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—
Chair

The Honourable MaryAnn Mihychuk

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• (0900)

[English]

The Vice-Chair (Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC)): I call this meeting back to order.

I'd like to welcome Minister Bennett.

Thank you so much for taking the time to join us on an important bill.

I also, perhaps, want to note that there was a regret from Minister LeBlanc. I think that all of us at this committee wish him well in terms of his current health challenges. We are thinking of him and wishing him well.

With that, Minister, I would love to give you the floor for 10 minutes.

Hon. Carolyn Bennett (Minister of Crown-Indigenous Relations): Thank you, Madam Chair, for this opportunity to participate in your committee's review of Bill C-88 as we gather once again on traditional unceded Algonquin territory.

[Translation]

I am also appearing before this committee on behalf of my honourable colleague, Minister LeBlanc.

[English]

I know that—on behalf of all on the committee—our thoughts and wishes are with him. We all want him to have a speedy recovery, but we also want him to take the time to be well and to be back advocating for northerners and northern issues, and doing his important work with the provinces and territories.

As you all know, Bill C-88 proposes to amend both the Mackenzie Valley Resource Management Act and the Canada Petroleum Resources Act.

In terms of the MVRMA, the bill is focused on repealing the previous government's decision, through Bill C-15, to arbitrarily merge four land and water boards in the Mackenzie Valley into one super-board. This decision violated constitutionally protected indigenous land claim and self-government agreements, and it ended up in court.

The bill also seeks to reintroduce a number of positive changes introduced by the previous government through Bill C-15 that have not been implemented because of the court-imposed injunction that focused on stopping the imposition of the super-board.

[Translation]

The Mackenzie Valley Resource Management Act includes four land and water boards in the Mackenzie Valley, which are central to comprehensive land claims and self-government agreements of several local indigenous governments and organizations.

[English]

This creates an integrated co-management regime for lands and waters in the Mackenzie Valley, and it provides legal certainty for our resource development investors in the area.

Bill C-15 was passed by the previous government in 2014.

[Translation]

Among other changes, it merged the Mackenzie Valley land and water boards into one entity.

• (0905)

[English]

The legislation was immediately challenged in court. It was alleged that it violated indigenous land claim and self-government agreements.

In early 2015, the Supreme Court of the Northwest Territories granted an injunction that suspended the proposed board restructuring, along with other positive regulatory amendments included in Bill C-15. Rather than improve the regulatory process for the Mackenzie Valley and enhance legal certainty for proponents and investors, the previous government's approach landed these MVRMA regulatory reforms in Bill C-15 in court.

As we've said at this committee before, our government believes that a sustainably developed resource sector is essential to the success of the Canadian economy and, if we get it right, will serve as an important foundation for future economic and job growth. Unlocking this economic potential must be contingent on environmental sustainability and on impacted indigenous communities being engaged as equal partners.

[Translation]

The current situation is untenable as it creates legal uncertainty, and the positive regulatory changes are now tied up in the courts.

In November 2015, discussions with indigenous organizations and governments in the Northwest Territories began about the government moving forward with legislative amendments to resolve this matter.

[English]

Bill C-88 has been developed through consultation with indigenous governments and organizations, the Government of Northwest Territories, industry and their resource co-management boards.

The bill will resolve the litigation regarding the restructuring of the boards and reintroduce the positive policy elements of C-15 currently prevented from coming into force by the injunction. It will re-establish trust with indigenous partners in the Northwest Territories, respect their constitutionally protected land claim and self-government agreements, and restore legal certainty for responsible resource development.

I think Northwest Territories Premier McLeod and Grand Chief George Mackenzie summed it up very well in a joint letter they sent on April 24, 2019, when they wrote, “We are hopeful that Bill C-88 will proceed expeditiously through the legislative process and will receive Royal Assent in this Parliament. The negative implications of the status quo are significant.”

Madam Chair, we have copies of that letter for the members.

In terms of CPRA, Bill C-88 proposes to provide new criteria for the Governor in Council to prohibit existing exploration licence holders and significant discovery licence holders from carrying on any oil and gas activities, in the case of the national interest.

[Translation]

It would also freeze the terms of the existing licences in the Arctic offshore for the duration of any such prohibition.

[English]

The “national interest” refers to a country's national goals and ambitions, whether economic, military or cultural, and is not a new legislative concept. There are numerous references to the national interest in Canadian legislation and specifically in northern legislation.

For example, the term appears in section 51 of the Yukon Act and section 57 of the Northwest Territories Act. In both acts, the Governor in Council may prohibit any use of waters or the deposit of waste in cases in which the Governor in Council considers the use of waters or the deposit of waste to be incompatible with the national interest.

The decision to move forward with a moratorium on new Arctic offshore oil and gas licences in federal waters was a risk-based decision in light of the potential devastating effects of a spill and limited current science about drilling in that area. It is important to remember that at that time there was no active drilling occurring in the Beaufort Sea and no realistic plans to initiate drilling in the short or medium term.

[Translation]

The moratorium was announced in conjunction with a five-year science-based review, as well as a consultation on the details of that review.

[English]

Territories and indigenous and northern communities are partners in the science-based review process, and others, including industry, are being actively consulted. The outcome of the review process will inform next steps in the Arctic offshore. Freezing the terms of the impacted existing licences in the Arctic offshore was a key priority expressed by the industry in our discussions regarding the implementation of the moratorium.

The proposed amendments to both the MVRMA and the CPRA are essential to ensuring a responsible, sustainable and fair resource development regime in the Northwest Territories and the Arctic.

● (0910)

[Translation]

I urge you to pass Bill C-88 and look forward to your questions.

[English]

The Vice-Chair (Mrs. Cathy McLeod): Thank you, Minister.

For the first round of questioning we will be going to MP Yves Robillard.

Go ahead.

[Translation]

Mr. Yves Robillard (Marc-Aurèle-Fortin, Lib.): Thank you, Madam Chair.

Minister, thank you for your testimony and for your work on this bill.

The opposition claims that the existing regulatory system is complex, costly, unpredictable and time-consuming and that merging the boards is essential for resolving these issues.

But if I understand correctly, merging these boards meant that the whole process landed in court, and natural resources development in the Northwest Territories became mired in legal uncertainty.

Minister, once we undo the amalgamation of the boards, can you explain how the companies will go from one super-board to four boards?

Hon. Carolyn Bennett: Thank you very much.

What happened is that indigenous groups opposed the fusion because they felt it infringed on their treaty rights.

There was a court challenge, the court issued an injunction, and the fusion didn't proceed.

[English]

We are stuck, but we're also stuck with the good things that were in the previous bill also frozen. This is a bill that will fix both things. We will agree with our indigenous partners and indigenous governments that the fusion wasn't in their best interests—to not have local knowledge and indigenous knowledge to take those decisions. As well, we'll be able to proceed with some of the really good things that were in the previous bill, such as the ability for a member of one of the boards, if there's a project being examined, to be allowed to continue on the examination of that project even when that member's term has expired, until that project has stopped and that decision is taken.

This is a matter of our getting rid of the bits they don't like, but proceeding, finally, with the things that they did like.

[Translation]

Mr. Yves Robillard: What I'm hearing is that you believe the four-board structure supports an effective regulatory system.

Could you also briefly tell us about co-management of resource development, the unique system that is so important in the North?

Hon. Carolyn Bennett: The co-management approach is truly a global best practice. It ensures that partners participate in decision making. That eliminates the uncertainty that happens when the government makes decisions without consulting its partners.

• (0915)

Mr. Yves Robillard: Bill C-88 contains other regulatory improvements that were originally part of Bill C-15. These improvements never came into force, due to a court injunction. I gather that, as you mentioned in your speech, these improvements are broadly supported by Northwest Territories residents, and the former government was right about those provisions.

Could you summarize what the other regulatory amendments do to improve the regulatory system in the Northwest Territories?

Hon. Carolyn Bennett: Sure. As I said, a board member's term can be extended for the duration of a study. This is a more practical approach. It means that good decisions can be made in a reasonable timeframe or more easily.

This approach is preferable to a scenario where a new board member would have to be trained. The study won't have to start over from square one. That means good decisions can be made in a timely manner.

[English]

The Vice-Chair (Mrs. Cathy McLeod): You have 20 seconds left.

Mr. Yves Robillard: I'll leave it to the next questioner.

The Vice-Chair (Mrs. Cathy McLeod): Thank you.

MP Kevin Waugh.

Mr. Kevin Waugh (Saskatoon—Grasswood, CPC): Thank you, Madam Chair, and thank you, Minister and departmental officials.

Minister, one of the primary tasks of this bill, as you talked about, is to reverse changes made by the former Conservative government with the Northwest Territories Devolution Act back in 2014. As you

mentioned, this included consolidating the four land and water boards in the Mackenzie Valley into one. The Liberal Party at that time supported it, including the current Prime Minister, and even your parliamentary secretary, MP Jones, who is with us here this morning.

I'm going to quote what she said at the time:

As Liberals, we want to see the Northwest Territories have the kind of independence it has sought. We want it to have the ability to make decisions regarding the environment, resource development, business management, growth, and opportunity, which arise within their own lands.

That is from 2014.

These comments actually stand in direct contradiction to Bill C-88, which extends powers to the cabinet to put moratoriums on energy development and to include the national interest, which, to be honest with you, has never really been clearly defined.

I will note that the Prime Minister of the day, when he did the moratorium, wasn't even in this country. He was in Washington, D. C., at the time he talked about the moratorium up north, and the elected northern officials at the time had less than half an hour to scramble to come up with the decision of the day.

I'm also going to talk, if you don't mind, about last night in the Senate, because it has major ramifications for northern Canada and moratoriums on northern development, allowing the north to make its own environmental and economic decisions. We have seen repeated paternalism coming from this government when it comes to energy development, not only in relation to northerners but as we saw last night first nations as well.

We saw it with Bill C-48 in the Senate last night: the B.C. oil tanker ban. As you know, Calvin Helin is the CEO of Eagle Spirit Energy Holdings, which is an indigenous-led group. He has been deeply critical of these types of moratoriums being directed by your government in Ottawa. He said, in response to these bans, "Is this what reconciliation is supposed to represent in Canada?"

That statement last night by Calvin speaks volumes, and we saw it last night in the Senate as they voted against Bill C-48. We'll see what happens when it comes back to the House.

We talk of an "Ottawa-down" approach. Can we let the north make the environmental and economic decisions instead of "Ottawa knows best"?

• (0920)

Hon. Carolyn Bennett: Personally, I hope you will read the letter from Premier McLeod, and from Grand Chief Mackenzie, who wants this bill through expeditiously.

As I said, there are many things in the previous bill that are very important, that northerners want to get on with. I think you will recall that the fusion of the four boards was a total surprise to people and it landed in court almost immediately. Northerners, the indigenous governments, did not see it was in their best interests, so it went immediately to court. We are sitting with that injunction now, which is also preventing the good things that were in Bill C-15.

We know you'll be hearing from witnesses. I hope you will be persuaded that this is indeed the best way forward, to get this bill done as quickly as possible so that the good things that were in the devolution bill go forward but that we are no longer bound by that injunction that has prevented the fusion of the four boards.

Mr. Kevin Waugh: I did read the letter from Bob McLeod. It had no mention of the moratoriums.

I've been up to Nunavut. I've been to Whitehorse. Everyone up there is just flabbergasted about this. They are. You've shut down that area.

Hon. Carolyn Bennett: I would like to just remind the member that, at that time, there was absolutely no drilling going on. There was not even anticipation of any drilling in the short or medium term. The price of oil was at an all-time low. It was, again, viewed to be a good time to get the science done, and for us to determine the risk and make sure that we had the science that would help us, should there be a spill or different things.

Things have changed, with climate change, with the storms, with all of the things that are different in terms of open water that used to be ice. This is a really important opportunity now to work with our partners to not only determine the risks but also the solutions, so that after the five years, we can determine whether it's safe to move forward and take that decision with our partners.

It was viewed that, in terms of assessing the risk, this had to be done at that time with our American partners—both for Alaska and for the Canadian Arctic. This decision needed to be taken, because the science needed to be determined, and the indigenous knowledge, that would help us take a good decision.

The Vice-Chair (Mrs. Cathy McLeod): You have 30 seconds.

Mr. Kevin Waugh: That's fine. I'll pass my time on. Thank you.

The Vice-Chair (Mrs. Cathy McLeod): MP Cannings, go ahead.

Mr. Richard Cannings (South Okanagan—West Kootenay, NDP): Thank you.

Thank you, Minister, for being before us today.

Here we are, weeks away from the end of this Parliament. The Mackenzie Valley portion of the bill was foreseen before the election, yet it has taken four years for us to get to this place. I'm just wondering why the delay. We had the draft legislation completed in July 2017, and then it was 16 more months before we saw the legislation here in the House of Commons.

Now, we're rushing it through. We have one day of witnesses and a whole list of witnesses who aren't here: the Akaitcho first nation Salt River, Northwest Territories Métis, the K'at'l'odeeche First Nation, the Northwest Territories Chamber of Commerce, the Dene Nation, Alternatives North and Ecology North. I think all of these people would have been valuable to hear, yet because we're in such a

rush...and we just heard what's going on in the Senate. What are the chances that this will even get through the Senate, with this time element?

When I see this bill, which is two very different pieces of legislation stuck together, with very different people supporting and not supporting it, I wonder why the decision was made to tie them together. I'm guessing that might have been some of the cause of the delay. This is an important piece of legislation that many of us want to see pass. We'd all like to see devolution in the Northwest Territories, as you say, so that the good parts of Bill C-15 are tied up.

I'm wondering if you could comment on that whole time element. I don't know. It boggles my mind.

● (0925)

Hon. Carolyn Bennett: Thank you for that.

I think that is what happens when we co-develop, and we go out and consult. It takes time. The consultations with stakeholders were launched in the fall of 2016. They had a draft legislative proposal. I think to most northerners, this is just tidying up the problems that were in Bill C-15, particularly distribution of the boards. That's what landed in court. They wanted the rest of it to go through, but we wanted to make sure.

The Government of Northwest Territories, industry, the management boards themselves, and also indigenous governments have all been consulted on this. That's why it's resulted in the letter from Premier McLeod and Grand Chief Mackenzie, to say, let's get on with this and get it done, because it's a technical piece. It is just fixing a problem that landed in court, so we can get out of court and go forward with the good stuff.

Mr. Richard Cannings: I'm guessing here and I want your comments, but it seems to me that tacking on the offshore drilling moratorium added a lot more time to that consultation. I'm hoping, but maybe not. This was in court. There was an injunction. We knew we had to do something with it. We all wanted to move ahead with devolution. I know consultation takes time, but it just seems we're stuck with a very rushed process here that may or may not be successful.

I can't find anything in this bill that talks about providing funding assistance to intervenors, a piece that we see in Bill C-69, which I think is very important. I think a lot of first nations and other intervenors would find it essential to something like this. Why isn't that included in this legislation?

Hon. Carolyn Bennett: The northern participants program exists on its own to make sure that people can be involved in consultations in person. That continues and that is always the way we operate in the north. That isn't a change because that already exists.

Mr. Richard Cannings: It exists outside of this legislation.

Hon. Carolyn Bennett: The program does, yes.

Mr. Richard Cannings: I'm wondering how this legislation might affect future land claims. I know some of the indigenous nations in the southern part of the territories are still in that process. How might it affect them that we are reconstituting the boards again. I know we'll have some of them before us later.

● (0930)

Hon. Carolyn Bennett: I think Mike McLeod is probably in a very good position to answer that question as the member of Parliament for the territories.

My understanding is that there's a real consensus that they want the uncertainty around the injunction tidied up. From my understanding all groups wanted to have their local board able to take decisions based on that local reality, as opposed to one super-board. I think a lot of people see this as housekeeping on one side, but a huge barrier to going forward on the other. This is just getting us out of court and able to move forward.

Mr. Richard Cannings: Thank you, Madam Chair.

The Vice-Chair (Mrs. Cathy McLeod): I believe we have MP McLeod.

Mr. Michael McLeod (Northwest Territories, Lib.): Thank you, Madam Chair, and thank you to the minister and all the people appearing with you.

This is a very important piece of legislation for us. It's something I have been involved with in different capacities over the years.

I think the way the board structure regulatory process and the board structure are set up in the Northwest Territories is certainly a model for other jurisdictions. My colleagues from Alberta and Saskatchewan probably could take a good read of this and see that there is benefit to it. I don't see the involvement of indigenous governments in any other jurisdiction, not even in the National Energy Board, where they have guaranteed seats for indigenous people.

