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**Chair**

**The Honourable MaryAnn Mihychuk**



## Standing Committee on Indigenous and Northern Affairs

Tuesday, October 3, 2017

• (1100)

[English]

**The Chair (Hon. MaryAnn Mihychuk (Kildonan—St. Paul, Lib.)):** Good morning, everybody. Welcome to the Standing Committee on Indigenous and Northern Affairs.

Welcome to the Yukon representatives. It's nice to see former colleagues of mine. It's important to get this bill through, so that you have assurance and know what the system is, and then you can make some fabulous discoveries, and production, and employ people.

Let's get down to business. Pursuant to the order of reference of Tuesday, June 20, 2017, we are studying Bill C-17, an act to amend the Yukon environmental socio-economic assessment act and to make a consequential amendment to another act.

You're going to be our last panel on Bill C-17. We're anxious to hear from you.

First, I'd like to recognize that we're on the unceded territory of the Algonquin people. We say that because Canada has started the process of understanding the truth and moving through reconciliation with our first peoples and indigenous communities.

We'll get started with some of the procedure. You have 10 minutes each to present and then we'll go into a round of questions and answers from the committee members.

I have Brad starting, but it doesn't need to be.

Okay, I'll turn things over to you. I'll signal when it's time to wrap up.

**Mr. Brad Thrall (President, Alexco Resource Corp.):** Madam Chair and members of the standing committee, good morning and thank you for the invitation to appear before you today, and provide some industry perspective about this important legislation.

My name is Brad Thrall. I'm the president of Alexco Resource Corp., and I'm urging deferral of Bill C-17's passage until all affected and interested parties can deliberate, and mutually determine language to preserve the reassessment and timeline provisions currently within the Yukon Environmental and Socio-economic Assessment Act. Repeal of the reassessment and timeline provisions, as anticipated in Bill C-17, without replacement language ready to go, will perpetuate economic uncertainty, and will negatively impact the competitiveness of Yukon, and will diminish economic and social opportunities for all Yukoners.

First, I'll provide some background about Alexco. We are a Canadian mining company. Our primary asset is the historic Keno Hill silver district north of Whitehorse in the traditional territory of the first nation of Na-Cho Nyak Dun. The district was the site of more than 30 underground silver mines from 1913 until 1989, and was the second largest silver producing district in Canada.

Alexco distinguishes itself from other resource companies in that we also founded an independent environmental remediation firm, Alexco Environmental Group, or AEG, which specializes in brownfield site cleanup as well as all aspects of environmental management and permitting.

In part, because of our demonstrated expertise in northern mining reclamation prior to 2005, Alexco was selected as a preferred purchaser of the bankrupt and environmentally compromised assets of Keno Hill from Canada in 2006. At that time, the district was a significant environmental liability for Canada. Since that time, our work to clean up legacy liability in the district has been conducted through AEG in a contractual relationship with Canada, and to date, Alexco has invested more than \$22 million, and shares ongoing costs with the federal government. All of this investment offsets Canadian taxpayer liability.

Alexco has also been a recent producer of silver, lead, and zinc from the district, and we are actively planning to resume production in 2018, pending the successful outcome of additional assessments under YESAA.

Currently, we have 80 employees, including a significant number of Yukoners and first nation citizens as part of our mine development program. We anticipate further expanded business and employment opportunities for Na-Cho Nyak Dun citizens, and for residents and contractors in the village of Mayo once permitting is completed.

Once back in production, we will employ over 200, and our annual payroll alone will be in excess of \$35 million. There will be significant contract and business opportunities for Yukon and northern business and service providers, and enhanced opportunities to support first nation and community events and initiatives that reflect the social, cultural, and environmental values of the community and its citizens.

We are no strangers to the YESAA process. We have been through this YESAA process 11 times in the past 10 years, six times on the mining side of our business, and a further five times on the environmental cleanup side. In addition, we anticipate making applications for another three assessments under YESAA within the next three months alone.

I believe our experiences in the development assessment process, our relationship with Canada and the environmental cleanup of legacy liabilities, plus our mining experience in Yukon make us exceptionally qualified to provide some real world context for this important discussion.

With this in mind, we are focusing on two specific sections of Bill C-17: project reassessment, section 49.1 of the act, and timelines, section 56(1) of the act.

We can also contrast our experience after YESAA was amended in June 2015 with our experience prior as a measure of the success of the current legislation which, as you know, includes the reassessment timeline provisions. The current legislation allows proponents of certain projects to apply to the decision body, usually Yukon or first nation governments, under section 49.1, to allow a project to proceed without the need for reassessment. This allows previously assessed projects to proceed to the authorization process without duplication.

The reality of mining is that during the process, new or extensions to existing ore bodies may be identified, and these discoveries may require slight modifications to mine operating plans. Under the current legislation, these modifications would generally not require a complete project-wide reassessment. However, if Bill C-17 is passed, they would, even though there is no significant environmental or socio-economic impact and no change in the production stream.

• (1105)

While in production between 2011 and 2013 under the former legislation, Alexco proposed to add to our mine production stream two new deposits adjacent to our existing operations. No significant changes were contemplated. Regardless, permitting required a new project-wide reassessment, which occupied 221 days of YESAB's time and jeopardized the sustainability of our district. Under the existing legislation, small changes to operations could be dealt with as simple licence amendments and could subsequently help ensure sustainable jobs and a sustainable business.

