

MEMBER'S STATEMENT — KEVIN O'REILLY, MLA FRAME LAKE

Enforceable Benefits from Resource Development

June 10, 2020

MR. O'REILLY: Merci, Monsieur le President. Members of the last Assembly and the public spent a considerable amount of time reviewing and improving proposed legislative changes to increase benefit retention from resource development. This work was long delayed and meant to start to fulfill the promise of devolution.

Amendments were also made to the oil and gas legislation to flip the secrecy onus, to make everything public unless there is a good reason not to. We are still waiting to have this new approach come into force. On the mining side, there is the potential for benefit agreements for Indigenous governments before a property can go into production, and possibly even the public may be assured of some benefits. The difficulty is that the Minister along with Cabinet have total and absolute discretion over whether any of this will happen, and this may be done on a case-by-case basis. Those holes are big enough to drive entire B-Train tanker trucks through as to whether Northerners can anticipate and realize enforceable benefits.

A recent May 1 Supreme Court of the Northwest Territories decision on the enforceability and relationship of community investment plans to regulatory requirements highlights how poorly our resources are actually managed in terms of benefit retention. The judge ruled that the secrecy of the oil and gas benefit plan system is the law. Community investment plans are separate from the benefit plans and cannot be enforced by the territorial government, even if there was the will to do so. There is no public review process for benefit agreements between the GNWT and oil and gas companies, and approval rests with the Minister alone. Although benefit agreements or plans may be required for mineral exploration and development through the Mineral Rights Act, all of this is again at the complete discretion of the Minister and Cabinet.

I will have questions later today for the Minister of Industry, Tourism and Investment on what was learned as a result of the Acho Dene Koe First Nation court case and when the promises of devolution, including enforceable benefits for NWT residents, will be finally delivered and brought into force. Mahsi, Mr. Speaker.