public trust is a priority for CAPP. However, I'm not really getting a sense of just how seriously CAPP is taking this issue of restoring public trust.

Just to start, is there agreement on the idea that there has been a loss of public trust in the regulatory system as it currently exists?

● (1730)

Mr. Terry Abel: I don't believe that, broadly, Canadians have lost as much trust as might be suggested at times, but having said that, the trust of the communities that we work in is vitally important to us. You have to understand that, not only do we develop resources in and around those communities, we live and work in those communities. Those communities are part of our industry and, in fact, where our resources occur and where those projects get developed, our industry is the lifeblood of most of those communities, so we take that very seriously. We have, through all the processes that lead to approvals or decisions for projects to proceed, engaged in every process honestly and committed to those processes. We have worked with those processes, and we'll continue to do that.

To your question, do we take that seriously? Absolutely, we take that seriously. Do I believe that all stakeholders have no faith in the process? I do not believe that to be the case.

Mr. William Amos: That's fair. I don't think that anyone has suggested that there is no faith in the process. I think what has been suggested is that there has been a significant loss—

Hon. Ed Fast: Time is up.

The Chair: It wasn't yet, but it is now.

Will, your time's up, sorry.

We have almost 14 minutes. Let's do one more round.

Mr. Sopuck.

Mr. Robert Sopuck: Mr. Bloomer, I was struck by your opening remarks when you said it's difficult to imagine that a new major pipeline could be built in Canada under the impact assessment act. I was writing like mad when you were listing some of the impediments to pipeline constructions. You talked about the tanker ban, new methane rules, new fuel standards, bitumen transportation regulations off B.C., greenhouse gas regulations, UNDRIP, and the massive international competitiveness we're facing.

Of course, I would add to your exhaustive list the proposed new fisheries act that's coming on, the proposed navigable waters act, and then layered on top of all this are provincial processes. I was struck by the very direct words you used, “the toxic regulatory environment”. That is an astonishing statement in my view, “toxic regulatory environment”.

Mr. Bloomer, I'd like to ask you directly, do you believe that there will ever be another major pipeline project approved and constructed in Canada again?

Mr. Chris Bloomer: Well, as we said in our statement, we don't see how Bill C-69 is going to lead to major new projects being proposed and developed in Canada.

Mr. Robert Sopuck: So is it likely that there will never be another pipeline constructed, approved, in Canada again under this process and with all of the impediments that are in place right now?

Mr. Chris Bloomer: My mother always said, “Never say never”, but in the current environment we can't see how one is going to be proposed.

Mr. Robert Sopuck: That's a fair comment.

In my early years as a biologist, one of the things I worked on was the Mackenzie Valley pipeline assessment. That underwent 25 years of process, and nothing happened.

Mr. Bloomer and Mr. Abel, you talked about people in community. Mr. Bloomer, could you talk about the positive impact that pipelines have on various industries, for example, steel? What's going to happen to the people who want to take up welding and are depending on pipeline jobs? What will be the effect on the trades, on good union jobs, on communities?

What does your statement that it's highly unlikely the pipelines will ever be built mean in terms of people and communities?

Mr. Chris Bloomer: Let's put it this way, there are two aspects to look at. One is that the potential capital investment in the transmission pipeline industry is around $170 billion, when you look at the various projects that have been proposed and the potential. When you trickle that down to local communities and the trades and so on, it's a pretty big economic impact.

The second piece is that without having access to new markets to maximize the value of our resources and maximize the development potential of our resources going forward, that's hundreds of billions of dollars of potential loss to Canada. You can't overestimate the potential impacts.

Mr. Robert Sopuck: I have compressor stations in my own constituency. In some municipalities, those pay half the property tax bill. So this particular bill, and the approach of this particular government, will have real and costly human impacts. I'm reminded, to confirm what you just said, that Geoffrey Morgan wrote an article on February 20 with the headline, “Pipeline shortage to cost the economy $15.6 billion this year”. One does wonder how many public services could be purchased with this $15.6 billion, but it's evident this government simply doesn't care about that.

