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Chair

Mrs. Deborah Schulte

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● (0835)

[*English*]

The Chair (Mrs. Deborah Schulte (King—Vaughan, Lib.)): I'm bringing the meeting to order. Thank you very much. I would like to make sure we have lots of time for the questioning that people want, and I'm also going to take about 10 minutes at the end for a little bit of committee business to ask for some input on witness panels.

Let me introduce our guests. Thank you very much for being with us today. I know it's a bit of an early morning, but we're running a Friday schedule. We appreciate your accommodation of coming in at 8:30.

I would like to introduce Francis Bradley, chief operating officer, Canadian Electricity Association. We also have Terry Toner, director, environmental services, Nova Scotia Power. We have the Canadian Nuclear Association here, with John Barrett, president and chief executive officer, and Liam Mooney, vice-president, Cameco Corporation. From the Mining Association of Canada, we have Pierre Gratton, president and chief executive officer, and Justyna Laurie-Lean, vice-president, environment and regulatory affairs.

Thank you very much for being here. I'm not sure which of you would like to start off.

Just so you know how I work, I try not to interrupt people who are talking, but I do want to signal when you're coming to the end of your 10 minutes. I'll hold up the yellow card when you have a minute to go. Red means that we're out of time, so please wrap up what you're trying to say in an expeditious way.

The floor is yours.

[*Translation*]

Mr. Francis Bradley (Chief Operating Officer, Canadian Electricity Association): Thank you, Madam Chair and members of the committee, for inviting the Canadian Electricity Association, or CEA short, to appear before you on this important review of Bill C-69.

I am pleased to represent the association this morning, as our CEO, Sergio Marchi, had a prescheduled commitment outside Ottawa. I am accompanied by Terry Toner, director of environmental services with Nova Scotia Power.

Together, we will provide you with the electricity sector's perspective on the bill, specifically the Impact Assessment Act.

Before I do so, I'd like to say a few words about the association. The CEA is the national voice and forum for the Canadian electricity sector. Our membership is comprised of major generation, transmission, and distribution companies from across Canada, as well as manufacturers, technology companies, and consulting firms representing the full spectrum of electricity suppliers.

Electricity is indispensable to the quality of life of Canadians and to the competitiveness of our economy.

[*English*]

Indeed, the electricity sector is also uniquely positioned to contribute to a cleaner and greener energy era. For us to realize this opportunity, two conditions are critical. Our business environment must be competitive, and the regulatory framework must provide confidence that good projects will get built.

As an industry we are deeply preoccupied by the accumulation of wide-scoping federal and provincial-territorial legislative and regulatory changes. This pancaking effect challenges the economics of needed investments in energy projects.

[*Translation*]

The ministers who appeared before this committee last week spoke of their intent with Bill C-69, to ensure good projects get built. We applaud the intent; however, we believe that absent constructive amendments, Bill C-69 has the potential to discourage worthy investments.

As a committee, you have an opportunity and obligation to restore public trust and create more predictable, balanced, and workable legislation.

Let me turn to Terry Toner, who will share our specific recommendations.

[*English*]

Mr. Terry Toner (Director, Environmental Services, Nova Scotia Power, Canadian Electricity Association): Thank you, Francis.

I'd like to begin by acknowledging that this bill contains a lot of progressive provisions. However, the following adjustments that we'll be talking about would further improve the intent of the impact assessment act and the Canadian energy regulator act. For the sake of brevity, I will be focusing my comments on the impact assessment portion.

Speaking about clarity and predictability, Minister McKenna and Minister Carr spoke to the need for project proponents to know what is required of them from the beginning of the regulatory process. We would suggest that some simple yet important modifications are necessary to meet this objective. Minister McKenna has made it clear that this act is focused on major projects. We support this, and we look forward to that being reflected in the project list.

The project list, to be developed by regulation, must firmly establish the scope of application of the impact assessment act. The power of the minister to designate other projects for review must be circumscribed and used only in exceptional circumstances, based on the criteria used to develop the list in the first place. The consideration of alternatives to a project should be limited to ones that are technically and economically feasible. Transitional provisions should also make clear that existing projects already on a regulatory path are not brought under the ambit of the impact assessment act.

In the quest for clarity and focus, we welcome strategic and regional assessments. It is our hope that these may ensure that individual project reviews are not burdened with analysis of impacts well beyond their scope. Too often now, project reviews are the place where we debate and litigate national policy in such domains as climate or indigenous reconciliation. A project review should be just that: a project review.

Speaking about timelines, while the timelines in the bill provide some guidance for project proponents, the government's goal of process predictability is significantly diluted by provisions in the acts that permit limitless extensions and suspensions. Time is of critical value, and it can make the difference between a project built and a project abandoned. We accept that there must be some flexibility, but there must also be discipline and transparency in order to ensure investor confidence in Canadian infrastructure projects.

Extensions decided by the Governor in Council should be published with reasons. There should be limits for the time taken by the minister to establish the terms of reference and the composition of a panel. Once a decision is made at the end of the process, there should be a firm timeline to issue the decision and no capacity for the Governor in Council to delay.

We also propose, for your consideration, a provision that could quite importantly give proponents and all participants some confidence that closure may be achieved at the end of an authoritative process, a privative clause that would narrowly contain the scope for legal challenges. There must be proper deference by all parties, including the courts, to the judgment exercised by the authorities entrusted with the administration of this legislation. A project decision must not be the beginning of a new process played out in the courts. There are precedents for such clauses in other federal and provincial acts.

Speaking about balance, it is critically important that the impact assessment act ensure balanced consideration of environmental and economic factors. The current draft is deficient in that it can easily be recalibrated as per the following recommendations.

The requirement to take into account whether the project hinders or contributes to the government's environmental obligations and commitments in respect of climate change is welcomed by our sector. We expect to make positive contributions to the pan-Canadian framework for clean growth and climate change, yet there must be as explicit a requirement to take into account economic benefits, which is currently implied only by reference to a broad concept of sustainability.

In speaking of cost recovery and proponents' obligations, any regulatory process must be subject to cost discipline. Costs charged to proponents should not exceed amounts reasonably incurred by the crown. For predictability and good management, there should also be provided to the proponent at the beginning of the process an estimate of projected costs—in effect, a budget.

Our full submission to the committee next week will summarize the intent and wording of our proposed amendments. We commend them to your attention.

● (0840)

[*Translation*]

Mr. Francis Bradley: In conclusion, the real test of this legislation will be whether good, sustainable projects that are in the interest of Canadians move through the process and get built in a timely fashion.

[*English*]

Currently, seven of Canada's 10 largest infrastructure projects are in the electricity sector. There are four hydro dams, two nuclear refurbishments, and a transmission line. Every one of these projects represents emissions-free energy for Canada.

Transitioning to a clean energy future won't just happen. We must decide as a nation to build it.

[*Translation*]

Developers must have a predictable, credible federal process to work through. New and innovative technologies must not be stifled.

[*English*]

Electricity is Canada's clean energy future. How Bill C-69 is framed and implemented will go a long way to determining whether we achieve our national aspirations.

[*Translation*]

Thank you for your attention, and we would be pleased to respond to any questions.

[*English*]

The Chair: Thank you very much.

We're going to hear from all the panellists, and then we'll go to questions.

● (0845)

Dr. John Barrett (President and Chief Executive Officer, Canadian Nuclear Association): Thank you, Madam Chair.

My name is John Barrett, and I am president and CEO of the Canadian Nuclear Association. With me today is Liam Mooney, vice-president of safety, health, environment quality, and regulatory relations with Cameco Corporation.

The Canadian Nuclear Association has approximately 100 members, representing more than 60,000 Canadians employed directly or indirectly in uranium mining and exploration, fuel processing, electricity generation, and the production and advancement of nuclear medicine.

Today, nuclear energy produces approximately 20% of Canada's non-emitting clean electricity, including 63% of Ontario's electricity. Of note is that, when the Ontario government committed to phasing out coal generation across the province, a major part of this commitment was made possible through the refurbishment of six reactors. Looking to the future, nuclear energy will play an increasingly important role in the overall low-carbon energy mix, as well as in nuclear medicine, advanced manufacturing, and electronics.

Canada's nuclear industry also works closely with indigenous peoples and communities, not only to enable proactive engagement but also to create mutually beneficial opportunities. As one example, Cameco has worked closely with indigenous communities in northern Saskatchewan for decades on environmental stewardship, community investment, employment, education and training, and contracting opportunities. Cameco has demonstrated the power of such partnerships in improving the economic and social well-being for communities and the benefits of working together to bring about real change.