Similarly, in 2014, Alexco was again fully reassessed for production from a third new deposit, and this reassessment included a duplicative assessment of our already licensed and operating mill, which took another 298 days of YESAB's time and resources.

On the environmental side of our business, we were required to go back through an entire environmental assessment to maintain a water licence to extend the operating period for various water treatment facilities. Ironically, these same facilities were mitigating historic environmental liability, but this simple extension required 134 days of YESAB's time to assess the entire project yet again.

Please understand that we firmly support a rigorous environmental assessment process for the Yukon, for new projects and when fundamental changes are made to existing projects. However, small changes to a mine plan or to environmental facilities should not

require a "back to square one" assessment. If set back to the previous legislation, uncertainty will prevail, and investment, jobs, benefits, and opportunities for residents and communities will be compromised.

Regarding timelines, the current act includes a provision, subsection 56(1), that limits the time for a proponent's application to be completed through the process. Passage of Bill C-17 would repeal this provision, allowing this period to revert to being an undefined and unlimited period.

Over the eight years before YESAA was amended and over the course of 10 assessments, some of which were duplicative, the time period required to deem our project proposals adequate has increased more than fivefold. In contrast, our 11th assessment in 2017, under the amended legislation, took less than 20 days for adequacy. We expect that in part this is due to the lessened workload of YESAB's designated office resulting from YESAA's amendment in June 2015.

Since YESAA was amended, there have been approximately 100 applications under section 49.1, and of these, nearly two-thirds have been granted by the decision body. Projects granted the opportunity to modify permits and licences without having to undergo full reassessment are not limited only to mining, but include Yukon municipalities and first nation governments as well.

In my view, the reassessment provision has served exactly the purpose for which it was designed. It has increased efficiency at all levels of government. It has substantially reduced or eliminated duplicative assessments. It has reduced cost to the taxpayer while placing Yukon on a competitive footing with other provinces and territories—and globally, I might add.

Based on Alexco's experience and our knowledge of others in the resource and environmental sectors, we believe that passage of Bill C-17 will materially harm Yukon's competitiveness as a destination for resource capital. It will create uncertainty and will hinder our territory's economic growth relative to other jurisdictions in Canada, directly and negatively affecting training and employment for Yukoners and a company's ability to invest in social, cultural, and health and wellness initiatives for Yukon first nations citizens and all Yukoners.

Madam Chair, we believe the proper path forward is to delay this bill until all parties involved—the Yukon government, first nations, municipalities, and industries beyond just mineral exploration, such as tourism, for example—have the chance to mutually develop replacement language to preserve the reassessment and timeline provisions. Passage of Bill C-17 without replacement language will set the Yukon back on its growth since devolution.

I thank you for your time.

**The Chair:** Thank you.

Mr. Smith.

• (1110)

**Mr. Jonas Smith (Project Manager, Yukon Producers Group):**

Madam Chair, members of the committee, *mesdames et messieurs*, my name is Jonas Smith, and as is common in a small jurisdiction where many of us wear numerous hats, I am involved in several mining-related organizations, including Prosperity Yukon and the Klondike Placer Miners' Association. My comments today will focus on the perspective of the Yukon Producers Group, although I can address questions concerning other perspectives, depending on the line of questioning from the honourable members.

Yukon Producers Group is a mining industry-driven organization representing Yukon's operating mines, advanced mineral exploration and development projects, and our key service suppliers.

We appreciate this opportunity to correct the record and to clarify some of the misrepresentations put forward during previous hearings and parliamentary debate regarding this bill. We believe there will be dire socio-economic impacts for Yukon residents, businesses, and communities if replacement language for the repealed sections is not established before Bill C-17 receives royal assent.

While our members are also concerned with issues related to legislated timelines, given our limited time with you here today, my comments will focus on the matter of reassessment.

As I mentioned earlier, the territory is a small jurisdiction with only 38,000 residents. The benefits and opportunities one operating mine can provide Yukoners, all orders of government, and Yukon communities resonate significantly throughout the territory and across all economic sectors. The repeal of the reassessment provision currently within the Yukon Environmental and Socio-economic Assessment Act must simply not proceed until a replacement process has been deliberated and is in place.

We are aware of, and respect, Yukon first nations' position as to how this and three other amendments to YESAA were introduced outside of the previously agreed-to tripartite process. We fully support first nations participation in the development of legislation that affects all Yukoners, and we expect our governments to adhere to the process outlined in the treaties.

As such, our approach does not counter Bill C-17; rather, it implores that you, as federal legislators, recognize that without a replacement provision in place to address the existing section 49.1 and reassessment, industry, municipalities, and first nations governments will be left behind, and all Yukoners will suffer the negative consequences.

From training to employment and support for our hospitals, our college, our community charities, and our recreational facilities, the mining industry is integral to our socio-economic fabric, and the ability for mines to get into operation and remain operating is seriously challenged in the territory.

We are asking for the deferral of Bill C-17 until Canada, Yukon, and the Council of Yukon First Nations, with the input of industry and affected stakeholders, have deliberated and determined a replacement process for reassessment. This is the logical approach, as opposed to repealing this important provision with nothing collaboratively determined prior to repeal.

As stated in the Yukon Minerals Advisory Board, YMAB, 2016 annual report, tabled in the Yukon Legislative Assembly on June 7, 2017:

In the absence of a regulatory mechanism such as 49(1)...the process under which projects are 'reassessed' under YESAA is highly flawed.