I think it's a model that people from across the world have asked to review and some of them are considering it. It works well and had been working well. Industry liked it, indigenous governments liked it and the Government of Northwest Territories liked it. The previous government of the day saw fit to make changes. Those were changes made without the inclusion of the people who came to this type of system.

I listen in amazement to my colleagues from the other side talk about the moratorium. When the discussions with the Conservatives, the Government of Northwest Territories and the people of the

Northwest Territories were happening on the devolution, they wouldn't allow the subject of the Beaufort Sea to be even put on the table, or the Norman Wells oil fields.

I think it was a good time to put a moratorium on, because there was a natural moratorium. The moratorium was not only because it was declared. Oil prices were also a great factor. In 2011, the whole system was cancelled for the Beaufort Sea. In 2012, there was a total of \$7 million spent. In 2013, there was no program. In 2014, the program was postponed. In 2015, the program was postponed.

In five years there was \$7 million, so nobody's going to convince me of how much money we were making in the north from it. I can tell you that the money was not coming, the royalties were not coming to the Northwest Territories, because that was not allowed on the table.

As we move forward, I hear concerns but I recognize this as putting UNDRIP into action. The involvement of the indigenous people in land and decision-making for resource management and implementing the modern treaties is certainly putting UNDRIP into action. I want to hear some feedback on that. Is that something you would agree with?

Hon. Carolyn Bennett: Absolutely, and even how the boards are set up, with the voices of indigenous governments right there, this is putting into action the UN Declaration on the Rights of Indigenous Peoples.

In fact, last year when we were at the UN, in the permanent forum, we had a panel on how you take regional decisions for things. I think it was the Premier of Nunavut at the time, but we discussed how, when you have a land claim settled—and it can be decisions taken by the federal-territorial governments and rights holders together—you can approve good projects quickly, reject bad projects quickly and send mediocre projects back to the drawing board to improve the environmental concerns of those.

We think this is an excellent model that we should be examining in a more regional way in the south. I think you have already proven how well this works in terms of achieving certainty and making it more attractive for investments that won't be blocked later somewhere down the road.

● (0935)

Mr. Michael McLeod: Indigenous people have a tendency not to trust government. I'm an MP and I'm not sure if I trust governments.

Voices: Oh, oh!

Mr. Michael McLeod: I think it was a huge step for all of us in the north when we started seeing resolution and inclusion to some of the challenges and decision-making and to have a co-management process put in place. That's what we think is the way forward, to work together. There was a lot of applauding by certain indigenous governments that we would have a regulatory process that had regional boards and the MVR board and it was working, but then the Conservative government saw fit to tear that down, even though it was written into the land claim agreements. That was a real shocker to see that happen, without consultation with indigenous governments and without inclusion and discussion with indigenous governments.

As we move forward, if these changes come into play, how do we prevent that from happening again? We saw documents and agreements that we thought were cast in stone. The courts backed it up, thank God, but how do we prevent this from happening again? We came to an agreement with the indigenous governments, the federal and the Government of Northwest Territories, only to see it all ripped up by one government who said, "We're going to change it. These are the new rules".

Hon. Carolyn Bennett: Michael, I think you raise a very good point. This case becomes the teachable moment, going forward, for how things can get held up in court, so that the good changes get held up and everything comes to a halt. That's why we believe that, if you include indigenous governments, indigenous rights holders, indigenous knowledge, at the very earliest time of a project or legislation, that's the way you go forward in an even way. That keeps things going forward, so it won't stop or roll back. I hope we have learned a lesson from this and it will take us forward in a good way.

The Vice-Chair (Mrs. Cathy McLeod): That's seven minutes. It's time to go on to round two, which is five minutes, with MP Viersen.

Mr. Arnold Viersen (Peace River—Westlock, CPC): Thank you, Madam Chair, and thank you to the minister for being here today.

As Mr. Cunnings talked about, Minister, this bill seems like two opposing things put together. You have the idea that we're going to devolve interests to the territories, yet we're going to impose a moratorium in the north. Are you holding the Government of Northwest Territories ransom with this bill, by saying, "You will abide"?

You said, "Here, look at the premier's letter." Well, the premier's letter doesn't reference the moratorium whatsoever. I know the premier has been very opposed to the moratorium. This seems like an exacted letter and it feels to me like you're holding the territories ransom, by saying, "If you want this good stuff, then abide by our moratorium."

Hon. Carolyn Bennett: Thank you for that, but I think that, if you listened also to the member of Parliament for the Northwest Territories, you would understand this was an important time to be able to—

Mr. Arnold Viersen: With all due respect, Minister, bringing certainty to the industry is.... For sure, you've brought certainty. You've said, "Certainly, there will be no development in the Beaufort Sea." That is certainty. I'm not denying that.

Hon. Carolyn Bennett: No, that's not what we're saying. We're saying that, when there was, in effect, a moratorium because the conditions weren't right, it was already happening by industry, so that this is the time to achieve the science—

Mr. Arnold Viersen: You have ensured that those conditions are not right.

● (0940)

Hon. Carolyn Bennett: I think what we are ensuring is that we will—

Mr. Arnold Viersen: No development will ever happen in the Beaufort Sea. That's what you're ensuring.

Hon. Carolyn Bennett: Madam Chair, I don't think this is quite reasonable for the member to keep interrupting.

Mr. Arnold Viersen: The question is, are you holding the territories ransom with this?

Hon. Carolyn Bennett: Absolutely not.

Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.): Madam Chair, I have a point of order.

Can the member please allow the minister to answer the question?

Mr. Arnold Viersen: That's not a point of order.

Mr. Mike Bossio: Yes, it is a point order.

The Vice-Chair (Mrs. Cathy McLeod): I will intervene. I know it is the member's time. I would ask the member to give an opportunity for the minister to answer, but also to recognize that he has many questions within his time frame.

Hon. Carolyn Bennett: He is more than welcome to make a comment, but if it's a question then I expect to be able to answer it. If he wants to use his time putting out his point of view, he's welcome to do that.

The Vice-Chair (Mrs. Cathy McLeod): Thank you.

Mr. Arnold Viersen: Why are these two pieces in this particular bill?

Hon. Carolyn Bennett: This is about both aspects of achieving certainty in a good way and being able to make sure we will have the science with which to take decisions going forward. That's the purpose of the moratorium. It's for us to work together—

Mr. Arnold Viersen: What are the conditions to remove the moratorium?

Hon. Carolyn Bennett: At the moment we are working with all our partners to be able to make sure we are asking the right questions around climate change, around the safety of drilling and about spill cleanup. How do we make sure—

Mr. Arnold Viersen: Wouldn't you be better off allowing the territories to make those decisions?

Hon. Carolyn Bennett: The territories are very much a part of this in the kinds of working groups that are now working on the questions to ask: the governance, how we go forward in the eastern and western Arctic to make sure we will be able to clean up a spill and we will be able to determine where it's safe to drill. How do we take these decisions based on all this open water, storms and all these things that were not an issue before and need to be studied now. Then, at the end of the five years, we will be able to take a decision together on if we have sufficient science to be able to lift the moratorium.

Mr. Arnold Viersen: I'll save the rest of my time.

The Vice-Chair (Mrs. Cathy McLeod): We are moving on again to MP McLeod.

Mr. Michael McLeod: Minister, the previous speaker talked about the Canadian Petroleum Resources Act and the moratorium. I think people have to know that there was a real interest in having a review of the conditions in the Beaufort Sea before going forward.

When I visit the small communities of Paulatuk, Ulukhaktok, Sachs Harbour and Tuktoyaktuk, I talk to a lot of people who are very traditional in lifestyle. They still depend a lot on the ocean, on fishing, hunting and all those things to make a living and supplement their incomes.

A lot of people want to see employment from the jobs that oil and gas bring. At the same time, they want to do it in a strategic way. Having the science-based review that's taking place right now with the Government of Northwest Territories, the federal government and the Inuvialuit is the right move. It will continue without interruption. The oil companies are all saying—and we've heard from them—that the oil prices are not right. They're not good right now, but they don't want to give up their licences until things change and until exploration can be done down the road.

That allowance has been made, and I think that's really a good move to ensure that everybody is on the right page. We need to have this piece of legislation. It is giving comfort to the indigenous governments that we are going to move away from the super-board concept and bring other regulatory items onto the table that will make the whole process more efficient. That is also going to be well received.

Some of these are very simple. The ability to maintain a quorum is a big important piece of it, and you'd think it would be automatic. Why do we need to put it into the system? We do because it was not in there the last time. I worked with boards where they couldn't operate, couldn't do a review, because they didn't have the numbers because the government of the day didn't make the appointments. We had boards waiting for months and that wasn't good. I think the three key pieces are very important.

Is intervenor funding going to be part of the support network? For this whole process to work well we need that in place. Can you speak to that?

•(0945)

Hon. Carolyn Bennett: Thank you for raising both of those points, particularly the fact that indigenous rights are also rights to hunting and fishing. The moratorium is allowing us to make sure that those hunting and fishing rights are protected in any decision that would be taken together.

Also, you raised the point of freezing the terms of the licences, which again industry has welcomed. With the investments they've made, they still will maintain those licences when the moratorium is lifted.

Absolutely, there is funding for participants.

Mr. Michael McLeod: As the member of Parliament for the Northwest Territories, I have many discussions with different organizations and governments in my riding. I hear a lot from industry regarding certainty. When we talk about certainty, if we're going to improve the economy we need to have a number of things.

First of all, we need more infrastructure. We're a long way from providing it. We need to lower the cost. Industry has told us over and over that it can't do business in the north when it costs three times as much as in the rest of Canada. We need roads. We need bigger airports. We need all kinds of transportation links. We need better communications.

They also talk about certainty in terms of land claims and self-governance, and that has to move forward. That is something where we're really taking a big step. At the end of the last government, there were zero discussions going on.

The Vice-Chair (Mrs. Cathy McLeod): Unfortunately, there's no time for an answer. That took you to five minutes. Perhaps we may have time for a little bit more.

MP Waugh.

Mr. Kevin Waugh: I'll just pick up, if you don't mind, Madam Chair, from the first seven minutes. MP Robillard asked how companies will work with the four boards instead of one.

This is an issue we're going to see, moving forward. You didn't really answer it, so I'm going to ask that question again. With the bureaucracy around it, how will companies now work with the four boards instead of one?

Hon. Carolyn Bennett: Because it ended up in court so quickly, their four boards are working right now. It never went to the fusion into one board. They've been carrying on in that way because of the injunction. It was what the communities felt was working best for them, having local knowledge of their region.

Mr. Kevin Waugh: Tuktoyaktuk will be here later this morning. They're certainly against the moratorium, as you know. The road to Tuk was built under the former Conservative government. It has helped them sell T-shirts and trinkets, but it hasn't helped their young people in that community stay and prosper.

I want to ask your thoughts about this. They were pretty vocal when they came to committee. They appreciate the road very much, but at the same time the moratorium has put a stop to their community's chance for everyone to enjoy some wealth, some employment.

They will be here later this morning.

Hon. Carolyn Bennett: Thanks for that. If you listened to what Mr. McLeod had to say, there was nothing happening there on oil and gas. There were no jobs.

Mr. Kevin Waugh: There aren't now. The moratorium stopped them.

Hon. Carolyn Bennett: There hadn't been for five years and now we are going to be able to do it safely.

Also, I think it's very exciting in terms of the vision that Nellie Cournoyea has for the region, the idea of tourism and the kind of infrastructure that MP McLeod talked about, of making sure that there are hotels and places for people to hook up their trailers. This is a really exciting opportunity.

What we heard from the mining association, in all of the consultations on the northern and Arctic policy framework, is that not only do they need infrastructure, but they need training so that those young people can have jobs building these things. That, I think, is extraordinarily exciting.

At the same, with the ecotourism, indigenous tourism, those young people who want to be confident on the land and the water and the ice have this opportunity to share their knowledge with all Canadians in the north. This is a huge opportunity, and I think there is hope and real excitement about the future as I sit and talk to the young people in all of those regions.

There is the Dechinta university in Yellowknife, where the kids are learning in outdoor classrooms. This is such an opportunity.

I hope that you, as a committee, will make sure you eventually get up there to promote the beauty of the north, and the hope and the enthusiasm of some of those young people who want to be part of their governments, want to grow up to be public servants, want to be able to run their health systems and feed the teachers and all of that.

• (0950)

Mr. Kevin Waugh: With all due respect, Minister, it's about a one-day trip, 22 hours, from Edmonton to the new highway to Tuktoyaktuk. I don't know what the average salary is in tourism up there, but you can see that it's much lower than if we lifted the moratorium and had....

What has your government done infrastructure-wise up there, if you don't mind me asking? I know what the former government has done with the road, with the tourism. What has your government done for Tuktoyaktuk?

The Vice-Chair (Mrs. Cathy McLeod): Unfortunately, you have about 15 seconds for a response.

Hon. Carolyn Bennett: I think what we're seeing now is that the effects of climate change are serious.

Mr. Kevin Waugh: Anything....

Hon. Carolyn Bennett: We are doing lots, from housing to things like developing a plan for tourism, being able to work with the communities to go forward is an exciting time.

However, even that road is now in trouble because of climate change. We're climate change deniers. To now have sensors in that road to measure and read in real time what's happening to that permafrost.... We need to take climate change very seriously. It's really upsetting that we are 10 years behind.

The Vice-Chair (Mrs. Cathy McLeod): Thank you, Minister.

I believe our final round will be with Mr. McLeod.

Mr. Michael McLeod: Thank you, Madam Chair. This is an interesting discussion.

The member across has pointed to one road in the Beaufort Delta area. Since we've taken office, we've redone the Fort Smith Highway, something that has been on the drawing board for us in the north for 20 years. We are going to start the construction of the Whati road in September, with a joint venture company that's going to be owned by the Tlicho Government.

We are doing work on the Mackenzie Valley Highway, a highway that hadn't been touched by the previous government for their whole term. We're working on the Taltson dam. We're doing the studies that are going to help us determine what investments are going to be done there. We're working on Slave geological province corridor. All of these things are moving forward, and it's really exciting.

However, when we do these initiatives, it has to be a whole approach. When the Inuvik to Tuk highway was done.... I still get the questions: Why didn't the federal government do a strategy to ensure that everything was looked at? Why is it that now we are scrambling for parking lots or campgrounds to help the hotels get going? None of that was taken into consideration. I think that was a missed opportunity that we're trying to play catch-up on. It has to be addressed.

I think that, most of all, these decisions are going to bring certainty. As I was saying before, governments of all levels agree on this. More importantly, industry agrees. Industry has said that they need to see resolutions of the land tenure issue. They need to see resolution to self-governance. They need to see certainty in their regulatory process. Would you agree that this will bring that?

• (0955)

Hon. Carolyn Bennett: Thank you for that, as always. Your insight as to what is needed in your region is so important, and I think you're absolutely right. This is the way to get to certainty so that projects aren't stopped. My job is to keep this out of court and I think this is the way forward such that everybody is clear in terms of the processes. Then when decisions get taken they get to happen.

Mr. Michael McLeod: My next question is regarding devolution.

Is this piece that we're working on now or that we're looking at bringing forward going to help us in the discussions regarding devolution with the people of the north?

Hon. Carolyn Bennett: I think people felt that this had held things up because of that surprise in Bill C-15 that no one had asked for, but I think we will now be able to move forward.

Mr. Michael McLeod: I have one question and I think Mr. Cannings touched on this.

We still have indigenous governments in the Northwest Territories. We have 14 sets of discussions going on at different tables regarding land claims and self-governance. I know that not everybody wants to be part of a larger board. In fact, there are some indigenous governments that would like to see their own resource management authority in place. Is there room in this process to allow for those kinds of discussions to happen?

Hon. Carolyn Bennett: I think we start every discussion with an open mind as to what works best for the people affected by the decisions taken by the boards, or all of that. That's for the groups to have that conversation amongst themselves and decide what works best for them. I think that taking decisions as a region has been important, but again, it is a matter of our going forward in a way that the collective best interests are seen through.

Mr. Michael McLeod: I have one quick question. I heard the comment from the other side that decisions about the north have to be made in the north. Does this allow us to have the comfort that these decisions on regulatory projects, reviews, assessments and roads and everything else will be made in the north through this mechanism?