I would like to preface our feedback today by highlighting, first, the concept of cumulative impact, which is a key issue not only with respect to the environment but also with respect to investment in Canada. Large energy projects require large amounts of capital, capital is fluid, and investors do not like uncertainty, so any new legislation, no matter how well intentioned, creates initial uncertainty.

Against this backdrop, CNA would like to offer the following comments and amendments for your consideration on Bill C-69.

Let's start with joint panels. The draft bill proposes that a single government agency be responsible for impact assessment reviews. In the case of the nuclear industry, the bill only provides for the option of an agency-led joint panel review. While joint panels are not new —we've had them in the past—CNA does not believe this will be an improvement over the current process.

Most of the potential impacts considered in relation to nuclear projects are related to radiation protection and international commitments on safeguards and non-proliferation. That work must be overseen by an agency with significant and specialized scientific expertise. The Canadian Nuclear Safety Commission, CNSC, is the only place in government with that expertise. The CNA believes that assessment should remain at the CNSC, as the most efficient and effective way of conducting reviews.

As a full life-cycle regulator, the CNSC licensing regime and regulatory framework already covers the entire life cycle of the project and is subject to the Nuclear Safety and Control Act and its regulations. This allows CNSC, the commission, not only to conduct the impact assessment in the planning phase of the project, but also to ensure that monitoring programs and follow-up conditions required by the impact assessment are directly integrated into the licensing process throughout the various stages of the projects. In this regard, our industry is unique, and the CNSC uniquely has the expertise to best manage our projects.

I'll turn now to the designated project list. Bill C-69 makes provisions for a designated project list to be created by regulation. This list determines what projects are subject to review by the new agencies, and by default, what projects will be reviewed by the life-cycle regulator, as is the case in the nuclear industry. It is difficult to fully consider the impact and consequences of the impact assessment agency without fully understanding what projects will come under the IAA review.

The CNA believes a facility or project should undergo one impact assessment for its life cycle. As drafted, proposed section 43 could be interpreted as to require an impact assessment for any activity at a facility regulated under the Nuclear Safety and Control Act. However, maintenance, technological, and capital upgrades are fully regulated by the life-cycle regulator, by provincial regulators, or by other federal authorities, and thus, there is no need for a new IA. Therefore, this could be clarified.

● (0850)

In addition, many of our sites are large and with significant space for new facilities, including new reactors and research facilities that could require an IA under the new agency. Most nuclear sites have undergone full environmental assessments. They have had continuous environmental monitoring and their environmental impact is well understood. If a new project were to occur on one of these existing sites, it should not require a full impact assessment, but rather, an assessment of the delta between what has already been done and what is now required. In our view, the delta assessment could be best done by the life-cycle regulator.

On timelines, CNA members have significant concerns over the proposed timelines. We understand and we appreciate the government's intention with an early planning phase, but are somewhat skeptical of the potential effectiveness.

As the early planning phase occurs after the proponent has provided an initial project description, the proponent will have already undertaken stakeholder engagement to ensure the business case and to have some degree of confidence that the issues can be mitigated. The CNA believes the current process already allows for the important early input and engagement from local communities, indigenous groups, and public stakeholders.

In addition to the uncertainty caused by creating a new agency-run early engagement process, Bill C-69 dramatically increases the scope of assessment, by adding several new elements of review. While the criteria, aims, and goals of environmental assessment are well understood and measurable, there is a great deal of uncertainty around some of the new elements of assessment. We would like to work with the government to provide greater definition on how the various elements are weighted in decision-making. Are all elements weighted equally? Is there a minimum weighting level that must be met?

Answers to such questions will help proponents factor these elements into their project descriptions and their early engagement with stakeholders. Also, our members have concerns about how closure will be achieved with respect to issues raised through the review process. It is our view that, without some decision-making procedure that allows closure on contentious issues, the new IA process will simply add uncertainty and increased timelines, create additional work with minimal project benefits, and result in multiple legal challenges.

I will now hand it over to Liam Mooney for our recommendations.

Mr. Liam Mooney (Vice-President, Cameco Corporation, Canadian Nuclear Association): Thank you, John.

One specific amendment that the CNA would like to propose is on the multiple scoping phases in the proposed process. The planning phase was intended, in part, to improve certainty and predictability by determining the requirements that the proponent would have to meet early in the process. In our view, the bill's process does not achieve that goal.

The proposed bill sets out an initial scoping by the agency as informed by federal authorities, all other jurisdictions, the public, and indigenous groups. However, the bill also allows for two additional scoping phases: one at the sole discretion of the agency, and one by the review panel, which is appointed later. These final two potential scoping phases are well into the process. They could change the scope of the project after the proponent has spent years and millions of dollars to comply with the original scoping decision.

For panel reviews, a “one project, one review” process can only occur if the scoping stage is coordinated amongst the agency, the review panel, and all federal regulators, as well as harmonized with provincial or other jurisdictional requirements. For this to occur, two overarching amendments must be made: first, the chronology of the provisions in the proposed bill must be changed, and second, successive scoping stages throughout the assessment process must be replaced by a consolidated, single, harmonized scoping early in the process, which is led by the review panel.

The CNA would also like to propose an amendment with respect to uranium mining. Similar amendments have been proposed by the Mining Association of Canada and the Prospectors & Developers Association of Canada. More specifically, designated projects that are related to uranium mines and mills, like any other designated mining project, should undergo agency assessments with full access to provisions with co-operation with provinces and indigenous governing bodies.

Uranium mines and mills, like all other mines and mills, are subject to provincial regulatory and permitting frameworks, but they are also regulated by the Canadian Nuclear Safety Commission. Federal environmental assessment legislation has historically allowed the CNSC to co-operate with a province in the ongoing oversight of uranium mines and mills. However, Bill C-69 would preclude this co-operation and prevent agency-led assessments, joint review panel assessments, and substitution for all designated projects that are regulated by the CNSC. As a result, the opportunity for co-operation with a province and using a “one process, one assessment” approach is lost by treating all such projects as exclusively in federal jurisdiction.

There's no justification for such different treatment, because the complexity and impacts of uranium mines and mills are not in a different category from those of other mines and mills. Co-operative assessment processes across jurisdictions increase efficiency and decrease timelines and costs, and should be available to uranium mines and mills. The CNSC, like other federal regulatory bodies, would have the opportunity to be engaged in an agency-led assessment as provided for in the proposed process to encourage coordination within the federal government.

The CNA urges the committee to recommend changes to the provisions dealing with CNSC-regulated projects to permit designated projects related to uranium mines and mills to access the agency assessment provisions of the bill, including the suite of provisions related to co-operation with provinces and indigenous governing bodies. Further, we would propose that mines and mills be specifically excluded from the automatic panel review created by proposed section 43, by adding “other than a uranium mine or mill” after each reference to the Nuclear Safety and Control Act.

● (0855)

The Chair: Thank you very much. We have one more presentation.

Please, the floor is yours.

Mr. Pierre Gratton (President and Chief Executive Officer, Mining Association of Canada): Thank you very much, Madam Chair and members of the committee. It's a pleasure for the Mining Association of Canada to be with you today.

[*Translation*]

Members of the committee, I'm mad.

[*English*]

Last week, you heard from Minister Carr, who said:

> All projects that are currently under review will be reviewed under the National Energy Board

> Even after the legislation is proclaimed, these projects that began under the current system will remain under the current system unless the proponent makes the choice to move to the new one. It would be a decision that the proponent would make.

It makes sense. Such logic befits a democratic country such as ours, where rule of law is respected.

What he didn't tell you is that for mining projects and all others subject to agency assessment, the rule of law will be ignored by this bill. In the case of mining, only projects at the very end of their reviews, awaiting final decisions, will remain under CEAA 2012. All other projects that are any earlier in the process will transfer to the new IA act and essentially start again in some way, shape, or form to be determined by officials on a case-by-case basis, however they think best, at a date we don't yet know.

When we asked why this is, we were told that the government is concerned that there would be projects a few years after the act came into force that would still be governed by CEAA 2012, and that these assessments would lack public confidence. They said they wanted to clean house and bring all assessments forward under one act, to make their workload a little less complicated. The fact that it will make the workload of mining companies wanting to invest billions of dollars in Canada a whole lot more complicated didn't seem to matter.

[*Translation*]

I ask this committee: Why is it that the government feels there will be a lack of public confidence in mining reviews but not pipelines? Why the double standard in Bill C-69?

Shouldn't the government be more concerned about the lack of international investor confidence in Canada's respect for the rule of law?

[*English*]

To be clear, it is not fear or opposition to the IA act that makes me say this. As will be evident in a minute, we believe that the proposed legislation, implemented well, may result in an improved review process for mining over CEAA 2012. The problem is the uncertainty. Proponents making billion-dollar investments need to know what the rules are and how they will be implemented. You can't have this certainty knowing that the rules may change midstream in some way.

