

Error! Not a valid filename.
CANADA

Standing Committee on Environment and Sustainable Development

**COMMITTEE EVIDENCE NUMBER 64,
TÉMOIGNAGES DU COMITÉ NUMÉRO 64**

UNEDITED COPY – COPIE NON ÉDITÉE

Tuesday March 19, 2002

⊕ (0905)

[English]

The Chair (Mr. Charles Caccia (Davenport, Lib.)): Good morning. We have a quorum. We welcome you and we'll start without delay. Who would like to go first?

Mr. Lundhal, please. You can keep your comments to a few minutes each so that there will be time for questions. Go ahead.

Mr. Pierre Fortin (Executive Director, Canadian Hydropower Association): Actually I will go ahead, Mr. Chairman.

The Chair: Mr. Fortin.

[Français]

Merci beaucoup. Merci de l'invitation, de cette opportunité de rencontrer les membres du comité. Je me présente, Pierre Fortin, le directeur général de l'Association canadienne de l'hydroélectricité. Sur l'avis de réunion, vous avez sans doute noté le nom de M. Paul Adams, qui est le président de l'Association. Malheureusement, M. Adams a été retenu tard, hier soir, à Vancouver, non seulement à cause de la neige, mais à cause d'ennuis mécaniques. Alors, s'il avait pu partir, il serait arrivé ici vers 6 heures, ce matin. Alors, je pense que la chose sensible a été pour lui de me demander de le remplacer. À mes côtés, M. Pierre Lundhal, qui est le conseiller en environnement pour notre association et qui est, en fait, celui qui a rédigé le mémoire que nous vous avons présenté.

L'Association a participé, depuis les débuts, aux délibérations, en ce qui concerne l'examen quinquennal de la Loi canadienne sur l'évaluation environnementale.

Ⓜ (0910)

[*English*]

In February, 2000, the association submitted a first brief during that consultation process and, because of that involvement, that's why we're here today to discuss Bill C-19 which was tabled by the minister in March, 2001.

The association has some concern about the environmental assessment process and its implication. We believe that further progress can be made to remove some of the obstacles currently in the way of the future development of a clean, and renewable, energy source, namely hydro power. Before I describe our specific concern, I would like to just say a few words about our association.

[*Français*]

Notre Association a été créée en 1998. Elle représente évidemment les intérêts de l'industrie hydroélectrique au Canada et également sur le plan international. L'Association a été créée principalement en raison des changements structurels qui se produisent au sein de l'industrie, notamment la restructuration et la déréglementation des marchés nord-américains. Nous représentons les producteurs d'énergie hydroélectrique, un certain nombre de manufacturiers et d'autres firmes impliquées dans le développement hydroélectrique. En fait, l'Association représente, ou nos membres représentent 95 p. 100 de la production d'hydroélectricité au Canada. L'Association tente évidemment de promouvoir l'utilisation de l'hydroélectricité et d'en faire connaître les bénéfices.

[*English*]

What benefits you'll tell me. For example, not only is hydro power an efficient and reliable source of electricity, it is, in our view, the only clean and renewable source that can make a substantial contribution to meeting Canada's growing electricity demand, 1.2% per year over the next two decades. With its unique storage capability, hydro power makes an excellent partner to other renewable and clean energy by supplementing the irregular output of such green solutions as wind and solar power. I think that is a fact worth noting.

Despite the benefits of hydro power, the tendency is to see the percentage of our power, as part of the Canadian power generation, diminishing year by year.

[*Français*]

En 1950...

Le président: Je vous encourage de faire vos commentaires sur le projet de loi, à cause du fait qu'à partir de 10 heures, nous avons un débat à la Chambre des communes sur le

changement de climat et, à ce moment-là, il y aura deux ou trois collègues qui devront partir et abandonner la pièce. Merci.

M. Pierre Fortin Je vous remercie, monsieur le président.

[English]

Let me then focus on three issues that we see in the environmental assessment process. Some of those are looked after in the bill, itself.

Firstly, there are uncertainties in the evaluation process, regarding some of the requirements of CEA, including the interpretation of certain terms, the scope of studies and the duration of the process and its outcome.

Secondly, there is an insufficient harmonization between federal, provincial, and territorial processes. I know that point has been made by a number of stakeholders.

Thirdly, the present environmental assessment process places excessive emphasis on local impacts. I think that's an important point.

[Français]

Très bien, je vous remercie monsieur le président.

[English]

Let me then focus on three issues that we see in the environmental assessment process. Some of those are looked after in the bill itself.

Firstly there are uncertainties in the evaluation process regarding some of the requirements of CEAA, including the interpretation of certain terms, the scope of studies, and the duration of the process and its outcome.

Secondly, there's an insufficient harmonization between federal and provincial territorial processes. I know that point has been made by a number of stakeholders.

Thirdly, the present environmental assessment process places excessive emphasis on local impacts. I think that's an important point. It does not take into consideration large-scale negative impacts on the environment such as acid rain, smog, and climate change, all of which have serious detrimental effects on the health of Canadians as well as our fisheries and forests.

Emphasizing local impacts while ignoring air pollution and climate change has the undesirable effect of privileging fossil fuel powered plants over hydropower plants. Given the problems facing Canada and the world in the 21st century, especially with regard to climate change, this seems shortsighted to say the least.

To address the concern that dominates the current legislation, the local impacts. While it is true that hydropower project developments have local impacts on the environment, such impacts can be minimized by careful planning and operation in collaboration with local communities. This is being done at this time by the hydropower industry. The fact remains, however, those impacts are local while the impacts of fossil fuel alternatives are long term and large scale.

As you will have seen in our brief, we have made a number of concrete recommendations. I refer you specifically to section 6 entitled “Suggested Improvements to Bill C-19 and Related Regulations, Policies, and Guidelines”. We believe that our recommendations can further improve the environmental assessment process while, at the same time, protecting the environment and ensuring the development of a clean, renewable source of energy.

These recommendations include proposals to reduce the duration of the environmental assessment, to ensure that the scope of the assessment is reasonable, and to consider emissions or offsets of greenhouse gases in the environmental assessment of energy projects. The environmental impact assessment and review of all major development projects is part of internationally-recognized good environmental practices. We do support that process.

However, as it stands the process has the unintended affect of favouring the development of non-renewable, more polluting forms of energy, specifically fossil fuel generated electricity. We believe the process would instead, with more balanced criteria, favour a form of energy that can help to reduce air emissions and fight air pollution and climate change.

In closing, one short point. The Canadian Hydropower Association and the industry it represents are not alone in its support of hydropower as a more environmentally friendly source of energy. I'd like to draw your attention to a survey that was conducted late last year by Léger Marketing which shows that 71.8% of Canadians support the development of further hydropower development. That number exceeds 85% when Canadians were asked to take into account the fact that these projects could improve the environment by displacing greenhouse gas emitting sources of electricity.

Thank you again Mr. Chairman. We look forward to answer any questions you may have.

