



House of Commons
CANADA

Standing Committee on Aboriginal Affairs and Northern Development

AANO • NUMBER 016 • 2nd SESSION • 40th PARLIAMENT

EVIDENCE

Tuesday, April 28, 2009

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Chair

Mr. Bruce Stanton

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• (0900)

[Translation]

The Chair (Mr. Bruce Stanton (Simcoe North, CPC)): First I would like to welcome committee members and our guests. As part of the 16th meeting of the Standing Committee on Aboriginal Affairs and Northern Development, we'll be addressing the subject on the agenda, the report of the Auditor General. This morning we have Ms. Sara Filbee, Assistant Deputy Minister, Lands and Economic Development, and Mr. Paul Fauteux, Director General, Lands Branch.

Pardon me, Mr. Fauteux isn't here.

[English]

Ms. Sara Filbee (Assistant Deputy Minister, Lands and Economic Development, Department of Indian Affairs and Northern Development): He will be here, and he's not usually late. Something must have held him up. My apologies.

The Chair: Martin Egan is also a director with the same department as Mr. Fauteux, and he will be here to help us today with chapter 4 of the Auditor General's 2009 report.

Ladies and gentlemen, before we proceed, during the meeting we're going to be circulating a list for members to indicate their attendance for the trip to Kitigan Zibi on Thursday. I would also like to use this opportunity to remind members that for the trip on Thursday, jacket and tie is not necessary. Informal apparel is in accordance with the weather, but no shorts, bermuda shorts, and t-shirts. Appropriate attire is required.

Are we taking orders for breakfast? No, we're not doing it this morning. We'll be at the whim and discretion of our hosts that morning. We'll be circulating that. Also, there will be a rough agenda circulated this morning for the Thursday trip. Now, without any further delay, we'll carry on.

Ms. Filbee has an opening statement that has been circulated to members. We'll proceed with that and then we'll take questions from members accordingly.

Ms. Filbee, please.

Ms. Sara Filbee: Thank you very much. Thank you for the opportunity to address you today on our progress in implementing treaty land entitlement agreements in Manitoba and Saskatchewan.

The department is proud to note that the recent Auditor General's report on this subject recognizes the improvements that have occurred since 2005. This success is due to the hard work of staff from the many parties involved in the additions to reserve process,

including first nations and provincial governments, as well as Indian and Northern Affairs Canada, Justice Canada, and Natural Resources Canada. The process we are discussing is to ensure that land with clear title and no unknown environmental issues is moved from provincial jurisdiction to federal jurisdiction and then set aside for the use and benefit of a first nation.

Therefore, the ATR process is largely a due diligence process undertaken by first nations, provincial governments, and Canada. Each party has its own set of decision-making processes based on a mixture of legal and policy requirements. Productive working relationships and clear process are therefore essential. However, many parties with no obvious incentive to move forward swiftly, including municipal governments, and hydro, telephone, and natural gas utilities, are also involved.

When the Auditor General undertook the 2005 audit, TLE implementation was proceeding at a steady rate in Saskatchewan, but there was a backlog in Manitoba. By early summer 2006, only 130,000 acres of TLE-related reserve land had been created in that province during the previous nine years, or an average of less than 14,500 acres per year. To address the situation, the then Minister of Indian Affairs, Hon. Jim Prentice, and the then Manitoba Minister of Aboriginal Affairs, the late Oscar Lathlin, met on August 22, 2006, and announced an extremely ambitious target: to set aside 150,000 acres of TLE-related new reserve land in Manitoba each year for four years, more than 10 times the average annual amount set aside during the preceding nine years.

The target was not only met but was exceeded in the first year following that announcement, with over 159,000 acres of new reserve created. Despite that initial success, it wasn't possible to repeat it in year two, ending on August 22, 2008. However, we are well positioned to reach the 150,000 acre per year target, which is the three-year target, by August 22 of this year.

• (0905)

[Translation]

It has been difficult to increase the rate of TLE implementation by over ten-fold, and then try to maintain that level over the long term; however, ATR processing times are decreasing through better planning and various other measures, and more improvements can, and will be made.

[English]

Regional staff are already meeting on a regular basis with individual first nations to develop and maintain a joint action plan for each ATR proposal, so there is a shared understanding of next steps and who is responsible for each one of them.

We are poised to roll out a national additions to reserve tracking system, known as NATS, in the current fiscal year. NATS will greatly enhance the department's ability to plan and manage human resources and the various expenditures involved in the ATR process, such as for surveys and environmental assessments. The system will also address the data integrity issues the Auditor General expressed concern about, and it will provide for the consistent file structure the Auditor General recommended.

In addition, the entire ATR process has been mapped in detail to identify options to combine or eliminate steps and to gain any efficiencies that may be possible. At the beginning of the 2008-09 fiscal year, a service standard of 100 business days was established for phase three of the ATR process, the final stage undertaken in headquarters. Whereas there was some initial difficulty meeting the standard in the first quarter, it was met in the final three quarters and, on average, for the entire year.

Through discussions with regional officials and first nations, it became clear that one of the main difficulties in increasing the processing times is the lack of definition and structure around the front end of the ATR process—or phase one—that is, the part in which first nations select provincial crown land or acquire fee simple land they would like added to their reserve. To overcome this difficulty, the department partnered with the National Aboriginal Lands Managers Association, or NALMA, to talk to first nation and departmental practitioners across the country and to develop an approach to assist first nations with phase one.

NALMA has recently recommended that first nations take a “diligent buyer” approach to land selection and acquisition and has produced a draft manual based on this approach, which will be finalized in the next few months and be distributed widely to first nations. We believe this will further decrease processing times and enable service standards to be established for phase two, which is the work the regional offices undertake.

[Translation]

Other initiatives include the development of best-practice-based template documents for dealing with various third-party interest situations, which are being made available on-line. Additionally, there will be a continuation of the practice of conducting workshops, at least annually, with First Nation practitioners in Manitoba and Saskatchewan on how to deal with third-party interests.

[English]

Finally, we are currently in discussions with the Assembly of First Nations to jointly review the ATR policy and process. We are hopeful that this engagement process will lead to a set of jointly supported recommendations for improvement.

In conclusion, although we are pleased that the Auditor General has found that the department has made satisfactory progress in converting land to reserves since the 2005 audit and in implementing some of its recommendations, we will continue our efforts to address the full slate of recommendations.

[Translation]

I once again thank you for this opportunity to speak to you today, and I would be pleased to answer any questions that you may have.

Thank you.

The Chair: Thank you very much.

Now we'll start the first round with Mr. Russell.

[English]

Mr. Todd Russell (Labrador, Lib.): Thank you, Mr. Chair.

Good morning to both of our witnesses. I'm glad you took the time to introduce yourselves individually to each of us.

Mr. Fauteux, it's nice to have you here with us.

• (0910)

I have a couple of questions.

When the Auditor General was in talking about this specific issue—and they've done a comparison between the progress that was made in Saskatchewan versus the progress that was made in Manitoba—there seemed to be a sense that it was a relationship issue between the regional offices and the first nations. There seemed to be more openness and a more cooperative relationship in Saskatchewan. I'm paraphrasing, of course, but that is the sense that I was getting from the conversation around questions relating to this issue. That same relationship didn't exist in Manitoba, and that was one of the reasons we didn't see the same type of positive results in Manitoba.

Do you think that is the case, and what can that be attributed to?

My second question is regarding your presentation. It says some of the challenge may lie in the first phase, and that is to deal with the first nations' selecting of provincial crown land or acquiring fee simple land that they would like added to their reserve. Listening to the Auditor General, it was my understanding that more than enough land had been selected by first nations, that the delay wasn't on that end at all, but it was on the conversion end that we could see the delay.

Is there still a seven-year timeframe? This is a supplementary to that second question. Is it still on average seven years from the time the process starts to the time we have the conversion and the addition?

Ms. Sara Filbee: I'll start and then I'll get Paul or Martin to provide some additional details.

First of all, with respect to the difference between Saskatchewan and Manitoba, as you might have gathered from reading the audit, the whole process is really quite complex in terms of what we're trying to do and the number of parties that are involved, and there are actually quite significant differences between the way the process has evolved in Saskatchewan and in Manitoba. For example, in Saskatchewan the obligation is mostly done by land purchase, whereas in Manitoba it's usually by use of crown lands. Crown lands quite often come not surveyed. There's a difficulty in getting enough surveyors and so on. So for one thing, in order to make the land suitable for addition to reserve, right away you've got a difference in terms of timing.