Ms. McDonald, I was incredulous at the point you made that we have commodity prices increasing around the world—you said that; I know you did—but at the same time, investment in Canadian mining is going down. How is that possible?

● (1735)

Ms. Lisa McDonald: Just as a point of clarification, it's not decreasing; it's stagnating. It's not increasing. The recovery is not at the same rate as it is in the rest of the world. There are a number of factors that would figure into that, and one of them is that regulatory uncertainty is a challenge. There are a number of other challenges that our industry faces, particularly with activities in the north—the lack of investment into infrastructure in the north to access where those deposits are. All of the easy-to-find and easy-to-mine deposits have been found, and that activity has taken place.

We're challenged on a number of fronts here in Canada, but certainly the regulatory regime is a factor.

Mr. Robert Sopuck: I'm aware of the Agnico Eagle gold mine up at Baker Lake, for example, and the extremely positive effects that has had on that community. I read up on it. I think the employment rate is 100%. So kudos to the mining industry for helping indigenous communities—something this government talks about, but simply doesn't do.

Mr. Abel, how important is the energy industry in terms of pension funds in this country?

Mr. Terry Abel: The industry probably contributes more to this country and to governments in this country than the next two or three combined. You will not find another industry that contributes more to the economy in terms of taxes, royalties.

Mr. Robert Sopuck: In terms of pension funds—for example the Canada Pension Plan, most company pension funds—they're larded up with energy investments, aren't they?

Mr. Terry Abel: Largely, in Canada, yes. The TSX at its highest point was probably 25% oil and gas weighted.

Mr. Robert Sopuck: It always bothers me that people use the word “industry” as if it's something out there, so I think it's very important to personalize it in terms of the effects on people themselves.

I have a last point, Madam Chair.

The Chair: I think your time is up.

Mr. Robert Sopuck: The firm Osler, Hoskin, and Harcourt did a complete analysis and trashed the whole bill.

The Chair: I'm sorry, but we have to be in the House.

Mr. Robert Sopuck: Thank you very much, Madam Chair.

The Chair: We have seven minutes to get into the House. We'll be back right after votes.

Thank you.

● (1735)

(Pause)

● (1820)

The Chair: We will resume, please.

Thank you very much to our guests for their patience as we have been running back and forth to vote, and for the agreement and accommodation that we'll extend by 15 minutes to try to make up that time.

Ms. Duncan.

Ms. Linda Duncan: Thanks.

Concern was expressed by Mr. Bloomer, and perhaps indirectly but also by the petroleum association, about the time of economic uncertainty, but would you not agree that some of the significant factors for that uncertainty are the international concern with and commitment to address climate change, the shifting investment away from fossil fuels to renewables, including by many of your own members, public concern with the project review process, as Mr. Amos had identified, and the increasing commitment to finally resolve land claims and observe the UNDRIP?

My question for you would be which of those do you think the government should not address?

Mr. Terry Abel: I would agree with you that there are a number of factors affecting the competitiveness of our industry and the ability to attract investment. What I would say is that it's not true that investment isn't being made in other jurisdictions. It is, in fact, and I would argue that many of those jurisdictions—the U.S. is a good example, for the Permian Basin in Texas where there is no climate policy—that investment is going crazy. Look at Brazil offshore; they don't have strong commitments either. It's not the only factor and I'm not here to say that Bill C-69 is the only factor at all. We agree and we've taken strong positions on indigenous reconciliation. We are supportive of climate policy that sets practical objectives that are implemented in a practical way.

They're all important. I agree with you.

Mr. Chris Bloomer: I'd have to echo that comment. We're not saying that climate, indigenous reconciliation, participation, all the factors that are under consideration...and the industry has always worked to engage and to make sure we meet the highest standards in all those areas, but investment is leaving the country and people are making decisions that will have a long—term impact on the economy.

Ms. Linda Duncan: Until Mr. Trump came to power, the companies seemed to think it was appropriate to continue operating in Canada, so the obvious question is the onus is on industry to decide if you want to still operate within a regime that actually sets up a good regulatory regime.

