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**EVIDENCE**

**Thursday, November 24, 2011**

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**Chair**

**Mr. Chris Warkentin**



# Standing Committee on Aboriginal Affairs and Northern Development

Thursday, November 24, 2011

• (1105)

[English]

**The Chair (Mr. Chris Warkentin (Peace River, CPC)):** We will call this meeting to order. We're a little lopsided in terms of the number of our colleagues here, but I think we'll proceed with the briefing.

This is the 15th meeting of the Standing Committee on Aboriginal Affairs and Northern Development. Today we again have departmental witnesses here to talk about the land management boards and land-use planning, specifically as it relates to modern treaties.

Today we have Stephen Gagnon and Paula Isaak. Thank you for coming back. I'm sure you'll be hearing from us in the next number of months.

We'll turn it over to you and, of course, we'll have questions to follow. Thank you.

**Ms. Paula Isaak (Director General, Natural Resources and Environment Branch, Department of Indian Affairs and Northern Development):** Thank you, Mr. Chair, and good morning.

As you mentioned, I'm accompanied by my colleague, Stephen Gagnon, the director general of our claims implementation branch. I'm the director general of natural resources and environment in our northern affairs organization.

I would like to thank the committee for this opportunity to speak about land management regimes in the north. Today I will focus my remarks primarily on the Northwest Territories and Nunavut, as land management and land-use planning were devolved to the Yukon government in 2003.

We have made significant progress in concluding land claim agreements throughout the north, and we are working together with territorial and aboriginal governments to implement these agreements. Implementing our northern land claim agreements requires a long-term commitment to working with the agreed institutions of public government or co-management boards, enacting necessary legislation and respecting the new relationship created through the agreements. Successful implementation of the agreements will produce positive and beneficial results for aboriginal people, northerners, and all Canadians.

Northern land claim agreements, which have been negotiated by Canada, recognize the traditional economic and spiritual relationship between aboriginal people and the land. They provide measures through which the parties to these agreements achieve certainty with respect to the ownership and use of lands and other resources. The agreements also define processes to ensure aboriginal people

participate in decision-making concerning the use, management, and conservation of land, water, and resources throughout their traditional territories.

In Canada's north, the Mackenzie Valley Resource Management Act, the Territorial Lands Act, and provisions in the various land claim agreements establish the framework for land management in the NWT and Nunavut. Northern land claim agreements and their supporting legislation establish integrated co-management systems to manage public and private lands and waters. Co-management boards are responsible for developing land use plans and reviewing development proposals, and some also have the responsibility to issue certain land and water authorizations.

In the NWT, there are Mackenzie Valley-wide boards as well as regional boards for each settlement region that address their issues. Valley-wide boards include the Mackenzie Valley Land and Water Board, the Mackenzie Valley Environmental Impact Review Board, and the NWT Water Board. There are five regional boards: the Gwich'in Land and Water Board, the Sahtu Land and Water Board, the Gwich'in Land Use Planning Board, the Sahtu Land Use Planning Board, and the Wek'eezhii Land and Water Board.

The Inuvialuit Settlement Region is managed under a separate regime with two additional boards: the Environmental Impact Screening Committee and the Environmental Impact Review Board, which conduct environmental assessments and activities in that region.

In Nunavut there are three territory-wide boards, namely the Nunavut Impact Review Board, the Nunavut Planning Commission, and the Nunavut Water Board, which have a role in land and water management and land-use planning throughout the Nunavut Settlement Area.

Combined, the north's regulatory regimes are designed to promote responsible environmental management and to balance industry's needs for investment certainty and predictability with the rights of aboriginal groups to make decisions that affect their lands and interests.

Over the years, there have been a number of reviews and reports about the northern regulatory regimes that looked particularly at the effectiveness of the regulation of land and water in the NWT. Criticism centred mostly on process issues and highlighted that existing processes were lengthy and unpredictable and that legislation and regulations were incomplete or inconsistent, pointing to a need for increased federal leadership.

In response, Aboriginal Affairs and Northern Development Canada initiated the northern regulatory improvement initiative in 2005 to focus on key changes to areas of federal responsibility. In May 2010, the government announced the action plan to improve northern regulatory regimes with three objectives: providing more efficient and effective processes through legislative and regulatory change, enhancing environmental monitoring through implementation of the NWT cumulative impact monitoring program and the Nunavut general monitoring program, and reflecting a strong aboriginal voice.

Since the announcement, development of new legislation is well advanced. The minister of AANDC is looking to introduce the proposed Nunavut Planning and Project Assessment Act as soon as possible, and is targeting 2012 for introduction of the NWT Surface Rights Board Act. Work on amendments to the Mackenzie Valley Resource Management Act is also well under way. We anticipate that amendments to a number of other regulations should be completed by the fall of 2012. We have also designed, developed, and are now implementing the NWT cumulative impact monitoring program and the Nunavut general monitoring program. Significant stakeholder engagement is ongoing in all these initiatives.

Experience in the north and elsewhere shows that environmental management and regulatory processes are enhanced by sound planning. Land-use planning processes guide decision-making related to the conservation, development, and management of land, water, and natural resources. Operating at a regional scale, land use plans define where resource developments may take place and under what conditions.

Using a conformity determination approach, land use plans establish regional zones and broad criteria to evaluate and screen project proposals before they proceed to environmental assessments or regulatory permitting. Generally speaking, zoning provisions identify areas that are well suited for industrial development; areas that can support industrial development while respecting some cultural or ecological restrictions; and areas where, for established cultural or ecological reasons, development should be prohibited.

To conform with screening requirements identified in the land use plan, a project proposal would have to demonstrate that it is located in a suitable area and that mitigation measures for environmental management have been adequately considered. Once a proposed project is deemed to have conformed with the land use plan, the application would proceed to the environmental assessment and regulatory permitting phases to sequentially identify and confirm the more detailed environmental mitigation and management measures.

Effective land use plans are expected to appropriately balance environmental protection, promote social and cultural values, and maintain opportunities for economic development.

Within the NWT and Nunavut, four regional planning processes are currently under way. The Gwich'in plan, the only approved plan in place to date, is undergoing a five-year review, which is expected to be submitted to the Minister of Aboriginal Affairs and Northern Development by the board very soon. The Sahtu plan is in its third draft. The board is currently considering comments from parties to the plan, and a final draft is expected in the spring of 2012. For the Dehcho region, an interim Dehcho plan is currently being discussed as well.

In Nunavut, approved regional plans are in place for the North Baffin and Kivalliq regions. A draft plan is in place for the West Kitikmeot. Planning work has been completed in the South Baffin region. This work is currently being updated for incorporation with a territorial-wide Nunavut land use plan, which is currently under development.

Consistent with co-management, land use plans require approval by federal, territorial, and aboriginal parties. Once implemented, these plans play a valuable role in development of effective, predictable, and clear regulatory regimes. From a land management perspective, the Government of Canada considers land-use planning an important tool for balancing investment and development opportunities with environmental stewardship and community aspirations.

We continue to build on our successes and learn from our experiences to improve our performance. The investments we are making will help ensure that the regulatory systems in Canada's north work in a more timely and efficient manner to allow for sustainable resource development that is balanced with environmental protection. Through the advancement and the predictability and certainty of the regulatory processes, these investments respond to industry needs, as well as show an ongoing commitment for comprehensive land claim agreements and high environmental standards.

I thank you very much for this time to present our work, and I welcome any questions you may have.

•(1110)

**The Chair:** Thank you very much.

Ms. Duncan, for seven minutes.

**Ms. Linda Duncan (Edmonton—Strathcona, NDP):** Mr. Bevington is going to lead on this.

**The Chair:** Mr. Bevington, for seven minutes.

**Mr. Dennis Bevington (Western Arctic, NDP):** Thank you, Mr. Chair.

And welcome to the witnesses.

Some of the material that you provided us with here today is very interesting, with the different acts that you're proposing to bring forward.

How much consultation has been done with first nations and the NWT/Nunavut government on these acts that you're proposing to bring out in the spring of 2012 or the fall of 2012?

**Ms. Paula Isaak:** Consultation has been ongoing on all the pieces of legislation. The NPPA Act that I referred to in NPPA has had a number of years of consultations with NTI, the Government of Nunavut, the Nunavut Planning Commission, and the Nunavut Impact Review Board. The consultations have been extensive and over a number of years.

Consultations are currently under way on the NWT Surface Rights Board Act. They're in the second round of consultations on that proposed act.

**Mr. Dennis Bevington:** Can you provide some details to us on this Surface Rights Board Act. If it's coming out in the spring of 2012, can you provide some details as to the major thrust of it?

**Ms. Paula Isaak:** The NWT Surface Rights Board Act is the last piece of legislation to be created in the NWT. There are surface rights board acts in both Nunavut and Yukon, which provide a forum for the management of access disputes between a developer and landowner, for example. Should there be a dispute, it provides the legislative framework through which access discussions can occur, so that the landowner—

• (1115)

**Mr. Dennis Bevington:** Is it the final arbitrator of the dispute?

**Ms. Paula Isaak:** I'd have to get back to you on all the details of the act. I'm sorry, I don't have all the details of the act in front of me.

**Mr. Dennis Bevington:** This act is going ahead in the spring of 2012?

**Ms. Paula Isaak:** That's the target. The work is well under way.

**Mr. Dennis Bevington:** And you don't know whether it's the final arbitrator?

**Ms. Paula Isaak:** I'm not an expert in that particular act, but I'd be happy to get more information for you.

**Mr. Dennis Bevington:** Okay. Very good.

You talked about improvements to the Mackenzie Valley Resource Management Act, the regulatory process. Almost every group that brought forward issues said land use plans were the key element in that, yet in your introduction here, you didn't indicate that as part of the government's action plan. You mentioned legislative and regulatory plans, enhancing environmental monitoring, and reflecting a strong aboriginal voice.