Mr. Todd Russell: Isn't the federal government responsible for the surveys and the environmental assessments and the readying of the land, basically?

Ms. Sara Filbee: The difference is that there is more to be done with respect to the lands in Manitoba than there is in Saskatchewan. There are more processes, more things that are required to be done, so it does take longer. There are also additional differences with respect to some of the third party interests that have to be dealt with in Manitoba over Saskatchewan. So there is also a very practical thing. The Saskatchewan agreement establishes a rural municipal compensation fund in terms of dealing with municipalities that provides 22.5 times tax loss compensation for rural municipalities. To the contrary, in Manitoba, it's five times tax loss. So again, when you're dealing with third parties who may or may not have the same interests in expediting, that can add to delay as well.

Secondly, with respect to your second question, I'll ask Martin or Paul to take a first crack at it.

Mr. Martin Egan (Director, Lands Branch, Department of Indian Affairs and Northern Development): In terms of phase one, there certainly is enough land to be purchased or selected in both provinces, but if you're purchasing land it's obviously on a willing buyer and willing seller basis. So the first nations want to be able to sit back and wait until those lands that they want are available.

On the selection of crown land, it's again a process where the province would have to go through its process to determine whether it wishes to release those lands, because there are certain things that it can withhold the lands for.

But with respect to phase one in general, under our process the first nation has to submit a band council resolution, and what we're finding is that in phase two, which is the part that the regional offices undertake, there's a lot of back and forth between the regional office and first nations on getting more details about their selection, which often isn't in the BCR, the band council resolution. And so what we're hoping the NALMA work will do is establish a little more rigorous proposal-based system where the first nation will have a certain amount of detailed information that it will submit, but it's the

kind of information that a diligent buyer would require and that's the kind of information that the community obviously would want. So that coincidentally is the same type of information we need to run our process.

So I think that will make it easier to determine when the clock should start running on phase two and allow us to better gauge how long the process is taking, because right now the BCR will come in, but with this back and forth we don't really know where that clock should start ticking.

• (0915)

Mr. Todd Russell: What about the seven-year...?

Mr. Martin Egan: It has been taking up to that point. But with respect to the different improvements that have been undertaken over the last couple of years, it's still hard to know how that's going to affect the outcome. Whether it's now down to six or five, we're not sure yet. But we're sensing that there are improvements.

Also, one of the big improvements is that in 2000 and 2002 Parliament passed two bills, the claim settlements implementation acts. Those are being used more and more by first nations as an opt-into situation. When the first nations do opt into that legislation, it provides a lot of tools to them in the pre-reserve situation in order to address third party interests. It not only allows those tools to address those interests, it provides those third parties with a lot more certainty regarding their interests.

The other thing it does is that once it is reserve land, that reserve land is economically development-ready—you can put a development on it right away—whereas if those acts aren't used, then you get into situations where it might take up to a year before you can put a lease and a development on that land, because there is a whole pile of other processing that has to happen.

[Translation]

The Chair: Mr. Lemay, you have the floor for seven minutes.

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): I need to understand how the process works. The government has undertaken to return lands to the aboriginals and to include them as reserve lands. Is that correct?

Mr. Paul Fauteux (Director General, Lands Branch, Department of Indian Affairs and Northern Development): Yes, that's it.

Mr. Marc Lemay: Do those lands in Manitoba and Saskatchewan currently belong to the provincial governments?

Mr. Paul Fauteux: Not necessarily. In some cases, yes, especially in Manitoba, but there are also lands that were subject to party-to-party sales. Those are private sales.

Mr. Marc Lemay: All right.

The Auditor General came and told us that one of the ideas retained was that a number of those lands would have to be near the cities. Am I in the right ball park?

Mr. Paul Fauteux: No. Under the tripartite agreements signed between the First Nations, the province and the federal government, First Nations have the opportunity to select lands where they want. Some indeed chose lands located in urban areas as a result of their economic development potential.

Mr. Marc Lemay: So it's understandable that that might delay matters enormously. If you're near a major centre, whether it be Prince Albert, Regina—

Mr. Paul Fauteux: —or Winnipeg. Yes, absolutely. The issues that have to be resolved are even more numerous and complex in the case of urban lands than for rural lands.

Mr. Marc Lemay: Among the lands concerned, are any located inside parks? I'm not talking about a Canadian national park, but about provincial parks.

Mr. Paul Fauteux: Not to my knowledge.

[English]

Are you aware of any provincial parklands?

Mr. Martin Egan: No. There was a specific claim addressed in Riding Mountain National Park with a small area, but in general, no, the lands are not selected in parks, although there are some outstanding questions respecting that.

[Translation]

Mr. Paul Fauteux: That can happen, but it's exceptional.

Mr. Marc Lemay: Ms. Filbee said something in her introduction that made me wince a little. I quote it in French: “Toutefois, il y a beaucoup de parties concernées qui n'ont aucun motif apparent de faire avancer rapidement les dossiers.” You'll understand why I'm wondering about that.

• (0920)

Mr. Paul Fauteux: The translation may be a little harsh. I believe in English, it referred to

[English]

parties who don't have the same incentive to move ahead politically.

[Translation]

Mr. Marc Lemay: It could be translated that way into French.

Mr. Paul Fauteux: The first nation, the federal government and the province have a common interest in moving ahead quickly. In the case of a third party, whether it be an electrical, gas, pipeline or telephone company, it has to obtain an instrument under the Indian Act that replaces the easement provided for under the common law system outside the Indian Act. For a third party, that's not necessarily as high a priority as for the first nation, the federal government or the province.

Mr. Marc Lemay: For example, if Bell Canada has pylons there, it would need an exemption.

Mr. Paul Fauteux: It would need a right of way. The business already had a right of way under the provincial act, when the lands were under the legal system of the province. It has to obtain an instrument, an easement, a right of way, issued under the Indian Act.

Mr. Marc Lemay: In 2005, the figure cited was seven years. So do you still think it's possible this will be settled in 2012?

Mr. Paul Fauteux: That seven-year figure isn't a target; it's an average that was mentioned by your colleague, which may have applied to a number of additions to reserves at one point. We're putting in place—and Ms. Filbee mentioned this in her statement—a national additions to reserve tracking system. It's a data base containing all the data on all additions to reserve processes. Once that data base is operational, in the current fiscal year, it will enable us to monitor every detail of the process very closely. We will then be able to say whether the average is indeed seven years or whether it is shorter, if we are headed in the direction of a shortcut to the process. However, seven years is not a target.

Mr. Marc Lemay: Does that also apply elsewhere than in Manitoba and Saskatchewan?

Mr. Paul Fauteux: Yes, absolutely.

Mr. Marc Lemay: So it applies to Quebec.

Mr. Paul Fauteux: The data base will be national.

Mr. Marc Lemay: So it applies to Quebec as well?

Mr. Paul Fauteux: Absolutely, it applies to all the provinces.

Mr. Marc Lemay: My question was a bit of a trick question. For those lands to be considered reserve lands, must the aboriginals concerned necessarily be recognized under the Indian Act; in other words must they already be established as a reserve?

Mr. Paul Fauteux: To make an addition of lands to an existing reserve, to create a reserve, there must be an Indian band within the meaning of the Indian Act on the site, since it is the act that defines a reserve as being lands reserved for the use and benefit of an Indian band, which today is called a first nation.

Mr. Marc Lemay: My colleagues have been made aware of a problem we have in Quebec, which is called Kitcisakik.

Mr. Paul Fauteux: That's a place that I know and have visited.

Mr. Marc Lemay: I'm sure you must know it and I am convinced that you know it. The problem is that Kitcisakik is in the middle of a Quebec national park. If I understand correctly, the problem is far from solved: it'll take some time before the problem is solved, first because this isn't a recognized band for the moment. It is recognized only in part. What do you do in that case?

Mr. Paul Fauteux: I'm a bit at a loss to answer you because I don't have the most recent information about Kitcisakik. When I visited the community a few years ago, it was clear at that time that the Quebec government had agreed to make available to the first nation lands that could constitute a reserve under the Indian Act. They don't like the term “reserve” at Kitcisakik, but it was arranged so that, to all intents and purposes, it was a reserve that could be called a “village”.