I have a couple of questions for the Hydropower Association. They were hoping that I would ask them some questions.

I'm wondering if you support the need to consider transboundary impacts of hydro projects. We recently had the review of major project Site C, where the transboundary impacts into Alberta and Northwest Territories were not duly considered and responded to, which has resulted in a UNESCO call for an investigation into that. I think that isn't necessarily specifically listed under the act. Do you think that should be specified and, in fact, protect you so that once a decision is made, all of the impacts are considered and then you feel that you have a well-founded decision?

Mr. Eduard Wojczynski: That's a good question. I can't comment on the Site C specifics.

Ms. Linda Duncan: That's an example. You don't have to talk about Site C.

Mr. Eduard Wojczynski: Having a federal review that covers the range of issues and if it's a pan-Canadian issue, which transboundary is, then having the federal process do that would make sense.

Ms. Linda Duncan: Ms. Martin, do you want to respond to that?

Ms. Geneviève Martin: Yes, I would echo what Eduard is saying. It does make sense to have that included and make sure when you get your approval you feel you have been covered for all aspects, absolutely.

Ms. Linda Duncan: Okay, thank you.

I'm hearing the Hydropower Association saying maybe there would be small projects and we shouldn't necessarily go with a full-fledged review, but a lot of people are raising concerns about cumulative impacts and the problem is up to this point in time—and it certainly has happened with oil sands applications as well—we're still struggling with who does the review, do you simply consolidate the cumulative studies done on all the projects, and who has to pay for it. That is a problem also with the so-called small hydro. At what point in time does somebody stand back and ask, what about the cumulative impact if there's just going to be one more, or major dams on one river system. How would you respond to that?

● (1825)

Mr. Eduard Wojczynski: I think there are different parts to the answer.

The first is that cumulative effects do need to be assessed, whether it's small hydro or anything else. The best place to assess those, in our view, would be to use regional assessments, which this act provides for.

There are multiple different kinds of projects. If you have one additional, let's call it, small project, and there have been a whole bunch of other projects and then future projects coming down the road, to put the burden of the cumulative assessment on one—

Ms. Linda Duncan: That's the dilemma. I agree.

Mr. Eduard Wojczynski: This act does provide for regional assessments, and that would be the best place, in our view, to do a cumulative for a region.

Small projects are the second aspect of that. If there's a small project that has a larger than normal or unusual potential for impact compared to other small projects, adding them into the cumulative, the minister does have the ability to bring the small projects into the assessment.

Ms. Linda Duncan: How does does she know until she does the assessment...is the problem?

The Chair: Linda, I know you know that the time's up.

Mr. Bossio.

Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.): I'll be splitting my time with James, and I'll let him go first.

Mr. James Maloney (Etobicoke—Lakeshore, Lib.): Thank you, Madame Chair. Thanks, Mr. Bossio.

Ladies and gentlemen, thank you for your presentations.

I'm not a regular member of this committee, although I've met many of you before. I'm the chair of the natural resources committee, and it's that capacity that brings me here to talk to you.

Our committee has been working collectively—in fact, all of our members have been working and sort of pushing in the same direction—trying to find ways that we can help the resource sector. My conversation, notwithstanding some of the comments you've heard from around this table.... We don't hear those kinds of comments at our committee, which is quite a refreshing approach, frankly.

Mr. Bloomer, my question is for you.

I was quite surprised to hear your level of pessimism, in particular the comment that you don't see how another pipeline could ever be built. I think you were backing off from that a little when you were thinking about your mother, and I was glad to hear that your mother was more of an optimist.

My question is this. You're saying that Bill C-69 is what made you make that statement, but our government has approved three pipelines since we came to power two years ago. It's done so under the guise of the interim provisions that were implemented in January 2016, which formed the foundation of Bill C-69.

I'm wondering how you reconcile your position with those approvals, given that it's our government that approved and in fact championed those three pipeline approvals.

Mr. Chris Bloomer: Thank you. It's a good question.

