# Expert Panel Public Presentation Session

# Review of Environmental Assessment Processes

# November 3, 2016

# Lexington Hotel & Conference Centre, Sudbury, ON

**Expert Panel:**

Johanne Gélinas, Chair;

Doug Horswill;

Rod Northey;

Renée Pelletier.

# Table of Contents

**TRANSCRIPTION/TRANSCRIPTION**
**EVENT/ÉVÉNEMENT**
**Transcription prepared by StenoTran Services Inc. exclusively for Canadian Environmental Assessment Agency**
**Transcription préparée par les Services StenoTran inc. exclusivement pour Agence canadienne d'évaluation environnementale**

DATE/DATE (of transcription): December 5, 2016
LOCATION/ENDROIT: Client Supplied Audio
PRINCIPAL(S)/PRINCIPAUX: Kelly McGee, Executive Director
Johanne Gélinas, Panel Chair
Doug Horswill, Panel Member
Rod Northey, Panel Member
Renée Pelletier, Panel Member
Brennain Lloyd, Northwatch
Linda Heron, Ontario Rivers Alliance
Mike Wilton
James Gomm
Ambrose Raftis
Elaine Porter
Naomi Grant
Barbara McNichol
Liza Vandermeer
SUBJECT/SUJET: Review of Environmental Assessment Processes, Sudbury Public Presentations.

## Opening Remarks

**Jill Adams:** Good afternoon, and welcome to the public presentation session for the Expert Panel on the Review of the Environmental Assessment Processes. My name is Jill Adams and I'm with the Secretariat for the Panel. We have simultaneous translation for this event. Devices are available, I believe, just outside at the front registration or sign-up desk. French I believe is on channel 2, yeah, and English is on channel 1.

Please keep the pace of your speech slow, if we can, so that it will help the people doing the translation.

I would also like to note that the exits — we have an exit where you came in, and I don't — oh, there is one over here? Thank you. And one just to the far right of the Panel.

An audio recording will be made available of today's presentations. At a later date there will be a written transcript on the website.

If you are presenting today, please be sure to check in with the Secretariat staff at the table if you haven't already done so. So that would be out front. One of our Secretariat staff, Bradley, is sitting there to get your submissions if you have brought them, that kind of thing. And I think that's it.

So to my right, Mme Johanne Gélinas, Chair of the Expert Panel, will oversee today's event. Madam.

**Johanne Gélinas:** Merci beaucoup. Alors, bonjour tout le monde. Thank you very much for being there. My name is Johanne Gélinas. I'm the Chair of the Panel. And I am accompanied with Renée Pelletier and also Doug Horswill, and on my left Rod Northey. So we are the Panel.

I would like to welcome you all and just say a few words about what is the mandate that was given to us so that you can have a good understanding, and also just give you a few information with respect to our consultation program.

So the mandate that was given to us is quite simple. There's three things in it. First of all is to consider the goals and purpose of modern-day environmental assessment. It's also to communicate and engage directly with a broad scope of stakeholders, including indigenous people, interested groups, organizations, and individuals. You don't have to be an expert to come and talk to us, you just have to have somehow experience going through this process and have views. And we are welcoming all proposals, ideas, suggestions, and share experiences so that it will help us to understand what is broken, let's say it that way, and what needs to be repaired. And at the end of this process, we will report back to the Minister with recommendations on what we think should be done differently.

As you may know, we are looking at the three major processes, one being the one that a lot of you know probably better, which is the Canadian Environmental Agency, but also NEB, so the National Energy Board, and also CNSC, the Nuclear Safety Commission. So we are looking at these three processes. Our road show has started September 19 and will end December 16. We have done so far the east part of the country plus Labrador. Last week it was Quebec. Now we're moving towards Ontario, and then as we will go we'll try to skip winter as much as we can, so we'll end in Vancouver, going also to some remote communities. The tabling of our report is scheduled for end of January.

So with no more further ado, I will invite you to present to us maybe just to say that we would like to stick with 20, 25 minutes at the most. And I apologize already if we are running a little bit late. Because we know each other by

now, we're often late because we're all interested in what you're saying. So let's start. I'll shut up and we'll listen.

## BRENNAIN LLOYD, NORTHWATCH

**Brennain Lloyd:** All right. Thank you. Thank you very much for coming to northeastern Ontario and to Sudbury today. My name is Brennain Lloyd, and I work with Northwatch.

Northwatch is a regional coalition of environmental and social groups in northeastern Ontario. And I'll say environmental assessment is maybe in the DNA of our organization. We were founded in 1988 out of two regional networks — a network of environmental and safe energy groups, and a network of peace, environment, and development groups — because we had two very large government processes about to be launched: the class environmental assessment of timber management on Crown lands in Ontario, and the federal environmental assessment review of Atomic Energy of Canada Limited's geological disposal concepts. And by the time most of our members and member groups got through understanding the name, they were a little somewhat fatigued. We decided that we could best approach and respond by creating a regional entity and a regional voice, and Northwatch was created for that purpose — not that purpose alone, but we have been engaged in environmental assessment since our founding in 1988. We were engaged in the two I just mentioned, but also the demand/supply plan for — Ontario's 25-year demand/supply plan was through a provincial environmental assessment. The Adams Mine controversy, a plan to send Toronto garbage to northern Ontario, ended with a very narrowly scoped environmental assessment, and a number of others along the way.

So it is out of practice and experience that we come to speak to you today. And there's some real tension in how I use our time today, because on the one hand, we very much want to talk to you about what's broken, about what needs to be fixed, and on the other hand, there's this real urge to plunge into a conversation about what could be, what that new environmental assessment or environment decision-making regime —

**Johanne Gélinas:** If I can interrupt you for a second. I don't know if you will join us for the workshop tonight, but there's also —

**Brennain Lloyd:** I will.

**Johanne Gélinas:** So pick and choose what you would like to present here, and we can go more into detail later on tonight.

**Brennain Lloyd:** I'll be back for that. Thank you.

So if I can make your technology work, so I'm going to rely on some of our colleagues for part of this conversation. And we have as an organization adopted the 12 Pillars of Next-Generation Environmental Assessment, which I think were presented to you in Edmonton by the West Coast Environmental Law, and also our colleagues at the Canadian Environmental Law Association will be making I believe detailed submissions on the delegation to the Canadian Nuclear Safety Commission. And I think those presentations will be in Toronto or Ottawa, I'm not sure which. They're covering that topic. So we do adopt their submissions and we'll speak to some degree on those topics, but not in detail, although we may follow up in our written.

So I just want to briefly set the context. I've talked a little bit about our genesis being rooted in environmental assessment, but our experience with environmental assessment in northern Ontario — and I colour-coded — maybe you can't see it very well, but I colour-coded this list of current federal environmental assessments underway in Ontario. I just clipped this from the Agency's website. And I colour-coded to show the footprint of these processes in northeastern Ontario. You can't really see it, but the green are assessments of projects in the northeast. The brown are the northwest. The blue are projects that have a — are of direct interest to the northeast or to Northwatch. Largely they're related to nuclear waste, nuclear waste management plans which could have later consequences for our region, depending on the industry's success in some of their current endeavours. Similar list but shorter for completed EAs. And this is all just to set the context for you that environmental assessment is a recurring theme in our work and in our region. Some of the large EAs done under the EARPGO, the guidelines order, the AECL Concept review, and also decommissioning of the uranium mines at Elliot Lake. Others were done later as comprehensive studies, and then large provincial environmental assessments with hearings. So that's the context.

The conversation that we want to have today is about looking back and looking forward, and what are some of the basic elements that we're looking for in environmental assessment. And I would say that we're looking for three basic elements in terms of how environmental assessment is done. It has to be done with indigenous authority recognized, incorporated, some government-to-government not just engagement, not just consultation, but actual shared decision-making. For in this part of northeastern Ontario it's the Anishinaabek nations. And that needs to be an engaged — more than just engaged in a consultation sense, engaged in a decision-making sense. The public needs to be engaged, and we need to be engaged I would say early and often and throughout. But there are some elements of how we're engaged that I think need to be addressed in the way the process is running at current. But that engagement needs to be full and fair.

The environmental assessment process itself needs to start early. And we often hear "start early," but sometimes we experience a turning around of that message, that by starting early, decisions are made early and approvals are given

early before a project design is even completed. So the environmental assessment process has to begin early, but it has to be extended, and it has to — extended as one process from beginning, from the planning stages, where it might be appropriate to look at things like need and purpose, but right through to the follow-up, monitoring, reporting, and feedback loops. That's all one process. So yes, start early, but don't use an early start to allow decisions to be made before a project design is even complete.

In terms of what the environmental assessment needs to include, it's those same old favourites: need and purpose, alternatives to the project, alternative means of doing a project, and the follow-up and feedback loop. And these are familiar words. They're certainly going to be familiar words to you. We need to do all of those things, but we need to do them better.

We've seen many environmental assessments, both provincial and federal, where the need and purpose is given a paragraph. This is a fundamental — this is fundamental. And there needs to be a direct connection, a back-and-forth, a conversation between need-purpose, alternatives, and alternatives to, and alternative means. And the follow-up and feedback loop needs to include off-ramps. It needs to include mechanisms to unapprove a project. Right now, theoretically we have this function of follow-up and monitoring, but I have not yet observed any instance where, when predictions are made and they're off, there's any unmaking or remaking or even reviewing of the decision. Once a project's approved, it's going. We might have some follow-up, we might have some monitoring. But there's nothing that kicks back then to that decision or even to the conditions other than within a permitting process by some other authority. So it leaves us with a really disjointed process, which I think is harmful to public trust, a deterrent to ongoing engagement, and not protective of the environment or of communities.

So looking back, we have observed three — many — there are lots of things we could say, but I tried to go with the top three in both our looking back and looking forward. So in terms of our top three, three barriers to good environmental assessments, one is once we get to a panel — and I think panel reviews are essential, important, and should be in place I think in more instances than they are. So I don't want to be a whiner about referrals to panels. I don't want to ever be perceived as a whiner about panel reviews. But once we get to panel, not everything goes the way it should go, and there are things which might seem mechanistic until you're in it, but once you're in it, they're really very, very important. There are things like a right of posing written questions. In the EA panel review process right now, it's called information requests; in what we call a real environmental assessment, it's called an interrogatory. Right now those information requests, they go into a pot and they get all shook up, and then they come out and you can look at those information requests and try to recognize yours in there, but they've been paraphrased, they've been combined, there's no tracking system.

We did in the deep geological — Ontario Power Generation's deep geological repository for low and intermediate level radioactive waste — I'll call that DGR1 from now on, because it will take up too much of my 10 minutes to say it over and over again — we did get some improvements from the Darlington new-build panel review in that there were some packaging out. But still, there's no means to track and there's no means that the public has to go back when a question isn't answered. And it's just a very difficult process. That's related to the lack of any right to ask questions directly. We have in the panel review process — there's a sort of a set of niceties where you pretend to ask the questions through the panel chair, and the panel chair can in fact decide whether or not you can ask that question. But your question is quite specific. And if you can't get the answer, then you know you've wasted your time and potentially the panel's time, because if the proponent knows that you can only ask once and they can answer over there instead of right here, then that's not helpful to you as an intervenor and it's certainly not helpful to the panel.

We've also had situations where in the DGR1 hearing, which went from one session to three sessions, extended and then extended again as the panel continued to try without success to get the proponent to provide the necessary information. By the time we were in that third phase of the hearing, we were reduced to one opportunity to ask questions at the end of each day. So imagine if you've had three, four, five, six technical presentations in the course of the day, and at the end of the day you have an opportunity to ask questions once and it's maybe going to be one question, maybe two, three at the most if you can phrase them as supplementaries. Very frustrating. Not helpful to the intervenors, and I don't think helpful to the panel. I think it's because the panel feels they're under tremendous time constraints, but it's not a fair process. It doesn't give you a robust review.

So then there's some real issues around independence, transparency, meetings between the panel staff and the proponent. In the case of some of these reviews, meetings between Canadian Nuclear Safety Commission staff and the proponent far in advance, no records, no transparency. We might find a reference in something that's posted on the registry. There's not full transparency. Back under the EARPGO days, I remember accompanying panels on site visits, because the panel could not be with the proponent without members of the public. That doesn't seem to be the case anymore, and that's a problem. It's really a problem to have the panel staff spending time with the proponent off the record without public oversight. And it's even more a problem with the panel does it.

So those are — you know, they might be, you know, mechanistic, but they're really important. They're important to the process; they're important to the outcome; they're absolutely, absolutely important to public confidence. So that's the first barrier.

Second barrier, and I've touched on this to some degree — and this is only in a subset of the environmental assessments — but the delegation to

the Canadian Nuclear Safety Commission. Also the delegation to the National Energy Board, but we are going to have a different, separate review track to talk about that. You're it in terms of our conversation about delegations to the CNSC. It doesn't work. It isn't working. They're the licensee — they're the licensers. There's a very different dynamic between the CNSC and their licensees than I think any public interest group wants to see between an environmental assessment panel and a proponent. It's very different. And it creates a dynamic where many of the decisions are being made on a sliding scale.

And there is confusion even with the regulator, even within the Canadian Nuclear Safety Commission. During the DGR hearing, we were questioning what's the step-by-step after an EA. If an EA approval was ever given, how does the panel reconvene? Because what the CNSC likes to do is they like to convince the panel that they can punt all the important decisions later on to licensing. And then they like to get those decisions delegated to staff. So decisions, fundamental decisions about a project — for example, for the DGR1, decisions about an assessment of the rate of generation of gas at depth was left unanswered. CNSC staff say they'll take care of that in licensing. Well, that is a fundamental question about the project's viability. Design of the shaft seal — fundamental question punted not just one step down, but two steps down the line. This is a problem, and I don't see how you'll fix that problem as long as you're delegating environmental assessments to the Canadian Nuclear Safety Commission. We no longer under CEAA 2012 have the possibility of a reference to a panel review, to a joint panel review. It's only to the CNSC. And a CNSC hearing is not an environmental assessment hearing. To date, all we've ever seen is 10 minutes, no opportunity to ask questions, not even an information request process, let alone an interrogatory process.

So there's also other problems that we've observed, just in terms of the way the federal family can participate in those reviews. We've heard Health Canada explain to the CNSC that they can't really answer a question about effects of radiation on human health because they don't have that expertise; they have to rely on the CNSC. Same thing from the Ministry of Labour. That's a problem. We have a problem in the country more generally that we don't have independent capacity. We don't have any third-party oversight for these kinds of decisions. And that's a really big problem.

So third problem is the constraint of significant adverse effects. And I'm just going to give you one example of that. We just recently finished a review of the Côté Mine, a gold mine near — just south of Gogama. And in that — I'll just use one example — there was an issue of the transmission corridor. The First Nation, the public interest groups, the local residents all wanted the transmission line to follow the existing corridor. The proponent preferred to send a new line cross country, because it would be lower cost. And the decision didn't address this at all. And that is presumably because they only address the issues that are of significant "is it or is it not going to cause significant adverse effects." And perhaps on a global scale, some

additional forest fragmentation in that area is not a significant adverse effect. But it was to the local people; it was to the First Nation; and it is from our perspective because it is additive, it is part of a cumulating effect of increasing forest fragmentation for multiple users. Lots of other examples from that particular process.

But the decision-making at those levels of environmental assessments appear to be very, very blunt. It's a yes or no. Significant adverse environmental effects that can't be mitigated? That would get a no. But almost everything slides through. And there doesn't appear, at least from the agency's practice to date, to be any means to actually — or any will — to set conditions to avoid negative effects, social and environmental. So we lost lots of things with the Côté mine — small, seasonal, short-term mine. We're going to lose lots of values that didn't need to be lost with some properly applied conditions.

So looking back.

**Johanne Gélinas:** You have 10 more minutes.

**Brennain Lloyd:** Looking forward. I don't want to use them all. I want conversation.

Looking forward. What do we need? We need reviews that are science-based with social weightings. So everything that I talked about — our frustrations about not being able to ask questions directly, information requests, questions during the panel process — that's all part of needing to test the evidence. A proponent needs to put forward their case and then it needs to be tested. We need to have a really rigorous review. We need federal departments, provincial agencies that have capacity to do that, and we need an ability for public interest groups and First Nations to do that. You know, just because projects can be done doesn't mean they should be done. That's why we need a full assessment of alternatives, but we also need social weighting to go in. We have to incorporate social values and community priorities. So the basis for making decisions needs to shift.

Comprehensive and cumulative. Those are words, language that's been in the Act back to — I think back to EARPGO. So in some sense it's what the Act already says should be done, but I don't think it's what is being done. You know, we've had examples. The Stillwater mine in Marathon. We had a panel review, and the proponents scoped their cumulative effects to exclude even other mines that they were developing that to their shareholders they were saying, We've got another project; it's up and coming; it'll be joined to the Marathon Mine. But in the EA room, it was outside. So there's a real problem if the shareholders think those two mines are one project, but the EA process is going to allow them to be treated as separate processes. So we're not even to the first base. We're not even taking the first steps in doing cumulative effects if we don't even look at all of the mines by the proponent in an area, let alone all the other activities in the area. So we've got a long way to go on cumulative effects.

I think that we do need to move to strategic and regional environmental assessments, and I think — I won't say it was a perfect example, but we had I think an effort at this which was in the right realm in the late 80s, early 90s in Ontario with the demand/supply plan hearing where we had 25-year demand/supply electricity plan going for what I would call the policy review, and then we had the individual projects, the Ontario-Manitoba interconnection project, the Little Jackfish, the Mattagami redevelopments, a number of other projects. They were project reviews. And it was laborious because they were concurrent. But it was the right idea to have a big-picture EA and then project EAs. We can't, in a strategic or regional EA, lose the need for individual project assessment, but we do have to have those larger, regional and strategic EAs to set the context.

The third thing we need — maybe the most important — is we need confidence that this is an assessment process, not an approvals process. And right now, we don't have that confidence. Northwatch is, you know, very committed to environmental assessments, to seeing them done well, to contributing to them to the best of our, you know, time and technical abilities. But we need to have much greater confidence than we have right now that it is an assessment process, not an approvals process.

Thank you.

**Johanne Gélinas:** Thank you very much.

Who wants to go first?

**Rod Northey:** Sure. So I've got a number of questions, Ms Lloyd. Thank you very much. So I'm going to go back a bit to your reference on — you're dealing with some of the problems. You were in a discussion about the CNSC. And you said something about many decisions on a sliding scale, and then I was waiting for you to elaborate what you meant by the sliding scale. What did you mean? I think you used the term a couple times. Can you recall?

**Brennain Lloyd:** Well, I think what I was referring to — I should always tape myself and play it back so I know what was it I said.

So what happens is decisions get made. So I'm going to use the DGR1 as an example. So there are decisions about — which are design decisions. And the Canadian Nuclear Safety Commission — so the proponent submits a project proposal. Staff says, Here's our review of it. They acknowledge some of the problems — not necessarily all of the problems — and we approve it at the beginning. At the beginning of the process. We go into a panel review hearing with CNSC having already indicated their wish that it be approved. Then there are many decisions which then get referred forward, pushed forward, slid forward, maybe was the term I used, and those

are — it's a term that the CNSC staff use. They call it "hold points." And they actually go into a licence as a hold point.

So for the Darlington new-build, we had an environmental assessment to build up to four reactors with no reactor design. So CNSC staff were able to endorse this project not knowing what the reactor design was and putting a number of hold points even into the site preparation licence. We weren't dealing with a construction licence there because there wasn't even a reactor design to construct. But they put hold points in. So they pre-approve and then come back. But when it comes back, it doesn't come back to the panel. It doesn't come back to a public review. It comes back and these are delegated decisions within the CNSC.

In DGR1, I think I already mentioned a couple of the large, you know, ones that were of larger concern to us. But the shaft design — this is the shaft — so the idea here is that you dig deep, you put the waste in, you seal it off. That shaft collar is the only barrier between the waste and the outside environment. There are other avenues out through the rock formation, but that's generally expected to be the most rapid. That isn't even designed, and CNSC is recommending. And that review panel actually recommended approval of that with the project design, you know, really not even being partway there. Does that help?

**Rod Northey:** Yes. So and you're introducing a few things that are — we're hearing, so I'm just going to try and catch this. So we have — well, you call it DGR1. The waste review that was done was what was called a conceptual proposal, because they had no location. That's what I'm calling the nuclear waste one in the 90s.

**Brennain Lloyd:** Oh, sorry, no.

**Rod Northey:** Okay, DGR1 is which one, then?

**Brennain Lloyd:** DGR1, sorry, that — I understand why that would be confusing because DGR1, that was — so that was Atomic Energy of Canada Limited —

**Rod Northey:** Right.

**Brennain Lloyd:** We call that the AECL Concept.

**Rod Northey:** Okay.

**Brennain Lloyd:** So deep geological — Ontario Power Generation's —

**Rod Northey:** Is that the one in —

**Brennain Lloyd:** It's in Kincardine. It's OPG's —

**Rod Northey:** Okay, that's the one that's ongoing now, yeah, okay.

**Brennain Lloyd:** — burial for low and inter — and we call it DGR1 because locally they also have — some communities have opted into the investigation for the high-level waste deep geological repository. So we call it DGR1, DGR2.

I understand completely, Mr. Northey. DGR1 came earlier chronologically, so we'll call that AECL Concept. So Kincardine, the OPG's —

**Rod Northey:** Okay, got you.

**Brennain Lloyd:** — DGR. That's when I'm saying DGR1.

**Rod Northey:** Okay, okay, I want —

**Brennain Lloyd:** So it was —

**Rod Northey:** I want to go back —

**Brennain Lloyd:** Hearing was 2013-2014.

**Rod Northey:** Right. And it's still on some level ongoing or something's happening. Okay.

**Brennain Lloyd:** That's right.

**Rod Northey:** Let's go back to the AECL Concept for a moment, because one of the things that was novel about it was that it was not a project location, but it was a concept design. Can you — so we have concept design in the EA. That would be consistent, I think, with a planning process. But I think you were also — so was the same delegation problem happening? Do you think that was the right approach for an EA? Or — because there's a bit of a trade-off. If you don't have certain information, what do you assess, which seems to be your issue — and I'm not minimizing it — your issue with, well, I — some of the recent EAs, one of the ones that went off to court on Darlington, for example, not enough info. And then we have this concept design back in the 90s. So we've had a practice of doing EAs with very different levels of design information.

For our purposes now, what's your thought on where EAs should be demanding design detail? I'm just trying to get a sense of is there a — do you have a consistent view and is it matched, or is it kind of moving around?

**Brennain Lloyd:** So the AECL Concept was a concept. It was — and it was not delegated to CNSC. That panel — the question put to that panel from their terms of reference was, Has Atomic Energy of Canada Limited demonstrated the geological disposal concept to be safe and acceptable? The panel said no. And they split safety into two, a social and a technical. They said, Acceptable? No on all counts. Safety? No on the social. On the technical, technically feasible for conceptual — on balance,

technical feasible for a conceptual stage of development. I call that the faint praise approval.

That was not then referred elsewhere, but the panel recommended that an independent agency be created arm's length from government industry, a framework for the participation of Aboriginal people, developed by Aboriginal people. Neither of those things have happened. We can go into detail if you'll allow me the time that way —

**Rod Northey:** One of those has resulted in your acronym, and I'm just trying to make sure I got it right. Which is DGR1?

**Brennain Lloyd:** DGR1 is Ontario Power Generation's deep geological repository —

**Rod Northey:** Okay, so that's the —

**Brennain Lloyd:** — for low-level —

**Rod Northey:** Oh, no, no —

**Brennain Lloyd:** And then DGR2 I didn't talk about at all today.

**Rod Northey:** Okay.

**Brennain Lloyd:** Which is the Nuclear Waste Management Organization's Adaptive Phased Management. That's the one they're doing the site search for right now. That's the one that's — there's three in the shadow of the Bruce nuclear and six municipalities in northern Ontario.

**Rod Northey:** Okay. So let me just — I'm sorry to go into — so dealing with what is there today now, we have the Nuclear Waste Management doing a very specific EA, and we have CNSC. And you have participated or are participating in both?

**Brennain Lloyd:** So the Nuclear Waste Management Organization is not doing an environmental assessment. They're doing a siting process. But at the same time in another room they have people writing technical documents.

**Rod Northey:** Okay.

**Brennain Lloyd:** And those technical documents, which they call "pre-project reports," have been submitted to the Canadian Nuclear Safety Commission. The Canadian Nuclear Safety Commission is reviewing and providing feedback to the Nuclear Waste Management Organization, which we have requested several times and have not yet received.

So this is in 2035, when you're appointed as Canadian Nuclear Safety Commission members and I'm appearing before you at a Commission hearing, and I've got 10 minutes to talk about that deep geological repository proposed for Hornepayne, I'm going to say to you, "In 2012, your staff began a pre-approval process for this project and we have been plagued by that ever since." Because this is — you know, so this is — I don't know how you doing a review of environmental assessment processes manage this, but there is a larger problem with the delegation of environmental assessments to the Canadian Nuclear Safety Commission because they engage in these pre-project processes with their proponents. They've just done it for the environmental assessment for the Near Surface Disposal Facility at Chalk River. They've released a protocol where Canadian Nuclear Laboratories and CNSC staff have gone back and forth and they've come to an understanding as to how that process, how the review will be undertaken. No public window into that. And I've been told they're going to do the same thing for the environmental assessment for the decommissioning at Ralston and the decommissioning at Whiteshell.