Thus MAC strongly recommends that the committee support the proposed amendment in our submission that would change the transition provisions by amending proposed section 181 so that projects undergoing CEAA 2012 agency assessment will continue under CEAA 2012, but allow the proponent to request transition of the assessment to the IAA or impact assessment act; i.e., the same as for NEB projects.

Now let me turn to comments on the rest of the proposed legislation. A number of measures, implemented well, as I said, hold the promise of an improved review process for mines.

Mining is constitutionally the responsibility of provinces, and each of Canada's provinces has its own environmental assessment regime. In addition to the requirements for building and operating a mine, provinces require companies to develop reclamation plans and provide financial assurance for their implementation. Co-operation with other jurisdictions on project review is, therefore, critical for the mining sector.

Although CEAA 2012 introduced the possibility of substitution to other jurisdictions, in practice this has only been taken up by one province, British Columbia.

CEAA 2012 also introduced legislated timelines, which are critical for industry and the smooth functioning of assessment. However, CEAA 2012's timelines are rigid and have had the unintended effect of making co-operation more difficult and at times unworkable with other jurisdictions that have not pursued substitution.

The proposed IAA maintains timelines but provides for flexibility to better align with other jurisdictions, plus it contains a number of other measures that should improve co-operation with provincial governments. As well, we are encouraged that the proposed legislation provides for extending co-operation with indigenous governments.

There is one notable exception with regard to uranium mines and mills, and that is the one my colleague and friend Liam Mooney just mentioned. I won't repeat what he just said—I think he made exactly the same point I was going to make—except to emphasize that while, as I've just said, there are measures in this proposed legislation that promise to improve coordination for mining projects with other levels of government, it takes a step backwards when it comes to uranium mines and mills. That needs to be addressed in the way that Liam Mooney just outlined. We urge this committee to take that recommendation extremely seriously. It's our understanding as well that this is an inadvertent measure, so I'm hopeful this committee will recognize that and correct it.

Beyond provincial assessments and permitting and federal assessment, many mines require other federal approvals. Inadequate interdepartmental coordination has been a source of duplication and delays for mining for years. MAC, therefore, is encouraged by proposed subsection 13(2) and related provisions, which hold the promise of improved coordination and shorter timelines, though I might add that the different treatment of NEB projects and CEAA suggests there is still work to do to improve coordination between two parts of government.

Perhaps our greatest concern with CEAA 2012 has been how it has disproportionately applied the responsibility for cumulative effects to proposed mining projects and not to the sources of most environmental effects. The project-by-project approach to addressing cumulative effects in CEAA 2012 is dysfunctional, penalizing responsible project proponents while failing to address cumulative effects resulting from activities that are not designated projects under the act.

The mining industry is not the only user of the land base. Its impacts are localized and, on most metrics of environmental effects, dwarfed by other activities.

We're encouraged, therefore, by the approach proposed in the IAA, which includes cumulative effects as a factor to consider in decision-making, but not as a sole factor. The IAA also proposes to strengthen provisions for regional and strategic assessments.

● (0900)

[*Translation*]

Governments are best placed to undertake cumulative effects assessment on a regional basis. We've been advocating these measures for over 15 years, so we are pleased to see them incorporated in Bill C-69, An Act to enact the Impact Assessment Act.

It is critical, however, that the completion of regional assessments not be a prerequisite to individual project assessments. It would be unreasonable and prohibitive to Canada's investment climate to delay projects while awaiting governments to address all relevant gaps.

[*English*]

It will take many years to complete regional studies across the country, and we can't wait for all of those to be completed before we allow projects to move forward.

Related to these issues is the project list, where mining makes up the vast majority of CEAA projects despite a relatively small footprint. While the revision of the regulations designating physical activities is subject to separate consultations, we are concerned that the IAA will remain arbitrarily and disproportionately applied to mining. Should this be the case, it will hamper our sector while not achieving the sustainability, public trust, and indigenous reconciliation goals the act is purported to advance.

Let me conclude with the following message. Our sector has entered a new period of strong commodity prices, and decisions are being made around the world on where to invest. Unfortunately, pipeline politics and the general politicization of natural resources development, in a country that is a recognized leader in natural resources, are putting our country's future at serious risk.

● (0905)

[*Translation*]

Canada's relative share of global mineral exploration investment has fallen by half in the past five years, and the number of projects submitted for review has hit record lows since the original CEAA was proclaimed in 1992.

Sadly, most of my members are not choosing Canada right now, and I fear that, unless the situation I described improves quickly, Canada is going to largely miss the current cycle. This will impact a sector with nearly 400 agreements with indigenous communities across Canada, which has become the largest employer of indigenous people and one of the largest clients of indigenous businesses.

[*English*]

Canada is in desperate need of some stability and predictability in the regulatory environment governing natural resources. It is in this spirit that we submit our comments on this proposed legislation. The proposed legislation, while not perfect, addresses some long-standing concerns we've had with federal environmental assessment and some more recent problems we've experienced with CEAA 2012. If implemented well—this is a critical "if"—and if you support our two critical amendments, the proposed legislation could bring some certainty and predictability back to the federal project review of mining projects.

Thank you.

The Chair: Thank you.

Thank you very much, all of you, for your introductory remarks. You've given us a lot to think about, which we'll get into with questions.

First up is Mr. Bossio.

Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.): Thank you.

Thank you to all of you for being here this morning. We really appreciate your presence and the information you've shared with us, along with some of your concerns.

My first interaction will be with the Canadian Electricity Association.

I've had some experience with Ontario's Environmental Assessment Act. Under that act, Ontario regulation 116/01 sets out an environmental screening process for certain public and private electricity projects, particularly large and controversial projects, that can be bumped up to an individual EA, if appropriate. What has been the experience under this regulatory impact assessment process? Are electricity projects getting built? Is this a good example of using different EA tracks for different-sized projects within the same sector?

Mr. Francis Bradley: The member I have with me today is not from Ontario, so he would not be able to speak to the Ontario-specific experience. Terry can certainly talk to his experience within his jurisdiction.

Mr. Terry Toner: There certainly are provisions in multiple provinces for different levels of review. In Nova Scotia, where I am, there are two levels. That works well. I think what we're looking at here, though, is that the process described in the bill is a fairly extensive process. There is a lot of time. There is a significant amount, and appropriately so, for public and indigenous participation and for panel review.

I think when we look at projects that might be affecting federal jurisdiction, there are other mechanisms, we would say, that can provide relief. One example is simply the Fisheries Act, which is also undergoing changes right now and has authorizations. Now they've added a designated project provision with the ability to issue permits.

I think the intention of having different levels of review is appropriate.

Mr. Mike Bossio: Actually, that's all right. Sorry, I have limited time, and I wanted to try to focus that so I could glean some particular information. Could you maybe have the Ontario side of your organization respond to that particular question, please?

To follow on what you were just saying about meaningful participation by public and indigenous communities in the information gathering, decision-making, and follow-up stages of the IAA process, I assume that you support having meaningful participation by these different interests.

Mr. Terry Toner: We certainly do. We see the new early planning element that has been added to the process as a very positive one. Let's be honest; it will build upon what companies like ours already do even before we get to that stage, so we're very encouraging of that.

● (0910)

Mr. Mike Bossio: Thank you. I assume the other two groups feel the same way about having meaningful public and indigenous participation.

Mr. Pierre Gratton: Absolutely. In fact, I might add that for CEAA projects under CEAA 2012, at no point were any interested parties disqualified from project reviews. The criticism that has been made over the last number of years has largely been directed towards the NEB, but just for your information, that's never actually happened with mining projects. Anyone who's wanted to participate has been able to.

Mr. Liam Mooney: Thanks. I would only add in that regard that good proponents have been carrying out those best practices and that early engagement for a good long period of time. It helps with project design and ultimately securing the support of the local stakeholders as well as the regulatory officials in that regard.

Mr. Mike Bossio: I've been involved in EA processes for 20 years —limited to the province of Ontario, admittedly—and one of the chief concerns I've had throughout all of those processes has been the lack of ability of the different public or indigenous stakeholders to participate, because of lack of funding.

Do you agree that there should be participant funding in amounts that are commensurate with the scale of the impacts of the proposed projects?

Anyone is welcome to answer.

Mr. Terry Toner: Yes, we do, and I think that actually there's a real opportunity in the early planning. One of the outcomes is a public participation plan, and that should outline what is necessary. The government will hear from indigenous and other stakeholders and hopefully be able to identify the appropriate amount of funding.

Mr. Pierre Gratton: Mining association and environmental groups and indigenous organizations lobbied Finance together to try to persuade it to ensure there was sufficient funding to support this legislation in terms of participation. I think that answers your question.

