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Mercredi 13 avril 2011

Standing Committee on General Government

Ontario Forest Tenure Modernization Act, 2011

Comité permanent des affaires gouvernementales

Loi de 2011 sur la modernisation du régime de tenure forestière en Ontario

Chair: David Orazietti
Clerk: William Short

Président : David Orazietti
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday 13 April 2011

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Mercredi 13 avril 2011

The committee met at 1522 in room 151.

ONTARIO FOREST TENURE MODERNIZATION ACT, 2011

LOI DE 2011 SUR LA MODERNISATION DU RÉGIME DE TENURE FORESTIÈRE EN ONTARIO

Consideration of Bill 151, An Act to enact the Ontario Forest Tenure Modernization Act, 2011 and to amend the Crown Forest Sustainability Act, 1994 / Projet de loi 151, Loi édictant la Loi de 2011 sur la modernisation du régime de tenure forestière en Ontario et modifiant la Loi de 1994 sur la durabilité des forêts de la Couronne.

The Chair (Mr. David Orazietti): Good afternoon, folks, and welcome to the Standing Committee on General Government. We're continuing today with public hearings on Bill 151. Mr. Hillier, go ahead.

Mr. Randy Hillier: Chair, as you know, my colleague here from Leeds–Grenville tabled a motion with this committee on Monday, pursuant to standing order 126(b), that this committee investigate the impacts of higher energy rates as they pertain to mill closures in northern Ontario. My colleague gave 48 hours' notice to this committee. I understand that this committee is full of individuals who would like to have their issues heard regarding the legislation. My colleague and I told you that there were too many people to hear from in just two days of hearings. However, the member for Algoma–Manitoulin decided there was no need to hear from northern Ontario.

It's imperative to this committee—

Mr. Michael A. Brown: Chair—

Mr. Randy Hillier: I want the Chair to confirm to my colleague and myself, and the individuals in this room who have been affected by the soaring energy costs, that on Monday, before clause-by-clause amendments, this committee will meet and discuss an investigation on the impacts of higher energy rates on mill closures in northern Ontario.

The Chair (Mr. David Orazietti): Okay. Before we get into a debate on something that we're not going to be debating right now—the member is within his rights to introduce a motion—126—for this committee. However, the practice is, and the ruling is going to be, that once the committee has dismissed the regular business that the subcommittee has already agreed to deal with, including the deputations and clause-by-clause, at the first available opportunity we will deal with the member's motion. That's the practice for committee, and that is what the standing orders say. Once the regular business of the committee that has already been agreed to by the subcommittee, by members of this committee, which is already set, is dealt with and addressed, then at the first available opportunity, we will deal with the member's motion.

Mr. Randy Hillier: Chair, we've made accommodations today to start the hearings earlier, because we're not going up north. What I just requested was that, before clause-by-clause starts on Monday, we enter this debate on the high, skyrocketing energy costs that are affecting more than Ontario mills.

The Chair (Mr. David Orazietti): I appreciate your comment. You've made the point. The motion will be debated following the regular business that has already been agreed to by the subcommittee.

Mr. Bisson, you have a quick point on this? Otherwise, we're going to—

Mr. Gilles Bisson: For the record, just to be clear, there was no agreement of the subcommittee not to have hearings in northern Ontario. It was the majority of the committee, and that's the Liberal government, who said not to have—by the majority.

The Chair (Mr. David Orazietti): That's fine. Okay, anything further? Mr. Levac or Mr. Brown.

Mr. Michael A. Brown: I believe we should follow practice: Government legislation has priority.

The Chair (Mr. David Orazietti): Thank you. We'll be moving on here.

GRAND COUNCIL OF TREATY 3

The Chair (Mr. David Orazietti): The first presenter is Grand Council of Treaty 3, Diane Kelly and Simon Fobister.

Grand Chief Diane Kelly: No, Carol Copenace, Chief Carol Copenace.

The Chair (Mr. David Orazietti): Okay. Thank you very much and good afternoon. Welcome to the Standing Committee on General Government. You have 15 minutes for your presentation. Any time that you don't use will be divided among members to ask questions. You can just state your name for the purposes of our recording Hansard and you can begin when you're ready.

Grand Chief Diane Kelly: Good afternoon.

Remarks in Ojibway.

My English name is Diane Kelly. I'm currently Grand Chief of Grand Council of Treaty 3.

I just wanted to start by saying that I wanted to thank the committee for hearing the verbal submission today. I also wanted to just briefly apologize for being a little tardy. I've come to realize, as of today, that there are actually slow cab drivers in Toronto. Usually, I have to hang on to the doors. That was like "Go!" Anyway, I don't want to take up too much time here.

I'm just going to start off by reading the submission, of which I have given three copies. I'm not sure who has them, but there are three copies that were provided.

Members of the committee, I appear here today on behalf of the Grand Council of Treaty 3 as the Grand Chief. We thank you for this opportunity to comment on Bill 151 and the proposed modernization of forest tenure in Ontario. The Grand Council of Treaty 3 has as its mandate the protection and advancement of the Anishinaabe people who signed Treaty 3 and the protection and advancement of rights contained within Treaty 3.

As some of you know, Treaty 3 was signed in 1873 and served as the model for all of the so-called numbered treaties that opened up western Canada for settlement. While governments usually think of Treaty 3 as being the official document signed by the crown and the Anishinaabe in 1873, amongst our people, we have a much richer view of the treaty that is backed up by a vast collection of historical documents about Treaty 3 as well as the oral history of our people.

In the course of my comments, I address the link between the question before you and the mandate of the grand council.

Bill 151 marks an opportunity to make serious efforts to correct the historic failures of the government of Ontario to seriously address Treaty 3 and the rights of the Anishinaabe in the legislation governing forest tenures and rights in Ontario. While it appears that some thought has been given to the issue in the drafting of the legislation, we see Bill 151, as drafted, as a missed opportunity to really deal with these issues and start the process of reconciliation.

Our first concern relates to one of the stated purposes of the act, namely to create economic development opportunities for aboriginal peoples. While this is mentioned in the legislation, there is nothing describing how this laudable goal is actually going to be achieved. The creation of the potential for a local forest management corporation to hold tenure does not mean that this will actually happen for First Nations who choose to use this as a vehicle for entering into the forest industry.

We would recommend that the legislation make it clear that these entities can be wholly controlled and operated for the benefit of First Nation communities or groups of communities and not merely groups of local communities which may include aboriginal communities.

Furthermore, the existence of such entities will mean little if there is not a meaningful volume of timber supply made available to them to actually carry on business. At present, there may be opportunities in our territory, given AbitibiBowater's abandonment of its sustainable forest licence in the Whiskey Jack forest, but this is not true throughout our territory or throughout Ontario.

We believe that provision should be included in the act that would allow for the crown to claw back volume and territory from existing licences in order to make meaningful harvesting opportunities available to First Nations. This process should be carried out in a way that reflects both good economics, which depends upon having an operable, reliable and adequate volume of wood available, and the legitimate claims our people have to actually be able to harvest wood for economic as well as domestic purposes. Thus, a process should be devised to achieve the goal of procuring a meaningful volume to allow First Nations to enjoy the benefits of the forest industry in substance and not just in form.

Closely related to this is the question of ensuring that there is a process put in place allowing First Nations to gain access to a timber supply for non-economic purposes. One of the great failings of the provincial government is that it sees the forest primarily as a resource to be exploited in the marketplace. This drives all management decisions, where the quest is always to maximize commercial gain to the extent possible. Other values such as environmental factors or sustainable indigenous use are viewed only as limiting factors on the commercial exploitation of the forest.

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For the Anishinaabe, the forest is our home. Many of our members were born out on the land and draw their sustenance from the land. Even for members who live on reserve, the forest can be an important source of wood for housing and heating. In many of our communities, there is a desperate and chronic of lack of housing, or terribly inadequate housing. In our view, it is important that the government, in any tenure reform process, recognize this and address the fact that both under treaty, read in the context of all the promises made, and our remaining aboriginal rights, our communities have a right to access timber for domestic and commercial uses.

While traditional tenures may address commercial rights, they do little to address domestic needs. Furthermore, in order to make that access truly meaningful in the modern world, where there are higher costs, given the changes in the forest over the last 100 years, which have made it harder and more expensive to harvest wood and more expensive to build fixed homes on reserve, the best way to recognize this right would be to allow a right to harvest and sell wood at the community level, at a level consistent with this aspect of our rights.

In the context of both of these goals, we believe that these broadly stated goals will not be achieved if some meaningful and minimum targets are not set. Thus, if there is a genuine commitment to the goal of achieving meaningful aboriginal participation in the forestry industry, then the Legislature should set a target level of participation with, a clear message to the government that they should exercise the power granted under this act to achieve this sort of specific goal or target.

In our experience, not setting targets or goals just results in frustration and disappointment on many fronts. First, it results in the disappointment that flows from the mismatch in expectations that can be created by legislation, where First Nations see some hope that something will at last be done to address the real concerns, when the actual intentions are much more modest. Thus, clear and express goals further transparency. Second, disappointment often arises when even the modest goals that the government may have in mind are not achieved in a timely fashion. One thing I know for certain is that if we do not set a goal, we will not achieve that goal.

To this point, my comments have focused on ensuring the participation of members of Treaty 3 in the forestry industry or in the process of harvesting timber. This is not the only interest of the members of Treaty 3. The Anishinaabe have a deep connection with the land that goes far beyond harvesting timber. We hunt, we trap and we gather on the land, and these activities are protected in our treaty. These rights will have little meaning, however, if the exercise of forest tenure rights across our territory is rendered meaningless through habitat loss and loss of species.

Our people have already suffered terribly from this pattern of resource use in our territory. Once, we had highly productive sturgeon fisheries that were destroyed through overfishing in the 1800s and early 1900s. We had wild rice—manomin—harvesting areas that were destroyed by flooding for hydroelectric facilities. Our whitefish industry and domestic fishery has been destroyed through mercury poisoning.

In more recent years, our people have experienced an ongoing decline in our ability to hunt, trap and live off the land, as large-scale industrial logging has consumed so much of our territory. While we have been continually assured for many years that this harvesting is being done in an environmentally respectful or sensitive manner, our experience has been otherwise. Our hunters and trappers constantly report the decline of these activities, and the devastation in their family territories and traplines, that we on the grand council cannot ignore. This industrialization of our woods has led to court cases and blockades and will continue to stand in the way of true reconciliation.

In our view, the management of forest tenures in a way that respects the Anishinaabe way of life and the maintenance of Treaty 3 rights is key to a successful modernization of tenure. This respect has to go beyond merely giving the people of Treaty 3 an economic opportunity to participate in the industry as tenure holders; it really requires three core reforms, which do not appear to be meaningfully addressed in the proposal.

First, it requires the institution of true co-management or, at the very least, a meaningful consultation required by cases such as Haida and Mikisew. This means a real role in addressing matters such as the rates of harvest, the methods of harvest and the setting of environmental and ecological goals and policies in Treaty 3 lands. This could be addressed in the legislation by providing for express consultation and accommodation requirements in respect to these issues and in respect of the process whereby the minister can give directions to the local forest management corporation—section 22. There also needs to be a clear affirmation of the duty to consult and accommodate in the way in which these boards are established and tenures transferred to these boards.

Second, a strong commitment to the principle of overarching conservation with a view to preserving not only wildlife habitat but also wildlife habitat suitable for preserving the way of life of the aboriginal people of Ontario generally and the people of Treaty 3 specifically needs to be included within the legislation.

Third, we cannot be blind to the fact that Treaty 3 rights have been essentially run over in the past and that there has been and will be significant economic benefits taken by Ontario from our lands in the future.

While some say that Treaty 3 justifies this, in our view, the real spirit and intent of Treaty 3 was one of sharing. We allowed access to our lands but did not agree to give up our way of life or our rights to enjoy the benefits of our land. No one can seriously think that the annual annuity that we receive, even if it had been adjusted for inflation, could be seen as payment for the enormous wealth that has been drawn out of our territory over the last 140 years and will be taken in the future.

Thus, an inevitable part of any proper reform of forestry tenure is revenue-sharing. Proper revenue-sharing involves the sharing of the rents and taxes that the crown gathers as a result of the forest industry. It is different from the return from our investment in the forest industry through participation in the industry. Revenue-sharing represents a form of payment for the sharing of our lands and the losses and injuries our communities suffer as a result of the degree of taking caused by modern methods of logging in volumes unimagined in the 1870s.

In conclusion, we see this effort as a real opportunity to make change. If it is to work, this Legislature should take hold of the problem at a much deeper level. It has been almost 30 years since section 35 of the Constitution Act, 1982, came into effect. It has been almost 140 years since Treaty 3 was signed. Has not the time come to finally address these real issues that our rights raise for this province?

Finally, I just want to conclude by saying that I've been told very strongly by our elders and our leaders over the years that we've always protected our lands, and we've always been interested in our lands. It's not just the rights; we also have responsibilities to the land, and that includes, of course, the forests. All of these things, I wanted to underscore, have to be managed in a sustainable way for the future, for the future generations. Our people aren't going anywhere; your people aren't going anywhere. Let's try and work together to come to some sort of solution that's mutually beneficial for everyone.

With that, meegwetch.

The Chair (Mr. David Orazietti): We have time for one brief question. Mr. Hillier, if you have a question—

Mr. Randy Hillier: Thank you very much. It sounds to me like, even though we've heard from the Liberal

government that there were extensive consultations, you're not very reassuring to us that you've had those consultations or that any consultations that you've had have been incorporated into Bill 151.

Grand Chief Diane Kelly: Both of those are right. We feel that we haven't been properly consulted. We also feel that our concerns have not been addressed within the bill, as we see it.

Mr. Randy Hillier: And once again, you had to come down to Toronto to voice this, instead of—

Grand Chief Diane Kelly: Well, that's right. It would have been nice to have a hearing in the north. Absolutely.

The Chair (Mr. David Orazietti): That's time for your presentation. We appreciate your coming in today.

DOMTAR

The Chair (Mr. David Orazietti): Our next presentation is a teleconference with Domtar. Mr. Booth, are you there?

Mr. Rob Booth: Yes, I am.

The Chair (Mr. David Orazietti): Good afternoon. Welcome to the Standing Committee on General Government. You have 15 minutes for your presentation. This is an all-party committee conducting hearings on Bill 151, as you know. Any time that you don't use of your 15 minutes will be divided among members of the committee to ask you questions. Just state your name for our recording purposes, and go ahead when you're ready.