**Rod Northey:** So that's very important. So those are current. And so my next question is this: CNSC existed prior to CEAA 2012 and obviously it's doing things now. Do you notice differences — and I think you alluded to this on joint or whatever, but I want to get a fuller answer — on the behaviour or the EAs done by CNSC before 2012 and post-2012? Do you see a pattern or is it hard to discern a difference?

**Brennain Lloyd:** Well, I'll give you one example where I think it's different post-CEAA 2012. I certainly hope it wouldn't have been this way before and I'm disturbed that it's this way afterwards. And that is the environmental assessment for the decommissioning of Gentilly. So this is the first decommissioning for a commercial reactor in Canada. It's a big deal. It's going to set a lot of precedents. There's a lot of, you know, there's a lot of technical issues. There's a lot of decisions to be made. And that was done as an environmental assessment by the Canadian Nuclear Safety Commission without any referral to a joint review panel because it's post-CEAA 2012. And we didn't have our 10 minutes before the Commission to discuss that environmental assessment, because they decided to do it on written submissions only. So for the first decommissioning of a commercial reactor in Canada, Gentilly-2, there was not even 10 minutes. It was a written submission only. That is not adequate.

And, you know, this will be — now we have Pickering coming up next in a couple of years. So is that the precedent now? Is that the established practice? And one of the things that we're always concerned about with the CNSC is precedent. Once they do something once, is that then paving the way for future? And so we intervene in CNSC licensing hearings that are projects outside of the northeast because we see the potential for consequences in the precedent they set, both in practice and decisions, for the northeast.

So that is an example of — I don't think could have happened under CEAA 2012 — pre-CEAA 2012 and shouldn't be able to happen under any variation of the Act.

**Rod Northey:** Okay, so my final question before I let my colleagues speak, you mentioned — as you might be aware from our mandate, we're asked also to look at the role of science. And one of your looking forward pieces was "science-based with social weight."

**Brennain Lloyd:** Uh-huh.

**Rod Northey:** Can you just elaborate? I think we might understand the first one better than the second one. Can you please elaborate what you mean by the social weighting.

**Brennain Lloyd:** So I think social values need to be incorporated. So I'll go back to Côté, the gold mine near Gogama. So I think that even, you know, from a science perspective, looking at forest fragmentation, habitat disturbance, and so on, that transmission line — there would've been a science-based rationale for requiring it to follow the existing corridor. But there were also social values that were lost, campsites, canoe routes, portages lost. Those values were not in any way reflected in what we saw in the environmental assessment decision. We have no way of telling whether they were weighted, considered, or not, but there's certainly no indication that they were.

So in the DGR1 hearing, the OPG's repository — proposed repository at Kincardine, there was a sort of a — social was on the table and off the table. OPG was able to argue that they had a willing host. They played that tape over and over again, but there seemed to be limited appetite or room in the discussion for the community's critique of the way OPG manufactured that consent. You know, when you took the telephone poles and you crunch the numbers, you actually came out to showing 13 percent support instead of the 60 percent support that OPG generally said — or I don't remember if it was 60 percent response with 70 percent approval or 70 percent response with 60 percent participation, something like that.

So those social — I think there's ambiguity in terms of how the social values are going to be considered. And it needs to be more substantive than saying to people, Come and tell us how you feel. Sometimes there's a message out to people, Well, you come and tell us how you feel and we'll listen to the other people about the facts, and you tell us how you feel. Well, social values are not just feelings. Yes, there are feelings, but the social fabric of a community, the social values that are at risk are — need to be legitimized in the decision-making process, and I think that that's lacking right now.

**Rod Northey:** Thank you.

**Johanne Gélinas:** Doug?

**Doug Horswill:** I'm just conscious of the time here. So I think I will come down basically to just one question that I want you to elaborate on. Your fourth element of the future, assessment process versus approval process, I think links back to something you said at the beginning, that there's no mechanism to "unapprove" a project.

I guess a proponent, private or public sector, would have some difficulty if there was just random unapproval. You all of a sudden have to stop in the middle of something where you put a lot of money and investment into it. So that's a practical problem with that. Have you got practical solutions? What element would — what two or three highlights would make something an assessment process, not an approval process, in your mind?

**Brennain Lloyd:** I'm certainly not proposing random. I think certainty is a two-way street. So yes, industry speaks to the need for certainty — certainty of approval, certainty of investment, regulatory certainty. And I appreciate that; I'm not arguing that. But certainty is a two-way street.

So I'll give you an example. If a mine project was to go forward and there was an approval which was based on a certain set of predictions in terms of surface water impacts, groundwater impacts, emissions, you know —

**Doug Horswill:** Okay.

**Brennain Lloyd:** Whatever. Take any, you know, take a set of indicators. There needs to be some check there that when — you know, or we could have them on the social side. Employment.

**Doug Horswill:** Right.

**Brennain Lloyd:** There needs to be some check there so that how far off do we go off those predictions before it's not the project that was presented, it's a different project. And would we have approved that project? So right now, you know, yeah, we've got a general commitment to follow-up and monitoring. I don't know that it's well tracked. I don't know of any instance — there may be one — but I don't know of any instance where conditions have been changed at the federal environmental assessment level and certainly none where an approval has been revoked because the predictions of adverse effects or the predictions of the effectiveness of the mitigation measures were so far off that, you know, it rendered the assessment really unreliable.

**Doug Horswill:** Okay. I think that's as far as I'll go.

**Johanne Gélinas:** Ms Lloyd, thank you very much for your presentation.

**Brennain Lloyd:** Okay, thank you.

**Johanne Gélinas:** Thank you.

And before I call the next presenter, I would like someone in my staff to ask for a little bit of heat in the room. Thank you very much.

**Unidentified Female:** But that noise?

**Johanne Gélinas:** I know, but I prefer the noise to being sick, so if I have to choose.

So, Ms Heron. Good afternoon.

**Linda Heron:** Good afternoon. I'm glad that it's not just packed into 10 minutes. I have a lot to say.

**Johanne Gélinas:** As you get prepared — I just want, Ms Lloyd, to get back to something that you mentioned, to avoid any confusion. It's in our mandate to look at NEB environmental assessment process. So I know that some people think that the panel which is to come at some point on modernization of NEB will look at different things. But when it comes to EA, it's our prerogative to look at the entire process of NEB and CNSC plus the agency.

**Brennain Lloyd:** Thank you. I appreciate that. I was just — I know I failed to stay in my 10 minutes, but I was trying to.

**Johanne Gélinas:** So Ms Heron, it's your turn.

## LINDA HERON, ONTARIO RIVERS ALLIANCE

**Linda Heron:** Good afternoon. Thank you very much for inviting here today and for having this Panel review. It's a very, very important review, the environmental assessment.

My name is Linda Heron and I chair the Ontario Rivers Alliance. And we're a not-for-profit grassroots organization that — we really came together to be a voice for a number of organizations, stewardships, and private and First Nations citizens because back in 2011 — early in 2011, we became aware of 87 hydroelectric projects that were going forward here in Ontario alone. They were actually — sites were applied for and they received site approvals. And so we came together because we were alarmed at all of these projects going forward.

I will talk quite a bit today about hydroelectric, but we also have intervenor status on the Energy East Pipeline, so I have some comments on that as well.

Our mission is to protect, conserve, and restore Ontario river ecosystems.

What is working? Well, I didn't have a lot to say, but I really am grateful that this environmental assessment review is going forward and that you also offered funding for stakeholders to come and take part in this.

What is not working? Industry and governments are too closely tied, as a result of disturbing lobbying practices which we became aware of. You know, for an example, the National Energy Board regulators were recently caught facilitating and even promoting the Energy East Pipeline Project and, you know, that really undermines trust and confidence. Science is often ignored to advance a project or program. Corporate initiatives are given priority over public interest. Jobs and profits seem to trump environmental protection. Negative environmental effects are downplayed.

**Unidentified Male:** You can switch your slides.

**Linda Heron:** Oh, sorry.

**Unidentified Male:** By clicking the arrows.

**Linda Heron:** I'm lost in what I have to say here. Okay.

Narrowly focused studies offer more tailored and sometimes misleading results. First Nation land, food, and rights are often pushed aside to advance a project. Aquatic life is allowed to become contaminated and made unsuitable for consumption, so vital food sources can be lost for generations. No fish passage or dam decommissioning provisions are even being required here in Ontario; I don't know what's happening in the rest of the country. The well-being of communities is often sacrificed for private gain. And it really sounds like I'm talking about a Third World country, doesn't it? But it's our country, Canada. And I think we can do better.

The gutting of the *Canadian Environmental Assessment Act* in 2012: There were over 3,000 EAs immediately dropped, and we were left with a very streamlined and fast-tracked process. The scope of an EA was narrowed so that many environmental protections for water were lost. An EA was no longer triggered by interference with waterways. An EA was no longer required for pipeline and transmission lines. Most significant of all was the loss of mitigation of the serious impacts on water. The *Navigable Waters Protection Act* and the *Fisheries Act* are other important protective pieces of legislation that at the same time were lost, also gutted. As a result, 90 percent of our lakes and rivers are no longer protected by the federal law. Streamlining and fast-tracking undermines confidence and trust in the process.

And that's really the basic theme of my talk today is that these, trust and confidence, has been undermined. And it's been like smoke and

mirrors for those who care about the environment. It's used to convince us that the government is addressing climate change, but are we really? For example, the government often refers to hydroelectric as "clean and green." You hear it all the time, politicians saying it's clean and green. Yet, Environment Canada's own documents report that greenhouse gas emissions in both boreal and tropical regions can be substantial. It's important to note that hydroelectric, used to generate power during peak demand hours, relies heavily on reservoirs for storage; however, a recent study from Washington State University looked at over 100 studies on more than 250 reservoirs and reported that they contribute approximately 1.2 percent of world greenhouse emissions annually, more than all the emissions from Canada alone in one year, and methane is emitted for the life of the reservoir.

You know, and this isn't new information. There have been studies going on for the last 30 years on greenhouse gas emissions coming from reservoirs. And creating new reservoirs without removing all the vegetation and soil results in an immediate and dramatic increase in methylmercury contamination of fish and other aquatic life that can last for 15 to 35 years or more. Dams are also the leading cause for fish species decline, degraded water quality, and numerous other negative impacts, not to mention that many kilometres of a river ecosystem both upstream and downstream can be impacted.

It's not surprising that governments won't admit to the methane problem with hydroelectric because it's the leading source of power generation in this country, and Canada is the second-largest hydropower producer in the world.

Cap and trade purports to cut emissions; however, a lot is at stake for provinces like Quebec, Ontario, and B.C. that have a lot of hydropower in their energy mix. So will hydroelectric receive carbon credits or will the reservoirs be held accountable for the methane that they emit?

The trampling of indigenous rights: The cold reality is there are many new hydroelectric projects underway right now, and we are trampling on indigenous rights in the process. To name a few — these are the larger ones across the country — the Muskrat Falls hydroelectric project. Its reservoir will be 59 kilometres long and flood 102 square kilometres upstream from 2,000 Inuit who rely heavily on fish and seal meat. Methylmercury levels will increase up to 4.8 times, and the effects could last for 15 to 35 years or more. A joint review panel recommended a full clearing of all vegetation and soils, but the recommendations have been ignored by the proponent and the regulators. A hunger strike and protest should not be necessary to defend their way of life or their right to food security, and it's unceded land. This is an act of aggression on the part of the governments that have allowed this to happen.

Then there is the Site-C project. That reservoir will be 83 kilometres long and flood 93 square kilometres. It's the third of four major dams on the

Peace River and there's currently a legal challenge by Treaty 8 First Nations and landowners to try to stop its construction, yet the project still marches on.

What about indigenous rights? The sad truth is that communities have had to pursue justice through the courts for mercury poisoning, loss of clean and healthy water, and the loss and control over traditional territory. A good example is the Grassy Narrows First Nation, where a pulp and paper mill dumped 10 tons of mercury into Wabigoon-English River between 1962 and 1970. It contaminated lakes and rivers for over 250 kilometres downstream and it's still contaminated with no clean-up or plan to do so, only a promise of monitoring. The people of Grassy Narrows have had serious ongoing health impacts since the 70s, and it looks like it will go on for many more generations unless action is taken now.

Any new EA must ensure monitoring, reporting, compliance, and enforcement to continue for the life and eventual decommissioning of any project.

EA values and goals: These are things that I think should be enshrined in a new EA process. And that's a healthy environment must be an inherent right, where communities are protected from risky developments, where we are assured a basic right to clean water as well as the protection of environmental, economic, and cultural rights. Food, air, and water security should never be trade-offs. Human life and cultural practices must take precedence over jobs and profits. The vital importance of conserving and protecting natural infrastructure must be embraced. We must reflect a hard line on those that pollute and the UN Declaration on Rights of Indigenous Peoples has been endorsed by this government, so it must abide by its promise to free, prior, and informed consent.

EA protections must include all energy projects that impact on water such as hydroelectric, pipelines, transmission lines, rail transport of petroleum products. So I'm proposing that NEB no longer look after pipelines and energy projects.

Alternatives must be provided as well as the possibility of a "no" outcome. Government must respect, protect, and fulfill its duty to its citizens by strengthening environmental oversight and ensuring meaningful consultation that embraces input, questions, and the best interests of communities. Governments must be held accountable to its citizens and their environmental and socio-economic interests kept in balance.

Sustainability: Sustainability must be a central pillar to the EA process. Options with minimal risk must be provided to local communities to ensure their best long-term environmental interests are served. For example, all soils and vegetation must be removed from reservoirs before they are flooded. There are numerous studies backing this up.

Does the project compromise the ability of communities to live sustainably? Fish is a main food source for most indigenous communities. Is that at risk? Does oil transport place our water resource at unnecessary risk? Will a new reservoir increase greenhouse gas emissions and methylmercury contaminations? No region should bear an unreasonable share of the risks or costs. Does the project pose risks to local food and water security?

Net environmental, social, and economic impacts, benefits, risks, and uncertainties to local communities must be weighed using science-based evidence. Does the project provide net benefits to local communities? The focus must be broad to encompass risks, impacts, and benefits, and most important of all: Does the community want the project?

Projects must be weighed using independent, third-party, science-based evidence. For example, hydroelectric must undergo the highest level of review as it is very site-specific and carries numerous negative impacts that were mentioned earlier as well as habitat fragmentation and loss of biodiversity. Pipelines and rail transport spills can pose clean drinking water and food security risks to entire communities for generations.

Ministers must be held accountable for ignoring science, evidence, best practices, and indigenous and basic human rights.

Scientific studies must be peer-reviewed and used with integrity.

The EA essentials, to move forward, must ensure that a citizen's inherent right to a healthy environment, to ensure clean air, clean water, and food security, sustainable development, a watershed approach, Cumulative Environmental Effects Assessment, an evidence-based approach using peer-reviewed science. An EA must be credible and accountable, instilling trust and respect with accessible, transparent, and meaningful consultation. Indigenous rights must be upheld with consent rather than just consultation, and projects followed up with robust monitoring, adaptive management, reporting, compliance, and enforcement. There must also be an avenue and right to appeal, and it must be accessible and affordable.

Climate change is real and it's time for Canada to make some significant, overarching improvements to our environmental and human rights protections through a comprehensive and overarching EA process. Let's tackle the issues with integrity and authenticity to build trust and confidence. These values must not be breached but must be enshrined in a new EA process to create a cleaner and healthier world for all life.

Thank you. I couldn't get — it's like chewing tobacco and walking at the same time.

**Johanne Gélinas:** Thank you very much, Ms Heron.

I think I will go with one first question to you. When you mentioned — in fact, I have two questions, and the two questions have to do with where in the process.

The first one, when you talk about science must be peer-reviewed.

**Linda Heron:** Yes.

**Johanne Gélinas:** By whom? Where in the process? I mean, what will be a definition of a peer review? Bureaucrats from the federal government? If not, who? And independent panel again?

**Linda Heron:** I know that in Quebec they have had — I call them reports done about their reservoirs in Quebec, and that they — because they're, you know, deep reservoirs, they don't give off greenhouse gas emissions or at least not the same as in other places. But you know, they put that information out there, but it's not peer-reviewed; lots of them are just reports. But most people are looking at their website thinking that they're peer-reviewed studies. So it's not just in the EA process.

But also I can't honestly say that — I've been through the Canadian environmental assessment process with many of the Ontario hydroelectric projects that were going through the EA process up until 2012, when they were all dropped. And so I haven't had experience other than that — and then our chromite mine that was proposed here a few years back, but we didn't see that through either. But I know in the provincial process, we have encountered proponents using studies that were tailor-made to have the outcome that they were looking for. Now, one proponent that did that on a regular basis is no longer in business, but that was because we pursued it and we followed. But it would be nice if the process was set up so that it is required to have peer review — independent, third-party studies.

**Renée Pelletier:** Thank you. I had a question about your comment that environmental assessments should ensure monitoring, reporting, compliance, and enforcement.

**Linda Heron:** Yes.

**Renée Pelletier:** Now, technically, those things are requirements today. So I'm wondering, in your view, what needs to change so that you feel as though these components, that these things are actually happening.

**Linda Heron:** Well, the streamlining process that has happened here in Ontario has really limited the amount of monitoring that goes on. And so river ecosystems are damaged from hydroelectric projects — I can give you one on the

Misema as a good example. It was approved several years ago, and I think it was in 2006. And it wasn't until Ministry of Environment was going out to check on a new project that was proposed and they were doing the environmental assessment on it that they realized that this was supposed to be a true run-of-river project on the river that it flowed into had been peaking this dam and totally did a lot of damage to the river and ecosystem. They consequently shut it down, but this had been going on for a while, and they knew it. You know, we had seen, you know — I'm just trying to think of what it was called — the hydrograph from the project to see what the water levels were. And we could see that they were peaking at — so how long that had gone on, I don't know. But if it had have been properly monitored, that would never have happened and the damage wouldn't have been done to the river and ecosystem. And what it was was one proponent had sold the project to another to — it went from one company to another. And somehow in that switchover the operating strategy changed, but it wasn't an approved operating strategy.

**Renée Pelletier:** So do you have any ideas of — maybe should there be a change in who is conducting the monitoring? Have you any ideas of what specific changes would need to be made to make sure that monitoring, compliance — that those things are actually happening?

**Linda Heron:** You know, our local ministries and, you know, Department of Fisheries and Oceans in this area in Ontario need to have more staff to carry it out. They've been through such a streamlining process that they don't have, you know, the staff that's able to manage that.

**Renée Pelletier:** Thank you.

**Linda Heron:** And I will say too in Ontario we don't even have approved water management plans on some of these rivers. They've been in draft form for, you know, since the water management plans first came into effect in 2002. They're still in draft form. So there's no — not even anything there to make them comply. That's an Ontario issue. But you know, Department of Fisheries and Oceans could be more involved in this as well.

**Renée Pelletier:** Thank you.

**Doug Horswill:** You mentioned in your "what should be done in the future," the words "credible" and "accountable."

**Linda Heron:** Yeah.

**Doug Horswill:** Tell us what would make the system credible and accountable for you.

**Linda Heron:** To have a system where there is a possibility of a "no" outcome, that if it's — if there's no possibility — and this is how it is here — if there's no

possibility of a "no" outcome, then that means that it's not necessarily going to, you know, have no impact on the local communities, and especially hydroelectric. As I mentioned, what's happening at Muskrat Falls and Site-C, those Inuit people are going to be — they're going to lose a way of life. They're going to lose, you know, the food that they rely on to survive, their fishing and seal hunting. Because if they eat those — and at this point, it's just an estimate of what that impact of the methylmercury will be. But you know, that has such an impact on that community that that's a project that should never have gone forward. Or if it does, there should have been adequate mitigation put in place. The, you know, soil removal and vegetation removal — that's not anything new. That's — studies have shown that for quite some time. That should have been taken into account. But it's at a state now where, you know, they're — at the last hour they had to go on a hunger strike to, you know, get the action that they were after. And I'm not even convinced that they will still get what they asked for.

**Doug Horswill:** So it's a possible no. Is there any other dimensions?

**Linda Heron:** I'm sorry?

**Doug Horswill:** The question was credible and accountable.

**Linda Heron:** Yes.

**Doug Horswill:** Your first point was that it has a possibility of a no. Are there any other elements or dimensions —

**Linda Heron:** Yes.

**Doug Horswill:** — in your definition of credible and accountable?

**Linda Heron:** You know, I really think that politicians, ministers that allow those types of things to happen, that there should be some — and if people are losing a way of life — then they should be held accountable for that.

**Doug Horswill:** Okay. You've referred as well to sustainable development in your list.

**Linda Heron:** Yes.

**Doug Horswill:** And sustainable development, you've covered the environment side very well in your comments, to a large degree the community. In terms of economic aspects, things like jobs and opportunities are part of sustainable development. How do you think they should be incorporated into the assessment to be able to hit your term "sustainable development"?

**Linda Heron:** Well, it can't be just the economics for the proponent. It has to be taking into consideration a lot of these rivers have outfitters on them that rely on,

you know, healthy fisheries and that lose access when some — with some of these peaking dams. And so it's like the socio-economic — there has to be a socio-economic assessment, and it has to be fair and equitable for those people who rely on that system, on that river system —

**Doug Horswill:** Okay. That would be kind of the negative economic side, if an outfitter was going to lose access and there may be an accommodation possibility. The other is the opportunities for the people — I'm not talking about the proponent, I'm talking about the — you know, I'm talking about your grandson and his ability to get a job somewhere. I mean, that's the type of thing that I'm kind of thinking about. How does that of this — if you want to have sustainability as a core guiding principle around or maybe an outcome, how do you bring that component of sustainability into the equation in your view?

**Linda Heron:** Well, I think that if a project is done sustainably that everybody benefits. You know, our future generations benefit, those people who, you know, rely on that river are going to benefit. But the way projects are being done now, we have no trust or confidence that it's not going to have that negative impact on the community. And quite often it does. We all want jobs. We all want to see our grandchildren do well. But they need to be jobs that are not taking away from the local community, not taking something that they rely on. Everything can be done in balance and in fairness, but they need to have trust and confidence in the whole process.

**Doug Horswill:** Okay, thank you.

**Rod Northey:** Yes, thank you. On your list of 10 EA essentials, you closed off with 10, right to appeal. To whom? In what case? What were you thinking?

**Linda Heron:** I'm sorry, to whom —

**Rod Northey:** What do you mean by a right of appeal?

**Linda Heron:** So again, in Ontario with hydroelectric, when we — I will say that all of these hydroelectric projects that fell off of the Canadian Environmental Assessment roster — it dropped back then to the provincial, you know, regulatory system. And there is no appeal on our Ontario Class EA for water power. Once the Minister makes a decision, that's the end of it. And we've had experience where, you know, especially with hydropower, because it is —

**Johanne Gélinas:** I will invite you to speak closer to the mic.

**Linda Heron:** Oh, I'm sorry.

**Johanne Gélinas:** Now that we have this beautiful noise.

**Renée Pelletier:** Yeah, now that we have heat.

**Linda Heron:** But yeah, so there was no — we've had projects where we didn't agree with the Minister and, you know, we had — we wrote the Minister several times but he would not address it. First of all, I don't think hydroelectric should even be under a Class EA, because our Class EA, it has — the provisions of the Class EA are that it needs to be predictable, repeatable, and mitigable, and many of these projects that they build, unless they're a true run-of-river, are not any of those. And so they should all be under a federal EA as far as I'm concerned, and that's why I mentioned that in here, or at least if they go through both systems that's fine, but the federal EA is a much more rigorous process — at least it was — and that's what we would like to see.

**Rod Northey:** Are you thinking that a panel review is similar to an appeal? Is that the way you think about it? I'm just — because a federal EA probably doesn't have a right of appeal either, unless you think a panel review is a form of appeal.

**Linda Heron:** Well, as long as the panel review is adhered to, there's no problem with it. Like we would like to have a panel review here in Ontario for hydroelectric, but there is no recourse at all. So that is the main point that I would like to make is it's, you know, it's not a fair process. We would like to see it under the federal environmental assessment.

Okay? Thank you.

**Johanne Gélinas:** I would like now to invite Mr. Mike Wilton.

Mr. Wilton, good afternoon.

## MIKE WILTON

**Mike Wilton:** Good afternoon, and thank you for this opportunity. I'm with a group called Algonquin Eco Watch, which is a charitable not-for-profit organization; however, I'm here today as a citizen, because I think you're going to find my comments rather negative, so I don't want to impugn the reputation of our entire organization just because I'm a miserable old son of a gun. My comments are based mainly on personal experience, and as such will unfortunately appear to be negative. Hopefully, negative past experiences can lead to a more positive future.

I think I hit this. Yes.

I'm going to talk about one instance, because we're definitely limited for time, and that's a graphite mine that has been developed over the years, and it's just outside the west boundary of Algonquin Provincial Park, which makes it quite critical.

Jeepers, I can't see the reading here. Well, I think I've got a pointer on it. I'm not going to bother with that. The central — where is the guys that showed me the pointer? Does this count as time?

**Unidentified Male:** They don't have off-ramps.

**Mike Wilson:** Which?

**Unidentified Male:** If you click there, the pointer will show.

**Mike Wilton:** Okay, that's perfect. Thanks very much.

**Johanne Gélinas:** When you click you change slides. When you move, you get your arrow going.

**Mike Wilton:** Okay, thank you.

This is Graphite Lake. It represents the headwaters of the north branch of the Magnetawan River. And this is the south branch of the Magnetawan River here. Two very important rivers in south central Ontario. And they're located on what's known as the Algonquin Dome. It's the high country between Georgian Bay and the Ottawa River, a rise of 1,500 feet to the high point, and eight major rivers source at that location. And this is one of the major rivers. But now I've lost that stupid thing again.

