

ORAL QUESTION—KEVIN O'REILLY, MLA FRAME LAKE

**QUESTION 645-19(2)/649-19(2)
HUSKY ENERGY SIGNIFICANT DISCOVERY LICENSE**

March 9, 2021

QUESTION 645-19(2)

MR. O'REILLY: Merci, Monsieur le President. My questions are for the Minister of Industry, Tourism and Investment. Last week, the Minister revealed that she is working on issuing a significant discovery licence for Husky Energy under the amended Petroleum Resources Act. This will be the first significant discovery licence issued under our improved regime. Can the Minister tell us whether she's going to consult Sahtu communities, Indigenous governments, and Regular MLAs before issuing the significant discovery licence? Mahsi, Mr. Speaker.

MR. SPEAKER: Thank you, Member for Frame Lake. Minister of Industry, Tourism and Investment.

HON. CAROLINE WAWZONEK: Thank you, Mr. Speaker. The Government of the Northwest Territories does indeed consult with Indigenous governments, Indigenous organizations at the stage of when there's a call for bids. It is much earlier in the process than where this particular item is at. In this instance, what is relevant here is Section 30 of the new Petroleum Resources Act, which actually says that the Minister shall issue the significant discovery licence if certain conditions are met which, indeed, they are here for Husky. As such, I won't have any discretion in this particular instance. The reason that the consultation takes place earlier and, in this case, took place, was under the previous federal regime. Thank you, Mr. Speaker.

MR. O'REILLY: That's great to hear. I hope this is not going to be another resource giveaway, but the Minister sort of prefaced my next question: Section 30.3 of the Petroleum Resources Act says that a significant discovery licence "may contain any other terms and conditions as may be agreed on by the Minister and the interest owner of the significant discovery licence." It's not clear whether that means the Minister can impose work requirements or annual fees that could even rise over time or whether Husky Energy has a veto. Can the Minister tell us whether it is her intention to pose any terms and conditions in this significant discovery licence that require exploration to be carried out, northern benefits, or annual fees?

HON. CAROLINE WAWZONEK: As I mentioned earlier, the particular instance here of Husky Oil is one where the call for bids stage took place in 2011-2012 under a pre-devolution regime, under a totally different regime than that which is envisioned by the new Petroleum Resources Act. The new act certainly does give the opportunity at the earlier stage of that call for bids to include rentals and fee structures and opportunities to really increase the possibility for revenue, but again, in this particular instance, we are well past that stage. I would also note that, yes, the new act includes the opportunity for issuing benefit plans, and in this instance, Husky would still, should it choose to proceed undertaking activity, have to go through the process of submitting a benefit plan. With

respect to those parts of the process where they predated the current regime, there is not a fair opportunity at this stage to be imposing items that weren't there previously.

However, this is a somewhat unusual situation. Husky is, I believe, one of the last if not the last occasions where we are pulling something that happened in this pre-devolution time and putting it into the new act with the new stage as it goes through its evolution of its licence from the call for bids through to production. The questions being asked are ones that, in the future, when we are looking at new discoveries, I'll be able to answer a strong and firm yes into the future with those new projects.

MR. O'REILLY: I'm a bit perplexed at what I just heard. We changed this legislation in the last Assembly so we would give the Minister the authority to impose terms and conditions to get northern benefits; otherwise, we just give the company a significant discovery licence and they can sit on it for 15 years and do nothing. Is this Minister going to use her discretion to impose some terms and conditions to get northern benefits, or is she just going to give Husky Energy a blank cheque?

HON. CAROLINE WAWZONEK: Again, this is an occasion where Husky originally had their processes done or their bids done in 2011 and 2012, and there is an element of fairness in the regime that we have to ensure to include at all times so that no business or industry of any sector is going to think that they come in here under a certain regime with a certain set of expectations and have it changed under them. In this case, while yes, if they intend to go out onto the land and conduct activities, they will have to be filing their benefit plans, and those benefit plans then have to now be made public. That is under the new regime. It is a tremendous opportunity for northern communities, but with respect to imposing, now, rentals and fees when they didn't have those imposed on them in the past, no, we're not going to be dragging something from 10 years ago and applying this. That's not fair, and that's not the right way to do business. In this particular instance, again, the act is getting that power now looking forward, and certainly, that's something that everyone can move forward understanding what that regime is going to be so that, into the future, there will continue to be those opportunities.

MR. SPEAKER: Thank you, Minister. Final supplementary. Member for Frame Lake.

MR. O'REILLY: Thanks, Mr. Speaker. I want to thank the Minister for that. In the existing exploration licence for Husky Energy, there already is an annual fee per hectare the company has to pay. Now, is the Minister prepared to keep that kind of annual fee in the significant discovery licence, or is she just going to give everything away? I want to know from the Minister: she has discretion to do the right thing and secure benefits for the North. Is she going to do that, or is she going to give this away, not even include an annual fee, as there is in the current exploration licence? Will she impose a fee in the significant discovery licence, same as what's in the exploration licence? Mahsi, Mr. Speaker.

HON. CAROLINE WAWZONEK: This licence has been subject to significant review from the Department of Justice because of the fact that there was so much that had to come in from the past and into the present. That has been some of the challenge here. I'm not trying to avoid the question. I'm just trying to make sure that I'm not here on the floor of the House getting into something that really has gone through significant legal

review, as I've said. I would certainly not expect that there is going to be less fees offered or a freer ride now than what it has been in the past. The significant discovery licence here flows from the exploration licence that was in place, and I'm quite certain that we will continue to follow that approach and looking for it. If they are going to look to renew, which is one of the new benefits of the act, then they are going to be looking to renew knowing that there is now this new regime in place where there may be additional or enhanced fees and additional or enhanced reporting, and additional or enhanced requirements. Again, I'm simply trying to steer us to the fact that, as we go forward, there is a new act that gives a lot more power and puts a lot more expectations on the industry. Thank you, Mr. Speaker.