Mr. Marc Lemay: From the moment you have those lands and you include them in a reserve, how many communities in Manitoba and Saskatchewan can the process affect?

[English]

The Chair: A brief response.

[*Translation*]

Mr. Paul Fauteux: I believe the number should be about 50 or less. A framework agreement was signed in each province by a group of first nations. I believe there are about 20—

[*English*]

The Chair: Unfortunately, Monsieur Fauteux, we're finished our time on this.

Perhaps you can work it into another one of the responses, Mr. Lemay, or there will be another round for the Bloc also.

Now we'll go to Ms. Crowder for seven minutes.

• (0925)

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Thank you, Mr. Chair.

Thank you for coming to the committee today.

I want to come back for a moment to the difference between Saskatchewan and Manitoba. I just want to go back to a couple of the specific comments the Auditor General made.

In paragraph 4.21 she says that “We found numerous examples of data being received from the Manitoba region that was inaccurate or incomplete”.

In paragraph 4.25 she says, “For those in Manitoba, we found that the Department does not even capture the information necessary to determine whether processing times are being reduced”.

In paragraph 4.43 she says, “In fact, throughout the audit, Department officials repeatedly referred to the fact that the Manitoba Framework Agreement does not obligate them to resolve third-party interests”.

In paragraph 4.46 she says, “We found that most of the land selection files that we reviewed in the Department’s Manitoba office were not well organized and often were not comprehensive”. She also says neither Saskatchewan or Manitoba had a protocol for file management.

In paragraph 4.48 she points out the fact that “...the Department uses management tools in Saskatchewan that track the status of all land selections to help keep officials up to date on the outstanding treaty land entitlement workload”.

Part of what you were saying was that there were some differences around selections, but it seems to me that the Auditor General identified some fairly serious issues of management within the department in Manitoba. It seems to me if Saskatchewan can put in systems and procedures and work on relationships around third party interests, surely Manitoba could do that as well. I wonder if you could comment on the differences and what actions have been taken to remedy those differences.

Mr. Martin Egan: Sure. Thanks, Madam Crowder.

In 2004 the Manitoba region reorganized itself. Before that, it had the lands department, which I happened to be the director of at that time, and the additions to the reserve area were separated. In 2004 there was a reorganization to bring them all under one director. I think that helped. That director at the time went to Saskatchewan and

did a best practices review and imported those into Manitoba. There was an effort going on to try to import those best practices.

Some of those best practices in Saskatchewan actually evolved because of the differences in the agreement. For example, in the Saskatchewan framework agreement there were templates for various third party interests that were pre-negotiated before the agreement was finalized. That resolved a lot of the third party interests right up front and made them very easy to get to.

There was some work done with the first nations to try to come up with template agreements that could be used in Manitoba. Some of that discussion is still ongoing.

Ms. Jean Crowder: On that point, the Auditor General has said that in Manitoba the department doesn't see it as part of their responsibility.

Mr. Martin Egan: There's definitely a difference between Saskatchewan and Manitoba with respect to the roles and responsibilities under the framework agreement.

Ms. Jean Crowder: I'm sorry, it seems to me that's pretty fundamental towards moving things forward. I'm wondering why Manitoba wouldn't consider that as part of their roles and responsibilities.

Mr. Martin Egan: It is fundamental. Very specifically in the agreement there is a clause that provides the roles and responsibilities for the Treaty Land Entitlement Committee, which is the organization that Canada has funded in order to help the first nations. It's actually a first nation institution that's helping first nations deal with this additions to reserve process. They're a partner to the agreement; the Treaty Land Entitlement Committee actually signed the framework agreement.

Ms. Jean Crowder: Let me back up a bit. I'm having trouble understanding this. The Auditor General says that the Manitoba framework agreement does not obligate them to resolve third party interests. Are you saying that first nations agree to that in the framework agreement?

Mr. Martin Egan: Very explicitly.

Ms. Jean Crowder: So in Manitoba first nations say they also don't see it as a department responsibility to help resolve third party interests.

Mr. Martin Egan: When the framework agreement was being negotiated in 1997, that's how it actually got signed. The Treaty Land Entitlement Committee was responsible to assist first nations to resolve the third party interests, and they were funded for that. Did it work in practice? Well, I think we found out that there needs to be a bit more of a collegial approach to it. Manitoba region has—and for a number of years, actually—begun to be involved more in third party resolution issues as they arise.

• (0930)

Ms. Jean Crowder: What kinds of consultations have there been with first nations to improve that or to look at changes within that framework agreement?

Mr. Martin Egan: I'm not aware of any discussions to amend the actual framework agreement. But even though the Treaty Land Entitlement Committee's funding ran out in 2007, the department has funded it for two consecutive years, over and above the amount in the agreement. So we've gone over and above what the agreement has required of us.

Ms. Jean Crowder: The results aren't there, though, so it would seem that they should go over and above.

Mr. Martin Egan: Right, and that's part of it.

Ms. Jean Crowder: Going back to the inaccuracy in the files, it doesn't seem like that's in any framework agreement. What's being done to correct that?

Mr. Martin Egan: I think the Auditor General found that certain acreages had changed...well, there were a couple of files that had inaccurate acreages. To address that, NATS, the system that Sara talked about in her presentation, is going to be the working tool for the day-to-day practitioners, and the actual information will be in that system. We'll be able to see how it tracks out and where we are at different points in the process. It should be the definitive information source.

Ms. Jean Crowder: When will that be operational?

Mr. Martin Egan: It will be in this fiscal year. It has been delayed a little. Initially, we hoped it would have been rolled out this month.

We did a pilot in Saskatchewan in December and found the people there had some really good ideas about how to make this far more applicable to their day-to-day operations. So those changes are currently being made and we're hopeful of rolling it out within the next couple of months.

The Chair: Very good.

Thank you very much, Ms. Crowder and Mr. Egan.

We'll go to Mr. Rickford, for seven minutes.

Mr. Greg Rickford (Kenora, CPC): Thank you, Mr. Chair, and I thank the witnesses.

I'll start with a little bit of context here. Obviously, like Monsieur Lemay, I'm interested in the whole idea of incentivizing...or the problem that was identified was that there was no incentive to move forward with some municipal governments and third parties. Monsieur Fauteux, I want to give you an opportunity to add a little bit more to that, because we do have time constraints, but perhaps you could consider this in terms of one of the things I'm particularly interested in, and that is the idea of small urban tracts of land in and around bigger city centres. I believe that is a key strategy in economic development. There are some very successful examples of that and there is some good literature written about them.

But could you comment briefly on that before I drill down and get into specifics?

Mr. Paul Fauteux: I think you've put it very well. There is a tendency on the part of first nations to select land for economic development purposes. And as I mentioned earlier, those economic development opportunities, quite logically, tend to be greater, more promising, and more varied in urban centres than they are in rural areas.

Municipalities in Saskatchewan, where this trend began, have been very supportive of first nations' selections in urban areas, because they see the benefit to surrounding communities. A downtown block may become a reserve, economic activity would happen as a result, and there would be spinoffs for the surrounding area.

That happens in other urban areas as well that are not necessarily right downtown. And we see that this tendency is migrating from Saskatchewan into Manitoba.

Mr. Greg Rickford: Specifically, what difficulties do you find are often involved with converting these areas to reserves? Could you give me some examples of some of the challenges?

Mr. Martin Egan: Whenever there is a municipal government involved, there has to be a negotiation between the first nation and the municipal government to provide services that the reserve, within the municipal boundaries, would require. That would call for everything from fire to police protection, to snow clearing, to water and sewer, the whole gamut of services that are normally provided to people in the city through their taxes. There would have to be an agreement on how that would be provided to the first nation reserve.

● (0935)

Mr. Greg Rickford: Is this the part of the process where you typically see the delays?

Mr. Martin Egan: There definitely have been some prolonged discussions, prolonged negotiations, and some of them, actually, have not come to fruition.

Mr. Greg Rickford: And do you think that it's complicated by the fact that it's another government, i.e., a first nation government, trying to work with the municipal government, versus, for example, a private industry that wants to set up a massive-square-foot industry or something like that? How is that different?

Mr. Paul Fauteux: It's a fee-for-service negotiation basically, so the private industry would be a price-taker. The municipality has services, and they have rates, and they'll bill for the services through taxes.

