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

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**EVIDENCE**

**Tuesday, February 23, 2016**

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**Chair**

**Mrs. Deborah Schulte**



# Standing Committee on Environment and Sustainable Development

Tuesday, February 23, 2016

•(1100)

[English]

**The Chair (Mrs. Deborah Schulte (King—Vaughan, Lib.)):** Welcome, everybody, and thank you all very much for being here on time.

I welcome our four wonderful guests who are going to be speaking with us.

We have 10 minutes for the commissioner and her team. I'm going to them: Andrew Ferguson, Kimberley Leach, and Joe Martire.

We'll start with Ms. Gelfand.

Go ahead, please. Thank you.

**Ms. Julie Gelfand (Commissioner, Office of the Commissioner of the Environment and Sustainable Development):** Madam Chair, thank you so much for inviting us. I was just saying to Mr. Cullen that we have done a lot of audits in the last 20 years and we have a lot of expertise that will hopefully help the committee, so please feel completely free to call upon us at any time. Our job is to serve parliamentarians. We enjoy doing this and would like to be at your service in whatever way we can.

I'm pleased to be here today to present the findings of my fall 2015 reports, which were tabled in the House of Commons on January 26. I'm accompanied by Andrew, Kim, and Joe, and they were responsible for the actual reports.

The first audit we looked at examined how the Pest Management Regulatory Agency has managed selected aspects of its mandate. The agency is tasked with determining which pesticide products should be registered for use in Canada and under which conditions. There are currently 7,000 pesticides containing some 600 active ingredients available in the Canadian marketplace.

[Translation]

The agency is required to re-evaluate the safety of registered pesticides every 15 years. Ninety-five per cent of the agency's re-evaluations have resulted in additional precautions to protect human health or the environment.

During the period under audit, the agency completed some 14 re-evaluations per year. At the end of our audit, more than six times that number remained incomplete. With more re-evaluations due to start each year, the agency needs to quicken its pace to prevent unacceptable risks to people and the environment from the unsafe use of pesticide products.

I am also concerned that it took the agency an average of five years—and up to eleven years—to remove some pesticides from the market when it determined that they posed unacceptable risks for all uses.

•(1105)

[English]

The Pest Management Regulatory Agency may grant a conditional registration when it finds it needs more information to confirm its assessment of a product's value and of the risks to human health or the environment. During the time a pesticide is conditionally registered, it can be bought and used, and other products containing the same active ingredient may also be marketed.

We found that nine products remained conditionally registered for more than a decade. Eight of these belong to the neonicotinoid class of pesticides. These products continue to be used extensively in Canada despite widespread concern that they may pose a threat to bees, other pollinators, and broader ecosystems. We did note that the agency announced it will no longer grant conditional registrations starting June 1 of this year.

Our second audit examined the National Energy Board's oversight of federally regulated pipelines. The energy board sets the requirements that companies must satisfy to ensure the safe operation of some 73,000 kilometres of pipelines that are used to transport oil and gas to customers in Canada and abroad.

Our audit concluded that the board did not adequately track companies' implementation of pipeline approval conditions, and that it was not consistently following up on company deficiencies. We found that the board's tracking systems were outdated and inefficient.

[Translation]

We also concluded that the National Energy Board is facing ongoing challenges to recruit and retain specialists in pipeline integrity and regulatory compliance.

With the anticipated increase of pipeline capacity and the coming into force of the Pipeline Safety Act by June 2016, it is clear that the National Energy Board needs to do more to keep pace with the rapidly changing context in which it is operating.

Our final audit examined selected departments' progress in meeting the commitments made in their sustainable development strategies to strengthen their strategic environmental assessment practices.

Cabinet has required, since 1990, that 26 government departments and agencies carry out strategic environmental assessments of the proposed programs and policies they submit to ministers when implementation could have important positive or negative impacts on the environment.

• (1110)

[English]

In our 2015 audit we found that the current cabinet directive was applied to only five of the more than 1,700 proposals submitted to the ministers responsible for Agriculture Canada, the Canada Revenue Agency, Canadian Heritage, and the Department of Fisheries and Oceans.

This means, for example, that no information about potentially important environmental effects was provided to support the proposal for the 2015 Pan American and Parapan American Games. Similarly, the cabinet directive was not applied to the proposed transfer for the purposes of building a hospital on 60 acres of land of designated historical importance.

We also presented parliamentarians with our annual report on environmental petitions. These petitions are important mechanisms created by Parliament as a way for Canadians to get answers from federal ministers to their questions relating to the environment and sustainable development.

[Translation]

Our office received 15 environmental petitions on a range of topics, including the transport of hazardous substances and concerns about human and environmental health. In 97% of cases, departments and agencies provided their responses within the 120-day statutory deadline. Overall, these responses were complete and relevant.

Past petitions have prompted such action by federal departments as new environmental projects, follow-up on alleged violations, and changes or clarifications in policies and practices. I encourage all Canadians to use this important mechanism.

[English]

Finally, as you know, we provide Parliament with information that can be used by parliamentary committees when they conduct hearings on our reports or on audit-related topics. To help you in this capacity I've attached to my opening statement a list of questions you may wish to ask department officials should such hearings take place.

I hope you will find this information useful. It was another member of Parliament who indicated to me in the past that these questions were very helpful to them.

Madam Chair, that concludes my opening remarks. We are happy to answer any questions you may have.

[Translation]

Thank you.

[English]

**The Chair:** Is there anyone else speaking?

**Ms. Julie Gelfand:** No.

**The Chair:** We are open for questions now.

Mr. Fast.

**Hon. Ed Fast (Abbotsford, CPC):** Thank you.

Thank you, Commissioner, for appearing before us. The information you've provided was very helpful.

Can you, first of all, explain to us how you actually conduct these audits, especially as they relate to pipeline monitoring and making sure conditions are followed up on? Are you actually choosing specific pipeline projects, either on a spot-audit basis or otherwise, or did you just do a general review of the processes within the NEB to determine exactly how that takes place?

**Ms. Julie Gelfand:** What we looked at were all the approval conditions from a period, I believe, of about 14 years. The population was about 1,049 pipeline conditions. We have in the Office of the Auditor General...a statistical genius is what I want to call him. I don't know exactly what his title is, but he can come in and tell us whether or not we're picking random samples, statistically significant samples, etc. He helped us design and pick a random sample of 49 conditions—randomly selected and considered as a representative sample. We then asked the National Energy Board to provide us with information on the status of those conditions.

**Hon. Ed Fast:** All right.

I'm looking at the actual conclusions that you set out in your report. One, of course, was that the board was not adequately tracking company implementation of pipeline approval conditions or consistently following up on deficiencies in company compliance.

Then there was a concern about the information management systems that were used for those purposes. Are those tracking systems, which you suggest were outdated and inefficient—we're not challenging that at all—directly related to the shortcomings of the tracking and follow-up on company deficiencies?

**Ms. Julie Gelfand:** In some cases, yes, the tracking system was part of the problem. In other cases, though, it wasn't just the tracking system. The tracking system was part of the reason why they couldn't give us the information they needed to, but in some cases you could not say it was the tracking system. They were missing documents for 10 years. A study was supposed to be prepared for the NEB. When we asked about it, they didn't know about it. It was 10 years late. That wasn't because of the tracking system.

Some of it is related to the tracking system and some of it is not.

**Hon. Ed Fast:** The board was able to demonstrate, through a manual record search, that most of the conditions and the corrective actions that were required were actually followed up on. Is that correct?

**Ms. Julie Gelfand:** Yes. In fact, the way somebody once put it, while the NEB can't track it very well, the companies are actually probably doing a great job.

Remember as well, though, that the companies would submit information to the NEB, and possibly because of the tracking system, they didn't always know if they were compliant or not; the NEB didn't get back to them in certain situations.

It's not a cut-and-dried "this is terrible and this is great". It's a situation where half of the time everything was tracked well, where everything was done well, and half of the time it wasn't. In some cases it was simply that they didn't tick a box. In other cases, it went all the way to their not knowing they were missing a document that was due 10 years ago.

● (1115)

**Hon. Ed Fast:** You referenced manual records. I'm making the assumption, and I think it's correct, that the NEB needs to drag its data management process into the 21st century and make sure that we have modern technology available to help a limited number of staff do the tracking that's required.

**Ms. Julie Gelfand:** I 100% agree, and I believe the NEB would agree with that as well. They're aware that their tracking system, their computer system, is outdated. In a couple of instances, they have already indicated that they would try to resolve that issue. It is absolutely something that the NEB would agree with and that I would agree with.

**Hon. Ed Fast:** Okay.

Can you actually say, from your audit, that pipeline safety was actually compromised as a result of some of the deficiencies you've identified?

**Ms. Julie Gelfand:** I can tell you that I worked in the mining sector for several years, and safety is a big question. It is not one thing. Walking out my front door can be safe some days, and other days walking out my front door is not safe. Safety is about culture. Safety is about how people act amongst each other. Are you interdependent or dependent?

We cannot, in our audit, tell you.... We cannot claim, either way, safety or not safety based on our audit. Safety is a much bigger slice. Our audit cannot be conclusive on that.

**Hon. Ed Fast:** But you were able to conclude that the companies themselves appear, in most cases, to have been following up to address the conditions and the deficiencies that had been identified. Is that correct?

**Ms. Julie Gelfand:** In most cases, yes.

**Hon. Ed Fast:** Thank you.

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

Mr. Amos.

**Mr. William Amos (Pontiac, Lib.):** Thank you.

Thank you, Ms. Gelfand, for a great presentation and for your entire team's diligence in pursuing the work that the commissioner pursues. I know it's very challenging, it's rigorous, and you guys are recognized across the world for doing this kind of work.

The audit of the PMRA is pretty damning. There's no way around that. The facts speak for themselves. It points to the fact that Canadians are at risk from pesticide use.

Would you say that's a fair statement?

**Ms. Julie Gelfand:** I would say that when PMRA re-evaluates the pesticides, we know that in 95% of the cases additional measures are required to protect human health or the environment. Because we still have a backlog of over 80 pesticides that have not been re-

evaluated in a timely manner, we would have to say that there is a risk to human health and/or the environment, based on those two pieces of information. There is some risk.

**Mr. William Amos:** You acknowledge in your presentation that Health Canada, Minister Philpott, has made a decision announcing that it will stop issuing new conditional registrations. In your opinion, is that a positive development?

**Ms. Julie Gelfand:** Conditional registrations were used for PMRA to get confirmatory information. They needed additional information, but they felt they had enough information to conditionally register, so temporarily register. They wanted additional information. I would say it created a bit of confusion on the part of the public, the conditional registrations. But I think it's too soon to tell whether it will be of benefit or not. There could be a negative to not having conditionals if we're approving pesticides before we have all the information we need.

The conditional registrations did create confusion, and created an opportunity for pesticides that hadn't received final okay to be in circulation and to be used for 10 or, the last time we audited, 20 years.

● (1120)

**Mr. William Amos:** That's my understanding. It would be impossible for us to presume that PMRA would allow the full registration of products without having full information, in terms of seeing the removal of this conditional approach as being a potential danger. My sense is that this measure is a direct response to the audit that you conducted. Would you suggest this is the case?

**Ms. Julie Gelfand:** I would agree. I know PMRA had been thinking about removing the conditionals for a little while, but we've audited this issue several times and each time we've found pesticides that have been conditionally registered, which is okay, but for two decades, for more than five years, for 10 years? How long do we keep a pesticide in this status, where we think it's okay but we're not 100% sure and we're still waiting for data? That probably increases the risk.

