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**Chair**

**Mr. Colin Mayes**

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## Standing Committee on Aboriginal Affairs and Northern Development

Tuesday, February 20, 2007

•(1110)

[English]

**The Chair (Mr. Colin Mayes (Okanagan—Shuswap, CPC)):** I would like to convene the Standing Committee on Aboriginal Affairs and Northern Development of Tuesday, February 20, 2007.

Committee members, you have the orders of the day before you. This morning we'll be having a briefing on the 2006 report of the Cree-Naskapi Commission. Our witnesses are from the Department of Indian Affairs and Northern Development, Mr. Michel Roy, assistant deputy minister for claims and Indian government; and Terry Sewell, director general of the implementation branch, claims and Indian government sector.

After we deal with the briefing on the Cree-Naskapi Commission we'll have time for committee business to discuss aboriginal housing. We'll have a presentation and then we'll have questions. We also have a motion from Madam Neville that we'll deal with.

**Hon. Anita Neville (Winnipeg South Centre, Lib.):** We're going to leave it to next week, because I didn't bring my notes with me. I'm sorry.

**The Chair:** Thank you.

Welcome to the committee. Thank you for your attendance. If you want to open with a little bit of a brief, we appreciate that.

Thank you.

**Mr. Michel Roy (Assistant Deputy Minister, Claims and Indian Government, Department of Indian Affairs and Northern Development):** Thank you, Mr. Chair.

[Translation]

First of all, I would like to thank the committee for the invitation to meet with you today to discuss the important work of the Cree-Naskapi Commission.

I have had the opportunity to read the blues of your session of February 1, 2007 when you had invited the Chair and the Commissioners to present their findings from their 2006 Biannual Report.

As committee members are aware, the Cree-Naskapi Commission was established by the Cree-Naskapi (of Quebec) Act to provide independent advice to the Government on the implementation of this Act. This is an important role. As the committee has learned, the Commission does its work by providing forums for Chiefs, community leaders and others to present their views on the implementation of the Act and on various other concerns on which people wish to be heard.

As the committee will appreciate, such processes are valuable as opportunities for concerns to be aired and for governments to be made aware of them. The Commission is a unique forum in Canada. It is the only commission of this kind where chiefs and community leaders have an opportunity to talk about the problems they are experiencing.

As we work with our partners to implement our oldest modern treaty and to forge a new relationship outside of the Indian Act, I believe that the Commission's advice is helpful to us.

As someone who is very involved in the business of negotiating and implementing modern land claims agreements, I was very pleased by the message of the Chairman as he reviewed the period "1986-2006: Years of Change".

[English]

When people ask me why we put so much effort, time, and resources into the pursuit of modern treaties, I believe that the chairman has captured it well when he notes:

If one looks back to 1986 and before, and compares the life of the Cree and Naskapi communities then with the life of those same communities today, the changes are obvious and dramatic. Clearly the overall standard of living has improved. Health in general has improved with, for example, longer life expectancy and a decline in infant mortality. ... Levels of educational attainment have risen dramatically. Many successful new economic enterprises are in operation. So, in spite of some serious challenges, the past twenty years have seen a very significant improvement in the standard of living.

Although we have much work ahead of us, I believe that this is an important perspective to keep in mind. In this regard, I would also like to let the committee know that we are in the first stage of a process of formally evaluating the impact of comprehensive land claim agreements to better understand their full impact.

Also, I am pleased to say that the important work going on in pursuit of a global agreement with the James Bay Cree through the Chrétien—Namagoose negotiations will address a number of the commission's recommendations. We are encouraged by the progress and hopeful of a successful outcome soon.

•(1115)

[Translation]

Although the Commission raises a wide variety of topics and issues that are brought to its attention, I was pleased to see in the introduction section the following remarks:

Since its response to the 2002 Report of the Commission, the Department of Indian Affairs and Northern Development has provided a comprehensive response to the recommendations of the Commission. The responses of the Department represent an entirely different approach in its dealings with the Commission [...] It appears that the Department wants to improve its relations with the Commission as well as with the Cree and Naskapi communities.

I would like to take this opportunity to underline this point to the Committee.

Mr. Sewell and I will be very happy to answer your questions and to listen to any comments or suggestions that you may have.

Thank you very much, Mr. Chairman.

[English]

**The Chair:** I'll ask the Liberals who will be first to speak.

**Hon. Anita Neville:** I'll begin, and my colleague may follow up.

I'm interested not in the specifics, but in a comment you made, Monsieur Roy, about the process of the first stage of evaluating comprehensive land claim agreements. Could you elaborate a bit on that?

**Mr. Michel Roy:** Of course. Mr. Sewell will take the answer.

**Mr. Terry Sewell (Director General, Implementation Branch, Claims and Indian Government Sector, Department of Indian Affairs and Northern Development):** Thank you for your question.

The Auditor General has been recommending for some time that the department evaluate the impact of land claim agreements, because we've put a fair amount of energy into negotiating and implementing these agreements, so we have developed an approach.

This year, we are taking a look at five candidate comprehensive land claim agreements. The guidelines we received from Treasury Board directed us to look at agreements that had been in place more than ten years and that consequently would have had the opportunity to make some impact. They were also to be comprehensive land claim agreements that were not in the process of being reviewed or renewed, to avoid complicating that particular process.