Don't you agree that most of the concerns prefaced land-use planning as one of the major elements that needed to be done?

**Ms. Paula Isaak:** Land-use planning has been identified as a key element of the regulatory regime, and we are continuing those discussions with all the parties. That is continuing and hasn't changed at all.

**Mr. Dennis Bevington:** But you don't identify it as being one of the objectives in the government's action plan?

**Ms. Paula Isaak:** The announcement included three specific areas. It didn't include land-use planning specifically, but land-use planning is continuing.

**Mr. Dennis Bevington:** Even so, every consultative group that brought that forward talked about land-use planning. Has the government ignored that in terms of its objectives?

**Ms. Paula Isaak:** Land-use planning discussions are continuing. They are continuing, so they are—

**Mr. Dennis Bevington:** But it was not in its objectives, even though it was in every consultative effort made by people in the Northwest Territories?

**Ms. Paula Isaak:** It was not a specific—

**Mr. Dennis Bevington:** Including the McCrank report, which had it as the number one recommendation?

**Ms. Paula Isaak:** It was in the McCrank report, absolutely, and the discussions are ongoing in all the land use plans.

**Mr. Dennis Bevington:** Okay.

How has implementation been on land issues with the Inuvialuit to date?

**Ms. Paula Isaak:** I'd have to defer to my colleague on that.

Stephen?

**Mr. Stephen Gagnon (Director General, Implementation Branch, Department of Indian Affairs and Northern Development):** Do you have a specific question, sir?

**Mr. Dennis Bevington:** The Auditor General, when she reviewed Inuvialuit claims implementation, made some very strong references in terms of the land management regime and the failure of the federal government to deal with land management issues in a timely fashion.

**Mr. Stephen Gagnon:** We have had a fair bit of scrutiny on the implementation issues from the Auditor General, and various parliamentary committees. Recently, the Auditor General came out with a report saying that we were making satisfactory progress in a number of areas, and I don't think I'm overstating it by saying some of the Inuvialuit follow-up is among the things on which we are making progress.

I've just been handed a note saying that the point of the audit was about land exchanges, and we have made some progress there. That was one of the things that was followed up on in the audit.

**Mr. Dennis Bevington:** Can you provide us with more details on the work that's being done on the Surface Rights Board Act?

**Ms. Paula Isaak:** I can provide you more details. I'll have to follow up. It is being consulted.

**Mr. Dennis Bevington:** And perhaps you could also provide details on a consultation schedule, because I know that last summer in the talks that I had with aboriginal groups across the north, there was a real sense that they didn't know what this was about. They were very concerned about the change in authority that it might entail for their already existing arrangements.

I would very much like to see those details. I don't know how much detail you can provide us, to this committee, but I think it would be very valuable.

**Ms. Paula Isaak:** We will follow up, yes.

**The Chair:** You have just one minute left, if you have you have another question.

Ms. Duncan, just a short question.

**Ms. Linda Duncan:** Thanks for your brief, it's really helpful.

On your reference to the further work on implementing the Northwest Territories cumulative impact monitoring program and the Nunavut general monitoring plan, I recall that the commissioner for sustainable development basically castigated the government for failure to monitor. In fact, I think it was the Auditor General, Sheila Fraser, who castigated the government for failure to do cumulative impact assessment of developments in the Northwest Territories and for failure to deliver on federal responsibilities to monitor.

Is this new work in response to that? Does it address her recommendations and report?

• (1120)

**Ms. Paula Isaak:** Yes, it coincides very much with that recommendation. The NWT cumulative impact monitoring program has been in place since 1999, and secured funding was found in 2010 to ensure that there was an ongoing program for—

**Ms. Linda Duncan:** So a decade later the money was found?

**The Chair:** Excuse me, Ms. Duncan, your time has long expired.

Mr. Rickford for seven minutes.

**Mr. Greg Rickford (Kenora, CPC):** Thank you, Mr. Chair. I appreciate this opportunity to work through some foundational briefings, particularly with the branch or branches that deal with a number of issues that we see and feel so far need to be addressed.

I appreciate your time here today. I'm going to move very quickly to a couple of questions. You mentioned the Gwich'in plan and the draft Sahtu land use plans. I just want to revisit very quickly, if I may, Paula, the Nunavut North Baffin and Kivalliq regions. I understand that a draft plan is in place for West Kitikmeot as well. This work is currently being updated for incorporation within the territory-wide Nunavut land use plan.

This is something that we come up against so often, in terms of issues and challenges. It's a matter of ensuring that these regions can ultimately be fully integrated, along with the great work of the Nunavut Planning Commission, towards something with consistency and certainty. Are there any current issues or challenges that you could comment on briefly, or things that we should be thinking about?

**Ms. Paula Isaak:** I think everybody recognizes the importance of having those plans in place. They are driven by the various

commissions across the north. It's complex and challenging work, so they often take more time than originally planned, but it's careful and important work. The planning commissions are on track generally with the work, taking in as much input as possible from all the parties and communities. It's a very consultative process and so it takes some time, but it's careful work.

**Mr. Greg Rickford:** Thank you.

I'll just move on to Yukon for a quick second. The federal responsibility for land-use planning was transferred to the Yukon territorial government as part of the 2003 devolution agreement. What is the approach to land-use planning in Yukon? Again, very briefly, if you could just perhaps enlighten us on some of the distinctions, if there are any, we might see there as opposed to in the other territories.

**Ms. Paula Isaak:** There is a Yukon land-use planning commission. I'm not sure of the level of activity right now because it's something that we're a bit distanced from, given the devolution agreement. I know some regional plans are under way in Yukon. There's one approved and they are working on other plans, but they're working at the pace set by the parties involved. I believe it's an appropriate pace for the governments and the parties involved. I'm not familiar with exactly where the planning commission is right now.

I don't know, Stephen, from your implementation work, whether there's anything you could to add on that.

**Mr. Stephen Gagnon:** No.

As Paula pointed out, it's now more of an issue between the territorial government and the various first nations governments in Yukon. We have a much smaller role.

**Mr. Greg Rickford:** I'll leave it there, then, because I think we have the means to follow up in more depth.

I want to turn to land-use planning supporting economic development. Appreciably in your speech, Paula, you identified environmental protection, the promotion of social and cultural values, and you said that opportunities for economic development needed to be maintained. I would respectfully submit that this should include maintaining and increasing the capacity for economic development, because I think that's what the study is going to want to take a look at in order to put them in the best position with these tools we're talking about.

Just very quickly, so far, what are some of the similar and perhaps unique matters that have arisen with respect to environmental protection and with respect to the promotion of social and cultural values? And what, if any, economic development characteristics for the maintenance and capacity for growth are emerging in the important work you're doing so far?

• (1125)

**Ms. Paula Isaak:** I think each of the commissions tries to find the appropriate balance for its particular region, recognizing that there are unique ways, whether through special management zones or other kinds of zoning provisions, to balance the ecological and cultural values with a community desire for economic development as well.

So each of them uses, I would say, different kinds of mechanisms, largely within three different kinds of zones—prohibited areas, open areas, or areas that are a bit of a mix of both. That's a key way the communities and the commissions try to balance those interests, but doing that is really driven very much by the community interests. Then, obviously, others are involved, including industry and governments. There's an open dialogue and an attempt to try to find the right balance, using as much information as possible to understand the ecological interests, the cultural interests, and the potential opportunities for economic development.

**Mr. Greg Rickford:** I guess the point is that they would vary to a certain extent, but the purpose of the commissions is to assemble the information and provide a framework, if you will, for something that all groups can buy into, through which they can have the ultimate impact, with the superordinate goal of a vast regionally integrated model, summarily speaking.

**Ms. Paula Isaak:** That's correct.

**Mr. Greg Rickford:** I just want to refer to your comments on the northern regulatory improvement initiative. You mentioned three objectives, Paula. I may not get to all of them here, but I'll try my best.

Number two involves environmental monitoring through implementing the NWT cumulative impact monitoring program. Are there any issues or challenges that you want to comment on briefly?

**Ms. Paula Isaak:** No, it's now fully developed and is being implemented. Proposals are being funded. I think this year there are about 40 being looked at. So it's significant.

**Mr. Greg Rickford:** Forty is a significant number.

And the third objective is to reflect a strong aboriginal voice. This one is a little bit vague in terms of progress to date. Can you give us concrete examples and perhaps some feedback from the groups?

**Ms. Paula Isaak:** That is a foundational pillar to ensure that all the activities do respect land claim agreements and that aboriginal groups are involved. It's a foundational piece that underpins all of the activities, whether legislative or monitoring, so they have been actively involved.

**The Chair:** Thank you.

Mr. Payne, you have seven minutes.

**Mr. LaVar Payne (Medicine Hat, CPC):** Thank you, Chair. Through you I'd like to thank the witnesses for coming out today. I'm

very pleased to have them here to provide information to us. It's really important to our ongoing study.

For my first question, how does the department address the capacity issues in resource management for the boards?

**Ms. Paula Isaak:** I will ask Mr. Gagnon to respond.

**Mr. Stephen Gagnon:** Thank you, Mr. Chair.

Thank you for the question, sir.

As Paula laid out, these are institutions of public government that are at arm's length from the federal government, so our role often falls to providing different kinds of support. We don't have the lead in developing land use plans, for example. That goes to the appropriate commissions, depending on the territory. But we do provide significant core funding and additional funding as and where needed. We've also provided some funding to a group in NWT, for example, that provides capacity development, the Board Forum. It helps train board members and that type of thing.

We're also mindful that sometimes funding delays have the potential to hamper development or the business of these boards, and we're looking to find more efficient ways of getting funding out to the groups so they can plan their year accordingly. A lot of it is financial, but I think we're trying to do it as efficiently as possible. We're looking to improve our efficiency there.

**Mr. LaVar Payne:** Yes, and I think we all agree that those boards certainly need help, either financially or in terms of being able to put together the necessary programs to ensure that the planning is appropriate.