**Mr. William Amos:** It seems to run counter to the precautionary principle. The commissioner's audits in 2003 and 2008 criticize the PMRA for using lengthy conditional registrations that permitted pesticides to be used without confirming one or more aspects of their risk or value. Would you agree that created a situation that allowed users to become dependent on a pesticide that might ultimately be found to be unsafe?

**Ms. Julie Gelfand:** Yes.

**Mr. William Amos:** Do you have any thoughts or recommendations on what should be done about the pest control products that are conditionally registered now?

**Ms. Julie Gelfand:** I think that's a great question to ask PMRA. What are they going to do with the ones that are out there now?

**Mr. William Amos:** That's on the record then as a follow-up for us.

I know you're not in the business of policy recommendations, but you can't fault me for trying.

I'm wondering if you have recommendations or thoughts with respect to changes to the regulations that have enabled conditional registrations to ensure the PMRA's commitment is permanent.

**Ms. Julie Gelfand:** Could you repeat the question?

**Mr. William Amos:** With respect to changes to the regs that have enabled conditional registrations, in order to ensure that the commitment is made permanent.... How can we make sure that there can be no future conditional registrations?

**Ms. Julie Gelfand:** That would be a question for parliamentarians to make a decision on as opposed to the commissioner.

**Mr. William Amos:** I think my time is up.

**The Chair:** Thanks very much.

Mr. Cullen.

**Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP):** Thank you, Chair.

Thank you, Commissioner, and thanks to your team.

Let me get to the NEB for a moment. How important is it that the public has confidence in the regulator over these pipelines? Is public confidence important in a regulator?

**Ms. Julie Gelfand:** I think it's a generally accepted—I was going to say philosophy, but that's not the right word; I'm thinking in French. It's generally accepted that most people would like to have confidence in the regulator.

**Mr. Nathan Cullen:** I'm wondering, if we had a regulator, say of airline safety, and an auditor came in and found that their tracking system for safety was outdated and inadequate, what kind of confidence would that inspire in the travelling public to get on board an airplane?

**Ms. Julie Gelfand:** I didn't audit that, so it's difficult for me to respond to that.

**Mr. Nathan Cullen:** A philosophy that's based in your audit and the way that a regulator works is that the burden of proof is not on the public to prove a pipeline is unsafe. The burden of proof is on the proponent to prove that it is safe. Is that fair?

**Ms. Julie Gelfand:** It's the regulator who would decide ultimately if the approval condition or the deficiency that has been identified, the safety regulation, is being properly followed.

• (1125)

**Mr. Nathan Cullen:** In order to build the pipelines when the government issues a permit, those conditions that you talk about are placed upon it. They're not optional conditions. Is that correct?

**Ms. Julie Gelfand:** That's correct.

**Mr. Nathan Cullen:** In order to have the licence to build and operate a pipeline, you need to meet those conditions.

**Ms. Julie Gelfand:** Yes.

**Mr. Nathan Cullen:** In half the cases that you looked at, the regulator had no idea if those conditions were being met.

**Ms. Julie Gelfand:** That is correct. In half of them they were able to tell us.

**Mr. Nathan Cullen:** If 50% got us through school, that would be great, but it seems like a very low bar.

What I'm tracking back to is that when we see accidents happen, significant accidents happen, and then there's an audit of sorts that comes in after the fact.... I'm thinking the gulf spill; I'm thinking Kalamazoo. One of the things that is consistently pointed out is that there were conditions placed upon the company that the company simply didn't meet. If the regulator doesn't track those conditions, does this not set us up for future accidents, so-called accidents?

**Ms. Julie Gelfand:** Our audit looked at whether or not the companies were tracking their approval conditions and whether or not they were following up on company deficiencies, and we found that in 50% of the cases they were and in 50% of the cases they were not. Regarding the cases where they were not, it was everything from the company corrective action not being provided, to the board not following up to tell the company that it was doing the right thing, to no final conclusion by the board as to whether or not they had met the deficiency, to missing documents. It definitely is a concern when the regulator is not able to satisfy the auditor that they are properly tracking, and it potentially does increase the risk.

**Mr. Nathan Cullen:** Right. Not only does it increase the risk, it decreases the confidence. Confidence in all of these conversations is important because the risk is real when transporting material over long distances, over waterways and things that people care about.

I want to move over to pesticides just for a moment. I've tried to understand through reading your audit whether it is still possible or even likely that there are harmful products that are being sold to Canadians without the knowledge of the seller or the consumer. Is that a scenario that is still possible today? These conditional registrations, these nine products that have been sitting out there waiting.... You noted in your audit in several cases that harmful products were still being conditionally kicked down the road.

**Ms. Julie Gelfand:** The answer is yes.

**Mr. Nathan Cullen:** Okay.

Just to step back just for a moment, on this question of confidence and the question of tracking the companies' performances on pipelines, have any of the new conditional interim measures that the government has brought forward addressed your concerns around that tracking?

**Ms. Julie Gelfand:** We haven't audited that yet, so that will be the next one.

**Mr. Nathan Cullen:** Great.

I'd like just a quick answer on the sustainable development strategy. Five out of 1,700 cases were actually performed. That doesn't sound like it has been important to anybody in the administration of government over these last two decades or that sustainable development and the reporting on it is important at all.

**Ms. Julie Gelfand:** Remember that this was a cabinet directive on strategic environmental assessment.

Most people know about environmental assessment when it comes to projects. If you're going to build a mine, you have to do an environmental assessment. This tool was to talk about policies, programs, things like—I don't know—the budget, things that are happening within government.

**Mr. Nathan Cullen:** To see it through a green lens, an environmental lens—

**Ms. Julie Gelfand:** Right. It was to not just look at the social and the economic, but also to look at the environmental implications. We found that this tool of strategic environmental assessment was used in five out of 1,700 proposals that went to ministers. It was much better when it went to cabinet, in that 110 out of 250 proposals that went to cabinet looked at this.

**Mr. Nathan Cullen:** For decades now, the idea was that when bringing policies forward through the administration of government, we were going to look through this environmental lens and ask that question. In only five out of 1,700 cases was that question asked.

**Ms. Julie Gelfand:** That's correct.

**Mr. Nathan Cullen:** Okay. That's a pretty low bar. We hope the new guys have a better chance at that.

Thank you very much for the time.

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

Mr. Bossio.

**Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.):** Thank you. I have one question.

Thank you very much, Commissioner Gelfand, to you and your staff for being here. We very much appreciate your coming forward with this great report and also all the work that you consistently do.

In this report, there seems to be a common theme, whether it's on the pesticide side, whether it's on the pipeline side, or whether it's in past areas as well in studying different departments. We heard from CEAA last week as well. There's a common thread of being under-resourced. I'm wondering if you identified that as one of the root causes of a lot of the deficiencies that you've outlined and characterized in your report.

• (1130)

**Ms. Julie Gelfand:** When either the Auditor General or the commissioner goes in to audit almost any department, one of the classic things that everybody will tell you is that they don't have enough resources. It doesn't matter where you go in what area of government, or whichever thing you're looking at, they will all say that they don't have enough resources.

Because of that, in our audits we tend to try to go beyond that and try to help the departments with our recommendations. We try to figure out how they can do it within the existing budget envelope.

It's almost too easy an answer to say that they need more resources, because they would always say it. Every department that you go to and ask how they're doing will say, "Well, we could use...." I mean, I could say it. We could use more resources.

We can all say it, so we tend to not go in that area as much, unless it's obvious. Unless it's really big, in most cases we won't go there, and we'll try to help them come up with other ways to figure out how to achieve their mandates.

**Mr. Mike Bossio:** But at the same time, it does seem to be a common theme throughout, given that in the monitoring, the enforcement, and the research aspects of it, every single one of them has identified the trend that these things are becoming more onerous and are not being fulfilled as a mandate. Would you agree with that?

**Ms. Julie Gelfand:** That's a pretty hard.... That's a bit too broad for me to agree or disagree. Again, every department, every part of government, would claim that it needs more resources, so we try to look at everything else other than that issue, unless it's flagrantly the issue.

**Mr. Mike Bossio:** Thank you.

I'd like to pass this over to my colleague Darren.

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

Thank you very much, Commissioner.

What is a concern to me is the issue of apparent communication or the lack thereof when you're talking about the updating and the briefing of ministers and the cabinet directive. I see this as something that's absolutely imperative, and it shocks me.

I don't know whether.... You spoke about resources. I don't know if it's the lack of resources or a directive from somebody else or some other office, but isn't it absolutely imperative that the cabinet ministers are told and that there's clarity on what is an important environmental effect?

That's the thing that jumped out at me when I was reading these notes. I was thinking, "Really? We have this occurring every day where we have no communication or briefings or updates of the ministers on what could be an environmental impact in our country?"

**Ms. Julie Gelfand:** In our audits, we've been looking at this for several years. We are going through every department to see how well they're doing on this, so you'll hear about another four or five departments next year until we've done all of them.

Generally, we have found that this cabinet directive is not being followed when proposals go to ministers, even when there's good news. There have been some "good news" stories. The Canada Revenue Agency, through changing something in the tax code, has saved 18 million pieces of paper a year, and nobody even celebrates that. There are positive environmental effects that are not being communicated as well as negative environmental effects.

I would absolutely agree that the tool is really important. I bring up the example of trying to decide whether you should put solar panels up on your house. Most people, when they're making that decision, are looking at the economics. What's the payback and how long will I live in this house? The second thing they're going to think of is what to do when it's not sunny. How is my family going to get on the Internet or use the fridge if there's no sun? What's the social impact? You also hope that everybody is thinking about their carbon footprint and what it means, and including that when they're trying to make that decision.

In the past, most decisions have been made looking at social and economic aspects and not thinking about environmental aspects. The whole purpose of environment and sustainable development is to bring in that environmental lens. It doesn't mean you make the decision based on environmental aspects, but they are given the same weight as the social, environmental, and economic aspects.

We will continue to look at this year after year.

• (1135)

**Mr. Darren Fisher:** Thank you very much, Madam Chair.

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

We are now entering into our second round of questioning. We were going to go to Mr. Amos, but I know that Mr. Gerretsen wants to speak.

Just to be clear, we have a very short first panel, until 11:45, and then we will change the group talking to us and start again.

**Ms. Julie Gelfand:** You can use all those questions that I gave you.

**The Chair:** We have the list.

Go ahead.

**Mr. Mark Gerretsen (Kingston and the Islands, Lib.):** Thank you very much, Madam Chair.

I'm going to pick up on what we were just talking about on sustainable development and implementation. I liked your example of the solar panels and the three different things that people consider.

However, my sense is that the third one, the environmental impact, is not so much a variable that helps people with the decision process as it is something that makes people feel good about what they're doing. You have the economic one, you have the social part of it, and then you say, "And by doing this, I'm doing something good for the environment." I don't think it's necessarily a breaking point or a tipping point, but it makes people feel good about what they're doing.

I think this speaks to the underlying culture, and that's something you brought up earlier about culture and how things are done. To be fair to Mr. Cullen's point about only seven of the 1,500, I think you hit the nail on the head when you talked about the fact that... I'm by no means trying to defend any government over the past 20 or 25 years. I think it's more about the fact that the culture isn't there to bring this forward and to make people want to celebrate it.