Mr. Rob Booth: Okay, thank you very much. My name is Rob Booth. I'm currently the forest lands manager for our operations in Dryden. I'm also here today to speak on behalf of our operation in Espanola.

Can everybody hear me okay?

The Chair (Mr. David Orazietti): Yes, everyone can hear you.

Mr. Rob Booth: Okay; Thank you very much for this opportunity to present our perspective on Bill 151. I'd first like to take a couple of minutes just to give you a brief overview of our operations and then highlight a number of the critical areas of the bill that are of concern to us.

Domtar Corp. is the largest integrated manufacturer and marketer of uncoated free-sheet paper in North America and the second-largest in the world based on production capacity. Our company is also a manufacturer of paper-grade, fluff and specialty pulp, and designs, markets and manufactures a wide range of business, commercial and publishing papers.

Approximately 8,500 people are employed across our 13 pulp and paper operations, of which 11 are located in jurisdictions in North America.

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In Canada, we have four manufacturing facilities, two of which are in Ontario, those being a pulp and paper mill in Espanola and a pulp mill in Dryden. These Ontario mills directly employ about 860 people. We also manage two sustainable forest licences here in northwestern Ontario, where an additional 400 people are directly employed by harvesting contractors, bringing the direct employment in Ontario to about 1,200 people. As such, we're the largest employer in each of our operating communities, Dryden and Espanola, and our operations are therefore key economic drivers in these regions.

As we're all well aware, the forest industry has experienced some very challenging operating conditions over the last few years. It's in this backdrop that we provide our perspective on Bill 151.

As you will hear, our comments are aimed at clarifying the rules for doing business in Ontario, focusing on the ability to access reliable, cost-competitive fibre.

We are not in support of Bill 151, as originally tabled for first reading on February 23. Having said that, we do, however, want to emphasize that on several occasions since the bill was introduced, Domtar has been involved in discussions with the working group, which I'm sure this committee has heard about before, that was struck by MNDMF regarding potential amendments to the bill. We've been very encouraged by these discussions. We are now pleased to provide this committee with our perspective on the items that remain of most concern to Domtar for identifying the key rules of doing business in Ontario.

Perhaps the most serious concern of the bill, as it was originally tabled, was the minister's ability to cancel licences, commitments and supply agreements for unspecified reasons. Through our discussions with MNDMF, they have agreed that they would put forward an amendment to strike section 41.1(2)(c), and we are in support of that.

Another concern was the requirement for, in our view, more specificity around the conditions in which licences, commitments and supply agreements could be cancelled. MNDMF, again, through the working group discussions, has agreed to some wording changes, specifically out of section 41.1(2)(b), where there was a suggestion or a proposal to change the word "optimal" to a little bit clearer definition of "consistent and sufficient" use of fibre. They further proposed that this definition would be laid out in each licence and in a regulation.

We support the change from the use of "optimal" to "consistent and sufficient." We also have to emphasize that it's critical that this definition be defined in a regulation in a very consistent way to allow consistent application on a level playing field across the province. We would be very concerned if the definition was to be laid out in individual licences. Our idea on that would be that there could be a lot of variability in the definition and, therefore, the interpretation across the province.

Another thing that we also want to note here is that the act must ensure due process, rights of representation and opportunities for compensation in the event of cancellation. Through the working group discussions, the MNDMF has come back and agreed to insert wording into Bill 151 that would be very similar to the wording in the CFSA around rights of representation. We're supportive of this. However, we would also look for the addition of a provision where there would be an opportunity for compensation—a situation where, perhaps, the minister has exceeded their authority—for

actions that were inconsistent with the act. We would see Bill 151 not necessarily explicitly allowing this, but would look for perhaps a similar approach to the CFSA, which was silent on it. However, as Bill 151 is currently written, the immunity provisions for the minister prohibit any opportunities for cancellation.

Another important item for us is around the importance of protection of confidential information. This is on the changes to the CFSA that would allow for the collection of timber pricing data. MNDMF has come forward with a suggestion to ensure confidentiality of the commercial timber transaction data: to use an independent third party to collect the data and to ensure that the information is not subject to freedom-of-information requests. We're supportive of this proposed amendment.

The final item here is around where the bill allows for the creation of additional LFMCs beyond the original two. There was a lot of talk at the working group about there just being two original pilot projects. As originally written, the bill did not reflect this discussion, and it's very open-ended. MNDMF has come back with a suggested amendment around inserting a new subsection into the act that would indicate that a review was done before any new ones would be established. Our comment on that would be that we would absolutely prefer to see that, based on all of the discussions and based on some very clear direction from the minister and his staff that we are really just looking at two of these to test principles, etc that we would definitely like to see that indicated in a preamble to the act.

Our last item here is more of a comment for the consideration of the committee and just an understanding piece, maybe. It's around free-market wood and market-based timber pricing. As we move forward with the concept of a portion of wood supply in Ontario being free-market wood, which is definitely part of the discussions to date here, we just want to make you aware that the cost of wood in jurisdictions adjacent to Ontario is often lower than it is in Ontario. Energy costs, taxation and regulations all contribute to this. As a result, facilities from outside the province can often afford to pay more for wood that they receive in Ontario. By including these transaction prices from facilities outside in the base pricing of Ontario, our base wood costs would increase in Ontario. Again, that's more of a comment or an understanding piece for the committee.

In summary, Mr. Chair and members of the standing committee, it's critical that the final wording of Bill 151 clearly outline the rules for doing business in Ontario, as business certainty is critical to our ability to attract capital within Domtar. Of the 11 North American jurisdictions where Domtar has pulp and paper manufacturing operations—three of these are in Canada—Ontario has the highest cost structure. Business certainties with respect to the rules that govern access to fibre are critical to maintaining the future viability of our operations in Ontario. Our support of Bill 151 is contingent on the final wording of the bill accurately reflecting the six amendments MNDMF has proposed to the working group and a careful consideration of and action on the concerns we've indicated here today.

We appreciate our involvement in the discussions to date, and we look forward to continuing to work constructively with MNDMF to finalize these important items before the bill moves to third reading.

The Chair (Mr. David Orazietti): Thank you very much for your presentation. We have time for a question. Mr. Bisson, go ahead.

Mr. Gilles Bisson: Thank you very much for presenting, Rob. I've got two questions. I'm going to say it in one, because they're pretty short. The first question is, do you think that this bill is essential to the operation of your business, or does what we've got now actually work? Number two, you made the point that the wood costs outside Ontario are cheaper, and I didn't quite understand how you made the link to the price of wood going up under the tenure system, if you could explain that as well.

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Mr. Rob Booth: With regard to wood costs from outside the province, as I said, often jurisdictions outside of the province have lower cost structures, so they get a large amount of their wood adjacent to their operations at relatively low cost. They occasionally have to come into Ontario, let's just say, for their last few sticks of wood or their last increments of wood, and they're often willing to pay more for that. As we move forward—and there's pretty clear indication that that's where things want to be moved here—and try to identify some base pricing in Ontario, those higher prices are going to increase our average costs.

Mr. Gilles Bisson: And the first question: Is this change essential to the operation of your business, this bill?

Mr. Rob Booth: We've got two locations: Espanola and Dryden. We absolutely want to make sure things are done right, but we also want to make sure it gets done. We feel there's a lot of momentum, a lot of work done, a lot of good work back and forth. Anything that can be done to improve the cost structure and our ability to attract capital within Domtar is good.

Mr. Gilles Bisson: But does this bill do that, is my question

Mr. Rob Booth: It helps, yes, it does. It helps because it clarifies some of the rules. It doesn't go very far, as written, but it does clarify some of the rules around that.

The Chair (Mr. David Orazietti): Thank you very much, Mr. Booth. That's time for your presentation this afternoon. Thanks for joining us.

Mr. Rob Booth: Thank you.

The Chair (Mr. David Orazietti): Have a good afternoon.

NIPISSING FOREST RESOURCE MANAGEMENT INC.

VERMILLION FOREST MANAGEMENT COMPANY LTD.

The Chair (Mr. David Orazietti): Our next presentation: Nipissing Forest Resource Management Inc. Mr.

Street, good afternoon. Welcome to the Standing Committee on General Government.

Mr. Peter Street: Good afternoon. Thank you very much for allowing me to speak.

The Chair (Mr. David Orazietti): No problem. You have, as you know, 15 minutes for your presentation. Any time you don't use will be divided. State your name and you can start when you're ready.

Mr. Peter Street: My name is Peter Street. I'm with Nipissing Forest Resource Management and Vermillion Forest Management Co.

Both Nipissing Forest Resource Management Inc., in North Bay, and the Vermillion Forest Management Co., in Sudbury, are co-operative-type sustainable forest licence holders, commonly called SFLs. Both co-op SFLs are made up of a mixture of larger corporations, smaller family-run sawmills and independent logging companies. Both companies have First Nation and non-shareholder representation on the board of directors.

The shareholders and independent operators have the following concerns with Bill 151 in its current form.

(1) Forest resource licences, commonly called FRLs, are used by all of our licensees, big and small, to finance equipment purchases and to maintain lines of credit. They are also used by our family-run sawmills to obtain credit to finance mill improvements. This act would give the minister the ability to cancel forest resource licences for undefined reasons and this will, in effect, limit their value in obtaining required financing

(2) Cancellation of a forest resource licence may also result in additional hardships to other licensees within our co-op SFLs. The licensees pay for management costs based on their percentage of total harvesting rights. The cancellation of an FRL will mean that other licensees, who haven't done anything wrong, will have to bear the greater share of the cost to run the SFL, something many of them cannot afford to do. The proposed act does not speak to the government covering these costs. The alternative is to lay off staff and to consider closing the sustainable forest licences.

(3) Over the past 15 years, many independent operators have sold and purchased their harvesting rights from one another. FRLs have real value. The proposed legislation would unfortunately limit the ability of our SFLs and licensees to sell harvesting rights going forward. Buyers will be difficult to find. Who would buy something with no or limited guarantees? In some cases, licensees have used the sales of their harvesting rights to supplement their retirement. All this will be for nothing with the passing of Bill 151.

(4) The proposed act also allows the minister to cancel sustainable forest licences. One of the main reasons the local forest industry agreed to take over from the MNR the day-to-day responsibilities of managing the forest was to have greater security through a 20-year licensing arrangement, one that is renewed every five years, based on good performance. Bill 151 takes the security away and breaks a deal and understanding we thought we had with the government.

(5) Our two SFLs have also done a considerable amount of silvicultural work improving the quality and the health of the Nipissing and Sudbury forests; the Sudbury forest especially, with all of the fume damage. Between the two forests, over $1 million has been spent by the licensees on pre-commercial thinnings and stand improvement operations. The cancellation of our SFL without compensation is not fair. The potential to lose our licence will affect future decisions in continuing to invest in the health of the forest and questions the value of investing in research and development if benefits do not accrue to the investor.

(6) Licensees—the loggers—have also directly invested in improving the health of the forest through preparation and seed cuts in white pine and tolerant hardwood stands. Licensees have removed the poorer-quality timber and look to realize the benefits when returning to these stands to do the first and final removal cuts when the better timber is available for harvesting.

(7) Forest resource licensees have developed an extensive system of roads and water crossings across both forests. These roads are widely used by the general public and other stakeholders such as the mining industry. With the cancellation of a sustainable forest licence or a forest resource licence, does the government of Ontario realize they're taking over the responsibility for this infrastructure and there will be considerable additional costs to the government?

(8) The ongoing biofibre competition has not resulted in any significant announcements for our two forests and it appears as though our level of utilization will remain low. The minister, having the ability to cancel supply agreements with the existing companies, will limit future investments and will chase away any new potential business. In Mattawa, for example, the community has lost a major sawmill and their largest employer. The community is now in discussions with a company that wants to set up a pellet plant and a cogen facility. They are asking our licensees for long-term fibre supply agreements. How can we commit volumes to them when we are unsure about our future as a result of this proposed legislation? FRL volumes equate directly to jobs in woodlands, mills and support industries. We cannot survive solely on open-market wood.

(9) We understand that the current Crown Forest Sustainability Act may limit the minister's authority around cancellation of various timber rights, but this proposed legislation goes too far. At least when the minister is planning to cancel a licence or supply agreement, a warning should be given and the opportunity to correct the problem or the situation provided.

Markets and businesses do not like uncertainty. This proposed legislation is causing us to worry because of the uncertainty around the value of our commitments and the value of our licences.

Thank you.

The Chair (Mr. David Orazietti): Thank you very much for your presentation. We have some time for questions. Mr. Brown, go ahead.

Mr. Michael A. Brown: Thank you, Mr. Street, for coming. You're bringing a perspective we haven't heard so far: one of co-operative SFLs, essentially.

I want you to maybe help us a little bit and tell us which mills receive timber from your members and how the pricing occurs for that.

Mr. Peter Street: In both the Nipissing and Sudbury forests we rely heavily on the fact that we're FSC-certified. Our pulp goes to Domtar's mill in Espanola and to Tembec's mill in Timiskaming. A lot of our shareholders have family-run sawmills in smaller communities in and around the North Bay and Sudbury areas, so the wood is sold to them.

Basically, most of the wood is sold on an open-market basis but we do have wood directives that are helpful in moving the poplar and aspen to GP's mill in Englehart.

Mr. Michael A. Brown: In this arrangement, then, you negotiate with Domtar and Tembec?

Mr. Peter Street: The licensees that harvest the timber negotiate the sale of the wood they harvest.

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Mr. Michael A. Brown: I represent Algoma–Manitoulin, so I'm reasonably close. Is there an issue because of the kind of worldwide crisis in forest products—I think that's fair to say. Has there been some real pain amongst your membership in terms of ability to sell and markets for your products?

Mr. Peter Street: Yes, it's been pretty tough for the last five years. People have been sitting at home because they haven't been able to find markets for the wood that they have available to them.

Mr. Michael A. Brown: You obviously were here when we were listening to Mr. Booth from Domtar talking about some of the amendments that he has suggested. Would those help, if the government moved forward with those, in providing at least some assurance—more than you have so far in the bill?

Mr. Peter Street: Yes, very much. Those proposed amendments, as I understood Mr. Booth, sounded pretty good to us.

The Chair (Mr. David Orazietti): Okay, that's time.

Mr. Hillier or Mr. Clark? Mr. Clark, go ahead.

Mr. Steve Clark: Thank you, Mr. Street, for your presentation. I just want to pick up on your comments previously with the parliamentary assistant. It's too bad that the government didn't think you were big enough to come and share those amendments with you, and I think that's what northern hearings would have provided for us. It would have given us an opportunity that everyone would have had the same message.

