

KEVIN O'REILLY—MLA FRAME LAKE
Surface Rights Board
Committee of the Whole—2021-2022 Operating Budget Review
Dept. of Lands—February 24, 2021

MR. O'REILLY: Thanks, Mr. Chair. You got it right. I appreciate that. One of the items in this section is found on page 312, the Northwest Territories Surface Rights Board. I raised this with the Minister back in January about whether the funding had been received from the federal government for this. Can the Minister tell us whether there's an agreement in place for the funding for this board? Thank you.

HON. SHANE THOMPSON: I'll start, and then with your permission, I'll turn to the deputy minister. Presently, we don't have an agreement in place, but we've been in negotiations and conversations with the federal government. We just recently had an update that I would like to share with the House and, with your permission, turn to the deputy minister. Thank you.

CHAIRPERSON (Mr. Rocky Simpson): Thank you. Deputy Minister.

MS. HAENER: Thank you, Mr. Chair. We've been in pretty frequent contact with Canada in our work on reaching an agreement regarding the Surface Rights Board funding. The indications we've received, in fact, today, are very positive. They viewed the planning documents that we submitted favourably. They have indicated that we are well within our ability to reach an agreement soon, and it would be a five-year agreement. Thank you, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you, Deputy Minister. Any further questions? Member for Frame Lake.

MR. O'REILLY: Thanks, Mr. Chair. Someone might want to start the clock going, but just can someone confirm for me that this board has been in existence now for eight years and that it has never, ever had a dispute brought to it? Is that correct? Thanks, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you. Minister.

HON. SHANE THOMPSON: The Member is correct. We haven't had an issue brought forth to the board for the length of how long it has been there. I will ask the deputy minister for clarity on the duration. Thank you, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you. Deputy Minister.

MS. HAENER: Thank you. Yes, that time frame is accurate. Thank you.

CHAIRPERSON (Mr. Rocky Simpson): Thank you. Any further questions?

MR. O'REILLY: Thanks, Mr. Chair. This board has been in place for eight years. It has never had a dispute. Can someone tell me what the cumulative total of the money that has been spent for this board has been over the eight years? Thanks, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you. Minister.

HON. SHANE THOMPSON: For that kind of detail, we'll probably have to get back to the Member, but just so everybody is aware, this is an in-and-out. This is an agreement with the federal government. They give us the money, and then we give it to the Surface Rights Board. It's no indication from GNWT to spend any of their money into it. Thank you, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you, Minister. We will take that as a promise to provide additional information. Member for Frame Lake.

MR. O'REILLY: Thanks, Mr. Chair. I don't know. Based on what's in the current budget here and there are probably some start-up costs, it's probably safe to assume that probably somewhere between \$2 million and \$3 million has been spent to support this board. Look, I know some of the people who serve on it, the staff. This is not about the performance of any of these individuals. This is about an institution that has been set up and has nothing to do, quite frankly. I know I asked the Minister questions about this back in March. This board was set up under the previous Harper government. It was sort of forced on us, in my view, and really there are a number of issues and problems with the way the board has been set up. It's not a co-management body by any stretch of the imagination. All the board can really do is offer compensation. If there is a surface right holder and someone wants to mine under their property or where they are using something, all the board can really do is offer compensation. It can't actually say, "It's not a good idea to go ahead with that." With that in mind, is this act ever going to get reviewed by this government? Thanks, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you, Member. Minister.

HON. SHANE THOMPSON: For that, right now, no, we're not going to be reviewing this. The NWT Surface Rights Board Act meets Canada's obligations that arise from the Gwich'in, Sahtu, Dene, and the Metis comprehensive land claim agreements to establish surface rights legislation in the NWT, so it does meet that requirement. No, we have no desire to bring it forth. We have other obligations, legislation, and other work that we need to do that are priorities that we sent out from the mandate. Thank you, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you, Minister. Member for Frame Lake.

MR. O'REILLY: Thanks, Mr. Chair. Yes, I think we have a difference of opinion about that. There were provisions in the land rights agreements, as well, for the arbitration panels to serve this function, and I think that would have been a far better way to deal with this than set up this separate legislation. We don't have the money secured for this. Why is it appearing in the budget if the money has not been secured, and what would happen if there was no agreement signed with the federal government? We would have to expend our own money? Is that what would happen? Thanks, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you, Member. Minister.

HON. SHANE THOMPSON: Thank you, Mr. Chair. First of all, yes, probably me and the Member are going to disagree on why we need it. First and foremost, I respect his opinion, but in regard to the funding through the federal government, it's like all other federal government programs that are out there that we as the GNWT are mandated to

work with and utilize. Sometimes, a negotiation takes a little bit longer because it's on their timing and that, so we need to work with them. Right now, we would just move along based on the fact that we feel very comfortable that we are close to signing it and we are able to complete the work and bring the money forward. Thank you, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you, Minister. Member for Frame Lake.