QUESTION 649-19(2)

MR. O'REILLY: Merci, Monsieur le President. I want to ask some further questions of the Minister of Industry, Tourism and Investment on this significant discovery licence that she seems to be poised to issue to Husky Energy. I heard some very disturbing things from the Minister, but I think I'll try to boil it down into fewer, simpler questions, maybe, and see where we get here. Does the Minister have the authority under the amended Petroleum Resources Act to issue significant discovery licences that contain any other terms and conditions? Mahsi, Mr. Speaker.

MR. SPEAKER: Thank you, Member for Frame Lake. Minister of ITI.

HON. CAROLINE WAWZONEK: Thank you, Mr. Speaker. Section 30.3 of the Petroleum Resources Act does state that the licence "must be in a prescribed form and may contain any other terms and conditions, not inconsistent with this act or the regulations, as may be agreed on by the Minister and the interest owner of the significant discovery licence." Thank you, Mr. Speaker.

MR. O'REILLY: I want to thank the Minister for that excellent reading of Section 30.3. Does this mean, then, that an applicant for a significant discovery licence has a veto over terms and conditions?

HON. CAROLINE WAWZONEK: It doesn't say a veto. It doesn't say that the party must, shall, but it does say, as may be agreed to. Mr. Speaker, as I had said earlier, when the processes come through, if indeed there are to be new calls for bids, which would then move through exploration licence, significant discovery declarations, and all the way through production, this act now governs that entire evolution. This act will create a system, one that is reasonable, one that is certain, one that people can actually understand what is expected of them, and including the fact that you do now have the ability to make these types of additions to the significant discovery licence.

Mr. Speaker, I wasn't a Member at the time when this new act was. I know the MLA certainly was. I'm sure they're familiar with the vision here, which is one that is meant to give more tools to the hands of a Minister before issuing a discovery licence. Look, at the end of the day, it is to be as agreed to. Again, that is why, now, when issuing a call for bid, it's going to be very clear what the expectations through that evolution will be.

MR. O'REILLY: I want to thank the Minister for that. I've heard lots of references to what happened in the past by the feds. I don't really care what they did. They didn't do a good job, and it looks like we seem to be bound by that for some reason. In the current exploration licence, this exploration licence covers 175,000 hectares. In there, there's the ability to charge a rental, and the rental varied from \$3 up to \$8 per hectare. That means, at the end of the exploration licence, we're getting \$1.4 million a year in terms of a rental for that exploration licence. That's the same amount the Minister is going to give away with the reduction in the small business tax. Here's a way to make up that revenue. Is the Minister going to impose a rental fee in the significant discovery licence equivalent to what's already in the exploration licence?

HON. CAROLINE WAWZONEK: This particular discovery licence is the last one that is grandfathered. That was the point I had tried to make earlier. I think I wasn't, perhaps, putting it all together very clearly, but it is a grandfathered one. It's the last one of its kind. Mr. Speaker, I, also, would prefer to look forward into the future and not be talking about items that come forward from the past. Because this particular one and all of the things that it's associated to in the other licences it's associated to don't have a rental fee put into their significant discovery licence, out of simple fairness and out of simple fact, it is not appropriate to take something that was under a previous legal regime. It's already been wedged into this new legal regime where it's already not going to have an indeterminate significant discovery licence. It's going to have only a 15-year licence, and it's going to come with the expectation of having benefit plans if, in fact, there's work. There are significant new benefits under the new regime, but some things, putting in the rental fee, which others that it came up with, didn't have -- Mr. Speaker, on full reflection and the legal review, that's not a fair way to proceed. It's not a good way to show ourselves to have a good reputation for fairness, and it certainly exposes us to legal risk. That's the challenge that I'm faced with, Mr. Speaker. Going forward, this act does give the ability to, from day one when there's a bid, set up a system where there are bids, where there's rental fees and fees that will bring in, hopefully, a better sort of revenue into the Northwest Territories.

MR. SPEAKER: Thank you, Minister. Final supplementary. Member for Frame Lake.

MR. O'REILLY: Merci, Monsieur le President. I want to thank the Minister for that. I'm not interested in waiting 15 years to reopen the significant discovery licence. The Minister has the ability now to include terms and conditions that will benefit Northerners. She doesn't seem to be prepared to exercise that discretion. My question to the Minister is: in whose interest is she acting in issuing this significant discovery licence, the company's or the public's? Mahsi, Mr. Speaker.

HON. CAROLINE WAWZONEK: I take my responsibilities as a Minister very seriously. I, certainly, am not going to stand and act in anything other than in the interests of the public of the Northwest Territories, but that includes, Mr. Speaker, an understanding and awareness of the rule of law and legal advice that we might receive as Ministers. I don't act on my own. I don't act without advice. I don't act without looking to the department. I don't act without looking to the Department of Justice when the time is appropriate. This was an usual legal problem. I could see that from day one when it came to my desk. We sought legal advice on how do we proceed fairly as a

government? How do we act fairly as a department? How do I take something from the past regime and put it into the new one? I'm acting, in part, on the legal advice. Yes, I have powers to do things, but I am not going to act in a vacuum; I am going to act on the best advice that I have around me. That, Mr. Speaker, is what I am doing here. It is always with the interests of the people of the Northwest Territories, to demonstrate to everyone that we act fairly and in process. Thank you, Mr. Speaker.