⊕ (0915)

[*Français*]

Le président: Merci, monsieur Fortin, c'était très clair et bref.

[*English*]

Mr. Kneen, would you like to go next?

⊕ (0920)

Mr. John Sinclair (Co-Chair, Environmental Planning and Assessment Caucus, Canadian Environmental Network): Thank you as well for the opportunity to speak this morning.

The first issue that I want to deal with is public involvement and there are three problems relating to public involvement that I will highlight today, which we've chosen to focus on today. The first of these involves the discretionary nature of public involvement in most--really, the vast majority of environmental assessment screenings, and second, the proposal for an electronic registry system, and third, lack of public involvement and follow up activities.

In regard to the first, as you know, public involvement remains discretionary at the screening level and the result is that the public is not involved in most environmental assessments in Canada. When this involvement does occur, it is usually under the control of the proponent, with no clear direction to conduct meaningful public participation. Public involvement is often poorly done, with no evaluation of the quality and it occurs, usually, late in the process.

While the public is not the only participant to the process, it has little power to ensure that its concerns are incorporated into the actual EA process itself. In order to address this issue, the minister's report to Parliament has committed to providing guidelines for public involvement in screenings. In particular, the minister's report promises that the guidelines will include a requirement for responsible authorities to document, in each screening report, the basis for the decision relating to the need for public participation.

The regulatory advisory committee reached consensus on this issue and even provided wording for a suitable amendment in this regard, yet Bill C-19 does not require that such a decision be made, nor have the promised guidelines for such meaningful public participation been placed before the public. Without a chance to see these guidelines and without a legislated requirement to actually decide on the need for public input, it is questionable whether Bill C-19 will actually deliver on its promise of more meaningful public participation.

We have a number of recommendations in this regard. Our first would be that there should be a participation regulation as part of Bill C-19. We're tired of seeing public involvement relegated to guidelines. Bill C-19 should require the responsible authority to document, in screening reports, the basis on which it has made the determination on whether or not to consult the public. Third, Bill C-19 should include a requirement for the responsible authority to evaluate public involvement conducted within individual environmental assessments. Fourth, Bill C-19 should include serious consequences if a public involvement process is found to be inadequate. Last, Bill C-19 should empower the public to ensure that appropriate public involvement occurs.

Problem two, the proposed electronic registry: Information is key to any environmental assessment. People must know that the assessment is taking place and they must have the

documentation to participate. Currently, Bill C-19 is proposing that the paper registry be replaced by an electronic registry system. We see a number of problems with this and are concerned about the lack of the comprehensive nature of the current paper file being lost. Many people interested in projects find electronic files inaccessible. In addition, electronic files currently pose problems related to translation that often delays public distribution.

Our recommendations in regard to this problem are that the registry must be both comprehensive and accessible to all interested parties. Therefore, the existing registry system and its "all in" requirement must be retained in the act with the new electronic requirement being added to an enhancement to the current system. Second, the electronic registry can include notification and a list of documents in its initial stages and this need not include texts for all documents listed. Third, the requirement that paper documents be kept in convenient locations must be retained. Last, Bill C-19 must specify that the responsibility belongs to the agency to ensure that registries are being properly maintained by responsible authorities.

Problem three is the lack of public involvement and follow up. As you know, environmental assessment deals with the realm of prediction. Follow up is essential to ensure that those predictions are correct

⊕ (0925)

An important part of those follow-up activities should be the involvement of the public, especially that public that's been directly affected by the project. We recommend that C-19 should include a requirement for public involvement and follow-up.

Mr. Jamie Kneen: Our second key issue has to do with the environmental assessment track. One of our major concerns is the proposed revisions to the comprehensive study process. C-19 pretends to improve certainty of the assessment track, they are requiring the minister to make an early decision on which track comprehensive study versus panel review, the project will follow. Two key problems arise from this proposal. First that it doesn't actually provide any increased certainty and second that it is quite unclear how this proposed new process will work.

Problem one, no increased certainty of process. The uncertainty in the process is simply shifted to the beginning of the process from the end. The changed proposed would require the minister to make a decision about the significance of environmental affects without being informed by an environmental assessment. To us this moves dangerously close to the tactic of, improved in principle pending the outcome of an environmental assessment, which is simply unacceptable in an EA process that relies on self-assessment. Our recommendation is simply to delete the proposed amendment and keep the existing approach to decisions about environmental assessment tracks.

To go into it a bit further, it's quite unclear how the new comprehensive study process is supposed to work. Details such as criteria for making the track decision and the timing of opportunities for public participation or public involvement are missing. The

consensus specified that public participation should occur during the prescoping and scoping portions of the process during the preparation of the comprehensive study review report and during the time for commenting on the report itself. The minister's report promises guidance material to be developed but there's no commitment to participation at any specific stage in the proposed comprehensive study process.

So within the scoping and prescoping portion of the process some members of our caucus have suggested four public involvement steps leading up to this new track decision. One, that when the notice of the project proposal is made available there should be a request for public input on scope within 30 days to review the project and make comments on the scope. Two, that the proponent and the responsible authority should produce a draft scoping document and seek public input through a workshop involving the public and this should be completed over 60 days. That the final scoping document should be released for public review and comment over a 60 days period and that the final draft of the scoping document be sent to the minister with comments from the public and with the responsible authority's report on the recommended assessment track.

Another key problem in the proposal, that once the decision to follow the comprehensive study process has been made it can not be reversed, yet it is not possible to know the significance of effects prior to conducting the assessment. The need to account for issues relating to uncertainty about the significance of affects, new information and public concerns arising from the assessment are also overlooked by this proposal.

We have a series of recommendations and four proposed approaches.

The Chair: It seems to me that you're going into the regulatory realm of this type of legislation and therefore you're bringing up important but very specific details. Can you give the committee the broad outlines as to what you think should be done by way of amendments or improvements on the existing sections of the bill?

Your time is up in other words. So can you sum it up please.

🕒 (0930)

Mr. Jamie Kneen: Thank you, Mr. Chair.

What we're getting at is that there needs to be a legislative requirement within this. You're quite right that we're talking about regulatory details but which require a legislative hook to give them some force. What we're being presented with is a proposal for a guideline which to us is simply inadequate.

The Chair: Would you like to propose a legislative hook?

Mr. Jamie Kneen: Well our essential proposal is to take out that section of the amendment. Because it's too complicated and unwieldy the way it is.

The Chair: Which is the number of the section you're referring to?

Mr. Jamie Kneen: Section 13 of Bill C-19. I mean to us it's simply unworkable. We've tried to go into some details if there's a real desire to pursue it further.

Mr. Charles Caccia: Would you like to wind up?

Mr. Jamie Kneen: Yes.

Our conclusion is that the five-year review did not allow meaningful time for discussion on these topics and that there's a need for a larger discussion about environmental assessment. This was recognized by the Regulatory Advisory Committee. There's a lot of important topics like cumulative effects that have not been addressed that need to be discussed.

Our proposal is that Bill C-19 include a requirement for a parliamentary review of the act within five years.