Hon. Carolyn Bennett: That's the thing that people don't really understand about some of the boards and who the federal government appoints to the boards, or the territorial government, or the indigenous governments. I think we've been very clear that we only appoint people who really have the support of northerners. It is, I think, going forward, a really collaborative approach to make sure that northerners have the say and take the decisions.

The Vice-Chair (Mrs. Cathy McLeod): Thank you, Minister.

I understand you had agreed to an hour. We appreciate your time. We will suspend in order to allow the minister to leave.

• (0955)

(Pause)

• (1005)

The Vice-Chair (Mrs. Cathy McLeod): I call this meeting back to order.

We can apparently hear testimony without everyone being here, without quorum, but we cannot have any motions until we have quorum.

We have one of our panellists by video conference. We also have the Hamlet of Tuktoyaktuk. We are having some challenges getting the Dehcho First Nations' Grand Chief, Gladys Norwegian. We're doing our best to try to get her in, but what we will do is start our testimony with the video conference.

Mr. Wright, if you could go ahead for 10 minutes, that would be great.

Mr. David V. Wright (Legal Counsel, Gwich'in Tribal Council): Good morning, distinguished members of the committee.

My name is David Wright and I am presenting this morning on behalf of the Gwich'in Tribal Council.

Grand Chief Bobbie Jo Greenland-Morgan sends her regrets but sincerely thanks you for the invitation and welcomes this opportunity to provide input on Bill C-88. I should add that I also regret being unable to attend in person. If there are any technical difficulties during my submission, feel free to stop me while we sort those out.

By way of background, I was formerly in-house legal counsel with the Gwich'in Tribal Council and am currently assisting on this particular matter. I intend to be very brief with my remarks, recognizing the time constraints, but I welcome any questions you may have as we proceed.

I'll begin with a few short contextual, informational points about the Gwich'in before moving on to three succinct points about Bill C-88.

As many of you would know, the Gwich'in are North America's northernmost first nations people. Since time immemorial, the Gwich'in have occupied traditional territories across what is today Yukon, Northwest Territories and Alaska. In 1921, the chiefs and headmen of Gwich'in, Fort McPherson and Tsiigehtchic—what was formerly known as Arctic Red River—signed Treaty 11 with representatives of the Crown. In 1992, the Gwich'in signed the Gwich'in Comprehensive Land Claim Agreement with Canada and the Government of Northwest Territories.

The Gwich'in Tribal Council, which I'll refer to today as the GTC, was established in 1992 to represent the Gwich'in in regard to implementation of the land claim agreement and protection of Gwich'in rights and interests in the Mackenzie Delta region and beyond. Since signing the land claim agreement, the GTC and the four community-level land claim organizations—typically referred to as designated Gwich'in organizations or DGOs—have been working extremely hard to implement the land claim.

Similar to the Tlicho and the Sahtu, the Gwich'in have a treaty right to co-management. This includes requirements in chapter 24 of the land claim that establish the Gwich'in Land and Water Board.

With respect to Bill C-88 specifically, the GTC is present today to voice its support for swift passage of this bill. I'll make three specific points, all in relation to part 1 of the bill, which is the part dealing with the Mackenzie Valley Resource Management Act.

The first point is that passage of Bill C-88 in a timely manner has great importance in terms of Crown-indigenous relations and reconciliation. Your review of Bill C-88 is taking place within this broader context of implementation of land claim agreements.

Your review of Bill C-88 and its implementation context is part of what has not been a smooth or straightforward journey for any of the treaty parties. Canada has lost the trust of indigenous groups at many turns. There are, of course, numerous examples of this, unfortunately, but certainly a clear case in point is the problematic changes that Bill C-15 attempted to bring in. I am speaking, of course, about the creation of the super-board and the associated elimination of the land and water boards of the Gwich'in, Tlicho and Sahtu.

As you know, the current government committed to eliminating these problematic Bill C-15 changes. This is an extremely important commitment made by Canada to the indigenous communities of the Northwest Territories. It represents an important step towards restoring trust. Indeed, the consultation process on Bill C-88 has actually helped restore some of the trust between Canada and the GTC. That trust would be eroded by any further delay, or at worst, failure to pass this bill in a timely manner.

As an aside, a significant amount of consultation on this bill has already taken place, as I am sure representatives from Canada will tell you this morning. Away from that government-to-government negotiation, the GTC and the board of directors of the GTC have been working hard to review and deliberate on the changes proposed in this bill.

The second point is that while the GTC will leave it to the Tlicho this afternoon to discuss the litigation and the court injunction barring implementation of the super-board, the GTC reiterates that it was very pleased with the result obtained by the Tlicho in court. The GTC sees passage of Bill C-88 as a critical next step.

If Bill C-88 is not passed, not only will Canada not have fulfilled its commitment to Northwest Territories indigenous communities, but these communities will be forced back into time-consuming, expensive, acrimonious litigation, all adversely affecting that treaty relationship and the broader reconciliation project. Further, this would generate regulatory uncertainty that benefits no one, as the architecture for project reviews in the Mackenzie Valley would then remain fluid.

•(1010)

Bill C-88 is a step toward certainty in the Mackenzie Valley, and that is a step that should be taken at this time in the view of the GTC.

Third, and finally, for members of the committee interested in reforms that are not included in Bill C-88 in its present form, the GTC would respectfully submit that now is not the time to pursue such changes. Rather, now is the time to pass the important changes in Bill C-88, particularly part 1, so that the Northwest Territories modern treaty partners can move forward beyond the threat of the super-board and the toxicity of litigation.

However, members of the committee will, no doubt, be heartened to recall that an opportunity for further review of the Mackenzie Valley Resource Management Act is in the offing. As I believe you've heard from members of this committee, and other witnesses, further review of the MVRMA is coming as part of the five-year post-devolution review of the legislation, and a previously announced broader review of the legislation.

For example, if members are interested in including explicit reference to the United Nations Declaration on the Rights of Indigenous Peoples, that could be part of this forthcoming review. Similarly, the review will likely take place at a time when there's finally certainty with respect to changes that may come through the proposed impact assessment act, for the regime in southern Canada. For example, changes with respect to timelines, factors to consider in an assessment and decision-making parameters could all be part of that later review.

As such, it will make sense to revisit the MVRMA at a later time, to ensure, perhaps, proper alignment between northern and southern project assessment regimes.

All this is to say that there is this release valve, or parking lot, if you will, that exists right now for ideas that go beyond the current version of Bill C-88. Discussion about potential inclusion of those ideas in the bill is, respectfully, inappropriate at this time and would be better directed towards this future process, which we expect will be a process in which indigenous communities will fully collaborate.

Those are the prepared submissions of the GTC today, but I'm more than happy to discuss any of this during the question and answer period. I would note that if any questions are particularly technical or political in nature, I may refrain from answering, but will respond at a later time, after we are able to discuss with the GTC leadership and technical staff.

Thank you.

[Witness spoke in Dene as follows:]

Mahsi cho.

[Dene text translated as follows:]

Thank you.

•(1015)

The Vice-Chair (Mrs. Cathy McLeod): Thank you, Mr. Wright.

I do understand that we now have Dehcho First Nations and Grand Chief Gladys Norwegian available by video conference.

Thank you for joining us. You have 10 minutes for a presentation, and then the committee will be going into questions and answers.

Go ahead.

Grand Chief Gladys Norwegian (Dehcho First Nations): Thank you very much, and good morning to everyone. I'm very happy to get some time to present this statement. I'll get right into it, since time is of the essence.

Just to give you a little bit of background, I am Grand Chief Gladys Norwegian, elected to represent the Dehcho First Nations. We are a regional body representing eight member first nations and two Métis locales in the Dehcho region of the Northwest Territories.

The Dehcho First Nations communities are connected through language, cultural beliefs, practices, genealogy and principles. We are part of the Dene nation and have lived on our homeland and according to our own laws and system of government since time immemorial.

Our homeland comprises the ancestral territories and waters of the Dehcho Dene. We were put here by the Creator as keepers of and guardians over our waters and land. We therefore share responsibility in managing the land.

We understand that the committee is here today to consider Bill C-88, which, among other things, incorporates the proposed amendments to the Mackenzie Valley Resource Management Act. I'm here to share our thoughts on those amendments. These amendments would have significant impact upon the way our land, resources and rights are impacted by development occurring within the territories of our member first nations. We appreciate the opportunity to share our view.

I would like to start by saying that on a general level Dehcho First Nations has not been a party to the Mackenzie Valley management regime. We're still negotiating with Canada on land and resource issues in our region; however, in the meantime we are made subject to the MVRMA and accordingly must deal with what is now before us.

With those points noted, I would like to say that we believe the proposed amendments are positive and are a move in the right direction. They will, if they come into force, allow for better environmental review and protection measures for the developments that are occurring within the Dehcho region.

Most notably, they will reverse the unacceptable amendments of 2014 that would have eliminated the regional co-management boards. These boards were negotiated as part of the modern treaties, but the previous government attempted to replace them with a single super-board. Those amendments are now subject to a successful injunction brought by our neighbour, the Tlicho Government, who are a party to the modern treaty and who are supposed to be a partner in the MVRMA process. We agree that the super-board should never have been put into the law and that those provisions must be reversed.

The amendments before you in Bill C-88 now make it clear that the members of the board appointed to a hearing panel will include indigenous government appointees equal in number to other appointees named by public governments. In making this provision, the proposed amendments will help to restore balance to the way the MVRMA operates and will ensure that the voice of indigenous board members will be heard. This point cannot be overstated.

Responsible management of our land and resources is a sacred duty for our people. We are prepared in the context of our treaty relationship to work with other governments, but we will never again be silenced and sidelined.

● (1020)

The new amendment also creates a cost-recovery scheme against proponents and an administration enforcement scheme for development certificates that is backed by fines and other penalties. From DFN's perspective, first, this will prevent hesitant or less serious proponents who lack a solid business case from moving ahead with regulatory applications. Second, this will make sure the regime is enforced and that developments move forward in accordance with specific terms and conditions. Terms and conditions of DFN and others have the opportunity to influence, under the amendments. The amendments enable intervenors before the board, such as DFN, and to seek changes to develop certificates to impose conditions on an already-approved project.

Notwithstanding the positive aspects of the bill, in the remaining time that I have here today, DFN would like us to put forward a few recommendations on the following topics.

I didn't start timing myself, so I just wonder how much time I have.

The Vice-Chair (Mrs. Cathy McLeod): You have three and a half minutes.

Grand Chief Gladys Norwegian: Just very quickly, I wanted to talk a bit about proposed section 90.31 of the proposed amendments, which allow for regulations to be developed that would set out requirements for any consultation that is to be undertaken by developers or proponents when it comes to the issuing, amending, renewing, suspending or cancelling of permits or authorization. DFN has already provided comments to CIRNAC on this, but to reiterate the essence of those comments, DFN believes, in accordance with UNDRIP—in particular article 3—that it has the right to self-determine and this includes being able to define and determine what meaningful consultation and accommodation should look like and how it should be carried out.

Also, all consultation must be carried out by the Crown in good faith and with the intention of substantially addressing the concerns of the affected first nation party. The Crown must also make all good-faith efforts to substantially accommodate any concerns that the first nation has about the decision, action and subsequent issue. This must always be the case, in any consultation, but what the process is and how it's carried out should be defined by the first nation community whose lands, resources and rights stand to be affected.

Another part is on proposed section 117.1, but I think I will just stop here and perhaps submit this statement because I feel that I'm running out of time and I'm just trying to rush through everything else.

How is that?

The Vice-Chair (Mrs. Cathy McLeod): Thank you, Grand Chief.

You can certainly submit your remaining remarks in writing. We'd be very pleased to receive them. During the question and answer period, hopefully, we'll get further into the details that you wanted to chat about, but please do submit the additional recommendations.

We will go on now to Mayor Gruben, from the Hamlet of Tuktoyaktuk, for 10 minutes.

•(1025)

Mr. Merven Gruben (Mayor, Hamlet of Tuktoyaktuk): Good morning to you, and good morning to our people in the western Arctic.

Thank you for giving me the opportunity to speak on Bill C-88. At first, I did not support this bill, but after some discussions with my NWT colleagues, in particular our good friend Premier Bob McLeod, I do support it but with a strong statement that, moving ahead, full discussion and consultation is taken with our people of the north regarding future decisions and legislation that affects us. For example, early in the current government, Prime Minister Trudeau put in place, without consultation with us, a crippling offshore moratorium that was imposed on us without one word beforehand.

Furthermore, we should be getting the shares or royalties from any developments going forward, similar to the provinces.

We may also be faced with the effects of the currently planned Bill C-69, which may make it harder and harder to develop and bring about economic development throughout our region, and throughout Canada.

To shed some light on why I wanted to be here to speak in person, it's always better to see who you're talking to. Having said that, it's always better to see what you're talking about, so I really invite each and every one of you to come up and take a look at what's going on. Take a look at what your decisions are doing up in the north, in our region. Come and take a look and live in our shoes for a while and see if you can live like that.

Tuk has long been an oil and gas town. Since the first oil boom, or the whalers hunting whales in the late 1800 and early 1900s, we have grown up side by side with industry. We have not had any bad environmental effects from the oil and gas work in our region, and we have benefited from the jobs, training and business opportunities that have been available when the industry has worked in Tuk and throughout the north, the entire region.

Never in 100-plus years has the economy of our region, and the whole north, looked so bleak for the oil and gas industry, and for economic development, generally. All the tree huggers and green people are happy, but come and take a look. Come and see what you're doing to our people. The government has turned our region into a social assistance state. We are Inuvialuit who are proud people and who like to work and look after ourselves, not depend on welfare.

I thank God we worked very closely with the Harper government and had the all-weather highway built into Tuk. It opened in November 2017, if some of you haven't heard, and now we are learning to work with tourism. We all know that's not the money and work that we were used to in the oil and gas days that we liked.

I see the industry coming back. I support this to hopefully make things smoother for us a little further down the road when it does, as long as Bill C-69 doesn't throw a monkey wrench into things, as it looks like it will.

If you want to discuss Bill C-69, I could come back and give you a longer discussion, but as it is, thank you for your time.

The Vice-Chair (Mrs. Cathy McLeod): I also want to acknowledge Councillor Jackie Jacobson is here with you.

Hon. Jackie Jacobson (Councillor, Hamlet of Tuktoyaktuk): Thank you, Madam Chair.

The Vice-Chair (Mrs. Cathy McLeod): Great, thank you.

Because we have someone on teleconference, on video conference and in person, if, when you're doing your questions, you could be fairly direct in terms of who you'd like to respond, it will make it a little easier.

We will start with MP Michael McLeod.

Mr. Michael McLeod: Thank you, Madam Chair.

My sound system cut out halfway through Merven's presentation, but I think I have the gist of it.

I want to say welcome to everybody. Hello to the grand chief from Dehcho. It's good to hear your comments.

I have a little bit for everybody here, but maybe first of all I'll just ask Gladys Norwegian, the grand chief, as to where their discussions are on the regulatory management system that they're talking about. I know that Dehcho has representatives on the Mackenzie Valley Environmental Impact Review Board, but at the same time, they're midstream in negotiating self-government and land claims and have had discussions on a different option or a different design of regulatory management. Maybe I could just get her to make that point so we know that not everybody in the Northwest Territories operates under the same system.

•(1030)

Grand Chief Gladys Norwegian: Just to be clear, what is your question?

Mr. Michael McLeod: I'm asking you to make a point, if you could, on the Dehcho aspirations in the regulatory process. I heard over years that there was a desire for an independent resource management authority.

Is that correct?

Grand Chief Gladys Norwegian: How shall I answer this? That was the discussion back about a year ago. Definitely we have not gone back to seriously discuss it, so at this point I'm not really sure and I don't want to answer the question until we have a serious discussion about it again.

Mr. Michael McLeod: Okay. Thank you, and I apologize. I was jumping a little too far ahead on some of this stuff.

I want to ask my next questions to my colleagues in the north, Mayor Merven Gruben and former member of the Legislative Assembly and my colleague Jackie Jacobson.

First of all, we should be clear. The Mackenzie Valley Resource Management Act does not apply to the Inuvialuit region, does it? You operate on a different set of rules for Inuvialuit?

Hon. Jackie Jacobson: Yes.

Mr. Merven Gruben: Yes.

Mr. Michael McLeod: I was just waiting to get that on the record.

You're here in your capacity as the Mayor of Tuktoyaktuk and a councillor from Tuktoyaktuk, not here as the Inuvialuit government.