At best, it serves as a significant burden and barrier to development and capital investments in the Yukon. At worst it threatens the very future of mineral development and placer mining in the territory. There are multiple examples in the Yukon that either have, or will, prematurely shut down projects due in large part to reassessment. The fact that 49(1) has been used by...[YESAB] over 80 times—

—now over 100 times—

—since Bill S-6 became law in 2015 speaks volumes for the critical need of a practical regulatory tool that can manage determinations of non-significance when appropriate.

YMAB appreciates the highly political lightning rod Bill S-6 became and the fact that C-17 will be enacted is not the issue. What is at issue is the loss of a practical regulatory tool that was deployed, or could have been deployed, to avoid repetitive environmental assessments deemed non-significant that serve no benefit to the public or the environment. It is worth noting that this will, and has, impacted several sectors beyond mining in the Yukon.

For context, the Yukon Minerals Advisory Board is comprised of 10 Yukon mineral industry representatives and is legislatively mandated to provide recommendations directly to the Minister of Energy, Mines and Resources, as enacted under the Yukon Economic Development Act of 1999. Until the Northwest Territories devolved from Canada in 2014 and established a similar board, this was the only board of its kind in the country.

To quote YMAB further from its 2015 annual report:

Mining projects that have triggered a reassessment under YESAA require the entire project be reassessed rather than only the new or altered project component (s), which triggered the reassessment in the first place. There appears to be a misperception that industry seeks to circumvent future environmental assessments altogether and this perception is incorrect. YMAB is simply suggesting any reassessment be properly scoped to include only those project components that are new or substantially altered from the original assessment.

•(1115)

For example, as my colleague here has just recounted, Alexco has been through the YESAB process 11 times in 10 years. A project-wide reassessment every time does not allow for the fundamentals of establishing and sustaining a mining operation. To be sustainable an operation needs to continually modify and optimize mining and site plans in response to a multitude of factors, including technology, environmental best practices, commodity prices, or first nation and community values.

The absence of a reassessment provision not only negatively affects proponents, but places a strain on the financial and human resources of publicly funded assessors and governments as well.

Another very recent example from a Yukon mine ramping up to production revealed that in these last few months when Bill C-17 has been making its way through Parliament, the company was once again subjected to an expensive, time-consuming, and ultimately unnecessary reassessment. In this case YESAB ultimately determined that reassessment and any further mitigation beyond the original assessment were not required. Yet despite this relatively favourable outcome, the process that led to it still consumed considerable resources from the company and the YESAB assessment office.

It resulted in a missed season of work for the company, where those financial and human resources could have been put to far better use employing citizens of the affected first nation and the community where it operates.

As I mentioned previously, since section 49.1 was enacted in 2015, over 100 projects have applied for exemption from reassessment. These were not only mining proponents, but municipalities as well. The City of Whitehorse, a major employer in our territory's capital, received this determination under section 49.1 for one of its permanent renewals: "The project has been assessed once by YESAB in 2013. Since that time, the only changes in relation to the project were minor and regulatory in nature. There have been no significant changes to the project and therefore an assessment is not required. KDFN and TKC"—Kwanlin Dun First Nation and Ta'an Kwach'an Council, the two self-governing first nations within whose traditional territory the project lies—"were both contacted to provide comments, but no comments were received." - REF-Total Numbers - Section 49.1(1) Determinations (Document from Yukon government, provided by witness) Note: KDFN and TKC are acronyms for the first nations he name, and "the two self-governing First Nations within which whose traditional territory the project lies" are the witness adding context to the quote.

It has been suggested, given the number of Yukon's economic sectors that have benefited from this reassessment provision, including industry and municipalities, that removing it before its replacement is in position is like ripping the roof off your house before you've decided what to replace it with and leaving Yukoners out in the rain in the process.

Yukon's mining industry is modern, responsible, and innovative. It is a partner at the forefront of research and relationships that balance economic, social, cultural, and environmental values. It and its supporting service and supply companies are our territory's largest

private sector employers. It contributes 20% to our GDP, a significant number in a small developing jurisdiction otherwise dominated by the public sector.

The mineral industry is committed to working with all orders of government to provide opportunities that allow Yukoners to grow up in the territory, study and train in the territory, and pursue rewarding and well-paying private sector jobs and careers.

In conclusion, Madam Chair and committee members, the Yukon Producers Group proposes that a committee of interested and affected government and industry parties be struck to work on replacement for the reassessment and timelines provisions and provide its recommendations for this replacement before Bill C-17 receives royal assent.

If replacement provisions are not in place beforehand, industry, municipalities, and all Yukoners will suffer.

Thank you again for the opportunity and your time this morning.

**The Chair:** Thank you.

We'll now move to you, Mike.

**Mr. Mike Burke (President, Yukon Chamber of Mines):** Good morning, Madam Chair and members of the standing committee. Thank you for the invitation to appear before you today and provide clarity to the support of the Yukon Chamber of Mines for the passage of Bill C-17.

This is an important bill for all Yukoners, one that touches on reconciliation, environmental sustainability, and economic development. In February 2017, the Yukon Chamber of Mines provided support to Yukon first nations in seeking expeditious passage of Bill C-17 recognizing that first nation governments were not fully involved in the development of its predecessor legislation Bill S-6. It is unfortunate that we find ourselves here due to the fact that the process agreed to by all governments was not followed.