My question is about how we change the culture, which I know is a very difficult thing, so that people start defaulting to that, so that people start saying we have to look at it through this lens. What's

your recommendation on that? Seven out of 1,500—these are just the times when people actually took the time to record the fact that it was happening. How do we start to make a change in the culture so that it becomes a default that people go to?

**Ms. Julie Gelfand:** Right now the tool you have in front of you is a cabinet directive. You could strengthen that cabinet directive and make it a rule or a regulation. There are ways that the lawyers in the group—and I'm looking at Mr. Amos—could help us figure out how to make it so that you must do it. Right now you must do it, but it doesn't get done.

**Mr. Mark Gerretsen:** It doesn't have the teeth.

**Ms. Julie Gelfand:** Everybody has to demand it as well. Ministers have to ask. The cabinet has to ask. PCO has to enforce it. There are a variety of ways that this could be done.

**Mr. Mark Gerretsen:** I'll talk to some of them.

I'm just going to switch to the pipelines for a second. You have noted one observation here that really stands out for me. I'm going to read it, because I think it's worth repeating. "Our audit concluded that the board did not adequately track companies' implementation of pipeline approval conditions, and that it was not consistently following up on company deficiencies. We found that the board's tracking systems were outdated and inefficient."

This is what the board is for. How many audits have you done?

**Ms. Julie Gelfand:** Do you mean how many have I personally done?

**Mr. Mark Gerretsen:** Yes.

**Ms. Julie Gelfand:** I'm in the second year of my mandate, and these three are the first ones I've commissioned.

**Mr. Mark Gerretsen:** On a scale of one to 10, how alarming is that to you?

I'm trying to get a sense of that. That seems like a pretty big deal to me. That's what the board is there to do.

**Ms. Julie Gelfand:** I'm appointed by the Auditor General, who provides me with advice. His reaction was that the NEB was not doing its job.

**Mr. Mark Gerretsen:** I think I still have just over two minutes. I'll turn the rest over to Mr. Amos.

**Mr. William Amos:** Thank you.

That's a great line of questioning by my colleague. I appreciate the suggestion that we bring the cabinet directive on strategic and environmental assessments to a broader level around environmental assessment performances. It's a well-known fact that several mandate letters suggest we're going to go in that direction.

Just to quickly bring you back for a couple of further comments around special reviews and the PMRA. Your report examined the agency's approach to these special reviews. Can we just quickly confirm the period of the behaviour over which your audit took place?



We're a new government, so we're trying to evaluate if this was behaviour that took place in the last five years, eight years, 10 years.

• (1140)

**Ms. Julie Gelfand:** It was the last five years.

**Mr. William Amos:** Okay, so we're walking into an opportunity to fix the situation.

You noted in your report that it took court proceedings to get the PMRA to initiate 23 special reviews in 2013 of the active ingredients used in hundreds of pesticides that are banned in Europe for a variety of health and environmental reasons.

I wonder if you could comment on the fact that, as you noted, 15 of the 23 special reviews were previously requested in 2006 and wrongly denied. That was your assessment.

**Ms. Julie Gelfand:** That's a very technical question. I'm going to pass it over to Andrew.

**Mr. Andrew Ferguson (Principal, Office of the Commissioner of the Environment and Sustainable Development):** I think there was some confusion within the agency as to whether they're cyclical reviews. The 15-year reviews would be an adequate substitute for a special review.

Many of the pesticides they decided not to conduct special reviews on were either planned to be or in the process of being subjected to that thorough a 15-year cyclical review. The courts ruled that this review did not substitute for a special review and the order was to proceed with special reviews, which are more narrowly focused on specific issues than the broader review.

**Mr. William Amos:** Thanks.

Are there any broad comments around the need to establish a culture of precaution within the PMRA?

**Ms. Julie Gelfand:** Again, it's difficult for me to comment when we don't audit. I guess generally, the precautionary principle probably needs to be infused throughout the culture everywhere.

**The Chair:** Sorry to cut you off.

I appreciate that.

Mr. Eglinski.

**Mr. Jim Eglinski (Yellowhead, CPC):** Thank you.

I'd like to go back to the National Energy Board and tracking compliance. I was quite interested in your comments about the 50% done and the 50% not done. We could criticize or we could have some questions.

First, of the 50% they did track, and during your audit, was there any clear picture of companies not complying with the policies and procedures as they went ahead with their projects?

Second, following through the discussion of everybody needing more people in their departments, can part of the assumption be, because they only got 50% done, they are having a hard time in that department recruiting personnel with the expertise to do that type work in the field? Government is always competing against industry, and industry is always paying larger amounts of money for those people. I'm wondering if that was indicated in part of your review, if you saw some trends that way.

**Ms. Julie Gelfand:** I can answer the second one quite easily. I might need you to repeat the first part.

We noted in our audit that human capacity was an issue for the NEB. They're having difficulty attracting, recruiting, and retaining specialized staff. They are located in Calgary, they are competing with the private sector, and that makes it quite difficult.

We've made recommendations that they may need to negotiate special dispensation with Treasury Board to be able to compete more equally with the competition. Right now, the competition is probably not that high and they probably can recruit and retain. But when the commodity cycle is different, they have a much bigger problem.

Could you repeat your first question?

**Mr. Jim Eglinski:** Of the cases the NEB reviewed through its process, and had time to do, did you look at any of those files that it reviewed or inspected, regulatory or whatever? Were there any indications—of the ones that it did do, the 50%—that there was a clear violation by industry out there? Or was industry following good practices in safety and following and complying with the regulatory procedure?

**Ms. Julie Gelfand:** It was quite clear that industry was complying. The fall-down was that companies would send in documents to say how they were going to comply with a deficiency, and they would hear nothing. They wouldn't know whether things were good, whether everything was A-okay, or whether they were still not in compliance. They were waiting for the NEB to get back to them so that they would know. But it was pretty clear to us in the audit that the companies were doing their jobs. It was the NEB that wasn't properly tracking it and getting back to them.

• (1145)

**Mr. Jim Eglinski:** What were the companies doing, waiting or continuing on in the process?

**Ms. Julie Gelfand:** They were continuing on. They were just operating.

**Mr. Jim Eglinski:** Okay, thank you.

**The Chair:** You have loads of time. You have another two and a half minutes.

**Ms. Julie Gelfand:** Just to be clear, we didn't audit the companies. We were only auditing the regulator.

**Mr. Jim Eglinski:** Okay.

**Mr. Mark Gerretsen:** I'll take the rest of his time.

**Voices:** Oh, oh!

**The Chair:** We are a little over and we do have a very full—

**Hon. Ed Fast:** We'll take our questions.

**The Chair:** That's fine. You go right ahead.

**Hon. Ed Fast:** I'm pleased to hear that the corporate sector that's involved in pipeline construction, pipeline management, and pipeline maintenance is actually complying. Going forward, in terms of the resourcing, right now because of the downturn in oil prices, my guess is that it will be easier to recruit the kinds of people that are required to do this work. Did you say 50% of the conditions you reviewed were not being followed up?

**Ms. Julie Gelfand:** They were not being properly tracked by the

**Hon. Ed Fast:** They were not being properly tracked. Okay, that doesn't mean they weren't being followed up in some way. Is that correct?

**Ms. Julie Gelfand:** They could not tell us whether or not the approval condition had been met.

**Hon. Ed Fast:** They couldn't tell you that because of what? Was it resourcing or data management processes?

**Ms. Julie Gelfand:** Those two are part of the reason, yes.

**Hon. Ed Fast:** Okay. It does sound to me as if they are under-resourced and they do need to bring their operations into the 21st century, so that they're more efficient in following up on this.

**Ms. Julie Gelfand:** They're here today and you can ask them that.

**Hon. Ed Fast:** We may very well do that.

Thank you very much.

**The Chair:** Thank you to all you. That was excellent.

We're going to suspend for a minute just to get the people on the other panel in place. We'll just take one minute, because we really don't have a lot of time.

• (1145)

(Pause)

• (1145)

**The Chair:** Thank you very much for getting into position so quickly.

I want to recognize quite a few people who have come forward to meet with us today. I'm just trying to think who's here. You're spread all around, so why don't I just read the list and then you can let us know who's going to be talking.

We have, from the Department of Health, Paul Glover and Richard Aucoin; from the National Energy Board, Sandy Lapointe, Josée Touchette, and Robert Steedman; from the Department of Natural Resources, Jeff Labonté; from the Department of Agriculture and Agri-Food, Greg Meredith; from the Department of Canadian Heritage, Jérôme Moisan; from the Canada Revenue Agency, Yves Giroux; and from the Department of Fisheries and Oceans, Tom Rosser.

We're going to start with the Department of Health, Paul Glover. Thank you very much.

• (1150)

**Mr. Paul Glover (Associate Deputy Minister, Department of Health):** Thank you, Madam Chair. I have to say I'm not used to being on this side of the table. I'm used to the end.

**The Chair:** Yes, there are a lot of you at the table.

**Mr. Paul Glover:** This is a little unusual, but bear with me.

[*Translation*]

Thank you for this invitation.

• (1155)

[*English*]

I'm really happy to be here today to tell you what we're doing in response to the commissioner's report on pesticides. I have just a few brief remarks given the report, its tone. I wanted to share with you a number of critical facts.

The Pest Management Regulatory Agency, as you know, has a responsibility to protect both health and the environment as it relates to pesticides. A bit of information with respect to our performance, generally.... We have performance targets that are published and available, and we are meeting those and have been meeting them for the last three years for all of the new chemicals that we have to deal with.

To put that into perspective, there were over 80 applications for new chemicals of major uses. We met our performance targets. There were 400 submissions for new products, 1,400 administrative submissions for things like label updates—very important. We did 14 joint reviews with partners around the country, five of which were with the EPA and others were global.

Turning specifically to the commissioner's report, there were a number of very helpful findings, and we thank the commissioner for her report. We fully agree with them, and in all cases, we have already taken action to begin to address the recommendations.

One area is conditional registrations. While this is a common practice in OECD countries, as well as in the U.S. and Europe, it has been used less than 1% of the time in Canada for all pesticides that have been approved. We noted there were some issues with respect to conditional registrations. Most notably we felt that, as a result of delaying the normal public consultations, conditional registrations were not as transparent as we felt they needed to be.

In January, we published our intent to stop granting conditional registrations as of June 1 this year. With respect to all conditional registrations that have previously been granted, we have a plan in place to address all of those by the end of 2017.

With respect to the audit's concern regarding the timeliness of the re-evaluation of older pesticides, we just want to confirm with you that we have all of these already under way. Of the 401 older pesticides, 90% of the pesticides have been looked at, and for the remaining 45, or 10%, we have a plan in place to address those by 2020.

Specifically, because you probably hear a lot of this and we're not trying to back-end this all to 2020, we will have six re-evaluations completed by the end of this fiscal year of 2015-16. We'll have an additional six completed in 2016-17, 10 planned for 2017-18, and 12 planned for 2018-19, with the final 11 completed by 2019-20. We have a very specific plan to address the remaining 45 substances over the next few years and that plan will be published on our website in the coming weeks as we move forward.

Some people have questioned how, given the length of time it's taken us to get this done, we can speed up and accelerate that quickly, and we just want to reassure the committee that we continue to do full due diligence on the science. We are looking to make sure that we are protecting health and the environment in all of these assessments.