**Johanne Gélinas:** Move it a little bit more.

**Mike Wilton:** Oh, there we go. Thank you. Okay. Yeah, I'm a dinosaur.

This is the open pit, which is drawing water from the high point here. This is a height of land, and this is the head — these are headwater lakes. And just underneath the aircraft right here is the headwaters of the Tim River, which flows in an easterly direction through Algonquin Provincial Park. And this flows westerly out toward Georgian Bay.

What's happening is that the infrastructure of the high country is removing groundwater into the open pit. The groundwater siphons into Graphite Lake, which normally would flow northwesterly into Georgian Bay. But a lot of that water is now being taken out of Graphite Lake to operate the mill itself. And this is the tailings area here, and down south of that is the polishing pond. And we'll see that in another slide.

Looking at it from a different direction, this is looking easterly into Algonquin Park. There is Graphite Lake there. This is called McGuire Lake right here, and there's the open pit here, and the water from the open pit goes into McGuire Lake, into Graphite Lake, normally down through the north branch of the Magnetawan,

but here it's being pumped out for cleaning purposes in the mill and then being siphoned off into the south branch of the Magnetawan, which flows also into Georgian Bay. This is the polishing pond here.

And looking again, this is the polishing pond here. I'm following the flow downstream this way through the mine works itself. This is the polishing pond here — sorry, this is the settling pond here. This is the polishing pond down here. There was a spill out of the polishing pond this past May, and that put a lot of problem into the Magnetawan River — the south branch of the Magnetawan River itself.

Here we go back up to here. This is the settling area here, the polishing pond, and coming down into the normal flow which will eventually end up in the Magnetawan River itself. And there it is there. You can see the shade here. It's a kind of a bluey-green colour. That's as a result of spillage and normal overflow from the polishing pond. That flows up through here, under a culvert, and through into the headwaters of the south branch of the Magnetawan River itself. And this is the Magnetawan here — normally, previously, excellent brook trout water. And brook trout, of course, are like the canary in the coal mine. If brook trout are present in a creek, then that's good water. And there are brook trout problems in this creek at the present time.

This is the Graphite Lake area prior to the coming of the mine. This is just reflection from sunlight on the lake itself here. And this is the same situation after development of the mine, when water is not only being polluted, but it's being diverted from one watershed to another watershed.

And then of course there's the danger that the former mine manager mentioned that he would like to drain McGuire Lake, mine under it, and then replace the lake, but at the same time he'd be encroaching on the headwaters of the Tim River, which flows into the Petawawa River, which is one of the main rivers in Algonquin Park.

Okay, I want to talk about splitting versus lumping. And I think it's already been referred to in various ways today. The Ontario Class Environmental Assessment for forest management in Ontario covers the entire province, and in so doing encompasses three very different ecosystems, the boreal system to the north, the Great Lakes/St. Lawrence system in the central part, which is what we're dealing with here, and the Carolinian system in southern Ontario. And there are many differences between — oh, I don't — I thought it was loud enough. Maybe — tell me if I'm — tell me if I'm yelling. I tend to do that.

We got three major systems, and in a system that's been lumped into a single Class EA forest management for Ontario. There are problems such as soil type differences in the three types: clay soil in the boreal, granitic soil in the

St. Lawrence — Great Lakes/St. Lawrence, and sedimentary soil in the Carolinian area. And of course, these support very different ecosystem types, and as a result they should be dealt with differently. But the entire Class EA forest management for Ontario is based on the boreal forest, which is clay soil, very different soil, climate. Climate is cold in the boreal. In a relative sense it's colder in the boreal than it is in the Great Lakes/St. Lawrence, and the Great Lakes/St. Lawrence is colder than the Carolinian. And as a result, there are many different types of forest growing in those three areas.

Calcium loss: Researchers at Trent University in Peterborough have recently discovered that because there's been so much acid precipitation in the Great Lakes/St. Lawrence area that there's very little calcium left, and as a result the western side of the Algonquin Dome — that's this area. I should have explained this. This is the Algonquin Dome. This is the height of land that goes up like a spine through the middle of Algonquin Park. To the west is hemlock hardwood forest because it's granitic, moist soil as a result of lake effect off Georgian Bay, and over on the east side into the Ottawa River is a sandier soil and it's a rain shadow because most of the moisture that comes up onto the height of land is lost over the western portion. So as a result, you've actually got two separate ecosystems within Algonquin Park itself, the western hardwoods and the eastern coniferous.

Trent University is calculating that calcium has reached — lack of calcium on the west side of the Algonquin Dome is resulting in a zero growth rate. And when you think about that, the implications of that are pretty horrific, because that could or will very definitely diminish the ability of forests to grow in a situation where there is no calcium, which is very important for forest growth.

The different species, jack pine, white birch poplar in the boreal forest, hardwood hemlock, white pine, red pine in the Great Lakes/St. Lawrence, and species such black walnut grow in the Carolinian forest. So I can't see that there's any justification in lumping the Ontario Class EA forest management when you've got such terrific differences within the systems themselves.

I was at a meeting recently in Toronto, and the expectation there is to merge the *Crown Forest Sustainability Act* with the *Endangered Species Act*. And here again, we're lumping rather than splitting. It's referred to as integrating or streamlining, which to me is masking the true implications of what this is going to lead to. Because as we smooth things off and "streamline" them, things get left behind.

So my suggested rule to you would be "Never lump: always split." I think that in that way we'll go from less information to more information, which to me is the way we should be going, when in fact we're going exactly the opposite way.

I would suggest that you remove from the EA lexicon words such as "mitigate," which is similar to cleaning up spilled milk. Basically what's happened, the ball has been dropped to allow the problem to arise, and now we're

going to try and fix it, but you're never going to be able to get it back to the situation it was in before, because the milk's already been spilled.

Lumping — why have I got that there? Remove from the EA lexicon. Lumping. Yes, definitely. You want to split, you don't want to lump. So if we keep on lumping, eventually everything will come down to one. And we can't afford to do that. We should be going the other way. We should be going towards more information and more science and better factual information rather than smoothing things off and dropping things by the wayside. So lumping should go.

Rehabilitate: Rehabilitate — the Webster lexicon dictionary gives the definition of rehabilitate: "To restore something to its previous good condition." This is impossible with things like aggregate pits and quarries. You just absolutely cannot restore those things to what they were before. So realistically, I would suggest that what people call rehabilitation in gravel pits and quarries is realistically more like cosmetic landscaping. The idea is to try and make it look acceptable to the public. But you're never going to be able to put that back to what it was before.

Sustainable development: I question whether this is even attainable, and I would refer back to the calcium loss in the Algonquin hardwood forest. You can't keep removing forest products from that particular area sustainably. It can't happen unless somebody's got some sort of way to move calcium physically — sufficient calcium to remove all the acidity that's been dropped in that area over the years and develop more — enough calcium to be able to grow those trees the way they were growing before. So it's not sustainable development. If you develop that, you're removing a product that's going to be less the next time around. And forests are managed in Ontario on a rotation basis. Well, if you're getting less harvest every time you rotate, which is about a 30-year period, your growth rate goes down, your product is removed, and you just don't have the marketable material that you say you're going to have. It just ain't going to happen.

The Golden Rule: Headwaters must receive total protection. I think that I would certainly strongly recommend that that become your golden rule. If we lose our headwaters, we lose our rivers, we lose our creeks. We must retain headwaters not only to protect the quality of the downstream water but also to ensure the quantity. And I could talk for a day about the fact that we're losing headwaters through such physical removal as gravel pits and quarries, because when the — the picture on the left shows a perfect example of a little headwater lake. This is in Algonquin Park, close to the west side. This is likely an esker or a drumlin or an outwash. And because of the mass of that hill, the water table inside the hill follows the nap of the earth, which is kind of surprising. If you stand down at the water level on that lake and look straight into that hill, the water in the hill — the groundwater within the hill will actually be above your head. So there's hygroscopic water being held within the hill in the soil particles and gravel, and that's being allowed to flow out into this little lake

which was probably gouged out by a glacier. And this is what was left, and this is where the groundwater's being stored. That's an ideal place, because this is in Algonquin Park, and there's logging in Algonquin Park. And as aggregate is removed from this hill to create logging roads, you're removing the mass of that hill, and as a result you're losing the groundwater that's stored inside there. So that works its way downstream. If the inflow into the headwater is lost, then the outflow is obviously lost, and your whole river system is being diminished. And this is the thing that hasn't received as much credibility as it deserves, because Canada's water is our most valuable resource, and our headwaters are our most precious resource.

**Johanne Gélinas:** I will invite you to conclude in about five minutes.

**Mike Wilton:** You're inviting me to conclude. That's a very nice way to put it. Thank you. As long as you don't invite me to leave just yet.

Okay. I think I'm getting pretty close.

This is also a headwater. Doesn't look like a headwater; it's a sphagnum swamp, but it's just like a great big sponge. And that too holds water that's collected during the spring and it percolates out of there during the summer. So I want to reinforce the fact that your golden rule should be that headwaters must receive total protection. You can't mitigate headwaters, because you're fighting a losing battle if you do.

Muskrat Falls: That's already been alluded to. Always opt for town hall gatherings over open houses. I've been to a lot of open houses over the years, and there are some very slick people at those who can answer all your questions or take your name down and say, Well, we'll definitely look at this in the future. The only way you can get the public involved is to have town hall meetings where people are allowed to get together, voice their opinions, and give their reasons so that their friends and neighbours know how they're thinking and whether or not they're working together.

You can see what happened at Muskrat Falls, because people weren't given the opportunity to input properly. The whole thing exploded as a result. And fortunately, there's some good coming out of it. I think a lot of us aren't just sure how much good is going to come out of that, but it's nice to see people working together.

Okay. Here's where you're going to invite me to leave. This is my perfect experts panel: one trapper, one field biologist, one field ecologist, one naturalist, one forest technician — because the forest technicians know more than the foresters do — one hydrogeologist, two local, interested and active citizens, and two environmental lawyers.

Always involve three layers of politicians. Most people want the politicians to get out of there and stop messing with it, and I agree with that because

politics always takes over from science. But I think the solution to that would be always to involve politicians right from the start, the three layers of politicians, the municipal, provincial, and federal. Make these people aware of what is happening, acquaint them with it as much as they'll allow you to, and find out what side they want to take and why they want to take it. Don't let them wait until the end and then come in and do what's politically expedient, because that's why we get ourselves in so many problems.

And with that, I'm going to accept your invitation and I'm going to stop. Thank you. Thank you.

**Johanne Gélinas:** Thank you Mr. Wilson. Any questions?

**Rod Northey:** Oh yes. So a lot of this stuff, this kind of mine — I'm just trying to understand the relationship to us and an environmental assessment panel. So the mine looks like it's been in existence for some time. So I'm hoping you might just give us a bit of background on when it got approved, how it got approved, if you know any of that. I appreciate all the science and the pictures and that, and the case study is excellent. But we'd like to hear a bit more of, well, how did this happen.

**Mike Wilton:** Uh-huh. Well, this came about in the early 1990s, I believe it was.

**Rod Northey:** Okay.

**Mike Wilton:** I was working for the Ministry of Natural Resources at that time, and I had a pretty close relationship with some of the technicians who worked in what was then the Bracebridge District. And I'm not sure whether I should say this or not, but I will say it, because I actually believe it. That's a depressed area as far as employment is concerned. And when the opportunity for the mine came along, the political advice was, This is going to go through. This is going to happen. And in spite of the fact that there was an excellent report that was written on the lake itself and what the fishery status was at the time. And in spite of the fact that it was shown later that the fishery was adversely affected, the mine was already in operation then, although it's operated a very short span. There have been four or five owners, and none of them have really produced any measurable amount of product.

At the present time, the mine owners have put in a request — in fact, I think they've been granted a permit to withdraw more water than they were withdrawing previously. And this only going to exacerbate an already bad situation. We've been given the right to request — to question whether or not that permit should have been granted, or we've been given the right to request to apply, but I haven't found out yet whether we're going to get that right or not.

The Catch-22 is that once the — I guess it was the Ministry of Natural Resources gave the permit in the first place. Once that permit goes out and those people have the right to go in and operate that mine, there's no way that that can

really be rescinded. So when the mine owners requested the right to take more water, we're flogging a dead horse, because basically they have to have that right to do that, otherwise they'll be suing the Ontario government. So we've got ourselves into a Catch-22. They're asking for more water, we're saying they shouldn't have any more water because they're doing so much damage now that it's only going to be exacerbated, but the government basically has to come good with that permit; otherwise, they're operating against themselves, which I don't think we're going to see. Maybe I've gone on long enough on that.

**Rod Northey:** No, no. Well, if the Chair was going to ask —

**Johanne Gélinas:** No.

**Rod Northey:** I have a further question.

**Johanne Gélinas:** Yeah.

**Rod Northey:** Oh, okay, just a minute. So my understanding, looking back — and this is where I'm looking for a bit more clarification — in Ontario, a mine would not typically get an environmental assessment at all. So you could get an assessment if you were on Crown lands, and so you could have had a provincial EA. If you were at MNR in the early 90s, are you aware whether there was any provincial EA of this?

**Mike Wilton:** I'm sorry, I'm not aware of that.

**Rod Northey:** And do you think there would have been, for the effects on fish at that time, it would have likely triggered a habitat authorization, which would have triggered a *Canadian Environmental Assessment Act* screening? Are you aware whether there was any federal EA of that project?

**Mike Wilton:** I don't believe so, but I'm not sure. It may have been before the time when that came in. But the bottom line is that that would certainly have qualified for federal as far as I know.

**Rod Northey:** But you're just not sure. Okay.

**Mike Wilton:** Right.

**Rod Northey:** Thank you very much.

**Mike Wilton:** Okay.

**Johanne Gélinas:** Thank you very much, and I'd invite you to stay in the room for the rest of the presentation.

**Mike Wilton:** Thank you. I will do that.

**Johanne Gélinas:** Mr. James Gomm — Gomm? Sorry, you don't have a clue how difficult it is for me, these things.

**James Gomm:** It's French: Gomm.

**Johanne Gélinas:** Oh, Gomm.

**James Gomm:** Thank you. It's going to take me just a second here to get organized.

**Johanne Gélinas:** Get organized, and I just want to use that second to let you know that all the presentations that are made to us today will be available on our website, and also the summary of the discussion that will take place today and tomorrow in Sudbury.

## JAMES GOMM

**James Gomm:** My name is Jim Gomm. Today the presentation that I am making is as a private individual. I worked in the natural resource protection field for over 30 years with the government, but as I mentioned, this is not a representation from any of those organizations that I belonged to.

The purpose of my presentation today is more focussed than what you've been hearing before. It deals with a specific environmental failure of the environmental assessment process, the *Federal Fisheries Act*, the Protocol for Protecting Fish and Fish Habitat, the *Environmental Protection Act*, and the *Ontario Water Resources Act*.

The Murdock River is a river south of Sudbury. It is part of the Highway 69 four-laning reconstruction project. This river supports a sports fishery and is habitat for fisheries. It's a tributary of the French River, a Canadian heritage river. Its species were species at risk; it's a Resource Stewardship Agreement area, and is a cherished area for outdoor recreation.

During the construction project, some of the work that was required at the Murdock River bridge site was the drilling and blasting of rock near the river, which was required to build the bridge abutments; the removal of two metres of the riverbed; construction of two in-water bridge piers; and the infilling of the river to construct an access road to build the piers.

As part of the EA process, MTO was required to do a habitat assessment. The initial habitat assessment impact report was submitted by MTO Fisheries Consultant in July 2011. Report stated:

> "It is anticipated that works at two of the proposed crossings that support fish habitat will result in harmful alteration, disruption, and destruction of existing fish habitat (HADD). Twin bridges are proposed to span the Murdock River . . . which will require the placement of a pair of in-water pier footings. This has been considered a permanent removal of bottom area and appropriate on-site compensation has been proposed."

The MTO issued an initial letter of intent in July 20th, 2011, that stated: "The Ministry of Transportation . . . agrees to undertake specific measures to compensate for and mitigate the loss of fish habitat arising from the work below." Twin bridges will be required to cross the Murdock River which will require the placement of in-water pier footings and result in a loss of 700 square metres of riverbed. The risk assessment has determined that this will be a HADD.

The letter also contained the following statement: "The MTO will compensate for the fish habitat losses due to the installation of the Murdock River pier footings."

In September of the same year, there was a revised fisheries assessment report submitted. In the new report, the Murdock River site has been dropped from the HADD list. To my knowledge, no additional fisheries assessment work had been completed at the site. No rationale was provided for the site removal from the list. DFO had to vet and approve the final edited version. I've asked why. No answer.

In October 2011, MTO issued a revised letter of intent. The Murdock River bridge location is now excluded from habitat compensation. Once again: How could that happen? No rationale for why it changed was provided.

The role of DFO at the Murdock River bridge site: Initially, MTO dealt with a DFO biologist in Parry Sound. In 2011, DFO was undergoing a downsizing exercise. The offices in Sudbury and Parry Sound were closed. The staff there was declared surplus and losing their jobs. I was told that senior DFO managers advised the staff to move along the backlog of files that were there. The closest DFO office is now in Burlington, Ontario.

During the bridge construction, DFO issued some guidelines. Only clear, washed materials of a specific size were to be used for the in-water construction. Additionally, a turbidity curtain was to be installed to capture sediment and any deleterious materials.

During the construction, the turbidity curtain design was not adequate for the site conditions. The turbidity curtain failed on a number of occasions

due to high water levels, volume. The turbidity curtain failures resulted in a release of deleterious materials into the Murdock River. Each one of these releases of material was a serious violation of the federal *Fisheries Act*, the *Environmental Protection Act*, and the *Ontario Water Resources Act*. MTO is required to immediately report each sediment release to DFO and the Ontario Ministry of Environment and Climate Change.

During the same time, MTO submitted a request to DFO for approval to use gravel in the water, a change from the operating practice. This result must have been approved by DFO. Subsequently, hundreds of tons of gravel were used, dumped into the river to build the access road. There's documented evidence of deleterious materials being released into the watershed. This was documented by the environmental specialist on site and by me personally. Also work continued at the site during the sediment releases, which is a violation of the established protocol and the MTO best management practices.

Here's a picture of a bulldozer that went into the river during the early part of the construction. The environmentalist had to tell the contractor to report this as required. It wasn't reported until many hours after the incident occurred. It took MTO seven days to complete an investigation of this incident.

Here's a picture of a truck dumping gravel into a river containing fish and fish habitat.

There's a picture of the turbidity curtain failing. You can see that the turbidity curtain has been pushed back against the piers. It's been overtopped. The chains along the bottom have been pushed back by the flow of the current, and water is being allowed to flow down through the Murdock River watershed.

Here's a photo of work continuing at the site, which is — and at the same time you can see there's a gentleman in a boat trying to re-establish the turbidity curtain, which is still showing breaches in the front of the picture and at the back of the picture. The work was still — the construction work is still going on. You can see the people working there. That is a violation of the protocol and the best business practices.

I contacted MOE and asked them to determine if the violations had been reported. MOE's response to me was, "Contact Burlington DFO." I asked DFO how bridge construction was being monitored. The DFO replied that they relied on monthly — no, excuse me — quarterly MTO reports. DFO also mentioned that there was a self-compliance model that was being used. I mentioned to them that if you're putting the fox in charge of the hen house, you better be ready for some losses.

I asked a couple other questions. I asked DFO who had the responsibility of monitoring and reporting of any concerns raised in the monitoring reports. I did not receive any response — an adequate response. I also asked if any

DFO staff or compliance staff had been to the site during the construction. The answer I received: No DFO staff or no DFO compliance staff had ever attended at the site during the construction.

One of the most compelling comments I found during reviewing some of this stuff was in an annual compliance report submitted by the environmental specialist. It said: "I expect that if a contractor does not achieve specific compaction rates or concrete density on structures there are very real and meaningful penalties. These tend not to be exercised on environmental infractions." This was the MTO's environmental specialist.

In September 2014, I submitted a comprehensive report about these concerns, and I submitted it to various government agencies: DFO, MTO, MNR, Ministry of Environment, Transport Canada, the Environmental Commissioner of Ontario, and others. In that report I documented our concerns and I offered to meet to discuss the remedies. I also offered to conduct a neutral site inspection to show them some of the concerns. And finally, I recommended a multi-agency group to be formed to address unanswered questions. I received no response or acknowledgement from DFO or MTO.

I was advised by DFO to file an information request, which I did. DFO has advised me that all relevant information has been provided to me. I do not believe that to be correct, so in March of this year I filed an access to information complaint form. In April, I received an acknowledgement letter from the registrar indicating that "an official from our office will be contacting you as soon as possible." I received a phone call this week saying that an investigator had been assigned. I contacted Ministers Tootoo and LeBlanc, as well as our local MP Marc Serré, and have asked for their assistance reviewing this situation. So far, very little response.

Some conclusions: I have to read something for you first, sorry. I should've been a little bit better prepared with this one.

It is my opinion that during the construction period that the EA process failed to provide adequate environmental protection. The failure of the DFO to monitor, investigate, and enforce the regulations of the federal *Fisheries Act* only exacerbated a terrible environmental situation.

Conclusion 1: In a letter from DFO Minister LeBlanc, he states that "DFO is satisfied with the actions taken by MTO to remedy the issues that occurred during the bridge construction." This statement does not address the core environmental issues: the failure of DFO to fulfill its stated mandate to protect fish and fish habitat; the failure of DFO to properly monitor, investigate, and, if warranted, to enforce the repeated violations of the federal *Fisheries Act*.

2: The Department of Fisheries and Oceans has a priority — it's top priority, according to Mr. LeBlanc — "is the protection of Canada's commercial, recreational, and Aboriginal fisheries." If this statement is indeed fact, then why did the DFO approve actions, activities, operational changes, et cetera, that permitted the use and release of deleterious materials into a sports fishery?

3: Why did the DFO management team not support the decision of the on-site DFO biologist with respect to the original HADD determination and the need for fish habitat compensation at the Murdock River? A senior MTO manager told me that he was amazed that the Murdock River site had not received a fisheries authorization.

4: One of the building principles of the EA process and the federal *Fisheries Act* is that there must be no net loss of fish or fish habitat as a result of a project. The DFO refusal to protect the fish and the habitat at the Murdock River resulted in a net loss of fish habitat. Why did DFO fail to fulfill their mandate?

5: The MTO has a documented history of federal *Fisheries Act* violations. During this same time period, MTO and one of its contractors working on another highway project pled guilty to infractions under the federal *Fisheries Act* and were fined half a million dollars. When advised of the potential violations of the federal *Fisheries Act* and other compliance concerns, why did the DFO not investigate these incidents and, if warranted, lay charges?

6. The Ontario government has issued a mandate letter to the Minister of Environment that polluters will be held responsible for their decisions. In this case, the polluters have been identified, their misdeeds have been well documented, and still the DFO and provincial agencies have not held them responsible. Why not?

7. Why has the DFO not acted in an open, transparent, and accountable manner in dealing with the serious environmental concerns related to this issue?

There's one final point that I would like to share with the Panel. There's a quote from Albert Einstein. It says: "There is nothing more destructive of respect for the government and the law of the land than passing laws which cannot be enforced."

I'd like to thank you for the opportunity to present my observations and concerns.

**Johanne Gélinas:** Thank you very much, Mr. Gomm.

Want to start?

**Rod Northey:** Sure.

**Johanne Gélinas:** Have a question?

**Rod Northey:** All right. So let's tackle a couple of things. One of the things we're looking at is how to make EA deal with the post-EA process of monitoring and enforcement. So I think what your story is illustrating is post-EA and lack of monitoring and enforcement. So I'm going to come back to a bit of your history, but what I want to ask you is this: We're supposed to be forward-looking, not just backwards-looking. What do you recommend — and you've got obviously quite an understanding of government and perhaps not the best side of various things — but what do you suggest should go forward to this Panel as a go-forward, if you have some thoughts, because I appreciate the criticisms, the understanding, and your conclusions. But what should we take from this?

**James Gomm:** Here's what I understand. When this was going on, the people who were working for DFO were losing their jobs. They were more concerned about filling out their resumes, I believe, than maybe being focused on some of the things that they had to focus on. These were good people, qualified, trained. And they're no longer there.

I think what's happened — if you look at Environment Canada, Environment Canada has two officers to cover northern Ontario. DFO, if you call tomorrow for DFO, you have to call Burlington. So obviously, the resourcing and the staffing is not available.

So when I asked if anybody had been there, nope. At the same time, there was a derailment in Gogama. I ran into two DFO compliance guys in a restaurant. I said, "I've never seen that insignia before. What do you guys do?" "Can't tell you. Can't tell you. We're going to another site, another project." I said, "Do you ever work around here?" "Can't tell you." I said, "You from Burlington?" "Yeah." I mentioned my name. They said, "We've heard your name." And I said, "Yeah, because when we have concerns around here, we don't get any response."

So short answer, resourcing and staffing, They have to re-establish some kind of capacity to be able to look at these things.