One of the things that I would like to ask you your opinion on, because of some of the uncertainty that this bill has provided in the market, is whether you feel that perhaps something like a sunset review, where this bill would be revisited by MPPs in the Legislature, would be beneficial for the industry at some point: to hear your concerns and some of your experiences with the way the legislation would be implemented down the road. So, a sunset review?

Mr. Peter Street: I think it's really important. These proposed changes are major steps for us, so they need to be reviewed, for sure.

The Chair (Mr. David Orazietti): Any further questions?

Mr. Steve Clark: No, that's good.

The Chair (Mr. David Orazietti): Thank you very much. That's the time for your presentation. We appreciate you coming in today.

Mr. Peter Street: Thank you very much.

NORTHWESTERN ONTARIO MUNICIPAL ASSOCIATION

The Chair (Mr. David Orazietti): The next presentation is the Northwestern Ontario Municipal Association—which is teleconference or video conference? It'll be video conference. Okay. Mr. Ron Nelson and Iain Angus: Good afternoon, gentlemen. Can you hear us?

Mr. Ron Nelson: We can hear you. Can you hear us?

The Chair (Mr. David Orazietti): We certainly can. Good afternoon and welcome to the Standing Committee on General Government. You have 15 minutes for your presentation. Any time that you don't use will be divided among members for questions. You can start by stating your name and begin when you're ready.

Mr. Ron Nelson: Thank you so much. Good afternoon, gentlemen. My name is Ron Nelson. I am the president of the Northwestern Ontario Municipal Association and mayor of O'Connor township. With me is Mr. Iain Angus, vice-president of NOMA and a councillor with the city of Thunder Bay. Mr. Angus is also the former chair of the Ontario Forestry Coalition. We thank you for the opportunity to provide our input on Bill 151 via videoconference.

We had hoped that the committee would have travelled to northern Ontario for these meetings so that you could personally meet the people whose livelihoods are dependent upon getting this legislation right. While it is true that the Ontario government held extensive consultations across the north in the lead-up to the drafting of Bill 151—and we do appreciate those consultations—it is our contention that what we said has not been translated into the act. For legislation that is primarily aimed at one area of the province, the vast boreal forest of northwestern Ontario, of northern Ontario, it is essential that the communities and the people who depend on the forest for their livelihood and that of their children and grandchildren should be respected enough to have their legislative committee physically hold the hearings in this area.

These issues are not merely theoretical for me. I work in the forest industry and my livelihood is dependent on a successful forest sector. The same can be said for many of the municipal councillors across the northwest. We are here today both as community leaders and as individuals whose families rely on the vibrant, recovered forest industry.

Councillor Angus and I were present at a media conference held by Minister Gravelle on January 13, where

he announced the next steps to the forest tenure and pricing review. During that event, Minister Gravelle announced the establishment by regulation of two local forest management corporations and the shift from single-company sustainable forest licences, SFLs, to enhanced shareholder SFLs.

The minister said, "Establishing these two models—LFMCs and enhanced shareholder SFLs—would enable us to evaluate their performance against predefined criteria, leading us to make wise and informed modifications on the path forward. It would also allow us to see how each model performs in relation to our objectives of creating opportunities for new entrants, encouraging full utilization of crown timber, bringing greater market forces to bear on allocation and pricing of crown timber, and fostering greater local and aboriginal community involvement."

However, Bill 151, in its current form, does not provide clarity on these two commitments: First, the bill does not limit the creation of LFMCs to two pilot models, which breeds uncertainty for industry members; second, the bill does not include recognition and support for a move to enhanced shareholder SFLs.

As clearly outlined by the minister on January 13, the legislation was supposed to have included these two systems operating for a trial period to allow the evaluation and comparison of which worked best. Yet Bill 151 proposes the creation of one or more LFMCs and completely disregards a trial of enhanced shareholder SFLs.

The Ontario Forest Industries Association has been clear in their desire that both options be tested together for a period of five to seven years, prior to the final implementation of any single system. However, it appears that rather than making a decision based on experience and feedback through a clearly defined trial period, the drafters of this legislation have firmly tied on the blindfold and are now swinging wildly in the hopes that they will eventually find the piñata. As legislators, you have the ability to correct this omission.

NOMA believes that a minimum five-year trial period that includes the creation of only two LFMC pilot models, as well as support for the enhanced shareholder SFLs, would provide an appropriate opportunity for comparison and evaluation, and would reduce further uncertainty for producers. We trust that the committee will see the value in what the minister originally promised and amend Bill 151 before it is sent back to the Legislature for the reporting stage and third reading.

In regards to the creation of local forest management corporations, Bill 151 outlines the objects of the corporation. NOMA is concerned with the wording of object 2: "To provide for economic development opportunities for aboriginal peoples."

While we fully support economic development opportunities for aboriginal peoples, we are concerned that this object does not include reference to economic development opportunities for northern and rural communities. We trust that this is simply an oversight, and we ask that the objects be amended to include northern and rural communities in the goal of providing economic development opportunities.

NOMA is extremely concerned with some of the unexpected items that are included in Bill 151. In particular, we are distressed with the expansion of government authority for the minister or the Lieutenant Government in Council to cancel licences, commitments and supply agreements for any reason.

The changes go even further by removing existing rights of notice and appeal and any legal recourse or remedy if wood is unfairly taken away.

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These proposals are tantamount to my mortgage holder being provided the authority to take back my house without just cause and without any opportunity for me to appeal that decision. Clearly, such a change to the Mortgages Act would be met with outrage and public demonstrations, yet somehow, the government has decided that applying those practices to our forest producers is tolerable. These changes are absolutely unacceptable and must be removed from Bill 151 immediately.

Committee members, the future of our communities is in your hands. The effects of Bill 151, whether good or bad, will be felt across northwestern Ontario. Please take the time to get this legislation right to ensure that our forest industry can rebound.

Over the years, NOMA has always been a family—a family that looks after the citizens and all of the people in northwestern Ontario. Consider a member of your family with a terminal illness, and watching them losing the fight when they were once vibrant, when they were happy and proud. Now all you can do is sit back helplessly and watch that family member slip away. We are very proud in northwestern Ontario, and NOMA has always been very proud of its people. The question that I have for you as well is, have you heard us? Have you truly heard what we've said?

The Chair (Mr. David Orazietti): Thank you very much for your presentation. I appreciate your comments today. We've got some time for questions. Mr. Bisson, you're up first.

Mr. Gilles Bisson: First of all, thanks for taking the time to present, and good day to both of you.

To your last point, whether you've been heard, I take it that what you're saying is that, clearly, the north is not being listened to and properly consulted in regard to this particular bill. That's the point that you're making?

Mr. Ron Nelson: What I am saying in whether we are being heard is that the bill that was presented and what the minister presented back on the 13th—we had acceptance. Now that that has changed, what we're saying is, are you hearing our concerns that we brought to the table today?

Mr. Gilles Bisson: Okay. So you're saying what was originally discussed at the pre-hearings, previous to the introduction of the bill, is very different from what you're seeing in the legislation.

Mr. Ron Nelson: Very much so. And—

Mr. Gilles Bisson: Sorry, go ahead.

Mr. Ron Nelson: And in particular, what the minister promised when he made the announcement of the tenure reform is different than what's in the bill. We just want you to go back to what the minister promised, because we liked that.

Mr. Gilles Bisson: Is the government trying to rush this process too much? Should we be in a hurry to pass this some time in April or May?

The Chair (Mr. David Orazietti): Very briefly, Mr. Bisson.

Mr. Ron Nelson: We recognize the reality that the Legislature will rise in June. That's the last chance to meet. We would like to get this matter resolved. Some of our communities are very anxious to be one of the pilots. We would not want to disrupt that.

Having said that, though, we want you, as a legislative committee, to get it right, to listen to what the minister promised and to refine the act accordingly so that we can all celebrate its adoption by the Legislature.

The Chair (Mr. David Orazietti): Thank you. Next question, Mr. Brown of the Liberal caucus. Go ahead, Mr. Brown.

Mr. Michael A. Brown: Good afternoon, Mr. Nelson and Iain. How are you?

Mr. Ron Nelson: Good.

Mr. Michael A. Brown: I don't know that you had the opportunity to hear the Domtar presentation just a few minutes ago, where they outlined during an ongoing consultation with the ministry—which has been going on for some time; the industry and the ministry have been going forward—a number of amendments that they felt were necessary. If the government were to proceed along those lines, would that be acceptable to your membership?

Mr. Ron Nelson: We look forward to the amendments to clean this act back up to where it was supposed to be back on January 13, when you did have industry and municipal leaders endorsing that program as a start. Yes, we would very much appreciate seeing amendments done to this to ensure that we get back to the way the bill was originally.

Mr. Iain Angus: We did not hear the specific amendments that were offered by Domtar, so we can't comment on the specifics of those. But we'll be happy to review Hansard once it comes out and to take a look at that.

Mr. Michael A. Brown: Good. Thank you. Keep in touch.

The Chair (Mr. David Orazietti): Thank you very much, gentlemen. That's time for your presentation. We appreciate your time this afternoon.

Mr. Iain Angus: Thank you.

UNION OF ONTARIO INDIANS

The Chair (Mr. David Orazietti): Our next presentation is by the Union of Ontario Indians. Chief Madahbee, welcome to the Standing Committee on General Government. As you're aware, you have 15 minutes for your presentation, and any time that you don't use will be divided among committee members for questions. You can just start by stating your name. Start whenever you're ready.

Grand Council Chief Patrick Madahbee: *Remarks in Ojibway.*

I'm Patrick Madahbee. I'm the grand council chief for the Anishinabek Nation. I'm from Manitoulin Island. I see my friend Mike sitting over there.

I want to just give you a little bit of background as to who I represent in the Anishinabek Nation. We are a collective of the Anishinaabe people known as the Algonquin, Chippewa, Lenape—or Delaware—Mississauga, Nbiising, Odawa, Ojibway and Potawatomi, who have existed on this land since time immemorial. We are the original inhabitants of the Great Lakes region and have been using the resources of the land and water, to ensure our survival, for thousands of years. It was our nations that were recognized and referred to by King George of Great Britain when he issued the Royal Proclamation of 1763.

Today, we are comprised of 40 First Nations throughout Ontario. Our member First Nations are signatories to several treaties with the crown, including the Bond Head Treaty of 1836, the Robinson Treaties of 1850, the Manitoulin Treaty of 1862 and the Williams Treaties of 1923, to name a few. Anishinaabe people and our member First Nations continue to hold aboriginal treaty rights over tracts of land which we shared in the treaties that we signed with the crown.

You will see from the map appended to your written submission that the member First Nations of the Anishinabek Nation are located throughout Ontario.

We incorporated the Union of Ontario Indians in 1949 as a secretariat to the member First Nations across Ontario. Today we represent approximately 30% of the total First Nations population in Ontario and 7% of the total First Nations population in Canada.

I'd like to talk now a little bit about the new forest tenure and pricing system for Ontario. I remember when Mr. Gravelle began talking about a new proposed framework for modernizing Ontario's forest tenure and pricing system in 2009. He indicated that the new tenure and pricing reform review would be guided by a number of principles, including a respect by Ontario for the aboriginal treaty rights protected by section 35 of the Constitution Act of 1982, and a commitment by Ontario to meet its constitutional obligations. This initially sounded encouraging.

He also said that the modernization of its tenure and pricing system would be characterized by, among other things, the creation of forest management business entities that would foster a greater level of local and aboriginal community involvement in decisions about the economic management of crown forests.

Again, we were encouraged by this commitment and began to wonder how the legislation would shape up and especially how the new legislation would meet these objectives. Well, today I would like to tell you that unless there are some important amendments that would be

considered by members of the Standing Committee on General Government, it is doubtful that the new tenure and pricing reform framework will meet the objectives and commitments made to the aboriginal peoples of Ontario.

I'd like to start off by simply saying that our assessment of the new act will depend on how it meets two stated objectives: first, whether the new act will truly represent a commitment by Ontario to respect the aboriginal and treaty rights of the member First Nations of the Anishinabek Nation, which are protected by section 35 of the Constitution, and Ontario's commitment to meet its constitutional obligations; and, secondly, whether and to what extent the new act, as it currently reads, and these new local forest management business entities that you're going to set up under the act, will help foster a greater level of local and aboriginal community involvement in decisions about the economic management of crown forests in Ontario.

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I would like to wrap up with some suggestions for reform to the act, which we believe can actually make a difference and, if implemented, will foster a greater level of local and aboriginal community involvement in decisions about the economic management of the crown forests in Ontario and, as a result, achieve more equal participation by aboriginal communities in the benefits provided through forest management planning.

Subsection 3(1) of the act provides for the incorporation of one or more Ontario local forest management corporations. Some of their objects are, "1. To hold forest resource licences and manage crown forests in a manner necessary to provide for the sustainability of crown forests in accordance with the Crown Forest Sustainability Act, 1994 and to promote the sustainability of crown forests." But, most importantly for our people, "To provide for economic development opportunities for aboriginal peoples."

First, from what I understand, the primary legal instrument in Ontario that authorizes the harvesting forest resources in Ontario is the sustainable forest licence. These new local forest management companies would be authorized to harvest forest resources in Ontario by having a sustainable forest licence issued to them by Ontario, with similar obligations and conditions to those found in the existing SFLs. Of strategic importance to our communities is paragraph 20 of the licence, which states, in relation to aboriginal opportunities, "The company shall work co-operatively with the minister in local aboriginal communities in order to identify and implement ways of achieving a more equal participation by aboriginal communities in the benefits provided through forest management planning."

Despite the promise of this condition that is included in every sustainable forest licence in Ontario, the Anishinabek Nation and its member First Nation communities have some concerns over the matter and how sustainable forest licences are monitored to ensure compliance with this legal condition of their licence.

When we're looking at our level of involvement and whether our member First Nation communities have achieved a more equal participation by aboriginal communities in the benefits provided through the forest management planning, this despite being a legal condition in every sustainable forest licence, we find inequality in participation. In fact, we found we are not sharing equally in the benefits provided through forest management planning, including sharing in any of the economic benefits from forest management planning.

We asked the MNR how sustainable forest licence holders are monitored to ensure compliance with paragraph 20 of their licence, and we are told that independent forest audits are completed every five years as one way of ensuring compliance by all sustainable forest licence holders. We looked at these audits for ourselves, and it was disappointing, to say the least. For example, we looked at the independent forest audits completed in 2007 for the Algoma forest, for the period of 2001 to 2006; Mr. Orazietti, the Chair here, will be familiar with the Algoma forest, as it's in his local riding near Sault Ste. Marie. The audit reported on the condition that "MNR district managers are to conduct negotiations with native communities at the local level in order to identify and implement ways of achieving a more equal participation by aboriginal peoples in the benefits provided through forest management planning."