Mr. Mike Bossio: I wanted to add one more thing, which is that it seems like you're supporting intervenor funding, but actually I'm thinking that rather than it coming from the public purse, it should be coming from the polluter pays principle. The companies should be the ones putting forward funding that would be commensurate with the scale and scope of the project.

Mr. Pierre Gratton: You need to recognize first that companies —mining proponents for certain—are engaging on an ongoing basis with communities, and they provide that kind of capacity support as projects develop. It's part of how we do business.

It's important to recognize that this is the government's own regulatory process, and it's completely appropriate for the government to also provide participant funding. If it didn't, it would face significant public criticism. Communities and indigenous groups expect some of that funding to come from government. Otherwise, there would not be full confidence in it.

The Chair: Thank you.

Next up is Mr. Fast.

Hon. Ed Fast (Abbotsford, CPC): Thank you very much for appearing before us.

My first question is to Mr. Barrett. When you ask Canadians what they understand when they hear the word “nuclear”, typically they think either nuclear weapons, which Canada doesn't have, or nuclear-generated electricity, which Canada does have, like the Darlington plant in Ontario.

Isn't it true that Canada's footprint when it comes to the nuclear industry, including uranium mining, extends far beyond Canada and has positive impacts on the global carbon footprint?

Dr. John Barrett: One of the most important things for our industry to do is, first of all—as you have done—point out the difference between us and the use of nuclear technology on the weapons side, which is completely separate. We're governed by the international non-proliferation treaty. Canada is a civil, peaceful uses of nuclear technology country, full stop.

Internationally, we have a lot of expertise. As former Canadian ambassador to the International Atomic Energy Agency in Vienna and the chair of the board of governors there, I know there's always been considerable respect for Canada because of its knowledge. Its regulatory expertise is international. We almost set a gold standard in that regard. That's something people are not fully aware of, I think. Normal everyday Canadians don't see that type of expertise that is recognized internationally.

The other point I would make, which I think you were alluding to, is that when you consider the uranium mining and the products of it that go into fuel development and that are the source of fuel for reactors that may be in other countries and may be under different types of technology—not CANDU reactors—then that is contributing to emissions-free electricity. There is a direct connection between what is mined in Canada in the uranium mining and what is shipped internationally. We are contributing to reducing that, especially if the alternative would have been for a country to turn to coal or one of the fossil fuels.

I give the example of Romania, which does have a CANDU reactor. If you look at their geographical situation, I'm sure their alternative would have been a fossil fuel, but they have two Canadian reactors. It's our reactor technology and the fuel we provide. We've looked at the numbers there to calculate what that has been over the last two or three decades. It's a real contribution to the climate change file.

● (0915)

Hon. Ed Fast: Does Canada actually get credit for those emissions reductions that are generated by the use of our uranium or our technology around the world?

Dr. John Barrett: I've never seen it calculated quite like that. Indeed, we were pointing out this phenomenon to Natural Resources Canada a couple of years ago, and they began to look at it for the first time, as far as I understand. So no, it isn't really recognized, but it's an important facet. When you are looking at our industry and its contribution on the climate change file, it's significant.

Also, as I mentioned in my remarks, 20% of Canada's clean electricity today comes from nuclear power.

Hon. Ed Fast: Thank you. That's very helpful.

I have a question for Mr. Gratton.

I think all of us took note of your remarks right at the beginning of your comments about Minister Carr's statement. Just for the record, I'm going to read the quote of the minister back into the record. This was from the meeting when he appeared before us to address this very bill, last week. He said, “All projects that are currently under review will be reviewed under the National Energy Board. We are expecting that this legislation will be ratified by Parliament sometime in 2019”.

It will be as is until the legislation is proclaimed. He clearly made a commitment that all projects that are in the pipeline under the 2012 CEAA would continue to be under that regime until that process is completed. There would be no starting at the beginning under the new provisions.

It concerns me that the legislation right now, as worded, does not reflect what the minister has said. He has either mischaracterized the legislation or somehow misstated the facts. I think all of us at this table have taken note of this.

Would you provide us with some draft wording of the amendments you're looking for to remedy that failing in this legislation and circulate that amongst all the members of this committee, so that we can make sure this act actually does what the minister promised it would do.

Mr. Pierre Gratton: Not to defend the minister, but what the minister said was technically true for NEB, and he was speaking about NEB projects. This is an issue of one side of government not talking or coordinating very well with the other side of government. You have the agency and you have the NEB. He's responsible for the NEB, and what he said is true about the NEB.

The rules are different for mining that fall under the agency. We don't fall under the NEB. That's the problem. In the brief we submitted, you will have specific language on how this can be amended.

Also, in relation to your previous question, the copper and coal we export from B.C. are also some of the lowest-carbon-generated copper and coal used for electrification and steel-making around the world. I just thought I'd point that out.

Hon. Ed Fast: We don't get credit for that either, do we?

The Chair: Thank you very much. That's great.

Next up is Ms. Duncan.

Ms. Linda Duncan (Edmonton Strathcona, NDP): Thank you.

To the Canadian Electricity Association, I'm puzzled about your discussion about federal assessments. In the 50 years of building coal-fired power plants and gas plants, I don't think there has ever been either an individual federal assessment panel or even a joint panel.

Am I hearing you saying that you're open to that and that it would be a good idea and that perhaps should be on the project list?

● (0920)

Mr. Terry Toner: Are you talking about a coal-fired plant?

Ms. Linda Duncan: No major facility to generate electricity in Alberta, I believe, has ever been subject to a federal panel.

Do I understand that you're suggesting there should be federal panels?

Mr. Terry Toner: I think what we've said and would say is that we're not confident that new coal would be built, new coal-fired generation. So that takes care of that for you.

Secondly, on natural gas, we think we really need to understand what level and size would be appropriate to be on the project list, and that is under consideration in our discussion paper that is out now looking at that. Obviously, if we have a clean site that already exists and there is some expansion and that is helping coal shut down and this is an appropriate transitional and necessary generation, I think that has to be evaluated against criteria to see whether it meets those criteria to be on the list.

Ms. Linda Duncan: Thank you.

I have some concerns with these suggestions from two intervenors that when there are expansions on site there's no need for a hearing. I object to that because there are additional carbon emissions and there's additional pollution, and in those sectors, they are very serious emissions and impacts.

I heard from both the Canadian Nuclear Association and the Canadian Electricity Association, and I'm not sure that mining mentioned it but you might want to respond. I didn't get a chance to ask the oil industry this, but I asked them after and they shared the concern of a lot of people that those bills have been processed before we even see the project list.

Do you agree with what some people are saying, which is that there should be an opportunity to see those project lists before this legislation is finalized so that we see what it applies to?

Dr. John Barrett: I'll take a stab at answering if I may.

On the latter point, yes, we do agree and have suggested in our intervention that having the project list at the same time as considering the act would help immensely, because there are some calculations and considerations that would be very practical and I think that could be done.

On the question of activities, different activities on a licensed site, what we were suggesting is not that new capital expenditures that occur on the licensed site would be completely free of any assessment. It's just that the site has the environmental assessment as a sort of baseline and—

Ms. Linda Duncan: The site is the facility, right? The site means the land to me. You mean the facility.

Dr. John Barrett: If you have the facility and you're adding something to it, you could consider that as a delta. Rather than doing a complete review from start to finish, you would look at the delta between the two.

Ms. Linda Duncan: I understand that. That's not a new argument from industry. That is a continuous argument by the oil sector.

I would like to ask the Canadian Electricity Association something.

You talked about the sustainability of your facility. Can you tell us your interpretation of what sustainability means under this bill?

Mr. Terry Toner: Actually, there are lots of debates still taking place as to exactly what it does mean in general in many locations including the multi-interest advisory committee that I sit on. It's being developed, but what we know is that it expands to be more than just environment. Sustainability will take into account—as it says in the bill—aspects of socio-economic, health, and I believe also cultural and indigenous.

In terms of the way in which that is going to be assessed, I think this is an evolving area. We're trying to deliver in our sector more sustainable projects, moving from projects that people have less satisfaction with to ones that are more fit for the future as we move forward.

Mr. Francis Bradley: I would just add to Terry's point. Fundamentally, what is it that we're attempting to deliver and we're attempting to drive towards? As a country, we have made very significant commitments to greenhouse gas emission reductions in the 2030 and also in the 2050 time frame.

In that context, there is absolutely no way we're going to even get anywhere near any of those targets without a very significant expansion of the clean electricity sector. We're going to have to move pretty aggressively into electrifying transportation and other parts of the economy. The only way we're going to be able to do that is if we are able to in fact expand the clean energy sector in this country.