**Rod Northey:** Okay, so just a few things. My colleagues may pick up on it, but often our Chair says at the beginning, and we did say earlier, that there are other reviews going on that some of those in the room are aware of. And as you might be aware, and I'll just say it since it's part of our mandate to remind everyone, there is right now a review going on of the *Navigable Waters Protection Act* in a federal parliamentary committee and the *Fisheries Act*, I believe.

**James Gomm:** Yes.

**Rod Northey:** So I would encourage you to — you land there. Now, you have a response all ready for me, but —

**James Gomm:** I've tried to get on the website. I've talked to your fellow outside, and I can't get on the website. So it's called Protecting our Fish Habitat — I forget the exact terminology. And I can't — maybe it's me being the computer dinosaur, but there is a phone number. So yes, I will make sure that they hear me.

**Rod Northey:** All right. So let's go back a bit to the EA part to this. And it's important just for us to understand a little bit, and I'm just going to go a few questions. So I know Ontario law somewhat as well, not the federal. So my understanding is that Ministry of Transportation doing a bridge would need to do its own environmental assessment. And there's a principle that we often hear about of one project, one assessment. I don't know if you're aware of that principle.

**James Gomm:** It's changed, yes.

**Rod Northey:** All right. My question is this: Ministry of Transportation doing the bridge should have, as part of what it was up to, done an environmental assessment. Have you ever been engaged or seen what they did pursuant to that aspect of this project?

**James Gomm:** I have to tell you — okay. Sometimes I tend to go off on tangents here, so this isn't the only issue that we're dealing with in this construction project, okay. So to answer your question, yes, you know, I'm aware of the EA process that was going on. At that time — and you may be able to correct me — for that project, they were trying to do individuals EAs for the different sections of the project. I believe the federal government said, That's unacceptable. You're going to have to do one EA from Sudbury to Parry Sound. So that's the information that I have. So the bottom line is I think that was during the changing process up there —

**Rod Northey:** All right, so just to understand what you're saying for all of us. The bridge was not by itself the project, it was extending a highway and the bridge was a work within that project.

**James Gomm:** Exactly.

**Rod Northey:** And how long or what was the extent of the highway as you consider it, what was the full extension, just to get an idea of magnitude.

**James Gomm:** From Sudbury to Parry Sound.

**Rod Northey:** Okay, so —

**James Gomm:** They're four-laning, now, I have to say —

**Rod Northey:** So an expansion of an existing highway or doubling of.

**James Gomm:** Four-laning, four-laning.

**Rod Northey:** Okay. All right. So you were aware of that process, and then in this there's this bridge project. And was it a new bridge or an expansion also?

**James Gomm:** New bridge — two new bridges.

**Rod Northey:** I'm sorry. I know I think you said. It's hard to keep all your details.

**James Gomm:** No, no, okay. Two new bridges.

**Rod Northey:** All right. And so in that process, DFO becomes aware of something just as the transition you describe, and I think as we understand it, just for everyone's benefit, not only did the DFO law change, as you alluded to, from all fish habitat to commercial, et cetera, which is what the topic of that review is, but equally the application of federal environmental assessment law changed, where there were no longer screenings. But if a screening had started, it was to be completed. So my next question of you is did you ever see an environmental assessment screening by DFO pre-2012? Was there such a thing?

**James Gomm:** There was — and I'm not sure if we're splitting hairs here — there was a fisheries and fish habitat assessment report.

**Rod Northey:** That would different, I'm going to say.

**James Gomm:** Okay. So I'm not aware. I have no knowledge.

**Rod Northey:** Okay, because the habitat follows — in the legal scheme — follows after you've done some kind of screening or whatever. It's a compensation measure.

**James Gomm:** Yes.

**Rod Northey:** So you aren't aware whether there is a federal DFO screening?

**James Gomm:** No. But one of the biggest concerns, and I mentioned it, was this whole fact they said they did an initial assessment and then they changed the assessment. And I have been unable to find out why.

**Rod Northey:** I think you actually answered why, but I'm not going to pretend. I think the law changed. It doesn't fully explain — okay, I'm not going to enter into a whole legal theory of this. Thank you very much. It's very informative.

**James Gomm:** Okay.

**Doug Horswill:** Great, thank you. In terms of the future, looking forward, and taking a view of this in terms of the lessons we could learn and from the ideas you have, you talked about the notion of oversight, I think. I'll call it oversight, but it was — I think you said something along the lines — this may be a little liberty with your words that I have in my notes here — but an accountable multi-sectorial or independent committee that had some sort of oversight role. What would that be and how would that work and how would you see that fitting in? It seems to me it's a bit of citizen ability to engage, and I'd like to understand more about that.

**James Gomm:** Well, and again this was I'm going to say site-specific to this project, to this location. And the fact that what I identified here is just a very, very thin slice of some of the concerns that were going on environmentally there, okay. So we're saying when we submitted this report, we were hoping that they would listen to us and that they would consider having a multi-agency panel to deal with some of these things. Because it wasn't just the bridge, it was a whole bunch of other myriad of concerns, okay. So the bottom line is that we were hoping that they would engage us. We have offered to be part of the solution. And as I mentioned — I guess I'm on a different tangent —

**Doug Horswill:** No, no, it didn't happen, and it's not so much that it didn't — that's a concern, obviously. But the issue is, from my point of view and I think from our panel's point of view, assuming there will be a commitment to make things happen in the future, what would the terms of reference of that panel be? How would it be set up? Who would be on it? What authority should it have? How would it work?

**James Gomm:** The gentleman who was before me talked about having a forest technician. That happens to be my background, so I thought he was right on with that statement. But anyway, the bottom line is I think you need a wide range. I believe that what's happened — the people who were doing this assessment, the biologist recommended the thing. So like I mean the expertise, the knowledge I think is there. But they do need some input from a public sort of consultation. They hold open houses. Somebody mentioned early they hold open houses and they — you go away, you don't hear anything more. They produce a document that says, Here's what we heard. But it doesn't say whether any of that knowledge, any of that experience is going to be incorporated in the final product.

**Doug Horswill:** It sounded like a big portion of the frustration that you and your group have endured in all of this is simply a lack of reporting and transparency. Would that be a fair —

**James Gomm:** That is very true. If you want to waste some time, write a letter to Minister. See what you get back.

**Doug Horswill:** Yeah, okay.

**James Gomm:** Thank you for your knowledge. Thank you for your help. This is really important, and I'm going to send it on to some guy who I can't remember his name right now. You know.

**Doug Horswill:** I used to have a job at the bottom end of that thing, writing those letters. Thank you.

**James Gomm:** Hey, I used to have to write those letters. So I'm a little bit familiar with them. Anyway. I digress.

**Johanne Gélinas:** Listening to your story, if I can make a recommendation as former Canada's Commissioner for Environment and SD, I will suggest to you to just send a petition to the Commissioner for Environment and SD. A "petition" is the wrong word. It's simply a letter just explaining — just send your presentation and ask for clear responses on the questions that you have mentioned. And there's an obligation within 90 days to respond back.

**James Gomm:** Thank you. As I've mentioned, this is a very small sliver of a great big pie, okay. So yes.

**Johanne Gélinas:** You can enlarge your questions to the commissioner for sure. And if you agree, we would like to send — when we have cases like that which we think are important for the other panels or the House committee to look at, we ask presenters if we can forward their presentation.

**James Gomm:** Please do.

**Johanne Gélinas:** Okay. That will be done. Thank you very much.

**James Gomm:** Thank you very much.

**Johanne Gélinas:** Thank you for your time.

Okay. I'm told that the coffee is here, so why don't we have a 10-minute break, no more than that, and we'll continue. We still have one, two, three, four, five people to hear before 5:00. Okay? Is that okay?

(BREAK)

**Johanne Gélinas:** Please if you can take your seats, we'll continue.

I would like to invite Ambrose Raftis.

I will have to be a little bit more mindful of the time, so I will give you, if you don't mind, 20 minutes.

**Ambrose Raftis:** Good. I set up for 10, so I should be able to do it in 20.

**Johanne Gélinas:** I like that. So the other people in the room, you should do what he does.

**Ambrose Raftis:** Well, we'll see how it works.

## AMBROSE RAFTIS

**Ambrose Raftis:** So my name is Ambrose Raftis, and I came to this thing because I think the EA process is very important and it's becoming more critical every day. With our climate change issues, there's a lot of processes that we have to get better at.

So just to give you a quick history, I moved to northern Ontario from Charleston in '74, from southern Ontario, and since then I've worked on high-level nuclear waste — opposing these. They proposed to put high-level nuclear waste up to a pluton in our area. I worked on they wanted to propose to put a toxic PCB incinerator in our area because it was no longer legal to burn that in the U.S., and that was halted eventually. There was an aerial spraying program that was covering the forest in our area, and we got that stopped. I guess the one we spent the most time on was the Adams Mine. That was a project to move 20 million tonnes of Toronto's waste up to a pit in northern Ontario.

So the EA process was in our mind not very effective in any of these, and some of the experience that I've had with that process I've reflected against another model here. So in the end it was public information that turned the tide. The EA in many ways worked against us with the process that it worked at.

So it's not so easy to read — it was white in the other colour. I'll make the screen a little brighter.

**Johanne Gélinas:** That's fine. You can read it for us.

**Ambrose Raftis:** So there was 14 years involved in the process, and it was — what our technical concern was was that it was an elevated pit and the pit was 300 feet above ground level, but it also went 300 feet down into the aquifer. So we had a model of a pit that they were proposing that had never really been done before. Generally they had a much flatter strategy for disposal of waste to minimize the pressure of water into the aquifer.

So during the EA process, we spent a fair bit of time talking with the engineers — the proponent engineers. And what we got out of them is we asked them this question: Why don't you look at any of the downsides to this? Why is all your investigation looking at how well this thing works? And they were basically told, you know, We're supposed to "blue sky" this project; if we bring up things that make it look like it's not going to work, then we're going to be out of a job; that's not what we're hired for. So the proponent never really took the risk component seriously. And because it was in our community, we took that fairly seriously.

And so because during the process the economics became the driver, they were promising like hundreds of jobs and all that sort of stuff, and it was all, in our view, it was not real. But it became what publicly they were promoting. And so the social and environmental components of it really were sidetracked, and it was all them selling the economics of it. The EA never really promoted any awareness of any engineering issues. It downplayed them. We had people that came in and talked about some of these concerns, but the EA never really reflected them. And in the end, they — oh, this is so dark you can hardly read it. Oh, maybe it's the screen.

**Johanne Gélinas:** Just continue to talk and maybe, Jonathan, you can do something about it.

**Ambrose Raftis:** Yeah. The first one is good and the rest changed. But maybe that's mine.

So essentially what happened was the project was a concern because liability was an issue that didn't reflect very effectively.

So for some reason all the —

**Jonathan:** Is the background black?

**Ambrose Raftis:** It's dark, yeah.

**Unidentified Male:** This doesn't count against his 20 minutes, does it?

**Unidentified Male:** We're not under a regulatory timeline.

**Ambrose Raftis:** It's just so I can get some notes here. Okay.

So essentially what happened is it was an unprecedented design, the result being that there was no ability to recover from a leak. We pointed this out during the EA; it got ignored. We pointed it out consistently through the whole discussion, and the result being that it was largely ignored up until the last point. It wasn't until we actually pointed out to them that if the leak occurred that the —

Yeah, it's the same. Maybe it'll change. Anyhow, I'll try to get the odd point out here.

So essentially what happens is we showed them that the liability was something that hadn't been considered, and it wasn't until a very late meeting at the City Hall in Toronto where the lawyers got involved and they started passing the liability around. Because we pointed out to them that if it started leaking, there was no technical way of fixing it. They — basically the only solution was to take the waste back out of the pit and pump it out and clean it, and they would have had to take the waste and put it into another one. And so when they looked at that sort of as a level of risk, the promoter decided that they weren't going to take that risk because they didn't have the financial capacity. And then they took it to Waste Management Inc., which was a relatively large player, but they said they didn't want the liability. So it would've fallen on Toronto. And it's sort of what killed the project in the end, is the City of Toronto said, Well, we're not going to get involved in a project that has that level of liability.

Can we just take the darkness out of it? I might just take them out.

**Jonathan:** Which side are you on?

**Ambrose Raftis:** Just take that one out too.

**Johanne Gélinas:** I'm sure you know it by heart. You practised. You knew that it was taking 10 minutes, so.

**Ambrose Raftis:** Yeah, but I needed the notes to reflect them.

**Jonathan:** Does that help?

**Ambrose Raftis:** That helps, yeah. And do the next one too.

**Jonathan:** I'll just sit here. Just do your presentation and I'll do this.

**Ambrose Raftis:** So essentially what happened was what the promoter and the City was going to do is they were going to rely on the EA giving them approval for the site. And what they were saying was the EA was an approval, that it passed. And so this is the term we heard. It passed; it's safe. And then they were going to use best practices, then they were going to use best practices for managing it and that they would be pretty free from liability because they were using best cases. So essentially they were looking to sort of squeeze out of the liability. And then we pointed out there wasn't any best cases for what they were doing as far as stopping it goes. So basically what happened is it killed the economic viability of the project when they picked up the liability issue.

Let's try the next one.

So essentially I want to reflect against the Energy East project. And so it's the background, with the dotted dark part where we're releasing. So I know the Energy East is not what we're looking at here, but I think the liability issue carries fairly effectively. The reason I want to use this model is I worked for a number of years as a corrosion engineer with Trans Canada Pipeline, so I'm fairly familiar with the lines and also some of the technology and the deterioration level that happens with it. So I just want to talk about some of the risks that are with this pipeline. Basically it's a 40-year-old line and it has never been designed to use — to move bitumen in it. It's a gas line. So it's never been designed to take the weight that is additional in the bitumen. It's also an aged pipeline with, you know, aged external corrosion to some degree. With the additional stresses, it will created internal cavitations on the fractures that exist. So this is a new type of corrosion that will occur with a liquid that doesn't occur in a gas. So we can expect a series of increases in number of breaches.

And I want to talk about the Department of Natural Resources. They have a pipeline financial requirement. So I read it through, and what they have is something called an absolutely liability limit of $1 billion. So the "absolute" refers to the fact that it can be used without proving cause. The liability component's the liability, but the limit is the part that concerns me, because it sort of limits in the minds of the developer, I think, the amount of liability that they have to carry. There is still a pollution pay statement in the document, but it says on the top of that that it's not actually part of the regulation. And I don't see anything in the regulation that actually creates any firm mechanism for long-term payments. So what I see happening is that with the limited partnership and separate corporations there can be significant levels of I guess liability skipping out of.

And I think this is why I think it's so important is because — we can try the next slide. The liability components are significant. People are probably familiar with this, but there was the billion-dollar leak in Kalamazoo. It was a six-foot hole. It flooded 30 miles of river. So all the detection equipment failed to operate as it was designed, and also their process for responding to it didn't work. In many ways they were quite lucky, because the river was a relatively slow-moving river. It had control dams and could limit the amount of damage. So they were able to, after a period of time, actually shut off the water supply to prevent it from going any further. It did cost them in the end upwards of a billion dollars. Eight hundred of it was covered by insurance, and so the company really only had to pay out 200 million, which to an oil company is not much of a payout. But the next leak could be far more costly than that.

So I was in North Bay and I was at a presentation there. And the mayor was talking, and he was talking about pipelines. And he said — this is Al McDonald. He was saying, "To us, a spill is a very serious concern," he says. "And here's what would happen," he says, "we might have two hours to shut down the line. And if we could get it shut down before the contamination got into the filter system,

which we would desperately like to do," he says, "then what would happen is we'd have 50,000 people with no water." And then he says, "Not only that, but we'd have 2,500 businesses that probably couldn't do business very effectively." He says, "We'd have schools, colleges, and universities would all be shut down with no water." He says, "Our hospital," he says, "it would be shut down. It wouldn't have water. How do you shut a hospital down? You really can't," he says. "We just — we wouldn't know what to do at the hospital." He says, "The fire department," he says, "what's a fire department when there's no water pressure?" He says, "This could go on for weeks — days, weeks, or months." He says, "We don't know how long it could go on." And he says, "It's just beyond what we could imagine we could respond to." And he says that the lost — it could happen in our city, it could happen in cities downstream like Ottawa, Montreal, or even Quebec City, because of the bitumen travels downstream as the flow moves through. So it could happen in a number of communities simultaneously. Depending on whether it happened in the wintertime, it could be flowing under the ice for a significant period of time.

So I guess the point is that this type of incident is — the consequence is unfathomable. It's something we can't cope with as a society and we shouldn't be asking people to take these levels of risk.

So everyone downstream from one of these leaks is putting the risk of their community, and their part of the planet, essentially, at risk of becoming environmental refugees, because when the water supply is lost to a community, there's very little way of responding to all that.

So back to why liability components are significant. So with the leak at the Kalamazoo, there was significant damage. But what we're proposing with this Eastern — with this new pipeline is it's 4,500 kilometres, which multiplies the risk as over the distance, because there are dozens of communities along the way, to say nothing — I think there's 300 river crossings. So the pipe was never designed for it.

The other concern we have is that the predicted failure rates were all wrong. Trans Canada was saying that they were expecting one leak in seven years. They had a much smaller pipeline, and they've had 12 leaks in the first year. So the ability for them to set the level of risk that we should be taking is really kind of inappropriate.

I talked about the polluter pay principle. It's there, but I don't know that it's even enforceable in regulations. I think it certainly wouldn't be enforceable for individuals who had losses. So once the payout has been done, once the limit's been reached, it becomes very difficult to get money out of these companies.

So essentially it makes it very easy — and this is the case that I think that needs to be brought up with the environmental assessment is it makes it very easy for the companies to establish a benefit to the project if they're not really in

position to take care of the liability of it. The example that we have here is that with a billion dollars of liability, they only have to put $250 million up in cash. The rest is guarantees of some form. And the billion-dollar limit is not time considered, so it may be spent in the first leak, and then the second, third, fourth, or fifth leak, you know, who's paying for that? So it gives a false sense of security to the promoter, which allows them to move forward with the project. So the projects with unlimited potential for damage needs to have an unlimited liability built into the business case and so that the people who are investing there, knowing that, you know, that it's not just their piece of the financial pie that they're making a decision on. If you're promoting a project, you need to be responsible for the whole project.

**Johanne Gélinas:** You're getting to your conclusion?

**Ambrose Raftis:** Yeah. Not much for 10 minutes, eh?

So the liabilities were inadequate. So I just wanted to give an example. Like what we're doing now is we have a — we set up a co-op to do solar projects. And essentially we have to assume all the responsibilities in the project. So when we review these projects, we look at all the risk components. And we know that if the project can't afford to cover all the risk components, the project won't get done. So essentially we have to look at all the eventualities. And we've looked at things like hail storms, magnetic storms, whatever could happen to it. And we realized that as a part of the business case, every piece of the liability has to be incorporated into it, because if it isn't, it's not responsible. And what we're doing with the environmental assessment process now is we're limiting the real liability impacts and making business cases much brighter than they would really be. And I guess Lac-Mégantic is a good example that's not a very good — in the end the business case didn't work too well, but it looked pretty good at the beginning.

So the Energy East takes the best case scenario and limits the liability to that, whereas Trans Canada predicted seven [sic] spills; they actually had 12 within the first year and on a much smaller piece of pipe which makes them off by 84 times as far as liability potential goes.

So the conclusion, then, is that risks must really be an inherent part of the upfront part of the process, especially before this, whether the project is moved forward into reality, the liability levels have to be looked at. If the liability levels are looked at right from the beginning and the project can't afford them, then the project really shouldn't even — it should be a no-go project right from the beginning. So the current process shows the pipeline estimates off by a factor of 84, which is pretty bad planning, as far as a risk assessment goes. There should be no absolute liability limits.

I think a part of the problem is companies are very good at hiding their financial capacity through incorporations and limited partnerships. And I

think the people that are benefitting from these projects have to know that when they're doing a project that are putting other people's assets on the line — their livelihoods, their towns, their communities — then they have to put their assets on the line too to be part of the project. So essentially there needs to be a process where the assets of companies that move into these projects cannot protect the people who are going to be benefitting from it from liabilities in a project that they cause. And also liability should be distributed amongst all the parties.

What I see happening here in the Energy East one is they're set up, a separate organization, Trans Canada becomes isolated from that project, and then the people who are actually making the benefits, the people that own the oil, aren't even in the equation. So the people that are actually pushing this project, who are putting all the money into it or investing it all through these companies are not liable in the end. And I think that's just inappropriate. If there's a big benefit for people in this project, then they have to put their assets up so that they can be part of the risk equation.

I think that's about it.

**Johanne Gélinas:** Thank you very much.

I will start with a general question. You have at the beginning talked a little bit of all the projects that you have been involved one way or the other. The question is the following: Do you think, especially when we look at these big projects, do you think that it's up to the proponent to do the environmental impact study or it should be given to an independent agency of some sort?

**Ambrose Raftis:** Yeah, well I think the problem is that when you leave it up to the promoter, you're going to get the shiny side of it, and you won't get a real one. And if there's no money to counter that with other studies, then essentially that's what becomes the predominant information. So I think there needs to be far more independence in that assessment right at the beginning. Is the case needed? What's the risk levels? Who's involved? And I think some independence there so the promoter's not the one that's pushing that through. Because promoters have a very — they have really a lot of good characteristics. They see the good things. And this is really what carries projects on. But they're very poor at seeing the downside to it. And without a really solid process, they get themselves into trouble. And when they're in trouble, we often get in trouble with some of these projects too.

**Johanne Gélinas:** And I haven't read Energy East. You probably did. Is there a specific risk assessment done of the project by the proponent?

**Ambrose Raftis:** What I understand they did is they made a deal with Natural Resources Canada to put this in legislation, this limited risk component. And this was done outside the — apparently it was just done recently, think it was this spring it was

put into legislation. And so it becomes — to me, it's sort of a backhanded way of restricting it. It's an oddly written document because it expressly points out that some of this is just statement, it's not part of the regulation. And the part that's not part of the regulation is the part where it's unlimited. That's, you know, to me it says it there but there's — it may not be enforceable. So I think that that's kind of dangerous in my view.

**Doug Horswill:** Interesting notion. And the issue is, in my mind, the how, as we sort of unravel the onion. What's the next level in terms of how you do this, but — or how this might work.

One specific question in relation to insurance companies. I think you were saying something about a corporation not being able to lay off the risk to insurance companies. Is that what you were saying, or did I misinterpret that?

**Ambrose Raftis:** No, not necessarily. Like part of the problem with relying on insurance companies is they get smarter over time. So if they make a claim, like the next time they go to get money from that insurance company, it's going to cost them a lot more.

**Doug Horswill:** Exactly.

**Ambrose Raftis:** So essentially that's just part of the equation. And so I don't have a problem with them using insurance companies, but you can't rely on the fact that the insurance company's going to pay for the second, third, fourth, and fifth one, because once you've paid for insurance, they're done. They're clear. And the next time you come back to them with a claim or to try to re-insure again, they're going to want their money back again, eh.

**Doug Horswill:** Thinking about how this might apply in a broader sense if a government were to accept recommendations around this, in my experience insurance companies are pretty good at assessing the risk and the payouts they may have to — and then imposing conditions through the company. Do you think that if you removed another of your barriers, so we don't have any limited partnerships or single-project corporations, that issue's out there, do you think the kind of approach that insurance companies would use to evaluating the risk as opposed to a proponent evaluating the risk might offer some route to solution?

**Ambrose Raftis:** Especially the area I think the insurance companies would have trouble is in a project like Energy East where they can maybe estimate, you know, the first leak. There's not much history for them to work on. And so you'd have to have a financial person or financial group that could stay in for the long haul, so that if they were expecting three leaks and they got 15, like where's the money? They don't have the money up front for that. And so they're — the insurance equation doesn't see that. And so that's the problem you'd have too. And I think that's what would happen with the

insurance companies. They'll say, Yeah, we'll pay for the first two, but after that you're on your own.

**Doug Horswill:** So the issue, then, is being on the hook for the whole. I mean what you — in the classic world of economics, what you're talking about really is internalizing the externalities. The external risk imposed on society, how does that get internalized to the people who are enjoying the product.

So your distribution of liability. Did I understand you to say that you want — the Trans Canada would just be a carrier in this case. The product inside belongs to an upstream company.

**Ambrose Raftis:** Yeah.

**Doug Horswill:** So you want them tied in as well?

**Ambrose Raftis:** Yeah, I think that if they're not tied in, then there's this artificial pressure comes on. And it's they can create public pressure, they can go to the government, do all this stuff, because in many ways they can't lose.

**Doug Horswill:** In relation to the notions that are — or the policy guidance that is in the various documents you've talked about of limiting the liability, do you have specific ideas about how either laws should be written or regulations should be posed in order to ensure that liability does remain with somebody who's capable of paying?

**Ambrose Raftis:** Yeah, there's two areas there. One is establishing the limit. Like I think that's important, and I think that needs a much better process. So in the event of a major spill and a major loss, it has to include more than just cleaning the dirt out of the ground. The social costs, you know, what does it cost to shut a city down for three weeks, you know, what are the losses. I think in many senses once those are understood, then the business case becomes a little bit more real because they're saying, well, we really can't afford to pay that money out, so that makes the project a little bit less beneficial from society as a whole. I think in many ways we've lost the overall picture by limiting the liability, because essentially the people who are making the decisions aren't seeing the whole picture, eh?