The Yukon Chamber of Mines recognizes the involvement of first nations in the development of legislation. Our support to Yukon first nations was also predicated on addressing industry concerns, namely reassessments and timelines, through a collaborative framework with Yukon first nations, the Yukon government and the Government of Canada, a fact that's been overlooked during debates in the House of Commons.

I refer you to the joint press release by the Council of Yukon First Nations, the Yukon government, and the Yukon Chamber of Mines, which contains the following quote from me, the president of the Yukon Chamber of Mines:

The mining industry is on the front lines of reconciliation, as exploration and development activities occur in the traditional territory of all Yukon First Nations. It is with this in mind that the resetting of the relationship between all orders of government brings the opportunity to address challenging issues around timelines & re-assessments through a collaborative framework moving forward.

It is without a doubt that the passage of Bill C-17 needs to occur in order to reconcile with Yukon first nations. The federal and territorial governments must work immediately with first nations governments to address the concerns and risks associated with the removal of the provisions addressing reassessment and timelines from the act.

I would like to draw your attention to Minister Bennett's commitment in a letter to the Yukon Chamber of Mines dated July 6, 2017, "Once amendments to Bill C-17 have been made, the department is willing to work with Yukon first nations, the Government of Yukon, and stakeholders such as your organization to review these issues in order to identify possible short-term administrative or long-term legislative solutions."

We appreciate this commitment. However, it is imperative that all orders of government work to undertake and implement solutions to these issues in advance of the passage of Bill C-17 to ensure continuity for all parties involved. The time to start this work is already in the past. Our concerns for the future of our business have been shared with all levels of government. We strongly urge you to begin this work and establish a timeline to report progress on this front.

The future of the Yukon mining and exploration community is threatened by a process that is clearly flawed. However, proof has been given of an improved process with the experience to date using these amendments. The mining and exploration community includes first nations communities as we enter a new era in mining where first nations are valued partners in our business.

This partnership brings much needed economic wealth and opportunities to first nations in the Yukon where few opportunities sometimes exist.

I wish to reiterate some of the highlights from previous speakers.

Regarding section 49.1, non-significant modifications to a project, the nature of mining operations is that mine plans and ore bodies will change once they go into production. Very few operations ever know the ultimate number, size, and configuration of all ore bodies in a mine area prior to making a production decision. New ore bodies are often sought within existing mine areas. This process is termed brownfields exploration or within sight of the headframe. The same is true of exploration projects where plans change based on the last soil sample, the last rock sample, or last drill hole result. A completely new reassessment, including previously assessed impacts, should not occur where a mine may want to include a new ore body or an exploration project needs to drill some holes in a new discovery. Only the actual changes to a project need to be assessed.

Since Bill S-6, over 100 authorizations have been sought under the provision with over 60% approved, in other words, not requiring a reassessment of current activities. This section of the act is so widely used that a provision regarding the approval process was contained in an April 2016 memorandum of understanding between the federal, territorial, and Yukon first nations governments. In it a consent provision was provided to Yukon first nations.

• (1120)

The cost savings to proponents and governments is obvious. It is simply inefficient for any party to be reassessed on activities which have already been assessed or which result in a non-significant modification to a project. An example I have been personally involved in is the simple time extension to a project where a five-year expiration plan was approved, but due to the inability to raise capital to conduct expiration, only one year of the assessed plan was completed prior to the expiration date of that permit. An extension of

four years to complete the plan was applied for under section 49.1 and was determined not significant and a complete reassessment of the plan was not required. That's common sense.

The current process for determining reassessments has resulted in a decreased pressure on the resources of first nations and YESAB, as well as other government departments that participate in assessments.

Moving on to timelines, under subsection 56(1), YESAB has the ability to elevate the level of review required for an assessment if it is unable to form a view as to whether the project, as proposed, should be recommended for approval. They can move it from designated office to executive committee to a panel review. There is no proposed timeline for this elevation decision, which can therefore result in unreasonable delays, significant costs, and potential legal action, which has already occurred in one case. In addition, no timelines previously existed for the time period that a project is deemed adequate. Mr. Thrall with Alexco provided excellent examples of the impact that can have on a project.

High-performing organizations have setting of targets, including timelines, as a key to superior performance. Proponents, Yukoners, governments, and YESAB itself, should accept no less than being a high-performing organization. Companies that invest in development or projects in the Yukon accept the risk of an approvals process and its timelines. However, that risk increases significantly without the application of specific timelines. Mining projects reaching the stage of undergoing an environmental assessment to go into production have invested millions of dollars, and the time value of money is very significant as they enter into the YESAB and permitting process. You cannot calculate the time value of money if you do not know the parameters for time.

The Yukon Chamber of Mines recognizes the increased pressure on the limited resources of Yukon first nations with the implemented timelines. Government support to increase capacity is essential for Yukon first nations to effectively participate within YESAB reviews in a timely manner.

The Yukon Chamber of Mines and our membership support the need for a robust environmental review process. We represent a science-based industry composed of geologists, engineers, tradespeople, and other professional and non-professional occupations, that has made and will continue to make significant investments in reducing the impact our business has on the environment. We do not want to save money at the expense of the environment. That is a myth.

We are at the forefront of reconciliation as we invest in the backyards of Yukon first nations. We are at the forefront of reconciliation as we partner with Yukon first nations and provide economic opportunities where, in many cases, few other opportunities exist.

We support the passage of Bill C-17 in order to reconcile with Yukon first nations. We urge the federal government to immediately engage with first nations governments and the Yukon government to find short-term administrative or long-term legislative solutions to the impact of the removal of the reassessments and timelines contained in Bill C-17. The impact of Bill C-17, without addressing these concerns, will have a serious negative impact on investment and mining and exploration projects in the Yukon.