There are seven First Nations on or adjacent to the Algoma forest, including the Michipicoten First Nation, Chapleau Ojibway, Missanabie Cree, Mississauga First Nation, Thessalon First Nation, Ojibways of Garden River and Batchewana First Nation. Michipicoten First Nation, Mississauga First Nation, Thessalon and Ojibways are all members of the Anishinabek Nation.

For the five-year period of 2001 to 2006, here is a representative sample of what the forest audit had to say on the conduct of negotiations with native communities at the local level in order to identify and implement ways of achieving more equal participation by aboriginal people:

"In this respect, both the Wawa MNR and Sault Ste. Marie MNR have shown effort through meetings with First Nations of the Algoma forest. Clergue"—which is the SFL holder—"also participated in these meetings and in some instances took a leadership role. During the last two years of the audit term, Wawa MNR had several discussions with Michipicoten First Nation regarding harvesting opportunities and has assisted with the development and review of a forestry business plan for harvesting. Positive progress has been slow due to lack of training and staff turnover at the band office. Some line cruising was completed in 2003 to establish species and allocations potential on the forest."

With the greatest of respect, if this is all the audit has to show for five years and having seven First Nations communities to work with, it can hardly be said that the negotiations identified and implemented ways of achiev-

ing a more equal participation by aboriginal peoples. Having meetings or taking a leadership role in some instances, or having several discussions about harvesting opportunities, without resulting in any actual harvesting by First Nations communities or their member businesses over a five-year period falls well short of meeting the obligation of both the company and the Ministry of Natural Resources, as set out in the licence.

Similarly, reporting that "some line cruising was completed in 2003 to establish species and allocations potential on the forest" also falls short of our expectations. You will see other findings in your report, but the common theme running through this audit seems to be reporting about how many meetings were held and less on what was actually accomplished. We looked at other audits and they followed the same pattern. The lack of results speaks volumes about the commitment of the Ministry of Natural Resources to meeting this objective and ensuring compliance by all sustainable forest licence holders with terms and conditions of their licences.

I'd like to talk about how this grim situation can improve for the better. As we all know by now, the Supreme Court of Canada in Haida has now established that the foundation of the legal duty of consultation which is owed to aboriginal people is grounded in the honour of the crown and the goal of reconciliation, and suggests that duty arises when the crown has knowledge, real or constructive, of the potential existence of the aboriginal title or right and contemplates conduct that might adversely affect them.

The main question in all situations is, what is required to maintain the honour of the crown and to effect reconciliation between the crown and the aboriginal people with respect to the interests at stake? The effect of that consultation may be to reveal a duty to accommodate. Where accommodation is required in making decisions that may adversely affect as yet unproven aboriginal rights and titles, the crown must balance aboriginal concerns reasonably with the potential impact of the decision on the asserted right or title and with other societal interests.

The act at subsection 3(1) provides for the incorporation of local forest management corporations, and section 5 of the act sets out the objects of the new forest management companies. Among their purposes is to hold forest licences and manage crown forests in a manner necessary to provide for the sustainability of crown forests. They are to do this by having a sustainable forest licence issued to them by Ontario. The license would contain similar obligations and conditions to those in existing sustainable forest licences, including paragraph 20 of the existing licences. It's difficult to imagine how any activities authorized under a sustainable forest licence would not affect any treaty rights of the member First Nations or the Anishinabek Nation.

Using the Algoma forest unit again as an example, that area was licensed in 2002 to Clergue Forest Management Inc. That licence covers a total area of 8,577.1 square kilometres in the territorial districts of Sudbury and Thunder Bay, and is good for 20 years. This same area is included within the area covered by the terms and conditions of the Robinson Huron and Robinson Superior treaties of 1850. Under these treaties we have the rights to hunt and fish in that same area.

Once logging started in the area, there were parts of the treaty area that we could not use anymore to go hunt and fish because trucks and heavy equipment were moving around—and it wasn't our people driving those trucks, operating equipment, cutting the trees or building roads through our lands. If we wanted to take any wood for our fires, we were told we need permits from the MNR. If we wanted to build hunting camps as part of our treaty right to hunt, we were told we needed to comply with MNR's incidental cabin policy.

So it's pretty clear how the actions of the crown in this act will continue to interfere with aboriginal and treaty rights. But we believe that we can work together on how these infringements on our treaty can be mitigated or accommodated, and that's through changes to the legislation.

You will see that subsection 23(1) of the act provides that "at least three months before the beginning of each fiscal year or by such other date as the minister specifies, each Ontario local forest management corporation shall submit its business plan for the fiscal year to the minister for approval." First of all, there's no reason why the minister could not set up a few 100% aboriginal-owned local forest management companies and let our First Nations directly manage the forest resources. That would be a real tenure reform.

For the rest of the local forest management corporations, again, there's no reason why the minister could not make it mandatory for all local forest management companies to include in their business plan a framework for ensuring that economic and employment opportunities will be provided to aboriginal communities whose treaty and aboriginal rights may be potentially adversely affected and give priority to those local forest management corporations that are willing to provide these opportunities to our people. That would not be the first time that Ontario took this approach.

The Ministry of Natural Resources' current forest biofibre policy directive provides the general direction for the allocation and use of forest biofibre from Ontario's crown forests and provides a commitment to continue to identify opportunities that may benefit aboriginal people through forestry initiatives that become available with the development and utilization of forest biofibre. If you look at the biofibre policy directve you'll see that it reads:

"Throughout the allocation process, MNR, in collaboration with the proponents will give priority to pursuing opportunities for aboriginal peoples and communities.

"Where new opportunities to utilize forest biofibre arise through a competitive process, MNR will include evaluation criteria that will give a higher priority to proposals that identify benefits for aboriginal peoples.

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"Proposals from aboriginal communities and from aboriginal partnerships or that provide economic benefits

to aboriginal peoples will receive priority with regard to consideration for access to forest biofibre. The mechanism to address these opportunities will be provided through ongoing local negotiations with the Ministry of Natural Resources and affected aboriginal communities (Condition 34 of Declaration Order MNR-71 regarding MNR's Class Environmental Assessment Approval for Forest Management on Crown Lands in Ontario, as amended)"—that reflects that situation.

"Where an opportunity to utilize forest biofibre exists MNR will notify affected aboriginal communities. During the allocation process, where an aboriginal community or proponent indicates there is an interest in utilizing forest biofibre, MNR, in collaboration with the aboriginal community and potential industry proponents will assist in identifying those opportunities and discussing potential benefits to be derived."

It is our view that if this policy directive was incorporated into and made a part of the new tenure reform and pricing system and included in the act at subsection 23(1), this could provide our member First Nations communities with significant employment and business opportunities and, in the result, accommodate any infringements of the aboriginal treaty rights of the member First Nations of the Anishnabek Nation which are caused by the activities authorized by sustainable forest licences that are going to be issued to new local forest management companies. If the new local forest management companies do not set this out, don't issue the licence to them.

The other outcome and real value in this approach is that Ontario will now be able to point to a real measure in its new tenure reform and pricing system that resulted in "achieving a more equal participation by aboriginal peoples in the benefits provided through forest management planning."

To conclude, we believe the new tenure reform and pricing framework, as set out by the act, can provide opportunities for achieving more equal participation by aboriginal peoples in the benefits provided through forest management planning if the proposed amendments are adopted. We believe that there exists some real opportunity to achieve more equal participation by aboriginal peoples in the benefits provided through forest management planning through the amendments we are proposing to subsection 21(3) of the act, and that the incorporation of the same biofibre policy directives into the business plan submission requirements for local forest management companies can go a long way towards realizing this objective.

I'm almost out of breath here because I'm rushing for this 10-minute limited time we have, but thank you. I don't know how much more time I have, Mr. Chair. Maybe I've run out.

The Chair (Mr. David Orazietti): We're actually past the 15 minutes, so if you could just wrap up.

Grand Council Chief Patrick Madahbee: Okay, sorry. Well, I've made my presentation. I have other examples of problems out in our communities, but I'll leave it at that.

The Chair (Mr. David Orazietti): We appreciate you coming in today. You got a lot in in your presentation. Certainly members of the committee have all of the information now from you, so we appreciate that. Thank you very much; that's time.

DR. SHASHI KANT

The Chair (Mr. David Orazietti): Our next presentation is Mr. Kant.

Good afternoon, Mr. Kant. Welcome to the Standing Committee on General Government. You have 15 minutes for your presentation, as you know. Any time that you do not use will be divided among committee members for questions. You can state your name and start when you're ready.

Dr. Shashi Kant: Thank you, Chair, and thank you, other members. My name is Shashi Kant. I am a professor at the faculty of forestry at the University of Toronto. That way, I don't have any direct interests in terms of whether I will lose a job or whether I will lose tenure or something. My opinion is more from the perspective of an independent economist.

I am an economist. I work on the forest tenure, timber pricing and the economics of sustainable forest management. I also have received a lot of awards for that, including the award from your Premier and also an award from the Queen.

Recently, I have done a study on the global trends in forest sector and forest tenure reforms, and I presented that study at a number of places. I thought it would be a good place to say some of those results from there.

Based on that study and based on what is in Ontario right now, my opinion is that the current tenure system is outdated and needs to reformed. It is quite inflexible and it is overcontrolled by the government. It is subject to political pressures, and there are no incentives for innovations. From that point, the reforms are overdue and the more you delay the reforms, it will cost more for every sector: for communities and for industry as well as for the government.

Now what is important in tenure? A basic principle that I think is important is a balance between the regulations, market forces and community interests. If you can balance those forces, I think that will be the optimal tenure system for any area. But it's not an easy task, and what happens most of the time is one of those factors starts dominating. If government regulation starts dominating, then you can say, "What was China before reforms? What was India before reforms? What was the USSR before reforms?" If the market starts dominating, then what happens you have already seen in the last two or three years: If you leave the market totally free, that's the outcome that we have seen in the US and here. If community interests start dominating, then you move towards more of a subsistence economy than a market economy or a developed economy.

Our tenure system was designed in the early 1900s, and most of the features of tenure systems are from that

era where we wanted to promote industrial development in the areas which were poor. We subsidized timber. We subsidized other imports. And it's not just in Canada; it happened all over the world. But I think now we are in a different state, and we have to move away from that to meet the challenges in the world which we have.

The current system is overly regulated—obviously, dominance by the government. In the current reform, what I'm seeing is that there is more of a role for the market that the reform is trying to introduce, which I thought everybody should welcome because we live in a capitalist economy, and we talk about the market. What I'm hearing is a lot of opposition for that.

What I saw in the reforms, the study that I was talking to you about—I have studied the reforms in countries like Australia, New Zealand, Germany, the UK, the USA, China, India, Sudan, Chile, and economies in transition. Obviously, there's no time to go into the details of that study, but I will just give to you the highlights of what happened in those countries. A key question to us, before I go into those details, is whether we want to continue to live in the 20th-century forest tenure system or we want to design a new tenure system which faces the challenges of the 21st century. What I see in this global study which I am talking about is that there are five or six types of tenure reforms which have gone into these different countries globally.

The first one is the change in ownership of forest land, which is definitely not in our context; that is not what we are looking for. But there are examples like TIMOs and REITs in the USA. There are also what is called restitutional forest land in emerging economies or in economies in transition like Bulgaria, Estonia, Slovenia etc. They have given forest land back to the people from whom they have taken the land earlier. I don't think we are talking about that here.

Also, in some countries like the UK and Chile, they have sold smaller-scale plantations. Again, we are not talking about plantations in here, so that is, again, not of much relevance to us, because we don't have many plantations.

Then in some countries like Sweden, they created state-owned agencies, and they gave the forest to that agency—not all the forest, but a good amount of the forest. The state-owned company does everything there.

Then we have what is called—the idea is, if the forest or plantation needs to be a commercial activity, we have to apply commercial principles; we cannot continue not applying commercial principles. So countries like New Zealand, South Africa and Australia started with this idea to first put the commercial principles in the tenure system, then create the corporations and then privatize. It happened for the sale of plantations in New Zealand, like you might have heard; definitely New Zealand is a case. South Africa also sold their plantations, but they didn't sell the forest land. The difference between here and the previous example was transferring the ownership of the land, while in New Zealand, Australia and South Africa, they transferred the ownership of trees, not the land. That also was a difficult problem. It's not all positive about that.

The most common thing which has happened in many countries and which has happened with the least opposition from most of the sectors, like the forest industry, NGOs and the public, is the creation of business enterprises within state agencies—so not creating a corporation, not creating something which is outside of the state agency. It has happened in the UK, Germany, many provinces in Australia, and many countries and economies in transition.

Bill 151, which you have in front of you, is not, in fact, creating the corporation, even though the name is "corporation"—the local forest management corporations; what they are talking about is local business management entities. If you read the act, it doesn't have all the powers of the corporation; it's an independent business entity which has been proposed here.

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There is another example from China where they have done—complexity of the tenure reforms. I don't want to go into details of those.

Based on what happened globally, I definitely feel there is a need to change our forest tenure in Ontario. What we need more is moving away from the over-regulation by government, introducing more market mechanisms there. That is what I think this bill is trying to do, which is similar to creating the business entities in the many countries which I have listed.

What the proposed reform will do is it will separate the regulatory activities and management and business activities. Right now, everything is done by the government. The idea here is, we separate the business and management activities by creating the corporations and regulation activity. It will also encourage market forces to introduce more economic efficiency. It will discourage wood hoarding because, right now, as you know, in a way, there is hoarding. The owners are not cutting wood, and they are not giving it to anybody. Who in a free society will want that your resources are just kept there and are not available to other people?

Encouraging companies in the allocation of wood by having the entity allows the entry of new and competitive firms. That will allow the entry of all sizes of firms, and these firms will bring new investment to the sector, new job opportunities, new product ideas, diversification of the market and less dependence on the US market.

That is another thing. If you continue in the current system, there is more dependence on the US market. This will reduce that dependence because new products will come, new firms will come, new ideas will come, and they will look for new markets. They will not look at the existing markets only.

Promoting a greater role of market forces in timber pricing also: Right now, our timber pricing is based—some market signals are being used in the residual value approach, but it is of very minimal market importance.

Another one is by having the diversity of forest tenures, there will be competition. Even the people who

have SFLs might like to perform better because they may have a threat that if they don't perform better tomorrow, then maybe this area will also come under the local forest management corporations.