**Doug Horswill:** Exactly. Have you examined the Husky oil case in the Saskatchewan River? That's probably the most recent one in Canada —

**Ambrose Raftis:** Yeah, a little bit. Haven't looked at the economics of it, though, but I imagine that's going to be a bit of a disaster for the people that were downstream.

**Doug Horswill:** Well and I don't know what Husky's liability would be in that case.

**Ambrose Raftis:** Well, in some of those cases there's just no way you can return that with money, eh. That's the other case is if you're building a situation that can take something away from the people in our society and it can't be replaced with money, then it's beyond liability and it shouldn't be done for that reason.

**Doug Horswill:** Right. Okay, so one of your points, then, would be what is that range of cost that has to be included in that liability calculation.

**Ambrose Raftis:** Yeah. It's sort of like everything, like everything that people lose. One of the examples in Lac-Mégantic, what happened is the rail company went bankrupt, paid $200 million because that's all they had, and then the government had to come in and pick up another 200 million, and they're still not paying yet. So we basically have a situation, a business case that was built by the railway saying, Well, we can make money on this, and the oil company thought it was a good idea. But they missed the bigger picture. And so the bigger picture was paid for by society as a whole. And I think that's what we have to look at is the bigger picture has to be accommodated. If it can be accommodated, the project can go ahead. If it can't be accommodated, the bigger picture — then the project shouldn't go ahead. And that's where the go and no-go component comes in.

**Doug Horswill:** Okay, and so the notion of assessing the entity that's proposing the project and making sure that the entity has the capacity is what you're talking about —

**Ambrose Raftis:** Yeah, and I think —

**Doug Horswill:** Or to demonstrate that insurance companies have backed it sufficiently.

**Ambrose Raftis:** And I think it has to be judged by people more than the promoter. Like I think in the case of North Bay, if they're saying, Well, there's no way we could cope with this, that should be the answer. If there's no way they can cope with it, then they shouldn't be allowed to take that risk because there's no social mechanism to respond to it, and so it's beyond what a project could return to it.

**Doug Horswill:** Okay, thank you.

**Johanne Gélinas:** Mr. Raftis, thank you very much for your presentation.

**Ambrose Raftis:** Okay, thank you.

**Johanne Gélinas:** I would like to invite now Ms Elaine Porter, who has been very patient.

## ELAINE PORTER

**Elaine Porter:** Well and I hope you'll be patient with me and that I won't go too far over the 10 minutes. I've tried to maximize the number of words per minute as I speak, but I can't go too fast I understand.

So I've read your documents and I'm impressed that you have followed the — you elaborated on a number of principles that I think are all impeccable in planning, and if followed, they certainly raise the bar above the past practice. However, your questions at the end of each theme suggest there's still a lot of work that needs to be done to address the fundamental conundrum of giving permission to projects that do not have zero risks to the environment.

So it's sobering to think that every new holding pond that will be created, for every one of those, there's at least one that's possibly leaking and at the point of overflowing. So we still have a lot of work to do on existing pollution. And I'm hoping that we can also find ways to mitigate the effects of pollution beyond dispersion to the air — and these are crude methods — dispersion to the air and dilution in the water. That seems to be — they seem to be the predominant means now of addressing environmental pollution.

Your document is a major step forward in the way it advocates for fair treatment of our indigenous peoples. I also see your wanting to go beyond lip service to the legislation at the national and international levels that give recognition to their rights. My major focus in speaking today is to signal the importance of the decisions that are in the offing for the mining industry in what is known as the Ring of Fire in northern Ontario and the effects that it holds for the indigenous peoples in northern Ontario. You note in your write-up that reconciliation is a foundational principle. I argue that it should be the guiding principle for the work that is done there, for the assessment that is done there. And my speed talk is meant to explain how and why.

Here's how I see a vision — possible vision. To accomplish this reconciliation, what is needed is time. I suggest that reconciliation involves providing indigenous communities with the education that has been denied them through our colonial practices. Giving time for healing and educational development to occur is in my opinion the only way that mining in northern Ontario can truly be sustainable and equitable and allow for nation-to-nation relationships to be established. Only through culturally appropriate education will indigenous communities be given the tools for free, prior, informed consent.

Indigenous people need a generation, say a 20-year period, to obtain the education needed for them to be able to create and occupy an array of jobs within their communities that provide for community well-being and make them eligible to take good jobs in the mining industry. They need time and education in

community capacity-building to develop understandings and coordination across First Nations communities to set up alternative technology such as solar and wind energy that would allow for a more sustainable mining industry and for them to contribute to it. This is the only way that co-governance, pillar 5 of the 12 pillars you outline, can be truly implemented.

During this period of time, the work of the EA can progress to actually implementing the regional strategic assessment that has been suggested as the gold standard. Such multi-layered comprehensive assessment would be the only way to proceed with the Ring of Fire, an area of about 5,000 square kilometres that encompasses nine First Nations communities and the James Bay Lowlands. Although De Beers diamond mines are not mentioned often as being included in these regions, they are not far away and they form a part of the overall region to be assessed because they have an impact on the same waterways.

This assessment is a significant multi-year undertaking if the 12 EA pillars are to be followed. So what I'm suggesting that if mining goes forward, then an agreement in principle be made that will give some assurances to mining companies that there will be access but — this is key — it will be guided by and led by the advances of the indigenous communities and be phased in slowly. Meanwhile, the minerals that have been there for millions of years will patiently wait for people to get their acts together.

What I'm suggesting may be automatically dismissed as too much of a bias toward indigenous peoples. After all, Canada is a capitalist society. Being a capitalist society gives legitimacy to granting mining companies access to mineral resources, an idea ingrained in the very fabric of daily life. A common sense notion. It operates below our radars. As an example, take the environmental assessment monitoring that was approved for the first De Beers mine that was established 90 kilometres west of Attawapiskat. The company was given the responsibility of self-monitoring by the government, and there was a real problem, because their monitoring was then not monitored, and MiningWatch has an extensive report on the consequences of that. So essentially it ended up polluting the river by Attawapiskat with methylmercury and has contaminated their food chain to the point that they, although they depend on fish for their diet, they're only allowed to eat it four times a month now.

Profitability and responsibility to shareholders is the modus operandi of mining companies. The environment is seen as a series of impediments to overcome when working to set up a mine. That beautiful river is an expensive barrier for a railroad or a highway. The tundra and watery ponds, rivers, and lakes are vast, empty spaces to be traversed to unearth the riches beneath them.

The indigenous view of land is opposite that of the mining companies. The land is sacred and preservation is the goal. We owe a debt of

gratitude to an indigenous people for staying strong despite all the adversities they faced, and we need to learn to listen to them more carefully. I think this is a remedy for us. We need not see them as victims if we give them the resources they need to develop their communities and then we listen to them. Allow them to educate us. Perhaps they need to set up classes that are mandatory for mining company executives and governmental oversight agencies.

In a more equitable world, I would like to think there might be complementary ways to proceed. Mining companies want what is beneath the surface, while indigenous peoples and the natural worlds inhabit the surface. It's too bad there's no keyhole surgery that we could use to extract the minerals without destroying the surface. The closest we can get to preserving the surface while extracting the mineral resources is through underground mining, not surface mining, although surface mining is proposed for all — most of the mines in that Ring of Fire. It's more expensive to have underground mining, but it may be more of a compromise solution.

I've become very concerned about the plight of northern indigenous communities when I learned about the social crises they are experiencing, and then learned about the immense pressure they are undergoing in northern Ontario from De Beers and Noront to approve mines. There's a push and shove to allow companies access to traditional indigenous lands for mines and mining exploration. This can be intense and environmental groups can be hired to vet the process — that are hired to vet the process can be merely green-washing.

Cliffs Resources was the mining company that first went in there in large scale and proposed a chromite mine. I learned of the process largely first-hand through an activist friend of mine who doggedly attended the sessions held by Cliffs Resources over a period of several years until Cliffs Resources surprisingly sold their $550 million investment for $20 million to Noront, which now owns it. My friend had the help of a geologist, a biologist, a microbiologist, a mining technician, a manager in a nickel smelter, and finally a machinist, who ended up giving the most pointed information about the effects of chromite-6 on human health because he had been involved in cutting stainless steel and that releases chromite. All of these people helped her to do extensive research on chromite-6, the toxic version of chromium that occurs when chromium oxidizes, the ill effects of which Erin Brockovich popularized or fought against in California.

The environmental firm hired to gain public input was like a kindergarten exercise of putting sticky notes on a poster and they just disappeared. Nobody followed up on them. There was nothing done with them. She sent registered letters to the company executives. And after pursuing that for a half year, she finally received a response. This is the response she received from the company. It's a binder containing material on chromite that she finally received after all her efforts. It was an onerous task, even with all the help she had, to sort through this and figure out what the

mining company was actually going to do to prevent the environmental and ill health effects of chromium — of chromite-6.

And the point I'm making is that in order to be meaningful, any review — environmental review that involves the community must give them the ability to meaningfully evaluate the results. That means people who are educated in the field need to be there to be helpful. And my point being, in terms of native communities, in terms of indigenous communities, they need to be given education and training to be able to meaningfully evaluate the mining risks.

So I concluded finally that if we went ahead with mining, there's a really great and present danger that there would be huge risks to the environment and that the social risks would be very high as well. The communities would suffer — who already have — are suffering from problems have — would suffer from the social upheaval of transient mining activities. The roads would become two-way streets, and there would be little to counteract the lack of opportunities in their communities. And I'm sure you'll hear more about this tomorrow.

I'm almost finished. I'm getting there.

Okay. I talk about cost benefit analysis, and I say who undergoes the cost, and who gets the benefits. They're not always the same people. And I suggest that the people who are — there's a real concern here, because the people who are proposing, say, the rail line, which has fewer environmental effects, are the indigenous community. And but the — it's cheaper to build a road. And so the mining company wants a road in this situation.

And I'm making a point also that's similar to the one that has already been made in terms of the previous speaker in terms of the investment of the public in the mining industry. Especially for this project, there has been committed by the federal government tax incentives for investors for mineral exploration, and mineral exploration has similar effects to mining overall. They degradate [sic] the environment and they're not necessarily contained in the legislation. And the Ontario government has pledged one billion for infrastructure. There are all subsidies for the company.

Finally I'm going to conclude that in order for any project to go ahead, we need to have very, very good data and be very careful in terms of looking at approving of the projects. So we need careful vigilance over the mining process. And by the way, giving time for the communities to develop — the indigenous communities to develop also gives them the possibility of being involved in the monitoring process and more involved overall in the mining process and so it responds to their needs as well. And so careful vigilance over the process. So the first sign of a violation can create a shutdown of the plant so that there isn't a continuation of that infraction.

And this is one point I want to emphasize that really is a reaction as well to the question about how do you actually stop or how do you actually prevent companies from going forward and not absorbing the costs of the pollution that they have created and being responsive to the community after the fact, after their projects have been approved. I would suggest we don't make multi-year project agreements, that we make year-to-year renewable agreements that then force monitoring and review as the project unfolds, rather than assuming just granting that "yes," giving that "yes" agreement simply puts into play control over the project completely by the company, that is in this case, the mining companies.

And finally, I want to say that it's hard to believe that a "no" alternative would be accepted in this case, given all of the investment and pressure to develop mining companies in the Ring of Fire.

**Johanne Gélinas:** Thank you very much. Renée?

**Renée Pelletier:** Thank you. Just to pick up on your last point about rather than having multi-year agreements having year-to-year agreements, could you maybe flesh that out a little bit. Are you proposing that there be a government approval that the proponent would need to come back to the regulator every year, that there be a full environmental assessment, revisit things — I'd like to hear your thoughts more on that.

**Elaine Porter**: Okay. If the risks are well defined and outlined in the beginning, it helps. It provides a focus for where the assessment should take place in the subsequent years. And so yes, I think it should be — if there is no — I think the other examples will give you some idea of how much can go on and continue to go on even though violations have occurred. What needs to be done is these things — the violations caught, and there needs to be an independent body outside of that mining company that vets the issue and looks at the issue. And if it's not a matter of people having to bring it back, make an issue, it's very hard for the community to make that case. And if it's built into the agreement, then it will naturally occur as part of the agreement, and the company will realize that they're going to be under the scrutiny of the — throughout the whole process of the environmental assessment process.

**Renée Pelletier:** Do you think having some kind of independent body perhaps with indigenous representation doing monitoring addresses some of those concerns?

**Elaine Porter:** Yes, I think it does. What it does is it puts into practice the principle of people who are most affected and stand to have the most pollution and degradation to their environment are the ones who should be there monitoring. They know what to look for. They can use their traditional knowledge as well to put that into play as well. But I do want to emphasize that I am suggesting that educational component whereby they also develop those skills and that we give them time in order for that to take place as well is important.

**Renée Pelletier:** Thank you.

**Rod Northey:** Yes, Ms Porter, I just want to follow up. You said — I'm just — I'm coming back to the document I think you've reviewed, and you mentioned the 12 pillars that we outline. And I just want to clarify there is no document that we've outlined with the 12 pillars. Others are outlining 12 pillars of next gen EA.

But I do want to — I don't want to miss the point you're speaking of. One of the aspects of that is talking about regional environmental assessment, which you recommend. So the only question I'm just going to focus on right now is you acknowledge that to be multi-year. Do you think that should be starting now, and do you think that's part of federal EA of the future? Is that what you're recommending we consider?

**Elaine Porter:** Yes, I am.

**Rod Northey:** And starting it in this instance as soon as possible? I'm just trying to follow up —

**Elaine Porter:** Yes, I know. Potentially you could — the problem is, you could go all over the place and do EAs if you aren't responding to a particular project. But in this case, in this particular case, there has been so much activity and so much has already been done and there's so much pressure, there should be a lot of information that's already there. And yes, it should be started right away. Because there isn't just this — there are two major actors, De Beers and Noront. But there are a lot of other small companies that are involved. So and there are multiple deposits. And so yes, this should be looked at as soon as possible.

**Rod Northey:** Thank you. Thanks very much.

**Johanne Gélinas:** Thank you very much, Ms Porter.

**Elaine Porter:** Thank you.

**Johanne Gélinas:** I would like invite Naomi Grant.

## NAOMI GRANT

**Naomi Grant:** All right. So my focus will be to look at what we might want the EA process to look like. I think this is a really great opportunity to envision that and to think about what we really want. I'm speaking as an individual citizen today and my perspective comes from working in community-based environmental and community-organized organizations. And part of what we do is facilitate citizens engaging in processes like the EA — whether that's federal, provincial, or municipal — and other public input processes. So that's kind of where I'm coming from.

So I think the first thing to look at, what is the main question we want to guide an EA. And at a really basic level it's: What option does the most good? So that's very simple. But what do we mean by "good"? We mean it's sustainable. We mean it respects the Nation and the community in which it's based. We mean that it takes us closer to the future that we envision together. And that's a very different question than: Will there be significant adverse environmental effects after mitigation measures are implemented? Which is very specific, but also which seems to have the inherent assumption that the project will go ahead; it's more a question of not yes or no but how, which is in itself seems presupposed by a heavier weight to the economic benefits of a project than the health, social, and environmental aspects of a project, whereas I think if you ask almost anyone in a community, their priorities are the other way around. If you ask — well, if you're looking at your water, is it more important that it stays safe as a drinking water source or that it stays as a good resource for water for industrial use, every person will answer a drinking water source. It's a basic response.

How do you test among what are the best options, which includes as well the null option of doing nothing. It should be science based, and it should use the precautionary principle. So if there's a reason to think there's harm but we don't know how to measure that yet, we should be erring on the side of caution. There should be a climate test. We have some climate targets which hopefully will get even better. We should be meeting those climate targets. There should be water targets as well. Water is not location based. Water flows. People downstream are impacted. So we really need to be protecting water quality in our federal EAs which we lost in 2012.

It should be contributing to the future we envision — our broader vision, but also we just talked about regional plans. It should be fitting into a regional plan. And we need to be looking at cumulative impact. So currently we can have a whole area covered with smaller projects that have been judged to only require an individual EA, and there's no cumulative impact being looked at, even though you can have an entire area blanketed with projects which obviously would have a very large cumulative impact. It needs to meet the test of consent.

And using all of those, if we have a very clear framework for testing and a clear vision of where we're going forward, that really does help provide the certainty for investors as well in terms of knowing if a project's going to fit into that framework or not.

The assessment itself should be independent. We've talked about who needs to be doing that. We shouldn't be having proponent-gathered data and data assessment. That's very difficult for that to be independent and definitely really difficult to be viewed as independent. It should be impartial. That means that whatever body is looking at that data and assessment should not have ties to the proponent or to a position that is in favour of a certain type of project. And we need to

have the capacity to do that thorough, independent, and impartial assessment, and that's been talked quite a bit about already as well. And it is the public interest that is foremost, not private interest.

It needs to be meaningfully inclusive, and I'll talk about that more later. It needs to be consistent with overarching values and goals. So a federal EA is a time to look at the big picture, and it is time to check in with whether what we're doing is matching with where we want to go in terms of long-term public interest, consent, climate change targets, those type of things.

We should be looking at full-cost accounting and lifetime assessment. We shouldn't be asking a community — this happens most especially in remote, rural communities — to take on risk for their health or their environment that is permanent for economic activity that can sometimes last less than 10 years, perhaps up to 30 years for the lifetime of a mine, which is less than one person's working life. We need to meaningfully include community values, intrinsic values of place and traditional knowledge. Those can be heard in an EA, but they're not really weighted in any way.

And an assessment needs to be ongoing, so throughout planning, during and after implementation. And I think we've heard a lot about monitoring and enforcement today. That's very important, that what's on paper, what's been agreed to in the EA is what is actually happening in reality.

So in order for people to have trust in the process itself and in the decisions that are made, it's really, really important to have a good public process during the evaluation and for decision-making. So I would say that that means being faithful to the United Nations Declaration on the Rights of Indigenous Peoples for free, prior, and informed consent. People need to know that their input can change the outcome. That's not the perception now, and in fact off the record many — if you call the Department of Environment and ask for some guidance on participating in an EA, many staff people will tell you off the record it's going to happen, so just give in some input about how you want it to. Right? So that's people's perception and experience. And it's not just because people are cynical.

Citizens need to be able to meaningfully participate. So the quantity of information, the language used, the technical details, the timelines — all of these are barriers. Distance can be a barrier in the north as well. People need to have support to meaningfully contribute. And in addition, when there is valid citizen science or outside expertise that is submitted, it needs to be taken seriously. So my background is science. I like the peer review model. I think that you should be having a peer review evaluation of all the different analyses and information brought forward so that you can have a real look at the value and the validity of all that information brought forward. It shouldn't be lost in the big shuffle of all the different type of input.

By the same token, people should not need to be experts to be heard. So community and human values are real. People are living in communities. Their quality of life, their way of life, their attachment to their place are all real things and that needs to be given real weight in the process.

And very important, a good public input process is a conversation. Okay? So right now you put in your comments and then a while later you get a little chart from the proponent, and it'll give you their answer to some of your comments. But there's no — that's not a conversation. You have no way to clarify whether they misunderstood your point. What about the points they didn't address? What about a reply? You can't come to a good consensus or a good compromise or a good decision without a conversation.

And we've already heard a little bit about the tension between having a decision early enough and having enough information. I think you need to have that ongoing process where you have gateways. We're going to first consider is there a need for this project. Could this be a good fit? Could this do some good? Yes or no. If it is, let's collect the data. Let's look at the possible impact; let's delve more deeply into the social, environmental, and economic pros and cons. If at that point we decide yes, let's continue, you can get the detailed design drawings and look at the specifics. How is this actually going to work? So you have a process where you're going through and having a conversation as a community about what works and what doesn't. And the community input needs to have real meaning at each of those stages.

Another thing I want to bring up is people need to feel that their input is not a check box that's filled out in the process so that the project can move forward. So that's when people feel that they're being co-opted. Their input is being co-opted as a stamp. Yes, the community participated. And people feel that way when they don't feel they have any meaningful say in what's going on. And it comes back in their report, oh, look at all these people we talked to and they're all good with this outcome. And they feel, well, I've just made it easier for them to do something I have serious concerns with. Or when the consultation is proponent-driven, sometimes there are proponent-led community committees, and sometimes there are either express or understood niceties. Either way, people feel that they're on these committees because they want to make a better difference, but they can be tied; they're not permitted to say anything negative about the project to the wider community, or they're put in this bizarre position of being the advocates on behalf of the project to the wider community. Very important not to co-opt the project and for the public process to be independent and not proponent-led.

So really the outcome you want is for there to be true nation-to-nation relationships. You want community support and trust. And that's really the only way you can have certainty for proponents as well is for people to trust the outcome. Because if they don't trust the process and the outcome, then they will need

to take other actions because they don't feel that they can have a real say in the process that's there. It should contribute to our envisioned future and our overall goals for climate and sustainability and water, and we should have the overall impact of a better environmental, social, and economic sustainability.

So thanks very much for the opportunity.

**Johanne Gélinas:** Thank you very much, Mrs. Grant. Questions?

**Doug Horswill:** I want you to elaborate on one, just one particular thing. And it comes up a few times in your discussion. It's around the notion of sustainability as a guiding concept at the outset, and then just recently, later in the presentation, you talked about gateways. And the first gateway, is there a need for the project. And it's the word "need" that I'd like you to elaborate a bit on. And I'd like you to do it with the kind of notion of two sort of options, two avenues, two types of projects. One might be a public project, like the one we heard earlier today about the road, right, and twinning or four-laning the highway. But the other one would be a private sector project in a specific location, and one of the examples might be a mine because the ore body is where the ore body is. When you look at those two, how does the need concept get executed? Whose need? What referent group do you have in mind? Just fill the gaps in all of that.

**Naomi Grant:** Right. So for a federal EA, so it's a government assessment, which means it's public interest. So the need is public; it's never private interest. So if you're looking at a community level, it could be a private interest, it could be a need for jobs, for economic activity and so on. But the point is it's that the community should be deciding what are the risks we're willing to take, or perhaps there are compromises, so if we do more of this type of economic activity, we'll be doing less of this type. Or if we do this type of economic activity at this location, we won't be able to have these other uses of this particular location. But it should be the people who are impacted and who are taking that risk who are deciding whether the benefits overcome the risks.

**Doug Horswill:** Is there a role for the notion of the benefits and the costs that might be incurred outside of that community to have any role to play?

**Naomi Grant:** Yes, and that's why I think we need to fit it into the larger framework of where do we want to go. So if you require public infrastructure to travel, for example, right, you're looking at a wider need than the one community. If you're looking at anything to do with water, there's going to be downstream effects. So there are wider interests in play, but it's also unfair to ask one community to take on a risk they find unacceptable for a wider, like a larger benefit. We should be able to find a way to achieve those goals without imposing those risks on them if they don't find them acceptable.

**Doug Horswill:** Is there room in your thinking for a situation where there may be risks that are incurred by one referent group in a location to be compensated or

accommodated in some fashion from those who have actually benefitted and they might be outside that region? Do you think about that idea at all?

**Naomi Grant:** Well, again, I think it needs to be the community or the Nation most impacted who decide what's an acceptable compromise. And I think that answer might be different in different places. So I don't feel that we can decide for a community or for a First Nation this is the best trade off for you. They need to decide that, yeah.

**Johanne Gélinas:** What about the opposite situation, though, where a community wants to have the project and there will be outsiders saying that you shouldn't go with that project because it will have other impacts, more global, like climate change. Where do you see the role of the municipality in those kinds of situations? Not the municipality, but the community.

**Naomi Grant:** Uh-huh. Well, I think you always will have times where there are competing interests. In fact, I'm not sure if I can think of a time when there aren't competing interests. But that's why I think it's important to have those larger tests where you can have a very concrete answer to is this meeting our climate goals or is it not. And if it's not and the community wants to go ahead, well then you have to say are there other options for realizing this or a different option that does meet the test of meeting the climate change, but this is not something we're willing to do if it doesn't meet the test of, you know, climate, water. You will have a few large-picture things that you're not willing to move on.

**Johanne Gélinas:** Thank you very much for your presentation.

**Naomi Grant:** Okay, thanks.

**Johanne Gélinas:** And thank you for your deck.

We have two more presenters. We have Ms Barbara McNichol. Right? Welcome.

## BARBARA McNICHOL

**Barbara McNichol:** Good afternoon. My name's Barbara Munson McNichol.

**Johanne Gélinas:** Please have a seat and speak in the mic.

**Barbara McNichol:** Thank you. I heard about the time of this review process just recently, so the only visual I brought today in introducing who I am — and thank you very much for the opportunity to do so. I'm very honoured to be here. The only visual I have is related to the work that I've been doing to try to protect the Benny Forest area with this poster, "Save the Benny Forest." It talks about the work that we've been doing

about an hour's drive north of Sudbury with a youth camp that is — mission is to give children and youth the chance to enjoy a healthy, fun wilderness camp based on native culture and leadership. And my husband, Clyde McNichol, who's here, is schedule to present to you tomorrow from the perspective of Camp Eagle Nest, the indigenous perspective.

So I'm going to present today mostly on behalf of my perspective as a private citizen and resident as well as the business perspective for Camp Eagle Nest and my experience there.

We've been running the camp for four years, and in 2015 of April [sic], we saw loggers come into the village where my husband grew up, Benny, with the purpose of preparing to cut in the area. And so we've been standing up since then, April of 2015, and my talk to you today will talk a little bit about what we went through in that process. And before we stood up, our neighbours and friends on Geneva Lake, which are very close to Benny, were working to try to protect the forest land very close to where we were as well. And so I hope if I have time in 10 minutes, I'm going to watch it carefully — or 10 or 15 minutes maximum — I'll be able to tell you a little bit about their experience as well with the environmental review process that they requested on behalf of residents with beautiful homes on Geneva Lake, very close to where my husband's village of Benny is.