Thank you for your time.

The Chair: Thank you very much, Mr. Kneen.

All right, who is next?

Mr. Norrena, welcome back to the committee.

Mr. Ed Norrena (Director, Board of Directors, Canadian Environment Industry Association): Thank you.

Mr. Chair, members of the committee, we represent the Canadian Environment Industry Association and what I'd like to do is to introduce our team. Rebecca Last is the policy director for the Environment Industry Association and Lucien Cattrysse is the chair of the Technical Advisory Committee that has been put together to assist us in the review of the Environmental Assessment Act.

Now, Mr. Chair, the environmental assessment legislation of Canada is very important legislation for the Environment Industry Association. It is good for sustainable development, it is good for environmental protection, but it is also a good driver for our membership in terms of business and good environmental protection.

What I'd like to do is to turn it over to Lucien Cattrysse to make the points briefly that we would like to leave with you today.

The Chair: .

Mr. Lucien Cattrysse(Chair of Technical Advisory Group, Canadian Environmental Industry Association): That's correct. Thank you, Mr. Chairman, thank you, members of the committee.

We would like to make three key points today and their endorsements of the legislative amendments from the five-year review.

The first relates to renew the federal commitment to environmental assessment. Federal funding has gone down for environmental assessment. In the recent past we had the green plan. Some of the remnants of the funding from the green plan were rolled into the permanent budgets of the agency and some of the departments, so there's a shortfall of resources there.

In terms of environmental assessment research we used to have the Canadian Environmental Assessment Research Council. That was funding some key research that put Canada in the forefront of environmental assessment practice globally.

We now have a research budget in the range of \$100,000-\$200,000 per year. It takes about \$20,000 to get all the experts in a room so there isn't much money left over for research following that.

We believe that this has led to an inconsistency and perception among federal departments and stakeholders as to the purposes of the legislation, inconsistency as to what is good EA.

So our position is that the Government of Canada develop specific goals, targets and performance measures for the Canadian Environmental Assessment Act and we are endorsing clauses 31 and 32 of the legislation that promotes equality management program for what is good EA to promote and monitor compliance with the Environmental Assessment Act.

As well, we would like to request further funding for research to regain Canada's position as a researcher for environmental assessment practice, so that's our first main point, federal commitment to environmental assessment.

The second point we'd like to make is that the focus of the scope of the legislation be clarified as well. There seems to be a focus on screenings rather than comprehensive studies. We recognize the value of screenings, but there seems to be an administrative fixation on the screening portion and we have not seen a significant number of comprehensive studies.

To my knowledge and to our knowledge with the association we'd really not have a project that was stopped as a part of this legislation. That has to be balanced with the unmonitored value of the legislation that would preclude a project that's a non-starter from the get-go

⊕ (0935)

We're endorsing those follow up provisions under Clause 19 of the amendment. We are endorsing the amendment which allows follow up programs to be more comprehensive. The programs are no longer limited to the mandate of the regulatory trigger under which the responsible authority is acting. So it's more an all encompassing form of follow up which deals with the project not just the narrow mandate of the regulatory authority, the responsible authority.

Further we would like to address this latter amendment which is that in Clause 19 and further strengthen it to require environmental management plan as part of follow up. This is not an unknown quantity or new thing. Other legislation in other countries such as Malaysia, the World Bank's requirements require an environmental management plan. This is a situation where you would have enough detail in the plan to set the framework for the full life cycle environmental management without specifying all of the details. So you could describe the resources required for a full life cycle management, what other means or approvals are necessary under other legislation for the project, the means and timeframes for mitigation items that are to take place down the road.

We find that organizations or projects that undergo this type of discipline can quickly roll that information into an environmental management system for the full life cycle. These are consistent with non regulatory, voluntary requirements such as ISO 14000.

So in summary, we'd like to make three key points about our brief today. Renew the commitment to this act, renew commitment to the purpose of the act, state what the purpose is with performance measures to achieve that purpose. We're endorsing a quality assurance program to promote good We're endorsing a request for more research to put Canada at the forefront of environmental assessment again. We're asking for a realigned focus to put more emphasis on comprehensive studies and to use the class screening concept, promote efficiency for screening level assessments.

And thirdly, we're endorsing the follow up provisions within Clause 19 of the amendments and request that the concept of an environmental management plan which would set the stage for a full life cycle environmental management be promoted.

Thank you.

⊕ (0940)

The Chair: Thank you very much. One can recognize that presentation, very helpful.

We now have Mr. Bailey or Mr. Mills, one of the two followed by M. Bigras, Mme. Kraft Sloan, Mr. Reed.

:Please go ahead.

Mr. Bob Mills: Thank you very much, Mr. Chair.

Mr. Roy Bailey: Thanks very much, Mr. Chair. My apologies for being a little bit late. We have the university students on their annual pilgrimage to Ottawa to present their positions.

My colleague here, Mr. Mills, now returns. It might be of interest to the panel to know that today on our supply day motion in the House of Commons is dealing with environment. It's a big long debate all day, so it's kind of a coincidence, perhaps, that you're here at the same time, but it's a worthy coincidence.

I would like to say this. On a recent trip that I made overseas, I was amazed at the interest--and I was mainly in Scotland--in this topic. Because of its smaller scope, it's more concentrated, perhaps, than even the country of Canada of a wide expanse.

Canadian are becoming more and more interested in environment. There is no question about that. What has amazed me in my reading, in the last six months in particular, and in some of the programs outside I've sat in on, is the amount of attention being given to the environment by industry in Canada. Sometimes I don't think we're giving the credit to industry and their innovations and their amount of money that they are spending. I want to point that out because recently I was able to observe some tremendous advances in this topic from many of the companies: the wind power usage and the splitting of the water into the hydrant, all of those things which are coming on. There are three main things that I do want to bring to your attention, though.

I believe we, as a committee--and I'm only speaking for myself here...but I believe that it'll be necessary that we would encourage you to provide us with certain amendments, as you see fit. I think we have to, in doing that, be cognizant of the socio-economic interests at the same time. You must include those. You can easily sell a man a pair of shoes if the soles are out, but you can't sell them a pair of shoes if he's very comfortable in the shoes he's wearing. And I suggest to you that's a skill which you people can assist this committee, and this committee, in turn, assess the entire Government of Canada.

I believe we have to give commitment and we have to give protection and acknowledgment of the public involvement. The more acknowledgment they received in the media, the more likely you're going to attach more people to get on board. I'm not a public ad man or anything, but I just know from experience in life that is very true.

So Mr. Chairman, having said that, I'll let my first questions go and thank all of you people for being here this morning.

The Chair: Thank you, Mr. Bailey.

[*Français*]

Monsieur Bigras, s'il vous plaît.

M. Bernard Bigras (Rosemont--Petite-Patrie): Merci, monsieur le président. Je vais être court moi aussi parce que le temps avance.