● (0925)

Ms. Linda Duncan: The mining association raised this issue, and I think others might have, but it left me puzzled because in my involvement with projects, you are applying for your federal and provincial permits at the same time as you're going through the environmental assessment, your water permits and your air permits.

I don't understand why you would say that if you're on the regulatory path already, then there shouldn't be a new assessment. Can you clarify that? If you've already applied for your permits, but you haven't gone through an assessment process yet, are you saying you shouldn't have to go through the new assessment process?

You said some projects are already on the regulatory path, and most people apply for the regulations at the same time they're going through the EIA, so all you're saying is that, if you haven't gone through the CEAA, okay, we'll do the new process.

Mr. Pierre Gratton: No, what we're saying is that we have.... One of our members right now is wondering whether or not they should submit their project for a federal environmental assessment under the current act or not, and they have advisers saying they shouldn't, that they should wait until the new act comes in because they don't know what the rules are going to be, and that halfway through they're going to change. You can't make investment decisions not knowing how a new act is going to function, which is something that was recognized fully for any of these projects.

The Chair: I'm so sorry to do this. I let Linda go on a bit longer, because I wanted to hear the answer, but I can't let it go on too much longer, so thank you.

Mr. Fisher.

Mr. Darren Fisher (Dartmouth—Cole Harbour, Lib.): Thank you very much, Madam Chair.

Thank you, folks, for being here. It's very good testimony, and I truly appreciate the very pointed recommendations that you're all making.

The first question is going to go to the Canadian Electricity Association, Francis or Terry.

Bill C-69 has shortened timelines for decision-making, both for project reviews and for cabinet. With the new early planning phase, which will include outreach with stakeholders, indigenous communities, and others, do you think the time frames are going to be reasonable to get all this done?

I'm looking at Terry only because I know him, but, Francis, perhaps you...?

Mr. Terry Toner: We don't know yet. We haven't seen it happen, but in 180 days, six months, we'll have done as most proponents would have done, a lot of work before we even get to trigger that.

If the government is ready, the agency, and so on, and I think they will be, and people are collaborative, I think we can do it and I think the government can do it. If there are requests for delays of the process at the various stages of the process, I think that's where we're concerned about the risk. If it's an open and collaborative process with real opportunity for all of the stakeholders and the indigenous communities to participate, I'm confident that we can get projects through.

Mr. Darren Fisher: Other than what you just stated, do you have any other suggestions you want to get on the record here for things that might improve the process?

Mr. Terry Toner: There's already a pretty good list of products that come out of that, and one of the things that is often done in provincial processes is provisional orders, which provide more specificity, collaborative agreements and other things, to make sure that, not only do we know what the plan is, we know the time frames that are going to be associated, the mechanisms with which people are going to participate—hopefully, they're the appropriate amount—and that provides a degree of certainty in planning for all the people in the process.

Mr. Darren Fisher: I'm going to move to John or Liam from the Canadian Nuclear Association. I hope you're okay if I call you John and Liam.

The definition of adverse "effects" is broader. It will now read, "changes to environment or to health, social or economic conditions and the consequences of these changes." How will this potential change impact your industry?

Mr. Liam Mooney: In that regard, I think some of the uncertainty that's been mapped out by our colleagues at the CEA and through the mining association.... I think we have a lot of experience on environmental assessment and the impacts and assessment of those.

Some of these other factors are more in the space of social sciences, and to make determinations and decisions based on that broader definition will be a challenge. I think that's something we said in our own remarks, that we'd like to seek some additional clarification.

Terry referred to the multi-industry advisory committee. I'm the CNA representative on that committee, and I can say in that regard that there has been some concern expressed by the industry representatives at that table about the weighing of the different factors that are included in that determination. I think one of the more prominent issues that we want to bring to the table is the focus on adverse effects. The language of it starts in a negative space, but you have to also take into account the socio-economic benefits of the development in question.

● (0930)

Mr. Darren Fisher: I do have another question. I see mining would like to chime in. If you're able to do that in 15 or 20 seconds, so I can get in one more question, that would be great.

Mr. Pierre Gratton: I just wanted to point out that, for mining projects, because of our heavy engagement with indigenous communities, because of where our projects are, some of those new aspects of this proposed legislation are already factored in, to a degree. We don't feel it's a huge shift for us, but I would agree that time will tell just how it all plays out.

Mr. Darren Fisher: Fair enough.

Again, for John or Liam, indigenous traditional knowledge would be taken into consideration when assessing a project. Can you tell us a little about the ways that you're currently considering indigenous knowledge when you or your members are working on a proposed project?

In any remaining time, I wouldn't mind if mining chimed in at the last second, as well.

Mr. Liam Mooney: In that regard, I think we've had a long history of engaging with our local stakeholders and understanding their concerns. I think that the incorporation of that indigenous knowledge and the feedback from those communities is a big part of the shaping of the specific projects in question and designing them to address and mitigate potential impacts in that regard.

The other piece that I would be remiss if I didn't speak to is on the provincial side of the assessment. Mr. Gratton referred to our experience in that regard. Provincial assessments—in Saskatchewan, at least—are broader in their context, so the adverse effects and the broader take are something with which we've had quite a bit of experience and enjoyed considerable success.

Mr. Darren Fisher: Do you want to run out the clock, Pierre?

Mr. Pierre Gratton: Yes, that's also true for other jurisdictions like B.C. and Quebec, so we're not breaking new ground in the mining sector all that much with those aspects. I think we speak to traditional knowledge in our brief and we've spoken to it in the past. One of the challenges is that it's proprietary, at times, so it can be challenging to get them to share that knowledge, particularly publicly. If they're sharing knowledge about where their trap lines are, they're disclosing to others where they hunt, and that's an issue. It's a delicate issue, but it's one that we have some experience working with and we're comfortable moving forward with it.

The Chair: Thank you so much. We appreciate that.

Go ahead, Mr. Godin.

[*Translation*]

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

Since this is a bilingual country, I'd like to thank the witnesses who used the language of Molière.

Thank you for being here this morning, ladies and gentlemen.

I'd like to start with a very simple question. How will the legislation before us help your sector reduce greenhouse gas emissions and its environmental impact?

[*English*]

Mr. Francis Bradley: Perhaps I can begin. Everything we're going to have to do in the future to be able to build out the clean energy future of this country is going to require the sorts of reviews that are envisaged in this legislation. There's no way we're going to be able to meet our clean energy future with the system we have today. It's inevitable that there's going to be a requirement for significant build-out. For example, the study by the Trottier energy futures project attempted to assess what our greenhouse gas emissions commitments up to 2050 would look like, and their expectation is that it would result in a doubling or tripling of the requirement for electricity in this country. To even be able to take a step into that future is going to require an efficient and open regulatory regime.

● (0935)

Dr. John Barrett: Thank you.

I might add also that, from our perspective, it's an excellent question because we try to frame, as best as possible, the work of our industry within that larger context, because that is really the key element of the industry. It can contribute all of this very dense source of clean electricity to our country and to others around the world. When we look at the act, we see that this is the opportunity to allow projects to proceed on a timely basis, producing the confidence among all stakeholders, among communities and citizens, that this is very safe, the environmental protection is there, and people are satisfied with that.

What is coming down the track, internationally and certainly in Canada, is that we're being seen, right now, as a leader in the development of advanced nuclear technology that may be reduced in size so that you have smaller types of reactors that could have applications that open up a vast array of possibilities in Canada and elsewhere, where you're not looking at huge capital projects that could break the bank, but smaller reactors, right down to a kind of battery that could go in small communities.

I'll stop here, but the main point is that working hand in glove, industry with the act, we could really do some very impressive things for our country.

[*Translation*]

Mr. Joël Godin: Thank you.

Mr. Gratton, would you care to add anything?

Mr. Pierre Gratton: Yes. First, I would point to the fact that our contribution is relatively minor.

Second, Ontario currently has two projects that will deploy electric vehicles in underground mines. That's the trend in the industry right now, so we will continue to reduce our greenhouse gas emissions.

Third, it's important to understand that our products are essential to the economy of the future, whether we are talking about copper or lithium.

Fourth, infrastructure investment is one of the measures that contribute to a reduction in future greenhouse gas emissions. If you look at the projects in northern Canada, you see that they are dependent on fossil fuels, because they have no other choice but to use diesel. Investments in hydroelectricity and perhaps small nuclear reactors will certainly make other solutions more accessible.

Mr. Joël Godin: Thank you.

As I see it, you are already taking steps to reduce your impact on the environment. You recognize the importance of sustainable development and greenhouse gas reduction. No doubt everyone at this table wants to improve our environmental outlook by doing the least damage possible to the planet.