Next, how is land management different in the north? Certainly there are major differences between the north and the south and between the provinces and the territories. If you could explain that to us, I think that would be very beneficial for the committee.

• (1130)

**Ms. Paula Isaak:** There are some key distinctions. I know you've heard from my colleagues in Lands and Economic Development about some of the issues in the south. Probably the key distinctions have to do with the fact that there are few reserves in the north and a significant number of land claim agreements. Those are key distinctions between the north and the south.

The Government of Canada sometimes plays a provincial-type role with respect to land and resource management in the north. I'm not talking about Yukon. The crown land is Government of Canada crown land, as opposed to provincial crown land. There are other land tenures, if you will. Aboriginal governments own significant amounts of land, whether it's Inuit-owned land or aboriginal-owned land. There are territorial hamlet lands as well, similar to municipal lands down south, and then there's private land ownership. There's a mix of lands, but probably the biggest distinction is the one between reserve and non-reserve, as well as the number of land claim agreements that have been settled in the north and the aboriginal land tenure that exists.

**Mr. LaVar Payne:** Could you also touch on Yukon? You said that there were some differences between the territories and Yukon.

**Ms. Paula Isaak:** Land and resource management was devolved to the Yukon government in 2003, which means the Yukon government plays a provincial-type role. They are the land and resource manager. The federal government has small pieces of land left in Yukon. In addition, there are 11 land claim agreements in Yukon. There's quite a large aboriginal land ownership and there are municipalities, private land ownership, etc. The biggest distinction is that Canada does not manage the land and resources in Yukon any more.

**Mr. LaVar Payne:** There are some other interesting comments you made about the minister possibly reintroducing the Nunavut Planning and Project Assessment Act in the spring of 2012. I don't know if there's anything more you can tell us about that or the NWT Surface Rights Board. If you have any further details you could provide us on that, it would be important for us to hear.

**Ms. Paula Isaak:** I can provide you with more detail about those two pieces of legislation. NUPPAA is an act, a final legislative piece for the implementation of the Nunavut Land Claims Agreement, which sets out the land-use planning and environmental impact review process for Nunavut.

The process is currently under way. It's guided by the language in the land claims agreement, as opposed to being guided by a piece of legislation. This is the piece of legislation that sets out the processes. It provides the leading thinking about work involving one process and one assessment, where there is one entry point for submissions by proponents. It goes through a land-use planning conformity check. Then it goes to the impact review board for assessment.

It provides for a seamless process of land-use planning conformity, as well as an environmental assessment process. I can get you much more detail about the act. It was introduced in May. The hope is to reintroduce it in this Parliament.

**Mr. LaVar Payne:** What about the participants? Who's been involved in that whole process?

**Ms. Paula Isaak:** There has been extensive consultation. Canada, Nunavut, Nunavut Tunngavik Inc., the planning commission, the impact review board, all of the parties affected by the legislation have participated extensively and are supportive of it. Industry has also been consulted throughout, and they are supportive as well. It has been a lengthy consultative process.

**Mr. LaVar Payne:** Thank you.

**The Chair:** Thank you.

Thank you, Mr. Payne.

Ms. Duncan, I believe you'll be sharing your time with Mr. Genest-Jourdain. When you have time, pass it over.

**Ms. Linda Duncan:** Thanks, Mr. Chair.

Thank you very much for the heads-up. We now know there are at least three additional pieces of legislation that will potentially be referred to our committee some time after Christmas. It would be helpful if you could send us information on the process and organizations and individuals who were consulted in the development of those three pieces of legislation.

I have three quick questions for you.

You mentioned the Mackenzie Valley. One of the key mechanisms for the development of the Mackenzie basin is the Mackenzie basin agreement. There were two years of discussion on that agreement in the environment committee in the last Parliament. We heard very strong presentations from the Northwest Territories Minister of Finance and Environment. He was completely disturbed that the federal government had shown no leadership in moving forward with the commitments under that agreement. I notice that is not mentioned here. He brought his concerns to our committee, and you might want to refer to the proceedings on that. He testified in Edmonton a couple of years ago. He was concerned that the Northwest Territories government was not being consulted on the approval of oil sands projects. He was concerned about both the air emissions and the water impacts on the Mackenzie basin because, of course, the Athabasca flows into the Mackenzie. I don't see that anywhere in here. There is also a need to look at external impacts.

Second, on the Mackenzie River basin, is the Department of Aboriginal Affairs and Northern Development an active partner in that? If so, have they been making recent appointments of first nations and other persons to that board?

Third, in the last two throne speeches there has been a commitment to streamline regulatory approvals in the north. If I look at your language on page 9, it appears that this legislation is moving forward and that the initiatives are targeted at this timely, efficient development in the north. Is all this legislation about streamlining? To me, streamlining is reducing the number of reviews. I'd be curious to know what directions you're being given on measures for development in the north.

In the vacuum of the Nunavut piece of legislation, how are reviews of the mines in Nunavut being undertaken?

•(1135)

**Ms. Paula Isaak:** I'll start with your questions about the Mackenzie River basin. I apologize in advance that I'm not an expert on the Mackenzie River Basin Agreement, so we'll have to get back to you on some details of that.

We have a member on the Mackenzie River Basin Board. I know there is aboriginal participation, but I'm not sure who appoints members and what the status of that is. I don't have a lot of details, but we can follow up with information on that.

You mentioned the issue of streamlining. The idea is that the legislative amendments and some of the regulatory amendments and the new legislation are intended to streamline and not add more processes. They're intended to create certainty around what processes there are, to find where there can be efficiencies in some of the processes under way and to put them in legislation and create a complete structure.

One of the criticisms we heard from Neil McCrank's work was that the regime wasn't complete, resulting in some potential gaps in the system. So part of the new legislation is to fill in gaps and to try as much as possible to make the legislation align so that there is a streamlined approach. That's the intention.

On whether there is a vacuum in Nunavut in the absence of this legislation, there isn't a vacuum right now. Assessments are currently under way. The Nunavut Impact Review Board is very active. They are guided by the language of the Nunavut Land Claims Agreement itself. It sets out the process, but not in a very detailed fashion. So the legislation is intended to set out the process and provide guidance in a detailed fashion in a legislative form. There is no vacuum, though.

**The Chair:** Thank you very much. Your time has expired.

Mr. Clarke, you have five minutes.

**Mr. Rob Clarke (Desnethé—Missinipi—Churchill River, CPC):** Thank you, Mr. Chair.

I thank the witnesses for coming in today.

I have just one question, really. What is the current status of negotiations on the agreement in principle for when devolution is going to happen?

•(1140)

**Ms. Paula Isaak:** The devolution agreement in principle was signed in January 2011 by Canada, the Government of the Northwest Territories, the Inuvialuit, and the Northwest Territory Métis Nation. Since that time, and particularly since the summer, negotiations have been ongoing toward a final agreement. Those negotiations are progressing as well as the table can make them progress, with a view to having a final agreement in an appropriate amount of time. The negotiations are continuing.

**Mr. Rob Clarke:** When did the final negotiations commence?

**Ms. Paula Isaak:** They commenced around June 2011, shortly after the signing.

**Mr. Rob Clarke:** They will continue until—

**Ms. Paula Isaak:** They will continue until a final agreement is struck.

**Mr. Rob Clarke:** Right.

The department continues to manage the lands.

**Ms. Paula Isaak:** In the interim, nothing changes as far as land management goes. The department continues to manage the land.

**Mr. Rob Clarke:** They manage it with the territories and the responsibilities of—

**Ms. Paula Isaak:** It is with the boards, yes.

**Mr. Rob Clarke:** Is there any effective date?

**Ms. Paula Isaak:** There is no set effective date for a final agreement. Until one is reached, it is difficult to predict what it would be.

**Mr. Rob Clarke:** Could you provide some clarification on the regulatory regime with respect to devolution? Some concern has been expressed about the system of sharing the decision-making responsibilities among federal and territorial jurisdictions. I'm hoping you can provide some insight on that.

**Ms. Paula Isaak:** I'm not sure I'm answering your question completely appropriately. The current land management regime continues as it is until such time as that changes as a result of a devolution agreement and devolution legislation.

Stephen is going to add to this.

**Mr. Stephen Gagnon:** If I understood your question, sir, in a large sense, the federal government is looking to the devolution agreement to transfer more control to local governments, consistent with the approach in the northern strategy that Paula talked about.

I think we have a pattern for that. Canada has already done this with the Government of Yukon. What you see, at the end of the day, is a diminished role for the federal government in actual decision-making on the ground and more of that being done by the Government of the Northwest Territories. Then, depending on the land claims, the claim groups would have a say in accordance with their agreements.

I'm not sure if that is getting to the heart of your question.

**Mr. Rob Clarke:** Back in 2009, a departmental audit indicated that there was a more positive view of the regulatory regime. I'm just wondering if you could comment on the audit findings.

**Ms. Paula Isaak:** I'm sorry, I missed something.

**Mr. Rob Clarke:** Back in 2009, the department did an audit of the regime. I'm just wondering if you could provide any information on those findings.

**Ms. Paula Isaak:** I can't speak specifically of those findings in 2009. There were significant audits, as you mentioned, of the regulatory regime, and we have worked to address all of the findings of the audits. The action plan is intended to address a number of those findings on filling legislative gaps and on streamlining some of the legislation. Those audit findings emanating from 2005 to 2010, and others are being addressed. To a large extent, they have been addressed through a number of activities as part of the regulatory improvement initiative and as part of ensuring that the environmental monitoring programs are in place, and those types of things.

**The Chair:** Thank you, Mr. Clarke.

[Translation]

Mr. Genest-Jourdain, the floor is yours for five minutes.

**Mr. Jonathan Genest-Jourdain (Manicouagan, NDP):** I gather from your remarks that environmental considerations are a daily concern for you as you do your job. Do you have standard documents, drafted either by communities themselves or in collaboration with them, that deal with the environmental management of resources? Is it possible for you to send those documents to us?