We have the five candidate land claim agreements in Canada, and this year we have consultants engaged to do what's called an evaluability assessment, which means going to each of the five areas and checking out whether we have the tools to do the measuring—finding out what kinds of data exist. As you can appreciate, if you're doing an assessment of the impact of a comprehensive land claim agreement, you need to know what the situations were at the beginning, and those data don't always exist, so we're doing an assessment this year to determine which of those might be the best candidate for a full-blown evaluation that we hope to do next year. It will be an evaluation of the impacts of the land claim agreement.

**Hon. Anita Neville:** I know we're supposed to be on a specific issue, but I'm more interested in this process. Are you saying that when the land claim is settled, you have no original data to make a comparison with where they are now?

**Mr. Terry Sewell:** Normally when you want to evaluate the impact of something, you take the situation at the start of the event, you check the situation at some phase during the event, and you compare the two. What we have consultants doing right now is trying to determine what amounts of data exist, particularly data that

we can measure going back. I can't tell you exactly what exists in the way of data; that's being searched out right now by the consultants.

• (1120)

**Hon. Anita Neville:** What communities are you looking at?

**Mr. Terry Sewell:** I'll see if I can remember the five candidate land claim agreements. It would be the Inuvialuit Final Agreement and I think the Inuit of northern Quebec. I'm not remembering the others offhand. I could get that information for the committee, if that's desired.

**Hon. Anita Neville:** I would like it. I don't know whether other committee members would, but I would like it.

**The Chair:** Go ahead, Mr. Russell.

**Mr. Todd Russell (Labrador, Lib.):** Good morning.

When we had the presentation from the commissioners, one of the issues brought to the table concerned the ongoing land claims negotiations with the Nunavik Inuit and the impact upon the Naskapi. Apparently there's only one table at this time dealing with that particular land claim. They make the assertion that there's certainly an overlap of interests in terms of their traditional lands, hunting areas, tracking areas, and things like that.

What is the department's view? It seemed to be a very serious issue from the perspective of the Naskapi.

**Mr. Michel Roy:** Thank you for the question.

Of course we are negotiating right now with the Inuit group from Nunavik, but just to be clear, we are not negotiating a land claim. That part has been addressed in the past and they are under the new treaty. What we are negotiating is a self-government agreement with the Nunavik group. The Naskapi have some concerns about some overlapping in terms of territories and powers of the Inuit people over the Naskapi territory. We are, of course, keeping other parties involved in the discussions. We are making sure to keep everybody involved and inform them about what is going on.

The commission, however, made a recommendation on the creation and implementation of a quadripartite forum in which we can have the Quebec government, the federal government, the Inuit, and the Naskapi participating in the committee to discuss overlapping issues, settlement issues, for the Inuit. We already talked to the Inuit about this, and they think it's a great idea. Our negotiator for the Inuit self-government negotiations will be talking to the Naskapi chief to propose that approach. We think that the commission made a good proposal and we are following up on it.

**Mr. Todd Russell:** How far along are the self-government negotiations with the Inuit of Nunavik?

**Mr. Michel Roy:** We are right now at the stage of the agreement in principle and we are close to an agreement in principle with them.

**Mr. Todd Russell:** If you're that far along, does that have any implications for a multi-party table? Obviously, when you're that far along, you've reached an agreement on any number of issues, I would think, at that particular time. It makes it much more difficult then for another party. At times it can make it very difficult for another party. Of course you get all these non-derogation clauses being brought in as well in many of these agreements.

Is there any fear that with the settlement or the signature or the agreement, a number of these different elements could influence how a multi-party table would function?

**Mr. Michel Roy:** We're not too concerned about that because we are keeping the Naskapi as well as the Cree aware of the discussions going on. They know. The negotiator had some meetings with the chief and the council. It's not the first time that they will be talking. They don't necessarily know all the details, but that's why we follow up on this idea of the quadripartite forum. In the context of an agreement in principle, an AIP, you still have a lot of *marge de manoeuvre*, if I could say, and issues that need to be negotiated. It's just at the stage of an agreement in principle. I don't think it's too late to amend, if necessary, the agreement eventually to accommodate the Naskapi concerns or input.

**The Chair:** Mr. Lévesque, please.

[Translation]

**Mr. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ):** Thank you for joining us, Mr. Roy.

I'll try to go easy on you. I visited the Naskapi reserve which is located on Inuit land. Negotiations involving this reserve have been underway for several years, as I understand it.

This summer, we learned that the federal negotiator had awarded all of Nunavik to the Inuit and that no separate territory has been split off for the Naskapi, despite their ongoing land claim.

What is the current status of this file? I believe you were scheduled to be involved in the negotiations between the Naskapi, the Inuit and the Government of Quebec. Correct?

• (1125)

**Mr. Michel Roy:** The negotiations currently underway with Nunavik relate to self-government. Territorial issues have already been broached in the agreement. The real purpose of the negotiations is self-government on land already recognized as Inuit land. The Naskapi are claiming proprietary and usage rights to the land.

Given this context, the agreement on self-government will ensure that the rights of both groups are respected. If aboriginal rights to the same lands were recognized, we would ensure that structures were put in place, for example, to oversee the joint management of lands or decision-making in terms of self-government. Thus we would have some assurances that the voice of the Naskapi would also be heard.