The Yukon Chamber of Mines urges that this work be undertaken to implement solutions to these issues in advance of the passage of Bill C-17 to ensure continuity for all parties involved.

Thank you for the opportunity to speak to you today.

● (1125)

**The Chair:** Thank you.

Questioning opens with a seven-minute round. There will be a block of questions from one MP and then it will go to the other side. It moves around.

We will start with MP T.J. Harvey.

**Mr. T.J. Harvey (Tobique—Mactaquac, Lib.):** Thank you, Madam Chair.

Thank you to all the witnesses for taking time out of your busy schedules to be here with us today. I recognize coming from small business the importance time plays in your role within that business. Taking time away from what actually makes you money to arguing about things that may seem trivial to you as a small business owner or organization seems a waste of time or an unneeded hindrance. I recognize where you come from in that respect.

We've heard a lot of testimony on this issue. We've heard from a broad range of government organizations and private industry and there are varying opinions on the need for this legislation to go forward in its current form in order to address the outstanding issues with the Yukon first nations.

To you, Mr. Thrall, and then to all of you, perhaps you want to comment briefly on what each of your organizations is doing to create certainty with the first nations and to try to address some of these concerns, and how you feel that part of the process is essential in moving forward as proponents.

**Mr. Brad Thrall:** I'll give some background with Alexco. I think we do have an excellent relationship with the first nation of Na-Cho Nyak Dun. We are within their traditional territory.

We have in place what is called a comprehensive co-operation and benefits agreement. Within that document there is very specific language and commitments that we'll collaborate and consult and certainly give them the opportunity to review all of our plans before we go into the YESAA process. I would offer a good example.

Recently in our last assessment that occurred in April of this year, we wanted to advance a small underground exploration decline to do

some underground drilling. We applied for that project within section 49.1. We did not believe it needed to be assessed. We believed it was very similar; there was no significant change. But we did sit down with the first nation of Na-Cho Nyak Dun to get their views and position on this. Ultimately, they felt it needed to be assessed. Our decision was to go through the process, to go through YESAB.

I think that's a good example. We certainly respect that relationship. We respect their position. I don't believe their position is really all that far off of ours. They see the value in the reassessment. They see the value in the timelines.

Again, I think every company has good working relationships, and in this day and age you wouldn't be operating certainly in the Yukon without that.

● (1130)

**Mr. Jonas Smith:** I can't really comment much from the Yukon Producers Group perspective, but for the Klondike Placer Miners' Association, the vast majority of our operators work in the traditional territory of one first nation in particular, so we're working on an engagement strategy and memorandum of understanding with them on some of the more contentious land use conflicts that have arisen over the last few years. Over the last year I'm very happy to report we have made an awful lot of progress on the relationship side of things.

The nature of our relationship is not financial, but on the ground. Again, these are small communities. Everyone goes to school together. Their kids play hockey together. It is one community. It's not this academic concept in the Yukon. It's your everyday life.

**Mr. Mike Burke:** The Yukon Chamber of Mines, as Brad pointed out, represent a wide range of businesses and companies that work hand in hand with first nations. Brad pointed out the agreement they have with the Na-Cho Nyak Dun First Nation.

We encourage exploration and mining companies active in the Yukon, whether it's early stage exploration...to engage early with Yukon first nations and communicate with them when they're working in their traditional territory. Oftentimes in the very early stages of projects, mining companies and exploration companies enter into agreements, whether it's an exploration memorandum of understanding or when you get to the stage of mining, a more complete impact benefit agreement.



Currently the Yukon Chamber of Mines, with our membership, is working on a first nations engagement guidebook. That's in co-operation with the first nations. We're involving them in making known our shared experience in engaging with first nations. We're asking all 14 different Yukon first nations how they want to be engaged by mining and exploration companies in creating this document and website so that newcomers to the Yukon can get on board and see the best practices that we're all doing.

We are really on the forefront of reconciliation. We're working in all the first nations' backyards, and the economic benefits we bring to them flow through to the community. It's not the old days where we just had employees from the local communities. We're seeking partnerships. That's what we're trying to do, and to make a difference in the Yukon especially in the communities that we're involved in.

**Mr. T.J. Harvey:** One thing I wanted to touch on is timelines. We heard a lot today about timelines. I don't think there have been any arguments against the fact that this legislation will go a long way towards ensuring a collaborative relationship between the Yukon first nations, the Yukon territory, and the Government of Canada.

We've heard a lot about the possibility of delays if this legislation was to go forward in its current form. We haven't seen those delays in other jurisdictions in which similar legislation has been brought forward. Do you think it's inevitable that there will be delays? Is it a worrisome piece of the legislation that will bring delays? Is there any concrete belief that it will cause delays, or is it just a part of the legislation that you're concerned about?

• (1135)

**Mr. Jonas Smith:** I think it is a concrete belief, from our perspective.

**Mr. T.J. Harvey:** Based on...?

**Mr. Jonas Smith:** This is based on our experience before and after Bill S-6's amendments.

**The Chair:** Thank you.

We now go to MP Cathy McLeod.

**Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC):** Thank you, Chair.

What we have come to understand from the testimony we've heard is that the process was flawed in the original bill that created the timelines and the certainty. The outcome, however, was actually pretty good. There aren't concrete issues with the actual outcome, but there were concerns about process.