We have been able to move to efficiencies to better use predictive analytics about where the risks are and allow us to focus our re-evaluation efforts on where we feel the risks are greatest to health and the environment, and by working with international partners.

The commissioner also made some recommendations with respect to the cancellation of registrations when they propose an unacceptable risk. I just want to reassure the committee that when risks are found to be unacceptable they are being addressed in a timely way. Phase-out measures are put in place, uses are cancelled, and actions are taken to protect workers' safety, to protect human health, and to protect the environment.

There is a lead time necessary for the industry to develop new, safer products. On average, we typically phase-out a product within two to five years, for the committee's information. That is similar to the U.S., which does it in about two to six years, so we are right in there, or certainly better than where our trading partners are with respect to that.

For the sake of time, I'll conclude my comments there, other than to say that we very much welcome the commissioner's report and have an action plan to respond to all of its recommendations.

In closing, I would just note that while not specifically mentioned in the report, one of the areas is fees. The Pest Management Regulatory Agency is cost-recovered. Its fees were last updated in 1997, so it is working with fees that are significantly out of date. We have signalled and begun the process to update the fees, which will help us to ensure we have the resources necessary to work with industry to protect the health and safety of Canadians.

We certainly would welcome working with this committee as we move forward to advance new, updated fees and bring them in line with the reality of 2015-16, and not 1997.

Thank you, Madam Chair.

**The Chair:** Thank you very much, Mr. Glover. That sounds very good.

I'd like to hear from Mr. Labonté.

[*Translation*]

**Mr. Jeff Labonté (Director General, Energy Safety and Security Branch, Energy Sector, Department of Natural**

**Resources):** Thank you very much for the opportunity to appear before the committee today. It's a great pleasure for me.

[*English*]

I'll perhaps keep my remarks quite brief, so that my colleagues from the National Energy Board can follow.

Let's start by indicating that we all recognize that Canada's pipeline infrastructure is critically important to the country. Certainly every day, the pipelines deliver energy to Canadians, businesses, our trading partners, and support many facets of our economy.

Before we get into the specifics and before we get into the details, perhaps it would be useful to draw out the distinctions between the department and the National Energy Board and how we're orchestrated and organized. That would be for the benefit of committee members who perhaps have not yet had the full brief on that.

The Department of Natural Resources provides advice to the minister and helps to set the government's approach to energy and energy policies in those areas of federal jurisdiction. This includes advice to the minister on the National Energy Board Act, which provides the fundamental authorities that the board operates under.

The National Energy Board is an independent regulator. It reports to Parliament through the Minister of Natural Resources. Its primary responsibilities are set out in the act, and these responsibilities include the regulation, construction, operation, and abandonment or decommissioning of pipelines across interprovincial and international boundaries. Any of these regulatory oversight roles directly support the objectives of the safety and protection of the environment, and the safe operation of pipelines.

Natural Resources Canada appreciates the work that the commissioner has done to report on this oversight of pipelines. We consider it both timely and relevant in the current context, and certainly in the context of looking at all of the perspectives related to pipeline operations and safety. I think my colleagues will report on this further, but the NEB has publicly accepted the recommendations of the commissioner and has already implemented action plans, many of which are well along the path to addressing a number of the audit findings.

I'd like at this point, as well, to make reference to one of the points that was raised in the audit report that related to the Pipeline Safety Act, which received royal assent well over a year ago in Parliament, and will come into force in June of this year. That particular piece of legislation changes the number of the authorities. It has several references within the audit report, and should there be any questions about that and how it relates to this particular audit, we'd be happy to take those questions as well.

Thank you very much, Madam Chair.

**The Chair:** That was very fast. Thank you very much.

Sandy? No?

I'll leave it to you to decide who's going to go next.

Go ahead.

[Translation]

**Ms. Josée Touchette (Chief Operating Officer, National Energy Board):** Thank you, Madam Chair.

My name is Josée Touchette, and I am the Chief Operating Officer of the National Energy Board.

I am joined today by Sandy Lapointe, the NEB's Executive Vice President, Regulatory, and Dr. Robert Steedman, our Chief Environment Officer.

[English]

Let me offer a quick overview of the NEB, because I guess we're going to be the subject of a few questions.

The NEB is an independent regulator of pipelines, energy development, and trade. It has three key roles: adjudicating energy projects, supporting the safety of Canadians and the environment through oversight, and engaging Canadians on energy information. As my colleague indicated, the NEB reports to Parliament through the Minister of Natural Resources.

Canadians know us mainly for the hearings that we conduct on the development of energy infrastructure. But we regulate that infrastructure over its entire life cycle, from project proposal, to construction and operation, through to abandonment.

We oversee 73,000 kilometres of pipelines. That's nearly enough to wrap around the earth twice. We also oversee 1,400 kilometres of power lines, which is about the distance from Yellowknife to Regina.

Our annual budget for 2015-16 is \$91 million, 37% of which is temporary, including roughly \$12 million for safety. We cost-recover 95% of this from the companies that we regulate.

• (1200)

[Translation]

In my role as chief operating officer, I run the day-to-day business of the organization. I report to Peter Watson, in his role as CEO.

[English]

About 18 months ago, Peter Watson was appointed chair and CEO. I joined about six months later.

When we began to work at the board, we were already aware that the NEB needed to change to respond to a growing issue of public trust. We quickly learned that the 475 NEB staff are well qualified, talented, and dedicated, but it was evident that the energy and environment discussion in Canada had changed dramatically over a short period of time and that the NEB was not prepared. Notably, there were systemic deficiencies in our IT and information management processes that were inhibiting our ability to be transparent and to show Canadians that we are on the job of keeping pipelines safe every single day.

Therefore, we were not surprised when the commissioner noted those deficiencies. We immediately embarked on an aggressive agenda of modernization that is aligned with our three strategic priorities, namely, regulatory excellence, safety, and engaging Canadians, and we began to implement changes.

First, we made changes to our leadership team. Of the 10 most senior staff members in the organization, six are either new or new in their positions. We achieved key milestones to make our oversight work more robust, to improve our IM/IT capabilities, to make information more transparent, and to better engage with Canadians.

Canadians can now find an interactive map of all pipeline incidents on our website. Our inspection reports and our evaluations of emergency exercises conducted by pipeline companies are now posted online. In the spring of 2015, we launched a public consultation on the transparency of pipeline emergency management information, and in the next few weeks we'll outline how pipeline companies will post their energy procedure manuals online.

In response to the audit, we've developed two information management tools that better enable our systems to talk to each other—to use the words of the commissioner—and as promised to the minister in a letter dated February 4, we are posting on our website all 2,869 pipeline approval conditions that have been issued since January, 2010, along with the associated compliance information.

[Translation]

The audit confirmed our diagnostic and helped guide the changes we are undertaking that will, we believe, lead to more robust oversight, greater transparency and, we trust, greater public confidence and engagement in the decisions of the board.

[English]

Thank you. I look forward to the committee's questions.

**The Chair:** Thank you very much. Up next, I think we have Greg Meredith.

**Mr. Greg Meredith (Assistant Deputy Minister, Strategic Policy Branch, Department of Agriculture and Agri-Food):** Thank you, Madam Chair. I have a brief personal opening, if you don't mind.

I've been around, as my hair probably attests, for quite some time. I always enjoy the opportunity to come to committee because it's part of a fairly deep and robust set of democratic political institutions. I really do appreciate the opportunity.

**The Chair:** And we appreciate you being here. Thank you very much.

**Mr. Greg Meredith:** Thank you.

[Translation]

It is a pleasure to be here today to provide the committee with information on how Agriculture and Agri-Food Canada supports the government's goals of sustainable development and environmental protection.

[English]

At Agriculture Canada, we recognize the importance of providing government decision makers with the potential environmental consequences of the proposals that we've put forward. As the commissioner said earlier, these are consequences that could be positive or negative. We do have processes in place to achieve this, as per the directive on environmental assessment of policy, plan, and program proposals.

We've had a strategic environmental assessment process in place since 1990, which was the initiative of the SEA directive. We have a very broad mandate, as the committee can appreciate, so strategic environmental assessments apply to a wide range of proposals within Agriculture Canada, ranging from governance proposals to those that deal with new research, and proposals on risk management.

● (1205)

[Translation]

This is why my department has dedicated technical experts who perform both project and strategic level environmental assessments. These experts have developed, and over the years improved, internal strategic environmental assessment guidance documents, as well as templates for both preliminary scans and detailed level assessments, to ensure we are consistent and complete in meeting the requirements of the cabinet directive.

[English]

Agriculture and Agri-Food Canada has always considered these assessments to be an important tool in helping sustainable development, and that's why we agree completely with and welcome the advice from the commissioner of the environment and sustainable development on how to strengthen our internal processes.

In her report, the commissioner notes that Agriculture Canada's strategic environmental assessment process with respect to cabinet is fairly robust. However, the commissioner did identify important gaps with respect to other types of advice that we provide to the minister. We have taken note of those recommendations in areas where our strategic environmental process can be improved and appreciate the points of clarification provided by the commissioner.

[Translation]

My department has developed and provided to the commissioner a management response action plan that identifies the steps we will take—in fact, steps we are already taking—to address these recommendations and to make our processes more effective and transparent.

[English]

These steps involve identifying all types of strategic-level documents and proposals within the department to which the directive should apply, revising our guidance materials, and ensuring

that our public reporting is complete, pursuant to the commissioner's recommendations. Similar to what has been done in other departments, I understand, we've developed clear rationales for when to exclude a particular proposal from a strategic environmental assessment, and that has to do with administrative, duplicative, or emergency situations.

We're now adjusting our internal processes in order to roll out these improvements and ensure that all actions related to SEAs, including exceptions, are properly documented and made public so that the public has confidence that we're paying attention to sustainable development objectives.

In Agriculture Canada, we're confident that we'll have a stronger strategic environmental process as a result of this report and audit within the year, and we will fully address the recommendations of the commissioner's report.

*Merci.*

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

I'm wondering if Mr. Moisan is ready.

Thank you.

[Translation]

**Mr. Jérôme Moisan (Director General , Strategic Policy, Planning, and Research Branch, Department of Canadian Heritage):** Madam Chair, thank you for the opportunity to appear before the committee today.

The Department of Canadian Heritage agrees with the findings of the commissioner's report and is now implementing its recommendations. At the time of the audit, the department had not finalized a comprehensive approach to implement the cabinet directive. The department did consider issues of sustainable development on an ongoing, case-by-case basis, but a formal process to track and document the consideration of these issues had not been put into place until now.

By nature of its mandate, Canadian Heritage's environmental footprint is most often minimal or null, except in cases of large-scale events such as the 2010 Vancouver Olympic and Paralympic Games. As is usually the case, and as was the case for the games in Vancouver, Canadian Heritage always considers issues of sustainable development and the environment.

Environmental considerations have long been part of the department's decision-making process, but now a process to track and document environmental considerations has been formalized. A Canadian Heritage strategic environmental assessment process with guidance material and a tracking database has been implemented and is actively in use. The department is also finalizing an online questionnaire to accompany the implementation of the process.

Department officials have actively implemented the report's recommendations to ensure that the Minister of Canadian Heritage and the Minister of Sport and Persons with Disabilities are informed of the potential important environmental effects of all policy, plan and program proposals.

Thank you very much.

•(1210)

[English]

**The Chair:** That was very fast. Thank you very much.

Now we can have Mr. Giroux.