In this case it's a bit different, because the service is going to be provided, as you say, to another level of government, and it may take a while before they agree on both the breadth of services that the first nation wants to purchase from the municipality and the price at which—

Mr. Greg Rickford: Do you run into political barriers at all if the first nation, or some first nations, are interested in putting a specific kind of building on that tract of land? Normally it could be an administrative building for health or education or the like. Prince Albert is a great example of that. But what if it was a health centre, for example? Do you think there are any issues that arise there with the municipal government, maybe even the provincial government?

Mr. Martin Egan: We are aware that there are typically discussions about bylaw compatibility and things of that nature, so those have been, on occasion, difficult discussions.

Mr. Greg Rickford: These questions really are alive and well in Sioux Lookout, in my riding. As is the case for some of the other folks here, many of our reserves, including my 25, are not connected by road, and so they use Sioux Lookout as a city centre.

We're doing some work, at all levels of government, looking at the feasibility of an urban reserve in Sioux Lookout. Certainly there's a need for it. I think it has to be strategically developed and not at odds with some of the municipal economic development opportunity and businesses, quite frankly, that are there.

How do you see the difficulties of isolated communities getting access—maybe a collective group of them, let's say—in this process, if they were wanting to make an application for a small urban tract of land in a town or city like Sioux Lookout, or what have you?

Mr. Martin Egan: What would be the first step in doing that?

Mr. Greg Rickford: Yes. If a group of communities were—

Mr. Martin Egan: I think probably one of the first steps is to establish a relationship with the municipal government and try to get those folks to be part of the planning process, rather than trying to stop it. It has happened before that the municipal government hasn't been supportive. But if you can get that support, that is very helpful.

Then there's the question of where the land is going to be and why it is going to be reserve. The additions to reserves policy has a number of justifications in it, and if a first nation has a legal obligation—for instance, if there's a specific claim settlement or something like that, where there's land promised to that first nation—then the reserve could be created using that legal obligation and could be set aside. We don't usually do it, but it can be done for more than one first nation.

Mr. Greg Rickford: That's exactly where I wanted to finish up. I imagine I'm running out of time very quickly.

This doesn't necessarily depend on the ability of one first nation, perhaps in the immediate area of Sioux Lookout, to make an application. There is a possibility for a number of communities to come together.

A witness: That's right.

Mr. Greg Rickford: All right. Thank you. I have no more questions.

The Chair: Thank you, Mr. Rickford.

Now we go to

[Translation]

Mr. Bélanger, you have five minutes.

Hon. Mauril Bélanger (Ottawa—Vanier, Lib.): The meeting will be ending before 2:00 p.m., but the speaking time allotted to me is nevertheless limited to five minutes. That's interesting. I'll request another turn in order to have 10 minutes instead of seven.

[English]

This is rather interesting. I had a set of questions ready, but I'll pursue what has been asked there.

How prevalent is it for municipal lands to become part of reserves?

• (0940)

Mr. Paul Fauteux: It's still very much the exception.

I think the percentage would be less than 20, Martin?

Mr. Martin Egan: You mean 20% for urban reserves?

Mr. Paul Fauteux: Yes. That's as opposed to 80% for rural. The last time I looked that was about the proportion.

Mr. Martin Egan: There are some large urban centres across Canada that have sort of grown up around a reserve, because their urban boundaries have been expanding. That has happened in Vancouver and in Calgary, but where there's land actually being picked, or selected, or purchased within a municipal boundary, that's obviously becoming more prevalent. But we're still at the infancy, I think.

Hon. Mauril Bélanger: What happens to the tax treatment once it becomes part of a reserve?

Mr. Martin Egan: That's where you get into the municipal development services agreements, where the services are provided to the reserve and it's based on a tax in lieu. In lieu of taxes, there's some kind of payment under that agreement, a grant in lieu of taxes.

Hon. Mauril Bélanger: So who pays the grants in lieu of taxes?

Mr. Martin Egan: That would be the first nation.

Hon. Mauril Bélanger: The first nation, and does it get that compensated by the Government of Canada?

Mr. Martin Egan: They would have to pay for it through their revenue streams, depending on what is going to be on that reserve. If it's purely economic development, then it would have to be out of their development moneys.

Hon. Mauril Bélanger: Okay. Keep that thought on file for a moment, but grants in lieu of taxes, in my understanding, are paid to the municipality, not to the province, correct?

Mr. Martin Egan: That's right, yes.

Hon. Mauril Bélanger: If a piece of land is currently occupied, for which the municipality, school boards, and the province get money through acquisition in one way, shape, or form, it becomes part of a reserve, and then the school boards and the province cease to get income from that property, correct? If the taxes generated are grants in lieu of taxes paid by the reserve, the aboriginal community, to the municipality only, then the province and the school boards cease receiving income from that property, correct?

Mr. Martin Egan: Again, it's site specific. If there are children going to the school, then there would have to be some kind of tuition agreement.

Hon. Mauril Bélanger: No, I understand. I'm talking about taxes now, property taxes.

Mr. Martin Egan: Property taxes would cease, as we know them.

Hon. Mauril Bélanger: Interesting. What about businesses that are on the property? Are they subjected to taxes?

Mr. Martin Egan: The first nation would have the ability to put a tax bylaw in place so that it would be—

Hon. Mauril Bélanger: But are they subjected to federal and provincial taxes?

Mr. Martin Egan: Again, it's a site-specific situation. If it's a first nations person, some tax exemptions would potentially come into play, but businesses in general would have to pay taxes.

Hon. Mauril Bélanger: Could it be conceivable that in a municipality—whichever, Calgary or Ottawa, for that matter—a piece of land becomes part of a reserve, and businesses or an office building locate on that property. Is it subjected? The business owns that, whether it's aboriginal or not. What is the tax treatment of that business?

Ms. Sara Filbee: We're not absolutely sure, so if you don't mind, we'll get a written response to your question with respect to the actual tax treatment. We can guess, but I'd much prefer to get back to you with accurate—

Hon. Mauril Bélanger: That's good. Not guessing is good, thank you.

Do I have some time left?

The Chair: You're still good for another minute, Mr. Bélanger. How about that?

Hon. Mauril Bélanger: Wow, a minute. I won't even get time to ask my question, so I'll save it for the next round.

[Translation]

One minute is an eternity.

[English]

The Chair: All right.

Now we'll go to Mr. Albrecht for all of five minutes.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you, Mr. Chair. I'll try to follow up in that same vein.

In the statement talking about the municipal governments, I think when you were explaining it in response to a previous question, you said that Saskatchewan has a 21 times—

A witness: It's 22.5.

Mr. Harold Albrecht: So will you explain that again to me? Saskatchewan has 22.5 and Manitoba has 5 what, and for how long?

Mr. Martin Egan: If a first nation chooses land in a rural municipality in Saskatchewan, under the Saskatchewan framework agreement there is a pot of money that the municipal government would then be reimbursed or compensated for out of that pot. If the

annual tax bill was \$1,000, they would get 22.5 times that as a one-time payment.

• (0945)

Mr. Harold Albrecht: One time, so it's not each year.

Mr. Martin Egan: No, and in Manitoba it would be five, so you can see there's an incentive for the municipal governments to play ball a little bit more in Saskatchewan than—

Mr. Harold Albrecht: Then in terms of ongoing services that are supplied, that would be done on an arrangement—

Mr. Martin Egan: On a fee for service.

Mr. Harold Albrecht: —between the first nations people and the municipal government.

Mr. Paul Fauteux: And that's ongoing.

Mr. Harold Albrecht: So it's like taxes, but it's an agreed-upon, negotiated fee for the services that are provided. Is that accurate?

Mr. Martin Egan: Yes, it is.

Mr. Harold Albrecht: Thank you. I'm a little clearer on that.

On page 2, in the second last paragraph, you say that it's difficult to increase the rate of TLE implementation tenfold and then try to maintain that level. I think we all understand that the initial phase would probably be more easily achieved and that it may drop off.

Then you go on to say, "...processing times are decreasing through better planning and various other measures". You then go on to say that further improvements can be made.

I think it's in the interests of all Canadians and all first nations people that the more quickly we expedite these, the better it will be in terms of economic development opportunities. This point has been referred to a number of times. Could you give me two or three examples of decreasing times through the various other measures? What various other measures have been implemented? Second, what are some of the ones you've already identified moving forward as improvements to the system and the process?