I know that you've all been watching this debate fairly carefully because it impacts your business. I worry about anything that adds more cost, red tape, or that takes away from the timelines. Mr. Thrall or Mr. Smith, could you talk about any concerns you've had with the debate maybe not being quite as accurate as it should be?

**Mr. Jonas Smith:** There are three areas that I felt were not accurately represented during debate in the spring session. There were claims made that the request to maintain the exemption from reassessment provision was not necessary because YESAB has since come up with a temporal scoping policy. That policy, however, is meant to address a very different issue than the exemption from reassessment. I think this is one thing that needs to be clarified.

With regard to timelines, it was suggested that since YESAB's internal timelines meet or exceed the proposed legislative timelines, there was no need to put timelines in the legislation. My argument would be that if YESAB's timelines are adequate, then why not have it in the legislation when all of industry has requested it?

I don't want to speak for first nations, but my understanding is that their concern with legislative timelines is that they may lack the capacity to abide by them. There are a couple of different ways to address that lack of capacity. One is by exempting projects from needless reassessment, which clears their desks to work on new applications, to free up some capacity. Additionally, some of you may be familiar with the five-year review of YESAA, which resulted in 72 of 76 agreed-upon amendments. Of the four that were not agreed upon with Yukon first nations, my understanding is that one of them had to do with capacity funding. My question for you folks here today is, why are we not looking at the issue of capacity as opposed to timelines?

Finally, to my mind, the most prolific misrepresentation during debate was the unqualified support of the chamber for the immediate passage of the bill. As Mr. Burke has just recounted, the support was qualified, contingent on the development of a collaborative framework. Here we are today, several months later than we thought we'd be. We were told that this bill would pass during the spring session, yet we've had a few months of delay. Despite this extra time, however, there still has been no progress to date on this collaborative framework, none that I am aware of anyway.

**Mrs. Cathy McLeod:** Thank you. I note there's a little bit of a difference between two of the witnesses in the chamber. I think two of you are saying that we need to have the replacement language in place for this bill developed collaboratively, and Mr. Burke is suggesting passing the bill, and then developing the language that replaces what's there.

The timeline that it's taken to even get this through and the lack of movement by the government in terms of any conversation around replacement concern me. I would be very interested in comments about that and also perhaps about the financial cost of a reassessment, especially in a necessary reassessment because, from your on-the-ground perspective, it's very clear that some things are important for reassessment, but others are routine operating.

Mr. Thrall.

• (1140)

**Mr. Brad Thrall:** I might add some comments and, again, some real first-hand experience in this area, given the fact that we have gone through this process 11 times, and I'm certainly not suggesting that there are not projects that do not require assessment. There certainly are.

In terms of your question about the financial impact, the financial cost, I could give you the example of our most recent assessment where we had proposed to construct an underground decline. This is essentially a small tunnel that goes in about 500 metres and allows drilling underground. It's the exact same project that we had already done four times within the district. That assessment alone, even though it went through in record time, as I described in my testimony, likely cost us at least \$100,000 in terms of external consultants. We had to do fieldwork and drilling, do investigations on groundwater, and those types of things. Even a very minor assessment that went through fairly quickly on one end of the scale was easily a \$100,000 investment. On the other end of the scale, when you have large projects in the Yukon that go through executive committee, they are multi-million dollar assessments. Again, those certainly do require assessments, but when we're talking about reassessment of small projects, there is a significant cost to those.

**Mrs. Cathy McLeod:** Madam Chair, I would like to make a motion in light of the testimony today. I move:

That the Committee postpone its study of Bill C-17 until replacement language is collaboratively developed and in place.

**The Chair:** MP Anandasangaree and then MP Harvey.

**Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.):** Madam Chair, I move that the debate be now adjourned.

**The Chair:** That's not debatable.

All those in favour?

**Mr. T.J. Harvey:** Of which?

**The Chair:** The motion to adjourn.

(Motion agreed to)

**The Chair:** Now we go back to your question.

**Mrs. Cathy McLeod:** Do I still have time, Madam Chair?

**The Chair:** Yes.

**Mrs. Cathy McLeod:** I'm very disappointed.... Given your very powerful testimony today, I think it is incumbent upon the government, in collaboration, to correct the process errors of the past, and it's imperative, in my opinion, that the replacement language be dealt with. I would like your comments.

**The Chair:** In four seconds.

**Mr. Jonas Smith:** I imagine there are a number of approaches—legislative, regulatory, or policy—but we would like to see that progress made before the bill is passed so we know what we're getting into before the roof is ripped off the house.

**The Chair:** Thank you.

Questioning moves to MP Romeo Saganash.

**Mr. Romeo Saganash (Abitibi—Baie-James—Nunavik—Eeyou, NDP):** Thank you, Madam Chair.

Thank you to our witnesses this morning.

I come from a region where there has been an environmental assessment and review process in place for almost 45 years now. I definitely see the merit of having a rigorous environmental assessment and review process in place for the benefit of all, not just for indigenous nations, but also for industry.

I agree with the comment that you are at the forefront of reconciliation. I remember the first agreement we signed with a mining company in my area, in 1994. It was based on very solid principles that continue to exist today in terms of our relationship with mining companies in the region.

I insisted on having your testimony. At one of our meetings not too long ago I insisted on hearing your perspective or, as you call it, the real world perspective. For context on our discussion here, I thought it was important to hear your concerns and suggestions to that effect.