My other question deals with the Northwest Territories cumulative impact monitoring program and the Nunavut general monitoring plan. How many people do those programs have on staff? Does that mean there is a physical presence on the ground? Or are they simply involved in administrative work?

• (1145)

**Ms. Paula Isaak:** I will answer in English.

[English]

The environmental monitoring programs have a variety of activities that have been and will be funded, involving work on the ground as well as both physical and non-physical research. It really is very much community-driven as to what the monitoring programs will provide, and so it very much depends on the proposals submitted to a working group made up of government, as well as aboriginal and stakeholder representatives. So it very much varies from year to year based on the kinds of proposals that are being submitted, but it's intended to be quite general and cover a variety of activities.

[Translation]

**Mr. Jonathan Genest-Jourdain:** Have any environmental management plans been drawn up? Are there any documents we can have? I ask because this is all a bit abstract at the moment. I would really like to see how it looks on paper. Would you have any documents you could send us?

[English]

**Ms. Paula Isaak:** We can follow up with some documents with more detail on that for you.

[Translation]

**Mr. Jonathan Genest-Jourdain:** Thank you.

[English]

**The Chair:** There is a little bit of time if anybody else....

Go ahead, Mr. Bevington.

**Mr. Dennis Bevington:** Talking about the AIP on devolution, you made an agreement in principle on devolution. Now, that's with the territorial government. The territorial government has indicated in letters to you that they don't see any requirement for legislative changes to the Mackenzie Valley Resource Management Act. If you've entered into an agreement in principle on resource development with them, on the disposition of the control over resources and land, why are you now countenancing changes to the legislation, when the party that you've agreed with in principle is not interested in them?

**Ms. Paula Isaak:** I will say that my group is not responsible for devolution, so I can't speak to what's happening specifically at that table. But all aspects of the agreement are under discussion amongst the parties at the main table for devolution. So they will have ongoing discussions around all aspects of the AIP.

**Mr. Dennis Bevington:** Now, with the first nations, does the department recognize its responsibility to first nations, in terms of their control over resources and land? Since all of the first nations with settled land claims in the region and those who are still settling land claims did not agree to sign the devolution AIP, is the government representing their interests here?

**Ms. Paula Isaak:** As I say, I can't speak to what's happening at the devolution table. What I do know is that the land claim agreements, the agreements that are in place, are fully respected throughout the process.

**Mr. Dennis Bevington:** Are you responsible for the rights of first nations on land management and resource issues? Is your department responsible for that?

**Mr. Stephen Gagnon:** Where you have a land claim, the first nations or the groups themselves—including in the case of the Inuit—are responsible for their own views and for making sure their claims are respected. So the Government of Canada has a role right now that may change through devolution. Presumably, the Government of the Northwest Territories will be able to make its own decisions on how it sees the whole package of different kinds of initiatives going on.

**Mr. Dennis Bevington:** But you're putting forward changes—

**The Chair:** Mr. Bevington, your time has expired, and I'm afraid that if I let you go on, it will extend beyond that.

Now we have Mr. Rickford for five minutes.

**Mr. Greg Rickford:** Thank you, Mr. Chair.

Folks, we spoke briefly, in one of my colleague's line of questioning, about NUPPAA. This will be a piece of legislation that we're going to deal with in some way, shape, or form in the not too distant future, and I was struck by your words to the effect it would be the final implementation piece for Nunavut land-use planning.

This brings to mind a recent piece of legislation that we dealt with in northern Quebec, called the Eeyou Marine Region Land Claims Agreement. I should remark for the record on the tremendous co-operation, from all parties, in expediting this. Similarly, it was a final piece of legislation that had been going on for some time.

Paula, you mentioned words to the effect that this represented the leading thinking around an integrated seamless land use plan.

We may revisit these questions, if in fact we deal with it at committee at this time, but this particular land claim agreement deals with a number of provisions in the bill that are not reflected in the agreement. They are necessary to complete a sound and robust planning and environmental assessment regime, which is something we take very seriously.

What do those provisions include? Could you highlight those for us?

• (1150)

**Ms. Paula Isaak:** Do you mean the provisions that are in the bill but not in the agreement itself?

**Mr. Greg Rickford:** Yes.

**Ms. Paula Isaak:** Right. In order to make the legislation as robust as you say, there are some emergency provisions. They allow for emergency activities to take place in situations where there are transboundary projects. There are provisions in the bill to allow for a seamless assessment of those.

There were some inspection and enforcement provisions put into the act that are not specifically set out in the agreement. The agreement, as I mentioned in a previous answer, sets out the process but doesn't set out a lot of the details. So it was important that the bill set out a number of details that were part of the spirit of the agreement and reflect what a legislative process needs to include.

As well, there are provisions around timelines for decisions, which are key. Some of those timelines are timelines on the processes the board undertakes, as well as what the minister undertakes in his decision-making roles.

Those are some of the key aspects in the bill that aren't necessarily in the agreement.

**Mr. Greg Rickford:** I would suspect then, Paula, that in order for this to be a nimble, flexible, responsive piece of legislation, there would also be provisions to deal with transitional and consequential amendments. I'm thinking also of things like public registries perhaps, and notification, and written reasons they may have on that.

**Ms. Paula Isaak:** Absolutely.

**Mr. Greg Rickford:** Could you expound a bit on why that is important?

**Ms. Paula Isaak:** Yes, those are common aspects of a piece of legislation.

Again, they're not reflected in the agreement because the agreement wasn't written in legislative language. Transitional provisions are important so that there will be a seamless transition from current activities and process to a legislatively guided process. Those are key, and there are always consequential amendments to other pieces of legislation that are required.

**Mr. Greg Rickford:** Thank you for that. That's important.

I could delve into this, but I think in my last half minute or so I'll make the link to the CanNor agency in terms of supporting our broader government objectives and initiatives across the north.

In your view, is this a key legislative framework to the coordinating role that the CanNor agency is in place and positioned to fulfill?

**Ms. Paula Isaak:** CanNor, and particularly the northern project management office, is a key aspect of the regulatory improvement initiative. While CanNor does not manage those legislative tools, they certainly can help assist all the regulators who manage that regulatory process and all parties in working through the regulatory processes. They're key partners in implementing all of these pieces of legislation.

**The Chair:** Thank you very much. I appreciate the testimony today and appreciate the questions that were asked.

Ms. Isaak, and Mr. Gagnon, we appreciate your testimony today and I'm sure that we'll hear from you again before our study is complete.

Colleagues, I will suspend the meeting now so that we can set up for the next round of witnesses.

The meeting is suspended.

• (1155)

\_\_\_\_\_ (Pause) \_\_\_\_\_

• (1200)

**The Chair:** Committee members, I'm going to call the meeting back to order. We do have our witnesses assembling for the second hour of our meeting. The second round of witnesses are no strangers to our committee.

Ms. Buist, Mr. Beynon, and Mr. Johnson, thank you for coming back again on a different subject today—but, as I've assured you before, we'll probably see you again before the committee has done its work. Thank you so much for coming again.

I understand that the introductory remarks weren't translated, colleagues, in time for them to be distributed at committee, but there's been an assurance that the documents will be circulated to committee members once they are out of translation.

We'll turn it over to you now, and as per normal we'll hear from you and then we'll no doubt have questions.

**Mr. Andrew Beynon (Director General, Community Opportunities Branch, Department of Indian Affairs and Northern Development):** Thank you. It is our pleasure to be back before the committee today. I was hoping that my wife might actually attend during this lunch session, but she hasn't made it yet.

Today, what we're going to talk about is the subject of land management programs on reserve. We're going to take you through the legal responsibilities associated with administration of reserve lands, describe the programs that have been established to support first nations in managing their lands, and also try to discuss with you as a committee some of the potential trends for the future where we think we would be taking programming.

The first point that I wanted to talk a bit about is lands administration as compared to lands management. There are many first nations that desire complete autonomy in managing their lands, either under comprehensive self-government arrangements or under specific lands authority provided for under the first nations land management regime. However, it's very important to know that there remain many first nations that do not want to terminate Canada's role in respect of lands under the Indian Act. Despite the limitations imposed by the Indian Act, these first nations want Canada to remain involved and consider that Canada owes specific fiduciary obligations related to reserve lands.

Even with those first nations that prefer to have Canada involved with reserve lands, it is important to note that there has been a considerable evolution over the years in the roles and responsibilities of Canada, or this department, and first nations in respect of land management on reserve. As a result, there has been considerable change in the department's lands programs and the importance of the topic today.

At one time, Canada undertook virtually the entire range of land management functions, including a significant role in deciding upon the nature of land development, the terms of land deals to be negotiated with third parties, as well as the administration of those land arrangements. At that time, there was very little role for first nations in the day-to-day decision-making.

Times have changed, even though much of the language of the Indian Act has not evolved and the department's role in lands is now more limited. Internally within the department, we tend to draw a distinction between the department's role in administering Indian Act systems and a significant role for first nations in the rest of land management. An interesting illustration of this type of evolution over time in roles and responsibilities is provided by looking at section 32 of the Indian Act, which provides as follows:

A transaction of any kind whereby a band or a member thereof purports to sell, barter, exchange, give or otherwise dispose of cattle or other animals, grain or hay, whether wild or cultivated, or root crops or plants or their products from a reserve in Manitoba, Saskatchewan or Alberta, to a person other than a member of that band, is void unless the superintendent approves the transaction in writing.

I should pause to say that the superintendent, of course, was an internal departmental official. Furthermore,

The Minister may at any time by order exempt a band and the members thereof or any member thereof from the operation of this section, and may revoke any such order.

The interesting thing is that the minister has issued an order to exempt all Indian Act bands from the restrictions set out in section 32 of the act. So even those first nations that want Canada to administer lands are not subject to this very restrictive example of federal land management and control.