Mr. Martin Egan: Sure, I can do that. We can throw a couple out for you.

We've already talked about the NATS system and how that is going to allow us to have better information to plan better. It's also going to allow us to set some processing service standards, which we think is a better way to go than to have acreages as our targets. In certain parts of our process, if it is a 70,000-acre parcel, it takes the same amount of processing time as a one-acre parcel.

Mr. Harold Albrecht: That adds quickly to your success rate.

Mr. Martin Egan: It does, and unfortunately there aren't very many of those huge parcels anymore.

We're going to have a discussion with the Assembly of First Nations in the near future. We've had the informal discussion, and we're going to be engaging them formally. Part of the agenda we're looking at is going to include examining agreements and pulling the best practices out of those agreements so that we have a shared understanding of the types of measures that should go into settlement agreements in order to help implementation, rather than hurt it. Hopefully that will happen.

We're also going to be looking at the benefits of the legislation that I talked about earlier. Those pieces of legislation are only applicable in the prairie provinces, and they have some really excellent tools that facilitate the implementation of the additions to reserve process.

Mr. Harold Albrecht: Thank you.

Could you expand a bit as well on the types of environmental assessments that are done? Are they done at both the federal and the provincial levels? Do both levels of government need to sign off? Are there levels of duplication that could be avoided in those assessments?

Mr. Martin Egan: Generally what happens is that there is usually a sort of triage as to what kind of land use this selected land has undergone over the number of years and whether there is anything we should be concerned about. Depending on how that shapes out and what type of information we get out of that process, there may be some on-site testing and that type of thing. We try to narrow down exactly what things we may be concerned about and then determine whether there is an actual concern there or not.

It's really site specific. If there was a provincial licence or provincial land use of some kind, the province may be involved in it, but in general it's between the first nation and Canada. We undertake whatever testing is needed to convince ourselves, meaning both parties, that this is not going to be a problem as far as environmental impacts go.

The Chair: We're out of time now, Mr. Albrecht.

[Translation]

We'll now go to the Bloc Québécois.

Mr. Lévesque, you have five minutes.

• (0950)

Mr. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ): Good morning, Mr. Fauteux.

According to the definition you give of your sector—I use that term because I'm not talking about the department as such—you have to conduct consultations when you enter into education infrastructure and Indian affairs agreements. Do you have to conduct consultations before reaching agreements on the reassignment of lands and so on?

Mr. Paul Fauteux: No. The process of adding to reserves is the responsibility of the Lands Branch, which in turn reports to the Lands and Economic Development sector. Our education infrastructure colleagues are not involved in the process.

Mr. Yvon Lévesque: Going back to Kitchisakik park, to which my colleague referred earlier, we know that that park is located in the middle of a wildlife reserve. I believe it's a provincial park.

Mr. Paul Fauteux: That's correct.

Mr. Yvon Lévesque: Are there any criteria that would enable a first nation to settle in the middle of a national park?

Mr. Paul Fauteux: I don't work for Parks Canada and I'm not sure I know the exact answer to your question. With regard to your concern about education, I know that the children of Kitchisakik have to be bused to school in Val-d'Or, where they stay for the entire week. That's one of the reasons why the community would like a new village that would of course include a school. In that case, our education sector colleagues would be involved in the school's construction and operation.

As to whether the situation would be different depending whether it is a federal or provincial park, I don't know, but we could look into the matter and provide you with a written answer.

Mr. Yvon Lévesque: The last news I had about Kitchisakik is that the offer of the Minister of Natural Resources at the time, who today is the Minister of Indian Affairs—

Mr. Paul Fauteux: Are you talking about the Quebec minister?

Mr. Yvon Lévesque: Yes. At the time, Kitchisakik inhabitants had been offered the choice of settling at the edge of La Vérendrye wildlife reserve. They completely disagreed with that offer. I don't know whether there have been any other agreements. If Quebec agreed to settle them where they are, regardless of the cost of such a settlement, you would also agree. There's currently no reserve.

Mr. Paul Fauteux: No. However, when I visited the community two years ago, they had already agreed on a potential site for a new village, which would not be located where the community is currently established. It would be located a little farther away, in view of the availability of drinking water and the quality of soil for construction purposes. The community, the federal government and the provincial government had agreed. By a common accord, they had identified a site that would be more suitable for the construction of a village than the current site.

Mr. Yvon Lévesque: Are the negotiations ongoing?

Mr. Paul Fauteux: I admit I'm not very up-to-date on that matter. Our Quebec City regional office handles the file.

Mr. Yvon Lévesque: I don't have any further questions, but my colleague appears to have some.

Mr. Marc Lemay: My question is for Ms. Filbee, Mr. Fauteux or Mr. Egan. When a process is established, is the first nation always consulted to determine where the community will be established or expanded?

Mr. Paul Fauteux: It's the first nation that starts the process. It selects lands and prepares a file and passes a resolution of the band council formally requesting that the federal government add that land to its existing reserve or grant reserve status to land selected by the first nation reserve for the purpose of creating a new reserve.

Mr. Marc Lemay: Is your sector's work solely to ensure that the land selected will become a reserve land?

Mr. Paul Fauteux: That's it.

• (0955)

Mr. Marc Lemay: Do you go so far as to use an order?

Mr. Paul Fauteux: Yes, we go so far as to use an order in council under the legislation on the implementation of specific land claims settlement agreements in the Prairie provinces, to which my colleague Martin Egan referred. If those acts do not apply because we're not in Alberta, Saskatchewan or Manitoba, or because a first nation in those provinces has not chosen to make a request under that act, it's an order in council and not an order from the minister.

The Chair: Thank you.

Mr. Payne, you have five minutes.

[English]

Mr. LaVar Payne (Medicine Hat, CPC): Thank you, Mr. Chairman.

I would like to thank the witnesses for coming today. It's always nice to see you come out to provide some information to our committee.

I was looking through your report, Ms. Filbee, and you talked, on page 2, about the number of acres. I didn't see how many acres were actually created in year two, if any. I'm not sure that's clear to me.

Mr. Martin Egan: It was less than 25,000. It was about 24,900, or something like that.

Mr. LaVar Payne: So it certainly surpasses the 14,500 that were done previously, not necessarily to reach that particular target but—

Mr. Martin Egan: And in year three we're at 111,600 already, so we're well on our way there.

Mr. LaVar Payne: Well on your way.

The other thing is on page 4. We talked about the due diligence of the bands and the buyer approach, so I was wondering in terms of those first nations—and you talked a bit about the back and forth—how much has that actually delayed the process in creating these TLEs for the first nations?

Mr. Martin Egan: We think the lack of a defined proposal has created a lot of delay. In some instances the first nation will simply provide a BCR with very tombstone information that requires a lot of back and forth to try to understand exactly where and what the first nation wants as reserve. On the other hand, some first nations provide a lot of information. So we need to define that and make sure there are more defined lines between that first phase and the second phase. Then the clock can start ticking and we can put service standards in place.

Mr. LaVar Payne: Okay. I don't know how many of these are happening, but certainly my impression right now is that there are a number of these that are creating the delays.

Mr. Martin Egan: We have many, many open files.

Ms. Sara Filbee: It's a highly complex process and there are many parts to it. One of the things we're trying to do to particularly help with that part of the process is this work that we're doing with NALMA. It's more sort of a manual, templates, to assist first nations in doing the due diligence they need to do with the first phase.

The other thing that is not front and centre in terms of the discussions here is one of the programs that we have been supporting

for the last two years, the reserve land and environmental managers program. It trains first nations individuals in how to be land managers, which of course is more important once they've actually got the land and the reserve. But it also can be very important in helping them understand the issues of third party interests, how you deal with them, what's a fair appraisal, what's not a fair appraisal, and so on. That's so they're better positioned up front when they're actually picking the land and doing some of that work as well. Again, it's not front and centre in terms of these discussions, but it's one of the other ways that we're also trying to build the capacity and make the process more effective.

Mr. LaVar Payne: So adding that to the template will certainly help them move forward.

Ms. Sara Filbee: That's certainly the hope.

Mr. LaVar Payne: The other thing I wanted to talk about was the NATS, and there was some discussion on that already. I guess I wasn't totally clear about when that program is going to be rolled out.