I understand the testimony. I understand the need for a deferral in this case. I think the reason that you're bringing it to the table this morning is valid. I think it's important for all of us to be clear on what we're dealing with.

Mr. Smith, one of the things you suggested in your testimony is that we strike a committee composed of the different stakeholders, which is a good suggestion. Do you differentiate between the stakeholders? On one side, of course, you have an interest in all of this, but on the other side, there are people in other Yukon first nations who have constitutional rights in this discussion. Do you make a distinction between parties in that sense?

• (1145)

**Mr. Jonas Smith:** Absolutely. Thank you for the question.

As many of you may know, Yukon has approximately half of the total modern-day self-governing and final agreements for first nations in the entire country. We have 11 of our 14 first nations, and I think, at the last count, there was 24 or 25 modern-day treaties across the country. We are very well versed in the role and importance of government-to-government negotiations, so we always support that.

The challenge comes when those discussions become advanced and negotiators or lawyers are discussing issues without having any technical or real world experience, as you put it, in the matter they're dealing with. At that stage in the discussion, I think it's very important to have that technical perspective.

In this case, I don't think we're asking for anything untoward. All the parties have already agreed to sitting down and coming up with ways to address these outstanding issues. What we're putting forward today is to have that conversation before the legislation passes, because it hasn't happened yet.

I don't think we're asking for anything different. We have agreement from Yukon first nations, from Canada, from the Government of Yukon, and from industry. There is a signed joint letter. There is a memorandum of understanding. We're just trying to get the ball rolling.

**Mr. Romeo Saganash:** I guess you read or watched the debates in the House of Commons, and I've participated in the debate.

You talked about some misrepresentations regarding this bill. Can you give us a couple of examples to that effect?

**Mr. Jonas Smith:** Yes.

As I mentioned earlier, in my mind there was a misrepresentation when the argument was put forward that the reassessment provision was no longer necessary because the assessment board had come up with an internal process, which they refer to as temporal scoping. While that will be helpful for new proponents, that does not address the issue which the exemption from reassessment is meant to address. The issue of the Chamber of Mines' unconditional support was the other main misrepresentation in my mind. As we've outlined today, there were conditions.

**Mr. Romeo Saganash:** Given your recommendation to strike a committee to work out the details that you've talked about, what kind of time frame are you considering?

**Mr. Jonas Smith:** Given the fact that we're, whatever it is, four months later than we thought we'd be, I would say that time was about four months ago, so I'd like to see it start right away. I think that Canada is in the position to initiate those discussions. Quite frankly, I think that there's been this expectation for industry to carry that burden to have those discussions in isolation with first nations. I think there's a leadership role for the Government of Canada to play here to ensure those discussions happen and that they happen in a timely manner.

**The Chair:** The questioning moves to MP Anandasangaree, who I understand is splitting his time with MP Bossio.

**Mr. Gary Anandasangaree:** Actually, Mike, you can start if you want.

• (1150)

**Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.):** Sure.

I think that the parties that negotiated agreements around this bill, as has been mentioned many times, have been desperate to see this move ahead as quickly as possible. I think any further delays wouldn't serve the interests of anyone involved in this process. Is there reason to believe that once Bill C-17 is passed, a lot of the stuff you're looking to have done can still be negotiated at that time? There's no reason to delay the process any longer than it has already been delayed. If we're going to truly move on a path towards reconciliation, the time needs to be taken in order to get it right with indigenous communities and all stakeholders, especially around some of the areas that you're addressing around timelines and reassessments. I just fail to see why we'd put the kibosh on Bill C-17 and start all over, so that we can put these things in, rather than pass Bill C-17 and move forward in the process, along with true reconciliation.

**Mr. Jonas Smith:** To be clear, sir, we're not proposing kiboshing Bill C-17. Our concern is partially informed by the four-month delay we've experienced already and that there has been no progress to date. Our concern is that, if Bill C-17 becomes law tomorrow, and these very valuable, demonstrably effective provisions are rescinded, we have no guarantees of how long it will take to come up with a solution. We are absolutely willing to talk about temporary solutions or permanent solutions. As I mentioned earlier, it could be legislative, regulatory, or policy, but the fact remains that there has been no progress to date and that is our concern.

**Mr. Mike Bossio:** The fact remains that once again, you're looking to delay it even further. I think we need to put forward the

legislation, get this done, and then move on to the next stage on this path of reconciliation.

**Mr. Jonas Smith:** I'm going to have to respectfully disagree with you on that one, sir.

**Mr. Mike Bossio:** That's all right. It's your prerogative.

As far as reassessments are concerned—Will and I actually sit on the environment committee as well and we just went through the process of evaluating the Canadian Environmental Protection Act—one of the key issues around that was the cumulative impact of projects, or chemicals, or whatever the case might be, both to human health and the environment. In the reassessment process, I think that the cumulative impact is a key factor. You might say that you're just going to extend this another 500 metres, but we don't know what that cumulative impact is going to be following the work that you've already done on that project.

Do you not agree that, when you're doing an extension and expansion of a project, reassessment needs to occur?

**Mr. Jonas Smith:** One of the changes contained in Bill S-6 that was taken into consideration was cumulative impacts, so that is one of the amendments that is staying in the bill, even after Bill C-17 passes. Therefore, cumulative effects are being considered under our legislation now.

I just want to clarify one of my previous statements.