So in the end, what I want to conclude by saying is that there are two key roles of the government in capitalist economies. One is to drive things or to deliver things which cannot be delivered by the market, like health services etc. Another one is to create a regulatory environment in which the market can function independently and efficiently.

What this new bill is trying to do is to move a little bit in that direction. It is not the end of the reforms. I will say it is the beginning of the reforms.

Finally, whenever you do any reform, somebody will always suffer. There are always costs associated with change. If India and China might have thought about those costs at that point in time, they would not have been where they are now—the world leaders.

So there is a trade-off between the present cost and the future cost. There may be at present less cost, and in the future, you get the benefit out of it. Or it may be the other way around: There are more costs in the present, and you don't gain anything in the future. This is the trade-off which you have to decide in the tenure reforms: whether we are looking to the future and want to have more gains in the future than at the cost of the present some costs, or we don't want to incur those costs and don't care about the future. That's where I will stop.

The Chair (Mr. David Orazietti): Thank you very much for your presentation. We have a brief time here for questions. Mr. Hillier, go ahead.

Mr. Randy Hillier: We've got just a couple of quick questions. There's no doubt that there is a need for some significant improvements in our forestry sector, but listening to your delegation here, you're suggesting this is a good first step or a good step in that direction. We've heard from others about the abrogation of the rule of law in this bill where the minister has the full authority to arbitrarily take away people's use and allocations. Do you think that provides some certainty and some improvements to our forestry?

Dr. Shashi Kant: My answer is that in a democratic country, nobody can behave arbitrarily.

Mr. Randy Hillier: Under this act, you can.

Dr. Shashi Kant: My reading is not that. They can take for certain purposes. It's not arbitrarily without any reason.

Mr. Randy Hillier: There's no criteria established. The minister can seize. That's an abrogation of the rule of law. It certainly doesn't provide much for certainty in the marketplace.

I would also like to have a comment. In this legislation we're looking at creating some new models that have not been tested or tried in our economy. We're not a transitional economy. We're not an emerging economy. They have not been tried in a developed economy. There's no provision whatsoever for any analysis, any review, any reporting to come back to the Legislature to see if this model actually works in a given period of time. I'd like you to comment on that. As an economist, would you not think it would be important to have an evaluation mechanism when testing out new models?

Dr. Shashi Kant: Two things from this: Testing out any model in the forestry sector would take at least five to 10 years. You cannot test—

Mr. Randy Hillier: Absolutely.

Dr. Shashi Kant: So whether we are willing to wait for another 10 years and not do anything.

The second point is, even where the people have done these business enterprises, it's not in emerging economies. There are many states in Australia; they have been used in the UK and Germany. But, again, there is no empirical evidence whether these models have performed better than what they were doing, because it takes time.

Mr. Randy Hillier: What I was getting at is, here we don't have the mechanism to review or analyze in a given period of time. Economically, that would be just foolish not to have that ability to do so.

The Chair (Mr. David Orazietti): Okay, Mr. Hillier, I've got to stop you there.

Dr. Shashi Kant: I think if you wait for that—we will not hear anything and we will not do anything because nothing is proved a priori 100% perfect over the other one. It is the learned judgment of the legislators who are making those judgments whether they see it may help us or not.

The Chair (Mr. David Orazietti): Thank you, Mr. Kant, for coming in today. We appreciate your time today. That's time for your presentation.

Mr. Gilles Bisson: Just a very, very quick question.

The Chair (Mr. David Orazietti): Mr. Bisson, we're done. Turn the mikes off, please. Thanks, appreciate it.

Interjections.

The Chair (Mr. David Orazietti): Thanks for coming in.

HEARST AND CONSTANCE LAKE FIRST NATION
MATTICE-VAL CÔTÉ AND SURROUNDING AREAS COMMUNITY-BASED FOREST GROUP

The Chair (Mr. David Orazietti): We have a video conference. The next presentation is Hearst and Constance Lake First Nations community-based forest management group.

Good afternoon. Can you hear us?

Ms. Desneiges Larose: Yes.

Mr. Roger Sigouin: Yes, sir.

The Chair (Mr. David Orazietti): Okay, great. Welcome to the Standing Committee on General Government hearings on Bill 151. You have 15 minutes for your presentation. You can start by stating your name and any time that you do not use will be divided among members for questions. So go ahead whenever you're ready.

Mr. Roger Sigouin: Thank you, David. Chief Arthur Moore—is he there?

The Chair (Mr. David Orazietti): I don't believe so.

Mr. Roger Sigouin: Okay. I'm going to start with my presentation. Thank you, David.

The communities of Hearst, Constance Lake and Mattice-Val Côté have been working collaboratively with local industry for years. We have together developed a community-based forest management model that was shared with the Ministry of Northern Development, Mines and Forestry. We actively participate in all consultations and have organized many of our own. We did all that because forestry and the forests are the heart of who we are and the foundation of our original economy. Changes to tenure will affect our communities and our region deeply, and we take these changes very seriously.

We have been sincere in our effort to work with MNDMF and regret to say that if Bill 151 is what the province wishes to bring forward as tenure modernization, we're not supporting it. Bill 151 proposes the development of local forest management corporations, but fails to provide real details related to how, when and to what extent that number may be implemented. Bill 151 makes no mention of enhanced shareholder SFLs, creating unacceptable uncertainty as to the future of tenure and forestry in our province.

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Our communities developed partnerships with each other, engaged with the local industry and worked with our shareholder SFL, Hearst Forest Management Inc., to open the board to our communities, which it did. By all accounts, we have a relationship that works and we have always had our eyes set on improving those relationships and our success. Bill 151 only causes us to fear what may happen to those relationships, and the experience and knowledge that evolved on this forest.

When the province announced its efforts for forest tenure and pricing modernization, we embraced the announcements and worked ardently with our partners to clearly define our expectations and our hopes for forest tenure. Like my neighbours, I too cannot see the voices of our residents in this bill and must urge you to take the time to work with the communities that will be most affected by this change. Sustainable forest management and sustaining our livelihood in the forestry sector depends on certainty from being able to guarantee wood commitments; meaningful partnerships between communities, First Nations and the local forestry sector; and real legislative support for the flexibility in forest management frameworks that so many communities and stakeholders advocated for.

Nevertheless, though Bill 151 does nothing for our realities, we acknowledge the minister's announcement regarding enhanced shareholder SFLs and encourage the minister to include details in Bill 151 about what such a model may entail. Our communities and local industry desire to voluntarily change to such a structure and further our commitments to this province to modernize our tenure system, improve forest sustainability and economic stability in the north, if only Bill 151 would accommodate us.

The Chair (Mr. David Orazietti): Thank you very much.

Ms. Desneiges Larose: I'm going to jump right in—sorry.

The Chair (Mr. David Orazietti): Chief Moore is here as well; he has arrived. I'm not sure how you've divided your presentation, but—

Ms. Desneiges Larose: He should go ahead and speak.

The Chair (Mr. David Orazietti): Okay. Good afternoon, Chief.

Chief Arthur Moore: Good afternoon.

The Chair (Mr. David Orazietti): Welcome to the Standing Committee on General Government. Go ahead, if you want to continue with the presentation.

Chief Arthur Moore: Thank you for allowing me to speak. My name is Chief Arthur Moore from Constance Lake First Nation, not very far from the town of Hearst, about half an hour drive. Here's my presentation.

Forest tenure and its modernization is an important issue for all communities of the north, aboriginal and non-aboriginal. Constance Lake First Nation has been an active advocate for community-based forest management models. It has worked with its neighbours, with Matawa First Nations and the province to develop models that would reflect the level of change necessary to ensure sustainable forest management and economic growth for all.

Having been involved in these processes, I can tell you that Bill 151 does not reflect the recommendations that were made throughout the consultation process. There were meetings and open houses, yes, but how can we say the consultation was meaningful or even sufficient if we cannot recognize our voices and aspirations in this bill? If Bill 151 is what is being proposed to the people of Ontario and the First Nations of Ontario as tenure modernization, then it falls short.

The only mention of First Nations' interests in this bill lies under the objects of the LFMCs by providing "for economic development opportunities for aboriginal peoples."

In 1994, the Ontario environmental assessment board's decision on the timber class environmental assessment established term and condition 34, also known as 77, which recognized that aboriginal people require separate and parallel processes to address aboriginal needs and values, and which addressed improvements in the participation of aboriginal peoples in forest management planning, including the requirements for the OMNR to provide more forest-based economic opportunities to aboriginal communities. But today, in 2011, I am asked to comment on a bill that reduces all aboriginal interests to "economic development opportunities," as though 17 years of relationship-building and working with the province to develop measures and ways where aboriginal peoples can be a meaningful part of forest management and tenure in Ontario were erased.

Bill 151 does not address the province's and the ministry's obligations under subsection 35(1) of the Con-

stitution Act, 1982, nor does it take into account case law from our highest court—the Calder case, 1973; Guerin, 1984; Sparrow, 1990; Delgamuukw, 1997; Haida, 2004; and the 2005 Mikisew rulings—which confirmed aboriginal and treaty rights to resource use and gave weight to aboriginal demands to participate as major decision-makers in resource management and, most importantly of all, affirmed the obligatory responsibilities and obligations of provincial governments towards aboriginal and treaty rights and consultation.

We support change in forest tenure and pricing, and we are sincerely dedicated to working with Hearst and area communities as well as the province of Ontario in identifying solutions for the north and for First Nations. However, we cannot support Bill 151 in its current form. With too few details on the alternatives related to enhanced shareholder SFLs or timing and implementation of LFMCs, how can we support this bill? With no indication of how First Nations will be involved or part of decision-making, how can we support this bill? With limited details on how the expanded powers by the minister to cancel or make amendments to supply agreements and SFLs will impact the forestry sector or our own community initiatives, how can we support this bill and the amendments to the CFSA?

As chief of Constance Lake First Nation, I urge you to consider the responsibility you have towards our First Nations and the people of the province; to take the time to meaningfully consult with us; and, most importantly, to take the time to modernize tenure in Ontario in a manner that is consistent with the needs and ambitions of its people and forests. Do not rush what is a monumental change for First Nations and northern communities, for the sake of politics.

Thank you very much. I say meegwetch for allowing me to speak.

The Chair (Mr. David Orazietti): Thank you very much for both of your presentations. We have a couple of minutes for questions. Mr. Bisson.

Mr. Gilles Bisson: Thank you very much. First, Chief Moore, you're needed at the table.

The Chair (Mr. David Orazietti): Sorry. Folks in Hearst, did you have some additional information to add?

Ms. Desneiges Larose: I did, but we are kind of running out of time. I think we did offer some written comments to the committee that specifically look at the specific aspects of Bill 151, which presents a lot of issues and is more or less an antithesis to what the communities have been presenting and consistently voicing with the government. To ensure that the committee does have time to ask questions to either myself, Roger, or Arthur, I'll remove myself and perhaps further submit some written comments to the ministry.

The Chair (Mr. David Orazietti): Okay. We have received that and it has been circulated, so we certainly appreciate your information.

Mr. Bisson, I believe, has a question.

Mr. Gilles Bisson: Ma question, Roger, Desneiges, or my question to you, Chief Moore, is the following: It said inside this report, "Don't rush this process." Is it your sense that the government is trying to bite off too much too quickly?

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Chief Arthur Moore: I believe so. I think we need more time to review this new legislation. Like I said, there's not enough aboriginal content to allow us that flexibility to manage—

M. Gilles Bisson: Roger, veux-tu commenter sur ce point-là?

M. Roger Sigouin: Je vais laisser Desneiges répondre, et après ça, s'il y a autre chose, je rajouterai.

Ms. Desneiges Larose: Si je peux répondre, what I would have to say to the committee is that tenure modernization is an extremely complex and intricate process, and Bill 151 is not comprehensive enough to represent true tenure modernization. It falls short of allowing the flexibility, the diversity that is needed in tenure models and the variety in order to cater to what is an incredibly large territory. The area of undertaking is extremely massive and to think that one-size-fits-all policies can address the level of complexity in industrial processes and communities' ecology, culture and economics is absolutely ridiculous.

We support and continue to support the initiative to modernize tenure. We do think that this sort of significant change requires real engagement with the community because it's going to take a long time before modernization of tenure takes place again and we want to make sure that it's done properly and in a way that is consistent with the ambitions and especially the needs for this landscape, its people and for sustainability.

M. Gilles Bisson: Roger, voulais-tu additionner?

Mr. Roger Sigouin: Oui, je pense que—yes, I think Desneiges said it pretty well, there. I think she's right. When we have to do something, let's do it the right way and take our time. It's the right way to do it.

Right now, the government said the northern community has to work together with the First Nations and all that, and I agree. That's what we're doing. That's a process that takes time, and I think the province should do the same.

M. Gilles Bisson: Merci beaucoup.

The Chair (Mr. David Orazietti): Thank you very much for your presentation, and that's time for your presentation. We're done. We appreciate you coming in today, Chief; thank you very much, Roger and Ms. Larose. We appreciate it.

Mr. Roger Sigouin: Thank you, David.

Chief Arthur Moore: Thank you.

Ms. Desneiges Larose: Merci; meegwetch.

EACOM TIMBER CORP.

The Chair (Mr. David Orazietti): Okay, folks: Next presentation is Mr. Nicks. Is Mr. Nicks here?

Good afternoon, and welcome to the Standing Committee on General Government. As you're aware, you have 15 minutes for your presentation and any time

you don't use will be divided among committee members for questions. You can start by simply stating your name and begin when you're ready.

Mr. Brian Nicks: Mr. Chair, members of the standing committee, thanks for the opportunity to address you today regarding Bill 151. My name is Brian Nicks. I am Eacom Timber Corp.'s director of forestry for Ontario. I'm based in the Sudbury area; Espanola, to be exact.

In this capacity, I would like to describe our company's concerns with Bill 151, the underlying rationale for those concerns and some constructive suggestions for amending the bill so that it encourages rather than deters capital investment in Ontario's forest sector.

By way of introduction, Eacom Timber Corp. is a publicly traded manufacturer of softwood lumber and engineered wood products that acquired the forest products division of Domtar Inc. in June 2010 at a cost of $125 million Canadian, including working capital. Eacom has interests in six Ontario solid wood mills in communities that should be familiar to you: Timmins, Gogama, Elk Lake, Nairn Centre, Ear Falls and the value-added mill in Sault Ste. Marie, five of which are in full operation. Eacom also manages two single-entity SFLs to very high standards—confirmed in recent independent audits—and partners in the successful management of three co-operative SFLs.