Dans plusieurs cas, dans au moins un cas dans la région de la Côte-Nord, on a vu des projets d'hydroélectricité, disons, ralentis dans leurs travaux dû à, je ne sais pas à quoi, on peut appeler ça, dû à une laxisme dans certaines décisions d'évaluations environnementales fédérales alors que les évaluations environnementales provinciales, je parle entre autres du BAP, avaient été réalisées.

Ma question est la suivante, comment pouvons-nous au fond faire en sorte d'avoir toutes les assurances sur le plan environnemental, que les conséquences sont nulles, tout

en permettant de faire en sorte que les projets hydroélectriques qui sont quant à moi des projets verts et créateurs d'emplois puissent se réaliser?

Comment croyez-vous que des modifications au projet de loi actuel devraient être effectuées pour tenir compte de ces deux applications, de ces deux priorités qui sont au fond le développement durable? Cette capacité de venir à une solution entre économie et environnement.

⊕ (0945)

M. Pierre Lundhal: Si je peux me permettre, monsieur le président, de répondre à cette question, je dirais d'abord qu'il faut rendre le processus plus efficace. Nous avons proposé pour cela, entre autres, de mettre des limites de temps aux différentes étapes du processus fédéral et de prévoir dans la loi que de telles limites de temps puissent être mises en place.

Un deuxième aspect, c'est de maximiser l'utilisation des informations existantes à partir des projets qui ont déjà été réalisés et du *follow up* du programme de suivis environnemental qui ont été faits sur ces projets-là. Ils donnent des informations précieuses qui sont souvent pas utilisées. C-19 devrait contenir une clause qui dirait que parmi les facteurs à prendre en considération dans les études, il y a les résultats des programmes de suivis des études faites sur des projets semblables.

[English]

Mr. Pierre Lundhal: One additional thing that could be done to make the process more effective without posing any risk to the quality of the assessment is to make less uncertain the definition of the scope of the project.

As it stands today the scope of the project has to be defined by responsible authority on a case by case basis. The law should be slightly modified so that there are limits to how a project can be scoped. The same thing should apply to the determination of the scope of the assessment. I'm referring to sections 15 and 16 of the current CEAA.

Merci.

The Chair: Thank you.

Madam Kraft Sloan.

Mrs. Karen Kraft Sloan (York North): Thank you very much, Mr. Chair.

Mr. Kneen and Mr. Sinclair, I was reading your briefs with a great deal of interest and particularly, Mr. Sinclair, the paper that you had put together with regard to the five year review. In your brief you said that the whole five year review has been an exercise in reduced expectation. Also in this paper that you have produced, Mr. Sinclair, is a particular line here that I find rather fascinating. It says:

One must question whether the goals set at the outset of the review process is to ensure more meaningful

participation in an environmental assessment has been accomplished, or if the changes lead more toward what PETS 1999 defines as legislation that emphasizes decision legitimization rather than decision enhancement.

So I'm just wondering, given these two comments in these two documents, your feelings on the review and if you could sort of elaborate on that, we'd appreciate it. Thank you.

Mr. John Sinclair: In terms of the review itself, the process for the review, I think we would agree that it was well orchestrated. I guess the concern lies in whether the information that was garnered during the review was actually used in the proposed legislation Bill C-19.

I looked particularly at the public involvement aspects and went through all of the information that was provided by the public through the review process, including the regulatory advisory committee meetings and I identified 16 different amendments that were suggested through those consultations; 5 of which have been responded to in Bill C-19. All of those were in the original discussion document put out by the agency.

So none of the new things that people felt were important such as defining meaningful public participation, for one example, are included in the new bill. In terms of the process of the consultation itself, I think was well orchestrated, but in terms of the use of the data that was collected, I have to question how much the data was used in the development of the bill. In other words, were decisions made before the consultation actually took place because there's very little...and I'm talking just in terms of the public involvement component of the three key things that the consultation was supposed to address?

Jamie, did you want to add anything to that?

⊕ (0950)

Mr. Jamie Kneen:

Mrs. Karen Kraft Sloan: Thank you.

The other point, Mr. Chair, is that I've heard both from industry and environmental groups who have indicated a concern around the lack of definition of scope. Clearly, this is an important issue that organizations from different sectors are concerned about. It surprises me that this wasn't addressed in the legislation.

Also I wanted to ask the same witnesses, it's my understanding that you're RAC members and yet the RAC has said good things about the review process. I wonder if you could clarify why you're breaking with this particular position?

Mr. John Sinclair: I've looked over the *Hansard* from the day the RAC members presented and I believe that the position put forward by Justina Orlean was that the process that was carried out for the five year review was an adequate process. So the actual meetings and stuff were run well and things like that. While we had some argument about some of the stuff that took place in terms of process at individual

meetings, I found the agency to be quite responsive to making changes in regard to some of the complaints people had.

I know the RAC members who presented didn't speak to the issue of whether the information collected during those hearings was actually used and I don't think they commented on that. It would be from the work that I've done would indicate that information hasn't been used.

Mrs. Karen Kraft Sloan:

You've also indicated in your presentation that you would like to see a five-year review, but as a parliamentary review. Again, if you could just clarify your comments around this.

Mr. Jamie Kneen: Sure. As you know there's no new five-year review in C-19. I think it would be fairly simple to tack it on.

The problem that we see is that there's no standard for what that review would entail. In a sense we're lucky this time around that the minister directed the agency to execute the review, it was well done. We've argued that it was not sufficient, but it was well done and there was opportunity for public involvement.

However, there's no requirement there and I think our preference would be to put it in the hands of this committee which would at very least give us some guarantee of public access so that the minister's report or the minister's review doesn't wind up being a simple report. One paragraph saying everything's fine, thank you very much, go home. That's why we're taking this approach.

The Chair: Merci Mme Kraft Sloan, M. Savoy.

S'il veut plait. Oh no, Mr. Reed.

Mr. Julian Reed (Halton): Thank you Mr. Chair. Thank you all for being here this morning.

Mr. Chair, I didn't believe that this committee should take serious heed, the concerns that have been expressed the Canadian Hydro Power Association to this committee. They talk about the over emphasis on local impacts, the lack of emphasis on emission offsets, the need for time limits on approvals and the use of existing information.

I've got to tell you in my personal experience, it doesn't matter whether a hydro project is large or small, it takes seven years to get approvals. When we do a gas plant, it takes months. We take a cubic meter of air and we put it through a gas plant, we strip the oxygen out of it and we fire the carbon dioxide up in the air and it costs nothing.

In Ontario, we take a cubic meter of water and we put it through a turbine, we may oxygenate it a little bit and deliver it a little cooler into the river and make an attraction for fish, but otherwise in it's pristine state and we pay water rentals for it. That's the imbalance that exists on a very small exposure to the imbalance that exists on

environmental assessment for hydro plants versus other forms of polluting energy. So whatever we do with Bill C-19, it seems to me that's got to be taken into consideration.

I have in the very limited time I have before I have to go into the house to speak, I have a question that I would like to ask all of you. I think I've heard smatterings of this from most. Would it be acceptable to do a class environmental assessment for hydro power?