This week, the commissioner of the environment and sustainable development released a report indicating that Canada had not made progress and was not on track to achieve its greenhouse gas reduction targets for 2020 or 2030.

The current government has brought forward this legislation, but its track record for the past two and a half years hasn't exactly been stellar. Do you sincerely believe that we are on the right track and that this bill will make the situation better?

From your comments, I gather that this legislation brings uncertainty and means additional work. It will make things more cumbersome and less clear. You're also concerned about the discretion it gives the minister.

In light of all that, what does the outlook for your industry look like?

[*English*]

Dr. John Barrett: The recommendations that we're trying to put forward on the table and that I'm hearing from the other organizations are mainly driven by making this an effective vehicle for getting the environmental considerations well under control, and to everyone's satisfaction, but making it work for the industry. If we get that right, I think then we can really start moving into addressing the electrification needs to get to a clean and low-carbon economy for Canada.

The Chair: Thank you very much. That's all we have time for. They will get another question. They can pick that up at that time.

Mr. Maloney.

Mr. James Maloney (Etobicoke—Lakeshore, Lib.): Thank you, Madam Chair.

I'm splitting my time, so I have to get right to the point here.

Mr. Toner, my question is for you. You raised this idea of a privative clause, which is very interesting. Could you explain to us where you're going with that? How comprehensive do you mean this to be? Do you mean it to cover all decisions or certain decisions? What would that look like? Do you have specific recommendations on what it would look like?

● (0940)

Mr. Terry Toner: We will have specifics in our final report. I think what we're really talking about here is the notion of saying that this is a fairly extensive process that will allow for a good debate and participation by all sectors. The thought should be that, yes, there are some things that still would be challengeable in court, but there would be other things that, perhaps as we get to a decision, should be the decision. There should be a higher bar before a court challenge is possible.

Mr. James Maloney: You're going to provide us with your recommendations and the language on what that would look like?

Mr. Terry Toner: Yes.

Mr. James Maloney: Okay. Can you tell us right now specifically what areas you would include or exclude?

Mr. Terry Toner: I think we're mostly interested in the final decision that comes at the end of the process.

Mr. James Maloney: That would be unchallengeable in the courts.

Mr. Terry Toner: Relatively unchallengeable, I think. We can never say completely unchallengeable. I think there are always occasions in this country when things could be raised. There would have to be reasons, and I think the courts would have to recognize that the process has been good and that the legislation would attempt to ensure the process has led to a balanced decision that has had proper discussion.

Mr. James Maloney: Thank you.

Mr. Gratton, my next question is for you. You talked about the transitional provisions and the difference between the mining and the pipeline provisions. Thank you for clarifying what Mr. Fast said. I know that he didn't intentionally mean to take out of context what the minister said. If the transitional provisions were made to be the same, would that satisfy your concern? Would that change your answer with respect to investor confidence?

Mr. Pierre Gratton: Yes, absolutely. Exactly as it is for NEB, with the option to opt in.... It may be that a proponent enters very late before this act comes into force and says they'll plan for the next one. Certain elements of this act may prove to be more attractive. We don't know. The early planning is an innovation. It has potential. It may be that a proponent may choose to opt in to take advantage of the early planning idea in this act. But we ask that the option, just as it is for NEB projects, be left to the discretion of the proponent between now and the act coming into force.

Mr. James Maloney: Thank you very much, Chair.

The Chair: Mr. Rogers.

Mr. Churence Rogers (Bonavista—Burin—Trinity, Lib.): Thank you, Madam Chair.

Terry or Francis, generally speaking, your statement from February 8 was pretty positive in terms of the legislation. I think that's fair to say. But there was one concern that you identified with regard to navigable waters. You expressed concerns over potential increased delays because of permitting. The early planning phase in the bill is intended to support one project, one assessment.

My understanding is that in this early planning phase, if the impact assessment is required, three documents will be issued to guide the impact assessment process, including an impact assessment co-operation plan, which includes indigenous engagement, a partnership plan, and a public participation plan; tailored impact statement guidelines; and a permitting plan, if required. These would provide clear and transparent expectations for project proponents and for the public.

Can you comment on how this may alleviate your concerns?

Mr. Francis Bradley: Maybe, Terry, you can talk to some of the specifics. Of course, we're dealing with this piece of legislation on a separate track, but our overall fundamental concern was that legislation and regulations already exist for the protection of water. It seems as though these changes are starting to creep into that area, and going back to the comments I made at the very beginning, they are adding additional layers of pancaking.

As to the specifics, Terry, do you...?

Mr. Terry Toner: I think we would simply say that if the permitting plan is developed in such a way that it provides coordination of all the steps that happen, one of the great things that might occur in the early planning is the possibility that all departments that have relevant other permits or requirements or expertise will participate in that early stage and hopefully will be fed into these various products that come from that. If that were to be done appropriately, that could probably alleviate a large number of our concerns.

● (0945)

Mr. Churence Rogers: Thank you very much, Madam Chair. I'm done.

The Chair: Okay.

We'll go to Mr. Sopuck.

Mr. Robert Sopuck (Dauphin—Swan River—Neepawa, CPC): Thank you very much.

One of our colleagues today used the phrase “polluter pays“, and I strongly object to that. The implication is that you're polluters. In my previous life I managed environmental licences, and I know very well that modern industry does not pollute. It's shown in how well Canada's environmental indicators are improving.

I very much appreciate Mr. Gratton's direct way of speaking. I think he would have liked being here yesterday to hear Mr. Chris Bloomer's presentation—he's from the pipeline association—where he used the phrase “the toxic regulatory environment”. We know the word “toxic” means poisonous.

I'm astonished, Mr. Gratton, when you make the point that commodity prices are increasing around the world, but investment in Canadian mining is going down. Where in the world is mining investment going right now?

Mr. Pierre Gratton: Here are a few facts for your information. Canada's percentage of mineral exploration spending has been falling for the last half a dozen years. Australia has taken up a good chunk of that. It's also going to Latin America. Last year Australia had record levels of gold production and of exports. Three new lithium mines have come on stream. A nickel sulphate plant is about to go forward. A major copper mine has started production, I think. This is at the very early stages of the rebound in commodity prices and you look at Canada and you don't see that. It's not coming here.

Mr. Robert Sopuck: Thank you.

Does Australia have a different environmental project review process than Canada does?

Mr. Pierre Gratton: Though a federal system, most projects are not subject to two levels of federal EA in Australia.

Mr. Robert Sopuck: Their review process is efficient and timely. Can you say that, reasonably?

Mr. Pierre Gratton: I'm loath to be overly simplistic because the systems are different, but generally speaking it's faster.

Mr. Robert Sopuck: Has Australia's environment suffered because of this faster process?

Mr. Pierre Gratton: Honestly, I don't know enough about Australia to say so, except it's a fully developed democratic country. It is our natural competitor, and the Australians are currently doing better than we are at attracting new investment.

Mr. Robert Sopuck: The question was a bit rhetorical because every modern industrial society has the highest environmental standards. It's a process every country goes through. As they get richer, the environments get better and better. There's no doubt about it that Canada is losing out in terms of investment.

Mr. Mooney, I have a specific question for you regarding Cameco and indigenous employment. Do you have any metrics on indigenous employment within Cameco? How many indigenous people are employed by Cameco and from how many communities?

Mr. Liam Mooney: I do. In that regard, approximately 50% of our long-term contractors and employees are residents of Saskatchewan's north. In that conversation, it is a long and challenging effort to get to that level of employment. However, we do look for opportunities to improve those numbers and work with our northern stakeholders, as we outlined, in relation to training and education opportunities to further those numbers as best we can.

Mr. Robert Sopuck: Have there been any studies done on the socio-economic metrics in communities where there is a fairly high level of employment in the mining industry or the uranium industry? I know that's a little bit outside your wheelhouse, but the conditions in those communities are very important and one does expect when employment levels are high because of mining that the social conditions will have improved.

● (0950)

Mr. Pierre Gratton: You could look at the results of diamond mining activity in the Northwest Territories and look at the acceleration of post-secondary education levels among indigenous people in the north. It's completely tied to the opening of that first mine and ever since. There is a transformation, frankly, taking place in the NWT right now. We are the economic sector of that territory, so it's directly attributed to our contribution. You could look at Voisey's Bay, in Labrador, where today 60% of employment at the mine is indigenous. Ninety per cent of procurement is with indigenous-owned businesses.

Mr. Robert Sopuck: What I would say is shame on those who want to stop these projects.