I'd like to summarize briefly that after we stood up in April of 2015, we were able through garnering support with Geneva Lake residents and others, press releases, engage the Ministry of Natural Resources and the lumber industry in their own process, the guidelines they have for adjusting their logging plans.

My husband grew up in that village, but he spent most of his adult life in Toronto and we moved back only in 2012. And so the forest plan that we were concerned about was a 2010 to 2020 plan, 10 years, yeah, 10 years. And there was some consultation before approvals for that plan in 2010, but we weren't here. He came back in 2012 so he'd missed that. By 2014 they were going to report on the first five years of the plan, and seek approvals or adjustments as needed for the second five years. And we missed that too, because of the inadequate publicity around the consultation process.

He's never lived on the reserve. He finally got status in 2008 or '07, but most of his family for years and years were never — were some of the native people that were left out. They were left out of the treaty process. They were supposed to be included, and we've done a lot of historical research to see where that went wrong. But they basically have been left out all along and they continue to be left out and not adequately represented even by the chief of, you know, the reserve, which is at least an hour's drive away.

So in our experience, with what we were able to do, the Ministry of Natural Resources and the forestry country [sic] agreed to go through their process of possible adjusting of the plan and they voluntarily agreed to not cut the blocks closest to the village of Benny and conduct studies — ecological studies by an expert from Premier Environmental Services, archaeological study from a professor at Laurentian, and traditional knowledge studies, and with my qualifications with a doctorate of education, I was retained to do the traditional knowledge study. What I found was that the process was so slow, and in the meantime cutting was going on very close to Benny on the other side of the highway to the village. And it was so slow that I was almost unable to complete that study because I could not bear taking money and watching the trees go down. I felt if no one stands up and says, "Those trees are more important than any amount of money," they're always going to go down. So I felt called to just not even take the second installment of the grant for that.

But anyway, the result was not satisfactory for a number of reasons. And we found out by the end — the studies were eventually done, okay, starting in May or June these studies were commissioned and paid for by the Ministry of Natural Resources. And they were completed by the end of the summer, August, September. The results of the study were not — there was not a meeting for that until sometime in December. And the guidelines clearly say that the people that originally object to the cutting need to be at the meeting where the results of the studies are discussed and decisions are made about adjustment plans; however, there were three people that were the key objectors who went in when we first saw the cutting happening. And we delivered a letter from the First Nations chief asking them to stop because of adequate consultation. It was a former chief, Elder Art Patatagoos(phonetic), from my husband's reserve, as well as my husband and myself were the three key people who were asking for an adjustment to the plan. And none of us were invited to the meeting in December with the Ministry of Natural Resources representative and the other parties that were going to make decisions around the adjustment to the plan. We weren't invited to that meeting, and no reason for not inviting us was given. There were other occasions on which a forestry technician came up to view the area from the reserve, and we were told that we'd be informed, invited to go on and tour the area with them, but that didn't take place. It was just a lack of different priorities between what was going on in our way with the First Nation and my husband's area.

So it didn't work for us. And when the decisions were made, in spite of the fact that these studies showed all of the things that were needed to adjust plans such as old growth — we had the ecologist was showing trees 300-plus years old — endangered species — he'd collected information about he'd seen a Canada warbler, as an example of an endangered species around the area. He'd seen snake and bat habitat, which is supposed to require an adjustment to the plan or at least more study to confirm if the snakes — endangered snakes and bats are there. Plants — the blue iris, he'd found a number. And there's supposed to be an adjustment based on those kinds of findings.

There was also archaeological interest clearly shown in the archaeologist's report. And there was evidence of historical and current cultural use of that area for native indigenous cultural purposes, including sweat ceremonies — recent ones — and the camp, the youth camp where elders come and teach the children a little bit about their culture with the habitat. That was all there in the studies.

But the decisions around adjustments were completely inadequate to save any of that because it was decided that only a suspected serpent mound would be protected, and there might be one or two trees on this suspected serpent mound. Other than that, the loggers were able to go wherever — as much as they wanted up to 30 metres of all trails and waterways, including the river along which we have the sweat lodge and teepee. So that meant that the cutting could go ahead based on their decisions, but the camp that we had set up and where we had five camps this summer with children and youth, three to seven days of length — we held those camps this summer and we won't be able to next summer because how can you bring children to a camp where all this clear-cutting has happened? It's just not possible. So people are saying, Well, go find another place to have your camp. But that's pretty hard to do when you've become attached to an area.

And my view and my learning, the old way of managing, of stewardship over the land that the Native people had before settlers came, it was clan-based and there was a clan headman and these clans lived alongside each other, they didn't rule each other. And in my husband's particular case, Atikameksheng Anishnawbek, there were at least 10 families, clan, extended families, and they lived alongside each other and there was not one superior to the others. And the size of these hunting territories were not so big that they could not be — that one family could not manage them with wisdom that comes not only from the head but also from the heart. You can know that size of a territory as a family, as an individual, so intimately. And those trees can — are — become readily treated as families, as people, as with spirit. But when it gets so big, which is the traditional territory is really large, you lose that. Sure we have computers and technology and supposedly all this information can make wise decisions, but it's never from the heart like it used to be with that size of a governance and that intimate knowledge with the animal families, the tree families that used to exist.

So I believe that Canada wanting to give any of the band chiefs — and in my husband's case, the reserve was created around only one of those 10 clansmen's hunting territories. There were promises made, and we had the historical documentation to prove it, that the surveyors, the officials were going to return and survey the other families' hunting territories and protect those, but that still hasn't happened, and my husband is one of the people who are still waiting for it to happen and expecting it to happen. And while we're expecting it to happen, we're doing this kind of thing. So that someone will come out and survey that area and it can be protected and run by the original people and the original clan territory and whatever that

form is today. And we're building supporters, both native and non-native, who want that to happen. And we're still wanting that to happen.

So what's happened, they had stopped. And 800 hectares closest to Benny, they took thousands and thousands of hectares further away that my husband was also wanting to protect. But now they're going after the next 800, the last 800. The road is going in as we speak to get that. There's closest to the graveyards, the camp, the — everything that we had — that was studied.

**Johanne Gélinas:** I will invite you to conclude, please.

**Barbara McNichol:** Pardon me?

**Johanne Gélinas:** I will invite you to conclude.

**Barbara McNichol:** Okay. Oh, it's almost — we have 15 minutes, okay.

Well, I have five recommendations. I'm not going to be able to say that in the amount of time that I have left. So I'll leave you with some information which I'll also send electronically and I'll just summarize the information that I have left that I was hoping to say, including all the Geneva Lake process that they went through for a couple of years before we started and their dissatisfaction with the environmental review process there.

In the traditional knowledge study, I was asked to remove all the historical information because the Ministry of Natural Resources process could not handle that, so the decisions were also made without any of the treaty information, and I felt that was the most powerful information that we had.

So quickly, the recommendations, first of all, follow your own guidelines, and have a system where if they're not followed, someone should have the authority to actually shut down the operations if they're not followed properly. And the court has not been adequate to do that. We actually did try to get an injunction, but it wasn't successful. It went through a couple months of doing that. Maybe we need a prime minister who's passionate enough to, you know, give the go-ahead to shut it down if you're not following the guidelines.

Or you should be able to bolster the other ways that it might be possible to save an area if the guidelines aren't followed or something has gone wrong, and such as the target to have 17 percent of the land by 2020 preserved. See if we can fit it under that or the national park reserve, a way to protect an area until the land claims can go through. Or the Queen's Commonwealth Canopy Project. And I have an application here for the Queen's Commonwealth Canopy Project. We need to have — the only thing we're missing is evidence of endorsement of the relevant government and forestry conservation authority. And the other day, we got a letter from the Prime Minister's office copied to Minister Carolyn Bennett as well as

Catherine McKenna acknowledging our letter. It was the second petition to Prime Minister Trudeau after petitioning to the Minister of Natural Resources in Ontario and many others. But so they've acknowledged our letter and copied it to those two ministers. If Honourable Catherine McKenna can help us get that government letter, then this can go forward and we can protect that area that's at imminent threat. So that's really what we're going to ask for and very urgently, because we could lose everything, you know, this camp and everything.

And then I have a couple of other recommendations, but I guess I'll have to quickly just say them without explanation.

Be more specific and stringent regarding what constitutes adequate consultation with First Nations and what projects require consultation. We have a Cartier dump issue that was never even covered. The First Nation itself was not even informed about taking in the waste from the Gogama oil spills that all came to Cartier near Benny.

Next, require an effort to inform all indigenous peoples in the traditional territory concerned, not just the First Nations that Canada officially recognizes, because many are not included in those treaties. You can't assume that those 600 nations are the only ones out there, that that process was done properly. Those treaties were — yeah, you have to inform every First Nations person in the traditional area somehow. And there are addresses that reserves have and ways to do that.

Next, require proof that the letters of invitation have been received by specific First Nation decision-makers and that if a decision's been made by a chief not to participate in the consultation process, require the proponents to request a statement as to the reason for non-participation and to make this information public. It could be that they're just too stretched, don't have the resources; we don't know.

And then finally, do not conclude that just because a First Nation chief does not object to a resource extraction that it is therefore okay. Protection of mother earth should be key regardless of the race of the person advocating it.

And I'll leave you with some documents and send them electronically. And thank you very much for your time.

**Johanne Gélinas:** Thank you very much.

The one thing I may say most to my colleagues, it's very hard for us to react on a typical or specific case, especially when it's at the provincial level. Having said that, you have — I liked a couple of elements that we also heard elsewhere when it comes to informing indigenous people, making sure that they have enough time to react. So we are taking good note of these elements of your presentation.

Any questions on your side?

**Renée Pelletier:** No, that's okay. You'll be sending your notes electronically as well?

**Barbara McNichol:** Yes, I will.

**Renée Pelletier:** Okay. I look forward to that. Thank you.

**Barbara McNichol**: And you'll have a chance to hear a little bit more tomorrow along the same kind of issue.

**Renée Pelletier:** Excellent

**Rod Northey:** So again, just to echo this point about provincial and federal but trying to get an understanding of this.

So is there any resource that you have been able to uncover right now that explains to the world where the traditional territory of these clans is? So I understand your point — there are multiple clans, there is a treaty, there is a reserve with one. Is there anything out there at any level — at the federal level with Indian Northern Affairs or Indigenous Peoples as it's now called, and provincially — did you reach out to try and get info or is that information only understood at the band or clan level?

**Barbara McNichol:** There are individuals within the Nation that still have some of that knowledge as to where their ancestral hunting territory was. Because of encroachment those boundaries, which were clearly understood at the time of — before settlers came, the boundaries changed, partly because they could no longer get enough beaver so they had to have a wider territory, for example, residential schools, loss of information. But there are still elders with that specific knowledge as to where their hunting territory was. There was a lot of fear to tell people that I know where that was because of the oppression, the fear that they would be — they or their children would be physically hurt.

**Rod Northey:** Thank you.

**Johanne Gélinas:** Are you coming with your husband tomorrow?

**Barbara McNichol:** Yes, I intend to.

**Johanne Gélinas:** Okay. By lack of time this afternoon I will keep my question, but tomorrow I would like to hear more from you, because you mentioned if I'm right that you have done some kind of traditional knowledge studies.

**Barbara McNichol:** Yes.

**Johanne Gélinas:** Okay, so maybe tomorrow we can talk a little bit more about that.

**Barbara McNichol:** Thank you very much.

**Johanne Gélinas:** Thank you very much. Have a nice evening.

So our last presenter for tonight is Ms Lisa Vandermeer. Tell me that I pronounced your name properly.

**Liza Vandermeer:** It was close.

**Johanne Gélinas:** Almost?

**Liza Vandermeer:** It's [LIE-za] actually. It's okay. It's a hard one for a lot of people to —-

**Johanne Gélinas:** Can you say it for me, please.

**Liza Vandermeer:** Liza Vandermeer, like —

**Johanne Gélinas:** Vandermeer?

**Liza Vandermeer:** — Liza Minnelli, swing your partner —

**Johanne Gélinas:** I just wanted the Vandermeer —

**Liza Vandermeer:** — I's the b'y, all those names. There's a hole in the bucket, dear Liza.

## LIZA VANDERMEER

**Liza Vandermeer:** So thank you very much for this opportunity to address the Panel. I really applaud you for the efforts you're putting into letting members of the public have an opportunity to give you input.

I speak as a former provincial civil servant. I worked for the Ministry of the Environment for over 30 years. I retired a few years ago. The reason I went into being a civil servant was because I've been a life-long very passionate environmental activist. I didn't always find that that was compatible with being a civil servant, which was one of the reasons I took early retirement. But I certainly had a lot of opportunities to see what was working and what wasn't working well. I worked in the field of environmental enforcement in northern Ontario as well as in Peterborough. So I have a biology background and have always been a bit of a generalist. So a lot of my comments are sort of process, I guess, and overview of how I have seen things not working terribly well and how I hope things will be able to be done better in the future.

So some of my comments are also based on questions that were raised on your Panel's information on the Web, so I just wanted to sort of touch on some — it's going to be kind of stream of consciousness. I'm not as sort of theme-oriented as many of the previous presenters.

So one of my concerns has always been — when you're considering environmental assessments — is the idea of including economics in that assessment. We used to say in the Ministry of the Environment that we were the Ministry of Everything and then they made us the Ministry of Everything Else, because everything gets lumped into the environment, which is good in some ways, but unfortunately, when you start looking at things like economic factors as part of the environment, that waters down what I consider the "real" environmental factors. We have to recognize that government considers economics and jobs and so on in so many decision-making processes. The Ministry of the Environment in Ontario had a tiny, tiny amount of funding, and I'm pretty sure that the Ministry of Environment among the feds is not one of the larger departments. And the idea of trying to water down the environmental considerations with potential jobs and so on, I think that can be a real problem, because it detracts from the validity of the scientific, environmental, water, the biological factors that need to be considered.

We know that all decisions made by government are always influenced by potential jobs, potential impacts on the economy. So to introduce that into the EA process I think is kind of double-counting the economic stuff as opposed to giving the environment the emphasis it requires. It's driven me crazy over my career how many times people would say, Well, you know, you have to balance the environment against the economy. Well, if we don't have an environment, we don't have an economy. That's not news to anybody. We have to have water. We have to have air. We have to have places to grow food. And so, you know, to make some decision based on, Well, this is great; it's going to create 1,000 jobs over the next five years — yeah, it's going to destroy lakes; it's going to destroy people's drinking water. That's a really bogus argument.

One of the things that I've really noticed, especially in the north, because this is where I've worked — and somebody had said, you know, minerals resources don't just evaporate, they're there. If they're not exploited now, they'll certainly be there for future generations. And what we have seen in the north is massive extraction of very valuable commodities. Where have those profits gone? They certainly haven't stayed in the north. There have been minor advantages for people who've worked here. There's been job creation. Sometimes a curling rink has been built. But that money goes elsewhere. It doesn't stay in the north to support and encourage the people who live here. And again, I've worked with contaminated sites like the cobalt mines, which was a huge — it was the largest silver deposit in the world, massive, massive profits were developed there. And that money all disappeared and the province was left to deal with the most significant arsenic contamination in North America. And that's the kind of thing that happens if there's short-sighted emphasis on

profits and job creation versus the long picture of what is really the final risk benefit analysis here.

Again, one of the other things that concerns me about environmental assessments is that there doesn't seem to be a way to say no. We always end up saying yes with conditions. I mean, sometimes there are no-go decisions, but they're very, very rare. The example that Ambrose Raftis was talking about with the Adams Mine proposal — I worked for the Ontario government. I was in the office where that proposal was being reviewed. If there had been a mechanism by which we could have said, That's a really, really bad idea right from the start, instead of spending all those resources going over, Oh, it's going to be great if we only do this, you know. No, it'll be wonderful if we only do that. And you know, it wasn't the fact that it was a really bad idea that killed it. It was the liability at the end that finally put the nail in the coffin. That proposal wasted so much government resource at the time, and it was one that was pretty much a no-brainer right from the start. And that's not an unusual situation. We get so many situations where environmental assessments go through. Regulators are almost never allowed to say no. There's so much pressure on regulators to say yes with conditions. And I can tell you, I am not somebody who gives in to pressure very easily, but I know that every regulator in every field is pressured to give the convenient, the easy answer as opposed to sticking to their guns and saying no.

One of the other points that I wanted to say that with the problem with conditions that are often attached to environmental assessments is sometimes they're unenforceable. And who's responsible for the follow-up? Many of these projects have very, very long lifespans. They could be 20, 25 years. There's no mechanism by which anybody can make sure that all of those conditions are being met or that they can actually take effective enforcement action when they're not. And I've seen that over and over again. And I'm the one who's willing to be the obnoxious and say, Excuse me, this condition was identified 10 years ago and they're not meeting it. And the shock and awe on everybody's face when you point that out. It should not be the work of one person who's willing to be a pain in the neck to draw that out at the risk of losing their career. And I can assure you it happens all the time. But you know, bureaucracy's are just so big and so snowed in by stuff, it can be really, really hard to do that long-term enforcement and accountability.

Another example that I just wanted to point out from — okay, no, I'll move on.

Another point that has been asked, I understand, was the idea of making agencies like the CNSC and the National Energy Board responsible for conducting EAs in the fields for which they regulate. I have to say, really bad idea. I'm sorry. And I can say from personal experience —

**Rod Northey:** Can I just clarify — they're doing that now.

**Liza Vandermeer:** Okay, and well, all right. Well, all the more. And again, as a provincial civil servant I didn't know as much as I would have liked to about the feds, so I'm still learning about this process.

I have a personal experience. Since I left Ministry of the Environment I've been doing some consulting. And one of my recent jobs was to do a review of the CNSC regulatory oversight report, specifically on one of the local facilities, the Blind River refinery. And I don't have a master's or a Ph.D., but the glaring, glaring errors and omissions and just bad work that was done by the CNSC in preparing that regulatory oversight report.

You know, it's sort of the Stockholm syndrome that a regulator, if they're dealing too much with one industry, they tend to develop a cozy relationship. And it's just human nature. I've seen that with the provincial MNDM. They're responsible for both promoting and regulating the mining industry. It just happens. People spend all their time associating with miners and they start thinking like miners. In fact, many — you know, it's the same with the pipeline industry. Who works for NEB? People who got pipeline experience with Trans Canada and other companies. So they automatically have a bias, no matter how hard they try to be dispassionate. That's why I feel it's really important to have an impartial third party like the Canadian Environmental Assessment Agency doing the work.

I also think that it's a great idea to have third-party agencies preparing the environmental impact statements. In the province of Ontario, we moved away — well, we actually — the legislation for site-specific risk assessments for contaminated sites went to qualified persons that are actually defined under the legislation. The proponent has to pay that third party, but they have very, very strict protocols that they have to follow. So there's a good deal better chance that it's going to be an impartial and unbiased report that's being done.

And I have to echo Ambrose. I have seen so many reports from proponents, Oh this is going to be greatest thing; you're going to love it; it's fabulous. But I mean that's their job. It's their company. Of course they're going to say that it's fabulous, because why on earth would they be trying to get shareholders to invest in it if it wasn't going to be fabulous and the best thing since sliced bread? It can be very, very hard to get a proponent to acknowledge the shortcomings in their proposal.

The other thing that I did want to comment on was public consultation and involvement of First Nations. In my role working with the Ontario government, I was able to observe what was going on when the Victor diamond mine was proposed, the EA for it and the approvals. There was a lot of back slapping and fist pumping in the Ontario government when that project was put through. Based on the fact that they felt they had managed to persuade the Attawapiskat First Nation that it was going to be a good idea. There was no provincial focus on making sure that the

Attawapiskat First Nation had the information to make up their own minds. It was not an impartial process. And people felt that that was their job, to reassure and to comfort the Attawapiskat First Nation people, not to help them with capacity-building so that they could make an informed decision on their own. And I think that that is something that Canada has an obligation to do. I hope that in my children's lifetimes we will be able to say that we've joined in as true partners with our First Nations people, and that's not going to happen until there's a process by which First Nations have the access to the experts and the capacity-building to be able to make their own decisions and not just be sort of shepherded along by civil servants no matter how well-meaning they are.

On the subject of public consultation, I have to say, you know, this is wonderful that the Panel is here. I know how difficult it can be to get effective public input. The fact — I heard that you didn't have advertising dollars to promote these sessions. For environmental assessment, it's imperative that the affected people be aware of what's happening. And I remember when I first started with the Ministry of the Environment, we had an environmental assessment branch, and if they didn't feel that enough people had come out to the public meetings, they would say, Okay, somebody has to go out and knock on doors. We want kitchen table meetings. We want proof that you have spoken to the people who were affected by this, not just the people who could manage to get their babysitters and had the time and so on to come out. It has to be — the onus has to be on the agency to go out and get that, not just sort of provide opportunities.

You know, as an example, people who — environmentalists and environmental activities, they do this in their spare time, or some people have a little bit of funding to come to these meetings. The companies and the proponents, that's part of their business. Their staff dollars are part of their cost of doing business. You know, they are able to claim all of the business involved in developing the proponents, hiring the consultants, having the staff do the work, spending all the time talking to the regulators — that is part of their business expense. The people who actually try to participate in this as members of the interested public, we do it because we think it's terribly important. And lots of people can't fit it into their schedules. I mean, I'm retired. My kids have left the house. I could be walking the dog or I can come to something that I feel passionate about. But so many people aren't able to do that.

You know, and even in my lifespan, I remember a time when intervenor funding was a lot easier to get. The federal government used to fund the Canadian Environmental Network in — you know, it wasn't a ton of money, but it certainly made it a lot easier to make sure that these various NGOs were able to get access to the information, were able to put the time into considering it. It was regarded as a valuable aspect of societal involvement. And we get the impression now, you know, some industry will say, Oh, yeah, those environmentalists, they're being funded by rich whackos from the States. Well, I don't know any environmental group who's rolling in money. Honestly. We do it on a shoestring and we do it because we think it's

important. And a lot of the time, you know, it's not recognized as how much effort it takes.

I just wanted to see if there was anything else that I'd covered off.

**Johanne Gélinas:** I'm sure we have a few questions for you, so.

**Liza Vandermeer:** Yeah, okay, all right. I'll stop there because I think those are my key points. Thank you. And I will do a better job at writing something up and submit it as well, so this is kind of stream of consciousness, as I said.

**Johanne Gélinas:** Then thank you very much. If you are prepared to do a little bit more homework.

**Liza Vandermeer:** Sure.

**Johanne Gélinas:** I have a question for you.

**Liza Vandermeer:** Yeah.

**Johanne Gélinas:** And you don't have to give me an answer tonight. I would like to have your views on how we should and who should be in charge of the monitoring in terms of the efficiency of the mitigation measures after a project is approved.

**Liza Vandermeer:** Well, there is a model where a staff member would be paid by the company but they report to the regulator. That's certainly a model that's worked in many places. You know, nowadays sometimes a regulator can do some audit work, but they can't do the detailed policing. To a large extent, having somebody who's actually assigned to a project but is being funded from outside I think can give you a bit more of the impartiality plus the resources available to focus on that. So that's one option.

**Johanne Gélinas:** And what about the coziness aspect of that kind of relationship?

**Liza Vandermeer:** My experience is that if the funding is coming from elsewhere — and certainly this is true where, for example, in site-specific risk assessments, there has to be an external peer review. The peer is still paid by the proponent, but it's not close enough that it seems — or certainly in my experience, it hasn't conflicted.

I think the other thing is that in many cases if you're dealing with a consulting company or something they recognize that their professional reputation would be flawed if they were seen to be glossing over environmental facts or

using bad science. And again, there are standards. For example, the qualified person under the Brownfields legislation, they have to be a professional. It's like a certified geoscientist. So they have professional standards they have to adhere to. And there can be systems in place to ensure that that person feels empowered to be able to give bad news. So there are mechanisms by which it can happen.

**Johanne Gélinas:** Thank you. Rod, do you have a question?

**Rod Northey:** I do.

**Johanne Gélinas:** Then go ahead.

**Liza Vandermeer:** Okay, thank you very much.

**Rod Northey:** Oh, no, no. Wait a minute.

**Liza Vandermeer:** Oh, good, great, okay.

**Rod Northey:** So it's interesting to hear your comment about Ontario EA not producing a no. As you may recall at some period of time it seemed that the boards, when given EAs, found no reasons to ever say yes.

So the question I have for you is dealing with Adams Mine, it did ultimately get over to a board. But I'm just curious in terms of was there a transition on your end? Just if you could give a bit more nuance to what that means of no ability to say no. As you said, it was a no-brainer technically. I'm just taking your words.

**Liza Vandermeer:** Yeah.

**Rod Northey:** Why did an internal review that was required under the legislation by the Ministry not produce anything that might look like a no?