The perspective is that on the Kinder Morgan, Line 3, and so on, those pipelines were already in process for a number of years and were based on the previous regulatory review process. The interim piece was put on there, there was additional consultation, and there was a decision made on Gateway, Kinder Morgan, and Line 3—two positive, one negative. However, they were, let's say, the fruits of the ongoing system that was not necessarily a perfect system either.

Now we're in a situation where we've had almost two years of consultation on regulatory reform, NEB reform, to put in place policies that will hopefully lead to clarity and certainty on pipelines going forward.

I'm talking about major pipelines, tens of billions of dollars of pipelines. When we look at the new proposed legislation without having all the details of how all of this is going to mesh together and work on the early engagement process, how all these other policy things are going to come in and affect the process, we say, well, this is very problematic, because it's very uncertain as to how this is going to proceed in the future. We need the clarity, and the clarity is not there.

● (1830)

Mr. James Maloney: In fairness, I've been hearing time and time again from your group and other groups—in fact from almost all the groups sitting at this table and many others—about uncertainty based on the way it was prior to our government taking office, yet here we are with the interim principles that resulted in that approval process.

Is it fair to say that you could be or should be more optimistic than you are, because you don't know how it's going to play out because of the reasons you just said?

Mr. Chris Bloomer: You know, the past is prologue in a way. If you look at the projects—Kinder Morgan, for instance—if somebody was going to look at doing that today, investing that kind of money in the face of the uncertainty around how that process is going to go and the definition of how the engagement process is going to work and so on, I think they'd be very reluctant to do that.

We're talking about two different eras. We've got to a point where we had existing pipeline projects that have been out there for years. We're looking forward and asking how this new process is going to attract companies to invest in those kinds of projects going forward.

Mr. James Maloney: Thank you.

I'm going to turn it over to Mr. Bossio.

Mr. Mike Bossio: In the minute that I have—you've talked about how it hasn't been a perfect system—maybe you could give us a sense of your concerns about the uncertainty and unpredictability under CEAA 2012.

Mr. Chris Bloomer: I didn't hear all of the question.

Mr. Mike Bossio: You talked about how this uncertainty and unpredictability has been going on for some time, so maybe you can give us a sense of your concerns around CEAA 2012.

Mr. Chris Bloomer: Again, CEAA 2012 was intended to improve a process that was from 2008, I believe, to move forward, but it didn't really solve the existential problems of getting projects approved and the clarity. We work within that process. A lot of events.... Let's just be clear. Through this period of time, pipelines became the focal point for a whole lot of different issues, and that impacted the review process and the ability to get these processes to conclusion.

The Chair: Thank you so much.

Go ahead, Ms. Kusie.

[*Translation*]

Mrs. Stephanie Kusie (Calgary Midnapore, CPC): Thank you, Madam Chair.

[*English*]

Mr. Abel, I'll start with you. On January 2 of this year, I read an article in the *Calgary Herald*, which was incredibly troubling for me and for the constituents of Calgary Midnapore. This article stated that 2017, not surprisingly, was not a good year fiscally for the city of Calgary and the province of Alberta.

One of the major factors that the author, Mr. Chris Varcoe, pointed to, was the absence—I should say the fleeting—of foreign investment in the city and in the province and in the country.

This is not just one or two corporations we're talking about. Marathon Oil, Norway's Statoil, ConecoPhillips, Apache, and Royal Dutch Shell are corporations that have been major players in Calgary, in Alberta, and in Canada for years and are now selling off their investments, something very concerning for me and for my constituents.

Can you please speak to the impact this bill will have on the energy industry in terms of organizations, corporations, taking their investments outside Canada, following the implementation of this bill, and what this will mean for competitiveness for Canada on the international stage?