As my last comment, I'd like to quote from the legal opinion on this act from Osler, Hoskin & Harcourt:

> Despite the Government of Canada's suggestion that the new legislation will improve the efficiency and timing of federal regulatory reviews, there is nothing in the new legislation that will necessarily achieve these results and many aspects of the legislation will likely have the opposite effect....
>
> In conclusion, it is our view that the proposed legislation suffers from the same problem that we have been observing in project regulatory processes for some time. These reviews are becoming forums where all manner of social and environmental issues are expected to be addressed, even when they are beyond the ability of any single project proponent to mitigate.

The Chair: Mr. Sopuck, you're out of time. I just wondered if there was a question in there somewhere, but okay.

Mr. Robert Sopuck: I can make a statement.

The Chair: You did, yes.

Mr. Robert Sopuck: I can. It's parliamentary privilege.

The Chair: Mr. Amos.

Okay, you're giving your spot to Ms. May.

Ms. May, you're up.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Just a very quick spot. If I can go for 45 seconds, and then it can go back to you, Will. Is that okay?

Mr. William Amos (Pontiac, Lib.): My understanding, Ms. May, is we're able to make it so that I go at the end for my full period, and you get a full—

The Chair: I'm going to add a little more time.

You have six minutes. Go right ahead.

Ms. Elizabeth May: Thank you.

I wanted to address my question to the Mining Association of Canada because earlier you used the term "disproportionate" around what had happened to the mining industry under CEAA 2012. I'll say it right out loud so everyone knows. I've been a colleague of Mr. Gratton and Ms. Laurie-Lean for quite some time because we've been on multi-stakeholder panels when I was at the Sierra Club of Canada. We've worked on EA for a while.

How many years have you worked on the EA process in your role as a representative of the mining industry?

Ms. Justyna Laurie-Lean (Vice-President, Environment and Regulatory Affairs, Mining Association of Canada): It's 26 years.

Ms. Elizabeth May: Okay, so you have a lot of experience.

I wanted to ask is that, given your experience, on behalf of the mining industry, interacting with several different iterations of environmental assessment law in Canada.... You've experienced the environmental assessment process up to 2012, under the previous CEAA. You've experienced CEAA 2012. I know you haven't experienced Bill C-69 because it isn't in place yet, but from what you're experienced, Mr. Gratton, which would you say was the form of EA that was fairest and easiest to work with from the point of view of MAC?

Mr. Pierre Gratton: I'll spare the committee from having me breaking into song and singing Cher's *If I Could Turn Back Time*, but there's this collective view within our membership that the best years of environmental assessment were from 2010 to 2012. If the previous government had stopped in 2010, that was when the regime was the most predictable. Most certainly collaboration with the provinces was best, and the projects that went through in that window—which wasn't very long.... That was the heyday of environmental assessment for our sector.

Ms. Elizabeth May: Following up on that, one of the things that were novel...and I think for a lot of people who are looking at Bill C-69, their only experience was with CEAA 2012. It's not to say that they don't have background and experience, but some people are relatively newer to the process than are some of us who have been through this a few times.

Prior to CEAA 2012 there wouldn't have been the problem for your industry of the National Energy Board, the Canadian Nuclear Safety Commission, or the offshore boards having a role. You worked exclusively with one agency. I don't want to answer the question for you, but what is your experience with the energy regulators' introduction to the process?

● (0955)

Mr. Pierre Gratton: Go ahead.

Ms. Justyna Laurie-Lean: It wasn't so much the introduction or non-introduction of the NEB and the CNSC, because they don't affect any of our members' projects other than CNSC for uranium. It was more the introduction of the agency. Prior to 2010 you had the diffuse self-assessment by 40, I think it was, federal authorities. They naturally dragged their heels. They just never started the assessments, whereas the agency, whose job it was do assessments, started the assessments. To us, that was just the best thing ever, that they actually started.

Initially 2012 sounded like it might be an improvement, and we didn't initially see the disproportionate number. I mean, in the first couple of years of CEAA, we were 80% of the projects and we were not 80% of anything.

Ms. Elizabeth May: Please clarify. When you say the first years of CEAA, do you mean...?

Ms. Justyna Laurie-Lean: I mean CEAA 2012.

So that was a shock. But then some of the other provisions weren't evident and what was envisaged at the time of the passing of 2012 wasn't what was implemented. Some of the problems didn't really become evident until 2015 or 2016.

Mr. Pierre Gratton: The obvious one was cumulative effects, and I'll just give you an example. There is a mining project in northeast B.C. that reached a conclusion of significant adverse cumulative effects. As a result of that, a decision by cabinet was required. There was an 18-month delay before cabinet actually ruled and justified the project so it could proceed. The issue had to do with the project, which is an underground coal mine with a very small footprint, and its contribution to the cumulative effects on caribou, and the traditional rights of indigenous peoples to hunt the caribou.

While this was going on, the NEB approved an energy pipeline whose impact on the same habitat was three times the size of this mine, so you had a very different conclusion from two separate federal agencies. No one, and I'm sure the previous government, would ever have anticipated that would be the outcome of CEAA 2012. We did not foresee the cumulative effects and that, being one of the only ones left standing under CEAA 2012, that would be the outcome, but that is what has happened. Among the issues that changes in this proposed legislation will fix will be, we hope, that particular issue.

Ms. Elizabeth May: Thank you. I really appreciate the time from my Liberal colleagues.

Mr. Liam Mooney: Sorry, I just want to make one interjection here. I think we would largely agree with some of the sentiments expressed, but we do have the view within the Canadian Nuclear Association that the introduction in 2012 of a single authority to lead both the assessment and the licensing was a positive change for our industry, because it brought to a head some of the questions that Mr. Gratton was talking about with regard to leading and moving matters forward.

The Chair: Thank you very much.

Normally at this point Ms. Duncan would have three minutes, so I'm quite prepared to add three minutes to yours to give you six. You guys would have six and six and then we would be done. That's adding on an extra short round.

Ms. Duncan.

Ms. Linda Duncan: Thank you. We'll just see how it goes. I may not need it all.

I want to thank Mr. Gratton for his intervention saying that there should also be support for the public, indigenous, and so forth—financial support to participate in the regulatory process. We talk about it for the EIA process but we never talk about the parallel. I would encourage him to write a letter of support for the Canadian Environmental Network, which is seeking restoration of the fund that Mr. Baird cut. It was started in 1979 and it was very helpful because then we had constructive input to industry. I would encourage you to speak to the Canadian Environmental Network. Thank you for your intervention on that.

I think it was the Canadian Electricity Association that raised this issue. They were concerned that there's not enough emphasis in this review on the economic benefits. Surely it's equally important that we also identify the economic costs. For example, some development could impact other sectors, like the fishery, or it could impact the traditional harvest or tourism, or it could cause health impacts through air pollution or contamination of water.

Back in the 1980s, my recollection is that we did a lot of work before review panels, not just on the environmental and economic impact assessment but also on the social impact. For some reason, by the time we got to the mid-1990s, that disappeared. Would you not agree that there probably is a lot of expertise out there that we could just bring back? This isn't something new and different that, when looking at the sustainability of a project, we look at a more broad-based....

Is it not also true that the federal government has an international obligation to deliver on the 2030 sustainable development goals, and this is the mechanism to do that?

● (1000)

Mr. Francis Bradley: Just to preface it, and Terry can talk about some of the specifics, when you're talking specifically about electricity and about the emphasis on costs and impacts, I would just step back and point out that it was noted earlier that, with Canada's greenhouse gas emissions targets, we seem to be stalled, but that's not the case with respect to electricity.

With respect to the electricity sector, over the last 20 years—

Ms. Linda Duncan: That's not what I'm getting to.

Mr. Francis Bradley: That is within the context and Terry will—

Ms. Linda Duncan: The specific concern was raised that they thought Bill C-69 does not have enough emphasis on the economic advantages or benefits.

What I'm asking is this. Should we not be doing a balance? My recollection is that, at every hearing I've been at, we hear lots about the economic benefits. The local county comes in, the local towns, and so forth. Should we not also be hearing about the other side, possible economic costs?

Mr. Terry Toner: In the actual written text of our initial presentation, that section was entitled “Balance”, so balance is what we're hoping to see. We expect, with the wording in the bill and the documents that are prepared around the edges of that—the regulations and so on—that there will be the re-emergence of additional consideration for indigenous, health, and socio-economic. We're concerned that there's not also a bit more information and emphasis on the fact that there are economic benefits in many cases for some of our projects. We expect to see all of those things. We're simply pointing out that it's only mentioned twice in the bill, and we think that others are mentioned in more places.

Ms. Linda Duncan: Maybe I could turn to Mr. Gratton again, because he provided that information about where they have been employing indigenous people in their projects and so forth. Surely it's the job of proponents, in parallel to the review of these projects, to be pursuing economic benefits for the community. Surely that's not just the responsibility of the review agency. It's my impression that, the more work the proponent does up front in working with environmentalists, local communities, and the indigenous people, the better the chances are of getting your project approved and with fewer objections.