Mr. Mervyn Gruben: Not at all. We don't represent the IRC.

Mr. Michael McLeod: Okay. You've spoken a lot about climate change, and I know that's a big issue. I'm hoping our government will hear more from you on this issue.

My point is to raise the issue of the discussions around devolution. When devolution was being discussed under the previous government, the government of the day did not allow the Beaufort Sea to be included as part of it and it did not allow the Norman Wells oil fields to be included as part of it. There was no allowance for discussion on resource revenue sharing from either of those areas. They have a potential. As you said, there is a big opportunity from the Beaufort Sea to generate revenue in oil and gas.

Jackie, you were there when some of this stuff was taking place. Is this an area of disappointment, that we didn't see it included? It would have brought it under the jurisdiction of a different government.

Hon. Jackie Jacobson: Thank you, Madam Chair.

Yes, Michael, the government of the day, back a few years ago when this happened in Yellowknife.... We should have had it implemented. It should have come with that agreement, because now we want to be a part of the decisions that are being made.

That's what the hamlet is making sure, that the request can go forward on behalf of IRC, Inuvialuit Regional Corporation, with Duane Smith. I hope this does get put in, because the decisions you are making down here are affecting many people. As I said, there's a tourism boom right now. We have up to 17,000 people coming to Tuk, and we're 1,000 people in the community. It's like a fish bowl.

Now and going forward, the decisions being made on the Beaufort Sea should come to IRC, going through the Hamlet of Tuk. We're open for business in regard to oil and gas. We've been doing it since the 1970s, 1980s and 1990s, before they went to the east coast. As my mayor said, come to our community to see what's happening. We did the first access road out to 177 to kick off the all-weather road for the Inuvik-Tuk highway.

You see that there's a great deal of potential, but we don't want to get caught up down here. I'm sorry to put it this way. The decisions you're making are affecting people, and you have to see it to make judgments such as these.

Thanks, Mike.

•(1035)

Mr. Mervyn Gruben: To carry on with what Michael was saying, we're in the process of making it a port. I'm not going to say a really deep sea port, but we're working on a port and a possible offshore dispensary for natural gas or oil and gas.

The Vice-Chair (Mrs. Cathy McLeod): Thank you.

It's now time to move to MP Viersen.

Mr. Arnold Viersen: Thank you, Madam Chair, and thank you to our guests for being here today.

Your Worship, you've been fairly outspoken on the drilling moratorium, for sure. This bill has two pieces to it. It allows for more drilling moratoriums. We've heard that there's been a limited amount of investment going on in the Beaufort Sea area, so putting in a drilling moratorium hasn't really had any effect because there's been no activity up there. Could you just talk a bit about the hope that is taken away when a drilling moratorium is put in place?

What is the value of the natural gas and oil resource up in that area? Could you also comment on what the Americans are doing just a few hundred kilometres away?

Mr. Mervyn Gruben: Never mind the Americans. It's what the Russians and everybody else in the world is doing except Canada.

Having said that, with the lack of interest that's happening in our part of the Arctic, of course it's going to be quiet. There's a moratorium. Nobody's going to be going up and doing any exploration or work up there.

We were really looking forward to this. There was a \$1.2-billion deal here that Imperial Oil and BP did not that far out of Tuk, and we were looking forward to them exploring that and possibly drilling, because we have the all-weather highway there. What better place to be located?

In terms of money, it's hard to put any terms on oil and gas up there.

Mr. Arnold Viersen: In Alberta, we know the oil sands are a \$2-trillion asset sitting there. Is there any idea what the value of the Beaufort Sea oil is?

Mr. Mervyn Gruben: I couldn't hazard a guess, but it's in the trillions, I'm sure. We're sitting on trillions of natural gas as it is right now. All the oil companies are doing right now is just coming up there, checking their wells and seeing what's going on, which is absolutely nothing. We're just trying to do as much as we can to encourage business to come back because we're open for business.

Mr. Arnold Viersen: Mr. Wright, I saw you nodding your head a moment ago. Were you in agreement with that, or was it something else entirely?

Mr. David V. Wright: Which part were you asking about agreement on?

Mr. Arnold Viersen: He was saying about the Beaufort Sea development that there was a \$1.2-billion investment coming up there that is no longer.

Mr. David V. Wright: I'll leave it to Mayor Gruben to comment on that, but certainly, the slowdown in the western Arctic region is shared in the Gwich'in settlement area as well.

Mr. Arnold Viersen: Is there a particular reason why none of your comments were directed to the second half of the bill?

Mr. David V. Wright: As the previous member pointed out, the MVRMA applies in the Gwich'in settlement area but not in the Inuvialuit settlement region, so our comments, and indeed the consultation on Bill C-88 with GTC, have been focused almost entirely on part 1.

Mr. Arnold Viersen: Okay.

Do they not want to comment, or do they just not have an opinion?

Mr. David V. Wright: I'm just not prepared to share a comment today on part 2 of Bill C-88.

Mr. Arnold Viersen: Okay.

Going back to Mayor Gruben, you aren't covered by those boards. Is that the understanding?

Mr. Mervyn Gruben: We're here entirely as the Hamlet of Tuktoyaktuk. We're not speaking for anybody else.

• (1040)

Mr. Arnold Viersen: Does the Hamlet of Tuktoyaktuk have to apply to these particular boards?

Mr. Mervyn Gruben: No. As I said, we used to be just an oil and gas town, and we're hoping for things to come back. That's why I'm here.

Mr. Arnold Viersen: Right.

Do you see the ability for the federal government to put in more moratoriums across northern Canada as a good thing or a bad thing?

Mr. Mervyn Gruben: More moratoriums are obviously bad.

Mr. Arnold Viersen: Would you see the powers that are being put in place by this bill as a threat to your area?

Mr. Mervyn Gruben: It's a lot better to work together with the rest of our colleagues and partners, people up and down the Mackenzie Valley and the NWT.

Mr. Arnold Viersen: Thank you very much.

The Vice-Chair (Mrs. Cathy McLeod): You still have two minutes.

Mr. Arnold Viersen: That's a little bit much to cede there and give back to the Liberals.

The Vice-Chair (Mrs. Cathy McLeod): Mr. Cannings.

Mr. Richard Cannings: Thank you.

Thank you all for being here before us today in various technological ways. It's good to have you here.

I have been up north. Many years ago I spent a couple of wonderful summers in the Gwich'in territory in Yukon, in Old Crow, but also over in the Northwest Territories and the Inuvialuit territory on Herschel Island, mainly, and in Inuvik. I didn't make it to Tuk because there wasn't a road there at the time, but there was oil and gas—

Mr. Mervyn Gruben: You were supposed to fly. You haven't been north, then.

Voices: Oh, oh!

Mr. Richard Cannings: Herschel is almost.... You're in the sea, anyway

There was oil and gas work being done in those days. I wanted to start by asking Mr. Wright a question about the first part of Bill C-88 that you're willing to talk about today. I think you expressed some concern. Because this bill was being rushed through at the end of Parliament there were some concerns about whether it would make it through to royal assent before Parliament rises. I'm wondering if you could expand on that, the "what if" question.

What if this bill doesn't pass? How would that affect the Gwich'in?

Mr. David V. Wright: Thanks for the question.

I'd say it affects the Gwich'in on two levels. First of all, there would be, we presume, although I do leave it to the Tlicho to explain in more detail this afternoon, a resumption of the litigation, and the toxicity and acrimony that comes with that, and that adverse effect on the Crown and indigenous relations in the NWT.

What's more, though, is that you would again have these amendments on paper, but not yet in force, that depend on how the rest of the litigation proceeds, which would prolong the regulatory uncertainty as to what the architecture of the project assessment, the project review regime would be like. As everyone knows, there are plenty of barriers to project development across the Northwest Territories, but certainly having the fundamental architecture of the regime in limbo is not helpful. That would be one needlessly prolonged barrier that could inhibit development in the Gwich'in settlement area.

Mr. Richard Cannings: Could you remind me what the injunction says about the timelines on that?

Mr. David V. Wright: The injunction says the Tlicho, in particular, because they were the primary litigant in that case, would suffer irreparable harm if those amendments were brought into force, because what it would mean is that the Tlicho, Sahtu and Gwich'in land and water boards would be dismantled. Picture staff being sent packing, corporate memory and resources and capacity being disbanded, and the single Mackenzie Valley Land and Water Board being created.

The irreparable harm is at that institutional bureaucratic capacity level, and it would take a lot to get that engine going again if the court result was ultimately favourable and was in line with the findings of Justice Shaner, I believe, in the injunction case.

In other words, depending on what level of court this stopped at, if the result was, yes, indeed, this is an unconstitutional set of amendments that go against land claim agreements, then you would have to restart these boards years from now, which would just be lost time and waste and uncertainty.

• (1045)

Mr. Richard Cannings: Thank you.

Grand Chief Norwegian, I'd like to ask you a few questions about the Dehcho. Perhaps you could expand on how the Dehcho were consulted about Bill C-88, this piece of legislation, and whether it was adequate.

Grand Chief Gladys Norwegian: I just want to let you know that I'm fairly new. Somebody said to me, you cannot continue to use that excuse, but I'm fairly new to my position. I will have to say that I cannot answer that question. I actually really don't know.

Mr. Richard Cannings: Thank you for that.

Mr. Gruben, could you expand on your thoughts around the duty to consult? I know that's one of your major issues here with the moratorium specifically, but also perhaps this bill. As far as I know, there are no specifics around putting the duty to consult in this bill. I assume that it's all coming from the Constitution, instead of being put right into Bill C-88.

Do you have any comments on what you feel about that? Should the duty to consult and the ability for indigenous peoples and northern communities to interact with the government on that level be in this bill?

Mr. Mervyn Gruben: We're not really into the politics of everything, but with everything changing in a few years with the self-government thing, in the hamlet we'll be looking after most things, rather than the community corporations and stuff. We wanted to be a part of it. What affects your decision? It affects our community's life and the region's life, so we want to be part of the decision.

Like I said, I had a good talk with the premier. He is speaking at noon here and he's speaking about what you're asking, so maybe you can ask him about that. We're not that much into territorial politics. We're really not political, other than our hamlet stuff. We don't like to step on some things here. That's the life of our community, really. What your decisions are down here, on the moratorium and stuff, we have to be careful with it.

Mr. Richard Cannings: Have you been involved in the discussions, now that we have the moratorium that was supposed to give a five-year period to do a scientific review and other consultations? Have you been involved with that at all?

Mr. Mervyn Gruben: Not at all. We haven't heard anything back. I think I was the only one who was vocally supportive of Premier Bob McLeod's discussions, from up in our part of the Arctic.

No, I haven't heard anything about the moratorium or what's happening up there. There's no feedback that's been given back to us about what's going on, other than what we see right now with increasing welfare recipients. It shows in the community.

Mr. Richard Cannings: Right.

Do you see it as problematic that we have essentially two bills that have been tied together here? The one is involving the Mackenzie Valley and fixing that problem that flowed from a legal injunction, and the other is with this moratorium. You have the premier strongly in favour of the first part at least, since it has to fix some major problem, whereas the second one was tacked on there.

Mr. Mervyn Gruben: I'll leave that to the premier.

Mr. Richard Cannings: Okay.

The Vice-Chair (Mrs. Cathy McLeod): I guess that's the short answer.

Thank you.

For people who will need interpretation, the next round is going to go to MP Yves Robillard.

You have seven minutes.

• (1050)

[Translation]

Mr. Yves Robillard: Thank you, Madam Chair.

I want to thank all our witnesses for their testimony.

My questions will be in French, naturally.

My first question is for Mayor Gruben.

The main element of Bill C-88 repeals the provisions of Bill C-15 that deal with restructuring the boards and aims to resolve the problem that the Tlicho government and Sahtu Secretariat Inc. brought before the Government of the Northwest Territories.

Do you think the existing four-board structure is efficient and effective?

[English]

Mr. Mervyn Gruben: I agree with the dissolving and the making of the four boards. We don't think we agree with the super-board.

I'm not politically a lawyer or anything.

[Translation]

Mr. Yves Robillard: The repeal of the unconstitutional provisions on the board restructuring is the main aspect of Bill C-88.

However, the bill makes other changes to the Mackenzie Valley Resource Management Act. These changes reflect some of the provisions of the previous government's Bill C-15, which couldn't enter into force because of the injunction.

Do you think it's likely that these provisions will make the boards operate more efficiently and effectively?

[English]

Mr. Mervyn Gruben: I think so, yes.

[Translation]

Mr. Yves Robillard: It seems like passing this bill would resolve the ongoing disputes over the Mackenzie Valley resource management boards.

Do you think that this would provide companies with greater legal security, in terms of the process for their development proposals?

[English]

Mr. Mervyn Gruben: As I said before, the more development we get up there...and I hope more royalties are shared equally like they do with the provinces, for our part of the north.

Mr. Yves Robillard: I'll share my time with my colleague.

The Vice-Chair (Mrs. Cathy McLeod): MP McLeod.

Mr. Michael McLeod: Thank you, and finally, somebody is willing to share with me.

Voices: Oh, oh!

Mr. Michael McLeod: I had a quick question to get the mayor and Jackie to clarify. In your comments earlier when you made your opening comments, you indicated that you had a discussion with the premier and that it brought you to the point where you support the bill. We heard this morning from a number of my colleagues across the way that quoted you and quoted the premier. Maybe you could just make that part of it clear again.

Mr. Mervyn Gruben: When I first started getting involved and I got invited to speak about Bill C-88, I did a lot of research on it and I followed a lot of comments. I just didn't want this to be seen again as another case of Ottawa throwing in this moratorium and showing us what to do—do as I say, you know. That's what I didn't like. I thought we were going to be...but there was no negotiation. You just do this. Ottawa says if you do this, you do that. That's what I thought we were going to be doing here.

Then, in further consultation with our good friend Premier Bob and other colleagues, it seems like everybody is agreeing with it. The more I read into it... I will agree to it as long as we have some of these other conditions that are being negotiated.

Mr. Michael McLeod: I think a point was raised earlier that decisions for the north have to be made in the north, and the Mackenzie Valley Resource Management Act allows that to happen, and had the jurisdiction, as Jackie and I both experienced. We didn't get the jurisdiction for the Beaufort Sea or the Norman Wells oil fields, for that matter. It didn't fall under the board, which allowed a government to step in and make changes, which were in land claim agreements, to create a super-board. Then with the moratorium, I think you've been pretty clear that you're not happy and a lot of people in the north are not happy that the moratorium came forward with such short notice.

The one thing that is puzzling is the amount of money that was being spent in the Beaufort Delta over the five years. I went back and looked. There was only \$7 million from 2011-15. In 2011, the program got cancelled. In 2012, there was \$7 million spent. There was \$57 million in total, but only \$7 million in the north. In 2013, there was no program; in 2014, no program; in 2015, no program. There was no oil and gas, and oil companies were asking to sit on their permits.

I heard from IRC loud and clear that they should be forced to spend the money that they committed, but it didn't happen. You see lost opportunity in those five years leading up to 2015, for oil and gas, because you mentioned that there was—

• (1055)

Mr. Mervyn Gruben: Yes. We were in discussions with the VP in Imperial about coming back up, and they were going to ramp up. At the time, they were talking about bringing in a backup well.

Mr. Michael McLeod: Do you think that while those discussions were happening they were talking and asking for extensions to their permits and saying...?

Mr. Mervyn Gruben: I believe so.

Mr. Michael McLeod: I ask because the oil market wasn't there.

Mr. Mervyn Gruben: It's coming back, though.

Mr. Michael McLeod: It's coming back now, and we're coming to that five-year period now for the review to kick in. While Inuvialuit

and the Government of Northwest Territories are doing the science review, all that information should come together. It should happen in a more positive fashion than it did last time, I'm hoping—

Mr. Mervyn Gruben: So am I.

Mr. Michael McLeod: —but it will do so only if the oil prices come back.

Mr. Mervyn Gruben: They are coming back.

The Vice-Chair (Mrs. Cathy McLeod): Please give a 20-second response, if possible.

Mr. Mervyn Gruben: Yes.

Voices: Oh, oh!

Mr. Mervyn Gruben: The oil and gas is coming back. We just want to be prepared.

The Vice-Chair (Mrs. Cathy McLeod): Thanks.

We have about three minutes for MP Kevin Waugh.

Mr. Kevin Waugh: Thank you, Madam Chair.

What is the price of fuel in the north, if I may ask? We have had many discussions in the House of Commons this past week about \$1.70 or \$1.80 per litre.

