

MEMBER STATEMENT—KEVIN O'REILLY MLA FRAME LAKE

REDWATER SUPREME COURT OF CANADA DECISION

February 14, 2019

MR. O'REILLY: Merci, Monsieur le President. A much-anticipated decision on environmental liability and bankruptcy was delivered by the Supreme Court of Canada two weeks ago today. The Redwater decision has huge implications for the environment and resource development, even here in the Northwest Territories.

No longer will financial institutions and trustees be able to ignore regulatory requirements during the sale of assets. To quote from the decision: "Bankruptcy is not a licence to ignore rules, and insolvency professionals are bound by and must comply with valid provincial laws during bankruptcy." "It is clear that the Regulator acted in the public interest and for the public good in issuing Abandonment Orders, and that it is therefore not a creditor of Redwater. The public is the beneficiary of those environmental obligations. The province does not stand to gain financially from them."

Where does this leave us here in the Northwest Territories? I believe this will make financial institutions much more careful in examining risk before backing projects. Banks, insurers, and investors will no longer be first in line when a project goes under. Investors will be more cautious in providing funds for projects that are not well-developed, that involve new or risky technologies or methods, or are owned by operators with a poor environmental track record, or have heavy monitoring and reporting requirements. Conversely, projects that demonstrate best environmental practices, use proven technologies in northern environments, and are operated by savvy owners should get easier access to financing.

There's a warning here about lowering our environmental standards. Under our watch, Cantung went into receivership without adequate security. Prairie Creek has not posted financial security to the full value of site liabilities, and there has been almost no progress on the mandate commitment around contaminated sites management. The commitment was to "Develop an integrated, comprehensive approach to the management of contaminated sites, including prioritizing, sharing of responsibility in collaboration with other governments, monitoring, and a sound financial security system to prevent public liabilities." Cabinet has not lived up to the promises of responsible resource development. No policy, regulatory, or legislative changes have been put in place to better prevent liabilities from happening in the first place.

I'll ask the Minister later today what the Redwater decision means for the Northwest Territories and why there's been no progress on the prevention of public environmental liabilities in the Northwest Territories. Mahsi, Mr. Speaker.