The federal role in administering Indian Act land systems includes such matters as operating the Indian lands registry, operating the computerized systems for collecting revenues, and tracking environmental obligations. In respect of individual land transactions, the federal administrative role includes such matters as signing or executing final leases, collecting revenues under the leases, and enforcing compliance with Indian Act terms.

The broader first nation role in managing lands, even those operating under the Indian Act, extends to such matters as deciding on the extent of commercial and residential development as opposed to the balance with conservation on reserve lands, and leading the negotiation of the terms and nature of land tenure with individuals and businesses. Admittedly in some communities, first nations have chosen to bypass the Indian Act entirely and not deal with the department for land administration or land programs, but in those communities it's very difficult to effectively manage any complex development in this matter.

•(1205)

Even though there has been an evolution of this type over the years towards greater responsibility of first nations for land management, it has to be said that there remain severe restrictions under the Indian Act. Under the Indian Act, Canada is ultimately exposed to potential liability for land transactions, and Canada could, for example, be sued for failing to obtain satisfactory terms of leases or satisfactory revenues under leases. This is a fundamental drawback of the Indian Act system of land management whereby Canada and first nations face different risks and different considerations regarding legal liability, and there is a heavy administrative burden in relation to the land transactions, often resulting in delays.

Just to go back over this, you'll remember Chief Louie's appearance here when he discussed the change that he saw in his community with the FNLM regime. He drew the example of the first-ever chartered bank outlet on a reserve, and described just how frustrating it can be to have the economic transaction and the legal risks second-guessed by the department, when the department is trying to avoid liability for transactions.

Within these limitations of the Indian Act, we recognize that true management of reserve lands can only be done at the community level with input from individual band members. So three broad categories of programs have been developed and are provided to assist first nations in managing their lands: investments in land-use planning, including environmental and economic considerations; capacity and training for individuals involved in land and environmental management; and targeted financial support for key land management transactions and functions. These programs need to respond to the very considerable variations in land use and sustainability challenges faced by first nations all across Canada.

One of the first programs I'll describe is what we typically call RLAP and 53/60.

Several attempts have been made to respond to the diversity of needs. Beginning in the 1980s, two programs were established to assist first nations in participating in the management of their lands. The first was the delegated authority program, which is often referred to as 53/60, reflecting sections 53 and 60 of the Indian Act, which expressly set out the authority of the minister to delegate certain land management powers. Bands that operate under this 53/60 program have broad authority to execute a number of land transactions, including land allotments—as we discussed when talking about certificates of possession before this committee—issuing permits and leases, reviewing rents, and collecting revenues.

Recognizing that many first nations do not wish to have a fully delegated scope of responsibility under one of these formal delegations of authority under 53/60, the department also established the reserve land administration program, which we call RLAP. It's a program that provides support to first nations so they can work together with departmental staff to administer lands.

Another program is what we call RLEMP. In 2002 an evaluation of the reserve land administration program and the delegated authority program concluded that these programs should address a broader scope of land management and not just administration of Indian Act land transactions. The department designed a successor initiative, which is the reserve land and environment management program, or RLEMP. This program, unlike the RLAP and 53/60 programs, invests in the development of first nations land managers and provides for their professional certification. So there's a significant capacity-building component.

The training component of the program is delivered in partnership with the University of Saskatchewan and the National Aboriginal Lands Managers Association. The university courses are designed to give students a general knowledge of key areas of land and environmental management, while the technical training is delivered by NALMA to focus on land transactions under the Indian Act.

Turning to what we talked about with the committee before, the first nations land management regime, each of the three land management programs described so far suffers from this same limitation. They're focused on first nations participation in managing lands pursuant to the Indian Act, whilst the department has to have a significant role under the Indian Act. The risks and the limitations inherent in managing lands under the Indian Act cannot be fully addressed through these programs, and first nations under these programs cannot break away from ministerial oversight and exercise full self-governing authority over land, resource, and environmental decisions.

To truly transfer not only responsibility but also authority for land management, a different response was needed. With this goal in mind, 14 first nations negotiated with Canada the framework agreement on lands management in 1996, which was later ratified and brought into force as the First Nations Land Management Act. As we discussed with this committee on October 6, the first nations land management regime displaces the 34 land-related sections of the Indian Act and grants full authority to first nations to establish their own laws and to carry out the management responsibilities independent of the department.

●(1210)

Now, to discuss the current situation, there are presently 164 first nations participating in the RLAP, 53/60, and RLEMP programs, and the total budget is \$13 million. The FNLM regime includes 35 first nations operating under their own land codes, 3 first nations progressing actively towards becoming operational, and more than 80 wishing to join the regime. The current annual operating budget for FNLM is approximately \$15 million, though Budget 2011 included a commitment to reallocate further funding.

In addition to these programs, there are other funds available to first nations to manage their lands, resources, and environment. Approximately \$1.5 million is available each year to fund commercial leasing activities. Funding is provided directly to first nations where they want to engage in a designation and have a commercial lease. This includes funds for professional fees and expenses for legal advice, engineering, land appraisals, surveys, environmental site assessments, and expenditures related to community consultation and engagement for these designation and leasing activities.

One million dollars is spent annually on community environmental projects such as environmental management training, conservation plans, climate change strategies, and resource planning. There is also a federal government-wide program to assess and remediate environmental contamination on federal lands, including reserve lands. South of 60, the budget this year is \$12.3 million.

There is of course an increasing recognition that land management and community economic development are inextricably linked. The department is currently examining ways to improve our programming and to tie more closely economic development programs to land management programs. In a previous committee appearance, we described the importance of a pilot project that we have to improve local land-use planning linked to the first nations community economic development vision. It's anticipated that with such plans in place, subsequent land management activities will be much more aligned and better planned in order to reduce delays and provide a more formal process for community members to engage in making land use and economic development decisions pursuant to those plans.

The department works in partnership with key institutions, such as tribal councils, technical institutes, the Lands Advisory Board and FNLM Resource Centre, and the National Aboriginal Land Managers Association. I will just take an example. NALMA partners with the department not only on training under the RLEMP, but also on land designation processes, additions to reserve, and mentoring first nations land managers.

I'm sorry for taking so much time. It's just that this is such a complex area; but briefly, by way of conclusion, I'll just make a couple of points.

As I've described above, there's a broad range of programs and other supports, including funding and linkages to various institutions, to develop further first nations' abilities to manage reserve lands. We've talked about land-use planning, as have my colleagues who appeared a moment before. Land-use planning on reserve is very different from the broad regional planning and the activities of the land boards in the north. However, local land-use planning is an issue relevant to many first nations south of 60 operating under the Indian Act or FNLM or full self-government, or even land claims.

In addition to our focus in the future on improving land-use planning, lands programming will be oriented towards practical land management functions that first nations need to lead. Over time we hope to place less emphasis on building a capacity within first nations to administer Indian Act types of transactions, because we know that many first nations want to move to other legislation like FNLM. What's important is to build the capacity for leasing and negotiating, and a capacity for lands officers who are strong on economic development, for example.

With that, we'd be pleased to respond to any questions.

• (1215)

**The Chair:** Thank you very much, Mr. Beynon. We appreciate that comprehensive introduction to the subject.

[*Translation*]

Mr. Genest-Jourdain, you have seven minutes.

**Mr. Jonathan Genest-Jourdain:** [*Member speaks in native language*]

We know that, up to now, Aboriginal Affairs and Northern Development Canada has been responsible for compiling data and for managing information for community land management on Indian reserves.

Are the communities that operate under the First Nations land management regime under the obligation to compile their data in accordance with your database, the one managed by Aboriginal Affairs and Northern Development Canada? If not, are they going to be required to create their own publicly available database? We know that all your data were available just by entering a code on a webpage. We could then take a look at all the registrations done by a given community, using some basic parameters. Will that kind of information still be available to the public? If not, will the community be ultimately responsible for managing it?

I have another question. I have looked over your land management delegation programs, such as the reserve land and environment management program and the First Nations land management

regime. Some concepts keep coming up: "management groups", "groups fulfilling management functions", "aboriginal companies", "other groups involved in land management". So I gather that management can be delegated to various entities.

Can those entities be purely private under the Companies Act? Are these companies or corporate entities going to have to report to Aboriginal Affairs and Northern Development Canada or to the community? And how will verification and monitoring be done in the community?

**Mr. Andrew Beynon:** Those are excellent questions. I will start the answers and my colleagues can also add a few words.

The first thing to mention is the First Nation Land Management Act. The act contains a number of aspects for participating First Nations. First, communities develop their own land codes. Members of the community can require their governments to report under those codes.

Though the communities themselves do not give a lot of details, the agreement and the act require the use of our department's land register. Canadians can have access to it in order to find the basic information on the lands, just as the participating First Nations can.

You also mentioned the delegation of authority to private or corporate interests. In the negotiations, the agreements, on government autonomy, such as the ones on the governmental autonomy of the Westbank First Nation or the Nisga'a First Nation, you often find the ability to delegate authority, possibly even to private or corporate interests. But in First Nations land management, if I am not mistaken, I do not think that the authority to delegate exists. The authority to legislate on land matters falls to the band council. Most participating communities have not used a corporate or regional entity.

**Mr. Jonathan Genest-Jourdain:** I am sure you are well aware that the Lobbying Act does not apply in the communities. There is a specific exemption. As you see it, does that not open the door to interference from, and ultimately to a takeover by, private interests? As I see it, the door is open to private interests, because, ultimately, the band council can simply decide to delegate management authority to those interests.

But how do you see the situation, given the present state of affairs and the jurisdiction that is limited to members of the community?

• (1220)

**Mr. Andrew Beynon:** I think we should perhaps be more specific at this committee. Generally speaking, communities that participate in the First Nations Land Management Act are required to have land codes. Community members have to vote on that before authority can begin to be exercised. So I think the community members are going to insist on limits to the authority of their band council and on a requirement for some kind of accountability to the community members themselves.