Can all three of you share with me what the cost of fuel is?

We will start first with Tuk.

Mr. Mervyn Gruben: It's cheaper than in Vancouver. It's actually \$1.70 per litre in Tuk for gasoline.

Mr. Kevin Waugh: That's for regular, I take it.

Mr. Mervyn Gruben: That's for gasoline. All we get is one grade of gas. That's it up there.

Mr. Kevin Waugh: Okay.

Mr. Mervyn Gruben: Diesel is about \$1.71 per litre.

Mr. Kevin Waugh: We haven't even hit the summer of tourism, so that's fine.

David Wright, what can you tell us?

Mr. David V. Wright: Inuvik would be about the same, around \$1.70 per litre.

Mr. Kevin Waugh: Gladys?

Grand Chief Gladys Norwegian: Most likely it's around that also.

Mr. Kevin Waugh: Okay.

You know this bill doesn't include revenue sharing.

Mr. Mervyn Gruben: That's why we want to make the amendments or hopefully see things changed a little bit.

Mr. Kevin Waugh: Gladys, what do you think of that? There's no mention of revenue sharing in this bill. How would that affect you?

Grand Chief Gladys Norwegian: It definitely will affect us, for sure. I'll just remind you that we are still in negotiations as well.

Mr. Kevin Waugh: I know you're in negotiation right now. Have you thought about the revenue sharing and how it would work?

Grand Chief Gladys Norwegian: We have been thinking about it.

Mr. Kevin Waugh: Can you share some thoughts? What do you want to see?

Grand Chief Gladys Norwegian: We want to see equal revenue sharing—

Mr. Kevin Waugh: Is that “equal” meaning fifty-fifty or 100%?

Grand Chief Gladys Norwegian: However that looks. If I were to make a choice, I would say 100%.

Mr. Kevin Waugh: Tuk, what would you like to see?

Mr. Merven Gruben: We'd like to see 100%. I know that's impossible, but...

Mr. Kevin Waugh: That's interesting, because the last government spent \$200 million on the road.

Mr. Merven Gruben: They did, but \$100 million came from the territories.

Mr. Kevin Waugh: Yes, that's right. Trinkets and T-shirts are great but there's a big difference. Your number one resource would be social assistance right now.

Mr. Merven Gruben: Right now, yes, but in a month or so it will be a little different.

Mr. Kevin Waugh: But only for three or four months, is that right?

Mr. Merven Gruben: For now.

Mr. Kevin Waugh: Good. Thank you.

The Vice-Chair (Mrs. Cathy McLeod): That concludes this round. I would like to thank those who came in person, those by phone, and those by video conference for your contributions to our deliberations on Bill C-88.

The meeting is suspended.

•(1055) _____ (Pause) _____

•(1105)

The Vice-Chair (Mrs. Cathy McLeod): I call this meeting back to order.

I would like to thank our three witnesses as we go into panel three of four panels today on Bill C-88, which of course is a piece of legislation before us. As we have someone on video and we always worry about the video, we'll start with Mr. McCrank.

Mr. McCrank, there are 10 minutes for your presentation. Then after all the witnesses have done their presentations, we'll go to questions and answers.

Go ahead.

Mr. Neil McCrank (Senior Counsel, Commercial Litigation, Borden Ladner Gervais LLP, As an Individual): Thank you very much, Vice-Chair McLeod.

First of all, thank you for the opportunity to participate. It's an honour to be asked to appear before one of your committees or one

of the Senate committees. I hope that I can add something to the debate that is currently ongoing with respect to this issue.

In full disclosure, I have testified on three different occasions on this issue: twice before the House of Commons committee, once in June 2009 and another time on January 2014; and before the Senate committee on December 2013. I've had the questions asked at some point on some of the issues, but we'll see how they go today.

I'm here to explain my report, “Road to Improvement”, which I'm sure all of you have had an opportunity to read. Maybe it's put you to sleep at night. That's fine, too. This was commissioned, as you know, by former minister Chuck Strahl, who was the minister of INAC. I was commissioned to do this report in fall 2007. The purpose of the assignment was to make recommendations to see if the regulatory systems in the north, at least north of 60°, could be improved.

The process that I engaged in through winter 2018 was to attend and spend most of my time in the north, most of it in Yellowknife. Although I did go to Nunavut and to the Yukon, I concentrated my efforts on the Northwest Territories. By the way, the process was to meet with everybody who would meet with me—all the regulatory bodies, the governments both territorial and federal, officials, aboriginal groups, at that time the treaty groups. Anybody who wanted to talk about this issue I was prepared to meet with.

We ended up then following those discussions by having a round table discussion in Yellowknife, where we invited all of the participants to come to hear what I had heard and to tell me what we should recommend in this report. The round table was opened with a prayer by Ms. Gabrielle Mackenzie-Scott, who at that time was the chair of MVEIRB. I just want to read it to you because it's important and it focuses on what we were talking about. She said the prayer was to look at the regulatory system to see if there can be some jobs created at the same time as making sure the environment is totally and absolutely protected. The overriding principles were to protect the environment and to ensure that the people who live in that part of the world make the decisions relating to resource development. The themes were clear.

The second theme, beyond the one of making sure that people in the north were engaged, was to ensure that the regulatory bodies had some improvements made to them to make them predictable, effective and efficient. To address these themes it was decided at the round table that I should make recommendations in three areas. First was for the local input of the residents, to make sure that the decisions were made in the north. Second was to make structural changes to the regulatory bodies, to make them efficient, responsible and so on. The third was to make some process changes to the regulatory bodies.

The input from the residents, an overriding suggestion, and it was the number one recommendation in my report, was that the land use plans for all the territories, particularly for the treaty areas in the Northwest Territories, had to be completed. They were delayed in completion. They had to be completed. That's where the voice of the north was to be provided.

Structural changes were to be made because there was recognition that if the land use plans were completed, the regulatory bodies would perform a different function, which would be a far more technical function relating to the environment, to safety, and to other issues of a technical nature. Therefore, there had to be some reduction in the number of regulatory bodies.

The one recommendation that seems to have attracted the most attention, and probably what I will be questioned on, is the reduction of the land and water boards from three to a super-board, as it was called later. My position was, and at the round table we all agreed, that if the land use plans were completed, there would not be a need for every regional body, every treaty area, to have a regional body. Rather, it should be one focus for the entire Mackenzie Valley.

• (1110)

I should point out at this stage that the recommendation with respect to the reduction of the bodies was in two parts. One was a complete reduction. The other was that the quasi-judicial nature of the decision-making would be concentrated on one Mackenzie Valley Environmental Impact Review Board, but that the administrative activity would take place at the local treaty level.

The question often came up as to whose idea it was. I don't know whose idea this was. It certainly came out of our round table discussions. There certainly was no surprise when I made my recommendations, because it was clearly debated during the round table discussion with all of the interested people in attendance.

Second, as is my custom, having been around government for a long time, I made sure that I spoke to the leaders of not all of the groups, but most of the groups, to advise them of what my recommendations would be. They said that was fine. They might not publicly support it, but they thought the recommendations were good. In fact, at one point in the course of the round table, I was told to have an honest and hard-hitting take-no-prisoners report. In other words, they said, "Be bold."

That completes my opening remarks. I have some closing remarks that I'd like to make later, after the questioning.

Thank you, Madam Vice-Chair.

• (1115)

The Vice-Chair (Mrs. Cathy McLeod): Just so you know, there is no opportunity for closing remarks. If you have anything more to say that is formal, I recommend that you take another couple of minutes, or we can leave it where you are.

Mr. Neil McCrank: Thank you.

I'll just leave it where it is. Probably in the course of the questions this will come out in any event.

The Vice-Chair (Mrs. Cathy McLeod): Thank you.

Obviously, for all the witnesses, if there's anything you want to submit after this hearing is complete, you're welcome to submit it to the committee.

We will now go to the Northwest Territories and Nunavut Chamber of Mines, with Mr. Campbell.

Go ahead.

Mr. Joseph Campbell (Vice-President, Northwest Territories, Northwest Territories and Nunavut Chamber of Mines): Good morning, honourable members.

My name is Joe Campbell. I am an executive board member of the Northwest Territories and Nunavut Chamber of Mines and vice-president for the Northwest Territories. I am here to present the chamber's comments on Bill C-88.

I am also an executive chairman of TerraX Minerals, a publicly traded junior exploration company currently exploring for gold around the city of Yellowknife in the Northwest Territories. I am also president of a geological consulting company providing services to the mining industry around the world. As part of that consulting business, I have acted as expert adviser to the Kivalliq Inuit Association in Nunavut for environmental review of mine developments. My varied work experience is relevant to my appearance here on Bill C-88.

I wish I could say that the layering of personal workload is exceptional. However, it is commonplace in the mining industry, in which business risk is high and making ends meet is a constant challenge. These challenges are greatest in the Northwest Territories—the central target of Bill C-88. Severe climate is certainly a factor, but a far greater issue that we face is the lack of infrastructure, which escalates development costs and timelines and renders the dream of being a leader in producing the critical metals of the green economy exactly that—a dream.

There is no level playing field for the north. We are beset by higher costs and tougher regulations from all levels of government—local, indigenous, territorial and federal. Against these odds, the mineral industry persists and provides thousands of jobs, fuelling the northern economy with billions in business expenditures and taxes and helping to contribute to regional infrastructure. Mining remains the only viable private industry that staves off the total welfare state in the Northwest Territories.

The mining industry has made great strides with indigenous communities, creating thousands of person-years of employment, supporting a wave of new aboriginal businesses and producing a flow of millions in taxes and royalties, not only to public governments but to indigenous governments also. Mining has significantly catalyzed the creation of a middle class in the indigenous communities of the north.

This economy was bought with a very small footprint for our current Northwest Territories mines of about 0.005% of the Northwest Territories, yet mining is the only industry that is regulated to provide a comprehensive project description detailing all environmental and social impacts, plans for mitigating those impacts that include impact benefit agreements, and closure plans to return the area to nature. We post the costs of those closure plans up front before digging a hole. I would bet that residential housing developments would grind to a halt under a similar strain.

Mining is not a threat in this highly regulated world and our mines operate to very high standards. We can coexist with the environment. This is the vision of Canada's north and should furnish the guiding principles for this legislation.

Despite this record and the honourable people who created it, the mining industry is demonized by NGOs and often by our own governments. Each new piece of legislation escalates the effort to constrain or prevent resource development, sometimes explicitly within the legislation but more often as an insidious increase in regulatory inefficiency that ups the costs and timelines of the process, making mine investment more uncertain.

Let's be clear. This bill's main purpose is to regulate our industry, yet that industry is criticized as self-serving if we provide comment—comment to make changes on issues that affect us directly. Let me state clearly that we are not opposed to the spirit of Bill C-88. To attract investment in the north, we see it as necessary to have clear and firmly established rules of law to guide our development.

Do we want more certainty, clarity and timeliness of process than is provided by Bill C-88? Of course we do, but I am not here to argue for a single board or for shortcuts to process timelines. I will argue that legislated uncertainty and raising the cost of the process is counterproductive to regulating development. Arguably, it is included in Bill C-88 as prevention of development.

As regards certainty of process, please use this as an opportunity to change the legislation to enact sections 3.18 and 3.19 of the devolution act as promised in the Mackenzie Valley Resource Management Act. By addressing the need to fully devolve the MVRMA to the territorial government, we will allow northerners to make their own decisions. This will coordinate the process and rid us of the lack of accountability and ambivalence that now infests it

●(1120)

As regards cost, please do not enact cost recovery on Bill C-88. Embedded within the bill—including but not limited to proposed sections 79.4, 90.31, 109.3 and 142.01—are broad provisions for cost recovery. This industry is expected to shoulder these costs, but we are given no control over them. The federal government empowers the boards, and they control the activity and the clock. Then, after pulling all the levers, they turn around and put out their hands for the recovery of the costs of the process they are entirely responsible for.

If you believe these costs are unsubstantial, please review sections 124 through 128 of the MVRMA and the corresponding amendments within Bill C-88. After several years of baseline studies and consultation, all mine developments go to an environmental review with a minimum timeline of approximately 18 months for determination. In practice, a determination is rarely reached in that timeline. As an example, the Governor in Council can extend the timeline to infinity based on subsection 128(2.3) of the MVRMA.

In addition, the review board can freeze a review timeline to request more information from the developer, with no restriction on how many times it can do this. Requests to the board for delay can be submitted by any interested party. No other industry, except oil, lives daily with the spectre of never-ending regulatory processes, and now you expect us to pay for it.

In Bill C-88, the only written control on what is an applicable cost is for “prescribed” services. There is not a person on the planet who would sign a contract under these terms, yet the industry is expected to swallow it whole while shouldering all the other extra monetary challenges that northern development entails.

The industry cannot bear the burden of cost recovery, particularly when we have no ability to control the process or budget for it. Until the mine is built, we have no source of income. More correctly, our investment backers will not bear the cost. No investment equals no development, which equals no cost recovery at all.

In closing, our industry provides the products that you all use daily. The green economy will rest on the backs of the rare earth metals mined by our industry. The mining industry is and will remain the backbone of northern Canada's economy, providing meaningful employment, particularly in indigenous communities.

Building a strong mining future benefits those northern communities. Don't enact legislation that diminishes that growth.

Thank you for listening. I would be pleased to answer any of your questions later.

●(1125)

The Vice-Chair (Mrs. Cathy McLeod): Thank you.

We will go to Mr. Brooks from WWF-Canada.

Mr. Mark Brooks (Senior Specialist, Arctic Oil and Gas, World Wildlife Fund-Canada): Thank you, Madam Vice-Chair.

Good morning. My name is Mark Brooks. I'm the Arctic oil and gas senior specialist with WWF-Canada. I wish to thank the committee for their invitation to speak about Bill C-88. We are submitting written comments in addition to this oral submission. I'll be speaking specifically about the proposed CPRA amendments.

First, I have a few words about my organization, the World Wildlife Fund. WWF is one of the largest independent conservation organizations in the world with projects in more than 100 countries. We have offices across Canada, including the Arctic, and we partner with local communities, indigenous peoples and other groups to help find solutions to the environmental challenges that matter most for Canadians.

Let me first say that WWF-Canada believes that community-supported economic development is vitally important throughout the Arctic. However, significant capacity, information and funding gaps currently exist in Canada's oil spill response framework across the Arctic, including in the Beaufort Sea region, which make potential offshore oil and gas activities particularly high risk at the present time.

I also want to emphasize the position of our organization on the need for modernizing laws governing offshore oil and gas activities in Canada, including the Canada Petroleum Resources Act, which has not been substantially updated in decades and tends to favour industrial development at the expense of other possible alternatives.

CPRA is over 30 years old. Its guiding policy focuses almost exclusively on expediting the development of petroleum resources at the expense of other alternatives. Contemporary priorities such as conservation, indigenous rights, climate change, marine safety and other issues are not mentioned in the CPRA's policy framework. Full modernization of the CPRA, along with the entire oil and gas regulatory regime is long overdue.

As for Bill C-88, it's proposing, as you well know, an amendment to the CPRA that would permit the government to prohibit any licence holder from commencing or continuing any work or activity authorized under the Canada Oil and Gas Operations Act, if the Governor in Council considers that it is in the national interest to do so.

WWF-Canada has some concerns with this bill. It's timing and precise purpose has raised some questions for us, which we believe should also be of concern to members of this committee. First, let me back up and provide some context. Of course, this has come up already today, but the December 2016 Canada-U.S. joint leaders' statement included a moratorium on new offshore oil and gas licensing in Canada's Arctic. This was followed by a year of private, closed-door consultations between government and oil and gas licence holders to discuss their interests. Public interest groups and civil society organizations were not invited, nor were we permitted to participate in these meetings. The results of the negotiations were not made public.

Following the conclusion of these consultations, in October 2018, the Government of Canada announced it planned to "freeze the terms of the existing [exploration] licences in the Arctic offshore to preserve existing rights, remit the balance of any financial deposit related to licences to affected licence holders and suspend any oil and gas activities for the duration of the moratorium".

Eleven exploration licences in the Beaufort region are set to expire over the next few years. The government could simply allow these licences to expire on their own, likely without any liability on the government's part, and collect hundreds of millions, perhaps billions of dollars, in forfeited financial deposits for work that was promised under the terms of the licence but not carried out. This is money that could be used for critical investments in the north.

