

ORAL QUESTION—KEVIN O'REILLY, MLA FRAME LAKE

QUESTION 331-18(2): NORTHWEST TERRITORIES WATER LICENCE DECISIONS

October 17, 2016

MR. O'REILLY: Mahsi, Mr. Speaker. Earlier today I spoke of a most disturbing decision by the Minister of Environment and Natural Resources not to accept a decision by the Wek'eezhii Land and Water Board on a water license amendment and to send it back for reconsideration. I would like to ask the Minister of Environment and Natural Resources whether this has happened before under water legislation for the Northwest Territories, where a Minister has refused to accept a decision and sent the matter back for reconsideration? Mahsi, Mr. Speaker.

MR. SPEAKER: Masi. Minister of Environment and Natural Resources.

HON. ROBERT MCLEOD: Thank you, Mr. Speaker. ENR is only aware of one instance, in December 2011, where the federal Minister of the day of Aboriginal Affairs and Northern Development was unable to render a decision on the renewal of a type-A water license. It was actually held by the NWT Power Corporation. The Minister identified that the decision could not be rendered until an issue that was outstanding was resolved. Thank you, Mr. Speaker.

MR. O'REILLY: That's an interesting example. I thank the Minister for it. That water legislation has basically been in place since 1970, early 1970, so this is a very rare occurrence, indeed. I don't understand why the Minister did not write to the company after the first letter and say no further representations could be considered after the public hearing by the board. Some may view this as a breach of procedural fairness. Why did the Minister not tell the company that the proper avenue for questioning procedural fairness was to seek judicial review? Mahsi, Mr. Speaker.

MR. SPEAKER: Masi. Minister of Environment and Natural Resources.

HON. ROBERT MCLEOD: Yes, thank you, Mr. Speaker. Mr. Speaker, the Member is correct. It was sent back to the board because there was a question of procedural fairness. As he said before in his Member's statement, with devolution we will have more responsibility and ability to deal with these a lot quicker than they have been dealt with in the past, and I can commit to the Member and this House that we take that responsibility very seriously, and we will be looking at ways in the future where we can avoid the confusion.

MR. O'REILLY: I'm glad to hear the Minister is prepared to clear up this confusion, but can the Minister tell this House and the public whether there are any specific measures or policies in place to prevent this kind of approach of accepting submissions from water licence applicants after public hearings?

HON. ROBERT MCLEOD: Mr. Speaker, the Minister, we can't control the correspondence from any external parties during the ministerial decision phase of the water licensing process, and correspondence received during the decision phase is not considered in making the decision. The Minister, we rely on the board's reasons for the decision, and, as far as any policies in place about take -- I would have to do some research and follow up with the Member.

MR. SPEAKER: Masi. Oral questions. Member for Frame Lake.

MR. O'REILLY: Mahsi, Mr. Speaker. Yes, I am pleased to work with the Minister to make sure that we can protect the integrity of our co-management systems, but some would say the

GNWT has shown its cards by siding with the mining company rather than the protection of the environment and thrown the integrity of the evidence-based co- management system into doubt. We'll also have to convince Ottawa that we are capable of managing our own resources if we hope to get any further jurisdiction or powers under the devolution agreement and process. Mr. Speaker, how does the Minister intend to rebuild public confidence in our co-management systems, ensure procedural fairness, and convince Ottawa that we can properly and fairly manage our own resources? Mahsi, Mr. Speaker.

HON. ROBERT MCLEOD: Thank you, Mr. Speaker. Mr. Speaker, I don't think that it's true that the government is siding with the mining companies, and as far as restoring public confidence, as I said before, there was a bit of confusion and we will take steps to ensure that this doesn't happen again, and we will have a clear set of rules that everyone is going to need to follow, and I believe Ottawa will come to the conclusion that we are quite capable of managing our resources. Thank you, Mr. Speaker.