[English]

**Ms. Linda Duncan:** Thanks very much.

It's another complicated area. We may need individual briefings or follow-up questions, but thank you. And thank you for trying to roll off figures, the number of bands and so forth, but what we would appreciate receiving is if you could provide us with how many reserves or bands are currently applying or participating in each one of those categories, and what the waiting time is like for them. Part of that ties in with what we're interested in. I know Mr. Bevington asked you for that previously. Can we be advised of how many people in the department are specifically assigned to dealing with these matters of leasing, the development applications, and so forth, and what the waiting time is simply because of staff burnout? You can just send us that information. I know you don't have it all at your fingertips.

I have one additional question.

You've talked about what happens with the land code, but you've also talked about, as I understand it, some of these activities that occur under the provisions of the Indian Act, the leasing of lands, and so forth, that you can do absent the code, if I'm correct. The question that puzzles me is, does this money go into that trust fund, where there is, as I understand it, a 2% cap on how much money can be pulled out? I don't know if it's per year. Maybe you can explain that to me. When that money is being collected, if that money isn't paid because, say, there's somebody outside who's leasing the land, does the government follow up? Do they get the money directly? Does it go to the band council? How are these arrangements made?

**The Chair:** Ms. Duncan, you are out of time, but we'll give an opportunity for a little bit of an answer.

**Mr. Andrew Beynon:** The committee is asking some very interesting questions, I think, about speed. You know there's a question of a backlog and delays in entering the FNLM regime. I think one area where I would note there are delays, as I suggested earlier, is where communities are trying to deal with, for example, a designation of lands for leasing. As I think some of the communities that have appeared before you have already said, it can be a very frustrating process to get through the queue to get to your designation of lands.

But interestingly, by way of contrast, RLEMP, for example, or training with NALMA, don't suffer quite as much of a delay or backlog. I'm not saying that it's perfectly easy, but relatively speaking there is not quite as much of a backlog.

With that, I'll just turn to my colleague to speak to some of the technical details.

**Mr. Kris Johnson (Senior Director, Lands Modernization, Community Opportunities Branch, Department of Indian Affairs and Northern Development):** We do have some of the numbers at our fingertips today.

To your question about how many are in each program, we have within the three programs my colleague described—RLAP, 53/60, and RLEMP—a total of 164, of which 93 are in the RLEM program at various stages; 69 in the RLAP program, the reserve lands administration program; and 2 under the 53/60 program. It's important to note, though, that under the reserve land and environment management program, there are 11 communities with delegated authority under those acts. It's simply a different program.

In terms of the number of staff, there are approximately 200 staff inside our department involved in land management, although that doesn't necessarily include all of the environmental staff. There are approximately 200 first nation land managers funded by these programs, and more than that not funded by these programs.

That gives a sense of scale of capacity out there to manage reserve lands.

• (1225)

**Mr. Andrew Beynon:** I should just note that, of the departmental employees, some are in headquarters, but many are in regional offices.

**The Chair:** Ms. Buist.

**Ms. Margaret Buist (Director General, Lands and Environmental Management, Department of Indian Affairs and Northern Development):** Just to give you a very quick flavour—and we'll provide you with the statistics—in the last five years, the department has negotiated about 44,000 leases. We do about 10 designations a year. We've had almost 40,000 legal land transactions registered in the last five years, or about 8,000 a year. It's a significant number. We have, as Kris said, about 200 people doing that land administration work within the department, as opposed to what's going on in the FNLM, 53/60, and the RLEMP first nations that are doing it much more themselves.

**Ms. Linda Duncan:** Mr. Chair, they haven't answered my question about where the money goes and whether the first nations can access it.

**The Chair:** You didn't give any time for any answers to anything.

**Ms. Linda Duncan:** I know. I'm sorry.

**The Chair:** Let's see if we can get to that in another round.

I have a question, and I'm going to take the chair's prerogative to ask is RLEMP is currently open or closed? We understood from the Auditor General that there were some concerns with regard to its flexibility for nations wanting to enter.

**Mr. Kris Johnson:** RLEMP for many years was a pilot program. It was designed to respond to that 2002 evaluation that Andrew mentioned. As time proved its benefits, the funding for that program was stabilized in 2009. There was an action plan pursuant to a federal framework on aboriginal economic development that injected \$9 million a year to stabilize it and bring it out of the pilot phase into a permanent program phase. So there isn't currently a waiting list per se to get into RLEMP.

You do have to go through the training component that we described to receive your operational funding under that. That takes a little bit of time just to get people through, but every year when we put out the call letter for interested students, it's always a little bit under-subscribed. We're meeting the demand to keep pace, and we are transitioning people out of those old RLAP and 53/60 programs into RLEMP.

**The Chair:** Thank you.

Mr. Wilks, for seven minutes.

**Mr. David Wilks (Kootenay—Columbia, CPC):** Thanks, Chair.

Thanks to the three regulars for coming here yet again.

**Voices:** Oh, oh!

**Mr. David Wilks:** Because you're here so much, I need some duty time sometime. Maybe we could make an arrangement for

I noted on page 5 of the deck, under the reserve land and environment management program, that it refers to the national association of land management quite often. With regard to the national land manager's association, how does your department partner with them, and how does that work?

**Ms. Margaret Buist:** It's an officially incorporated not-for-profit, non-political organization. It has had an elected regional board of directors since 2000, and it includes 106 first nations nationally. There's also a B.C. group that represents many of the B.C. first nations. It's joined with NALMA now, and is called first nations for land management.

**Mr. David Wilks:** If I may, is B.C. a little different because it has no treaties, or what is that?

**Ms. Margaret Buist:** It's a little bit different, because it has no treaties, but it's just something they've decided to do in their own land management world. They work closely together.

Our partnership with NALMA resulted in the development of a national capacity-building program for reserve land management. That program has led to a number of improvements in our land management programs, allowing the first nations to be much better able to activate their own resources to respond to economic development opportunities, and NALMA has played a key role in that. They provide technical training specific to the Indian Act land management. They provide technical expertise when asked by their first nations members, and they provide support to regional land associations that exist throughout the country for the land managers.

It's all first nations run and all first nation membership. We have a close working relationship with them. For example, you heard us talk on Tuesday on the additions to the reserve tool kit that they've

developed. They're now working with us to develop a designations tool kit for first nations to help them.

• (1230)

**Mr. David Wilks:** Excellent.

Just to further that conversation, what consultation has your department done with first nations regarding community economic development programs, and what did you hear back? Could you expand on that, please?

**Mr. Kris Johnson:** Last year, the department undertook a quite extensive external engagement process to learn from our various stakeholders and partners about how our programs could be enhanced or altered in some fashion to better meet the unique needs, challenges, and diversity facing aboriginal communities, which Andrew talked about in his opening remarks.

So the engagement process was really designed to get that feedback through a variety of ways. There were nine regional engagement sessions with a focus on first nations. There were seven targeted sessions with the key stakeholder groups, focusing on issues such as lands, and business and economic development. There were three round tables on some of the crosscutting issues such as gender, youth, and remote communities, which really face some unique barriers to development.

There were recommendations and submissions made from aboriginal institutions and organizations that have an interest in economic development.

Some of the feedback that we received—and Andrew and I were at some of those sessions and heard first-hand about it—was the importance of the land use and economic development plans to ensure successful economic development. We also heard other points, such as the need for predictable funding to access the necessary expertise to pursue economic development opportunities, as well as the need for broad global partnerships with provinces, with territories, and with the private sector, in response to the increasing complexity of projects occurring on reserve.

We heard a lot of good feedback on how we need to take a closer look at the intersection between land management and economic development in response to these very ambitious development plans that are occurring on reserve lands across the country.

**Mr. David Wilks:** With regards to land management and economic development, what are some of the things you heard from first nations that they want in order to move forward with economic development, and how do these affect land management?

**Mr. Andrew Beynon:** Generally speaking, some of the points we heard echoed the themes that Kris talked about. We heard, for example, that the complexity of the transactions is necessarily increasing, that the capacity of first nations and the department itself has to increase, that there needs to be as much done as possible to move at the speed of business because we'll lose the economic opportunity if the system can't keep up with it, and that programs need to be modernized in a way that allows for this twinning of economic development and lands pressures at the same time.

To have lands in one stream and economic development considered afterwards doesn't work. Or vice-versa, to try to drive an economic development project and get the whole commercial deal figured out, and then find out later that you can't do that under an Indian Act land provision, doesn't work.

So cementing the two together was certainly one of the points that we heard a lot.

**Mr. Kris Johnson:** If I may add to that, a key thing we heard was the need to get the decision-making as close to the community level as possible, ideally right at the community level. That's where you get the gains in efficiency and the speed.

When you have to involve departmental officials, as Andrew was saying in his opening remarks, we oftentimes have to second-guess things in order to reduce the liability and exposure to risk. If you can get the discussions occurring directly between the community and the potential investors, that's where you can save a lot of time.

**The Chair:** Thank you very much, Mr. Wilks.

Ms. Bennett, for seven minutes, please.

**Hon. Carolyn Bennett (St. Paul's, Lib.):** Thanks very much.

To follow on from my colleague, Ms. Duncan, my question has to do with wait times. In health we talk about this all the time. I was just wondering what your wait-time strategy was.

• (1235)

**Ms. Margaret Buist:** For getting into the programs or for the land transaction?

**Hon. Carolyn Bennett:** From the time a community decides it would like to enter one of the programs to the time that it's signed and delivered.

**Ms. Margaret Buist:** One of the wait times that we've observed is, for example, for a community to designate lands for commercial leasing. It is very important, as Andrew was just saying, to match the economic development opportunities with the land issues, that is, having the land ready for that economic development and having it start at the same time.