Instead, the government is introducing a proposed amendment to the CPRA through Bill C-88 to prohibit oil and gas activities for reasons of national interest, which is not defined, and it's not clear to us why there is a need for this expanded power.

Concurrently, in last week's Canada Gazette, the government announced its intention to issue new exploration licences in the Beaufort Sea, effective July 10, 2019, to replace existing licences. From our perspective, the proposed amendment in Bill C-88 appears to be a way of ensuring, after one year of private negotiations with industry, that licence holders do not lose their rights or their licence deposits, despite having failed to do the work required by the terms of their exploration licences.

● (1130)

Extensions to exploration licence terms are expressly prohibited by the CPRA. If the government is using Bill C-88 as a way to preserve rights and extend licence terms, we believe this would be an abuse of the expanded prohibition powers. As noted, term extensions would also mean that licence holders do not lose their deposits, even though they were unable or unwilling to complete the work they had committed to doing. As companies will avoid substantial financial losses, one could argue that, in effect, this is a form of indirect subsidy to industry from a government that has committed itself to eliminating all inefficient oil and gas subsidies.

Licence holders may argue they are entitled to licence extensions and a refund of financial deposits because the 2016 oil and gas moratorium in the Arctic and the 2015 ministerial review of the CPRA created regulatory uncertainty. However, the review of the CPRA lasted only 10 months, and the moratorium did not apply to existing licences.

I want to emphasize this point, because I'm not sure it's been raised yet this morning: The moratorium did not apply to existing licences. The government's announcement at the time, in 2016, even stated, "Exploratory licences may accede to Significant Discovery within their existing permit timelines."

As an example, Imperial Oil holds two of the largest exploration licences in the Beaufort Sea, both of which are due to expire in the next year and a half. Despite holding these licences since September 2010, Imperial has done no exploration work to our knowledge. Chevron, another licence holder in the Beaufort, put its plans on hold in 2014, citing a drop in oil prices. These and other licence holders appear to have been speculating when they bid on these licences years ago. Now that the time limit on their interests is expiring, they seem to want the government to extend their terms and preserve their rights, which the government appears willing to do. This is not acceptable in our view.

In addition to being unjustified, this attempt to preserve rights and extend licence terms is a threat to the sensitive Arctic marine environment. An oil spill from shipping or a well blowout would devastate the surrounding marine environment, potentially destroying habitat for polar bears, seals, walrus and seabirds, as well as beluga, narwhal and bowhead whales. In addition, research indicates that seismic testing can seriously harm marine wildlife, which many Inuit depend upon for their livelihoods. However, in the Canadian Arctic only limited emergency response equipment currently exists on a scale required to adequately deal with a major oil spill or well blowout. Many coastal communities have access to only the most basic oil spill response equipment from the Canadian Coast Guard.

We believe there's no justification for the government to extend licence terms and refund financial deposits to licence holders, and we're deeply concerned by the government's stated intention to reissue identical exploration licences with extended terms before Canada is sufficiently prepared for the risks of offshore oil and gas activities. Until oil recovery and cleanup technologies in icy waters have improved and Canada is better prepared for these activities, drilling in the Canadian Arctic should not proceed.

Immediate steps, including substantial investments and more research to fill many data gaps, must be taken to provide adequate response capacity and infrastructure support if offshore oil and gas activities are ever to take place in the Canadian Arctic.

Thank you again for your invitation today. I welcome any questions you might have.

• (1135)

The Vice-Chair (Mrs. Cathy McLeod): Thank you to all the presenters.

We will start with the seven-minute round and MP Michael McLeod.

Mr. Michael McLeod: Thank you, Madam Chair, and thank you to the presenters here today.

I see a lot of people in the audience from the Northwest Territories, so I'll choose my words very carefully.

My first question is to Mr. McCrank.

I was serving in the government of the Northwest Territories at the time you put out this report. It's my understanding you were appointed by Chuck Strahl, the Minister of Indian Affairs and Northern Development in 2007. I wanted to ask you if he gave you any marching orders. Did he mention or suggest that maybe you should look at rolling back some of the regional boards into a super-board? I'm just wondering where the concept of the super-board came from.

Mr. Neil McCrank: First of all, thank you very much, honourable member, for that question.

The answer to the first part of your question is, no, I did not receive any instruction or any advice from Minister Strahl. I should say, just to be clear, that I was actually appointed to do this by Minister Prentice, but he then moved on to another portfolio and Minister Strahl took over. At no time did they give me any instruction other than to try to improve the regulatory processes in

the north. They thought, there are complaints; improve them whatever way possible.

As to where the idea came from, as I mentioned in my opening remarks I can't tell you who came up with the concept to begin with. It could have been me. I'm not a very creative guy, so I doubt it was me. What came out of it, in any case, was that if the plan we talked about were followed, which was to ensure that the land use plans were approved in advance, you could then look at the regulatory bodies and try to make them true, technical regulatory bodies.

For that to be the case, you'd have to have a certain capacity. You couldn't have that in all of these regional boards, so they would then be refined into one board that would be able to do the work that should be done by a regulatory body. Does that answer your question?

Mr. Michael McLeod: Yes, thank you.

When you say you weren't sure who came up with the idea, it could have been former minister Chuck Strahl at that time. He might have made a suggestion.

I see that you have a lot of history and experience in the area of oil and gas. The decision to merge the boards despite the impacts on constitutionally protected land claims and self-government agreements has created significant legal issues and caused a lot of problems for land and water management in the Northwest Territories.

Could you just tell us what experience you had, before writing this report, with the northern land and water board regulatory system based on co-management principles?

Mr. Neil McCrank: First of all, it did not come from Minister Strahl. As I say, it may have fallen out of the round table discussion; it may have come out of my mind. I don't know, but it certainly did not come from any instruction from the government.

Secondly, with respect to what my experience is with land and water boards, my only experience with land and water boards has to be related to my experience as chairman of the Alberta Energy and Utilities Board, which I chaired for 10 years. It has similar kinds of issues to deal with, whether they are environmental, safety or conservation issues, but not issues related to land use planning. That's a different concept.

Does that answer your question?

Mr. Michael McLeod: I think there's no comparison between the Northwest Territories' regulatory process and Alberta's.

It's interesting that the premier of the day whom you worked with became the Conservative candidate in the next election.

In hindsight, because you believe that merging the boards was a way to deal with a system that was costly, complex, unpredictable and I think “time-consuming” was a word you used.... It made it very difficult because that's not the way indigenous government partners felt. Industry was not in support of this and communities were not in support of it.

Do you concede that impacting constitutionally protected land claims and self-government agreements without the proper consultation was a mistake? Do you concede that it had an effect opposite to what you were attempting to achieve? Everybody said don't do it, especially the super-board portion of it.

• (1140)

Mr. Neil McCrank: I'm not sure I agree with you that everybody was in disagreement. As I indicated in my opening remarks, at the round table discussion it was pretty clear in what area the recommendations would be at the end of it. Nobody objected. I spent some time, as I mentioned, with some of the aboriginal leadership in Yellowknife, prior to the round table and post-round table, and outlined what some of the potential recommendations would be, including the reduction of land and water boards, and there was no objection. In fact, all of them said they supported it but would not support it publicly, because it, of course, reduced manpower in the regions.

Mr. Michael McLeod: Is there another report that captures what was not reported publicly, in your side discussions?

Mr. Neil McCrank: No, there was just what I've said today. My discussions—

Mr. Michael McLeod: You did not include all the side discussions.

Mr. Neil McCrank: All I've said is that what I was talking about at the round table and what came out at the round table was discussed with some of the leaders, and they thought these were reasonable recommendations. That's all I can say with respect to that.

With respect to the constitutional issue, I made it clear that I thought that probably in reopening the treaties there would have to be firm consultation with and agreement from the aboriginal communities. That was clear in my mind and it was in my report.

Mr. Michael McLeod: I have one quick question. This issue was raised by Mr. Campbell here today.

There are three pieces to this legislation, and I think we all agree that we don't like the super-board part. There are other regulatory points for which we're hearing support. Mr. Campbell said, though, that he was objecting to the cost recovery portion of it.

Why did you feel that it was necessary to include it in this bill?

The Vice-Chair (Mrs. Cathy McLeod): I'm sorry, you'll have to wait for your next round. I'm tougher with time than your normal chair.

I believe you will get another round, but I'll move this over to MP Kevin Waugh.

Mr. Kevin Waugh: Thank you, Madam Chair.

I just want to say to Mr. Brooks that I take offence to companies that have licencing agreements and it takes them years to get going.

I'm going to tell you that in my province, BHP Billiton has spent nearly \$4 billion on a mine that has yet to produce in the community of Jansen. This could take five years. It could take longer. They had their annual meeting this past week. Companies have invested billions of dollars and the fact that the date set for the current mine or project isn't going to be met doesn't mean they don't care about it. Your reference is a little disturbing up north.

I have the same thing in my province. BHP is an Australian firm; you know it. It's the biggest miner in the world. They have sunk \$4 billion into my province. They probably want it up this year. It probably isn't going to produce until 2026—whatever. The fact that legislation says they should be up doesn't mean they haven't done their due diligence and spent billions of dollars.

I want you to comment on that, because in my province it's a heated discussion right now. This company from Australia has pumped \$4 billion into our province in the past seven to eight years.

Mr. Mark Brooks: I wonder whether you can tell me how much the oil companies in the Beaufort have spent on their exploration licences—the ones that are about to expire.

Mr. Kevin Waugh: I don't know that. They have previously spent, I'm sure, billions of dollars—

Mr. Mark Brooks: Right. There's a reason that we have—

An hon. member: [*Inaudible—Editor*]

Mr. Kevin Waugh: Well, in the last five years before then.

He's had his time.

The Vice-Chair (Mrs. Cathy McLeod): Order. Let's have no side discussions, please.

Mr. Brooks, would you...?

Mr. Mark Brooks: I thank you for your question because I think it's a really important one.

The CPRA under this legislation sets a time limit for the exploration permit for a reason. It's nine years. You may not think that time limit is long enough, but that is the law. When a company bids on a licence, they commit to doing work within that nine-year time frame, and they commit a deposit, which amounts to a quarter of their intended expenditure. As I say, for one of Imperial's licences alone that is \$400 million. They have not spent anything near that commitment. Under the terms of the legislation, if they don't do the work within the nine-year time limit, they have to forfeit that deposit.

We're simply saying that this is the process that should be carried out, because the CPRA does not allow for term extensions to these licences.

•(1145)

Mr. Kevin Waugh: Mr. Campbell, I'm going to move to you now. You talked a little bit about the national interest. We know that companies up north—you talked about it—spend three or four times more than they do in so-called southern regions of this country. In terms of the national interest, can you explain the significance of this for northerners?

Mr. Joseph Campbell: I'm not too sure what you're referring to in terms of the national...?

Mr. Kevin Waugh: I'm talking about the national interest—this clause in here.

Mr. Joseph Campbell: I've talked about the northern interest, which is obviously a national interest also.

Mr. Kevin Waugh: There's uncertainty. Is that right?

Mr. Joseph Campbell: Yes.

Our belief in the chamber and among the mining companies working in the north is that there has to be a commitment by the federal government, with a national interest—a national vision—of how we're going to develop our north.

If you go into the Yellowknife Airport, drive to the road at the end of the entrance and look north, there's nothing all the way to the coast. That is a huge inhibitor to development in the north, and it restricts the ability of northerners to actually get benefit from the resources they have. We need to have a vision for being able to bring those interests in.

In particular, if we look at green metals—as I mentioned before—there's a reason there are only diamond mines in the Northwest Territories now. It's that we can carry the product out in our back pocket. If I want to get into any kind of a development where I'm trying to mine for lithium, other rare earths or cobalt—and there's a mine that's actually going through the permitting process that has a cobalt primary element—these are mines that require transporting bulk commodity back out of the north. I cannot do that without infrastructure, so my hands are tied.

When I said it's a dream for us to participate in the green economy, I meant that without infrastructure it's a dream, and that's not even touching on energy. Every mine in the north is run off diesel fuel. Every remote community in the north is run off diesel fuel. You cannot expect us to be running a green economy when we have to pour diesel into our generators to keep them going.

Mr. Kevin Waugh: Thank you for that.

I'm going to move to Mr. McCrank. Thank you for the work you did some 10 years ago, entitled “Road to improvement”.

I guess you are here today because that's what happened back then, and now this current government wants to go back to the four boards. I'd like to hear your thoughts around that—the work you did on the local input and the structural and process changes—if you don't mind.

Mr. Neil McCrank: Thank you for the comment on my report.

Until about a week ago, I had not heard of C-88. This was new to me. I have not kept up-to-date on what's going on in the north since I

did this report some 11 or 12 years ago, beyond what I mentioned about having appeared before committees.

I don't know all of what's in C-88, but I know there is an attempt to roll back the land and water boards to where they were. Let's be clear what my recommendation was. My recommendation was, number one, to finish the land use plans, because in my view that is where the local community has the greatest effect on future development.

The Vice-Chair (Mrs. Cathy McLeod): I'm sorry, Mr. McCrank. The seven minutes are up, but hopefully you'll have another opportunity to finish that.

To get all our rounds in, we need to move on, but certainly, send a message if you can.

We'll move on to the NDP, with Mr. Cannings.

Mr. Richard Cannings: I'll let Mr. McCrank finish up on that. I just wanted to frame it, in that it seems to me, in reading your report, that you had a couple of options regarding the restructuring piece.

Option one was where you would eliminate the regional boards, but it included a fundamental restructuring that would require the agreement of all parties. I think there was actually a line in your report that said this is maybe desirable but would be very difficult to achieve. Then you had option two, which was just to amend the act but keep the regional boards. You've mentioned that they might have somewhat different tasks or mandates from what they have now.

However, in C-15, the previous government took your option two but eliminated the boards, and I think that's why we are here today. I'm just wondering if you could comment on that.

You said that your first recommendation, obviously, was to finish the land use plans. Do you think C-15 was premature in that it didn't wait for all that hard work to be done before proceeding with this restructuring?

Perhaps you could also finish your comments on why we are here today. You said the local groups were largely in favour of what you were proposing, yet as soon as C-15 came out they were in court. Obviously there was some disconnect there. I'd just like your comments on that situation.

•(1150)

Mr. Neil McCrank: Thank you for that question and for framing it the way you did. You are absolutely correct. The notion of the land use plans had to be primarily the first job done by the government. Once that was complete, then something had to be done with the regional boards. That was my view. Whether they were eliminated completely or left with an administrative function in each area, those were the two options.

I was not consulted with respect to Bill C-15, if there was some dysfunction related to my recommendation as the bill proceeded. However, there's no question that in everything I said and everything I recommended, I indicated I thought it would be a very difficult row to hoe and that if we didn't start the restructuring, including making sure the land use plans were completed early, we'd be doing that 10 years later.

Here we are, 10 years from when I made that report, and we're still not there. These are long-term projects, but it was clear in my mind what the role would be for the super-board, if you want to call it that, as a very professional regulatory body that deals with the kinds of issues I talked about. If the government wanted to leave the administrative function in the local treaty areas, that was an option that was open to it.

Mr. Richard Cannings: Thank you.

I'm going to move on to you, Mr. Brooks, and try to get some more information on what you were saying.

Your main point, it seems, is that the existing licensees were not covered by this moratorium. They had an obligation to undertake work, which seems to have been eliminated after a year of consultation. I don't know if you want to speculate on what went on behind those closed doors, but would these companies feel some concern about future moratoria under Bill C-88, and then feel the ground rules have changed?

How do you think their positions have changed, and is that why the government did this? If they were still allowed to go ahead and do their work—do their exploration, if they had found significant resources—could they still develop them under the present situation? Why do you think it's unfair that they don't have to fulfill their obligations? Are there any future concerns that they might have?

Mr. Mark Brooks: I can't speculate on what went on. I would have loved to know what went on behind closed doors during the one-year private consultations between the government and industry. WWF Canada made requests to Indigenous and Northern Affairs to try to find out. We wanted to participate or at least find out the results of those consultations, but we just know what the public knows in terms of the announcement in October 2018: that the licences would be frozen and the rights to those resources would be protected.

As a result, I can't say, and that's why I say in my presentation that this appears to be.... We can only speculate on what we know, and what we know is that oil prices have been too low to make oil and gas profitable in the Arctic. There's some disagreement on this, but the break-even point seems to be around \$100 a barrel, and we're nowhere near that.