Now I've been an advocate of this in Ontario for small hydro. Class environmental assessments were started in 1989, shelved in about 1990 or 1991 and were taken no farther. Probably because they would exhibit the truth about hydro plants and the benign nature of them as embedded assets in our country.

But I just wonder if that could not...I realize hydro projects as anything are site specific to a certain extent, but it seems to me there are values to this technology which has a life span that is unknown. Any hydro plants that were taken out of service were blown out and actually removed. So once there're in place they're embedded forever, if they're maintained. They are one of the keys to this challenge on global warming that we have at the present time. They're one of the major tools that we should be endorsing.

But as long as we continue to create costs that are absolutely unbearable, especially for smaller hydro developers and so on, it's not going to happen, it's not going to get done. So the question is Class EA.

🕒 (0955)

The Chair: We'll have a brief answer, as brief as possible, by each one of you.

Mr. Lucien Cattrysse: I would submit that perhaps a cross-screening concept could be lent to modifications of existing facilities. But for the fundamental creation of a new facility, you may not want to go that route, because of the local-specific nature of the environment where you're creating that facility.

Mr. Julian Reed: You have to be kidding.

The Chair: He's not. Don't argue with him.

Next.

Mr. Pierre Lundhal: Yes, if I may. I think class assessments could be used--one for maintenance work, small modifications to existing projects and a certain number of smaller projects that fulfill a kind of typical description. There's limits to what it can do, but I think it could be of great help, because the industry is suffering not only from the time needed to approve new projects, but also from the time needed to go through the process for relatively minor work on existing facilities.

Mr. John Sinclair: I don't think you'll find it surprising, Mr. Chair, that we wouldn't support such an amendment.

I come from Manitoba. There's a lot of legacy of hydro damage in Manitoba, in our province and in other provinces. We would not only oppose that, we would question the amount of time that it takes to move through the process to get approval. I'm sure our colleagues from CEIA would not agree that it's taken that long to get approval for any type of project, never mind a hydro project, under the current act. Much of the time that industry takes for any project is in working with willing hosts, with the communities that they want to build the facility in.

Currently, in Manitoba, Manitoba Hydro is proposing to build a new project that we'd like to see the federal government get engaged in. They are not currently engaged in that project. The hydro utility has worked for at least two years, if not more, with communities in northern Manitoba in the development of that project. Yes, if you count that time, it takes a fair amount of time to move through the process to get a project up and running. But that's not part of the approval process, that's part of the process of finding a willing host.

Thank you, Mr. Chair.

🕒 (1000)

The Chair: Thank you, Mr. Reed.

Mr. Savoy please.

Mr. Andy Savoy (Tobique--Mactaquac, Lib.): Thank you very much, Mr. Chair.

I certainly have a keen interest in this issue. As people to my direct right know, I was formerly on the board of directors of CEAA, and have some concerns with Bill C-19.

The concerns I have involve the federal and provincial harmonization. People say a lot of duplications and delays. We've seen some examples of that, but I was looking for specific examples where jurisdictional issues have led to problems.

How can we harmonize federal and provincial environmental assessment processes using Bill C-19? How can you harmonize that to make it more user friendly I guess, or make it more effective?

I'd like to hear from all three on this one. Start with CEIA I guess.

Mr. Ed Norrena: We have a perfect example of that. It has just occurred I guess with the Greater Toronto Area, where we've been able to harmonize not only provincial and federal legislation, but municipal legislation and involvement in the decision-making process for environmental assessment. It was basically the development of a partnership which brought all the processes together and built that in so that the decision making would be easier and everybody would be heard, and there would be only one environmental assessment process undertaken.

How to build it into Bill C-19? The ability to arrange for partnerships, relationships, approaches.

Mr. Pierre Lundhal: I feel that the current CEAA, as well as Bill C-19 are a bit too rigid and don't let the minister recognize processes of the provinces or other jurisdictions unless they meet the whole series of conditions. Really, what it ends up to do is to put the minister in a position where he can use information from other processes, but not see them as equivalent to the whole process. What we would like to see is provision that would with certain conditions put the minister in a position to recognize that another process is equivalent.

Mr. Andy Savoy: CEN.

Mr. John Sinclair: We believe in a strong federal environmental assessment process in Canada. There have been difficulties already in trying to deal federally and provincially on some projects. The federal government has, we feel, in some cases--and in fact, some cases that have gone to court--has not lived up to its obligations in getting engaged in provincial EAs of projects that may have federal implications.

I'm sorry I don't have the documents in front of me, Mr. Chair, but we question this issue of waste of time due to duplication and overlap. There's a paper out that shows that, in fact, there isn't duplication and overlap between the process and that, in fact, they do complement each other. We're concerned that the federal government, under some of the agreements that it currently has with the provinces, which make it almost impossible for the federal government to be the lead agency in some of those assessments, almost by default defaults to the provincial authority to be the lead agency for those assessments.

Thank you.

Mr. Charles Caccia: Mr. Bailey, second round. Sorry, it is Madam Scherrer.

[*Français*]

Mme Hélène Scherrer (Louis-Hébert, Lib.): Merci, monsieur le président.

Je voudrais qu'on puisse revenir sur l'enjeu du suivi dont au moins deux groupes d'entre vous ont mentionné dans leur présentation au niveau d'un follow-up au niveau du processus qui est actuellement en cours. On semble dire que l'évaluation ne s'est fait qu'en élaboration de projet, alors que le projet est bien en place et qu'il ne semble pas avoir de mesures suffisantes pour effectuer un suivi adéquat du projet et voir, en cours de route, si effectivement il n'y aurait pas des correctifs à apporter.

On parle même d'un plan de gestion de l'environnement en cours de suivi, des conditions d'établissement. Je pense qu'on sait ou on a des expériences, des exemples où il y a, par exemple, un projet qui a été modifié en cours de mise place, parfois pour des raisons tout à fait valables, parfois parce qu'on a eu l'impression que les promoteurs ont peut-être joué un peu la carte de dire, maintenant on ne les regardera plus et on va pouvoir faire un peu plus ce qu'il veut.

Alors, je voudrais que vous nous donniez un peu plus d'idée de comment cela pourrait s'articuler pour pouvoir effectuer le suivi. Et ma deuxième question est la suivante, trop

souvent hélas, je pense que les dommages environnementaux ressortent au moment où le projet est complété. On n'avait pas vraiment évalué et certaines choses ressortent par la suite. Est-ce que vous pensez que ce projet-là pourrait effectivement exiger que l'entreprise fasse des correctifs, par la suite, alors que le projet est complété également ou lorsque vous parlez de suivi, vous parlez uniquement en cours de projet et non pas pour la période par la suite, établissement d'une période, par exemple, qui pourrait être les cinq prochaines années, si des dommages environnementaux importants ressortaient, est-ce que, dans la loi, on ne devrait pas y voir, par exemple, l'obligation de correctif?