We do experience delays with respect to processing the designations that come in through the region. They're like the ATRs, the additions to reserve, in that they come in through the region. They go through headquarters and go up for ministerial approval, and the Governor in Council, and that causes delays. So one of the things we've done, for example, is to work with NALMA to do a designation tool kit for first nations.

Just like the ATRs, we are examining our own proposals to see what risk we're able to tolerate in cutting out some of the phases of

approval that are needed. We're looking at delegating down the authority to make the decisions on the designation, so we're looking at a wide range of options for that one piece of the puzzle.

I will turn it over to my colleagues to talk about the wait time for some of the programs, for example, for land management on reserve.

**Mr. Andrew Beynon:** Maybe I could take a bit of a broader stab at what you're suggesting in making comparisons to health care wait-time strategies.

We do recognize very strongly that fundamentally important opportunities will be lost, when there is too much in terms of waiting times or delays. To some extent, it's endemic with an Indian Act system, as I said earlier, where you inevitably have the department combined with the Department of Justice carefully trying to look at the risks of particular transactions, but what do we have in terms of strategies going forward?

One is the expansion of the FNLM regime. Particularly for communities that want to break free from that Indian Act system and have very complex or high quality economic development opportunities, it's an avenue to break away from that.

Two, on the land-use planning activities that I talked about before, unfortunately, in the past there tended to be a focus on just one particular transaction, which was a bit haphazard in terms particular economic developments. By taking a step back and having high quality land-use planning, and knowing the areas where lands are sensitive or where they need to be cleaned up, or where roads are going to go, where infrastructure is going to go and that kind of thing, it actually paves the way for responding to an economic opportunity much more strongly, which should reduce, to some extent, the timing.

Beyond that it would just be about working as much as we can in partnership with first nations to build that capacity, and with the institutions to build their own capacity to try to drive those times down.

**Hon. Carolyn Bennett:** What would be the average time?

**Ms. Margaret Buist:** It can be a year for a designation. Again, it's like the ATRs in that a piece has to go on at the first nation level first. One of the key challenges for a first nation in a designation is to get community acceptance through a vote. It usually always has to go to a second vote because of the number of people who live off reserve and don't participate in the vote. We require a majority of a majority under the Indian Act. Another piece we're examining is to see whether or not that is truly necessary, because that can delay a designation of a piece of land well over a year while they go through a voting process before it even gets in the door of the department.

That is one example of the types of delays we are facing, and you heard us talk on Tuesday about the delays in the additions to reserve processes all the way from the first nation piece of that process through to the department.

**Mr. Andrew Beynon:** I would just add that you might remember the testimony of the FNLM chiefs, where they showed that dramatic contrast in speed. Necessarily when you go through the departmental process, which includes the designation of lands, you're typically a year or more in terms of timeframes, and the chief spoke about a much more rapid decision-making process internally and approval process by the communities themselves.

There is no way that we could re-administer our designation process to be of that speed.

• (1240)

**Ms. Margaret Buist:** No, and even in the registry, land management, first nations have electronic registration. They can register their documents instantaneously. Within a day it's in the registry. Under the Indian Act it has to go through the regional office. The documents are mailed to headquarters. It takes weeks.

**Hon. Carolyn Bennett:** Regarding your wait-time strategies, do you have enough people doing this?

**Ms. Margaret Buist:** As I mentioned, we have 200 who just do the lands piece, not even the environment piece, on reserve in the department. We have quite a number of people doing it. It's the systems they're administering that we're examining very carefully to look for efficiencies.

**Hon. Carolyn Bennett:** In terms of capacity in the first nations to be able to have a high-quality application at the beginning, do you think there's enough emphasis on improving that?

**Ms. Margaret Buist:** There's a real need for capacity for land managers on reserve, for example. You heard me say that in NALMA, there are 106 first nations members. That's one-sixth of all first nations. They have to go to the University of Saskatchewan to be educated, and that means they're coming from the Atlantic provinces to B.C. It's difficult.

**Hon. Carolyn Bennett:** Is there any distance learning for this?

**Ms. Margaret Buist:** There's a proposal for changing the way that education is administered to expand it to beyond just that one particular centre. We're taking a look at that possibility.

I must say there's definitely a need for it among first nations, as you've identified. There are lots of first nations who don't have land managers. There's turnover. Someone goes through the program and move on to another position or move off the reserve. There are definitely capacity challenges for first nations just in the Indian Act regime.

**The Chair:** Thank you, Ms. Bennett.

Mr. Rickford for seven minutes.

**Mr. Greg Rickford:** Thanks, Mr. Chair. These are all great questions. I want to say from the outset that we're hearing a lot of great questions today, and I appreciate your allowing witnesses to answer irrespective of which side the questions come from.

I agree with my colleagues that there's an incredible amount of information we need to continue to develop at the departmental

level, and I can appreciate, Margaret, having been a lawyer myself, the ongoing need for the government to appreciate and understand what steps they can take and to refine the steps for approval when these requests come from first nations. I was involved in vesting trusts on behalf of first nations and, of course, there are requirements for reporting in the *Gazette*, and there are national media centres where these sorts of notices had to go across the country. It can take some time, so I have an appreciation of that.

You mentioned a federal framework for aboriginal economic development. One of the four strategic priorities is enhancing the value of aboriginal assets. This is something we want to learn a little bit more about, and certainly around community assets. I heard loudly and clearly that we have to move at the speed of business but also balance all of these other interests around the sustainability issues, infrastructure, the environment, etc.

How are we building a modern land resource management regime? What are the specific characteristics of this, just very briefly?

**Mr. Kris Johnson:** It's a good question, and you're right that I did touch on it earlier. So thanks for bringing it up again.

**Mr. Greg Rickford:** I want to pull some of this stuff out. Your speeches are great. I love the decks, but I think this stuff has to go on, so that when we review this it will be very clear.

**Mr. Kris Johnson:** Absolutely.

In line with the other elements of the federal framework for aboriginal development—and here you talked about enhancing the value of aboriginal assets—I would signal two key assets in any first nations community. One is the people themselves, for very obvious reasons; and the other is the land and resource space. Through that framework we really do seek to align our investments with those economic opportunities to better manage the business and community assets and create a more modern and useful lands and resource management regime. All of those together will help enhance the value of the key assets I mentioned.

Andrew has already touched on this, but do have a lot of work under way right now seeking to expand the first nations land management regime, which does respond to so many of the challenges inherent in the Indian Act. We did the engagement process last year that I talked about, which gave us some good input on how to align our economic development programs with the realities of land management on reserve. As we talked about with this committee earlier this week, we're looking at how to improve the additions to reserve processes, and we're also analyzing on a continuous basis options for improving land tenure on reserve. Those are just a few examples of a lot of work that we have under way.

• (1245)

**Mr. Greg Rickford:** Thank you, Kris.

I'm going to have to go back to the First Nations Land Management Act, because I feel like I'm going to have to go back there again at some other time down the road. I think that's always going to happen. When we take your information, we apply it and we review it.

I've come to a couple of questions, if you'll permit me.

In talking generally about the changes being planned for first nations land management, Andrew, this piece of legislation, as you said before at this committee, is now more than a decade old. I think a good part of its success depends on the inputs and the experience of first nations communities with land codes in force—and you've said as much. We've talked about this consultative process that you go through. I know they've proposed amendments to the act.

If these proposed amendments would strengthen the regime, how would they do it? I know you've gone over some of this, Andrew, but list them for us. I may have some residual questions, and certainly a brief description of each may be applicable.

**Mr. Andrew Beynon:** Sure. You're quite right that lessons have been learned even with the success of the regime over the years. Those who work with it every day, the first nations themselves, have had some very good ideas for us in terms of potential legislative improvements.

With some minor refinements, not a radical overhaul and not major changes to the legislation, you could actually achieve several things. Examples of what they have raised with us are expediting the process to enact environmental laws. You may remember that we talked about this before. Within the FNLM legislation right now, there's a requirement, first of all, to establish an environmental management code before you have the authority to make environmental laws.

From the experience or difficulty in concluding those agreements, one of the ideas being discussed is just to eliminate that procedural step—which isn't common to other self-government authorities—and rely upon the fact that the legislation will still dictate a strong environmental protection standard. That's just a procedural step that has been shown to be a hurdle and could be removed.

Excluding some land from a land code, when it's uncertain that this particular land forms part of a reserve, is another. One of the things that we've seen and that operational first nations have noted is their experience in moving from the Indian Act into the FNLM regime. That transition is very important. And here it's right to build the right capacity for FNLM. It's important to get the operation off the ground as quickly as possible. The unfortunate thing is that in many situations, there are historic issues around, for example, the boundaries of the reserve and questions about particular parcels of land. If you can address that and make it possible to turn on the FNLM regime and leave those land refinement or land survey issues to be addressed at a subsequent time, you will find the transition to FNLM much faster and smoother and more effective.

Removing some uncertainty as to the date that land codes come into force is another. It's a minor technical amendment, but again an

important one in terms of speeding that transition to turning on the FNLM regime.

Then I also have some thoughts that the operational first nations have raised with us. There's a schedule to the act that lists first nations. Some of the first nations that initially expressed an interest in participation have subsequently decided not to—and that annex accordingly is a little out of date and a bit confusing to an outside reader who picks it up and says, "Okay, so this first nation is under FNLM". Well, they're actually not.

As I say, these aren't seismic shifts, but they are important for moving ahead effectively with the legislation.

• (1250)

**The Chair:** Okay, thank you very much.

Ms. Duncan, for five minutes.

**Ms. Linda Duncan:** As I am sure my colleague across the way can attest to, time flies on this one. We almost need you here for a whole week and then we can fully understand.

I apologize that I don't have the Indian Act here. We should probably start having some of the statutes here so we can reference them. Indeed, that might make things more complicated.

**Mr. Greg Rickford:** Agreed.

**Ms. Linda Duncan:** I'm trying to understand what happens under the Indian Act compared to the more "modern" approaches.