**Mr. Yvon Lévesque:** You are in the process of negotiating the very same things that were negotiated in the case of Whapmagoostui and another neighbouring village in Nunavik, on the west coast of Nunavik. Whapmagoostui and Kuujjuarapik are sister communities.

**Mr. Michel Roy:** Is this a mixed community?

**Mr. Yvon Lévesque:** Yes.

Will the government agreement that you're getting ready to negotiate with the Naskapi and Inuit be similar to the one that the Cree negotiated with the Inuit?

**Mr. Michel Roy:** I can't really answer that question because the agreement between the Cree and the Inuit in the case of Kuujjuarapik was negotiated within the framework of the James Bay and Northern

Quebec Agreement. It was negotiated as part of a land claims process.

The current negotiations with the Inuit are focussed strictly on self-government, on the right of the Inuit to administer the lands awarded to them under the agreement.

These particular negotiations do not deal with land claims, but rather with self-government.

**Mr. Yvon Lévesque:** In any case, I hope things are settled as soon as possible for them, because discussions have been dragging on for a number of years.

With respect to housing, according to a survey on aboriginal housing, there were 95,479 housing units on reserves in March of 2004. Of this total, 18,000 were in need of major repairs, while 5,200 needed to be replaced.

The community of Kawawachikamach north of Schefferville desperately needs housing right now, 20,000 units in fact.

Can you update us on this situation?

**Mr. Michel Roy:** As far as housing goes, Mr. Lévesque, the Cree have access to the same standard housing program.

I believe you heard from one of my colleagues last week and discussed with her housing and housing programs. The Cree have access to this very same program.

As for identifying the priorities of one community as compared to another, I don't have the details. However, the Cree regional administration has a responsibility or a role to play in each Cree community when it comes to securing funding for housing. However, the simple answer is that these communities have access to the department's regular program.

**Mr. Yvon Lévesque:** Do you have any current data on all of the Cree communities?

**Mr. Michel Roy:** Data on housing requirements?

**Mr. Yvon Lévesque:** Yes.

**Mr. Michel Roy:** I don't believe we have those numbers, but if you like, we can send this information to you later.

**Mr. Yvon Lévesque:** I'd like that.

[English]

**The Chair:** Madam Crowder.

**Ms. Jean Crowder (Nanaimo—Cowichan, NDP):** Thanks, Mr. Chair.

Thank you for coming before the committee today.

I want to refer back to a couple of specifics in the report. On pages 4 and 5, in the introduction, the commissioners talked about there needing to be a "timely and comprehensive manner" in which disputes arising are resolved. It seems to me that part of what the commissioners were asking for was a dispute resolution process.

Then on page 12 in the document they talk about the fact that “During a presentation to the United Nations Seminar on Treaties, Agreements and Other Constructive Arrangements...” and so on, on December 15, Canada's representative said that

The first of the modern treaties, the James Bay and Northern Quebec Agreement...provides for a monitoring mechanism, namely the Cree-Naskapi Commission.

Later in the report, on page 38, which is where I want you to deal with it, they talk about the fact that

Following a representation from the Naskapi Nation, the Cree-Naskapi Commission decided to hold an inquiry pursuant to section 165 (1) (b) of the Cree-Naskapi (of Quebec) Act. However, representatives of the Department of Indian Affairs, by invoking section 167 of the Act, refused to come to a hearing of the Commission on this matter.

The legal department said they're “not authorized to inquire on the negotiation process in progress with the Inuit of Quebec on establishing a new form of government...”.

I guess the issue is that the commissioners have raised the issue around inadequate dispute resolution processes. The government, in making representation to the United Nations, seems to imply that the commission has some authority to look into these things. Then, when the commission brought forward an issue they wanted to examine, the department invoked section 167.

I wonder if you could talk about what that dispute resolution mechanism looks like, and why in this particular case section 167 was invoked.

• (1130)

**Mr. Michel Roy:** Thank you for the question.

If I look at the mandate of the commission, for us the commission clearly has a mandate of what we can call dispute resolution or monitoring of the implementation of the James Bay treaty, or *la convention*, as they call it. They have a clear mandate to monitor that. In that context, they can bring the parties together and make recommendations, just as they did in the report.

However, when we are dealing with negotiations, I would say that's a different beast, because we're not negotiating the implementation of the convention or the treaty right now. What we're negotiating with the Inuit is a new deal. It's the self-government component. It's a new relationship between the Inuit and the Government of Canada and the Government of Quebec, and through the negotiation process we will be developing the way of consulting and making sure the Naskapi and the Cree, for example, will have their say and will be consulted and can have an impact on what is being negotiated for the Inuit.

We don't see that the commission has a role, because the commission's role is really to monitor the implementation of the convention.

**Ms. Jean Crowder:** I also understand that the government committed to providing additional information to the commission by the end of February 2006. What is the mechanism for dispute resolution? It's not just in this agreement. In the Yukon dispute resolution that has come up as an area of concern, it seems that once treaties are signed it's fine, but the devil is in the details of the implementation.