Although originally based in British Columbia, Eacom has decided to invest in Ontario for one simple reason: the potential for a sustained recovery of Ontario's softwood lumber industry, based in large measure on secure, predictable and affordable supplies of committed crown timber. That was the basis of the offer and the transaction.

We can and should believe in the potential of Ontario to become a leading softwood lumber-producing jurisdiction in North America. Our forests are vast, they're sustainably managed, they're independently third party certified and they're strategically located next to northeast US and southern Ontario markets. Investment interests, under the conditions of secure and affordable wood supply, practical public policy and reasonable input costs, does exist.

In this regard, the Ontario government can materially assist by following through on the modified and measured forest tenure reforms that were announced on January 13 by Minister Gravelle in Thunder Bay and, in particular, by ensuring Bill 151 is amended to provide greater certainty of supply to present and future holders of crown timber commitments, licences and supply agreements that consistently utilize their available volume.

To be clear, Eacom Timber Corp. does not support Bill 151 in its current form, and there are three primary reasons: (1) the substantially increased authority of the Lieutenant Governor in Council to cancel licences, commitments and supply agreements, including for unknown or undefined reasons to be subsequently defined by LGIC under regulation; (2) the loss of existing rights of notice and appeal, and explicit denial of legal recourse, remedies, proceedings or expropriation awards—that is to say, in our view, procedural fairness; and (3) the resulting negative perceptions of Ontario, amongst industry leaders, investors, shareholders, customers and employees—as a secure, stable and predictable jurisdiction in which to invest scarce forestry capital.

Eacom understands that the government's intent is for Bill 151 and the subsequent Ontario Forest Tenure Modernization Act to constitute enabling legislation. Such legislation is, by definition, long on authority and short on detail.

The convenience afforded to government by enabling legislation can, however, represent ambiguity, excessive discretion and uncertainty to affected shareholders, investors and boards of directors. This investor impact, in the case of Bill 151, would surely be inconsistent with one of the bill's key goals of optimizing value from predictable and competitively priced crown forest resources.

Let me, therefore, offer some constructive suggestions on how to allay investor unease and make Bill 151 consistent with the measured and moderate approach to forest tenure reform committed to by the Ontario government last January.

Firstly, Bill 151 should explicitly limit local forest management corporations initially to two pilots. Creation of such LFMC pilots should occur only where major changes are warranted; for example, where SFLs have been cancelled or are surrendered due to non-performance or insolvency. A five-to-seven-year testing period should be required before any new LFMCs are considered. MNDMF staff has recently mused about the development of a new subsection under section 3 of the bill that would prevent the development of new LFMCs prior to a ministerial review of the initial two pilots. An exemption from this clause might be created to allow the first two pilots to proceed. Eacom would be encouraged by this approach, but also calls for the preamble to the act to clearly outline the LFMC development and testing process for greater investor assurance.

Secondly, parameters for cancellation of wood supply agreements, commitments or licences must be refined. The breadth and depth of contemplated ministerial discretion is simply unsupportable, given current challenges in securing private investment capital. We do understand that MNDMF may propose to conduct ministerial reviews prior to cancellations to create additional LFMCs, to amend section 41.1(2)(b) to replace "optimal" with "consistent and sufficient" regarding wood use, and to entirely delete section 41.1(2)(c) authorizing cancellations for any unrelated reason prescribed by future regulations. This would represent some progress, if fully enacted. However, Eacom believes that further defining "consistent and sufficient," in terms of relative use by a given mill within its particular sector, for example—assuming there are multiple mills in that sector—must also be undertaken within a regulation under the CFSA to ensure even application over time and space, and to provide critical business certainty.

Thirdly, section 41.1 of Bill 151 needs to explicitly recognize enhanced co-operative SFLs as a legitimate

tenure reform and a key component of the path forward announced by Minister Gravelle in January. We acknowledge that government may now intend to insert language in Bill 151 recognizing the minister's ability to establish enhanced co-ops. However, we also call for a regulation outlining consistent and objective criteria for independent assessments of both LFMCs and co-operatives, as a critical check and balance before further tenure reforms are implemented by the minister of the day.

Fourth, valid wood supply agreements should be respected. Section 41.1 of the bill contemplates providing the minister with authority to cancel existing, and presumably future, wood supply agreements, and as such, to treat wood supply agreements in the same manner as wood commitments and licences. Eacom believes that wood supply agreements, which represent the strongest legal arrangement between a company and the crown, should only be cancelled or amended under the CFSA for the purpose of establishing LFMCs in accordance with a moderate and measured approach to tenure reform.

All other adjustments to supply agreements should continue to be authorized under the related terms of the agreements in order to maintain investor confidence.

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Fifthly, the confidentiality of timber transaction pricing information gathered for the purpose of informing administered crown stumpage rates must be respected. Such information constitutes sensitive business intelligence. Further, it could potentially place the crown in a conflict-of-interest situation if provided to a crown LFMC marketing wood to a private contributor of pricing information. MNDMF staff seem open to recommending amendment of Bill 151's proposed section 41.2(11) to ensure that any information submitted by companies regarding pricing or transaction information would be confidential and not subject to freedom-of-information requests. We would urge the creation of such an amendment, but we also call for an explicit legal exemption of such sensitive financial information from FIPPA requests, if that's possible.

Finally, Eacom considers the proposed limitations on remedies within section 41.2 of Bill 151 to be inconsistent with legislation designed to optimize value from forest resources. Given the discretion to be afforded to the Lieutenant Governor in Council around commitment, licence and agreement cancellation, an associated lack of recourse and total immunity of the crown in the event of malice, prejudice or error are difficult for us to comprehend. We understand MNDMF may now propose introducing wording into Bill 151 that would require notification of affected parties and provide rights of representation prior to a final decision by the minister, but this merely preserves a current opportunity for forest resource licence holders under section 59(3) of the CFSA, and for supply agreement holders under the terms of their existing agreements. In our view, the explicit rejection in Bill 151 of all other forms of redress and an implied invitation to pursue costly and time-consuming judicial review processes may very well deter, not attract, new forestry investment, so we would strongly urge the government to reconsider.

In summary, Eacom Timber Corp. is working hard to maintain its operations and jobs in the province of Ontario and is willing to invest here preferentially, but only under the right public policy conditions. Our executive team and our investors see great potential for softwood lumber production over the long term. To realize that future promise, however, we require the active collaboration and support of an Ontario government fully attuned to our own imperative of secure, predictable and affordable long-term wood supply. It truly is the lifeblood of our business. By way of example, two thirds of the input costs in a sawmill are timber. We therefore request this government's support to make the necessary amendments to Bill 151, as outlined here today. Please take the time to consult broadly, listen carefully and get this right.

Thank you for this opportunity to present, and I welcome any questions you may have.

The Chair (Mr. David Orazietti): Thank you very much for your presentation today. We do have a few minutes for questions. Mr. Brown is up first. Go ahead, Mr. Brown.

Mr. Michael A. Brown: Thank you, Mr. Nicks. We heard today from Domtar, which provided a number of recommendations with which, I gather, you are probably familiar. Are there further recommendations, directly, that we need to take into account as we move forward with the clause-by-clause structure of this bill?

Mr. Brian Nicks: Those are the primary recommendations, Mr. Brown. The recommendation that I've been hearing today and elsewhere around regional consultations from communities, from First Nations peoples—we would support that as well. That's not part of the line-by-line exercise, but as a process exercise, we would support that.

Mr. Michael A. Brown: Obviously, Eacom is a major employer in our part of the north, which represents the Espanola mill, the Nairn Centre mill—well, the Espanola mill is obviously Domtar, but the Eacom mill in Nairn Centre, which not long ago was a Domtar mill, and the others. They're major employers, major players in terms of the economy. I think Domtar is probably the largest employer in the entire constituency. I haven't really figured that out.

Mr. Brian Nicks: I believe so.

Mr. Michael A. Brown: And Eacom is a big part; Tembec in Chapleau is.

The security that you're asking for is a way of securing the jobs of the folks whom I represent. If you get what you ask for, we will not see the 10 million cubic metres of wood not used that's presently happening.

Mr. Brian Nicks: If we get what we asked for, we won't see the 10 million cubic metres used?

Mr. Michael A. Brown: Part of the reason for this was economic necessity. We found that the wood was not being used. We have 10 million cubic metres—

The Chair (Mr. David Orazietti): We're going to have to wrap it up, Mr. Brown.

Mr. Michael A. Brown: —or thereabouts out there. By providing this certainty, this will help the people of Ontario move forward.

Mr. Brian Nicks: It will provide certainty to our company. I would suggest that the minister has always had the authority to temporarily allocate unutilized timber through overlapping licences, and on some occasions has done that.

The Chair (Mr. David Orazietti): Thanks. Mr. Hillier, go ahead.

Mr. Randy Hillier: Thank you very much, Brian, for showing up. Your comments are not unique. We've been hearing it from quite a number of people. I certainly agree with you. Hopefully, we'll have enough time to get these amendments through. We're on a pretty tight time frame.

But I do want to ask you this question: We've heard these rumours of amendments, but Bill 151, how it sits today as compared to the business climate that you're operating in today—which one would be better?

Mr. Brian Nicks: I guess it depends on who you speak to. If you're speaking—

Mr. Randy Hillier: For yourself.

Mr. Brian Nicks: For our company, for Eacom, we—

Mr. Randy Hillier: The certainty of your business and your ability to grow.

Mr. Brian Nicks: The Crown Forest Sustainability Act, at the time, was somewhat revolutionary, but it's turned out to be good, effective sustainability legislation. We know it; we operate well under it. We've discharged all of our obligations informally when—with Domtar, the same. So we're comfortable with it. Bill 151, through its generality, I would say, introduces a number of unanswered questions, particularly around the rest of the tenure reform approach that was agreed to with government. So it's very silent on a number of very key areas to us.

Mr. Randy Hillier: I'd like to just ask one more thing. Do you think it would be valuable to the forest industry if there was a review mechanism within the legislation so we can analyze and evaluate just how effective this tenure change—what it is accomplishing in, let's say, a five-year period of time and have that analysis and review available to the public through the Legislature so we can actually see if we've gained the improvements we're seeking out?

Mr. Brian Nicks: The short answer is yes, absolutely. That would be consistent with MNR/MNDMF's approach to other forest policy. It's called adaptive management, and it relies on a feedback loop. We've suggested five to seven years be the test period, with an objective independent evaluation of LFMCs against all other tenure models before any decision is made to move forward with more LFMCs. So I completely agree.

Mr. Randy Hillier: Thank you very much.

The Chair (Mr. David Orazietti): Thank you very much. That's time for your presentation. We appreciate you coming in today.

Mr. Brian Nicks: You're welcome.

MIITIGOOG GENERAL PARTNER INC.

MIISUN INTEGRATED RESOURCE MANAGEMENT INC.

The Chair (Mr. David Orazietti): The next presentation, Miitigoog limited partnership.

Mr. Gilles Bisson: On a point of order, Mr. Chair.

The Chair (Mr. David Orazietti): Sure.

Mr. Gilles Bisson: Listen, according to the committee decision of the majority, we're going to have to put forward our amendments by Friday. It's pretty darned clear there's a fair amount of thinking that's got to go into amendments on this bill, and I would move a motion—if not dealt with today, but it would have to be dealt with today—that we extend the deadline for amendments because, quite frankly, we're not going to be able to do it by Friday. There's just way too much.

The Chair (Mr. David Orazietti): I appreciate you raising that issue. We have the subcommittee information. We can come back to that at the end of committee. We've got some scheduled presentations.

Mr. Gilles Bisson: Okay. Thank you.

The Chair (Mr. David Orazietti): Let's accommodate the folks who are here first and we can raise that later, if you're interested in doing that.

Mr. Gilles Bisson: Okay.

Mr. Randy Hillier: I agree.

The Chair (Mr. David Orazietti): Good afternoon, and welcome to the Standing Committee on General Government. As you're aware, you have 15 minutes for your presentation. Any time that you don't use will be divided among committee members to ask questions. You can simply start by stating your name and when you're ready, you can start your presentation. Thank you.

Chief Lorraine Cobiness: Chief Lorraine Cobiness, Ochiichagwe'Babigo'Ining Ojibway Nation, Anishinaabe Grand Council of Treaty 3.

Chief Eric Fisher: Chief Eric Fisher, Wabaseemoong, within the Kenora SFL.

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Chief Warren White: Bonjour. Meegwetch.

Remarks in Ojibway.

I'm Chief Warren White, of Naotkamegwanning First Nation. Purple Cloud is my native-language name, and my clan is the Lynx clan. I'm from Treaty 3.

Mr. Gilles Bisson: Lynx?

Chief Warren White: Yes.

Chief Lorraine Cobiness: I'd like to start off by saying thank you for this opportunity to speak to the standing committee on Bill 151. There's a typo; we actually just see that—

Mr. Gilles Bisson: It's 155.

Chief Lorraine Cobiness: Well, create a new one. How about that? Create a new bill.

Good afternoon, members of the standing committee. I'm pleased to be here today to make a presentation to you on behalf of Miitigoog General Partner Inc.; my fellow chiefs—Chief Fisher and Chief White—whose communities are active shareholders within this company

and the management company of Miisun Integrated Resource Management; our industry partners; and my community, Ochiichagwe'Babigo'Ining, located within the Kenora forest in northwestern Ontario, Grand Council of Treaty 3 territory.

First, I'd like to take a minute and educate you on the landmark partnership that was formed between First Nations and the forest industry. These two often divergent groups have come together to form a 50-50 partnership to hold and manage the Kenora sustainable forest licence.

The partners in the company are currently Wabaseemoong Independent Nation, Ochiichagwe'Babigo'Ining, Naotkamegwanning, Weyerhaeuser Co., Kenora Forest Products, Wincrief Forestry Products, and a number of smaller, independent sawmills and independent operators. There are eight directors on the board: four First Nation and four industry. The board also has an independent chair. All members collectively work together for the betterment of the company, which is entering into its second year of operations. We are pleased to state that all day-to-day management responsibilities have now fully transferred to a 100% First-Nation-owned management company, which I'm part of: Miisun Integrated Resource Management.

Earlier, I used the word "currently" referring to the company's partners. I used this word as the company has been designed to be able to change, both expand and contract, based on new industry and First Nations interests. Board composition is designed to always be balanced with First Nations and industry members. This company, through the shareholders agreement, deals with virtually all of the government goals in tenure reform. The company is also willing to work with government to make the necessary changes to meet the outstanding goal of timber pricing reform.