You're absolutely correct, though, and I want to emphasize this once again. The moratorium applied to new licences only, and that meant there would be no new parcels available for bid. However, there were already, as I say, 11 exploration licences and dozens and dozens of significant discovery licences in the Beaufort and High Arctic region, which companies were free to continue their work on. Significant discovery licences have no terms. They're unlimited, so companies have as much time as they like. As I said, the exploration licence term is nine years, but there is nothing in this moratorium that prevents a company from doing work on those licences.

As I say, exploratory licences may accede to significant discovery within their existing permit timelines, so we don't know why the government is introducing this new authority of national interest. It appears that it's being used to extend the terms of these licences, and then, as I say, this coincides with the Canada Gazette four-year issuance of new licences.

• (1155)

The Vice-Chair (Mrs. Cathy McLeod): We only have a very short three minutes for our last round, which will go to MP Jones.

Ms. Yvonne Jones (Labrador, Lib.): Thank you, Madam Chair.

I'd like to thank all of our guests for being here today, and for your presentations. I'm going to direct my question to Mr. McCrank and Mr. Campbell.

First of all, Mr. McCrank, you talked about merging boards. You felt that it was the right direction to go in at the time, but you provide us with no justification of where that recommendation would have come from. We know that since 2014, indigenous governments in the Northwest Territories have not supported that recommendation under the previous bill.

Do you feel that not allowing indigenous governments to have the right to make those decisions and recommendations but to have them in place is the right process to go through? I'm just appalled that there was no way you could justify the recommendation you put forward.

Mr. Neil McCrank: In the entire review of the regulatory system, particularly in the NWT, and in the round table discussion that I held with all of the people including indigenous groups, this recommendation seemed to be justified. It clearly has been misinterpreted as meaning an attempt to reduce the influence of people in the north. That's not what the recommendation was.

The recommendation was for that influence to be brought to bear at the appropriate time during the land use planning stage. Then, following that, the regulatory bodies would deal with the technical issues that most regulatory bodies on the face of the earth deal with.

Ms. Yvonne Jones: Okay.

The only thing I want to ask you, Mr. Campbell, is whether you support the United Nations Declaration on the Rights of Indigenous Peoples. What Bill C-88 is doing is giving those rights and protections to indigenous governments, to ensure that they have a say in the activity that happens in their land claim areas. Do you support that declaration? In doing so, do you support the amendments in Bill C-88?

The Vice-Chair (Mrs. Cathy McLeod): It's a big question for a very short answer.

Mr. Joseph Campbell: Yes.

The Vice-Chair (Mrs. Cathy McLeod): There you go.

Thank you to all of our witnesses. We'll suspend and bring in the next panel.

● (1155)

(Pause)

● (1205)

The Vice-Chair (Mrs. Cathy McLeod): We're recommencing our hearings into Bill C-88. I'd like to welcome our guests, both Premier McLeod—and I'd like to note there are three McLeods sitting at this table—and the Tlicho Government delegation, which includes Grand Chief George Mackenzie, Chief Alfonz Nitsiza, Paul Bachand and Bertha Rabesca Zoe.

We will start with Premier McLeod. It's a very important bill for your community. You have 10 minutes to present, and as you know, there will be a period of questions and answers after all the presenters.

Welcome.

Hon. Bob McLeod (Premier of the Northwest Territories): Thank you, Madam Chair. I should note that if we had got you to move to the Northwest Territories we would have had a real McLeod government.

Good afternoon. Thank you for the invitation to appear before the standing committee today as you review Bill C-88, an act to amend the Mackenzie Valley Resource Management Act and the Canada Petroleum Resources Act. As you review this bill, I would like to share with you some recent Northwest Territories history that is specific to the Northwest Territories offshore and the Mackenzie Valley Resource Management Act.

The Northwest Territories is home to 44,000 residents, who live in 33 communities spread out over more than 1.3-million square kilometres. We are a unique jurisdiction in which indigenous and non-indigenous people live, work and govern together in the same communities, and where half of our population identifies as being first nations, Inuit or Métis. The result of this combination of indigenous and non-indigenous people living and working together is a public government where actions and decisions are informed by and include northern indigenous views and priorities from the outset.

A large part of our territory's modern history can be linked to resource development dating back to the 1920s, with the discovery of oil in the Sahtu region. Today our economy is still heavily reliant on resource development, with mining, oil and gas accounting for more than 25% of our gross domestic product.

Since 1984, the governments of Canada and the Northwest Territories have been party to six settled indigenous claims. Most of these agreements are land claims that formally recognize the rights of indigenous governments to manage and benefit from the ownership of land and resources in their region. The rights of the Dene and Métis of the Mackenzie Valley are reflected in the Mackenzie Valley Resource Management Act, which was enacted in 1998 and provides an integrated, co-managed land and water management regime throughout the Mackenzie Valley.

The MVRMA has been a world-recognized model for public-indigenous co-operation in the management of lands, waters and other resources in the Northwest Territories for more than 20 years. The co-management model emerged from the three constitutionally

protected land claim agreements of the Mackenzie Valley. We've provided an "MVRMA at a Glance" handout, and also a map of the territory. The MVRMA applies to all Northwest Territories areas outside the northernmost region, the Inuvialuit settlement region, which takes a different approach to resource and land management.

The MVRMA ensures both that there is transparency during project reviews and that economics, the environment and culture are considered during project assessment. The MVRMA also provides for the review of government-led infrastructure projects and holds both our governments to the same high standard of accountability that industry is held to.

The Government of Northwest Territories wants to ensure we have a progressive regulatory system that works for the people of the Northwest Territories and governments and will also attract industry investment. Bill C-88 seeks to advance numerous modern amendments to the MVRMA that were first passed in 2015, in Bill C-15.

They include the authority to direct regional studies that can examine the effects of a development at a regional scale, the authority to develop administrative monetary penalty regulations that can be used to promote compliance, and the establishment of development certificates, which are becoming common tools across Canada to ensure measures from environmental assessments and impact reviews are carried out.

This was the intention when the Government of Northwest Territories and the Government of Canada signed a devolution agreement in 2013. However, those Bill C-15 amendments never came into force due to a court injunction brought about because of a section of Bill C-15 that would have consolidated the four regional land and water boards into one larger board.

Bill C-88 seeks to advance the amendments from Bill C-15 again, while preserving each of the regional land and water boards. We don't see Bill C-88 as a partisan bill. It ensures that land claim agreements are fully implemented by maintaining the regional boards, and it also has modern amendments with multi-party support. As you can see, the MVRMA is also quite unlike other project assessment laws that are currently being considered.

● (1210)

The MVRMA is well established and has allowed indigenous and public governments to work together for the past 20 years to manage the development of land and resources. The proposed amendments to the MVRMA in Bill C-88 would increase certainty around responsible resource development in the Northwest Territories. That certainty is something our territory needs as we continue to work with the indigenous governments in the territory to attract responsible resource development.

I would also like to touch briefly on Bill C-88's proposed changes to the Canada Petroleum Resources Act, or CPRA. The CPRA is the law that outlines how petroleum exploration and development rights are issued in the Arctic Ocean, which is still under federal jurisdiction.

Unfortunately, Canada unilaterally imposed a moratorium on new offshore oil and gas licences in 2016 without consulting either the indigenous or public territorial governments.

Although disappointed with the way the moratorium was imposed, we also recognize that Canada has a need to provide a legal basis upon which to implement this moratorium.

As a government, our current focus is moving forward towards co-management of the Northwest Territories' Arctic offshore waters and resources. We are working with Canada and other partners on the five-year review of the moratorium. We also want to ensure that the review is evidence-based and evaluates the different regions of the Arctic individually, as the Beaufort in particular has benefited from many years of study.

We fully expect this CPRA provision to be a short-term measure and expect Canada to fulfill its commitment to developing an offshore co-management regime comparable to the Atlantic accord's. We need this accord to ensure that northerners will be decision-makers on oil and gas exploration and development in our offshore, including when decisions are made about whether, when, where and how it happens.

The Government of the Northwest Territories supports swift passage of Bill C-88. The implications of not proceeding with the bill within the lifetime of this government and retaining the status quo are significant. Amendments to the MVRMA have been on the books for five years, and we don't want any more uncertainty associated with our regulatory regime. Resource developers are contemplating investing in developing the Northwest Territories' rich natural resources, and everyone benefits from regulatory certainty.

The Government of the Northwest Territories and indigenous governments are working together to build our territorial economy. The passage of Bill C-88 and the preservation of the regional land and water boards, as committed to in land claim and self-government agreements, is an important part of this.

Thank you very much.

The Vice-Chair (Mrs. Cathy McLeod): Thank you, Premier McLeod.

We'll now go on to the Tlicho Government.

Grand Chief Mackenzie, are you going to be the one presenting?

Go ahead.

Grand Chief George Mackenzie (Tlicho Government): Thank you, and good morning. I'll just get into my presentation.

On behalf of the Tlicho Government, thank you for inviting us here to Ottawa to address Bill C-88. It is very important for the Tlicho chiefs to all be here personally to emphasize how vital this bill is for our communities, our territories and our treaty relationships.

I'm here today with Chief Nitsiza of Whati, Chief Wedawin of Gamèti, and Chief Football of Wekweèti. The law guardians of the Tlicho, Bertha Rabesca Zoe and Paul Bachand of the Pape Salter Teillet law firm are being made available to respond to technical legal questions that might be posed.

We view this bill as affirming a direct treaty promise to the Tlicho people. We urge the community to move swiftly and decisively to ensure that Bill C-88 comes into force during the current session of Parliament.

Regarding the treaty right to co-management, it is necessary that the committee understand the significance of the Tlicho agreement and its relationship to Bill C-88. The Tlicho agreement was signed in 2003 and has been in force since 2005.

The Tlicho agreement is key to keynote documents in the modern history of the Tlicho people. It is a modern treaty that enjoys the protection of section 35 of the Canadian Constitution. It sets out our rights and jurisdiction on Tlicho land and throughout our traditional territories. The signing of our agreement more than 15 years ago was a landmark moment for Tlicho people, for the Northwest Territories and for all Canadians.

The Tlicho agreement confirms that the Tlicho Government has jurisdiction on over 30,000 square kilometres of Tlicho land. Tlicho citizens also exercise aboriginal rights, including harvesting rights, throughout all our larger traditional territories of Mowhi Gogha Dè Ni?i?tlèè. In the heart of Mowhi Gogha Dè Ni?i?tlèè is the environment and resource management area of Wek'èezhii, which covers about 160,000 square kilometres.

The co-management of natural resources in Wek'èezhii is an essential part of the Tlicho agreement. Co-management is essential to address the overlapping interests and jurisdiction of Tlicho Government, other indigenous government and public government.

Protecting the environment while promoting responsible development and use of resources is a concern to all the responsible governments in the north. Both sides of that equation are very important to us. Under the Tlicho agreement, the Tlicho Government is co-manager and joint decision-maker with respect to lands, waters and renewable and non-renewable resources within Wek'èezhii.

The Tlicho agreement provides for co-management in part through the establishment of regional land, water and renewable resource boards. The Tlicho Government, other IGOs and public government are all represented.

● (1215)

The Tlicho Government has the treaty right to appoint 50% of the members to all co-management boards within Wek'èezhii. This includes the Wek'èezhii Land and Water Board, which is the centrepiece of the management regime for land and water in Wek'èezhii.

We are here today on behalf of the Tlicho government, to ensure that this effective and representative co-management system is preserved and strengthened in accordance with our modern treaty.

I will now pass the microphone to Chief Nitsiza of Gamèti, who will continue our presentation.

Thank you for listening.

• (1220)

Chief Alfonz Nitsiza (Tlicho Government): Thank you, Grand Chief, and thank you, Madam Chair.

The constitution and mandate of the Wek'èezhii Land and Water Board is set out in the Tlicho agreement. The Wek'èezhii Land and Water Board has a dual regulatory mandate, which is the conservation of the environment and the development and use of resources. The Tlicho agreement required Canada to establish the land and water board through legislation. It did this in 2005 through the Mackenzie Valley Resource Management Act, after extensive consultation with the Tlicho Government.

In our view, there are three key characteristics of the Wek'èezhii Land and Water Board that you need to know. It implements treaty rights and represents co-management in action. It has built capacity, experience and the trust of Wek'èezhii residents. It has been documented that it performs its function well and operates efficiently and effectively in the public interest.

The Northwest Territories Devolution Act was passed in 2014. The act would amend the Mackenzie Valley Resource Management Act to eliminate the Wek'èezhii Land and Water Board and the treaty co-management system without meaningful consultation with the Tlicho Government or other indigenous governments.

The Wek'èezhii Land and Water Board and other boards in the Northwest Territories would be replaced with a single super-board. Instead of appointing 50% of the board members, as our Tlicho agreement requires, the Tlicho Government would appoint only one out of 11 members on this super-board. The Mackenzie Valley Resource Management Act amendments could allow decisions about Wek'èezhii to potentially be made by a panel of the super-board that could lack Tlicho Government appointees entirely. This was unacceptable to us. Tlicho were promised something different in their treaty from what was designed in the Northwest Territories Devolution Act. The treaty promise was broken with no good reason, so we went to the courts for justice.

The Tlicho Government immediately sought an injunction from the Supreme Court of the Northwest Territories. That injunction was granted. It prevents the Mackenzie Valley Resource Management Act amendments from coming into force, and remains in effect to this day. You should also know that the underlying lawsuit also remains active, pending the results of this legislative process. The injunction will remain in effect until either a new law is passed or our lawsuit regarding the Northwest Territories Devolution Act runs its course.

There is an urgent need for action. The Tlicho Government hopes that Bill C-88 can be passed by the current Parliament without delay. Otherwise, both starting the legislative process again from scratch and proceeding with our lawsuit against Canada will likely take years. Proceeding with our lawsuit, which is still in its earliest stages, would be a particularly bad result for all stakeholders. In addition to being long and expensive, failure to resolve this matter cooperatively would damage our treaty relationship and undermine

the process of reconciliation as directed by the courts. Long-term regulatory uncertainty for any reason will damage the economy of the Northwest Territories, including within the Tlicho community. This is all avoidable with the passage of Bill C-88.

• (1225)

The Tlicho Government supports the passage of Bill C-88 without reservation. It has been clear that the protection of the Wek'èezhii Land and Water Board in accordance with the spirit and intent of the Tlicho agreement is of the utmost importance to the Tlicho people.

Bill C-88 serves at least three essential functions. It preserves the established and effective regional co-management boards, including the Wek'èezhii Land and Water Board, in accordance with the Tlicho agreement. It strengthens the co-management system by reintroducing other new provisions that did not come into force because of the injunction. These have broad support from industries and governments, including the Tlicho Government. It delivers industry the certainty it desires, and will allow us to collaborate with proponents and our co-management and treaty partners to ensure responsible use and development of our shared resources.

The Vice-Chair (Mrs. Cathy McLeod): I must ask you to wrap up, Chief Nitsiza. We want to make sure we leave enough time for questions. If you have some final comments, please go ahead.

Do you have any final comments before we move to questions?

Chief Alfonz Nitsiza: I think it's very crucial that this bill is passed in the current Parliament. That's why we're here.

Thank you.

The Vice-Chair (Mrs. Cathy McLeod): Thank you.

Mr. Mackenzie, you have one further point.

Grand Chief George Mackenzie: Yes. In conclusion—please, if you don't mind—it is in the best interests of Tlicho citizens, Wek'èezhii and northern residents, and all Canadians, to support and preserve the Wek'èezhii Land and Water Board while finally implementing the other long-awaited improvements to our co-management system, which have been developed through broad consultation for the benefit of present and future generations.

The Tlicho Government encourages the committee to prioritize the passage of Bill C-88 with the urgency that an important treaty commitment deserves.

We again thank the committee for the opportunity to appear before you today, and we hope these submissions assist you in fulfilling your important responsibilities.

We are happy to address any questions you may have.

The Vice-Chair (Mrs. Cathy McLeod): Thank you, Grand Chief.

We'll start with Mr. Michael McLeod, MP. I'd better be specific about the McLeods.

Mr. Michael McLeod: Thank you, Chairperson McLeod.

Madam Chair, I'm very happy to see all the witnesses who have appeared today from the north. It's really refreshing to have a chance to talk about a very important issue.

This is an issue that's been fairly confusing for a lot of us, because the regulatory process in the north was working well. It was negotiated in land claims. We had agreement from indigenous governments. Industry was familiar with it. The Government of Northwest Territories was working with it. Communities were satisfied. We had comfort that we had a voice.