**Mr. Michel Roy:** Could you respond?

**Mr. Terry Sewell:** The question of dispute resolution is a thorny one in the implementation of land claim agreements. We are discovering the tool kit is pretty small in the formal agreements. We seem to have arbitration as the one tool, and it's a great big tool that doesn't work for a lot of the day-to-day issues that arise. So what we're trying to do is when we deal with the self-government components of agreements and build the self-government structure—and Monsieur Roy has been speaking about the work with the Makivik folks in Nunavut—the idea is to build into that some mechanisms whereby we can grapple with disputes. For instance, in the case of our discussions with the Cree, we're looking at putting in place a mechanism of senior officials who would be represented by our ADM at that body. They would meet on a regular basis, perhaps two or three times a year, as a place to take disagreements and a place to resolve and grapple with issues that are arising.

You're putting your finger right on a very difficult point in the land claim agreement implementation business, and we need to find ways to introduce dispute resolution at an earlier stage than taking it to arbitration or taking it to a commission level. We're exploring new ways of doing that.

**Ms. Jean Crowder:** In the development of this discussion, how have first nations and Inuit peoples been involved in the discussions around developing the tools?

• (1135)

**Mr. Terry Sewell:** The primary way is when we're dealing with a group on a particular self-government arrangement, so with the Inuit of northern Quebec, we would have been talking about dispute resolution as part of their governance.

In the case when we're not dealing with negotiation of a new self-government arrangement, in a case of some longstanding comprehensive claims, we need to explore, in partnership with the other parties, ways of developing trust essentially because the root of solving disputes is for parties to trust each other and be willing to work together on thorny issues. We haven't got that one nailed at this stage of the game, and it's an area of continuing work for us across the claims.

**The Chair:** You have about 40 seconds.

**Ms. Jean Crowder:** The issue of trust is an important one. This document identifies some level of distrust, and the commissioner talked about the fact that there had been 10 ministers over 20 years and he sent us a note saying that it actually was 11 ministers over 20 years, which is an average tenure of 1.8 years per minister. There is a feeling that it's not the minister, and it's not this particular minister, but any minister who's running the department. It's the bureaucracy, so there is a level of distrust around how that's unfolding.

We have probably 10 seconds. I don't know if you can comment on that.

**Mr. Terry Sewell:** What I would say is that land claim agreements have a lot of expectations built in. There are expectations on all sides, and when those expectations don't line up you end up with a disagreement and, potentially, disputes.

**The Chair:** Mr. Albrecht, please.

**Mr. Harold Albrecht (Kitchener—Conestoga, CPC):** Thank you, Mr. Chair.

Thank you to the witnesses for appearing today.

I'm happy to hear now, for the second time, that in comparison to the 1986 situation for Cree and Naskapi people, many of them now find themselves in improved situations as it relates to education, health, and economic enterprise. Certainly I think we need to keep building on any successes that we've had and use those as models for other areas where improvements can be made.

One of the focuses of the report last time was the housing crisis. We've received the summary of the Cree proposal to resolve the housing crisis. In this report by Chief Billy Diamond, he outlines a number of the shortfalls in terms of good-quality housing and points to the widening gap in the availability of good housing. There are a number of specifics mentioned, but as I read the report it seemed to me that there's a big problem with CMHC involvement. In fact, on page five of his report, his proposal, he says: "One can only conclude that the CMHC program, in its present state, is more of a problem than a solution to the Cree housing crisis."

I'm just wondering what your take is. I know that you're not from CMHC, so I may be putting you in an awkward position. This concerns me, if this is a situation that we're actually making worse by a social solution that CMHC is mandated to provide and yet it appears like we're making a problem worse. Could you comment on that at all?

**Mr. Michel Roy:** It's difficult for us to comment on that aspect of your question. The Cree have access to the housing program, just like any first nation. However, the Cree have the advantage of having a land claim settled for 30 years. Things are getting better for them. It's acknowledged.

We are right now negotiating an implementation agreement with the Cree and we are hoping to build a new relationship with the Cree based on trust and provide the Cree with the tools they need to take action and take decisions in relation to their priorities. I think that will probably be the—

**Mr. Harold Albrecht:** I certainly concur that economic development initiatives are important to helping address the long-term problems here. All through this report by the Cree Nation, they continue to refer to ways they could get out from under CMHC involvement. I think it's an area that maybe we should take a closer look at.

On a slightly different point, on page 11 of their report they also talk about economic initiatives that may be able to be implemented on the ground in northern communities. It suggests the establishment of a full-scale prefabrication plant to service the Cree markets, and markets of northern Quebec, northern Ontario, and Nunavut will be investigated.

I guess I would like to know about the progress. Is there anything being done on that front at all?

• (1140)

**Mr. Michel Roy:** Unfortunately, I have no information. We don't have any information on that. I'm sorry about that.

**The Chair:** For questions you have four minutes.

Mr. Blaney.

[Translation]

**Mr. Steven Blaney (Lévis—Bellechasse, CPC):** Good morning.

The Cree-Naskapi of Quebec Act came into force in 1984. It was enacted further to the Act approving the Agreement concerning James Bay and Northern Quebec. When was that particular piece of legislation enacted?

**Mr. Michel Roy:** The Act approving the Agreement concerning James Bay and Northern Quebec?

**Mr. Steven Blaney:** Was that legislation enacted in 1972?

**Mr. Michel Roy:** We recently marked the 30th anniversary of...

**Mr. Steven Blaney:** So then, it was enacted in 1977.

**Mr. Michel Roy:** That's right.

**Mr. Steven Blaney:** Essentially, the legislation provides for the federal government's involvement in the application of the James Bay and Northern Quebec Agreement. Is that right?