Mr. Martin Egan: Yes, there are last-minute improvements being done. We wanted to make sure that system's going to be the definitive system that the practitioners in the field are going to use on a day-to-day basis, rather than it being something they're going to have to feed, in and above their work. So that will make it far more effective as far as the information being definitive goes. It's still about a couple of months away before we can roll it out.

Mr. LaVar Payne: So in terms of that, how do you see that speeding up this whole TLE process?

Mr. Martin Egan: It may not actually speed it up per se. It will help us to make sure we have the right number of people poised to address files, because we'll know exactly where files are in the process and we'll be able to have the right people at the right spot in the process to address it as the files come down. We'll be able to better plan our environmental assessments and our surveying requirements.

So all of that may have some effect, and hopefully it will, but it will also allow us to better see how long these proposals are actually taking from beginning to end.

• (1000)

Mr. LaVar Payne: So you'll be able to use that right across the whole—

Mr. Martin Egan: Right across Canada.

Ms. Sara Filbee: From a perspective of continuous improvement, the more data we have and that we're sure about, the more and better we can do going forward. That's in terms of seeing what our progress has or has not been, what we need to do differently, and where the bottlenecks appear to be, and so on. Again, it's not a quick fix. There's no quick fix, but there are a lot of different things we can do and are trying to do to improve the process.

The Chair: Thank you very much, Mr. Payne.

Now we'll go to Madam Crowder again, for five minutes.

Ms. Jean Crowder: There have been a number of questions around phase one, so just to be clear, the Auditor General said she was looking at the results from phase two on. Although there may be substantial delays in phase one, that actually isn't captured in her report. You're saying that because sometimes there is not sufficient information from the phase one selection, it sometimes impacts on phase two. Okay.

I want to come back to Manitoba—no surprise. You're talking about this new information system. In paragraph 4.21 the Auditor General talks about information on costs, the acres that first nations are entitled to, and lands they have selected. Will all of that be captured in there?

Mr. Paul Fauteux: Yes.

Ms. Jean Crowder: In paragraph 4.47 on management plans, she says, "In 2005, we recommended that the Department develop a management plan that outlines how it will manage its operations for processing outstanding selections within a reasonable period of time". Then she says in the follow-up audit that the Manitoba region has still not done that.

Are there plans to put those management plans in place in Manitoba?

Mr. Martin Egan: Manitoba region has created what's called a dashboard. This is sort of preliminary before NATS comes into play. The dashboard has selections from the current year and the next year, where they are in the process, and what issues have to be overcome to keep them moving through the process. I guess the plan is that the files that aren't going to happen for year three, four, or five are going to be slowly brought into this process and put into NATS eventually.

They're still trying to focus on getting 150,000 acres done for this year and moving the files along to position ourselves for the 150,000 acres for next year. We're just trying to get caught up with these other files that are going to take a lot longer. So there is a plan to review all of the files, determine where they are, and put in place action plans for each file.

Ms. Jean Crowder: I don't have the section marked, but the Auditor General identified that mostly the large selections have happened. You will have a challenge in the future, because TLE files are smaller, so you will have more of them. You pointed out that you need a better measure than just acreage, because that's not relevant. If you process 10 files as opposed to 35, you will require a significant difference in resources, so what plans are in place? You will have to process more files for fewer acres.

Mr. Martin Egan: Yes. It's a matter of ensuring that we can resolve some of those issues. There's an issue about Manitoba Hydro easements. If that gets settled, it will kick out about 70,000 acres. It

will be fairly easy to process after that. So a number of issues are being worked on. If they can be resolved, it will allow for easier processing of some of these files that have been hung up for a number of years.

Ms. Jean Crowder: I want to switch gears to economic development. In 1998, sadly, the Auditor General talked about the economic value of uncertainty. This was with respect to comprehensive land claims, but it's the same thing with TLE. Anecdotally, she talked about the benefits of economic development in this report. Has the department made any effort to actually put numbers to the cost for not settling?

● (1005)

Ms. Sara Filbee: I'm not aware of that. We've been trying to focus on getting the process working more effectively. On the side of economic development, as you may be aware, last fall the lands process and responsibility were pulled in with economic development and put in the same sector. This was done to recognize the huge impact that the lands, as significant assets for many first nations, have on the prospects for economic development. There is also the need to think about how we deal with lands concurrently with economic development issues so we can hopefully be more effective in increasing the economic development opportunities for first nations.

It's quite a piece of analysis in terms of different sites, different potential uses, different lost opportunities, and figuring in the economy's ups and downs. It's an important point, nevertheless.

The Chair: Very good. Thank you, Ms. Crowder.

We will now go to Mr. Clarke for five minutes.

Mr. Rob Clarke (Desnethé—Missinippi—Churchill River, CPC): Thank you, Mr. Chair. I'd like to thank the witnesses for coming here today.

Last week I sat in committee and asked the Auditor General how many consultations or meetings they had had with Saskatchewan first nations when they were doing their consultations in order to get the findings for their report. They indicated they'd only had four meetings with first nations in Saskatchewan.

The question is, how many first nations did they meet with in Manitoba in order to make their findings?

Mr. Martin Egan: I'm not aware of how many first nations they met with on this.

Mr. Rob Clarke: How many first nations are in Saskatchewan? Do you know, by chance?

Mr. Martin Egan: Do I know how many first nations are in Saskatchewan? There are about 72, something like that.

Mr. Rob Clarke: What is your opinion: do you feel that consulting four first nations is enough to base a report on?

Ms. Sara Filbee: We would not be able to comment upon the methodology of the Auditor General. We're here and are happy to talk about her findings and the very important issues that we're trying to work on, but we would not be able to comment on her methodology.

Mr. Rob Clarke: Currently, for first nations today, how many TLE land claims are still outstanding in Saskatchewan?

Mr. Martin Egan: We have the latest update on that and we can provide it in writing, but I believe there are around ten claims still being investigated and negotiated. We will get the definitive information for you.

Mr. Rob Clarke: Do you know the number for Manitoba?

Mr. Martin Egan: In Manitoba I believe about five or six are still under the framework agreement and have not signed their individual agreements. Those first nations haven't even selected any lands yet.

Ms. Sara Filbee: As you can see, sometimes we're held up because lands have not been selected. It is difficult to process them until we know what and where they are and so on.

Mr. Rob Clarke: Thank you.

The Chair: Thank you, Mr. Clarke.

I will go to Mr. Bagnell.

Hon. Larry Bagnell (Yukon, Lib.): Thank you all for coming.

Just because taxation on first nations land is a bit different in Canada, I wonder whether you can give the committee the basic "taxation 101" for first nations lands. As a specific example of something you could cover, my understanding is that if treaties were signed 100 years ago on those particular reserves, there's no individual taxation, no business taxation—basically no taxation at all. Would an addition to a reserve that was signed into existence 100 years ago have the same properties, or do they have these new negotiated properties?

The last question you could address in this answer would be on modern treaties. Once again, there are different taxation provisions that some of the committee may not be aware of. Could you outline some of that?

• (1010)

Mr. Paul Fauteux: I think the committee would be better served if we were allowed to consult our colleagues in the tax policy section of the department, which is actually not part of lands and economic development but is part of treaties and aboriginal government. As you note, these are matters that are negotiated in the context of specific and comprehensive land claim settlements.

Perhaps we could follow that up in writing.

Hon. Larry Bagnell: That would be good.

On the one question, however, do you happen to know whether land annexed to a reserve that was originally established 100 years ago would have identical conditions to the rest of the reserve in all respects?

Mr. Paul Fauteux: I'm not sure I understand the question; I'm sorry.

Hon. Larry Bagnell: When a reserve was first created, say, 100 years ago in a treaty, there were all sorts of conditions related to it. As I said, one of them could be that there was no taxation of any business or individual—no property tax, no GST, no business tax, no income tax—as an example of conditions that came 100 years ago on that particular piece of land, when it was created. All I'm asking is whether, when you add another 100 acres to that reserve today, inside or outside a municipality, it has the identical conditions to their original property.

Mr. Martin Egan: Yes. It would take on the same flavour as whatever exists. It would take on the same taxation situation as any reserve would.

Now, I know there's a different situation in the Yukon because of the Yukon self-government agreements—

Hon. Larry Bagnell: Yes.