I'd like now to turn my focus to Bill 151. It is our understanding that Bill 151 was necessary for the government to move forward with their forest tenure and pricing reform initiatives. The January 13 announcements in Thunder Bay and other public statements spoke to a modified approach which included two pilot local forest management corporations, LFMCs, and several enhanced co-operatives. However, the bill does not mention enhanced co-operatives nor does it propose any limits to the number or scope or even an evaluation of these LFMCs.

We understand that the government is supportive of adding reference to enabling enhanced co-ops to be set up. This will enable enhanced co-ops, with some minor tweaking, to continue meeting all of the goals of the desired tenure and pricing modernization process.

You must understand that the co-operative licences that are on the landscape today, like Miitigoog, have been designed to address the local needs in this very diverse province. They are there, and they are working.

We also understand that government supports adding the requirement of a review of LFMCs prior to their expansion past the original two pilots. This proposed change is absolutely necessary, as expanding an unproven tenure system without a formal review would be irresponsible.

Criteria need to be established well in advance of the review to ensure that it undergoes a complete and unbiased review without a predetermined outcome. We encourage government to use both First Nations and the forest industry to help set these criteria and to fully participate in the reviews. The criteria and timelines for the review should be adopted into regulation to ensure they stand the test of time and remain unbiased.

Chief Warren White: One of the key criteria for evaluation should be the financial stability of the tenure model. It is our understanding that the LFMC model will be able to redirect base stumpage into the company. While this ability seems to be linked to LFMCs being crown corporations, we encourage the government to be flexible and enable both models and equal opportunity in this regard.

An area of great concern in the proposed legislation is the introduction of full immunity of government with regards to any decisions and their ability to cancel and remove licenses or supply agreements without cause or representation, appeal or remedy. Our partners and our communities have significant investments in the forest industry and the introduction of these clauses creates significant uncertainty and is fundamentally wrong. How can we convince our shareholders, who are our community members, and our partners and their shareholders, that investing and moving forward in the forest industry is a good investment when such uncertainty is being created, when the business could be taken away without representation, appeal or compensation? There needs to be clear conditions for any changes to the licenses or agreements for all concerned. If bad decisions are made, then people need to be accountable for them. While there now appears to be some support from government in enabling representation after license removals, this needs to take place before cancellations. We need to ensure that there are fair and equitable processes in place to incent investment. We fully agree that the forest must be fully and sustainably utilized. However, investment certainty must also be in place to enable this to happen in a stable fashion. Investment certainty will bring about a healthy industry with good, stable employment, which so many of our communities and this province need.

We firmly believe that being forced to move to an LFMC in the Kenora area would be a step backwards from the unique partnership model that has been implemented with First Nations and industry in the Kenora area. This enhanced cooperative model was supported throughout the development and transfer stages by the McGuinty government. First Nations have struggled to get on an even playing field in this province in years past. Now, in an area where we have entered into a landmark agreement with industry to do this, it would be all taken away. Representation for First Nations on the board of a crown corporation does not provide the meaningful participation and ownership that we have in our current model.

In conclusion, we request that you follow through with the amendments to the bill, as requested, to ensure that the forest tenure system within Ontario continues to attract and maintain the investment and business development opportunities that are so key to First Nations, the forestry industry and the province's success.

I guess one of the other things I would like to caution and have a concern on is that there are many forest management units within northern Ontario's Treaty 3 territory. Our goal and vision is to amalgamate these forest management units within Miitigoog and Miisun in the future. But with this model, we believe that our governance structure would change. I just wanted to add that. Also, 20% of the forest in Ontario and the productive wood comes out of our Kenora SFLs and Whiskey Jack and all those SFLs that we have in Treaty 3. With that, I just wanted to add that, and say meegwetch for listening to me. Meegwetch.

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The Chair (Mr. David Orazietti): Thank you very much. We appreciate you coming in today and certainly appreciate your presentation. We have a couple of minutes for questions. Mr. Bisson is up first.

Mr. Gilles Bisson: Let me get to the nub of what you raised at the end. First of all, congratulations on a very long process of negotiations. I'm well aware of how difficult that was. But nonetheless, it was done under the current regime, which indicates that, in fact, we can do some of the stuff we purport to do in this legislation already—but that's a whole other thing.

You say in your statement, "Now, in an area where we have entered into a landmark agreement with industry to do this, it could all be taken away." Can you explain that so people understand clearly what the dangers are with the way the legislation is currently worded?

Chief Eric Fisher: I'll speak on that. The partnership is a unique partnership with industry, where the First Nations have opportunity to actually participate in the forest, with starting forest companies, and also to be a supplier. One of the problems and the concern we have is the power that the minister would have to take that licence away.

The process that we went through—this didn't happen overnight; it took two and a half years of sitting down with industry and First Nations and agreeing on how we could share the forest without having any roadblocks or conflicts with First Nations. So, the trust was built. The fear we have in our area is the powers that the minister would have by removing the licences away from the operators.

Mr. Gilles Bisson: So—

The Chair (Mr. David Orazietti): Very briefly, Mr. Bisson.

Mr. Gilles Bisson: The other thing is, does there need to be some sort of a clause inserted in this legislation that protects the rights under the court challenges in regard to the duty to consult and accommodate? Should that be inserted in this legislation?

Chief Warren White: I guess that's a question for the Grand Council of Treaty 3.

Mr. Gilles Bisson: Okay, thank you.

The Chair (Mr. David Orazietti): Thank you very much, Chief Cobiness, Chief Fisher and Chief White, for coming in today. We really appreciate your time. That's time for your presentation.

ABITIBIBOWATER

The Chair (Mr. David Orazietti): Our next presentation is AbitibiBowater: Mr. Barber.

Good afternoon. Welcome to the Standing Committee on General Government. As you've been watching, you're aware: You have 15 minutes, and time you leave will be divided. You can start by simply stating your name and start your presentation when you're ready.

Mr. Roger Barber: Thanks very much. Good afternoon, everyone. My name is Roger Barber, and I'm the general manager of forestry and fibre resources for AbitibiBowater in Ontario and Atlantic Canada. In that capacity, I'm responsible for all forestry activities, fibre procurement and long-term fibre strategy within the jurisdictions of Ontario and Atlantic Canada.

As some of you may know, AbitibiBowater recently underwent a fairly comprehensive restructuring process under CCAA and Chapter 11 proceedings in both Canada and the United States respectively. This has resulted in a rationalized but much more competitive manufacturing platform across our company. Our Ontario mills continued to operate through the restructuring process, and ultimately, all of our mills that were operating when we went into these protections were operating when we came out of the creditor protection.

We're currently the largest forest products producer in the province. We directly employ about 2,700 people in our Ontario mills and woodlands operations. We also employ approximately 8,000 other people through our harvesting contractors, support systems, suppliers and the like. We manufacture a variety of forest products in the province, including hardwood and softwood kraft pulp, newsprint and specialty papers, as well as softwood lumber and energy. We manufacture all of those things in Ontario.

We sell about 50% of our products in North America, and we also sell in more than 70 other countries around the world.

For continued and future success, our operations need a few fairly simple but very important things. We need a competitive environment in which to operate our mills and related operations. This includes many things that are in our control, such as labour costs and operating efficiencies, as well as other things that may be specific to a particular jurisdiction that we operate in, such as energy costs, regulatory systems, taxation regimes and so on.

We also need as much certainty as possible for those inputs to our business where we can have certainty. This is really important as a counterbalance to those uncontrollable factors that we deal with, such as market fluctuations, currency imbalances, fuel pricing etc.

Finally, we need to be able to attract investment to keep our facilities competitive and to take advantage of

emerging opportunities, and we believe there are many in the forest products sector today.

I think it's important to note that the tenure system in Ontario played little or no role in the difficulties encountered by our company over the last number of years and, in our opinion, was a minimal factor in the general downturn of the forest products industry in Ontario. The industry's problems were related to markets, currency and cost competitiveness, specifically including things like energy, labour and raw material costs. However, tenure arrangements in Ontario, including the commitment of fibre through licences and supply agreements, really were viewed by us as a competitive advantage to the system in Ontario. They really didn't relate to the difficulties we encountered over the last number of years.

At the same time, we recognize that there are some other objectives that the government wishes to achieve through tenure reform. Given the importance of a committed, cost-effective fibre supply to our company, we became very engaged in the tenure discussions over the last 18 months or so. Throughout this process, we've tried to recognize the government's desire for change, while at the same time trying to ensure that our needs for business were well understood. That's what I'm trying to do today: make sure that you understand what our key needs are for business.

Although the debate over the initial tenure proposal got heated, we believed that the government had listened, had really heard the concerns of all interested parties and had ended up with a workable path forward, which was supported by our company when the minister announced his plans in January of this year. In particular, we supported the idea that the primary tenure change would be a conversion over time from single-entity sustainable forest licenses, or SFLs, to enhanced multi-party shareholder SFLs, which have already proven to be quite effective in a number of areas in the province where they're already in place. You heard the previous speaker talk about the unique shareholder SFL arrangement they have in the Kenora area.

In addition, we understood that there would be up to two crown corporations, to be known as local forest management corporations, or LFMCs, created and tested over a business cycle against other forms of tenure in the province. It was well understood that enabling legislation would be required to create these two LFMCs.

Unfortunately, Bill 151, the legislation that was tabled some weeks ago, raised some significant concerns for our company and for others in the industry.

The main areas of concern for our company were, firstly, the lack of specificity regarding the understanding that LFMCs would be limited to a maximum of two pilots, and that there would not be any additional LFMCs for a period of five to seven years to allow for an objective evaluation to be completed through a full business cycle, which Dr. Kant spoke to a little bit earlier—that you really need a period of five to 10 years to test a system like this to see if it's effective or not. The bill currently provides for the creation of an unlimited number of LFMCs with no restriction on the time frame for implementation.

Secondly, Bill 151 introduced new and significant powers for the minister to cancel wood supply agreements and commitments for almost any reason, without rights of representation and with full immunity provisions for government. Whether or not these powers are ever acted upon, the fact that a fibre commitment could be cancelled at any time without recourse could ultimately be the determining factor when investment decisions are being made.

Finally, in its current form, the bill also provides for collection of timber sales and pricing information with no provision for confidentiality. Although we acknowledge that collection of this information will be important to help develop market pricing indicators, if it is not independently and confidentially collected, it raises serious issues of competition.

These are significant areas of concern for us because they do not reflect what we understood to be the tenure plan as described to us in January, and because the new ministerial powers for commitment cancellation represent a significant loss in security and certainty of our fibre supply. This in turn could negatively impact future investment decisions in Ontario.

Based on recent indications from government, it appears that several of our concerns are at least being considered and may provide a basis for amendments. We understand the government is considering changes to the bill which would attempt to clarify to some degree what would constitute non-use of fibre, and to possibly introduce a notice and right of representation into the legislation should a non-use of fibre ultimately result in a commitment cancellation.

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We also understand that amendments are being considered which would require an evaluation of the initial two LFMCs before any more of these crown entities could be created. In addition, we also understand that confidentiality provisions are being considered for the collection of sensitive timber pricing information under the bill.

These are all positive developments that could make Bill 151 less problematic for our company. However, there are a couple of other areas that we would recommend government consider amending. These will be familiar because you will have heard them earlier from other presenters.

Firstly, we would suggest that the intention of government regarding LFMCs, as communicated back in January, be captured in the bill so that future decisions related to these entities are guided by the intentions of those who drafted the legislation. We would suggest that this could be done in the preamble to the bill, and should include the intention to limit LFMCs initially to two; that they would be independently evaluated over five to seven years based on objective criteria; and to clarify what these criteria would be.

Secondly, we would suggest that the immunity provisions that are provided for in Bill 151 are too broad. Even

if the bill is amended to provide for a notice and right of representation if a wood supply commitment is to be cancelled, with total immunity provided for in the act, the only recourse in the event of a licence cancellation would be judicial review. The judicial review process is long and costly, and would be further complicated by the lack of clarity currently in the bill regarding what would constitute non-use of fibre. In other words, the judicial review would have to interpret what the minister's intentions were, given the vagueness of the current wording in the bill.

We remain hopeful that Bill 151, should it ultimately be passed into legislation, will include the amendments that we understand are already under consideration, as well as those additional areas that I have just outlined for you and that you have heard about from others earlier today.

Tenure can be a competitive advantage, or it can be a source of business uncertainty. When business is not sure of key inputs, like access to fibre, investment opportunities are lost. This is not a scenario we wish to see play out in Ontario.

Thanks very much for the opportunity to speak with you today.

The Acting Chair (Mr. Dave Levac): Thank you very much, Mr. Barber. You've left a couple of minutes, and we will start the rotation with Mr. Brown, approximately one and a half minutes each.

Mr. Michael A. Brown: Thank you, Mr. Barber. I appreciate your comments.

As you have been here, I've noticed, for most of the afternoon, if not all, you've heard the presentations made by some of the other major mills and forest companies in Ontario.

You would be supportive of this bill provided that the government move forward on some of the concerns you've raised in your brief?

Mr. Roger Barber: We would support the bill if the recommendations that I've made and that others in the industry have made here today, including some of the things that we understand aren't being considered right now, such as clarification in the preamble regarding the intent of the bill and definitions around LFMCs, the period of time they'd be evaluated etc., as well as rectifying our very serious concern over the immunity provisions for licence cancellation—right now, the only party that has recourse is the government. It maintains full recourse for any failure on the part of the licence holder, but that is not reciprocated, and that's not appropriate, in our opinion.

The Chair (Mr. David Orazietti): Thank you, Mr. Brown. Mr. Clark.

Mr. Steve Clark: Thank you very much, Mr. Barber, for your presentation.

I guess the whole problem with this bill is, we talk about the intent of the January announcement and then the bill as it's presently worded. And then we have the proposed amendments that—some people have been shared the information and some haven't—and then we have the bill as it's presently worded.

I guess, forgetting about what has been whispered around in certain boardrooms, based on Bill 151, the way it's printed today, how is that better or worse in your business than the present system?

Mr. Roger Barber: The present system looks after us right now. We're not concerned with the present system. We also believe that the enhanced shareholder models can be created under the present system. This bill really is designed to enable the creation of LFMCs. That was the reason that this bill was supposed to come forward. However, it doesn't reflect what we understood those LFMCs to be and goes much beyond what we think is required in order to do that.

The Chair (Mr. David Orazietti): Thank you very much. Mr. Bisson, anything further to add?

Mr. Gilles Bisson: I'll save my time for my next—

The Chair (Mr. David Orazietti): Okay. Thank you very much for coming in today. I appreciate it.