**Mr. Michel Roy:** That's correct.

**Mr. Steven Blaney:** Do you have any idea of the legislation's financial implications for the government since it was first enacted?

**Mr. Michel Roy:** I would have to get that information for you.

**Mr. Steven Blaney:** Specifically, do either the Act or federal government transfer policies provide for accountability mechanisms?

For example, mention was made of property. Are there mechanisms in place to ensure that federal funds actually end up in the designated Cree communities?

**Mr. Michel Roy:** The issue of funding and reports is governed by the Act. In non-Cree communities, that is communities with no self-government regime in place, this area is covered under the Indian Act. In this particular instance, everything is governed by the Cree-Naskapi of Quebec Act.

The accountability regime is not one of self-government. Eventually, the government will negotiate self-government with the Cree, as it is now doing with the Inuit. When that happens, a new regime of accountability toward Cree citizens will be put in place.

**Mr. Steven Blaney:** Would you say that the Cree-Naskapi of Quebec Act could serve as a development model? For instance, we see that negotiations are underway with the Innu. Do you think that in some respects, the Act could serve as a model?

**Mr. Michel Roy:** It could. However, the legislation dates back thirty years or so. Perspectives and approaches have evolved over the years, but the fundamentals haven't changed. The Act could indeed serve as a model of sorts.

**Mr. Steven Blaney:** You stated that you were in the process of amending or improving the act, within the framework of an overall agreement, namely the Chrétien-Namagoose agreement.

Can you give us an idea of some of the components that will complete the process first undertaken in 1986?

**Mr. Michel Roy:** I like the expression “complete the process”. In fact, we did encounter a problem with the Cree agreement. We weren't able to work out an implementation agreement. We negotiated an agreement, a modern-day treaty, but we did not formulate an implementation plan. That is what Mr. Chrétien and Mr. Namagoose are currently negotiating. Therefore, we're completing the work that was started many years ago.

**Mr. Steven Blaney:** Are you talking about an agreement to implement the provisions of the Act?

[English]

**The Chair:** You have 30 seconds.

[Translation]

**Mr. Michel Roy:** The two parties acknowledged that the agreement had not been fully implemented. This agreement aims to rectify that situation.

**Mr. Steven Blaney:** Thank you.

[English]

**The Chair:** Thank you.

Mr. Bagnell.

**Hon. Larry Bagnell (Yukon, Lib.):** Thank you. I have just one question, and hopefully Ms. Karetak-Lindell will have time for questions at the end.

As with Ms. Neville, this is on the general process and not on this particular agreement.

Mr. Roy, in the second page of your speech it says “People ask me why we put so much effort, time, and resources into the pursuit of modern treaties.” That's great, but the pursuit of a treaty is like searching for a lot to build a house on. Once it's signed you have to build the house; there's a lot of work to do. The Auditor General has consistently said, related to the Nunavut agreement, the Inuvialuit agreement, that there are problems with implementation that come after the signing of the treaty.

As Mr. Sewell knows, in Yukon the Carcross and Tagish First Nation has been working on a family law. The Teslin Tlingit Council has been trying to get the justice part of their land claim implemented for about ten years. When we sign these agreements it's our responsibility to implement them without these types of delays.

Since these reports from the Auditor General, has there been a shift or an addition so you will put so much effort, time, and resources into the implementation of modern treaties? It's great that you're pursuing them, and we want you to do more, but we also need the resources for the implementation, as I think we've found out from various examples.

•(1145)

**Mr. Michel Roy:** Mr. Sewell is our DG for implementation, so I will ask him to take the question.

**Mr. Terry Sewell:** Thank you for the question.

The challenge of implementing land claim agreements is a big one. I think for many people the signing of a deal is the exciting moment, and everybody is consumed with getting a good deal and getting it in place. The work of implementing, as you have said, is a

critical stage. I think we've been learning a lot about how to implement as we go along.

The Auditor General has taken a particular interest in our work and has provided us with some valuable guidance. Among the criticisms she has levelled at us is that we have focused rather too strongly on the black and white letter obligations in the agreements. I think she has helped us understand that fulfilling the black letter obligations of the agreement is important and essential, but we must also work together to pursue the objectives of agreements.

You're right in being aware that implementation is an art that we have not perfected to this point. But we continue to learn and seek new and better ways of implementing as we go.

**Hon. Larry Bagnell:** Since the Auditor General's comments, has there been an increase in resources for implementation? If so, what type of proportional increase in resources to help with implementation has been put in the department?

**Mr. Terry Sewell:** It's not so much a question of resources; the resources are increased as new agreements are put in place. The task at hand for us is to more wisely invest the resources we have as we move through the implementation business. So we try to take advantage of the advice of the Auditor General and others to figure out better ways of implementing the agreements.

I would like to point out as well that the objectives of our land claim agreements are mutually shared objectives. So all the parties to a land claim agreement have responsibilities in the implementation phase. Finding the best ways to work together to maximize our energies I think is the real key to implementation.

**Hon. Larry Bagnell:** Thank you.

Nancy.