**Liza Vandermeer:** Well, I'm not an EA staff person myself, but I did work with them. And I think in many ways the system makes it almost impossible not to say yes with conditions. So for example, I've spoken to EA staffers who know the legislation backwards and forwards. And they always feel that they have to identify factors that can be mitigated. And it's certainly true in permitting that it's very difficult, for example, you know, the methylmercury issues in the north with the Ring of Fire. There are a lot of technical staff who worked for the Ministry of the Environment who said, We honestly cannot see any way that this project could ever proceed without unacceptable methylmercury impacts. Those people tended to lose their jobs or be under so much pressure that they felt they had to move on, because they fought and fought and fought, tried to follow the process, tried to give advice within the system, and they just found that they were bashing their heads against brick walls. So it would just result in a gazillion briefing notes and it never seemed that the file was closed. The questions always came back. And I imagine that this probably happens when EAs go to elected

federal representatives, the questions are always coming back, Well, you know, what if we did this? Would that turn it into a yes? What if we did that? Would that turn it into a yes? And it becomes, you know, such an agonizing process and it's not very effective use of public resources.

**Rod Northey:** Thank you.

**Liza Vandermeer:** Thank you.

**Johanne Gélinas:** Thank you very much. So just to let you know that we will start again at 6:30 but with a totally different format. It is what we call the workshop. So we have specific questions. It's round table, specific questions, people spread around those different tables and we go addressing some of these questions more in detail.

Also to mention that tomorrow at nine we will start our indigenous session. So it's formal presentations. I cannot tell you yet how many people we have registered for that. This morning we had three, I think. And that's about it. Thank you very much for your time.

Ms Lloyd, you wanted to say a word?

**Brennain Lloyd:** If I could, and thank you for that indulgence. I just wanted to follow-up on Mr. Northey's question about well how would the Adams Mine have gotten a yes. It was achieved by scoping the environmental assessment. This was after the 1996 omnibus bill. It was scoped to a — I think it was a single question. Twenty-one years, so I'm a little fuzzy, but it was scoped to a single question of "Will hydraulic track containment concept perform as expected?" So all of the, you know, the effectiveness of the leachate collection system, the impact of release to surface — all of those questions were ruled out. Very narrowly scoped. And it was a split panel decision. The chair was a recent appointee. I won't comment on political colours. And that's how they got a yes.

**Johanne Gélinas:** Thank you very much.

You know when, I think — I happened to looked at my watch. It's 5:30. So I think we will start over at 7 to let at least people having dinner. And for those who are not in the room, we'll arrive a little bit later, then we can entertain them for half an hour, I guess. Thank you.

## PUBLIC WORKSHOP SESSION

**Jacques Bédard:** So hello everybody, and welcome to this public workshop. Thank you very much for choosing to come to spend your evening with us tonight. Very appreciated.

My name is Jacques Bédard and I will be the moderator for tonight. And my role tonight is to make sure that we cover all subjects in the time we have. And as you know, we've started half an hour later, but we will finish the same time. I think we have enough time to cover all the subjects.

And sorry for those who arrived a little bit early — not early, but on time, actually. Right?

And I'm just going directly to present you Johanne Gélinas, who is the Chair of the Expert Committee — Expert — I always mix up the —

**Johanne Gélinas:** Panel.

**Jacques Bédard:** Expert Panel on the Review of Environmental Assessment processes. There you go. I read it right.

**Johanne Gélinas:** Merci.

Who was there this afternoon — or who wasn't there this afternoon? Okay, good. So welcome. I already have many friends by now and we have been here for only a day.

Thank you very much for those who were there this afternoon to join us again this evening. It's more casual and friendly tonight, but we want to get more into detail. So those of you who haven't had enough time to express yourself and your views this afternoon, this is the opportunity to do it.

So my name is Johanne Gélinas. I have the pleasure to chair this Expert Panel. And my colleagues who are supporting me in going through this unique chance that we have all together to make a difference are Renée Pelletier, Doug Horswill, and Rod Northey. And thank you and we apologize if we are half an hour late, but this is my fault. I was not able to manage my presenters properly, so we ended a little bit later than expected.

A few things that I would like to share with you before we start. What is our mandate? So there's like two levels when it comes to the mandate. The first one is the mandate that the Prime Minister himself gave to the Minister of Environment, Catherine McKenna, which had three components. The first one is to regain public trust — and we have heard about that today and we hear about that over and over — to help get resources to market, and to introduce new, fair processes.

We are an independent panel, so we are not part of CEAA, we are not part of anything. We all have a full-time job and some point we will go back to our kind of normal life, which is not the case for the moment. The mandate, though, that was given to us is of three components too. First is to consider the goals and purpose of modern-day environmental assessment — so get into the 21st century, in

other words — to communicate and engage directly with a broad section of interested groups, organizations, and individuals. And as I keep saying, you don't have to be an expert to join us, you just have to have an interest in the topic and have these kinds of brainstorming sessions where we can come with ideas to do things differently. And us, we will have also to come back — based on what we heard but also on our own reflection on what we heard — to come with recommendations to the Minister, which will happen sometime at the beginning of next year.

The EA review that we are part of is part of a broader exercise within the Canadian government, and there are four components that have been put in place or will be put in place. So there's a first one, which is the modernization of the National Energy Board. And as we speak, this panel has not been established. It should happen in the near future. There's also two parliamentary committees who are asked to look first at the *Fisheries Act* and the *Navigation Protection Act*. And in our case our mandate is also very clear with respect to what we should look at, and it's EA processes. So "processes" in this case means the CEAA process, the NEB process, and the CNSC process.

Are you familiar with these acronyms or not really? Don't be shy, just tell me. No? Okay. So NEB is the famous National Energy Board, so Energy East Project, for those who are more familiar with projects. CNSC is the Canadian Nuclear Safety Commission. So they have both the mandate to do EAs in their own area, so oil and gas projects and nuclear-related type projects.

Anything that I should add at this point? I don't think so.

So we will stay with you. We will move from one table to the other. We'll get involved into the discussion so it's really less formal today than it was this afternoon. Thank you.

**Jacques Bédard:** Well, thank you very much, Johanne.

So what are we trying to do today? The first thing is learn. You will be presented with information on EAs. And this information will help inform the exchange that you will have. You've noticed that you're in round tables, so there's a reason for that because you're going to discuss. The second point is to share, so it's an opportunity for you to share ideas, to share information also, knowledge, concerns. And also, because this meeting is also about looking at the future of EAs, it's also to look in the future and provide insight on what EAs could and should be doing. All right? So.

Presentation: I think that was done before, you know, the meeting started, so we'll go very quickly to the agenda. Don't look at the time, but look at the time at 10:00; we will be finished at that time, that's for sure. Okay?

So what are we doing tonight? There are going to be two parts in this meeting. And each part will have the same component. There will be a presentation followed by a discussion in the plenary. Okay?

So the first big question that we'll look at is what should federal EAs achieve. Okay? And after that we're going to have a health break, meaning that there will be some coffee. And after that we'll come back and have another discussion on what needs to change or stay the same. Right?

You'll have also an opportunity at the end of the meeting to send the message that you want to send to the Expert Panel, so either verbally or in writing. You will have a lot of — we'll share and you'll see a bit later there will be some sheets to fill up and some forms and all that. Everything that you write tonight and you leave on the table will be read by somebody. So if you leave your grocery list, somebody will look at it and read it, okay? So it's very important if there are things that you want the Panel to know about, write it down on the paper that we'll provide to you and leave it on the table. Okay?

So a few things. First, the ice box. The ice box is actually subjects that you are thinking — you think are important but are not in the context of the discussion that we're having tonight. You can actually write it down over there. There is also an envelope for comments. So these — that's the same as the ice box, but it's actually a bit more confidential. So it's an envelope. You put it there, and somebody will read it, again. You will have, as I mentioned earlier, some worksheets that will be distributed during the discussions. The plenaries will be recorded only, not to — only for the reports. So it will be used to write the reports of each session.

There are some exits. There's actually two, one in the back, one in the front. And also there are some bathrooms, and just in case you need some, they're just right in front. And there is Wi-Fi in the hotel and again I don't have the code. Every time, we say that. But if anybody needs — has an urgent need of Wi-Fi, just come and see me and — sorry?

**Unidentified Male:** You need to see me.

**Jacques Bédard:** Oh, yes, you actually — he's got the codes. So he's the guy with the codes.

So let's move on to the first part of the meeting. What should federal EAs achieve? No, I'm going back. What am I doing here. There are two buttons, and I managed to press on the wrong ones. There we go. Oh yes.

Ground rules for discussions. You have that on your table. There's a little plastified [sic] document. So these are just basic rules of conduct. You can read them if you need to, and you can remind the people at your table that are not following it that these rules exist.

In the report, there will be no attribution of comments to individuals. Right? And there will be a meeting summary after each of the meetings. And the meeting summaries are available online two weeks after the meetings, roughly. Am I right? Two weeks? Two weeks, good.

So yes. Now, the first part of the meeting. What should federal EAs achieve? A little disclaimer here. You're going to have two people presenting to you tonight some information. And the important thing is that to understand that they are presenting information to help facilitate the discussion. So there's no intention of supporting or not that information. They're presenting information just for the sake of the discussion. So here no intention to qualify whether these are the right tools or if whatever information is provided to you or to qualify it if these are actually allowing the government of Canada to meet its objectives. So it's just information provided to you for the discussion.

And the first presenter is John. So go ahead, John.

**John:** So can I have the clicker.

Thanks. Hi, everyone. My name's John. I'm a member of the Secretariat supporting the Expert Panel for this review. I'm also — my substantive position is with the Canadian Environmental Assessment Agency as a policy analyst in the Legislative and Regulatory Affairs Division.

So what I wanted to do is just provide a little bit of context and definition for environmental assessment. Just so we have an idea, how many people are relatively familiar with the federal environmental assessment process or environmental processes in general? Okay, so a little bit. Just so I know.

So this is a definition of environmental assessment. Environmental assessment is a process to predict environmental effects of proposed initiatives before they are carried out so that negative effects can be avoided or minimized and positive effects maximized or enhanced. So we're looking before an initiative is carried forward what's going to happen to the environment.

To set the context, we have to understand that the environment in Canada — it's kind of a split jurisdiction. So the Constitution divides powers between the provinces and the federal government. So it's very clear that the federal government is responsible for fisheries, navigation, migratory birds, international and interprovincial works, transboundary, those activities' effects, and nuclear energy. The provinces, on the other hand, are clearly responsible for resource management such as mining and forestry and intraprovincial and local works, so within the province.

And the fact that it's a shared responsibility means that, you know, both governments are responsible for doing environmental assessments. So that's why you get — you know, if some of you are familiar, Ontario has an

environmental assessment process. There's also a federal environmental assessment process. And so this sometimes results in governments collaborating or working together to carry out a joint environmental assessment.

So the government of Canada has also made commitments to — international commitments. So for example, the United Nations Declaration on the Rights of Indigenous Peoples, the Climate Change and the Paris Agreement, which was signed almost a year ago now, the Canada-US Air Quality Agreement, and other international agreements, such as the Convention on Biological Diversity and those other ones that are listed there. And that kind of results in, you know, those kind of have an effect on what we look at in an environmental assessment and some considerations in that respect.

There's three types of federal environmental assessment currently. So there's project environmental assessments, regional environmental assessments, and strategic environmental assessments. Project environmental assessments are those which you're probably most familiar with. They're assessments that mostly fall under the *Canadian Environmental Assessment Act*, 2012. And they're looking at a single project, so a mine site, a proposed mine site or a hydroelectric dam, those types of things. A regional EA — none of these have been carried out under the current legislation, although there are provisions for it. They kind of are designed to look at a region or the effects of development in an area of geographical extent such as a watershed. And then we have strategic EA. And these are EAs of policy, plans, or programs. And those are set under the Cabinet Directive on Strategic Environmental Assessment.

So just to put that kind of in a picture for you guys, you can see, you know, a project EA would look at that mine specifically and the effects that that mine is going to have on the environment. A regional EA would look at all these different developments in this region and take those into consideration, say what are the environmental effects. And then a strategic EA would look at, for example, if the government instituted a new clean air policy or an agricultural policy, look at what are the effects of that proposed policy.

There's a number of different EA models, obviously, depending on what country you're in. So for example, the United States has a bit of a different model under the *National Environmental Policy Act*, and they have sort of a tiered approach. So policy EAs inform specific EAs, okay, which inform project EAs. The European Union has a set of directives for environmental assessment, so they set out these directives for strategic and environmental impact assessment, and then the countries have to abide by those directives and set it within their process. And Australia as well as their process, and they kind of have a strategic EA as a regional assessment to reduce duplication. So if a project falls within the region of a strategic EA, then it would be exempt from a full EA and kind of the activity would be assessed under that strategic EA. So that's just to give you an idea that the way we do things in Canada, it's

not the only way. Environmental assessment exists throughout the world in most jurisdictions, in fact. And there are different models than the Canadian model.

So there can be a number of goals in environmental assessment. For example, the three examples here are public interest, so it's a focus on balancing, you know, economic, environmental, social interests and values, and kind of doing a — you know, a test of public interest. Sustainability is the focus on insuring the activity delivers lasting gains and shared benefits today and for future generations. So it's really looking at, you know, how can we develop things in a sustainable way so that we can continue protecting the environment and achieving social and economic gains for the future. And significant negative environmental effects, that's the model that exists today in Canada, where you look at the effects, but you're really concerned with the significance of negative effects and mitigating those effects.

No matter what the goal of the EA is, you can look at alternatives. There's kind of two types of alternatives. There's alternatives to the activity — so what else could we be doing? And there's alternative means of carrying out the activity — so how can we design that activity in a way different to what's being proposed, and what's the best way of carrying out that activity?

Today, under the *Canadian Environmental Assessment Act*, environmental assessment aims to achieve the protection of specifically federal components of the environment from likely significant adverse environmental effects caused by a project. So it's very specific what EAs look at under CEAA 2012. Purposes of CEAA 2012 also include making precautionary and timely decisions, promoting cooperation with indigenous peoples in other jurisdictions, providing opportunities for meaningful public participation, and promoting sustainable development.

Federal EA under the *Canadian Environmental Assessment Act*, 2012, is focused mainly on project-level activities that are listed in the regulations designating physical activities, which you also might be familiar with as the project list or the designated project list. So there's a list of activities there that set out, you know, the types of projects which would undergo a federal environmental assessment. So examples of those types of projects are metal, gold, coal mines, any B regulated pipelines, nuclear energy projects, and if the Canadian Environmental Assessment Agency's the responsible authority. Not all projects automatically require an EA. So there's a screening decision there to say whether or not an EA is actually required for that designated project.

And as mentioned before, we haven't carried out a regional assessment yet under this legislation, but the way a regional assessment is I guess required is at the Minister's discretion. So the Minister has the ability to ask for a regional study. And strategic EA is expected for cabinet and ministerial decisions on a

proposed policy, plan, or program. So the Cabinet Directive sets it out. That's not set out under the *Canadian Environmental Assessment Act*, 2012.

So these are the things that a federal environmental assessment must consider. Adverse environmental effects including cumulative effects and those from accidents and malfunctions. Mitigation measures that are technically and economically feasible. So we have adverse environmental effects or we're predicting adverse environmental effects. How do we mitigate for those effects to reduce them or eliminate them? The significance of a likely effect. So we tried to mitigate. What's the residual effect? Is that a significant effect? We consider public comments received. The purpose and alternative means of conducting the project. Changes to the project caused by the environment, so generally this is looked at from kind of — climate change could be one example of that perspective. Where are we expecting the climate to change? How is that going to affect specifically the project design? How can we adapt for that? And any other relevant matter. Environmental assessments may consider Aboriginal traditional knowledge.

So as mentioned before, there's specific aspects of the environment which environmental assessments consider. They're federal components. They're fish and fish habitat, migratory birds, marine plants, impacts that cross provincial or international boundaries also known as transboundary effects, impacts on federal lands, or impacts on indigenous peoples resulting from a change in the environment. Okay, so if there's an effect on fish or how is that going to have — is that going to have an effect on indigenous people? What's that effect going to be? That's considered. And also all impacts resulting from a federal decision. So this one gets a little bit confusing, but where the federal government is required to issue a permit, then additional effects could be considered as a result of that federal decision that needs to be made. So the example there is if it requires a federal permit to divert a stream, then the kind of — the impacts on recreational camping and fishing could be looked at. But those aren't effects that would be looked at unless a federal permit is issued.

So that's it for me. Thank you.

**Jacques Bédard:** Thank you very much, John.

That's got a lot of information right from the start. You may have some questions, but you'll have at your table people from the Expert Panel or from the Secretariat that will be able to answer that. They will join you at the table in a few seconds. Yes, they will.

So first question for the discussion. What should federal EAs achieve?

So here's a few instructions to make your time productive. The first thing you identify a table leader or note taker or somebody who's actually going

to make the report in the plenary. From experience from the previous meetings, it's much better if the person who's actually taking the notes is going to read the notes after. Okay? So identify a table leader, note taker, the person who's going to report to the plenary.

Second, you take a bit of time because we're going to give you some other questions. You'll see that they, you know, it's not a yes-no type of question. It needs a bit of reflection. So before you start discussing in your group, take a couple of minutes just to think about it. And after that, the discussion starts within your group.

You have been distributed a worksheet for the group. So I'm just — you have it here, the big large one. This is for your whole group. And now there — you are receiving the personal — the same sheets, personal worksheet to write your own notes. And again, if you want to leave these papers after that, even if it's your personal worksheet, somebody's going to read it from the team of the Secretariat. Okay?

The table worksheet is there to capture the key points, so the really important things that you want to say to the Panel. And during the report, after your discussion, you won't — it will be very important to pick up the really important points, not necessarily to read all of that. We obviously will have the documents, so it's not necessary to read all of that. But just try to identify what's really important in your discussion. What are the main ideas.

There is no absolute need for a consensus. You may disagree. You also have the right to change your ideas. If you came up with an idea, you — it's, you know, and you feel like changing your mind, feel free. It's permitted. So no forced consensus.

It will be important also in the report that you tell us if there were some consensus on certain points and also some common ground but also points of divergence. You will have 30 minutes for your discussions. We'll leave five minutes afterwards to make your report. So total 35 minutes — 30 minutes for the discussions, five minutes to put together the report and highlight the key points. Are the instructions clear?

**Unidentified Male:** As mud.

**Jacques Bédard:** Excellent. So 30 minutes from now, meaning that you should be ending your discussion at 8 and finish your report by 8:05.

Oh yes, I forgot. There are three — actually three very important questions. Forgot about that. Okay? The first question is what do you think — sorry, a bit of attention. The first question is what do you think is most important for federal EAs to achieve. First question that we're asking you. Second one: When do

you think a federal EA should apply? What triggers it? And third: Imagine that a project such as a mine, pipeline, power plant is proposed in or near your community. What effects should be included within the scope of the federal EA? So these are the three questions that we're asking you in this part of the discussion. Take a few minutes to think about it, and after that you have 30 minutes to make your discussions and five minutes for your report. All right?

(PAUSE)

**Jacques Bédard:** Time's up. You may not have answered all the questions. It's okay. There is another discussion coming after, so you'll be able to bring ideas that you haven't been able to bring during this part of the discussion.

We're now going to go around the tables and we'll ask the table leader to do a very quick summary of the key points discussed at your table, and also to give us an idea — are you — okay. Try to finish, huh. No, no, too late. Absolutely.

So areas of common ground, differences, burning questions — these are the things that we want you to highlight. And table 1 seemed to have a lot of fun, so we're going to see if besides making jokes they actually did work. And it's Allison that seems to have the big sheet in front of her. So Allison, about three minutes. So be very quick. And as far as the other reports, if the other table said things that you like and that you've mentioned, just say, "Same as table 1" or as table 2 or whatever. Okay? Allison.

**Allison:** You can cheer for us. Is that what you're saying?

**Unidentified Male:** No, that isn't what I said.

**Allison:** Okay. In terms of question 1, what do you think is most important for a federal EA to achieve, we felt that as an outcome, federal decisions that are scientifically defensible and publicly supported that were based on fair and transparent processes to arrive at that outcome. There was also a discussion on making sure that the EA process, and therefore its outcomes, were accessible to the Canadian public in terms of ready, available information and having that information in a form whether it's language as opposed to technical jargon, and translated into the languages of the public. We also discussed reasonable time frames, both for engagement and for decision-making. There's also, as an achievement or something that could be seen as a success, is opening dialogue between stakeholders, regulators, and proponents. So that fair and transparent process can only come through open dialogue.

And then one which I suppose I could put a little bit in our differences, we just didn't land on something per se, was that the federal EA could either — needs to demonstrate adequate mitigation, and we didn't get into what that

might look like, or on the flipside demonstrate significant protection. So looking at the same outcome from two different lenses.

PDFs, that's —

**Unidentified Female:** To be in a searchable format.

**Allison:** Oh, in terms of accessibility of data, to have PDFs and searchable data.

**Unidentified Female:** Yeah, instead of 1,700 separate PDF documents.

**Jacques Bédard:** If it's written on the sheet, we'll get it.

**Allison:** All right. Question 2, When do you think the federal EA should apply? When there's gap in oversight with existing legislation, whether that be existing provincial or federal legislation and within the context of federal jurisdiction. There was some discussion on right now there are a few players in the game and neither really have — whether that be the province or the feds — the capacity to actually get on the ground and enforce. So focusing efforts perhaps on one regulator and give that increased capacity. We also talked about potential triggers being transboundary projects. So an EA would be required, for example, for any water-related project because water flows, connects our different jurisdictions. There's upstream and downstream effects. And right before we were cut off, we spoke about what level of impact would be appropriate. So within those triggers, and I'm using the word "trigger" as an example, but you know where do we set the line for when that becomes a trigger per se, and then providing clear rationale behind the setting of that that are founded in science. So those thresholds are based on baseline data, known scientific information.

How am I doing for time? Okay.

Question 3, What effects should be included within the scope of federal EAs? There was some discussion on using the EA as a planning tool to determine best options within a sustainable development framework. And then we briefly touched on cumulative effects and agreed that they need to be evaluated, but within the scope there needs to be a mechanism to balance effects or weight effects among different activities on the landscape without losing that assessment of cumulative effects.

Anything else?

**Jacques Bédard:** Thank you very much. So you actually did work, group number 1. We were questioning that. But you actually did. Excellent, very good.

Table number 2, and I think it was Jopita(ph). Yes.

**Jopita:** Okay, so for the first question, What do you think is most important for the federal government to achieve? The first point that we have is consensus-building in terms of engaging the people, especially the people who are going to be affected by the project. So engaging them in terms of — like the previous presenter talked about giving them time, providing enough time for the engagement and listening to the people. And then focus on sustainability, and not just components of the environmental sustainability, not just on the ecosystems, but looking at both the ecological and the health of the people. And so looking at having a more holistic approach to sustainability as well as community functioning. And number 3, representation of public interests in terms of the environment, socio-economic and the social component. And then number 4, we talked about protect — the government should protect the health of the land and the people. So the health component was something that came up.

And also there was also the issue of clarity in terms of some of the terminology that is used in the current environmental assessment. So for example, what do we mean by "significant"? And what do we mean by "adverse effects"? So we need to be clear on those, I mean like the government needs to have clarity on what we mean by that, and also people should be involved in deciding what we mean by significant. What is going to be significant for one group of people, especially the people affected and maybe the outsiders. Okay.

And the second part, When do you think a federal EA should apply? The first point is moving — it should apply when we need to move — oh, sorry. We need to focus on moving the national visions ahead. So for example, when a project affects a national — oh, sorry, okay — let me reach, yes — I know that he gave that point and I'll give him the mic because I —

**Unidentified Male:** The idea was to make it trigger federal involvement if it affected a federal policy initiative or direction, so that we were aligning the action with the vision of the country as a whole.

Did you want to finish the —

**Jacques Bédard:** We're not going to go around the table.

**Jopita:** So the next point is — it's more of a question in terms of how do we — we have to think about — the government has to think about how do regional or strategic EAs get triggered. So do these get triggered just because a project is being developed, or do they get triggered —

**Jacques Bédard:** So you basically asked a question about the question we asked you?

**Jopita:** Yes.

**Jacques Bédard:** Okay, interesting.

**Jopita:** So we are asking that. And also socio-economic triggers. So we have to think in terms of the First Nations. And when we talk about socio-economic, from whose perspective are we looking at the socio-economic impacts. Okay.

And then the third question, I am going to get Daniel to read this.

**Daniel:** Okay, so looking for the process to be more holistic. So it currently just a lot — focusing on more biophysical, but it should also look at social and economic aspects. So once it's triggered, it should look at the whole big picture, not just this — little pictures. Sometimes looking at valuable ecosystem components approach is not always holistic, it can be very focused and fractious, almost. So socio-economic includes like health, lifestyles, economics, and culture. And then we also talked about the effects — measurements of community value are — can be difficult to actually measure, so.

**Jacques Bédard:** Thank you for this group effort.

Table number 3, John.

**John:** A lot of I think what we covered has been said already, maybe even better. But we got a great group. For starters, we thought the most important thing that it should achieve is that there's no negative impact on the environment from whatever the project might be. And that obviously includes like the first group mentioned mitigation efforts to reduce those effects, from the small scale all the way up to reducing greenhouse gas emissions, as well as finding solutions to reduce the environmental impact, so mitigation. It should also achieve the promotion of sustainability of the air and the water and the animals and the resources in the area as well as protect the biodiversity.

We think it's important that there should be total project clarity. So everyone involved who's being impacted understands what's going on, where the process is at, as well as a full justification for why the project's happening and the EA process, so the present circumstances and the future. Also it should try to achieve capacity-building for the local communities, First Nation or otherwise, so they can deal with what's going on, as well as it should take into account treaty jurisdictions and treaty rights as well. It should also take into account just the human rights element that might come into play as well as — you guys keep mentioning holistic, but that global perspective must be considered and understood.