🕒 (1005)

M. Pierre Lundhal: Je pense qu'au niveau de cette question de suivi, il faut d'abord noter que le projet de loi C-19 renforce la capacité fédérale d'imposer des programmes de suivi aux promoteurs de projet.

Je dirais, par ailleurs, que l'industrie que nous représentons ici aujourd'hui, l'industrie hydroélectrique, fait beaucoup plus de suivis que ce qui était requis par la loi ou les exigences réglementaires depuis très longtemps et a accumulé beaucoup d'information.

Le suivi peut avoir deux utilités principales; l'une c'est de voir si on ne s'est pas trompé en prévoyant les impacts et de corriger après coup. Je n'ai pas eu le temps de réfléchir à la dernière partie de votre question qui était de savoir s'il fallait prévoir quelque chose pour permettre des corrections après coup, si c'était dans la loi. Je ne saurais pas répondre à ce point-là. Ce que je peux dire, par contre, c'est que les données au programme de suivi devraient être utilisées beaucoup plus à chaque fois qu'on fait une évaluation d'un autre projet semblable.

Actuellement, la façon et données d'un projet existant servent pour faire d'autres études d'évaluation environnementale et les faire mieux qu'avant, c'est simplement parce que certains professionnels vont chercher ces données-là et les utilisent dans leurs rapports techniques. Je pense qu'il faut aller au-delà de ça et nous proposons dans notre mémoire que ce soit un des facteurs à prendre en considération dans l'évaluation, que ce soit les données qui existent sur des projets semblables dans des régions comparables, à chaque fois qu'elles peuvent être utilisées.

[*English*]

Mr. Lucien Cattryse: Je m'excuse de répondre en anglais, c'est ma première langue...

I have one example from the past where the studies from the background environment did play a role in changing the design of the facility and that is the Darlington station on Lake Ontario. Because of the monitoring studies it had done on the local fish population they redesigned the outflow of the cooling water into a different arrangement. So there's a different example where the environmental aspects played a role in adapting the design and that can only occur later in the project when you have that type of information. That design was very much advanced before that last minute change was made.

In our position there is so much information and so much momentum generated by the environmental assessment process that it's a shame to let all that information just go by the wayside once a project decision is made. That information is very valuable for setting up follow-up programs, for the monitoring, the measuring and being adaptive and how you mitigate the information or the impacts that are sometimes only discovered down the road when the project is already implemented.

So I guess what we're advocating in terms of an environmental management plan is to set the stage to be that adaptive, should you need to be. Rather than concentrating all the resources on the studies, save some resources for implementing a follow-up program that's adaptive enough to respond to the actual significant impacts that are generated by the project and because of all that information generated by the environmental assessment there seems to be a natural way to roll that information into an environmental management plan and then role that information into an environmental management system that can be used as a framework for the whole organization around the project.

I hope that answers your question in part.

🕒 (1010)

Mr. Charles Caccia: Merci, Madame Sherrer. We have a brief second round.

Mr. Bailey. Oh, sorry, did I--

Mr. John Sinclair: I was just going to say that we support the changes that are proposed regarding follow-up. We would add to those changes though a requirement for public involvement in follow-up because that's where you get the good information about those impacts that are happening on the land. In terms of responsibility, the question asked about responsibility, I think it's going to have to be the job of the responsible authority to ensure that that follow-up is done into the future. It helps if there's, in some jurisdictions now, licenses for new projects include the call for some sort of a monitoring agency of some sort that helps to make sure that those follow-up provisions are being done.

The Chair: Mr. Bailey.

Mr. Roy Bailey: Thank you, Mr. Chairman.

In response to what my colleague, Mr. Reed, had asked you in this concept of time, we really don't have time on our side like we did a generation ago. You understand what I mean by that? Let me point out that when Mr. Sinclair who was Manitoba, he probably doesn't realize you've a town named after you on number two highway in Manitoba, but we don't have that time today. For instance, 25 years ago, when I was sitting in a different capacity, Saskatchewan could have bought all of their hydro from Manitoba without getting into the big coal-fired plants but with the jealousy of provinces and with environment not a key issue, they chose to go their own route and Manitoba sold most of the power stateside. Time is not ours now and I want to get into that.

The length of time that it would take to do an assessment which kind of startled my colleague over there, and to some extent startles me as well, in that if you are doing a project say, a hydro environment impact building a damn and so on, and then you have to talk about the flooding, you talk about other things and the gases and the swamp and all of that, and some of those obviously would be speculative. So did I hear someone there say that it would take about seven years to approve the project? Is that the years mentioned?

Mr. John Sinclair: It was your colleague who mentioned that.

Mr. Roy Bailey: And with that, in seven years, so many things can happen. When, 10 years ago, they asked him about the expansion of electricity in the Pincher Creek area of Alberta to produce, one engineer said the only advantage that would ever have is to pump water some place and let it fall down and then produce electricity. Now we see that in Denmark and in many parts of Europe, and certainly in Scotland and so on, the use of wind power has increased, so we can be wrong within a period of five, six years. Right?

I think that's why we have to, Mr. Chairman, be cognizant of the fact--society, ourselves and government--that if we're all working on the same track, then time has to be shortened somehow in producing this.

The final question I want to put forward to you and that involves the public involvement. How do we get over this attitude that we can't do anything? How do you surmount that attitude because you've got the public out there, you've got the federal government, you've got the provincial government, you've got local people, and not necessarily all singing from the same song sheet at the same time.

Mr. [No Salutation Found]Pierre Fortin: I think it's a question of education.

Mr. Roy Bailey: Okay.

Mr. Pierre Fortin: A comment was made earlier, a specific example of Manitoba Hydro talking to the people over two years. Years ago, Manitoba Hydro was blamed for not talking to the people. Now they're blamed for talking to the people too much, so there's a balance that has to be found.

Mr. Roy Bailey: Yes.

Mr. Pierre Fortin: I think you'll find that in our industry--and I was talking to somebody earlier before the meeting--there's still some perception that the industry, as far as the environment is concerned, is operating like it was operating 50 years ago. That's not the case. I think, as a general rule--and it's been stated publicly by a number of provincial hydro utilities--that no project will be undertaken unless it's environmentally friendly and, of course, unless it's economically feasible but also unless it's accepted by local communities. Here we're talking about not just the local communities, but also the native communities surrounding any larger project that may be undertaken.

So I think it is a question of education, of explaining what the impacts are because there are impacts. For whatever electrical projects you undertake, even if you're talking solar or wind, there are environmental impacts so you have to make those known up front and I think, as I said, your question is quite philosophical, I guess.

🕒 (1015)

Mr. Roy Bailey: What about enforcement?

Mr. Pierre Fortin: In what way do you mean?

Mr. Roy Bailey: Well, projects, that's true, but there's a small number of people who disagree and it's negligible. What about the power of enforcement to make sure the project does go through?

Mr. Pierre Fortin: I guess once the environmental assessment has concluded, it will have taken into account those different points of view and once the agreement or the approval is given, the project will go ahead.

Mr. Charles Caccia: Any other comments?