Again, we're not trying to further delay this bill. There is a process, which is beyond any of our understanding, regarding how bills make their way through the houses of Parliament, but can we not be having these discussions concurrently? Can we not strike this committee? Can we not be working on this replacement solution, whether it is regulatory, policy, or legislative, while this bill makes its way through Parliament?

**Mr. Mike Bossio:** Once again, I think this is a process toward a collaboration. You yourself said you're working on an MOU with the first nations. You're working on reconciliation. That's a part of the whole process. I think once Bill C-17 is passed, that's not the end of this process. That encapsulates this, a snapshot in a period of time that all the parties agree needs to move forward.

Bills and legislation evolve on an ongoing basis, and once again, this is a step in that evolution. I think what's really important here is the collaboration, because it's only through the collaboration toward reconciliation...not just for reconciliation, but to also give certainty to corporations when they are working in this environment. Now that we have that reconciliation process, now that we have first nations involved in accepting the path forward, that's only going to add further certainty to corporations operating in those areas.

Mr. Burke, would you like to comment on that?

• (1155)

**Mr. Mike Burke:** Certainly this is a step backwards. Certainty is lessened, as you've heard in our statements and our testimony, due to the timelines imposed with Bill C-17.

**Mr. Mike Bossio:** If you had some certainty, we wouldn't be in the position we're in now. You didn't have the certainty of working with first nations communities in the Yukon, and that's what caused a lot of the backlash toward the previous legislation.

You had short-term certainty but you certainly didn't have long-term certainty.

**Mr. Mike Burke:** Again respectfully, we might not agree on that point.

**Mr. Mike Bossio:** I'll pass the rest of my time to MP Anandasangaree.

**The Chair:** You have one minute.

**Mr. Gary Anandasangaree:** Thank you.

I recall you were scheduled to appear back in June. I think the House had risen by that time. I apologize for that. That probably explains in part some of the delay in getting this legislation to this point.

I want to get a bit more of a sense from you with respect to seeking partnerships. I know you mentioned you are seeking partnerships with first nations communities. What do you have in place right now, and what is your thinking going forward?

**Mr. Mike Burke:** It's a business relationship that mining companies have been very progressive about. You can speak to Mr. Thrall and his agreement with the Na-Cho Nyak Dun First Nation. All operating mines in the Yukon have agreements with first nations; many exploration projects do. Those involve partnerships, contracting opportunities, business development, many things. Because mining companies have to explore and look where the minerals are, they are typically always in the backyard of first nations. We are creating those business opportunities in those rural areas where very few other opportunities exist.

**The Chair:** The questioning now moves to MP Viersen.

**Mr. Arnold Viersen (Peace River—Westlock, CPC):** Thank you, Madam Chair.

Thank you to our guests for being here today.

I'd like to point out that the name of the ministry we scrutinize here at this committee has changed recently from Indigenous Affairs and Northern Development to Northern Affairs. I think that's symptomatic that it's no longer concerned about development. There be dragons in that area, and we need to deal with them.

One of the things we hear of a lot is the timelines that concern getting an extension. You've addressed that well. Mike, you talked about your having a letter from the minister saying that she was prepared to work on a collaborative development of them.

Has any of that work been undertaken? Beyond that letter, have you been in communication with the minister at all?

**Mr. Mike Burke:** Not to my knowledge; none of that work has begun.

**Mr. Arnold Viersen:** After you reached out to her, you received a letter, and beyond that there's been no communication?

**Mr. Mike Burke:** In her letter, she committed to working in that relationship after the passage of Bill C-17. So again, we've made it well known that we feel it's homework. We need to do our homework and get prepared to do this work ahead of time because a gap between the passage of Bill C-17 and the implementation of some form of agreement to reinstitute timelines and reassessment is going to be a period of uncertainty for us in the Yukon. If that goes on for years, that would be a very bad thing indeed.

The federal government recently announced an investment in mining infrastructure in the Yukon, and you don't want to shoot yourself in the foot.

**Mr. Arnold Viersen:** For sure. We're currently undertaking a study with this committee on comprehensive land agreements and self-government, and the Yukon is a bright light in Canada when it comes to those kinds of agreements. Could you, from your perspective representing mining companies...? You chose the Yukon to do business in. Can you say why you chose the Yukon versus another jurisdiction, which might be just another 100 kilometres over, but a jurisdiction without a comprehensive mining agreement?

**Mr. Brad Thrall:** I can certainly speak to Alexco's experience. I've been operating in the Yukon for nearly 25 years now. We built our first mine in 1995, just outside of Dawson City. Obviously, geology and all those things are important. You can't control those, but they're obviously important aspects of any jurisdiction. The certainty of the relationship with first nations is important. I talked about our agreement with Na-Cho Nyak Dun. Previously, we had a similar agreement with the Tr'ondëk Hwëch'in Nation in Dawson City. It provides certainty not only to the first nation, but also to the company.

I know there was previous discussion and questioning around business certainty, and I would suggest that this will do just the opposite. It will create uncertainty. If we revert to the previous provisions, which don't have timelines and reassessment, it will create just the opposite of certainty. Investors will wonder how long it will take now to get a permit again, if they'll be looking at years before it is resolved, rather than months.

• (1200)

**The Chair:** I'm sorry. That ends our session. I want to thank you for coming all the way to Ottawa, and I appreciate your views and insights. Thank you, once again, on behalf of all committee members, for taking the time to come. *Meegwetch.*

We'll suspend for about five minutes, and then we'll move into our in camera session.

[*Proceedings continue in camera*]







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