MR. O'REILLY: Thanks, Mr. Chair. Can the Minister tell me how long these negotiations have been going on with the federal government to secure funding? Thanks, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you. Minister.

HON. SHANE THOMPSON: For that detail, I will turn to Ms. Macdonald.

MS. MACDONALD: Thank you, Mr. Chair. We've been working with the federal government since November, and they have told us that we can expect to receive our agreement within the next few weeks. Thank you, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you, Ms. Macdonald. Member for Frame Lake.

MR. O'REILLY: Thanks, Mr. Chair. I'm wondering: if this was deleted, could the funding be brought back through in a supplementary appropriation once the agreement is signed? Thanks, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you, Member. Minister.

HON. SHANE THOMPSON: I don't deal in hypothetical situations, Mr. Chair. If it was deleted from the budget, then we would have to see what we do. I know how much committee does not like the fact that we're coming back for supplementary appropriations, so it would be a difficult opportunity if we had to go through the supplementary process. Again, I can't deal with hypothetical situations. Thank you, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you, Minister. Member.

COMMITTEE MOTION 79-19(2):
TABLED DOCUMENT 286-19(2): MAIN ESTIMATES 2021-2022 - LANDS -
CORPORATE MANAGEMENT - DELETION OF \$303,000 FROM GRANTS,
CONTRIBUTIONS AND TRANSFERS, DEFEATED

MR. O'REILLY: Thanks, Mr. Chair. I don't think I need to delay this any longer. I move that \$303,000 be deleted from the activity corporate management under the Department of Lands for grants, contributions, and transfers related to the Northwest Territories Surface Rights Board. Thank you, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you, Member. The motion is on the floor, and it has been distributed. The motion is in order. To the motion.

MR. O'REILLY: Thanks, Mr. Chair. It's not often that we have to deal with motions in budgets in Committee of the Whole. Look, as I said earlier, we don't have the funding for this. This shouldn't come as a surprise to the Minister. I raised this in January with

the Minister that, if the funding had not been secured by the time this came to the floor, I would bring it forward, so it doesn't come as a surprise to the Minister. I'm not saying anything against our staff who have probably been working hard, trying to get the federal government to pay some attention to us, but the fact is: we don't have the money to do this. I think it could easily be brought through in a supplementary appropriation afterwards.

More importantly, this is a board, too, that has been around for eight years, has not dealt with one dispute, and I think is based on some legislation that was basically forced on us by the federal government in the past and does not meet expectations of co-management regime. Even some of the principles that we've passed in the new Mineral Resources Act in terms of making sure that there's some reasonable limits put on the way that mining is conducted in the Northwest Territories. For a whole variety of reasons, I just don't see the need for this board. It's not doing any work. We don't have the money in place, and I would urge my colleagues to agree with me that this can be removed. Then if the Minister can find the money somewhere else, he can bring it back through a supplementary appropriation. Thanks, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you, Member. To the motion? MLA for Yellowknife North.

MR. JOHNSON: Thank you, Mr. Chair. There're a couple of questions to be answered here: one, whether we need a Surface Rights Board. I think there's a bit of disagreement about that. I think that there probably is some need to make sure that the claims have an ultimate board. Whether the legislation that the GNWT passed is accomplishing that, there is a bit of a debate there. As the Member for Frame Lake said, there are other bodies that could fulfill that function. The second question is whether a board that has never heard an appeal, and likely never will, needs \$303,000 a year to operate. It kind of seems like one of those ridiculous government things of, whether we or the feds are paying for it, that we've spent likely a couple million dollars on a board that's never done anything. The third question is: if we do need the board and they need \$300,000, who should pay for it? I think clearly, given that the intention of this board is to uphold and implement the land claims, that is a federal responsibility to pay for it.

I heard the Minister of Lands say that we don't like supplementary appropriations. If it comes back with a five-year federal funding agreement, then no one's going to complain about that. I'm inclined to vote to remove this until the Minister can come back with some confirmation that the feds are paying for it. If the feds aren't paying for it, then I think there's a really hard look that they probably don't need \$300,000 a year to operate. I will be voting in favour of removing this money. Thank you, Mr. Chair.

CHAIRPERSON (Mr. Rocky Simpson): Thank you, Member. To the motion?

SOME HON. MEMBERS: Question.

CHAIRPERSON (Mr. Rocky Simpson): Question has been called. All those in favour of the motion? All those opposed? Abstentions? The motion is defeated.

---Defeated