Mr. Terry Abel: Again, further to my comments to Ms. Duncan, we're not here to say that Bill C-69 is at the root of every problem. We acknowledge that. What I will say is that, overall, compared to other jurisdictions, Canada has a history. I think my colleague, Chris, highlighted the fact that there are a number of policies that all have a potential negative effect on the competitiveness of our industry. They are all collectively incrementally adding cost. You can take any one of them and say, “Well, it's 20¢ a barrel,” but you add up five or six of them and it adds up to a dollar a barrel or $1.50 a barrel. You compare that to margins that under the current commodity price environment are very tight. You see the effect that you have: companies that have assets in other jurisdictions look at where they can make a fair return for their investors. Right now, granted, we haven't gotten to the end of the review of Bill C-69, we haven't gotten clarity on a lot of the policies, but what we have is uncertainty and no clear signals that Canada is taking steps to address some of those additional costs.

I think one thing I've always been proud of—and most of my career was as a regulator—is that Canada did have very stringent environmental and social requirements, and our industry was very good at innovating to find ways to continue to be productive and economic with those policies. As a result of innovating them, you're able to move that technology into other jurisdictions, raise the bar in other places. But what we're seeing right now is increasing difficulty being able to bear all of those costs and continue to innovate.

Canada doesn't generate enough capital in and of itself to fund an industry like ours. You heard the numbers. In 2014: $80 billion. I'm sorry, Canada can't do that. It needs to come from foreign investment. When you're competing in a world now with many choices there are many places you can go with your investment. It's not 10 years ago where we had a limited supply of oil and gas throughout the world. I would argue a lot of that investment is going to jurisdictions that don't have the same environmental and social standards. We're not saying, relax those standards in Canada. In fact, we want to celebrate those standards. My opening comments were that we're clearly reflecting that. We think that's an advantage for Canada, but you have to take additional steps to make sure you implement policies in a way that minimizes those costs. Where costs are unavoidable, you have to look to the rest of the world and see what's going to make this industry competitive or not competitive, and then take other steps to address that.

It is unfortunate, but what you're describing are companies that have choices, and, as any good business that has shareholders—maybe even some of you—they're going to places where they can make an appropriate return on that investment.

● (1835)

Mrs. Stephanie Kusie: Mr. Bloomer, as the former deputy consul general for Dallas, Texas, from 2010 to 2013, I worked tirelessly to move Keystone XL forward, from the previous government. This, of course, was resurrected in March 2017 by the present U.S. administration. TransCanada, on January 18, continued to confirm commercial support for this. Of course, this would export more than 830,000 barrels per day to U.S. refineries.

Does this bill hurt the uncertainty of the industry and companies putting pipeline projects forward?

Mr. Chris Bloomer: As we've said in our statements and so on, this bill does impact the certainty of being able to get new projects put forward and developed.

Mrs. Stephanie Kusie: Thank you for that.

Finally, on a carbon tax, I couldn't believe it this last weekend when I paid $122 for gas, with an additional 12¢ being proposed. Will a carbon tax reduce emissions ultimately, in your opinion, Mr. Bloomer?

The Chair: I hate to do this, but there really isn't any time to answer. I'm hoping in the next circle of questioning you'll be able to get the answer to that question.

Mr. Bossio.

Mr. Mike Bossio: Thank you, Chair.

I wanted to ask the other two groups the question as well. What are your concerns with CEAA 2012, based on the uncertainty, the unpredictability, and the lack of clarity that existed under that same regime as well?

Mr. Terry Abel: As Chris said, CEAA 2012 wasn't perfect either. We didn't have a lot of projects moving through on the upstream side. It had some of the same elements that created uncertainty in the process. It did have timelines. We did see the governments and the agencies working closely to try to stick to those timelines. It had weaknesses in working with the life-cycle regulators and having those processes work more seamlessly.

Like anything, it's how it gets implemented. I don't know that all the provisions of CEAA 2012 were followed, at least in the way we understood the intent. We have engaged in this process because we felt improvements could be made, and Bill C-69 and the associated legislation would be an opportunity to address some of those challenges, most of which, in my mind, are focused on having a competitive regulatory regime that does those processes and reviews efficiently. They add value to the decisions that need to be made, and everybody comes through that process feeling there is certainty.

● (1840)

Mr. Mike Bossio: Thank you, Mr. Abel.