**Mr. Yves Giroux (Assistant Commissioner, Strategy and Integration Branch, Canada Revenue Agency):** I'll try to be even faster than Jérôme.

[Translation]

Good morning, Madam Chair and esteemed members of the committee.

[English]

My name is Yves Giroux, and I'm the assistant commissioner of the strategy and integration branch at the Canada Revenue Agency. Among many other things, I am responsible for sustainable development at the CRA.

As you know, the CRA's mandate is to administer taxes and benefits to Canadians. Few of the proposals submitted to our minister or to cabinet have important environmental effects. However, where there are environmental impacts, they are usually positive and they relate to the reduction of paper use as a result of CRA's efforts to increase electronic filing and self-service options.

The CRA agrees with all applicable recommendations in the audit report by the commissioner and is updating its processes and templates in response.

I'd be pleased to answer any questions you may have.

*Merci beaucoup.*

**The Chair:** Thank you very much. I think there might be some questions, because I think we could probably focus on more than paper, but I'll leave that to the committee.

From the Department of Fisheries and Oceans, we have Tom Rosser.

**Mr. Tom Rosser (Senior Assistant Deputy Minister, Strategic Policy, Department of Fisheries and Oceans):** Thank you very much, Madam Chair, and I promise I too will be very brief.

[Translation]

I would like to begin by thanking you, ladies and gentlemen, for inviting me to make a presentation before you today.

My name is Tom Rosser, and I am the Senior Assistant Deputy Minister of Strategic Policy at the Department of Fisheries and Oceans.

[English]

DFO agrees with all the recommendations put forth in the 2015 Fall Reports of the Commissioner of the Environment and Sustainable Development as they pertain to strategic environmental assessment. We've taken steps to ensure full compliance with her recommendations.

For example, DFO has recently updated its internal guidance documents and processes as they concern strategic environmental

assessment and has undertaken a significant training and awareness initiative across the organization.

Finally we've created a new web page and posted outstanding public statements for detailed strategic environmental assessments that were completed during the period of the commissioner's audit, which was January 2011 to December 2014.

Going forward, DFO is committed to full compliance with the directive.

I'll leave my remarks there. Thank you.

**The Chair:** We'll get started with questions.

Mr. Shields.

**Mr. Martin Shields (Bow River, CPC):** Thank you, Madam Chair.

I have a couple of questions for the National Energy Board.

Do you know where you are in the Trans Mountain process you've been undergoing and consulting and working with? Is that review process pretty well complete or 90% complete?

**Ms. Josée Touchette:** I do most certainly. The hearings have just been finalized. The panel will be reviewing the evidence and is expected to come up with its recommendation in May.

**Mr. Martin Shields:** As I understand it, there's going to be another process added to reviewing that. Have you been consulted about that or involved with that?

**Ms. Josée Touchette:** I believe, sir, that you're referring to the interim principles that have been put in place. Our timeline for the review hasn't changed, so we will submit our recommendation report to the minister by May 20. The minister has said he will seek to extend the legislated timeline for the GIC decisions by four months, I believe, extending the date from August to December, and he has talked about a number of activities that will be undertaken by the government.

My colleagues at Natural Resources Canada will be undertaking deeper consultations with indigenous peoples. My colleagues at Environment and Climate Change Canada will assess the upstream GHG emissions associated with this project, and they will make this information public. A ministerial special representative will be appointed by the minister to engage communities potentially affected by the project and to seek their views and report back to her.

In terms of the process that led to that, our advice was provided to Natural Resources and collated with the advice from other government bodies that was forwarded to the minister, and ultimately, ministers here made the decision to go this way.

•(1215)

**Mr. Martin Shields:** You said you've learned that the consulting process has changed and that you've been involved in it, so with the new interim process principles, have you been consulted or are you just finishing your process and handing it on?

**Ms. Josée Touchette:** There's a distinction here that has to be brought into play. The National Energy Board, as I mentioned, has three roles. It has an adjudication role, which is what the panel is doing, and in that role, the panel is independent. Our staff who are dealing with them are in essence "firewalled" and they provide them that advice, so they are acting like the court of record, which they are, according to section 11 of our act.

However, as an organization, the CEO and chair and I, along with our supporting organization, provide advice to Natural Resources Canada. We have provided advice in that context, and that was given to the minister for consideration. So, yes, we were consulted.

**Mr. Martin Shields:** Okay.

In the next interim principle piece, there's another person, then, who is involved in consulting again.

**Ms. Josée Touchette:** I'm sorry. I don't understand the question.

**Mr. Martin Shields:** You mentioned another person now being involved in the next process.

**Ms. Josée Touchette:** Are you referring to the ministerial special representative?

**Mr. Martin Shields:** That's right.

**Ms. Josée Touchette:** Okay. Yes, there will be one appointed by the minister.

**Mr. Martin Shields:** It's a political appointment for someone to go and consult again to gather public information.

**Ms. Josée Touchette:** Those questions would have to be put to the department and ultimately the minister.

Jeff, I don't know if you wish to add anything.

**Mr. Jeff Labonté:** The board will produce its report and its recommendations and present those to the minister. That report is made public, and that is the judicial panel process, if you will, a quasi-judicial process.

With that, the government has stated very clearly that it will further assess the project and look carefully at that report, as well as reach out to indigenous communities, to Canadians. My colleagues at Environment and Climate Change Canada will assess the greenhouse gas emissions aspect. A number of processes and kinds of decision-making support processes to gather information about the project will be carried out by the government, both by its employees and the ministers special representative that is being considered.

A number of sets of things will feed into providing the assurance that the government has all of the information it needs and that all of the questions have been answered.

**Mr. Martin Shields:** Including scientific...?

**Mr. Jeff Labonté:** Indeed. One of the principles is to ensure that the decisions are based on science and the traditional knowledge of indigenous peoples and other relevant experts.

**Mr. Martin Shields:** Thank you.

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

Mr. Amos.

**Mr. William Amos:** Thank you.

Thank you for the presentations. It's really great to have the NEB before us. We really appreciate your public service. I've had wonderful interactions both with Natural Resources Canada and with the National Energy Board, and I would agree entirely that the NEB staff are exceptional. There are some really exceptional people there.

I want to zone in on a piece that isn't really included in this commissioner's review but that I think is an elephant in the room.

[Translation]

Ms. Touchette, you talked about the issue of public confidence. The emphasis was placed on change and on a modernization program. You talked about regulatory excellence, safety and engaging Canadians, but you did not say anything about the relationship between the National Energy Board and aboriginal communities.

[English]

Engaging Canadians is broadly written, and you could throw it into that category, but there's a question that I would like to ask today. Do you feel that the National Energy Board, in its position not only as the regulator but also the body statutorily obligated to conduct environmental assessments, is in a strong position to engage in consultation?

I know, Madam Touchette, that you're an expert in this area. You've taught in this area at the University of Ottawa. You were formerly with the Department of Aboriginal and Northern Affairs. You know this area well. I'm very curious to hear your remarks in that regard.

• (1220)

**Ms. Josée Touchette:** Thank you for assuming my expertise here. Hopefully, I won't disappoint.

Let me perhaps step back a little bit and talk about how there are a number of processes and circles within circles in what you referred to, Mr. Amos.

[Translation]

First, when we talk about consultations or mobilization, a distinction should be made between mobilization as part of the request process—which is quasi-judicial—and mobilization as part of our daily pipeline oversight activities. Consultations and mobilization will take place in both cases. In the case of a pipeline construction request, that will generally be done through a very long process. In the other case, it may be more specific to a particular site.

When it comes to requests, the government turns to the National Energy Board and trusts its processes as much as possible. For example, among our activities are meetings where we hear from aboriginal community representatives in order to obtain what is called oral aboriginal traditional evidence. We want to add that to the file and consider it as the file progresses.

However, as part of this—and I am talking about requests here—the Department of National Resources will seek the mobilization of aboriginal communities to ensure that everything is complete, in addition to the consultations it holds. So there are files where the process will start even before the request is considered, even before it is completed and before the file is finalized, since we all think that it is very important, as is this dialogue.

As far as pipeline regulation and oversight go, we want to do more. Peter Watson, our CEO and Chair, recently attended the First Nations Forum on Energy. That meeting was held earlier this month in Vancouver. One of the things he said was that we had to do a better job and learn to collaborate with aboriginal peoples on ongoing issues. How can we have a better dialogue when ensuring pipeline oversight and regulation? We have initiated processes to be able to better respond to aboriginal groups' concerns.

Of course, this is a learning process. If you have not done so already, I suggest that you read our report on the National Mobilization Initiative, which is available on our website.

Last year, our CEO undertook some mobilization initiatives. He met with more than 80 communities across Canada, several of which were aboriginal groups, in order to find out how the situation could be improved. We will never achieve perfection, but we are trying to do the best we can. There is a proverb that says, "If at first you don't succeed, try, try again". We will go back and try to improve things.

Is there a willingness to move forward and to be better mobilized? Yes. Is what we are currently doing perfect? Of course not, but we are striving toward constant improvement, and we are really listening to people.

•(1225)

I would add that, in the particular case of the energy east project, the draft principles make it possible to appoint three temporary members who would carry out more consultations or put forth more mobilization efforts, especially with communities.

[English]

**The Chair:** You were on a roll and I didn't want to interrupt, but we are way past time. My apologies.

Did you want to say something to finish?

**Ms. Josée Touchette:** That was it.

**The Chair:** Okay, I'm sorry. I hate doing that, but I had no choice.

Mr. Cullen.

**Mr. Nathan Cullen:** Thank you, Madam Chair, and thank you to everyone for being here today.

I'll try to keep my questions brief and answers correspondingly, because we'll run out of time.

Madam Touchette, how important is it for the public to have trust in the National Energy Board?

**Ms. Josée Touchette:** It's very important. I'm very grateful that you're asking this question. It's something that preoccupies us greatly at the National Energy Board. I've just talked about—

**Mr. Nathan Cullen:** I'm going to interrupt you just because there are a number of topics I want to delve into here, as well as the

general topic. It's good to hear the importance of that, and I believe you.

How important is it for the public to have trust in the process that the NEB uses to evaluate pipelines?

**Ms. Josée Touchette:** It's equally important that the public have trust in the process.

I would like to expand a little here, if I may. I think that you'll see in this report that the chair is very clear that part of the issue is that people don't know the board, don't know the work we do, and don't necessarily understand our role. A fundamental component of trust is that understanding. We want to build that.

**Mr. Nathan Cullen:** I wouldn't necessarily assume a lack of knowledge from the public in what the NEB has done.

If I were an intervenor right now on the Trans Mountain project, can I cross-examine the proponent under your process? Can I challenge their evidence?

**Ms. Josée Touchette:** The evidence can be challenged, yes.

**Mr. Nathan Cullen:** By an intervenor?

**Ms. Josée Touchette:** I believe so, yes.

**Mr. Nathan Cullen:** That hasn't been the intervenors' experience in Trans Mountain, when challenging cleanup evidence or evidence about how the pipeline will be constructed.

I have one question and I think you may have said this. You accepted the commissioner's findings and conclusions—

**Ms. Josée Touchette:** We did.

**Mr. Nathan Cullen:** —and in half the cases those conditions, which are held up to give the public that confidence that you need them to have, weren't tracked in that they were inadequate and your systems were outdated. This causes me and perhaps many Canadians great concern, considering the risks of a pipeline failure. There are about two major failures per year in Canada, according to you and the Alberta regulator.