Ms. Rebecca Last: Actually if I may I'd like to give you an example of one of the ways in which Canadian expertise in public consultation, and particularly in working with native communities, has been exported. This has become an export product where Canadian natural gas and other resource-based companies have gone overseas. The environmental impact assessment work done in helping them to build pipelines, for example. One of our member companies was involved in taking a group of environmental professionals who happened to come from first nations communities in northern Saskatchewan down to Peru to work with the Confederation of Amazon Indians of Peru to ensure that those native groups in South America would benefit from the development work that was being done by resource companies down there. So what you're asking about in terms of public involvement is an area where there's significant Canadian expertise and that was quite an exciting success story.

The Chair: Thank you.

Mr. John Sinclair: Mr. Chair, two things. In terms of the time, we've noticed and conclude that the time that's limited in these undertakings in environmental assessment is the time that the decision makers have to make the decision and it's the time that the public has to participate in those decisions. There's no time limit put on the proponents to develop their plans and engage people in different ways during the development of those plans, the time limits all come in the evaluative stage. We're concerned when those time limits are overly restrictive both from the perspective of the decision makers making good decisions and the public being able to participate properly within those decision making processes.

In terms of getting better public involvement, I've done some research on why people don't get involved. One of the main reasons why people don't get involved, as you

probably know, is because they feel that in environmental assessment, is because they feel the decisions a foregone conclusion, that the deal has already been made, the government has agreed to carry it and go ahead with the project, there's often memorandums of understanding signed, and they feel that the decision is foregone. That's why people don't come out. Thank you.

The Chair: Thank you.

I believe we now have Madam Kraft Sloan in the second round, and then followed by the Chair, and then we will adjourn.

Madam Kraft Sloan.

Mrs. Karen Kraft Sloan: Thank you very much, Mr. Chair.

I just wanted to go to this issue of discretionary public involvement in screenings and I'm wondering, Mr. Sinclair and Mr. Kneen, if you could outline for committee why this is such a huge problem, perhaps you can talk to some numbers, the numbers of screenings versus other kinds of environmental assessment. So what are we really talking about here with regards to the number of projects and the percentage of times, if you have it documented where there has actually been public involvement in screenings. I thought I'd read something about 10% to 15% in your paper, but I might be wrong about that.

🕒 (1020)

Mr. John Sinclair: Yes. I'll just give the facts, and then Jamie is going to add some more to that, but to date there has been over 25,000 assessments under the act carried out. The figure includes thousands of screenings, 62 comprehensive studies, and 11 panel reviews, nine of which are completed. So the vast majority of assessment under the act is screenings, well over 95% are screenings, and I believe it was the...I'm sorry I don't have the reference right here in front of me but it was an agency document that highlighted the percentage, the 15% figure that you--

Mrs. Karen Kraft Sloan: Okay.

Mr. John Sinclair:--referred to as being the number of screenings that actually involved some form of involvement. James, do you want to...?

So that's why we see it as such a huge issue that this not be relegated solely to guideline, that there be some requirement within the legislation to involve the public and that it not be discretionary, we see that as the way to move beyond the 15% figure. Everybody talks about how important public involvement is to EA process, then why aren't we doing it in the majority of cases in Canada? Thank you.

Mrs. Karen Kraft Sloan: Right. So this is a huge problem that way.

Now, I just wanted to draw committees members attention to page three of your brief where you talk about this issue of guidelines. The minister's report promises that these guidelines are forthcoming and that they will include a requirement for responsible

authorities to document in each screening report the basis for the decision relating to the need for public participation.

Now, perhaps you can help me with this, I understood that guidelines are not necessarily mandatory, so how can a guideline have a requirement for a responsible authority to do something?

Mr. Jamie Kneen: That was our question.

Mrs. Karen Kraft Sloan: Okay.

Mr. Jamie Keen: Yes, and that's the issue.

Mr. John Sinclair: That's the issue, exactly.

Mrs. Karen Kraft Sloan: So when we read the minister's report and we see in the minister's report that guidelines are going to have a requirement for responsible authorities to document certain kinds of activities, it's quite obvious that it's not a real requirement then.

Mr. John Sinclair: That's right, that's our....

Mrs. Karen Kraft Sloan: Yes, that's always my concern with these kinds of things. Also, you said that these haven't come forward.

Now, what level of public comment occurs when guidelines are being developed, like, is there requirements for 60 days public comment for guidelines?

Mr. Jamie Kneen: Well in this case we have, on the one hand, the Regulatory Advisory Committee which does get a look at guidelines under this act. On the other hand, beyond any possibility through the RAC and through our representatives on the RAC that we might have to get involved, there isn't a broader public involvement passed that process which is technically public but not very widely used. I don't know too many people that read Gazette 1 and comment on the regulations and see what happens in Gazette 2.

Mrs. Karen Kraft Sloan: But guidelines don't go in the Gazette. Can you answer for the record please?

Mr. John Sinclair: Yes, that's correct, guidelines don't go in the Gazette.

Mr. Jamie Kneen: So we're left with the Regulatory Advisory Committee.

Mrs. Karen Kraft Sloan: Right, but the Regulatory Advisory Committee, let's be really clear, it's not the public. It's an important committee that does very good work but it is not the public. Here we have an issue of utmost concern to the public which is fundamental public participation, guidelines are going to be developed and as the minister has said in the Minister's Report that there will be a requirement. But you can't have a

requirement in guidelines and there's no real opportunity for public comment. So we have a real problem here don't we?

Mr. John Sinclair: Well this is where we question whether or not we're going to get one of the main goals of the five year review which was more meaningful public participation and in the agency's background document, they document themselves the difficulty with public involvement and screenings. Some of that information that you're talking about might have come out through the five year review process but I'm not sure that it's going to be used in this context. And yes, it is a problem.

🕒 (1025)

Mrs. Karen Kraft Sloan: So on one hand, Mr. Chair, we have a five year review that has sort of dictated the scope of the topics that are going to be examined. Then, we have a piece of legislation in front of us, Mr. Chair, that only deals with some of the items that were identified in the five year review and then even the things that have been identified as very important are probably well, I don't know, I wouldn't like to say worthless, but are somewhat questionable. So we have a whole lot of issues here that have to be dealt with.

Also, Mr. Chair, I'm wondering if through you, if we could send a letter either to the Minister of Environment Canada to ask for information on the status of these guidelines and if we can have whatever information we can whether it's on the draft guidelines or whatever or maybe we can consider calling witnesses back from the department or the agency to deal with this issue.

The Chair: Mr. Savoy please.

Mr. Andy Savoy: Thank you, Mr. Chair.

We're looking at an act that might be more harmonized with international processes, such as a world bank. Would you see that substantially increase for opportunities for Canadian companies abroad in an environmental assessment?

Mr. Lucien Cattrysse: Yes definitely.

Mr. Andy Savoy: An easy one isn't it -- just to get it on record.

Second, on balance, do you think that the benefits derived from environmental assessment on major projects outweigh the cost? I'm talking about the federal government involvement here.