**Ms. Nancy Karetak-Lindell (Nunavut, Lib.):** I want to focus specifically on the housing component. I know that some of my colleagues have already mentioned it, but I have in front of me the report submitted by Chief Billy Diamond. I know he was very focused on solutions, instead of just compounding studies on the lack of housing. He also has a line in here on page 6 that Canada has taken the position that the JBNQA has not created an obligation to provide housing, other than what is available from programs. And he states that there hasn't been the same treatment for Inuit and wonders why different logic was applied to two different people in one agreement.

Also, I'd just like to get a report on what the response has been to the actual report.

**Mr. Michel Roy:** Unfortunately, we don't have with us the report you are talking about.

As I said, the housing issue is being addressed through the regular programs of the department and the CMHC; they are the ones who are dealing with that issue, and we are not dealing with that issue at our level.

**Ms. Nancy Karetak-Lindell:** Even though—

**The Chair:** We're out of time, unfortunately. We'll be back to you fairly quickly.

Mr. Bruinooge.

**Mr. Rod Bruinooge (Winnipeg South, CPC):** Thank you, Mr. Chair.

Before I start with some other questions I was preparing, I just want to go back to your response, Mr. Sewell, to a question from Mr. Bagnell. You said that from the work of the Auditor General and the recommendations from that office, one thing you perhaps needed to do more of was pursuing the objectives of the agreements. I was wondering if you could elaborate a bit more on that concept, because it's not something I've heard of before.

• (1150)

**Mr. Terry Sewell:** The whole question of objectives versus obligations has been a particularly interesting discussion between us and the Auditor General.

Let me put it this way: the obligations themselves are important and are significant, and we need to regard the obligations inside land claim agreements as a critical piece. Beyond those, most of our land claim agreements state the objectives of the land claim agreement—to provide certainty of title and certainty of processes for access to resources.

Another of the objectives, once we had that certainty, would be for the economy to grow. The obligation is to put in place the regulatory regimes and to establish the certainty of title, but the question of whether those resources will be developed once you have certainty of title and the regime in place will depend on the marketplace and a variety of things outside the control of the land claim agreement. So the objective is a healthier economy as a result of the land claim agreement, but the land claim agreement does not guarantee that objective is going to be attained.

So putting in place and implementing successfully an agreement will hopefully set the stage and provide the jumping-off point for an improved economy, but they won't be the guarantee of that.

**Mr. Rod Bruinooge:** So in essence, to achieve the objectives of the agreement one might consider redefining elements like the hard details negotiated in the agreement, if they're not achieving the goals or objectives of the agreement. Is that what you're suggesting?

**Mr. Terry Sewell:** I'm suggesting that the objectives are a statement of what the parties to an agreement hope will come about as a result of the settling of the land claim agreement, but there will be many other factors not necessarily within the control of the parties to the agreement. So I'm trying to draw the distinction between those things the parties to the agreement can directly affect, and those things that are going to rely on other things happening. For instance, you can have certainty of land and title, as we do in the Yukon with many of the land claim agreements settled there, but that doesn't result in diamond mines developing in the Yukon; it requires other forces at play.

So we need to be aware of the objectives and need to make sure our actions contribute to moving towards the objectives, but the agreement and implementation of the agreement do not guarantee the objectives will be obtained.

**Mr. Rod Bruinooge:** I can see it being very challenging when an agreement is negotiated and hard details are put into it and the net result is that the objectives are not achieved, yet the deal, unfortunately, has been signed. I guess it becomes a question of

how much latitude there is in the deal or original arrangement, and whether or not the deal is open to interpretation. That's the sense of what I got from your statement.

If you look at the presentation of the Cree-Naskapi, they talk openly about this, in the sense that demographics have changed their housing requirement, whose explosion they couldn't have predicted. In essence, I guess that's something they are trying to build into this implementation process. I can see it being very difficult for your body to try to go back to the original agreement and add in these elements to accommodate a reality that you couldn't have predicted.

I'm going to move on to another part of the Library of Parliament's presentation or its document put before us.

**The Chair:** Mr. Bruinooge, we're out of time.

**Mr. Rod Bruinooge:** Oh, are we? Okay.

**The Chair:** We'll move on.

Mr. Lemay.

[*Translation*]

**Mr. Marc Lemay (Abitibi—Témiscamingue, BQ):** I'll keep it short, because I want my colleague to have enough time to put all of his questions to the witness. This situation directly concerns him. I'm trying to understand why an agreement that is being negotiated would not contain directives for its implementation. We've seen this in the case of Nunavut and other communities.

Why is there a gap of sorts and why is the implementation process seemingly so complicated? Take the Cree, for example. What's missing in their case? Am I not understanding something?

**Mr. Michel Roy:** Mr. Lemay, you've put your finger on the problem. When the agreement was negotiated with the Cree 30 years ago, the process did not involve the negotiation of an implementation plan. It was the first modern-day treaty. Since then, new agreements have been negotiated and all have contained an implementation plan. The treaty is negotiated first, followed by the implementation plan.

That wasn't the case with the Cree. Theirs was the first treaty negotiated and the government was testing the waters, so to speak. There was a mistaken belief that once the agreement was signed, implementation would follow naturally. This created considerable tension and led to some difficult relations with the Cree. However, we are working to resolve this situation. Not having an implementation plan was the real stumbling block.