Mr. Pierre Gratton: Yes. I could stop there.

You'd be hard-pressed to find an improved mining project over the last 10 years that didn't come with agreements with local indigenous communities. You're right. For our projects today to be successful for a multiplicity of reasons, not just social licence issues and so on, we want to ensure that the indigenous people near our project have full access to the job opportunities and procurement opportunities that our projects will provide. That can't happen automatically. Often, there are education and training needs. Often, there may be needs for support to help them develop new businesses, so that they can actually take advantage of the opportunities we provide.

I would say that our industry has been doing remarkable work over the last 20 years, and I think we keep getting better at it, ensuring that those benefits do occur. I agree with you; if we did nothing, they wouldn't.

I would also make the point, too, that it's not just our job. In terms of education and training, we do provide a lot of support in that area, through impact benefit agreements, but we also often look to provincial and federal governments to supplement that, because that also is government's role.

Mr. Liam Mooney: I want to add that the comment earlier was that the focus seems to be unnecessarily on the adverse effects. Similar to what the CEA had to say in that regard, what we're advocating is that the focus isn't only on the adverse effects but also on the positive socio-economic benefits of the projects in question.

● (1005)

The Chair: Thank you.

Mr. Fast.

Hon. Ed Fast: Madam Chair, I certainly support Mr. Mooney's last comment. There has to be a balance. We have to look at the benefits on the environmental side as well as on the economic side.

Mr. Gratton, in your testimony, you briefly touched on what the industry is doing to address its carbon footprint. I'd like to dig a little deeper into that.

Your industry has taken huge steps forward in making itself cleaner and more efficient. There are a number of different tools that government uses to incent Canadians and Canadian industries to move towards a more sustainable future. They can use technology, carbon taxes, infrastructure investments, regulations, and caps on emissions.

I would love to hear from you a very brief description of where the industry is going in response to some of these environmental challenges, and more specifically, how it's addressing greenhouse gas emissions. Of the tools that government has available, which one has been the most effective in helping your industry reform itself into one that is responsive to the public's environmental concerns?

Mr. Pierre Gratton: That's a complex question.

If you look at our industry trajectory, we're increasingly investing in northern Canada, which is often off-grid. This makes it more expensive, because we also often have to build the infrastructure necessary to support those investments. It also often means we're having to rely on diesel generation, which is a greenhouse gas fuel. Being able to tap into the grid would change our carbon footprint significantly.

Looking forward, in terms of the future of the mining industry in this country, probably the single most important thing that could be done is to invest in new electric-generating infrastructure in Canada's north. It's not just something that would benefit our sector. Indigenous communities across the north themselves are diesel-dependent, and it's not the most reliable form of electricity. There are environmental issues associated with it, and it can break down. I'm sure that every member of this committee is aware of these issues.

Investing in infrastructure, particularly in Canada's north, would make the most significant contribution to our ability to continue generating a contribution to Canada and to our northern indigenous communities, and would also at the same time make a real contribution to reducing Canada's greenhouse gases.

Hon. Ed Fast: I cede my time to Mr. Sopuck.

Mr. Robert Sopuck: Mr. Gratton, regarding the investment that Canada is not getting because of our “toxic regulatory environment”, can you estimate how much is not coming to Canada because of this environment, among other things?

I'll preface that by saying there's an article here entitled “Pipeline shortage to cost the economy $15.6 billion this year”. The oil industry has done the math, and I'm wondering if the mining industry has done similar math.

Mr. Pierre Gratton: We have seen investment projections. Now, you have to put this in a certain amount of context. We are coming out of a down cycle, so some of it is explained by that and certain plans were shelved, but we are looking at about a 60% reduction in proposed projects and we have seen exploration expenditures halved over the last six years. In saying that, I know that there's a tendency for this chamber to point fingers, but it started six years ago and it just hasn't stopped.

My plea to all of you, my concern, is the politicization of natural resources in this country. Something that Canada is known around the world for being the best in is harming our future. I would implore all of you to think about where this is taking us as a country and the kind of risk that we're putting Canada in by politicizing our natural resource industries. We are really good at this. We have improved considerably. Just last week, Environment Canada released a report on air quality that shows how much better our air is and it was in large part because of how our industry and the chemicals industry has improved their emissions controls. That's the direction. We need to stand up for these sectors a bit more in this country.

● (1010)

Mr. Robert Sopuck: I defy anybody to find an instance where the Conservative Party said negative things about Canada's natural resource industries. I'll leave the other parties to make their own statements there.

If I have a bit of time—

The Chair: You have 10 seconds.

Mr. Robert Sopuck: I'm good.

The Chair: Thank you.

The last questioner is Mr. Amos.

Mr. William Amos: Thank you, Madam Chair.

Thank you, member Sopuck, for that breathless partisanship. I'm flabbergasted by the politicized contributions. If Canada has a toxic regulatory environment, we're emerging from 10 years of Conservative governance. You speak to polluter pays. Clearly, the polluter pays principle applies in a political context as well and thank goodness that we have a new government.

Thank you to all of you. This has actually been really helpful. However, I'd like to invite our witness from the Mining Association, Mr. Gratton, to speak to the mining sector's experience of a loss of public trust. How has the past decade or so changed, in terms of the public trust component of average Canadians, many of whom don't really experience the mining sector. They don't understand it and they don't know it.

How has their trust in regulatory institutions been affected?

Mr. Pierre Gratton: The mining sector invented the term “social licence” and a lot of people are angry at us for that, but we recognized, some 20 years ago, that our future required us to make sure that we had community support. As a result, we put in place a program called “Towards Sustainable Mining” that is now being exported and adopted by other countries around the world. It has, as its fundamental goal, making sure that the industry works closely with communities and engages them openly and transparently. As a result of that, I think that the polarization around mining projects in Canada has largely diminished.

If you look at project reviews around mining projects over of the past 15 years, you could count on one hand the number that have been controversial or that have generated public opposition. I would add that those examples were rejected, which would speak to, at least at one level—though I may not have agreed with those decisions—an example of how the regulatory system for mining actually works.

As a sector, I think that how we feel, in part, is that the politicization of natural resources, particularly the spillover effects of the controversies around pipelines, has had an affect on the rest of us. I think that if people are asking questions about Canada's investment, a place to invest, they're not looking at the fact that most mining projects have gone through the process and come out the other side and been approved and come with indigenous agreements etc. They just see a cloud hanging over Canada.

That's why I'm urging all of you to think about the harm that this is doing to this country and that we need to depoliticize—all of you—how we are dealing with our natural resource sectors because it's harming everyone.

Mr. William Amos: Thank you. That's helpful, and in that vein of depoliticizing, I will go strictly to substance on an interesting issue raised by the electricity association around a privative clause. As far as I'm aware, your association is the only one to have advanced this proposal formally, and as someone who has operated in the legal field for some time on natural resources and environmental issues, I'm curious about it.

I'm curious about the suggestion both from the industry side and from the public interest community side, because it would seem to me that the opening of a privative clause that would restrict the involvement of the judiciary in an oversight role over the executive decision-making pursuant to an impact assessment process would potentially not only limit a given community or special interest group's ability to bring into question the quality of the decision or the actual following of particular steps that are legally required, but, on the other hand, could also impact industry to the extent that if a company or an industry association that felt like a particular project didn't get a fair shake, potentially because it was heavily politicized, such a process would then not be as effectively challengeable—

● (1015)

The Chair: You have one minute, Will.

Mr. William Amos: I would invite you to comment on that, because I'm not certain that I would agree with the privative clause idea.

Mr. Terry Toner: We would have introduced the notion not as an exclusive item. I'm not a lawyer, but I think we would say that a lot of controversial issues are being raised. This is going to create a much more open process where a lot of that is going to get discussed. At some point, elected officials, the minister or the Governor in Council, at the end of that process, is going to make a determination. All we're saying is that process is going to be fulsome and lengthy, and when we get to the end of it, there should be very rare occasions where that needs to be questioned.

From an industry point of view, we don't often take that kind of decision to court. We have the ability to decide that we're not going to build the project, so it's a notion as opposed to an absolute.

The Chair: I am going to end it there.

I want to thank our guests very much for a good discussion with lots of good information for us to consider. I saw fingers go up when you wanted to chime in on one of the questions, but you didn't have the opportunity, because our time is limited. We welcome any further comments and suggestions you have. If you have answers to those questions you didn't get to tell us, and you want to, please send them. We are open to receiving that until April 6, so please send us whatever you have and we will be able to consider that in time to start bringing forward recommended changes.

Thanks again.

[*Proceedings continue in camera*]