In the Indian Act—and I'm presuming that's where this is—when the chief and council seek a delegation to a corporation to sign up for land corporation transactions, do they have to have the consent of their membership to do that?

**Mr. Andrew Beynon:** We may need to get back to you on that one.

**Ms. Linda Duncan:** That's okay. I've got other questions.

**Mr. Andrew Beynon:** But just quickly, I don't think the Indian Act is designed to have that delegation. It's very brief on land management—

**Ms. Linda Duncan:** So where is that delegation coming from?

**Mr. Andrew Beynon:** In our programming, we're talking about sections 53 and 60 of the Indian Act, where you delegate part of the federal authority to first nations themselves. It doesn't speak to a subsequent—

**Ms. Linda Duncan:** That's what I'm saying, and it says that some of that can be delegated to a corporation. My question is, does the Indian Act require consultation with the band before the minister delegates that authority to a corporation? Maybe we can look into the statute and revisit that later.

I know that some of the first nations near my jurisdiction, where my cottage is, want to pursue commercial leasing, because they've got big operations like utilities, railroads, and so forth. Some of the members are opposed to that because they're more traditionalist. So I'm just curious to know what the process is for that.

You had mentioned, Mr. Beynon, way back in our discussions, something about the involvement of the department in the negotiation of leases. I'm a little confused as to who actually does the negotiation of leases. Are there some occasions when the department itself does those negotiations directly?

I have another final question for you. What happens when there's an election and a change of chief and council, and there's an application in process and you may be very close to completion?

**Mr. Andrew Beynon:** Very quickly, on the question of potential opposition within a community to proposed leases or major commercial development activities, again, much of those transactions would currently require a designation under the Indian Act, which does require community involvement. So if the opposition is strong enough, the proposals may be turned down.

With regard to who is involved in negotiating leases, in practice nowadays it's largely the first nations themselves who are seeking out opportunities and who are having the first contact with potential investors or developers.

Unfortunately, under the Indian Act system, once the proposal comes to us, very often you then have to draw in departmental officials, including Department of Justice officials, and you start to get the second-guessing about the nature of the proposal. Is it too risky? Is there a likelihood that the dollars won't flow as expected?

**Ms. Linda Duncan:** That's only if it's not delegated.

**Mr. Andrew Beynon:** That's right.

**Ms. Linda Duncan:** If it is delegated, are all of those issues and the liability looked at by the corporation or the Indian band?

**Mr. Andrew Beynon:** If it is a delegated authority, then it rests with the first nation. But the liability hasn't been delegated by Canada, so the risk still rests on our shoulders.

**Ms. Linda Duncan:** Oh, that's all very interesting.

Do I have more time?

**The Chair:** One minute.

• (1255)

**Ms. Margaret Buist:** Could you just repeat your question on the elections?

**Ms. Linda Duncan:** I was just curious this, and I think it's been raised previously, maybe by your panel or another one. One of the complications is that there may be an election, and then things change. So I'm just curious to know, when there is a change in leadership, what happens to leases that were under negotiation, or what happens to negotiations for all of these things that we're talking about, land transfers, leases, and so forth.

**Ms. Margaret Buist:** Things that are in negotiation with respect to a designation for commercial leasing, for example, depend on a band council resolution. That resolution is needed. So if a new band and council come in, the direction can shift 360 degrees. It can shift

entirely, so that they might say that they don't want that designation any more or aren't interested in that commercial development, and it can stop completely.

**Ms. Linda Duncan:** Is my time up?

**The Chair:** Yes, your time's up. Thank you.

Mr. Seeback for five minutes.

**Mr. Kyle Seeback (Brampton West, CPC):** To echo my colleagues, this is always very informative, but also somewhat confusing for me. But I'm slowly getting educated, which is useful.

Going back to land management just briefly, I have two questions. The first one is, how do land management programs affect doing business on reserve? You've touched on that a bit today, but I'd love to hear a little more about how that works. Any one can answer that.

**Mr. Kris Johnson:** Maybe I'll take a crack at answering that.

Businesses, as we discussed earlier, want to engage in discussions with people who ultimately have the decision-making authority. They really seek certainty. Doing business depends on entering into leases, obtaining permits or rights-of-way, having clarity on the scope of activity the community does or doesn't support, and on where and when all of that development is desired.

Using the land for economic development requires a land management process or system that's responsive to those commercial expectations, so that the lands can be administered at the speed of business and the businesses don't go and invest their money elsewhere where they can get decisions made a little more quickly.

The more you can get the responsibility and the authority and the capacity into the first nations communities themselves, the more likely it is that they'll be able to attract that investment, because those business people will know they're dealing with the people with the capacity and the authority to conclude those discussions and give them the certainty they desire.

That's really been the thrust of our programming over the last 30 years or so. It has been about providing and introducing those tools and capacity into the first nations communities so they can engage directly with business, and about really trying to minimize the role, the unfortunately often necessary role, of the departments of aboriginal affairs and justice.

To get back to some of the earlier discussions on the wait times, that is really one of the keys to attracting that investment into those communities.

**Mr. Kyle Seeback:** Just for my education, is the 53/60 regime partway on the way to a first nations land management regime? Is it an intermediate step? Is it as if you might go through the 53/60 and then end up at the FNLM regime, or maybe stay there? How does that work?

**Mr. Andrew Beynon:** I think you have it exactly right. It is a big move away from typically leaving all the authority with the minister. Some communities have moved through that stage and then ultimately to further stages. Some communities choose to stop at that point.

Yes, it does work to build capacity, because if you have a delegation of authority under 53/60, you will be engaged with much more responsibility for executing all of these land transactions, which can be a good pathway to the full authority.

**Mr. Kyle Seeback:** And do some communities go directly into FNLM regime and not through a 53/60 stage?

**Mr. Andrew Beynon:** Yes.

**Mr. Kyle Seeback:** My final question is this. What environmental management support programs do you have on reserve?

**Ms. Margaret Buist:** I can speak to that question.

There are two major programs south of 60. You heard our colleagues from the north speak about the regimes that exist in the north, but it's quite different south of 60.

We have two major programs. The first is the lands and environmental action fund, which assists us and first nations in complying with our environmental requirements on reserve and in improving the health and safety of first nations communities. With those funds we do workshops and capacity building, providing knowledge and information, on fuel tank issues on reserve and waste management, solid waste management in particular. We help with the development of environmental management plans and frameworks for reserves, including managing environmental compliance, and with the development of good practices with regard to the main environmental concerns. These include solid waste, fuel tanks, hazardous materials, air and water quality, and compliance with existing environmental regulations on reserve under the Species at Risk Act and CEPA.

We also have a program for the assessment and remediation of contaminated sites. The primary department for that is Environment Canada. They have the federal contaminated sites action plan. We have a piece of that in our department that works south of 60, and we share the cost of that with the contaminated sites action plan. It's for assessing and remediating existing contaminated sites. Again, our northern colleagues have the bulk of that for the department, but as Andrew mentioned, we have about \$12 million flowing into that. Those are the programs we have.

The challenge that we have, as we mentioned in our previous presentation, is the environmental regulatory gap on reserve. I talked briefly about our initiatives to attempt to try to address that. We're working closely with Environment Canada. We have some federal regulations that apply under species at risk, the Canadian Environmental Protection Act, and the Fisheries Act, but we fully recognize that there's a gap. We're working with EC to try to close that gap and come up with potential future legislative options.

We also recognize, as I mentioned earlier, that the regulations under the Indian Act that do apply are inadequate and outdated: the waste regulations, the timber regulations, and the mining regulations. We have a plan in place for updating those as well. There is also FNCIDA, which my colleagues work with. It provides an option for incorporation, by reference, of provincial regulations to deal with the environment on reserve.

● (1300)

**The Chair:** Thank you.

That's a big subject to begin the last session with.

**Ms. Margaret Buist:** I'm sorry, but that was a thumbnail sketch.

**Voices:** Oh, oh!

**The Chair:** I appreciate your effort to get through all of that. You are out of time.

Ms. Buist, Mr. Beynon, and Mr. Johnson, thank you again. We'll see you again no doubt—maybe sooner rather than later.

Colleagues, I just want to inform you that the next meeting is going to be the committee of the whole. It's going to be for future business planning, looking at our study plan. For the following Thursday, it sounds like there's been confirmation that the minister will be attending that meeting.

**Ms. Linda Duncan:** Mr. Chair, we have been advised—

**The Chair:** He will be attending—

**Ms. Linda Duncan:** Let me finish.

**The Chair:** Can I clarify what I just said?

We have been able to confirm that the minister will be attending on December 1.

**Ms. Linda Duncan:** Will that be televised?

**The Chair:** We are making efforts to find a televised room for that.

**Ms. Linda Duncan:** That meeting is too late. I have been advised that the government has made a decision.

**The Chair:** Ms. Duncan, you have been advised by this chair that there's been confirmation of December 1. I know you had some discussions about December 6, and I am confirming that it's December 1.

**Ms. Linda Duncan:** No, no, let me finish, Mr. Chair. Let me finish my point of order.

**The Chair:** Is it a point of order?

**Ms. Linda Duncan:** It's a point of order.

I have made a request on many occasions that we be flexible and that if the last date when the minister can speak on the estimates moves back, we will leave Tuesday open for that. I am apprised that Tuesday is the last date the minister may come here for the estimates.

**The Chair:** That's not a point of order, but I can assure you that your information is not correct, as far as I have been told. We've been able to confirm that the minister will be here December 1.

**Ms. Linda Duncan:** Can we simply reserve that if in fact that is the truth, he will here on Tuesday instead?

**The Chair:** I cannot confirm the minister's schedule.

**Ms. Linda Duncan:** I raised that on Tuesday. I asked for it to be clarified.

● (1305)

**The Chair:** I've clarified it as much as I possibly can.

The meeting is adjourned.









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