• (1155)

**Mr. Marc Lemay:** Thank you.

**Mr. Yvon Lévesque:** I'm very interested in self-government and in your ongoing negotiations in the area. Are we close to reaching an agreement? How long before we can expect one?

**Mr. Michel Roy:** We are currently negotiating self-government with Nunavik, not with the Cree. We are negotiating a separate agreement with the Cree concerning an implementation plan. Then we will go one to address the issue of self-government.

**Mr. Yvon Lévesque:** So then, you're still not negotiating self-government?

**Mr. Michel Roy:** Not at this time with the Cree.

**Mr. Yvon Lévesque:** You're negotiating self-government with the Inuit. When the time comes to negotiate self-government with the Cree, will consideration be given to the fact that some Cree communities are located on Nunavik land?

Consider, for example, Whapmagoostui where more housing is needed. Money for construction could be forthcoming, but there is no room to build more housing units. Most likely, a bridge would need to be built over a river so as to make any remaining land accessible.

In a case like this, is it up to the department to provide the funds needed to build a bridge, so that additional housing could be built in the community?

**Mr. Michel Roy:** Mr. Sewell may want to say more on the subject, but the government has an O & M agreement with the Cree pursuant to which funds are available to meet specific needs. If a bridge needs to be built, I would imagine the Cree will use O & M funding, unless the need is truly out of the ordinary. In that case, they could ask us for additional funding. However, money is available to them under an O & M agreement.

[English]

**The Chair:** You have two minutes.

[Translation]

**Mr. Yvon Lévesque:** Building a bridge is a very costly undertaking. I don't think any community would have the necessary funds to build this kind of structure to span the George River.

**Mr. Michel Roy:** Under the agreement currently being negotiated by Mr. Chrétien and Mr. Namagoose, the Cree will assume responsibility for the obligations set out in the agreement. Perhaps then funds will be made available to move forward with this project.

**Mr. Yvon Lévesque:** Thank you very much.

[English]

**The Chair:** On the government side, Mr. Albrecht, please.

**Mr. Harold Albrecht:** It's more a comment, possibly, than a question.

I'm somewhat frustrated by the fact that we had the Cree-Naskapi Commission report to us, and it was clear to me that a large proportion of their talk was devoted to housing—housing needs and housing gaps. I guess I was expecting that today we would have an opportunity to focus more on that.

It's certainly no reflection on our witnesses. They weren't aware of it. But I think it underlines the fact that maybe we're missing something here in terms of getting an adequate response from the department, at least those in the department who could have addressed some of the issues that were raised as it relates to housing, and specifically talking about the 1,548 units backlogged, another 213 units that require total replacement, and another 913 units that require major renovations. We haven't had an opportunity to even address some of those issues, and I think that's unfortunate, especially given that our committee has wanted to focus on housing needs.

So nothing to the witnesses, but just a comment that I think the committee should take seriously.

• (1200)

**Mr. Rod Bruinooge:** Mr. Chair, are there a few more minutes yet?

**The Chair:** Yes, there are.

**Mr. Rod Bruinooge:** Okay.

I'm not sure if you received this Library of Parliament report, but there was something in it that was interesting to me. It was in relation to the negotiations for self-governance in Nunavik and that the Cree-Naskapi were of the view that "Canada has been derelict in its duty to protect our rights and interests," as the outcome of the negotiations "would in fact be an ethnic government having jurisdiction over a large part of our traditional lands and many aspects of our lives."

Have you noticed that actually has been the case on the ground? Are the Cree concerned about the Inuit having some degree of political governance or control over those lands?

**Mr. Michel Roy:** The information that we have up to now is that the Cree are not too concerned about that aspect of the self-government negotiations. They are kept informed. When our negotiator wants to keep them informed, they will be there. They will be participating in meetings.

The Naskapi have a different problem. It's more difficult to have some dealings with the Naskapi, but we understand that they have some issues. As I said, we will be following up on the proposal from the commission about establishing a quadripartite forum, inviting the Naskapi to participate. So we are hoping that we will be able to address their concern.

But up to now, we understand that the Cree do not have a major problem with what is going on with the Inuit right now.

**Mr. Rod Bruinooge:** What size of a population would the Naskapi be within this territory, and how would it break down in terms of political control?

**Mr. Michel Roy:** We think it's around 2,000 people.

**Mr. Rod Bruinooge:** How is that relative to the larger population?

**Mr. Terry Sewell:** The Cree population of northern Quebec I think is in the order of 14,000 or 15,000. I don't have the numbers on the Inuit of northern Quebec, actually, at this point. We can get those three numbers for the committee, if that would be of interest to you.

**Mr. Rod Bruinooge:** I guess it's just the idea of how they all tie in together—for instance, just the claim that there's concern that this one group would be under the two. So are there negotiations to break them out into their own political jurisdiction, or are they intermixed within the entire whole?

**Mr. Michel Roy:** In the kind of process we have there, around negotiations with one of the groups, we have to make sure we keep all of the three groups involved and informed, because eventually, if ever we have to amend, for example, the Cree-Naskapi of Quebec Act to reflect the new agreement, we will need the support of the three parties. So it's important for us to always be very sensitive to the needs and the perspective of all of those parties if ever we want to be successful in the implementation of those agreements.