Sorry, I have a limited amount of time.

I guess once again it comes back somewhat to a number of things. In Canada we have a higher cost for oil production. We can look to the low price of oil right now versus that cost, and therefore the uncertainty that this creates within the market. Therefore, it depresses the amount of money that's going to be invested into that market because of those areas.

We can also look at the fact that a lot of pipelines have been approved and are going to be built. Therefore, do we have the capacity to build more pipelines in the near future, based on the amount of oil we're producing?

I would put those questions out there, as well, as at the end of the day, we need certainty within the process to build, and not just certainty for you as a company, but certainty as far as public trust is concerned. Earlier on you said you are interested in meaningful participation with the public, with indigenous communities; I heard it in your speech. Too many times those organizations say yes, it's great to consult, but it's just a checking-box type of process.

Maybe you could help enlighten us on those three particular areas: the cost of production, the low price of oil, and the fact that we've got a substantial number of pipelines in the works. Once again we're trying to get back the public trust.

Mr. Terry Abel: Commodity price affects everybody in the world, and the North American market certainly has its own price regime, which is a little lower than the global market, which is why we're so interested in market access.

Global investment is up in the oil and gas sector. It's up in the U.S. substantially: 18%, I believe. It's up in the North Sea. I think it's 4% or 5%. Production is—

Mr. Mike Bossio: The cost of extraction in those markets is far less than it is in Canada, in the oil sands in particular.

Mr. Terry Abel: The costs in 2014 were very different from the costs today. Costs have been reduced by 30% to 40% across our industry. Our costs are very competitive. Yes, in the more northern regions it is slightly higher, but I think it can still be competitive in the end.

My point is that we are seeing increased investment in other jurisdictions. In Canada it's down 3% or 4% this year, maybe more. We'll see what the latest numbers are.

Mr. Mike Bossio: Mr. Bloomer, could you comment on the number of pipelines out there and the capacity to fill the ones we've got?

Mr. Chris Bloomer: At this moment, we have a huge undercapacity of pipelines until we get these new pipelines built and operating. We have increased production forecast in the oil sands, and we have increased—

Mr. Mike Bossio: There was a decrease in investment, though.

Mr. Chris Bloomer: No, these are projects that have been on the books and are coming on stream now.

Mr. Mike Bossio: Oh, okay, thank you.

Mr. Chris Bloomer: The other part of it is that there will still be an imbalance in pipeline capacity going forward. We will need new pipelines. It's not just new pipelines. We need new markets. We have to be able to extract the best value for our resources.

As I said it in my comments, the other thing is there needs to be a vision of the future. In the deep basin we have tremendous resources of natural gas, light oil condensate, and so on, that are as competitive today with the technologies being used as the Permian in the U.S. The difference is, we can't get the stuff to market. If we had access to market that would be a very big industry going forward, so we need the policies and we need the vision for—

● (1845)

Mr. Mike Bossio: But Kinder Morgan being approved definitely is a boon to—

The Chair: Mike, I'm sorry, but you've run out of time.

Thank you.

Ms. Kusie, do you want to pick up on that?

Mrs. Stephanie Kusie: Thank you.

Mr. Abel, will the implementation of a carbon tax reduce emissions, yes or no?

Mr. Terry Abel: I'm not trying to be evasive. It's not that easy. We're still understanding the implementation of that. On the current state of implementation and clarity on how some of the carbon policies across the country will be implemented, I would say we're at very high risk of leakage of carbon outside of Canada, so the resource won't be produced in Canada but will likely be produced in a jurisdiction that has no carbon policy.

[*Translation*]

Mrs. Stephanie Kusie: Thank you.

I will now yield the floor to my colleague, Mr. Godin.

Mr. Joël Godin (Portneuf—Jacques-Cartier, CPC): Thank you, dear colleague.

I'd like to thank the witnesses for their patience.

Listening to you today, I feel like you're on the defensive.

My question is mainly for the representatives of the Canadian Association of Petroleum Producers, the Canadian Energy Pipeline Association, and the Prospectors and Developers Association of Canada.

