STATEMENT AT SECOND READING—KEVIN O'REILLY, MLA FRAME LAKE

BILL 37: AN ACT TO AMEND THE OIL AND GAS OPERATIONS ACT

February 22, 2019

MR. O'REILLY: Merci, Monsieur le President. Members may be relieved to know that I will not repeat my comments on the process for this bill, as this was covered in my remarks on Bill 36.

The Oil and Gas Operations Act regulates activities that take place when companies explore for and produce onshore oil and gas, even on Indigenous subsurface lands. It deals with safety, environmental protection, and resident benefits from exploration and production activities.

The Minister's main role under the act is to approve benefits plans related to exploration. A regulator approves plans for safely and sustainably drilling wells and building production facilities; monitors operations to make sure that everything is going according to filed plans; and oversees the process of decommissioning and abandoning oil and gas facilities. OROGO, or the Office of the Regulator of Oil and Gas Operations, is the regulator for most onshore areas, and in an odd twist, the National Energy Board is the regulator for the Settlement Region and the offshore.

This Bill will amend the Oil and Gas Operations Act which mirrors the federal Canada Oil and Gas Operations Act.

The scope of the proposed changes to the Oil and Gas Operations Act are limited to the following general areas:

- Delegation authority of the Minister and the regulator;
- Guidelines and interpretation notes will be allowed by the regulator for all of its areas of responsibilities;
- The regulator will have the ability to hold public hearings and set its own rules for hearings;
- The regulator will be required to prepare an annual report;
- Confidentiality of information may be reduced; and
- Proof of financial responsibility will be required for the duration of an operation and after decommissioning.

It is not clear whether there will be any further changes to the act as part of the overall second phase of reviewing how GNWT manages oil and gas resources.

The Minister and regulator will have the ability to delegate authority to carry out duties under the act, but only the regulator is required to provide public notice of such delegations. In my view, the Minister should also be required to give public notice of delegations.

The powers and authorities of the regulator are being clarified in the bill, and that is a good thing. The regulator will be able to provide greater guidance with regard to all of its duties and responsibilities. This will help create greater certainty for industry, Indigenous governments, other regulators, and the public. The regulator will also have the ability to hold public hearings and set its own rules for such proceedings. While I support this move, I believe the bill should also set out when such hearings should be mandatory. Annual reports will also be required of regulators. OROGO already does this and I commend them for doing that voluntarily.

The same provisions around confidentiality of information as found in Bill 36 appear to be repeated here in this bill. The current legislation is not as restrictive as the other oil and gas legislation. That is a better place to start from. The problem is that there are some very broad categories of information that can be held back including financial, commercial, scientific, and technical data. This definitely needs to be clarified with the onus placed on the parties submitting the information to prove that it should be kept secret, rather than use the assumption that things are secret unless an active decision is made to make them public.

There is also a definition for hydraulic fracturing in this bill that could improve the amount of information that may be made public about such operations.

There is a significant change to the requirements for proof of financial responsibility under this bill. The current legislation only requires proof of financial responsibility for the duration of the operation, which may not include abandonment or decommissioning. We want to make sure that an operator remains responsible for closure until the regulator signs off that it is acceptable. There may be some lessons that we can learn from the Redwater Supreme Court of Canada case that I spoke of earlier in this sitting. The changes in the bill will require that such proof of financial responsibility will need to remain in place for a period of one year after the regulator agrees that closure has been completed. This should held avoid unforeseen events or failures, but we may need to look at whether just one year is an appropriate end point.

There is a very disappointing omission in the bill when it comes to proof of financial responsibility, and I have raised this issue previously in this House. There is an arbitrarily low cap of a maximum of $40 million of absolute liability for spills set out in the Oil and Gas Spills and Debris Liability Regulations under the current act. The federal government has amended its mirror Oil and Gas Legislation to put in a $1-billion cap to help prevent public liabilities. I have noted, for example, that the Deep Water Horizon blow out in the Gulf of Mexico resulted in clean up and compensation costs of over $80 billion. The $40-million amount in the regulations now is insignificant in face of the potential harm and cost of a major spill in the Northwest Territories. This is a very serious threat to our government's financial safety. We need to fix this in our bill.

I note for the record that OROGO is conducting a public review of the principles it should use in developing a methodology for calculating and managing proof of financial responsibility and I support their efforts.

I look forward to working with my colleagues on the Standing Committee on Economic Development and Environment to improve this bill. Mahsi, Mr. Speaker.