Mr. Martin Egan: —and that's something totally different. However, the difference could be on how that reserve is actually set aside, whether it's surface only or whether it includes minerals. There may be some residual mineral interests that the province would retain. That mineral aspect might be the only major difference if you added 100 acres to an existing reserve.

Hon. Larry Bagnell: So you're going to get back to us with details?

Mr. Martin Egan: Yes.

Hon. Larry Bagnell: I appreciate the changes you're making as a result of the Auditor General's report. What do you think the actual results will be of those changes? What will change in the bottom line? What progress will be made? What do you think will happen?

Ms. Sara Filbee: I think the challenge we have in answering that question is that there are a lot of moving parts that haven't stopped yet. For example, we're embarking on consultations with the Assembly of First Nations with respect to legislation and so on that could significantly help the process. We aren't there yet. We don't know what the answer is. We could give you a range, but it would be a complete guesstimate at this point.

What we've been trying to do is look at the problem from a number of different perspectives and to ask from each perspective, how can we make that go faster and how can we reduce the obstacles, the barriers, and so on? We don't really have a sense; all we know is that we're trying to reduce it as much as possible.

It's difficult to give you any sort of precise estimate. I apologize for that.

Hon. Larry Bagnell: Here's my last question. In your last response, you talked about consultation. As you know, a year or two ago the department, not only for this file but for all files, as a result of certain court cases that demanded consultation, decided to draft a policy on consultation, a framework for consultation. Could you tell us the status of that framework for consultation?

Ms. Sara Filbee: We'll get you a formal update on that. I know there has been a lot of work done on it and there have been discussions across the federal government in terms of how we want to proceed, but we'll get you a formal update in terms of the actual stage of development.

• (1015)

Hon. Larry Bagnell: Thank you very much.

The Chair: Thank you, Mr. Bagnell.

I'm going to take one of the government spots briefly, if I may, and then I know we have some other questions.

We'll get your names on the list. We'll get to you, Mr. Bélanger, *et Monsieur Lévesque aussi, et Madame Crowder, absolument*. We'll have another round. We'll finish this one up and then we'll have a short round. We'll get everybody's questions in. There is plenty of time.

There were a couple of items raised this morning that perhaps are a little outside the purview of the report that you came prepared to discuss today. We appreciate your being able to take the time to get back to us, particularly on these questions.

To Mr. Bagnell's point about the rights that exist in current treaties and, when there is an addition to reserve, the extent to which those existing rights are then automatically...or is it presumed that they transfer to those new lands? Perhaps you could comment on that question.

Mr. Martin Egan: The reserve has a package of rights attached to it, and whether it is an old reserve that has existed for a while or a new reserve, in general those rights are the same.

The Chair: What would be the exceptions?

Mr. Martin Egan: The subsurface rights may be different, particularly in situations where there are only surface area reserves, so the rights to the minerals below have been retained and have not come with the reserve. But also, there are differences among the provinces on how the subsurface is affected by reserve development. It's actually quite complicated.

The Chair: I want to go to the issue of the database. I know that the Auditor General's report was quite critical not so much of the progress that's been made, which was in fact quite satisfactory, but it was addressing some of the management practices, that if there wasn't some urgency there, it would be difficult for the department to sustain the kind of progress you've experienced in the last three years.

You've talked about the database, but are there other measures that currently are very much urgent for you in terms of addressing those management practices—aside from the database, which, agreed, is a

right step? What specific issues on management practices are you addressing on an urgent basis?

Mr. Martin Egan: We do have an action plan that is currently going through a departmental approvals process. There are a number of different items on this plan. We've already talked about a lot of them.

Each file is being looked at and reviewed in terms of determining where we are in the process and what the next steps are to move it along. We're developing the template documents, trying to address some of the situations with, for instance, Manitoba first nations and trying to get such issues as easements with hydro resolved.

We're also looking at standing offer arrangements for survey work. We're trying to line up our surveying teams in a more timely fashion. We especially recognize that the work is very weather dependent. You have only a short window in which to do some of that work.

The Chair: Would it be fair to say that you're looking at these on an individual, case-by-case basis, and where there are gaps, you're just gradually trying to close those gaps and move each file along?

Mr. Martin Egan: We're trying to bundle them into issues. These, for instance, have the easement issue, and they're being held up because of this, so we need to focus on it and get it addressed. Those, though, have surveying requirements, which maybe can be dove-tailed, that type of thing. So we're looking at each individual file, trying to pull out the common elements and then trying to deal with those common elements.

Ms. Sara Filbee: In the office of one of my staff, there is a pictorial representation of the entire process. It literally goes from ceiling to floor and is dense. I mean, there's just so much that has to happen, with so many different stages and so on. It really is a business process re-engineering project that we're doing in bits and pieces.

The Chair: Very good. That's all I had.

We'll go back to Monsieur Lemay.

• (1020)

[Translation]

You have five minutes.

Mr. Marc Lemay: If a community has land claims, do you intervene? If so, how?

Mr. Paul Fauteux: No. We only intervene once the claim is settled with respect to the implementation of the settlement agreement, which typically provides for the addition of lands to the reserves.

Mr. Marc Lemay: When there is a reserve land, you intervene to take measures so that... For example, in Pikogan, which is an aboriginal community near Amos, in my riding, 92 acres of land were added. You go so far as to use an order and, afterwards, that's no longer your responsibility. Is that correct?

Mr. Paul Fauteux: After the order, it's no longer the addition to reserve process. We go on to the continuing reserve land management phase. We go into another field than the one that is the subject of the Auditor General's report, but that's still part of lands management and of the responsibilities of Ms. Filbee's sector.

Mr. Marc Lemay: If for one reason or another an aboriginal community decides to buy neighbouring lands with its own money, is it easier to include them in reserve lands or do you have to go through the same process as the one you're using?

Mr. Paul Fauteux: It's the same process, regardless of the origin of the lands, whether they're bought in the private market, party-to-party, or they are lands transferred from the provincial Crown, as the Quebec government said that it was prepared to do in the case of Kitcisakik.

Mr. Marc Lemay: My last question concerns the registry. I'd like to have a better understanding of what that is. My impression is that you're going to create a reserve lands registry or—

Mr. Paul Fauteux: That registry has been in existence for a long time, since the 1960s, in electronic format.

Mr. Marc Lemay: What does IT have to do with that?

Mr. Paul Fauteux: IT makes it possible to record all the legal interests in the reserve lands. For example, we were talking about easements enabling Bell to set up its telephone poles and Hydro-Quebec to install its power transmission lines. All those easements are set out in the legal instruments. Those instruments are entered in the Indian Lands Registry, which is not part of the addition to reserve process, but which is a responsibility of the Lands Branch.

Mr. Marc Lemay: That's fine. Thank you.

[English]

The Chair: Okay, now to Mr. Rickford.

Mr. Greg Rickford: May I call you Sara?

Sara, I just want to ask a few more questions specifically around this economic development idea. I've read previous reports here that suggest there may be a problem in evaluating the economic impact. Obviously, some of the more comprehensive agreements deal with different things, and we've heard Mr. Egan talk about surface rights versus underneath the ground rights.

Do you have a general sense of the economic impacts of negotiated settlements?

Ms. Sara Filbee: That's an interesting question.

I think a lot of it depends upon how the community uses the results from the negotiated settlements. There have been some really wonderful success stories in which they have used—for example, if it was moneys—investing in community activity and economic development in a very planned and orderly way. There have been some really wonderful success stories there.

It's not as simple as that we have a bunch of assets now and therefore we will have economic development. Quite often, if you

have an effective, accountable governance situation, you're more likely, even if you have fewer resources, to develop a prosperous community.

Mr. Greg Rickford: In the scenario where there is settlement for land instead of money, can you comment generally and briefly on the distinctions between a settlement in northern Canada that is outside of the provinces versus ones that are in the provinces? Are there any glaring differences?

Ms. Sara Filbee: The more important distinction is really with respect to the nature of the land, the richness of the land, in terms of whether it has resources, whether the location is good.

• (1025)

Mr. Greg Rickford: Does it have an inherent value for sponsoring—

Ms. Sara Filbee: Again, I'm thinking with an economic development lens. So that's really what's more important. There are other reasons for additions to reserve, such as just to increase because of housing needs, because of space needs and growth needs, but certainly with the economic development lens, it really depends upon the nature of the land.