So that's something we are keeping in mind, and we try to find ways of addressing those perspectives and those issues.

**Mr. Rod Bruinooge:** Okay.

Thanks, Mr. Chair.

**The Chair:** Madam Crowder.

**Ms. Jean Crowder:** Thank you, Mr. Chair.

I have a couple of points. One is that there has been a significant amount of talk about implementation agreements. My understanding is that there is a coalition of a number of nations that have land claim agreements around some very serious implementation issues, so I would suggest that implementation is not just a problem with Cree-Naskapi, but that it's a problem with many of the nations. That's just more of a comment.

I also think it's important that although there is a recognition that conditions have substantially improved for many people as a result of this agreement, there is still much work to be done. In the conclusion of this report, it talks about the fact that Canada has been derelict in its duty to protect their rights and interests in light of their present situation as described in the past and present reports of the commission. They go on to talk about the Guerin report and the Sparrow report, and they're talking about the duty of the federal government to act in a fiduciary capacity.

On page 42—and I think this comes to the heart of it—is the discussion around inherent rights. The commissioners made a recommendation that section 9 of the James Bay and Northern Quebec Agreement and section 7 of the Northeastern Quebec Agreement should be amended to provide for, among others, the following provisions: a full and explicit recognition of the inherent right of self-government, and a recognition of the existence and application of traditional law.

In the department's response, my understanding from this is that although the government recognizes the inherent right of self-government as existing under section 35, it has developed an approach to implementation that focuses on reaching practical and workable agreements on how self-government will be exercised, rather than trying to define it in abstract terms. The commissioners go on to talk about the fact that they're concerned about the fact that Canada's recognition of inherent right is merely a policy.

This seems to be fundamental to not only comprehensive land claim agreements, but to implementation and to further negotiations around self-government. So can you comment on whether or not inherent right is considered more than a policy from the department's perspective?

● (1205)

**Mr. Michel Roy:** On the question of inherent rights, you're right. That's the position we always took about the fact that we have a policy of inherent right to self-government. What we are trying to do in our negotiations is really to find some ways to implement that right and not trying to define, but trying to implement the right, to be practical in those terms.

Minister Prentice right now is asking us to rethink the approach in terms of recognition and he wants us to have further discussions on where we are going with the inherent right policy on self-government. There is a desire to be able to move forward with the inherent right policy.

**Ms. Jean Crowder:** How are first nations involved in this discussion? Because it's fundamental to them as nations, the inherent right to self-government, and it has been recognized quite clearly by the courts.

**Mr. Michel Roy:** We are having some discussions with the Assembly of First Nations. We have some working groups with the Assembly of First Nations, and of course through the coalition of the land claim agreements we will have some discussion. I don't say we are too far advanced in the discussions. We are starting that thinking and those discussions. But in the meantime what we want to do is really try to achieve agreements on self-government that are a practical implementation of the inherent right to self-government, so to find practical ways of implementing the self-government component.

**The Chair:** Does the government have any more questions?

We're just about out of time.

Are there questions from the opposition?

**Mr. Rod Bruinooge:** I have just a general comment and then I'll throw it back to the opposition to give them some bonus time. Maybe we can get some credit for that at some point in the future. However, I doubt it.

**Hon. Anita Neville:** I don't think we operate that way.

**Mr. Rod Bruinooge:** As a general comment in relation to negotiating treaties, negotiating land claims agreements, of course this must be difficult to accomplish. But the concept of the final agreement, of aspiring to that final agreement and trying to find a way to get to that point, where there almost doesn't need to be any further discussion between Canada and a first nations or Inuit group, because it's all settled, this would be the goal for future agreements—at least it's the goal that I'd love to see implemented—so that this is the way it's laid out. You don't ever need to call us again, because we've all agreed to these terms, and you know that you're going to be able to proceed with your own future based on these terms.

So reading this and thinking about how we need to keep going back, redefine, and come up with new terms, maybe I'm being idealistic, but I thought I'd put that out there for the day.

**A voice:** Good point.

**Mr. Terry Sewell:** May I respond to that?

What I would say is that the land claim agreement is not the whole story in any given geographic area. It's an important component, and it's trying to accomplish certain things, but there's a world outside of a land claim agreement that affects that particular geographic location.

Taking your point about wouldn't it be nice to have perfect agreements that cover everything so well, so you don't ever have to go back at it, I would raise the example of federal-provincial relations here in Canada. We're pretty clear about what the rules are and who has jurisdiction over what, but the democratic process in Canada leads to challenges that will continue to exist among governments.

I don't think there's a document that will do it for us and say we will never have any further discord, because we've captured everything in the document. It's part of the dynamic. What we have to do is just get better at the relationship part, because I think that's the key. Getting it all right is getting the relationships right.

• (1210)

**The Chair:** Is there anything more from the opposition side?

**Hon. Anita Neville:** I'm tempted to ask Mr. Sewell—

**The Chair:** You can be tempted.

**Hon. Anita Neville:** —to expand, but maybe we'll come back to it another time.

I agree with you that relationship is the key to the success. That was the success at Kelowna, if I can say it, but that's another time and another discussion.

Thank you.

**The Chair:** Thank you very much to the witnesses for your presence. We do appreciate that.

We're going to break for a couple of minutes, and then we'll reconvene.

*[Proceedings continue in camera]*

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