Take one that didn't happen in Canada, in Kalamazoo, and this is a quote from the Environmental Protection Agency about the condition of safety at the company that spilled, I think it was, four million litres of bitumen:

This investigation identified a complete breakdown of safety at Enbridge. Their employees performed like Keystone Kops and failed to recognize their pipeline had ruptured and continued to pump crude into the environment....

If you're not tracking half the conditions and you're unable to report as to whether the company is following through, does this not prime us for similar accidents in which the culture of safety is not adequate to protect Canadians?

**Ms. Josée Touchette:** I take it we're not talking about TMX. We're talking about your question, where you've given context, but about incidents that we do not regulate.

Let me take you back to the audit report, which at paragraph 2.34 talks about our tracking being out of date, and at 2.116 it says that when asked to do a manual search, we were able to respond to the questions.



I will take you back to my opening remarks where I said we recognized there were issues in tracking, issues in our systems, and that we have started to address them. I think you will see with the table that we produced yesterday, and that is now up on our website with 2,869 conditions, that we are indeed tracking and we have improved our systems. It's not perfect yet, and we prefer to put those on the web now rather than wait to have the perfect system.

• (1230)

**Mr. Nathan Cullen:** But it's not perfect yet, and we're updating now. It's 2016, and I used the analogy earlier, if I were boarding a plane this evening and they said they didn't have half of their safety checks in, but they'd like to load rows 30 to 35, I wouldn't get on the plane and neither would you. Simply not being able to track whether companies are following through on these conditions that weren't optional.... These are imperative. You cannot operate this pipeline without those conditions being performed, and your agency doesn't know whether they are or not, in a factual way.

Can you understand why the public may lose confidence, not only in the process but also in the regulator itself?

**Ms. Josée Touchette:** Let's clarify the facts. At paragraph 2.116, the commissioner states that when doing a manual search people were able to find the documents.

**Mr. Nathan Cullen:** Was that in 100% of cases?

**Ms. Josée Touchette:** In most cases, I believe is the language that she used.

When we look at conditions, conditions are but one part of the entire regulatory framework.

[*Translation*]

That is the general structure of regulations.

[*English*]

You have a regulatory framework. Companies have to comply with that, and conditions are but one part of that.

In addition, we do inspections. We do a number of.... I have the data here, which I'd like to share with you.

**Mr. Nathan Cullen:** What I'm surprised by is that in this most crucial aspect.... The conditions are crucial; they're integral. They are what the government and the regulator hold up to give the public assurances. So when the auditor comes by to say you're tracking those integral conditions and you folks have to go and find manual tracking, your systems are outdated; they're inadequate. You're reviewing something that poses such an obvious and inherent risk when it fails—not just in Kalamazoo, but the Nexen spill of two summers ago.

My question is simply this. Do you have confidence that you will be able to 100% track all of the conditions that are being applied, and by when?

**Ms. Josée Touchette:** Yes, I do.

Our corrective action plan stipulates that it's by December 2016, I believe. If you look at our table that we posted yesterday and those 2,869 conditions, we go way beyond what the commissioner had looked at, which was a little over a thousand conditions for major

projects. We've looked at everything and you will see that they are being tracked.

**The Chair:** Thank you.

Next is Mr. Gerretsen.

**Mr. Mark Gerretsen:** Thank you very much.

I'll give Madame Touchette a breather for a second, but I'll be back.

To Mr. Glover, one of the last comments that you made about pesticide—and I understand that the regulatory agency is self-funded—was that the fees had not been updated since 1997. Are the fees a flat rate? They're obviously not indexed because they haven't been increased.

What's the rationale for the fact that they haven't been increased? I'll start with that.

**Mr. Paul Glover:** Thank you very much for the question.

In essence, there are a number of fee lines for different activities. They would be broken down based on what the party is looking for, whether it's the introduction of a new pesticide, a change in it, and so on. There is a range of fees, all with different fees associated with that activity, so that's—

**Mr. Mark Gerretsen:** But they haven't been updated.

**Mr. Paul Glover:** They have not been updated.

They are not indexed, so they have remained stagnant, and that is obviously one of the issues.

**Mr. Mark Gerretsen:** I can only assume that more is being charged for pesticides now than in 1997, so the value of that fee being charged is not what it was in 1997.

In your updating process, which I understand you're going through now, will you be looking at a model that indexes to at least inflation on an ongoing basis, so that you don't run into this problem 20 years from now?

• (1235)

**Mr. Paul Glover:** The answer to the question, very briefly, is yes. There will be a built-in escalator.

**Mr. Mark Gerretsen:** Thank you.

Now I will go back to the Energy Board. If I understand correctly, you said that you agree with the auditor's findings and you recognize that there had been problems; you knew that the problems existed.

When did you start making the corrective measures? You're talking about it now as though it's ongoing. I'm getting the sense that it was fairly recent.

**Ms. Josée Touchette:** Absolutely, so—

**Mr. Mark Gerretsen:** Was it after the auditor's report?

**Ms. Josée Touchette:** The chair came in about 18 months ago—I joined six months later—and the auditors began their work, I believe in February. I arrived in January.

In a way, it was good fortune, because—

**Mr. Mark Gerretsen:** It all happened at the same time.

**Ms. Josée Touchette:** —you had somebody saying here are the problems and you can focus your resources on those issues.

**Mr. Mark Gerretsen:** I'm glad to hear that you weren't around and knew that this was a problem, and then all of a sudden the auditor came in and you said maybe you should do something about it.

It sounds as though it was all happening at the same time.

**Ms. Josée Touchette:** That's right.

**Mr. Mark Gerretsen:** Can we talk about the culture in the agency? I'm hearing that you're having a hard time retaining employment. That's not unique to the energy board. It's a government problem, generally speaking. I was in the municipal sector for a long time, and we ran into that problem all the time, where planners in the city would end up getting snatched up by private developers or development companies.

Why is this different, or why is it more severe at the energy board compared with other agencies?

**Ms. Josée Touchette:** Actually this is very interesting, because I don't think it's quite as severe as it may have come across.

It is true that in 2008 we had issues in the order of a 29% rate of attrition for our engineers. However, the private sector found the same thing. We have taken some very specific and very aggressive measures, and the attrition rates are now in the order of 5%, which is kind of across the board.

What's interesting is that a recent study by Hays, who are a specialist recruitment firm in Canada, found that a third of the companies were saying they are facing the same recruitment challenges even in an environment like this one, where layoffs are occurring.

You talk about culture. I want to point out that, for seven years in a row, we have been named one of the top 100 employers in Canada, so I think there are some things we're—

**Mr. Mark Gerretsen:** Maybe it's a stepping stone for businesses to train people, because by the sounds of it, people weren't staying there. At least that was the case if you had a 27% attrition rate previously.

**Ms. Josée Touchette:** That was in 2008, which was a peak year in the industry, so we weren't the only ones facing that.

I think we have to be careful when we look at those numbers, because our attrition rates are at par with the rest of the public service.

**Mr. Mark Gerretsen:** If the attrition rates are so much better now—they are a lot lower—why are we seeing this scenario where so much of this work has gone undone? Proper checks and balances weren't in place.

It seems like a very easy thing. You have companies submitting their proposals or whatever they might be, and you're just not getting back to them. You're not tracking that stuff. How does that happen? Is that not one of the most fundamental parts of what you do?

**Ms. Josée Touchette:** My assessment, when I came in, was that the IM/IT infrastructure was completely lacking. You had systems that didn't talk to each other. You had very handraulic processes—

**Mr. Mark Gerretsen:** I have five seconds left. If you were to come back in a year from now, how confident are you that you would have a much better story to tell us?

**Ms. Josée Touchette:** I am extremely confident.

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

Go ahead, Mr. Fisher.

**Mr. Darren Fisher:** Thank you, Madam Chair.

Thank you all for coming today. I especially want to thank Madame Touchette, because she's getting the bulk of the questions.

I'm very encouraged by a lot of the things you're saying. You agree with the audit, you understand there were some major issues, and you're going to rectify them. Mr. Gerretsen touched on some of the timing of it.

You will agree that the conversation around the environment has certainly changed with this new government, will you not? It's pretty clear, right?

Do you feel you're able to adapt to that new attention to the environment? Are you going to be able to adapt to that new reality with the things you're trying to accomplish now, the changes and the recommendations?

• (1240)

**Ms. Josée Touchette:** I'm going to turn this to our chief environment officer, Dr. Steedman.

**Dr. Robert Steedman (Chief Environment Officer, National Energy Board):** Thank you very much for that question.

I think I'd start by saying that environmental protection and safety are pretty much hardwired into our processes. As you know, the National Energy Board conducts environmental assessments that are fully compliant with the Canadian Environmental Assessment Act, 2012, in all of our major projects. In addition to that, all of the minor projects undergo an environmental assessment along with the economic, safety, and other kinds of things the board has to look at when it considers a project.

Nothing has changed in terms of the focus and the intensity of our environment work. We have about 70 staff who are directly involved in environmental assessment and environmental compliance verification, so it's a very big deal at the board. It's our largest technical job family. I think we have great tools in the legislation that we have. We have very powerful enforcement abilities, and we take a life-cycle approach to environmental oversight as well as safety oversight.

That's something that is a feature of having a dedicated regulator in a sector like interprovincial and international energy transport. That means that, when we look at a project, we can consider optimizing the design from an environmental perspective. That's the purpose of environmental assessment. But through management system oversight, audits, inspections, and other kinds of techniques, we make sure that the outcomes we're looking for are delivered through the life of those projects.

It is a challenge. Some of broader context of the environment has changed, as you quite well know. I think we're very well equipped to do that, and we have a very passionate staff in that area.

**Mr. Darren Fisher:** Is there any more time left, Madam Chair?

**The Chair:** Yes.

**Mr. Mike Bossio:** Great. Thank you.

I have a couple of quick questions.

I agree that the goal of your organization is to operate and effectively carry out the regulatory regime, the mandate that you've been handed. At the same time, why are your systems outdated? I've been in technology for 35 years. It's not new. It's not rocket science. Why are they outdated?

**Ms. Josée Touchette:** I can't speak to management decisions that were or were not made prior to when I arrived a year ago. What I can tell you is that we have undertaken to modernize our systems and we are dedicating resources to that. It's happening.

**Mr. Mike Bossio:** On the pest control management side, I understand that your fee structure hasn't changed since 1997, so your budget hasn't increased or, if it has, barely, in that time. Is the reason that you're experiencing the deficiencies that you are in delivering on your mandate a result of a lack of resources and funding? Why has nothing changed since 1997?

**Mr. Paul Glover:** Thank you for the question.

First, to clarify, not 100% of the Pest Management Regulatory Agency's activities are funded through cost recovery. Right now it is about 15% of the total, and the rest is funded through appropriations of the government. We continue to do the best with the resources that the government chooses to dedicate towards the agency.

There is no attempt to make excuses for the amount of time it has taken us to do re-evaluations of some of the older pesticides. We understand we're behind the commitments we made. We feel that this was something that the international community has struggled with overall. These are very complex legacy chemicals that we've been working to address. We are hopeful that, with advances in technology, we're better able to use predictive analytics and other tools to focus where those risks are in order to be able to get caught up.