Mr. Lucien Cattrysse: Again, yes, definitely. I don't have exact figures in front of me but there's the old saying, an ounce of prevention, a pound of cure. The cost of an environmental assessment is typically 1% to 3% of the capital cost of the entire project and that's a small price to pay in our opinion for some pretty effective decision making information to be at hand for a project.

Mr. Andy Savoy: Just a third -- did you want to speak to that?

Ms. Rebecca Last: Yes, actually, the new environmental assessment oversight for projects funded under Export Development Canada are being budgeted through EDC's process at 5% of project cost which is not inconsiderable but still, as Lucien has said, very much worthwhile in terms of being an ounce of prevention.

Mr. Andy Savoy: In looking at the lack of clarity with the extent of federal jurisdiction in environmental assessment which we know there is, do you have any suggestions of how we might go about defining a national interest in EA matters, aside from the four triggers that we have? Do you have any other ideas of how we can define more of our national interests or imperative on EA?

Mr. Ed Norrena: One might consider the global issues that are of concern to us, particularly in relation to climate change or persistent organic pollutants or such that are definitely of national interest and have these captured.

Mr. Pierre Lundhal: I think we need to have some framework to better take into account these global impacts as Ed Norrena just said. I don't know if it can be made to fit in CEAA or if it has to be some other framework, but this is key in the energy field.

For example, currently decisions are made on a project by project basis, but you never have a chance to see what impacts on greenhouse gas emissions you're going to have if after having studied ten projects, you've made a decision that resulted in doing nine thermal power projects and only one hydro project. There is no way of doing this in the current process and it cannot be done on a project basis, but it has to be done in some way.

Mr. Andy Savoy: Do you want to comment, gentlemen?

Mr. Jamie Kneen: Well, that goes to another item that we've talked about which is strategic environmental assessment and the Government of Canada has numerous international obligations which have environmental implications and in our presentation that's one of the pieces we didn't get to. But talking about policy assessment and strategic environmental assessment is specifically to address some of those more long-range concerns. We see that as crucial to any meaningful EA regime.

🕒 (1030)

The Chair: Thank you, Mr. Savoy.

Mr. Tonks.

Mr. Alan Tonks (York South--Weston, Lib.): Yes, with respect to the point made on public comment with respect to whether regulations, in fact, would provide for a focusing on guidelines, is there not a section in the act that provides for the discussion on the guidelines, 58(3), that talks about that opportunity? Is that opportunity not being provided to the environmental community?

Mr. John Sinclair: Under the current act there are something like 15 different guidelines, one of which is a public involvement guideline.

I can't comment on the extent to which the public participated in the development of those guidelines. I know that in the case of cumulative effects--which isn't a guideline under the act, it's information available to proponents and others--it was a study group that did it.

So I think the point that was being made is that under Bill C-19, under the current proposed bill, there is a call for a guideline to ensure meaningful public involvement and the question is whether or not the public is going to have an opportunity to comment on that guideline and specifically this committee. That would be our concern.

Mr. Alan Tonks: Pardon my ignorance on this, but I thought that there was in the legislation under that section a requirement for public consultation and I wasn't following how that could be invoked to any greater extent. Maybe the relevant sections:

The minister shall provide reasonable public notice of and a reasonable opportunity for anyone to comment on draft guidelines, codes of practice, agreements, arrangements, criteria or orders under this section.

I was just trying to figure through how that could be any more entrenched or made more explicit and there's the requirement that this happens.

I guess my question is--

The Chair:

Mr. Alan Tonks: Yes, my question is, is that not being provided, that opportunity?

Mr. Jamie Kneen: I believe that refers to panel reviews and comprehensive studies and what we're saying is about two sets of problems. One has to do with screenings which are the bulk of environmental assessments that are carried out and, secondly, with this new proposed comprehensive study process which doesn't have clearly identified or adequate public involvement.

Mr. Alan Tonks: I see. So you disagree with the other presentations that have said that screenings have to be subjected to much clearer guidelines in order that there isn't a large spectrum of very costly, but non-essential national-interest-type screenings.

Mr. John Sinclair: I'm not sure that's...

Mr. Alan Tonks: Well, you know, I take the broader view that there is entrenched in the existing bill respect to public comment on guidelines. I do not understand--and pardon my ignorance--why you are not satisfied with that provision in the bill. What more can be provided vis-à-vis developing the guidelines?

Mr. John Sinclair: I'm not sure that we're talking about the same thing, but if there's a plan, we haven't seen the plan for getting input on those guidelines from the public. As

Jamie has pointed out, the guidelines will be commented on by the regulatory advisory committee. But it has been stated that doesn't necessarily represent the public.

🕒 (1035)

The Chair: Madame Kraft Sloan has a point to make. Then I will have a question. And then we'll adjourn.

Madame Kraft Sloan.

Mrs. Karen Kraft Sloan: Thank you, Mr. Chair.

Actually the point that I was trying to make is with respect to screenings, which form the large bulk of environmental assessments, not the other forums, which of course there are provisions for public involvement.

Thank you.

The Chair: Going back to Mr. Reed's question, I understand that the Canadian Hydropower Association is proposing that the environmental assessment should be subject to defined timelines and that if they are exceeded that would be considered an approval.

Now, the question is roughly this: Given that the responsibility authority can also be the proponent of the project at the same time, how could he be assured that the deadlines are respected?

Mr. Pierre Lundhal: When we state that, in some cases, there should be a principle of what we call "default approval", which would mean that if the decision has not been taken after the limit...it is presumably an agreement. This cannot be simply a general unqualified principle that applies to all the decisions. What we suggest is that the law be amended to provide for such a possibility and then that regulations be developed with all stakeholders setting these time limits and the mechanism for the implementation of the time limits

Mr. Charles Caccia: You're going neatly around the question. You're hesitant in tackling it. Perhaps you would like to give us an answer in writing.

Mr. Pierre Lundhal: Yes. I need some time to think about it.

I understand your question and the principle of self-assessment and the time limit and how they work together.

The Chair: Yes.

Mr. Kneen.

Mr. Jamie Kneen: Mr. Chair, you could always reverse the default, so that after a given period of time if consensus or a decision had not been reached, nothing happens.

The Chair: Mr. Norrena, do you have any comment?

Mr. Ed Norrena: I'm reflecting back on the CEPA legislation where there were in fact time constraints put into the legislation, but it was never contemplated that these time constraints would be put into regulation. I would go to that extent, but not to the extent of putting them in regulation. What you want is the benefit of good decision-making in a timely fashion. So use these as objectives as opposed to the other way around.

Mr. Charles Caccia: Well, this concludes our meeting. On behalf of the committee I would like to thank you for bringing us your knowledge, your experience, your reflections. Any further suggestions you might have to convey to us in writing would certainly be very welcome. We appreciate your broad experience in the field and we certainly would like to hear from you again.

This meeting now stands adjourned. We're trotting back to the House to hear the debate on climate change.

Thank you.