In the past, have you done anything to demonstrate your interest in protecting the environment? Have any concrete measures, processes, or methods been put in place to improve your industry?

My question is for Mr. Abel, Mr. Bloomer, and Ms. McDonald.

[*English*]

Mr. Terry Abel: Sure, I'd be happy to provide just a couple of examples. As a former regulator, I've worked with virtually every jurisdiction in the world that produces oil and gas, and I can say quite confidently that Canada has some of the most stringent environmental requirements on the planet.

As a former regulator, albeit it in Alberta, I can tell you that, where most of the production is, the level of compliance with those very stringent regulations is higher than anywhere else in the world as well.

I'll give you a couple of examples of environmental improvements. When I started in the industry as a regulator in the early 1980s, the oil sands were still just a dream, not a true vision, and the primary source of water for SAGD or the cyclic steam stimulation technology was surface water from lakes and rivers, etc. I'm proud to say that the industry today uses practically no fresh water other than for potable water at their facilities. All the new SAGD projects make up all of their water needs recycling the water that is produced and using deep saline sources for that.

I would also say that Canada has been a world leader in terms of reducing flaring as well. Those are two simple examples.

[*Translation*]

Mr. Joël Godin: So those are all the actions you've taken.

Now I'd like to give you a chance to answer the question, Mr. Bloomer. What have you done, in your industry, to protect the environment?

I think you are people who are building the economy, but also protecting the environment. There's been an evolution. Mr. Abel, you said that Canada has higher, more stringent standards than other countries.

So, Mr. Bloomer, have you also taken steps to improve the environmental impact of your industry?

Mr. Chris Bloomer: Thank you very much for the question.

[*English*]

You know, in the pipeline industry, performance in safety is number one. For the technologies that go into monitoring pipelines and constructing pipelines, emergency planning and management are at the forefront. A lot of work goes into evaluating the ongoing inline inspection of pipelines and new technologies, very complex technologies that improve safety.

On land use, river crossings, for example, we're using horizontal drilling technology to drill under rivers, not go across them. There are a number of things in terms of leak detection that are going on.

On every front on performance in safety, which is the number one thing for the pipelines, that is job one for the industry and a technology driver.

● (1850)

[*Translation*]

Mr. Joël Godin: Thank you.

Ms. McDonald, do you have anything to add?

[*English*]

Ms. Lisa McDonald: I can speak from the exploration perspective of the mining industry. PDAC is an organization that has worked over the last 10 years to develop a flagship product of ours that is called e3 Plus. It's a comprehensive series of guidance that we provide to our members to help them improve their environmental, social, and health and safety practices.

We recognize that often our members are the first in on the ground in terms of where they're working communities, and this is—

[*Translation*]

Mr. Joël Godin: I'll have to stop you there because we have only a minute left.

My takeaway from your testimony today is that you're deeply troubled by Bill C-69. In the past, you've demonstrated your willingness to adopt environmental standards while adhering to sustainable development principles. Naturally, economic development is also important.

Is it fair to say that the existing legislation lacks the necessary tools for us to go further, be more competitive, and balance sustainable development with economic development?

[*English*]

Mr. Terry Abel: Again, I'd reiterate that there are multiple components. I like the comments Chris made, that even just a strong signal from Canada to acknowledge the contribution this industry has made—to acknowledge that this industry has been very responsible environmentally and socially and will continue to be so—would go a long way to restoring confidence.

Some of the things we've talked about in terms of improvements to the bill would be very helpful in sending those signals, but overall just knowing that Canada supports and believes it can operate a sustainable oil and gas industry for the benefit of all Canadians and globally would be a strong signal to the investment community.

The Chair: Thank you all very much for your time today and for your answers to the questions. We have had less time than we'd hoped for, but we agreed to go 15 minutes beyond and I pushed it beyond that. Some of our members have to go to their next meetings. Thank you again.

Tomorrow we start again at 8:30 until 10:30 back here.

Thank you, and thank you to our guests.

The committee is adjourned.