We actually think that with the update in the fees it will move us into new service lines, things that industry is looking for from the PMRA that we have not been able to actively engage in. This won't just be an increase in fees. It will be an expansion of the services we provide to help industry and to ensure that we're doing an appropriate job—

• (1245)

**Mr. Mike Bossio:** Sorry, I hate to cut you off.

Both to you and the NEB, what kinds of increases have you seen in your budgets in the last 10 years?

**The Chair:** I think we're running out of time. I think that's a detail that we can probably get answered for the committee. We'll get that question answered but we've run out of time there.

Mr. Fast.

**Hon. Ed Fast:** Thank you, Madam Chair.

I'd like to go to the very heart of what the NEB does. We're all aware of the fact that Minister Jim Carr announced interim measures impacting two specific pipeline projects. He was quite proud to say in the House of Commons that the process and the decision related to these interim measures was an inherently political one. I had understood, and I believe it is still the case, that the National Energy Board process is one that is science based, and the recommendations that emanate from that process are based on science and are intended to inform the government's decision in each of these cases.

Am I correct in saying that? Can you very briefly explain what the National Energy Board's mandate is on that issue?

**Dr. Robert Steedman:** In the area where the board makes recommendations to GIC on new projects, particularly major projects, the NEB's job is essentially to advise GIC whether a project can be built safely in a way that protects the environment and whether the project will be used and useful. That is based on the record that is collected during the public proceeding. Massive amounts of technical evidence is tested in various ways by people who may have opposing views. The panel of the board has the duty of finding fact and making a recommendation that has to consider benefits and burdens at national, regional, and local scales, and to give that advice in a factual and reliable way, often amidst lots of controversy and differing expert opinions. They need to find fact as best they can based on the written record to make that recommendation to cabinet.

**Hon. Ed Fast:** I can tell you that in the four and a half years that I was in cabinet, for every decision that cabinet had to make, which was a recommendation from either the environmental assessment process or the NEB process, when those recommendations came forward, they were only approved if there was an ability to mitigate all of the environmental impacts. On those occasions where it just wasn't possible to mitigate, cabinet said no. You can understand why I'm a little concerned that now the interim measures create a parallel process that is inherently political.

With regard to the process of reviewing, say, the Trans Mountain expansion project, I believe, Ms. Touchette, you did indicate that indigenous input was a part of that process. Is that correct?

**Ms. Josée Touchette:** It is.

**Hon. Ed Fast:** Okay.

You did not consider the upstream impacts of that project—or did you?

**Dr. Robert Steedman:** When panels of the board are scoping their issues for reviewing major projects, and also for the environmental assessment, they use the legislation that we've been given and the mandate of the board, and they make decisions on that. Part of the environmental assessment is deciding how far you go. The biggest scope is the entire globe. When we're looking at a specific project, the board has to decide what it will look at in terms of the ability to find fact that is directly related to the project at hand.

That's what the board has been doing in major projects—

**Hon. Ed Fast:** Is that yes or no?

**Dr. Robert Steedman:** Each project is based on the facts before the panel, and that's—

**Hon. Ed Fast:** The one I asked about was Trans Mountain. Were the upstream impacts taken into account, or are they being taken into account, in the assessment?

**Dr. Robert Steedman:** Do you mean upstream greenhouse gas emissions?

**Hon. Ed Fast:** Yes, that's correct.

**Dr. Robert Steedman:** The board found that they were not directly related to the project they were assessing in that there were multiple sources and multiple transportation options. Those are the kinds of things that have to be relevant to a cut-off point.

**Hon. Ed Fast:** On the issue of costs, I believe your testimony was that you operate presently on a 95% cost-recovery basis. So you actually have the tools in your arsenal to be able to raise the funds....

No? Are you limited by Treasury Board?

•(1250)

**Ms. Josée Touchette:** It's the appropriations process. When I talk about the overall budget, \$91 million, that's the authority we have to cost-recover.

**Hon. Ed Fast:** That is the authority.

**Ms. Josée Touchette:** Correct.

**Hon. Ed Fast:** If you're given an expanded authority to recover your actual costs, that also provides you with an opportunity to hire the resources required to ensure that we don't have, say, 50% of the conditions not being followed up on. It allows you to do the work to make sure that the deficiencies that are identified are followed up on, and you're able to implement the kind of data management and information management processes that are required to keep the NEB current and accountable and responsible.

**Ms. Josée Touchette:** Madam Chair, I'm not clear on what the question is.

**Hon. Ed Fast:** The question is simply this. If you're given an expanded authority to cost-recover 100% of what it takes to do the work of the NEB in monitoring projects that have already been approved, and also the process of actually going through the approval process, you would have the resources available to do the job that you're expected to do on monitoring—

**Ms. Josée Touchette:** May I undertake to provide a written answer? There are nuances here.

Is that agreeable?

**Hon. Ed Fast:** Yes, that's acceptable.

**The Chair:** We've just run out of time, so yes.

**Hon. Ed Fast:** That will be directed to you, Madam Chair.

**The Chair:** Yes. We'll make sure to get it out to all of you.

I want to thank all of you for presenting today and giving us this chance to ask questions. Obviously it's really good news to hear—

**A voice:** [*Inaudible—Editor*]

**The Chair:** No. We have to suspend. We are out of time now. We had a certain amount of time, so the questions had to be cut off. We had three, two, one.

Thank you very much. I think it's important to hear that good progress is being made on the findings of the commissioner. Obviously we'll be looking to potentially have you back, in time, to see how we're doing.

**Ms. Josée Touchette:** We would welcome that opportunity.

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

Committee, we have only a few minutes to finish our work. We are dealing with committee business.

We agreed back on February 16 that Mr. Cullen's motion would be brought forward today. I want to give Mr. Cullen that chance to put his motion, or whatever he'd like to do with his motion.

Go for it.

**Mr. Nathan Cullen:** Thank you very much, Madam Chair and committee members engaged in this. This is certainly somewhat relevant to the conversation we were just having about a repository of some large amounts of contaminated material near Kincardine.

There's been some updating on this, as you know, Madam Chair.

The government has sought more information and has suspended the decision. We've heard from a number of the people who first approached us on this—on both sides of the Canada-U.S. border—that they have a story to tell. There's a certain lack of enthusiasm even for the suspension, because they feel like it's just going to be going over the same things.

I think it would behoove the committee to spend some time listening to what they have to say. These are people who are experts on the containment of contaminated materials, as well as some of the local representatives, the mayors and such. I know that Mark might be worried about just a mayors' committee. We wouldn't do that.

I think this would certainly not be a waste of the committee's time and in fact would respond to something that's quite important, because if and once this gets approved, it's forever. You don't bury this stuff for the mandate of a government. You bury it for hundreds of thousands of years, which is obviously why there's concern from the citizens in these communities. Again, to assuage anyone's fears—if they exist—the folks we've been hearing from have been from right across the so-called political spectrum. It would be a good representation of folks who are impacted by this.

I move the motion. Certainly, we can amend it. We didn't have time, Chair, in our process, to amend it based on the government's extension.

•(1255)

**The Chair:** Right, so March 1 wouldn't be relevant.

**Mr. Nathan Cullen:** Sure, and that's what initially brought this urgency to us. There was this pending March date.

But I would certainly like committee members.... I know that Mr. Fast and some others wanted to go away and do some research on this. That date is not fixed for us, obviously, because now the decision isn't pending, but certainly we'd like committee support for the ability to look into this.

The very last thing, Chair, is that this is not an investigation into the long-term process that is being used by the nuclear waste commission. It is the intermediate process they use that has raised some pretty serious concerns.

**The Chair:** We're open for debate. Who wants to debate? Does anyone want to talk?

I'll call the question, if nobody wants to talk. Do you want me to call the question or do you want to debate?

**Mr. Mark Gerretsen:** Well, I don't want to debate, but I feel the need to debate.

**Some hon. members:** Oh, oh!

**The Chair:** Okay. Go ahead, Mr. Gerretsen. I'm sorry.

**Mr. Mark Gerretsen:** My understanding—and I was just clarifying it with the parliamentary secretary—is that the minister is currently asking for more information, with also potential alternate sites that could be considered. I don't know why we would go down the road of calling people before us to discuss just one particular site. It seems as though there's a process in place to allow due course to take place and for the proper measures to be presented so that a proper decision can be made.

Personally, I'm inclined to not support the motion, because I have difficulty with the fact that we seem to be doing work that the minister's office is already doing. Also, we're talking about one particular site when the minister has specifically asked for alternate sites as possibilities too.

That's my own feeling on it, but I'm looking forward to hearing what other people have to say.

**The Chair:** Mr. Fast.

**Hon. Ed Fast:** Madam Chair, I believe the benefit of a public hearing such as would be presented by calling witnesses to this

committee is that it affirms the credibility of the process, and the voices that want to be heard will be heard.

As you know, there was a formal process that made a number of conclusions. The previous minister deferred consideration of it because of a number of concerns that were raised. The current minister has also deferred consideration, which I believe is a good step. But the bottom line, now that it has gone through the formal review process and is awaiting a decision from the minister—she's taking into account additional factors, I assume—is that there's no other formal public forum within which this issue can be discussed.

I believe that Mr. Cullen has rightly raised the fact that this forum here—I believe he's suggesting one meeting—is one that is public and residents across Canada can see the proceedings. I'm assuming that this would be televised. It just reaffirms the credibility of the process. I was going to use the word “restores”, but I'm not sure that the credibility of the process has been damaged. It's just that this will reaffirm, for those people who are still concerned about this issue, that all the due diligence has been done and that the science backs up the decision that will be made down the road.

We'll be supporting it.

**The Chair:** We'll have Mr. Gerretsen and then Mr. Bossio.

**Mr. Mark Gerretsen:** To that point—and I appreciate the comments that Mr. Fast made—if we want to have questioning over the potential policy that's created as to how you select these sites, then I could see how that discussion could be warranted. But when we're basically asking to have a hearing on one particular location that already has a policy in place and a procedure as to how to determine what that location would be in consultation with the minister's office, then I don't see the benefit. I could appreciate it if our objective was to craft or help alter an existing policy, but not necessarily with respect to one particular location.

•(1300)

**The Chair:** Mr. Bossio.

**Mr. Mike Bossio:** Because this has been delayed, I think that we owe it to ourselves to consider all of the different options. I know Ed has an option he wants to put forward as a motion, and I know that a number of us over on this side are thinking the same thing.

Since there isn't a rush to do this immediately, I'd like to get everything on the table and decide, as a committee, what different areas we wish to explore around legislation, studies, or whatever the case may be. Then we can decide what we want to prioritize.

**The Chair:** Yes, to prioritize it with other things.

Mr. Amos.

**Mr. William Amos:** I think that Mr. Gerretsen has hit the nail on the head. What we're looking at is an issue that is subject to executive decision-making. The joint review panel has assessed information. The minister follows up on that process to make a determination in her role as member of the executive.

We're not an executive body; we're a legislative body. I don't think it's appropriate for a legislative body, such as ours, to insert itself into executive decision-making.

I, myself, care about this decision. I just feel as though we have to trust the process that exists. We have to trust that the minister has the public interest in mind and that she has the best advice coming before her, including all the information that the mayors and any non-Canadian parties may wish to put before her. I don't think it's sets a good precedent for us to be inserting ourselves into an executive decision-making process.

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

Mr. Cullen.