Mr. Roger Barber: Thanks very much.

ONTARIO FOREST INDUSTRIES ASSOCIATION

The Chair (Mr. David Orazietti): Okay, folks, our final presentation today is the Ontario Forest Industries Association. Ms. Lim, good afternoon.

Ms. Jamie Lim: Good afternoon, David. How are you?

The Chair (Mr. David Orazietti): I'm good.

Ms. Jamie Lim: Good.

The Chair (Mr. David Orazietti): I know you've been listening to all of the presentations over the last several days.

Mr. Randy Hillier: A point of order, Mr. Chair.

The Chair (Mr. David Orazietti): Mr. Hillier.

Mr. Randy Hillier: I'd like to take a moment to congratulate the OFIA on kick-starting the forestry industry with this lengthy paper presentation that you've delivered today.

Ms. Jamie Lim: It is all about paper, and you need to always remember that. And it's recyclable, so I expect all of you, when you're done with it, to throw it in the blue box and we'll use it again someday.

The Chair (Mr. David Orazietti): Okay. You have 15 minutes. Go ahead.

Ms. Jamie Lim: Good afternoon. My name is Jamie Lim and I'm president of the Ontario Forest Industries Association. Joining me today is Scott Jackson, OFIA's manager of forest policy.

This committee has heard from many individual companies during its two days of hearings. I believe it is critical for the committee to recognize that OFIA represents 27 companies. Our members represent a cross-section of the sector, from the large multinational companies to the small multi-generational family-owned and operated companies. We do not look at Bill 151 or any other regulatory mechanism with an eye to assessing how it impacts any one company; we look at all public policy

with the purpose of doing what is in the best interest of the forest sector as a whole.

First, a comment on process: We share the concern of our municipal and business stakeholders and believe that hearings should have been held in northern and rural Ontario. We believe the government should be taking advice on Bill 151 from those in the province who have survived this great recession, kept their mills open and still support, directly and indirectly, 200,000 hard-working families here in Ontario, instead of asking individuals who have nothing to lose, nothing invested, no employees to look in the eye and tell them, "You don't have a job anymore."

On Monday, for a few of the presenters who have no skin in the game and see this as an academic exercise, it seemed easy for them to say that Bill 151 is good as is and should move forward quickly. But I can tell you that those family companies and multinationals that you've heard from that have supported this province and its citizens for over a century depend on government legislation that allows them to continue to invest with confidence, and Bill 151 does not.

With regard to the content of Bill 151, let us be blunt: This bill will create uncertainty as presently written. It will reduce investor confidence and jeopardize the recovery of our sector. Among other things, this bill proposes to provide the minister with arbitrary authority to cancel existing wood supply agreements, commitments and licences, an action that was described on Monday as removing the rule of law.

As outlined in an email from one of our family-run member companies in Mr. Brown's neck of the woods, "Without supply agreements, I cannot run the 'value-added' programs government is so much in support of or invest in my company. I get auction flyers every week from little mom-and-pop mills on the US side that have gone out of business due to the fact that the mill is antiquated because there is an intermittent wood supply and people are scared to invest."

The committee has heard of the ongoing discussions around amendments through an industry-and-government-led working group, and you heard a lot of talk around government's proposed amendments. I'd like to clarify a couple of things. OFIA members make up the majority of the industry representatives on that working group, and while there have been discussions, government has provided nothing formal in writing to industry or other stakeholders. We are reminded of the verbal commitments made by the minister on January 13, none of which actually made it into Bill 151.

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As such, OFIA recommends that third reading be delayed until the government shares an amended Bill 151 which reflects the concerns of the forest sector and northern and rural municipalities. Until the committee consults on the amended bill in northern and rural Ontario, OFIA adds its voice to the overwhelming majority of presenters who have stated that this process should be slowed down.

On Monday, MNDMF's opening statement that the economic downturn experienced by Ontario's forest sector would have been averted if a different tenure system had been in place was not only insensitive to the tens of thousands of hard-working Ontarians who have lost their jobs, it was simply incorrect. In fact, during a presentation at the OPFA's annual meeting in 2009, where the Ontario government first announced its intentions to reform tenure, an assistant deputy minister from BC, a province that had recently implemented tenure reform and open-market sales, warned the audience in Sudbury that BC's 2006 tenure reform did not shield BC from job losses and mill closures.

You've heard in great detail from OFIA's members regarding their concerns and the amendments required in order for government to obtain support on this bill. OFIA supports our members' positions and, as such, I will not repeat their recommendations other than to stress that not one industry representative has said that they want the status quo. The change offered in Bill 151 will be detrimental to our sector and goes far beyond a measured approach.

Instead, I would like to take a few minutes to underscore the importance of our sector, the opportunities that are in front of us and, ultimately, what is at stake if government rushes Bill 151 and gets it wrong.

Ontario's forest sector is the cornerstone of the new local, green economy. Why? It's simple: Because we are a renewable natural resource. It's not just what we presently are that defines our sector; it is what we can be. Ontario's forest sector has a wealth of opportunities on which it can capitalize: new consumer and building trends, expanding markets, and the expansion of current markets for traditional and new products. Ontario currently consumes more wood products than it produces. This in itself represents an opportunity.

We are also witnessing a growing trend in consumer demand for local products, a trend that has not gone unnoticed by Ontario developers. In 2009, Marshall Homes unveiled their Ontario home in Oshawa, built using all-Ontario wood. The GTA home builders purchase about $800 million of lumber annually to frame wood homes and, of that, it's estimated that 70% comes from outside of Ontario. That, ladies and gentlemen, is a $500-million opportunity waiting for us.

We are also witnessing a growing trend of wood promotion in building codes. Anticipated changes to Ontario's building code will allow the construction, with wood, of commercial buildings to six storeys, creating a much-needed critical mid-rise construction market for Ontario wood products right here in our own backyard.

With regard to expanding markets in the United States, this month's Canadian Business states: "US demand is also expected to soar over the next few years. Before the financial crisis, there were two million housing starts per year; now there are just 500,000. As the economy recovers, more houses will be built, and demand for lumber will rise. It may not return to 2006 levels, but even one million housing starts would put serious pressure on supply."

Consensus forecasts suggest one million housing starts by 2012.

Recently, a Pöyry report, of which you all have the abbreviated version, identified US opportunities for Ontario wood products. It concluded that demand forecasts point to a healthy recovery across the softwood lumber, oriented strandboard and engineered wood product market segments; and there are still opportunities for strong players in niche markets for hardwood lumber, hardwood plywood, hardwood veneer, and posts and poles market segments

Globally, at the same time that demand grows stronger for wood in the US, more west coast lumber is heading to China and Japan, which in turn opens up US markets for other parts of Canada—namely us.

During the second reading of Bill 151, government stressed it was needed to continue to build our "new forest economy based on new products, new markets and new processes."

Bill 151 should not be about picking between traditional and new. Bill 151 succeeds only when it is amended to support existing forestry operations with their in-demand traditional products and builds on this primary foundation.

As stated by the FPAC: "The most promising future involves sawmills and engineered wood product plants mixed with biorefineries which produce a range of bio products…. Traditional forest products tend to generate far higher employment multipliers."

Bill 151 needs to be about keeping the jobs we have and building on those, not tearing them down. Bill 151 has to slow down. There are too many jobs in northern and rural Ontario at stake. Let's work to maximize the full potential of this great, renewable resource.

Ladies and gentlemen, I've provided you with our pre-budget submission. The mid-rise opportunity is the last three pages. I would encourage you to check that out. It's huge; it's significant for Ontario.

Also, I've given you what you've been referring to as the Secret Squirrel document all during your hearings. OFIA and its member companies put this together. We worked constructively with government, as we always do. We have these amendments. We spent two weeks on them. We had a lawyer review them, and then we worked with the government on them.

Then, as well, you have the abbreviated version of the Pöyry report that is just hot off the press. That just came out yesterday. It's a huge opportunity for us. This concern of this 10 million cubic metres of industrial wood fibre that has gone unused over the last four years has less to do with tenure and more to do with the market. I think we should all take comfort in the Pöyry report and in these opportunities that I've told you about today because, ladies and gentlemen, the 26 million cubic metres of industrial sustainable fibre that Ontario has won't be enough in the next couple of years, with the opportunities that are at our doorstep. We will maximize it.

The Chair (Mr. David Orazietti): Thank you very much for your presentation—

Ms. Jamie Lim: Thank you, David. Under 10 minutes, I may add.

The Chair (Mr. David Orazietti): You did a great job getting that in. It's not quite under 10 minutes, but we've got a couple of minutes for questions—not very much. Mr. Hillier, you're up.

Mr. Randy Hillier: Thank you, Jamie. I'd like to ask one question, and that is, would you ask the government here today for a commitment that they bring this bill out to northern and rural Ontario and hear what rural and northern Ontario has to say about this bill when it does get amended next week? Would you ask them that and get their commitment?

Ms. Jamie Lim: I think Mr. Brown has been hitting on it all through the two days of hearings. He's been asking different folks who have presented: "If some amendments are made to this bill, will you support it?"

I think that that's the key: some amendments. I think all the industry, the mayors, the business stakeholders and the First Nation presenters that have been here over the last two days need to see the amendments, because—

Mr. Randy Hillier: Before we get to third reading.

Ms. Jamie Lim: If government chooses amendment A, B and C, and industry needs three others, then how can the support be there?

I think, as was said by the last First Nations group that presented, there's a lot at stake here, and we want to get it right. We've been working on this now for almost 12 months—in some cases, two years. Why rush it? We're so close to getting it right, but getting it wrong really precludes some of these wonderful opportunities that are sitting at our doorstep.

I come from a community that watched Xstrata just pick up and leave. That's what companies do. It doesn't matter whether you're a big, international company or whether you're a small, family-run company; when you can't make things work at the end of the month, you close up shop, you pack up and you go away. We don't want that to happen; none of us do. I think that this is critical.

I think that your standing committee and government should come forward with what amendments they're prepared to make to Bill 151, and they should share those with all stakeholders in in consultation in people's communities across this province. How many communities do we have? Is it 256?

1800

Mr. Scott Jackson: It's 260 communities.

Ms. Jamie Lim: There are 260 communities that rely on this sector. I think we'd like to catch a few—

The Chair (Mr. David Orazietti): I'm just going to stop you there for a minute. Mr. Bisson has a question. Go ahead.

Mr. Gilles Bisson: Actually, it's perfect, because you've probably answered three of my questions in that.

Let me just say this and get to the question—let me just get to the question, period: Why is the government in such a rush to pass this thing now? It seems to me that what I'm hearing from a whole bunch of people who are

presenting is, there's general support to make some changes, but this is not the right fix. Why is the government intent on doing this?

The second question is, why do you think they didn't want to travel to northern Ontario?

Ms. Jamie Lim: To the first question—why the rush?—I don't know. I will tell you, on January 13, we were really positive. We thought that we had come to an agreement and that Bill 151 would be about establishing up to two LFMCs in the province of Ontario. We truly believed that that's what it was about, not about removing the rule of law.

I think that government needs to get back on the page that we were on in January, because we supported that page. We have no problem with two pilots being set up and being tested over the next five to seven years. We think that's a brilliant path forward, and we certainly support it. But I don't know.

Why didn't they go to northern Ontario? You've got to ask them. Obviously, you've heard from the mayors that have spoken. They all welcomed them. They wanted to have these hearings in their hometowns with the people that are most affected.

I would encourage the government to bring forward the amendment package that they're prepared to make to this bill and share it with everyone, because I think that that's the best path forward for all of us.

The Chair (Mr. David Orazietti): That's time. We appreciate you coming in today and we appreciate your comments.

Mr. Gilles Bisson: On a point of order, Mr. Chair: I just wanted to—

The Chair (Mr. David Orazietti): Just before we adjourn, Mr. Bisson—and we can do that right now—

Mr. Gilles Bisson: I just wanted to get the point of order in prior to you hitting the gavel. We're now going to be expected to go back and look at all of these submissions and come up with our amendments. There's no way that can be done by Friday.

I'm asking two things. My preference would be that we push off the clause-by-clause beyond Monday. If the committee is not prepared to do that by way of majority of this committee, we should, at the very least, extend the administrative deadline for the submission of amendments to Monday at 12, because there's no way we're going to have this done by Friday.

The Chair (Mr. David Orazietti): A couple of things: First of all, the advantage of having the amendments in by Friday, obviously, is for all parties so that they can take a look at those amendments and have a better understanding of them.

What you're raising right now is not a point of order, but since we're having this discussion around the deadline for amendments, if it's agreeable to everyone—it is a soft deadline, an administrative deadline of 5 o'clock on Friday. The advantage, obviously, as I've just said, is so that all committee members have an opportunity to review those amendments earlier, and there's some coordination to it. Can we say 10 o'clock Monday morning for—

Mr. Randy Hillier: Chair, I'd—

The Chair (Mr. David Orazietti): Sorry, I'm not finished, Mr. Hillier.

Can we say 10 o'clock Monday morning for amendments? That would give the clerk enough time to get them packaged up and get them out to members, and that would address your issue. Is that fair? That would give people the weekend to get those amendments in.

Mr. Gilles Bisson: It would certainly be easier, but I'm still saying that we can't get this done properly in time for next week. This whole process is way too rushed to try to get it right, and I think what we heard is that people are saying, "Put the brakes on, here."

Listen, if that's a little victory, I'll take the little victory of 10 o'clock.

Mr. Randy Hillier: Chair, on a point of order: I'd like to move a motion that clause-by-clause be moved to Wednesday of next week, in order to give everybody in this committee time to put together proper amendments. We know that this was a failure when we went back to that meeting where the northern trips were cancelled, where the schedule was all compressed—

Interjections.

Mr. Randy Hillier: The motion is that we move this clause-by-clause to Wednesday of next week instead of Monday.

The Chair (Mr. David Orazietti): The subcommittee report already has the information in it that requires the timelines.

Mr. Randy Hillier: We can still make a motion that is votable.

The Chair (Mr. David Orazietti): Do you want to amend the subcommittee report?

Mr. Randy Hillier: Yes; I want to move a motion that the clause-by-clause be put over until Wednesday of next week.

The Chair (Mr. David Orazietti): Okay. We'll put the question for a vote then.

Mr. Randy Hillier: Recorded vote, please.

Ayes

Bisson, Clark, Hillier.

Nays

Brown, Kular, Levac, Mangat, Moridi.

The Chair (Mr. David Orazietti): The motion is lost. We're adjourned.

The committee adjourned at 1805.

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