I'm not sure who asked for a review, who wanted to make the changes. However, today we heard from Neil McCrank, the guy who designed and wrote the recommendations, and his experiences with Alberta—Alberta oil and gas. He doesn't have a whole lot of experience in indigenous issues or indigenous affairs, or any involvement that has included decision-making by indigenous people. He also pointed out an important thing that we have to make note of. His recommendation was to include land use planning before this super-board concept came forward, so it seems that the government of the day cherry-picked one piece and threw it in. That brings us to where we are now.

My first question is to the Grand Chief of Tlicho.

This was an agreement that came forward as part of your negotiations. In terms of trust, what has that done to your government's relationship with the federal government? My second question is, what has it cost you to deal with this issue since 2008?

• (1230)

Grand Chief George Mackenzie: Thank you for the question.

I'll turn it over to my legal team to answer that very important question.

Bertha.

Ms. Bertha Rabesca Zoe (Legal Counsel, Tlicho Government): Thank you for the question.

With regard to the trust question, we were involved in the regulatory amendment discussions from the get-go: me plus my other legal colleagues, and one who isn't here with us today, Arthur Pape. He was very instrumental in the negotiations of the section in the land claims agreement that deals with the regulatory systems.

When Minister Strahl first announced the regulatory reform, it was done to the Chamber of Mines in Yellowknife. The indigenous governments were not invited...that this would be happening. Since that announcement, McCrank was appointed to look at the regulatory system and make recommendations. We were in those supposedly consultation meetings at that time, but we never agreed to have a single board structure. Right from the get-go, our relationship with the government has not been very conciliatory. They said that the agreement allowed for them to do that and we didn't agree on the interpretation of those sections.

Our relationship with the government in terms of the injunction was very costly, as is any court case. The injunction cost the Tlicho Government money and time to do this. When the injunction was granted, the federal government chose to go to the court of appeal. We were in that court of appeal process when the election happened

and the Trudeau government came to power. That litigation is stayed right now, but as Chief Alfonz pointed out, there are only two avenues. If it doesn't pass, then we have to consider what the next steps would be.

In terms of trust, whatever little trust we had with the Harper government, it eroded pretty quickly after that. We were always on the record for Bill C-15, when it was going through Parliament, in opposing the single board structure. The Tlicho were very supportive of keeping the Wek'èezhii Land and Water Board in place, and we didn't agree with it becoming just an administrative role. That was going against the spirit and intent of the Tlicho agreement.

Mr. Michael McLeod: My next question is for you, Premier. Your comment about “made in the north” is getting a lot of traction—made in the north for the north. I think even my colleagues echoed it this morning. It's important to recognize that some of these suggestions, especially the portion about the super-board, were not in any part made in the north. Even on the regulatory items, although some of them are pretty good and I think we could use the enhancement, it certainly didn't come forward as something the north was asking for.

Today we're doing a couple of things. Once the bill gets passed, it will modernize the changes to the MVRMA and it will address the concerns that the indigenous governments are having. Do you, as the premier, see any benefits of this to industry?

• (1235)

Hon. Bob McLeod: Certainly we feel it will have significant benefit for industry, because it will increase certainty around sustainable resource development. It also supports implementation of land claim agreements. We all know that both of them go hand in hand. Certainly it will be the biggest benefit to industry. Industry will invest in areas where you have a strong government and you're very clear on what the rules and regulations are.

Thank you.

The Vice-Chair (Mrs. Cathy McLeod): Thank you.

Now we have MP Viersen.

Mr. Arnold Viersen: Thank you, Madam Chair.

Thank you to our witnesses for being here today.

Premier, one of the pieces in Bill C-88 is around the changes to the Canada Petroleum Resources Act. It puts in the ability for cabinet to block things that they deem "national interest". They can block things by invoking national interest. What does that mean to you and what do you think about that?

Hon. Bob McLeod: It was concerning to us. We feel that we should be treated the same as other provinces or other jurisdictions that have access to tidewater. We should be given the same considerations. The only reason a moratorium was imposed, in my view, was that we're a small territory.

Things have improved significantly since the moratorium was imposed. We are now negotiating with the federal government on co-management of the offshore. We're also negotiating resource revenue sharing on the offshore. As well, we are working together on a five-year review of the moratorium. It's our expectation that with the successful conclusion of co-management, the moratorium will fall off the table, I think, with the negotiators who are at the table: the federal government, the Government of Northwest Territories and Inuvialuit Regional Corporation. The negotiations have started already. We've had several meetings and I think we're making very good progress.

Mr. Arnold Viersen: Thank you.

Would you say that Bill C-88 helps build the welcome mat to bring industry to the Northwest Territories?

Hon. Bob McLeod: As I said earlier, this bill provides certainty to industry. As well, once we conclude the co-management negotiations on the offshore.... We're also working very closely with other provincial jurisdictions so that the oil and gas industry survives in Canada. Going forward, we're looking at the United States and how successful they've been. They've become fully self-sufficient in oil and gas, and I don't see why we can't have the same success.

Mr. Arnold Viersen: Around the certainty of it, one of the big reasons oil and gas hasn't been developed in the Northwest Territories is due to the lack of the Mackenzie Valley pipeline and the lack of certainty around getting that particular pipeline built.

Will this bill help to get that pipeline built?

Hon. Bob McLeod: In my mind, it will. Along with co-management of offshore negotiations, we have already done a study showing that it is both possible and feasible to go north. The Beaufort Sea used to be ice-free six weeks a year. Now it is ice-free 20 weeks or more a year. Bill C-48 only applies to the B.C. coast. We're concerned about Bill C-55. We understand that the Senate has passed an amendment so that the government has to consult before it imposes marine protected areas.

We think we're in a good position for that, going forward. We've had some discussions with other jurisdictions. We have a railway that goes to Hay River. We own a barging company now. We would have to look at some offshore off-loading and on-loading facility. We have a road to Tuk, so we have access to tidewater.

• (1240)

Mr. Arnold Viersen: With regard to getting the oil patch rolling in your area, do you see Bill C-69 impacting that at all?

Hon. Bob McLeod: We were very concerned three years ago. The Northwest Territories has been an exporter of oil since the 1920s,

and we didn't produce a molecule of oil and gas for three years. It was largely the result of the moratorium and the drop in the price of oil and gas. Every oil and gas company packed up and left. The Norman Wells pipeline was shut down, but recently the Norman Wells pipeline has been operating again.

I think we are reviewing our regulatory processes to find a way to develop our oil and gas resources. We've come up with a new oil and gas strategy where we try to use it more in-house. I mean, the biggest irony is that we have billions and billions of barrels of oil and trillions of cubic feet of natural gas, yet we export all of our fuel from the south.

Mr. Arnold Viersen: Around the super-board, what's interesting to me is the fact that when Bill C-15 went through, the Liberals supported it through the process. The current Prime Minister voted for it. Obviously, they felt at that point that the benefits of Bill C-15 outweighed some of the negatives. I wasn't there, but if you had brought that forward at that time that you were concerned about the super-board thing....

What do you have to say about the fact that the Liberals supported it at that point?

Hon. Bob McLeod: I guess it was similar to our government. We had to tiptoe around the issue, because obviously devolution was a big priority for our government. The government of the day saw fit that it had to be dovetailed with this super-board, which we didn't support.

Sometimes we have to deal with the realities of the day. The aboriginal government supported devolution, but they didn't like the super-board. Now we're here today. Bill C-88 will keep the board structure intact. We have concerns about the moratorium, but we're going to deal with that through co-management negotiations.

The Vice-Chair (Mrs. Cathy McLeod): Mr. Cannings.

Mr. Richard Cannings: I'd like to thank you all for being here. It's wonderful to have you here, face to face in front of us.

I want to pick up on this whole discussion of the Bill C-15 and Bill C-88 continuum. I hear the message loud and clear that you all want Bill C-88 passed without delay, yet there has been delay. That's why we're getting a bit anxious.

Going back to Bill C-15, as you were just saying, we had a bill there that was largely about devolution. There were a lot of good things and everybody was in favour of that, yet there was almost this kind of poison pill part of it with the elimination of the regional boards. That's why the NDP didn't support Bill C-15. We felt that devolution needed to be done properly. Of course, it went to the courts because of the Tlicho, so here we are today with Bill C-88, which is a response to that court injunction.

Now they've added this other part, so again we have a bill that has two disparate parts. One part everybody seems to love, but I'm having a hard time finding anybody who supports the second part of this bill, whether it's because of the lack of consultation with indigenous people.... Industry doesn't seem to be too happy, and now we hear that environmentalists aren't that happy either. I am afraid that this is what has caused this delay.

Grand Chief and Premier, perhaps you could both respond to this question. This government came into power in 2015. The consultations around this bill went for a couple of years, or a year and a half, and were finished by the spring of 2017. We had a draft bill created in 2017, yet it was another 16 months before we saw it in the House. Do you have any insights as to why this process dragged on for so long that now we're faced with literally weeks left to make sure this happens?

• (1245)

Grand Chief George Mackenzie: Thank you for that very important question. I will have our legal guardian Bertha answer that.

Ms. Bertha Rabesca Zoe: *Masi* for your question.

As I said, just prior to the federal election there was a court of appeal process happening where the federal government had appealed the injunction. After the election, we lobbied and worked to try to get the injunction stayed until we dealt with amendments. We were not opposed to the technical amendments to the act in Bill C-15 at that time. My colleague Paul and I were very involved for the Tlicho Government, along with other indigenous governments in the Northwest Territories, in working on the amendments that were being proposed.

All through that whole time, the government didn't indicate to us that they were going to also include in Bill C-15 at that time the single board structure. They didn't tell us that it would be an omnibus bill as well. You go into those black periods during legislative drafting and introduction. Only after that did we find out there was going to be the super-board. We always opposed that.

That's why it took so long. We were trying to get the court of appeal injunction stayed and then finally getting the mandate from the ministers to have their officials talk to us about working on the amendments to the MVRMA that you see today. That work took a little while. We were very involved in the current amendments to the MVRMA with another legal colleague and one of our technical people within the Tlicho Government. That's what you see before you today.

Hon. Bob McLeod: When the government changed, our government approached the federal government and said that we had negotiated a five-year review of the MVRMA that would have kicked in during 2019. We approached the new government to say,

“Why don't we just start the review right now?” The answer that we got was that we couldn't do it because of the injunction. Then the other answer was that we had to get the aboriginal governments onside before they would take that into consideration.

They also talked about the moratorium. The moratorium came into play. In my mind, it's the result of eco-colonialism—that's the term I use—and United States-style environmental interventions.

Now we're in a situation where we have Bill C-88. We think that the improvements that were negotiated in devolution still haven't come into force yet or that a lot of them still haven't come into force yet. I think that with Bill C-88 we'll make that happen. We can deal with the moratorium through the negotiation of co-management. I think we're getting there.

• (1250)

Mr. Richard Cannings: Okay, I'd like just a quick comment, perhaps from the grand chief, about intervenor funding.

I know there's the northern participation program or whatever that provides funding for intervenors, but in Bill C-69, that was included in the actual language of the bill. I'm just wondering if you have any comments on whether you would have liked to see a clause within Bill C-88 about intervenor funding for participation in the land and water board proceedings.

Grand Chief George Mackenzie: I'll turn the question over to our lawyer, Paul Bachand.

Paul.

Mr. Paul Bachand (Legal Counsel, Tlicho Government): Thank you, Grand Chief.

I am wondering if you could clarify the question. Is this about Bill C-69 or Bill C-88?

Mr. Richard Cannings: In Bill C-69, there's intervenor funding included, but in Bill C-88, there is not.

Mr. Paul Bachand: What we can say to that is this: The fact that there's no intervenor funding does not currently affect the Tlicho Government's financial ability to deal with the legislation. That's as far as I can go today with the answer.

Thank you.

Mr. Richard Cannings: Thank you.

The Vice-Chair (Mrs. Cathy McLeod): We have time for a final round, and that's, I believe, going to go to MP Yvonne Jones, parliamentary secretary.

Ms. Yvonne Jones: Thank you, Madam Chair.

Thank you all for your presentations today and for being here. I really appreciate it.

I just want to ensure that a couple of things are clear on the record.

First of all, in response to some of the questions that were asked by my colleagues, yes, the Liberals voted in support of the bill because the bill was about devolution. It was overall support for devolution that we endorsed at the time. Also at that time, we made a commitment that we would revert the changes that were arbitrarily being imposed upon the Government of Northwest Territories, its citizens and indigenous governments. That's what we're doing today. I want to clarify that as well.

What I find ironic about Bill C-88 is that the only dissenting voices we've really heard around this bill have come from the south and not from the north. It leads me to believe that we might actually have gotten this right, which is a good thing.

I read a letter that was submitted by Premier McLeod and Grand Chief Mackenzie that outlined the need to have the changes in Bill C-88 passed and implemented in this session of the House. I'd like to ask both of them if they could speak to that today and to the urgency to have those changes legislated in Canada.

Thank you.

The Vice-Chair (Mrs. Cathy McLeod): Premier McLeod, do you want to start?

Hon. Bob McLeod: Yes. Thank you, Madam Chair.

What we see is that Bill C-88 certainly will improve and rebuild certainty for our investors in the north. I think it will also address court injunctions from indigenous governments and will bring into force modernization amendments to the MVRMA that were first passed five years ago.

Industries have indicated to us that they're prepared to work within the modernized MVRMA. We all want to move past court injunctions and have clear rules again.

Thank you.

Grand Chief George Mackenzie: Thank you for the question.

When we listen to the question that you just asked, you have to think back that our advisers are our elders. They are the ones who give us a lot of advice on how we do things on the land. The elders always said that one of the worst things to do is to bring people to court: "Everybody gets hurt when you go to court. Try to avoid court if you can. One of the best things you can do when you talk to the other side of the table—industry, government—is to show kindness and respect and try to understand each other to go forward."

That's the way we want to approach things. We want the injunction to be lifted. We want Bill C-88 to be supported today in our Tlicho world, as well as other indigenous worlds in NWT—wherever else. We need to support development. We need to support

development for the sake of our young generation to get out of poverty and have opportunities for their young families. That is so much needed.

This Bill C-88 allows that to happen. There are more certainties for industry to work on our backyard and to develop the country where it would give opportunities for young people. We live in the north. It's a harsh, cold country. The cost of living is high, and opportunities are hard to come by.

That's why we so much want to see Bill C-88 being passed as quickly as possible, and with a kind heart, this I'm sure can be done.

Masi cho.

● (1255)

Ms. Yvonne Jones: Thank you.

There was a question around intervenor funding. To clarify, in the north, in particular for the three territories, there is a separate program. It's a \$10-million program over five years that allows for indigenous governments to have intervenor status in all environmental nature projects.

Because this bill was primarily in the north, whereas Bill C-69 is all across Canada, it allows for a different clause. I wanted to point that out. There's no reason to think that funding is not going to be there for the long term. That's the intention of it.

My next question, if there is time, is with regard to the changes to the resource development act. I live in a province where co-management of oil and gas has allowed our province to grow. While the moratorium might be seen by some as an impediment to development, what we've been able to accomplish because of taking the time to do it right, I see as being a true asset.

I would ask Premier McLeod if he could speak to the process that they're engaged in with the federal government to ensure that the Northwest Territories gets the appropriate royalties on resource development through oil and gas.

The Vice-Chair (Mrs. Cathy McLeod): A short answer, please.

Hon. Bob McLeod: Thank you.

Currently we already have a resource royalty sharing agreement. Of all the resource royalties that are collected in Northwest Territories, we collect all the royalties. We remit the federal portion to the federal government.

We have a resource revenue sharing agreement with the aboriginal governments that have signed onto devolution. We share 25% of the resource royalties that are collected with the aboriginal governments that have signed on. They use that money for whatever purposes they see fit.

We want to expand that to include the offshore. We are in a negotiating process and have been for at least six months now. We are negotiating co-management and also resource revenue sharing of the offshore. It has benefited the aboriginal governments that have signed onto devolution. Not all of the aboriginal governments have signed on. The door is open to them. We would welcome them if they chose to sign on.

It certainly has been a benefit to the Northwest Territories.

Thank you, Madam.

The Vice-Chair (Mrs. Cathy McLeod): Thank you.

Thank you to the witnesses who have come a long way to participate in a very important hearing.

I believe that this ends not only this particular session but the panels that we'll be having on Bill C-88.

Again, I think it was great to have you to finish it off. Thank you.

The meeting is adjourned.

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