We also thought that a good federal EA process would achieve harmony, so — between the provincial process as well as the federal, but also the municipal level, First Nations, local communities, even industry. Everyone who's

involved, there should just be general harmony with that process which includes transparency, right, from the experts, the leaders, politicians, everybody involved — the more transparent, the better. We thought it would be important to identify the unknowns, just, you know, come clean. There's a lot of parts of the process of the environment that we don't yet — as people, as society, as academics — understand and being aware of our limitations.

Importance of consultation, and also that the whole process — obviously you want it to be streamlined, quick so that industries continue and bridges can get built and people's lives can work, but it also at the same time needs to be comprehensive. You can't sacrifice time for quality.

Second question, When do you think it should apply? We sort of unanimously thought before the project starts, during the planning phase, whether it's the architects, whoever it is, you know, before things — shovel to dirt or whatever — that it gets fully considered. And even during, you know, sometimes things develop throughout the project that it's important that the EA process can still apply, potentially with third-party involvement. We also thought that it's important to — an EA should apply when First Nation oral testimony comes forward. It shouldn't have to come in the form of a written submission all of the time. Oral tradition is how traditional knowledge is often translated and brought forward, and that needs to — there needs to be an avenue for that to be recorded as part of the EA process.

As far as the third question, the scope of the EA, obviously, it should include all environmental impacts as well as cumulative impacts, groundwater, surface water, air quality, soil quality, basically everything environmental as well as microbiology, organisms, ecosystems on the larger scale, and as the second table mentioned, you know, there's the social well-being, the economic side of it as well. Obviously that maybe takes a back seat to the environment. This isn't environmental assessment, but you know it is all connected, so.

**Jacques Bédard:** So thank you very much, John. Great reports, all of you.

We are going to take the sheets, the group sheets. If you want us to also take your personal worksheet, just leave it or give it to the person from the Secretariat that will go around and pick up the sheets.

So we now have a very, very difficult and tough question to ask you. We're heading to the break. Now the question is do you prefer to have a longer break or do you prefer to sleep earlier tonight? So I'm going to have a quick vote on that. And those who can actually vote are those who are not working for the Panel or for the Secretariat, because obviously, you know, they probably would vote to sleep. So let's say who wants a longer break? Okay, so it's very clear. I didn't let you time to vote. So if you want to run and get a quick coffee, we'll take a very sort of short five-

minute break, just enough time for everybody to have a coffee or run to the bathroom if necessary. And you come back in five minutes and we're going to start again.

(PAUSE)

**Jacques Bédard:** Okay, so we're going to start again if you would like please to come back to your seats. Same tables. All right? So if you want to please come back to your seats and we're going to start again.

Okay, so moving to our next topic, okay, all right, there's still — solved. Yes, two or three people had to leave. They actually mentioned that to me earlier, you know, at the beginning. It was planned. It's not because they were bored or they didn't like their table. It's because they had other things to do. Yes, that's what they told me. But they told me that prior to the meeting, so it's believable.

All right. So the next segment is on the following subject: What needs to change or stay the same? So what's going to stay the same is the format. You're going to have a presentation followed by a discussion and a plenary. So you know by now all the rules so it's going to go faster. And the person who's going to present the — who's going to make the presentation is Jill from the Secretariat. So Jill, up to you.

**Jill:** Oh yeah. Do I have to press the slides with this thing?

**Jacques Bédard:** Do you want me to do it?

**Jill:** No, it's okay. As long as I know — the green button, eh?

**Jacques Bédard:** Green button, yes.

**Jill:** Okay, and I'm just going to remind everyone again when I give this presentation I'm not saying that this is, Yay, this is how it is today. I'm saying it's how it is today. I'm just telling you factually so that you understand that it's — you can say what's right or what's wrong with it or whatever, okay. So it's — this is — it's factual. Because my day job is also with the Canadian Environmental Assessment Agency. I'm with the Secretariat right now. But I am a senior adviser in the Regional Operations sector.

Okay. So federal environmental assessment process sort of has three phases. There's the planning phase, there's the conduct phase, and then there's the decision-making and follow-up phase. So in the planning phase, what happens is that's where it's determined whether or not an environmental assessment is required. It's also where the issues that the EA needs to examine are identified. And we often call that the "scope," the scope of the environmental assessment. It's also where the type of environmental assessment is identified, so it could be that one of the responsible authorities which the people who were listening earlier heard — there's the

Canadian Environmental Assessment Agency, there's the Canadian Nuclear Safety Commission, and there's the National Energy Board. Those are the three responsible authorities under the *Canadian Environmental Assessment Act*, 2012. But it can also be done by a panel type of review, which is a little bit more at arm's length from the government. A lot of people like to see panels, because they are more — they tend to be — the public gets more involved or they can be more involved like with the panel and actually present to the panel. That doesn't always happen when it's an EA led by the responsible authorities. So you sometimes have a different way of participating. So we hear that sometimes.

The conduct of environmental assessments: So this is where the proponent goes away and writes an environmental impact statement, so the big 20-document report that people see posted on the registry and that type of thing. And then there's an analysis of that document. So that's done by the regulators, so the federal departments; it's done by the responsible authority; it's also done by the panel. And it's also where the public has an opportunity to look at some of that information and make comments, NGOs, other industry, First Nations; sometimes they even hire consultants and have a more thorough analysis of those documents as well.

Then the third part of the conduct is where the responsible authority or the panel writes an EA report. And that EA report has recommendations in it and those recommendations go to the government. And that's where you see the decision part happen. So the decision is not always in the EA report — I'll get to that a little bit later — but it can be, depending on who the responsible authority is. But the decision sometimes happens more at the government level. And if the decision is favourable to the project, then there's a decision statement with conditions. And then some people have talked about that already in their round tables about conditions and enforceable conditions, and follow-up and monitoring of those conditions can happen as well. If the decision is not favourable to the project, there's a decision statement that says you cannot go ahead with the project so there's no conditions.

So as I already mentioned, the responsible authorities are the CNSC, the National Energy Board, and the Canadian Environmental Assessment Agency. For projects that are on federal lands only, there is a section in the Act that says that the federal department has to make sure or must determine, I should say, the likelihood of significant adverse effects of any project that they allow to proceed on their land. So it's kind of like a — I call it a mini EA, if you will. So there may or may not be public participation. It's not done by one of the responsible authorities. It's simply if there's something going on, like the example of a school on a federal reserve, then INAC would be responsible to ensure that that building of that school, et cetera, wouldn't have any significant adverse effects.

So the kinds and sources of information that go into an environmental assessment or are considered: As I already mentioned as well, the proponent of the project prepares or has consultants prepare an environmental impact

statement. And this is the volumes of information that they prepare and provide to the responsible authority for analysis. Some of the stuff that goes into that: They may have baseline studies. They may use historical information, journal, scientific journal type of information. They may use traditional knowledge. They may engage with indigenous communities. But so that all can go into an environmental impact statement. It may or may not, but that's what can go into it.

Then the other information that goes into the environmental assessment, so that the responsible authority can also use, is public comments, indigenous comments, things that come in. People's analysis of that information, the environmental impact statement. Government and specialist expert information can be used as well, so it could be a federal department's expertise or it can be just an academic expertise or a traditional and community knowledge expertise. So any of this information, not necessarily provided to the proponent, but provided during the course of the environmental assessment can be considered. And there's also — not to forget that there could be existing guidelines — such as water quality guidelines, air quality guidelines — and that information can also be used.

So currently — again, not endorsing, not saying this is good or bad — the public, the opportunities for public participation are as follows. During the screening decision. So the screening decision is when it is determined whether or not a federal environmental assessment is required. So what happens is there's the project list that Jonathan mentioned, which is a list of all — right now — all the projects that may require a federal EA. And then it comes in and it gets looked at and it gets determined after the project description is submitted whether or not it requires one. So just because it's on the list doesn't mean it always requires the federal EA. There's a screening decision that's done first. The project description is put out to the public and the public has a chance to comment on that. And it's probably a 20-day timeline for that. So it's at the beginning of the environmental assessment.

The second opportunity right now for the public to participate is in what should be studied during the EA, so what the Canadian Environmental Assessment Agency often calls the environmental impact statement guidelines. They're often put out to the public. You have an opportunity to say whether you're not — whether or not you think that the Agency got that correct, whether or not the CNSC got it correct, and is this what should be looked at during this environmental assessment.

Also for the potential effects of mitigation. So that's where you will look at the information that maybe the proponent has provided and you get to comment on that.

And then during the report and conditions, when it's — the draft report is done, the public has an opportunity to look at that as well. Most of this stuff right now at present is done online or, you know, you look at the Internet and you can put your comments in through email — that kind of way it's done. For a panel, like I

said, or with the CNSC and the NEB, they sometimes also do hearings. You may have participated in those where you get to speak to the panel that's conducting the environmental assessment. We heard this morning sometimes that's a limited time as well. So you may have five or 10 minutes to express your views, that type of thing.

Participation opportunities depend on the type of EA. So I already mentioned that. There's also participant funding. There's federal participant funding that does happen for different environmental assessments, and you can apply to receive that type of funding. And there's also a public registry where information is housed and again it's all on the Internet, that kind of — that type of way you can see the information. And I'm sure you can't wait to discuss that stuff when we get back to the tables.

Indigenous consultation. So the government of Canada consults with indigenous peoples for a variety of reasons. There's legal obligations. So for example, in the *Canadian Environmental Assessment Act*, there's places where Aboriginal and traditional knowledge needs to be considered. There's the effects to indigenous peoples' current use of lands. Those types of things are right in the Act. There's the constitutional duty to consult, which I'm sure you're all familiar with. And then it's just good governance and good policy, obviously, to be doing indigenous consultation. The government of Canada right now, at present, currently tries to integrate the consultation process into the environmental assessment process to the extent possible, and it's coordinated by that responsible authority.

So how are the decisions made? This is where it gets a little tricky, depending on who the responsible authority is. But it's an interesting thing because sometimes people think that the EA report itself is the decision, but it's not always the case. So for the CNSC, for the Nuclear Safety Commission, when they prepare their report, they're also the decision-maker. So they will determine whether or not there's significant adverse effects. And if there's no significant adverse effects, the project proceeds. So they make the decision. If they determine that there is significant adverse effects, then the decision of whether or not that project is justified goes to Cabinet, and Cabinet makes the decision.

For the NEB, it's a little bit different. They don't — they prepare a report, the report has the recommendations, but Cabinet makes the decision regardless. So whether or not — if it says that — if the report says that there's significant adverse effects, Cabinet makes the decision whether or not it's justified. And if the report says there's no significant adverse effects, Cabinet still makes the decision of whether or not that project proceeds.

And with the Canadian Environmental Assessment Agency, the report is prepared and it has recommendations. And then the Minister of Environmental decides whether or not there's significant adverse effects. So she will look at the report and see what the report says. And then if there's no significant

adverse effects, the project proceeds. That's her decision. And if there is significant adverse effects, she goes to Cabinet as well, and Cabinet will decide whether or not the project is justified or the effects are justified in the circumstances and the project can proceed.

Clear as mud; right? It's kind of a messy process.

And then lastly, I think this is my last slide — yes. How are the decisions monitored and enforced? So some of you here, I'm sure, remember when there were no enforceable conditions in federal environmental assessment. I remember, and I'm still super young, so I'm sure some of you do as well. The EA right now, as I indicated before, under CEAA 2012 there's actually a decision statement with enforceable conditions, which means that the proponent gets a decision statement if the project is allowed to proceed that says, You must do this; you must do this; you must do this; you must do this. And they're enforceable because if they're not doing that, they can technically be fined under the Act, that type of stuff. They're not in compliance or — so there's now a part of the *Canadian Environmental Assessment Act* that does have that, more teeth, if you will, which it did not before.

Monitoring and follow-up before — it's still very similar. It's still generally the proponent that sort of does their own monitoring and follow-up. Sometimes there's committees. Maybe the proponent is involved with that. Maybe it's a condition that there's an environmental committee that's going to help monitor. And the results get submitted to the responsible authority. And they can go out and there's officers that go out and look and see if they're meeting their obligations, if they're doing something they're not supposed to be doing. That's what's supposed to be happening. And that's — I'll leave it at that. And that's my little tidbit for you.

**Jacques Bédard:** Thank you very much, Jill.

So we're now at the second discussion. You know how it works now. You've all been very well trained in the first part. So same thing. You choose a table leader. I encourage you to change, to have another person take that role. And the discussion will be again 30 minutes and five minutes to prepare your reports.

Now, if we're looking at the questions, the big overarching question is what about EA processes needs to change or stay the same. Two subquestions — three subquestions — four, no, three subquestions. What kind of — the first one is about the source of information. What kind of source of information and evidence should be used to identify and assess effects? The second one is about participation, how you see participation, how you see yourself, your community, organization participating in the planning, reviewing, decision-making, and also follow-up. The third question on how and by whom should decisions be made. So it's a big one. And by whom should they be monitored and followed up on. Yeah, exactly.

So these are the three questions. Again, take a few moments to think about them before you engage into the discussion. Choose your table leader who is going to be the reporter — not necessarily a reporter as a reporter, like we have in the room, but the person who's going to report. And 30 minutes for the discussions, five minutes to prepare your reports. And so will we start the discussion in exactly 35 minutes, which leads us to 9:25. Right? Go.

So if we can also have one person from the Secretariat or the Panel be at each table to answer some of the questions. And sheets are being distributed right now.

(PAUSE)

**Jacques Bédard:** So just a few more seconds to finish your work; right. I'll give you 30 more seconds.

So this time we're going to start with table number 2. And Daniel is our spokesperson, I think. Okay? So we're going to start.

So what about EA processes needs to change or stay the same? Daniel.

**Daniel:** Thank you. Okay. So — my glasses on here. So what kinds or sources of information and evidence should be used to identify and assess impacts? So we talked a little bit about current documents that are online. So the registry, there's lots of information there. There's many document management questions we thought of as well, how to deal with the information that's there. One thing we felt that the information that's produced should be peer reviewed, should be able to be peer reviewed by other people who are experts in their field as well. So that's extremely strongly needed. Often in many EAs there are not very much referencing, even, so there should be sound referencing to other documents or to strong sources. And in some cases the information should also be testable and verifiable, okay.

Let's see. One thing we said that sometimes in some cases, especially in the northern part of let's say Ontario as an example, there's sometimes not enough sound information for background, for baselines, okay. So actually trying to make inferences on impacts when you don't have an idea of the background is extremely difficult. So actually there should be more of an effort to set targets of areas where we need baseline data. Maybe that should be one of the focuses of regional assessments. Maybe it's not — it's not an assessment — regional studies prior to an assessment or to aid towards future projects' assessments. So we talked about the type of information should be science based, community based, and also traditional knowledge.

For the second question, so how do you see yourself, your community, organization participating in the planning, reviewing, decision-making,

follow-up for federal EAs. We talked a lot about the need for experts for communities. Sometimes communities don't have the capacity necessarily to understand some of the depth of the information. And there should be more — perhaps more funding needed at the community level for these experts, so maybe it could be targeted funding for experts or for local studies available for an EA. So it could even be banks of experts needed or available for EAs going forward, so.

What else? How am I doing so far, group, is it okay?

**Unidentified Female:** Great.

**Daniel:** Okay. So let's work on the third question. So how and by whom should decisions be made and by whom should conditions be monitored and followed up on? We talked about need maybe for a monitoring agency, so because I think we agreed there's a bit of a weak link after an EA is finished. There's — monitoring is not always followed through. And but the monitoring framework should be in the EA. It can be based — you can have — establish the indicators, establish the frequency, establish the framework of that during the EA for future. And we also pointed out that often predictions from EAs are wrong. It's often just the way you make your best guess at what's going to happen and you're wrong. So you actually have to have some sort of mechanisms in there for adaptive management. How are we going to proceed in case you are completely off the charts, even if — your best experts.

Yeah, so and we're thinking that so as far as decisions and so it should be at the — made at the federal Cabinet level that we saw at the slide, or it should be made more at the municipal level, more power to the people who are actually receiving the impacts. It's always going to be a political process, that's one thing. We talked about giving perhaps conditional approval for projects, maybe renewable on a term. So is it annual or is it five years? How would that work? There was consensus that the Nuclear Safety or the CNSC and the NEB — perhaps we should get rid of those as agencies to maybe focus on — have one set of rules and one set of — one agency that deals with environmental impact assessments so we don't have to understand a different player.

**Unidentified Female:** And we were quite firm about that.

**Daniel:** Yes, we were quite firm about that.

Is that okay?

**Unidentified Male:** We had a consensus about it.

**Daniel:** Yeah, okay.

**Jacques Bédard:** So you had the toss choice in the keep-change toss. Right. Okay.

So table number 3 had an appointed reporter. So John again is the spokesperson for this group.

**John:** So these aren't necessarily answers, maybe just more of discussions that we had based off the questions.

So starting at the first one, so the sources of information. So first we made the general point that there needs to be improved communications between sources of information, whether they be government, academia, whoever, NASA, and the public themselves. You know, the public isn't always able to digest the information coming out of these places and that could be done in a better way. Another source of information to be considered is oral, local, traditional knowledge, and that it be given perhaps more weight than it has previously. Again, important to consider the social impacts and to include the views of the community, thinking about the health of the community, the economy of the community, through more community interaction so that that is considered. Also looking at other jurisdictions perhaps, whatever the project is that the EA is looking at has been done in a similar way in a different spot in the country and that that could be considered — what did they do, lessons learned. Industry can provide information, academia, universities.

For the second question on how better to participate, we started off with the general point that, you know, a greater use could be made of multimedia to connect, you know, people in remote locations to the federal government and every level in between. And that can be used to raise awareness so that you maybe get better turnouts for things like this, but also to promote discussion between folks that are interested and are considered stakeholders. We also briefly touched on the idea that — again, the question is how do you see yourself and your community participating in planning, reviewing, decision-making, and following up. So that's even a lot just to say, let alone do. So the idea that people don't always — it's not that they don't care, but they're busy. They have their own lives. There's a reason for the federal government, for the provincial, municipal — it's so they can take action on behalf of the people; right? So the idea is that the people — we want a system that's in place and that we want it to be done right, but that we don't necessarily need to be involved in every single step of the way. That's a lot of work and it's a bit of a burden, so you know, the whole argument that we pay our taxes; right?

**Unidentified Male:** Excuse me, that was not a —

**John:** I prefaced that by saying —

**Unidentified Male:** No, but it's not a complete answer, because —

**Unidentified Female:** You know, you're — just because you need to get —

**Unidentified Male:** Not all of us agree about the — leaving everything in the hands of the government. There are people who have interests. And I was making the

point that there's all kinds of sources. You can join a group. My friend over here would love for you to join with the Water Alliance. And I belong to various groups. And I bet you everybody does. So sometimes you're spinning your wheels and you think you're getting nowhere. But if you're sitting at home watching TV when maybe you could make the most smallest impact, then that's worthwhile and that's why I'm sure some of us are here.

**John:** Certainly. So we wrote down local engagement and obviously transparency in the issue. So maybe you don't need to be involved in all of these steps, but that if you do become interested as an individual, you can find out where in the process it is and what's going on.

We touched on the point that you have to have an interest in it; right. So if it's a local project and it's affecting you, if it's on your lake where your cottage is, you're going to be interested. But you know, there was a consultation a little while ago for a mine rehabilitation EA that's going on for the Long Lake site that's here in town, and people who have property on that lake were there and people in town who don't weren't; right. So that's just human nature.

We also made the point that as far as — okay, that might go in there — the idea of understanding the net environmental impact; right. So both the positive and the negative that, you know, it's not always strictly negative. Sometimes projects are rehabilitated and they're better off at the end than they were in the beginning and, you know, that holistic perspective is important.

So for the third, who should be making decisions. So we made the point that politicians are not scientists always necessarily, and that the question of whether or not they should be — should a politician be able to trump a scientific consensus, can they be trusted. We did elect them, but they're motivated by other things like election cycles and donors, et cetera. So we thought First Nation groups should definitely be decision-makers to certain degrees, and we touched on the fact that modern treaties do in certain circumstances give decision-making power to those groups. And in addition, multi-level, multi-stakeholder committees who have some authority and ability to make decisions.

As far as monitoring, we thought the monitoring process should be done by the proponent, that it's up to them in the agreement, the EA that they monitor, you know, taking the fish out, all of that, coming up with reports, making it publicly available, but that the following up should be done by the government where they go in at certain intervals in the future, check on the status, and see whether or not the proponent is in compliance with sort of the pre-agreed condition. That's it.

**Jacques Bédard:** Thank you very much, John.

So table number 1 to finish with. They seemed to have a bit less fun this time, so we'll see what really happened here.

**Allison:** We had lots of fun. Okay, so we said some similar things, but I'll add our points in here.

So the first question, looking at the kinds and sources of information. We started talking about the three types of data that we thought these decisions should be based off of. So first, Aboriginal traditional knowledge and also anecdotal knowledge, so information that may not be completely science-based but still be important part of the decision. And then lastly scientific information is a very big part of what's needed to make these decisions.

We were talking about long-term data sets, how a lot of the funding has been taken away for long-term data sets. They may not seem super important for on a year-to-year basis, but over time they can be really important for understanding baseline data and just understanding what's going on in general. We're also looking at the accessibility of the data. So we need like a sharing method to be able to actually get the information out there. And I know there's a lot of data that some people aren't willing to share, so it's maybe opening up those pathways a little bit more so that we can understand what's actually going on in the area.

And then we were talking about third-party assessments, how they should be paid for by the companies, the proponents, and they should have a peer review process. So a lot of science that goes on, it's peer reviewed and this is an important part of having good information. And lastly we should have a complete report of what is going to be going on in the area, what the proponent is proposing, before an EA starts so we can actually understand what research we need to do before we can understand — before we can look at how it will affect the environment. So that's question 1.

Question 2, we were looking at — so the participation, how we were going to participate. So we were talking about how it's important to have workshops and round-table discussions instead of open houses, so it's more of a discussion back and forth rather than someone telling you what's going on but actually wanting your opinion. So they can be a part of the process. And having this go on throughout the entire process, not just at the beginning when the first decisions are being made as — yeah. And then, oh, the people that are actually having to have this correspondence. Is it the proponents? Is it the government? So having clear guidelines of who's responsible for this.

And then question 3. So we were looking at who the decisions should be made by. So we thought that these should be a panel discussion, so it shouldn't just be one person that's responsible for these decisions. And then we were looking at who should be on the panel. So we thought that they should be

independent to the project, but we were a little divided about who should be on the panel. We thought the same thing as the other table over there saying that there needs to be more power for the scientists as government officials are not scientists. Some people were saying that we should — some people are more into having government officials as part of the panel, some people were not as for that. And also having First Nations be a part of that panel is important as well.

And for monitoring, we were for the third-party monitoring that was paid for the proponent — was paid by the proponents.

**Unidentified Female:** And conducted by the regulator.

**Allison:** And conducted with a regulator?

**Unidentified Female:** By the regulator.

**Allison:** By the regulator. Yes.

And lastly, oh, make sure decisions aren't set in stone. So if you have some form of project that's going to be a multi-year project, there's new products, new science coming out as the years progress. So when the first decision is made, it might not have been able to take into consideration new science that's come out. So actually having a review process over time to make sure that the best possible decision is being made. So making it more of a fluid process that was saying. I think that's everything. Anything you want to add? Yeah? Okay.

**Jacques Bédard:** Well, thank you very much and good work all of you. We're moving closer to the end of the session.

And yes, we will be distributing to you two things. The first one is called "My Message to the Panel." So this is your ultimate moment where you can actually send what you think is very important, what you feel is very important that the Panel should know or should take in consideration. So if you feel that, you know, some of the points that you have been discussing must be reinforced, this is where to do it. Or if you feel that some of the points were not actually discussed enough, another place to put it. And also another sheet of paper — lots of paper tonight — you keep it — you actually write it down while you're here, yeah, and we'll pick it up at the end of the session.

And the other one is a quick evaluation form. So you will notice that on one side it's in English and the other side is French. So you don't have to complete both sides. It's not an exam. And if you do complete both sides, make sure you actually put the same answers or it will — we'll not be able to consider your evaluation. Also another one, if you look at the table, it starts — you have a few evaluation criteria. It starts by strongly disagree, which might be counterintuitive for some. So make sure that you actually put your X in the right column.

So I'll give you a few more minutes, and then Johanne is going to do the closing remarks.

(PAUSE)

**Jacques Bédard:** All right, so thank you very much. You've been really incredible groups to work with. And Johanne is going to do the closing remarks. They're very studious, aren't they?

**Johanne Gélinas:** Yeah, I don't know how many students we had, but they had a very good impact on the rest, because we had all good students tonight. So thank you very much.

My closing remarks won't be long. I just want to thank you all for your investment, for those of you who have made presentations, for those of you who have worked with us tonight to try to find out new ideas, innovative ways to do things differently. And it was a good thing for us to be in Sudbury. No regrets.

We continue tomorrow morning. Those of you who would like to join us in the morning, we have now five presentations from indigenous groups, so you are more than welcome to join us. We start at 9 tomorrow morning.

So again, thank you very much and have a safe evening. And go back home — I don't know if there's still protestors on the bridge or whatever. I understand that Sudbury is a good supporter of Arkansas; right? So thank you very much.

■