**Mr. Nathan Cullen:** Very briefly, I appreciate Mr. Fast's support to Mr. Bossio's comment. We'd be willing to suspend this in order to bring it into the mix. I understand committee members all have different proposals, including Mr. Fast and ourselves.

To Mr. Gerretsen's and Mr. Amos's point, I think this is the exact way to do this, actually. As legislators, it is what makes those policy decisions real. Has this process been sufficient and adequate in bringing in the public? Has it observed the science?

It is not meant to interfere with the ministerial process but parliamentary committees do this all the time. This is a real application of policy. One can go on an esoteric three month study of nuclear waste management policy across Canada or one can deal with the practical. I'm a more practically oriented person. I like the idea of its application in the real world.

To expedite what we're doing here now, Chair, I think it's procedurally okay for me to simply suspend this motion because I realize we're over time. I know the committee is going to be seized with—

**The Chair:** I'll suspend debate, then, at this point in time. We'll adjourn that discussion and potentially take it up on Thursday.

I do want to ask the committee two things.

First, in terms of the information that you're getting, I just want to make sure you know that everything that is being handed out in paper is going up on SharePoint. Is everybody aware that's it's on SharePoint?

We're trying to be environmentally responsible here and we're seeing a lot of duplication of material. The briefing notes and the presentation that follows are going up on SharePoint, as are the meeting notices. Please make a point of checking your SharePoint before the meetings.

On another note, this morning I was at a sort of open house with environmental leaders. I don't know about the rest of you, but I have found the process we're going through to be incredibly helpful to get an understanding of the problems within the departments and to get an understanding of the framework the departments under our jurisdiction are working with, and to have our own brainstorming about the things that are of concern and of importance to us.

There are a whole bunch of groups out there that are environmental advocates. They were on the Hill; they are on the Hill. There are quite a few of them. I can give you the names:

Environmental Defence, Nature Canada, World Wildlife Fund.... There are a whole bunch of people here on the Hill basically connecting with MPs and trying to advocate for their issues. I think that before we make our decisions about which way we're going, it would be fair to make sure they have had a chance to come and have a chat with us. They are on the Hill this week. They are prepared to come on Thursday. We have a full agenda for Thursday with our motions, but I don't know if we should be moving forward with those motions until we have had at least a chance to hear what the leading environmental groups would like us to be considering at this committee.

I would like to hear them. I just want to ask the committee's opinion.

Mr. Cullen.

● (1305)

**Mr. Nathan Cullen:** I think it's a very nimble and wise decision. These are groups from Ducks Unlimited right across the board.

**The Chair:** They are all here.

**Mr. Nathan Cullen:** These folks work and breathe this stuff. If we're setting out our track for the next number of months and perhaps longer, not hearing from them would seem passing strange.

**The Chair:** That's what I was thinking. I know we're all anxious and we're chewing at the bit to try to get moving with the committee, but I'd like to make sure that when we are moving, we are moving in the best direction we can.

Mr. Shields.

**Mr. Martin Shields:** Thank you, Madam Chair.

When you say they're all here, I have no idea what you mean by "all".

**The Chair:** Well, they're not "all" here. There are some here.

**Mr. Martin Shields:** Okay, there's my problem. Just because they're here, they have access to us. That excludes others, and that causes me a problem. You're just opening it up to those who happen to be standing at the door because we have a meeting. That's an issue for me and I don't think that's right.

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

Mr. Fast.

**Hon. Ed Fast:** That was exactly my point. We established a date on which we were going to have a broad discussion about the kinds of studies we want to move forward with, and I understood that the committee agreed to that. We have followed through on that. We've deferred other issues.

**The Chair:** You have been respectful. I appreciate that.

**Hon. Ed Fast:** We want to be respectful. But there's a group of people on the Hill that haven't been specifically even identified in this discussion here, and by definition that would exclude others that could contribute just as well to us in prioritizing studies. To me, that's a problem. The process, if we follow down that road, is flawed.

I don't have any problem with us having our meeting as scheduled next time. We don't have to make any decisions there. We can talk about what kinds of witnesses we could bring forward to help inform studies that we should be undertaking, but I think we need a broad discussion. We've had lots of time to think about this. We have very much focused our discussions on the mandate letter that the Prime Minister issued to the Environment and Climate Change Minister. I assume others have as well and will be coming forward with proposed studies. I'm not in any way foreclosing an opportunity for key stakeholders across Canada, not just exclusively in that group, to speak to us and let us know what kinds of studies they feel are of an emergent nature, perhaps, and that we should be considering.

**The Chair:** Okay.

Mr. Bossio.

**Mr. Mike Bossio:** Although I agree with part of what Ed has to say, I think it would be a missed opportunity given the broad range of stakeholders that are here this week from all over the country. I met with a number of them this morning. You don't get the opportunity very often to have all these people from all over the country here in one place, in one city, at the same time. I would hope that in the future we would give the same flexibility if another group of stakeholders from a broad range of different backgrounds were also present in this city. Just because, unfortunately, we're not totally together and didn't realize that they were all going to be here at this time, they shouldn't be negated from an important part of this process of defining where this committee goes over the coming months and, potentially, years.

Thank you.

**The Chair:** Mr. Fisher.

**Mr. Darren Fisher:** Thank you, Madam Chair.

The points made across the table are really very good, but I think the benefits outweigh the negatives. I think I would like to hear from them if possible.

**The Chair:** I'm in the hands of the committee.

**Mr. Darren Fisher:** Mr. Fast made some really good points, as did Mr. Shields, but I think it would be an opportunity. I certainly, as a newly elected member of Parliament, would like participate.

**The Chair:** Okay.

Mr. Aldag.

**Mr. John Aldag (Cloverdale—Langley City, Lib.):** I'm going to throw out an idea. Would it be possible to get the list of the organizations in town? Can we circulate it, and if anybody knows of organizations that aren't in town to speak to the point raised, I assume these machines work and that we could, although it's short notice, invite others whom we may want to hear from, from across the country, to join in?

**The Chair:** Yes. We can have them tap in by Skype or whatever we need to do.

We will need to know today to get them queued up. We'll have to make the decision today.

● (1310)

**Mr. John Aldag:** If you can get the list out so that we can look to see who's in town, then if anybody has—

**Mr. Mike Bossio:** We have to make a decision.

**The Chair:** We will have to make a decision whether we're going to do this and put the day or the time to do that. In the meantime, we can spend the next day working with everyone to try to see how many we can get.

Today it was clear to me that there is some coordinating leadership to try to bring the voices together. That is a group that is here with delegates, and it's an opportunity to hear from them. Who have we not heard from?

Mr. Eglinski.

**Mr. Jim Eglinski:** I do have a problem. Right off the top of my head, the CAPP, the Canadian Energy Pipeline Association, and the railroads are all dealing with the transportation of dangerous goods. They're coming into the environment aspect.

We could have a list here that we could spend days on, just talking to people and letting them inform us. Where do we stop? They're here. Most of those associations have representatives in Ottawa. We can pick up the phone and call them. Where do we stop, gentlemen?

**Mr. Mike Bossio:** When we feel we've properly consulted...

**Hon. Ed Fast:** I have a point of order.

**The Chair:** Mr. Fast, go ahead on a point of order.

**Hon. Ed Fast:** I want to preface that by saying so far the meetings have been very collaborative and collegial. When something like this is sprung on us it's unfair to the opposition parties who are in a minority.

I wish I didn't have to raise this point of order. If we're going to get real work done and we're going to collaborate and have the committee come up with some unanimous recommendations, there has to be goodwill here and the process has to be seen to be fair.

Here we are at the end of the meeting after we should have adjourned.

**Mr. Mark Gerretsen:** Can I raise a real point of order?

**Hon. Ed Fast:** I'm prefacing the point of order. After the time we should have adjourned, we're now raising this issue of bringing in witnesses, and I don't even know who they are.

The point of order is this. You have to give 48-hours' notice.

**The Chair:** We're under committee business so we don't need to do that. However, I recognize what you're saying.

There is a point of order over here, so I'm hearing you.

**Hon. Ed Fast:** My point of order is that 48-hours' written notice is required, unless you have the consent of the committee to proceed.

**The Chair:** Unless it deals with the work of the committee, and that is what we're doing. We're in that, fishing right now for information to help guide us in our decision-making, and in what way the committee is going forward.

I have been given advice before on this, what can and cannot come forward, and it is possible to have this come forward in the committee right now.

I'll accept one more point of order.

**Mr. Mark Gerretsen:** My point of order was that it was my understanding that if you wanted to go beyond the time when the meeting is scheduled, then you need to have the consent of the committee to do it.

**The Chair:** We don't have that. I hear you.

**Mr. Mark Gerretsen:** I'm sorry, but I can't be here.

**The Chair:** Okay. Fair enough.

I have a very quick proposal, having listened to all the discussion. I would like to ask if next Thursday we are discussing, as we planned, what we have on the table in potential motions, but we don't table the motions. We discuss them. We put out a call for the environmental groups or we'll get a list from you as to whom you might want to have come forward to have that last chance to hear from the other organizations—because really all we've heard from is our government.

I would be prepared to entertain doing that, as long as we have an understanding that at the next meeting we're not charging ahead to put the motion on the table to make it happen at the next meeting.

Do we have agreement on that in the committee?

**Hon. Ed Fast:** I'm not sure that I would agree that we can't table the motions that we've already provided.

**The Chair:** You can table as long as we don't force votes on them because I think that would be unfortunate.

**Hon. Ed Fast:** I'm not going to take position on that. What I will say is, if we're going to follow through.... As I said, I don't think it's a bad suggestion to hear from many of the stakeholder groups. It will be virtually impossible to do it in one session because I expect we're going to have many different groups that want to—

**The Chair:** We could force them to kind of consolidate, but I'm hearing you.

**Hon. Ed Fast:** Consolidation is going to be difficult because there is a wide array of interests that are impacted by our work here at this committee. Perhaps, Madam Chair, I could just leave it to you to give some consideration to the kind of time that will be required to do what is being suggested here. We're not opposed to it, but let's make sure that at all times we respect each other and make sure the process is fair to everyone.

• (1315)

**The Chair:** There was no intention to be unfair. It was taking the opportunity of having a large number of groups on the Hill with the environmental movement that would have been interesting to hear from while they are here. It was not an intent to throw off anything. It was to take advantage of an opportunity. I put it in front of the committee, and then we have to finish up.

**Mr. Mike Bossio:** I have one final suggestion just to try to reach once again that conciliation that we can hopefully reach.

Let's go ahead with the environmental groups on Thursday, and if there are other groups on your side that you've identified that you think would like to be a part of this and they can't be there on Thursday, we can do it the following Tuesday by blocking off a piece of time to enable them to also come forward and have their say. Give them a little more flexibility so it's not that there are two days to get it done, or that's it.

Do you know what I'm saying?

Leave the flexibility in the future if there are groups that we feel are stakeholders that have an important voice to come forward to the committee and have that discussion.

**The Chair:** Mr. Bossio, we are beyond time. We have to have consent to extend the time. I don't believe we're going to get that. I'm hearing at this point in time that there's one side that doesn't want to take advantage of the opportunity. I don't think it's quite fair, but I do hear that voice. I do think we want to hear from them and we want to hear from them soon. I don't think I can force this through right now.

We're extended. If I ask for a vote, we're going to ask for an extension and we're not going to get it.

There needs to be a motion to adjourn at the table. That's what I'm being told. We need a motion to adjourn.

Thank you all. The meeting is adjourned.









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