Mr. Greg Rickford: So far when we talk about the concept of urban reserves.... Can you comment again, in general, on what you've seen as having the best prospects for success? What kinds of examples of use of urban reserve tracts have you seen so far, in terms of economic development?

Ms. Sara Filbee: In terms of economic development, I think we've seen a number of success stories. In general, again, if you think of the work, for example, that Harvard University has done with the Harvard project, they're talking significantly about the importance of governance structures. They talk about the importance of citizenry having ownership of the activities and the proceeds from, for example, what they call own-source revenues, which comes from economic development, which can result in a whole different way.

A third and really interesting aspect is the whole issue of property taxes on reserves. As you may be aware, the First Nations Tax Commission was created and is one way in which reserves have started to levy taxes, which they can then use to support the programming and the development of the reserve. It's one way of developing citizen buy-in in terms of responsibility for the results of the process.

As usual, the challenge with economic development is that it's a very complex system, and unfortunately, there's no one button that we can push.

Mr. Greg Rickford: I understand this, and I'm looking back at some of the older reports and trying to reconcile ways that you measure economic impact, and preferably successes. But is this what makes it so difficult to develop a framework for evaluation? There doesn't seem to me to be a standard template you could develop, because the nations use them for different opportunities.

Ms. Sara Filbee: In terms of economic development?

Mr. Greg Rickford: Yes, in terms of economic development.

Ms. Sara Filbee: The way we're working it through at the moment, because we're doing a lot of work in this area, is that if you look across the spectrum of what's required in a community for effective economic development, it's everything from access to resources to effective governance in community situations, a proper commercial infrastructure, a proper regulatory regime, and so on.

Again, different communities will be in different circumstances in terms of either the nature of the resources or the particular impediments they face. So when you're looking at a community in particular, you have to almost do a survey of the factors that are necessary for good economic development: which ones are missing, which ones are there, and then how do we start working with them?

I think one of the primary things is that government can't do it for any community. Communities have to do it for themselves. We can get out of the way, we can remove obstacles, we can do our processes more effectively so they have more lands to work with, and so on—

The Chair: That's it.

Ms. Sara Filbee: I'm sorry, I know I'm rolling on.

The Chair: No, that's okay. Thank you, Ms. Filbee.

Now we'll go to Ms. Crowder, and then Monsieur Bélanger.

Ms. Jean Crowder: I just want to make a quick comment on economic development before I ask my question.

Some really interesting work has been done on things like John McKnight's stuff on asset-based economic development. It is probably a really good example of where the community could build on its strengths. One of the big challenges with community economic development, which I'm sure you're well aware of, is that it requires long-term commitment because often it takes ten or fifteen years to see the results. So if we're developing policy around community economic development, it would be nice to see some long-term commitment to it.

I just have one brief question, and it's about monitoring and reporting results to Parliament.

In 2005, the Auditor General indicated there wasn't that reporting to Parliament around legal obligations, cost numbers, acres selected, acres converted to reserve status, and so on. In her current report, in paragraph 4.54, she again says: "As a result, the Department is not clearly presenting the progress it has achieved and the challenges that remain for Canada to meet its treaty land entitlement obligations in Saskatchewan and Manitoba." And she talks about the fact that she looked at 2005-06, the departmental performance report for 2006-07, and still there was no information. I wonder if the department has plans to actually report in their performance report around the fact that the Auditor General now, in 2008-09, has said the department's not doing it.

Are you going to do it?

• (1030)

Ms. Sara Filbee: I hate to be a broken record, but one of the reasons for the importance of the system of NATS for us is that we

are going to have a better information database so we can report appropriately, so then people can help us in terms of bringing good insights to the process—where the blockages are, where they're not, what's working, and what's not.

Ms. Jean Crowder: I have a question just out of curiosity. In the performance reports, why wasn't the department reporting that it wasn't able to do that? You had clear direction from the Auditor General, the department itself made a commitment it would report, and then it didn't do it. Why didn't it?

Ms. Sara Filbee: That's a difficult question. I wasn't around at the time they were written, but what I can say is that ever since the first report, we have been working on putting in place a number of solutions to try to solve the problems you so rightly identified with the many other parties who are also part of the solution.

Whether or not it was reported in the DPR, that activity has been continuing. Some of it has taken longer because there are longer processes. You're familiar with the challenges with IT projects. It takes longer than one would like to get to a point where you have a result. But whether or not it was in the DPR, that activity has been happening. The last audit report recognized the fact that there have been some successes and some changes as a result, and we're hoping the remaining issues we had not been able to fix by the time of the second audit, we're now in a good position to be able to report on.

Ms. Jean Crowder: I'd like to reiterate the importance for parliamentarians. When performance reports come out for a department, reflecting what's going on in the department, it's disappointing to see that the Auditor General identifies it as an issue. The department agrees it's an issue and then doesn't do anything about the reporting. I'm not talking about the other. There was a specific commitment by the department to report and the department did not report. That's what I'm talking about. An important aspect of how parliamentarians can determine what's going on in a department is that it's included in the reporting. So I look forward to the next DPR, to reading the progress on the TLE process.

[Translation]

The Chair: Thank you, Ms. Crowder.

Lastly, Mr. Bélanger, you have one more minute, which means six minutes.

[English]

Hon. Mauril Bélanger: On the hypothetical office building that has been acquired and is now part of a reserve, and for which you're going to give me the tax treatment, would you also be kind enough to tell me what the tax treatment would be of the individuals working in that building, whether they be aboriginal or non-aboriginal citizens?

I want to follow up on economic development, which I gather is basically the entire reason we have these transfers. In its response to the Auditor General's 2005 study, the department said it had prepared a draft plan for evaluating the impacts of comprehensive land claims agreements and that a pilot evaluation was due for completion in early 2007.

Are you familiar with that?

Ms. Sara Filbee: That would be under treaties and aboriginal government. If there's a particular piece of information you're looking for, we'd be delighted to get you the answer.

Hon. Mauril Bélanger: This is interesting, because I asked this same question of the Auditor General's staff last week, and they told me I should ask the department. So I'm asking the department and I'm still not getting an answer.

Ms. Sara Filbee: We'd be happy to get the answer from the department for you. Again, as you indicated before, we'd rather not guess at an answer; we'd much prefer to get the correct answer for you from the department.

Hon. Mauril Bélanger: Okay, but you are the assistant deputy minister for lands and economic development.

Ms. Sara Filbee: That's correct.

Hon. Mauril Bélanger: So would you not be aware there was a pilot evaluation for the economic impact of these settlements? Were you there early in 2007?

•(1035)

Ms. Sara Filbee: We're not involved in the settlement aspect of the department; that's a different part of the department.

Hon. Mauril Bélanger: No, this is about the economic impact of these lands once they're added to the reserves. Is that not part of your mandate?

Mr. Martin Egan: But that deals with comprehensive claims in the north, right?

Hon. Mauril Bélanger: Yes.

Mr. Martin Egan: Okay, so that's the distinction. The north has its own part of the department.

Hon. Mauril Bélanger: Okay, so you are not involved in the north, just with Manitoba and Saskatchewan currently—the non-north.

Mr. Martin Egan: Yes, south of 60°.

Hon. Mauril Bélanger: South of 60°, okay.

Ms. Sara Filbee: Do you want us to get further information?

Hon. Mauril Bélanger: Oh yes, I would like to know if indeed this pilot evaluation has been completed. It was supposed to be completed in early 2007. I'd like to have a sense of what that evaluation is—unless that results in a whole brick of paper, which

I'm not interested in being buried in—and what elements it contains. I would like to know, indeed, if it was performed, and what the results were and where we are going with it.

Now, if this is for the north, do the areas south of 60° have a similar process?

Ms. Sara Filbee: I'm not aware of that. No, I don't believe so.

Hon. Mauril Bélanger: Okay, that's your bailiwick.

Do you have a method of evaluating the impacts of the settlements, that is, the impacts of the additional lands brought into reserves? Do you have a method for evaluating the impact?

Ms. Sara Filbee: The additions to reserves process is based upon land that is selected by first nations; it's not us who picks the lands to be added to reserves.

Within my area, have we done a study on that? No, I don't believe we have.

Hon. Mauril Bélanger: If I'm not mistaken, the Government of Canada committed about \$190 million to Manitoba alone to acquire those lands selected by the aboriginal community. So would we not want to have an indication of the impact of that \$190 million of taxpayers' money?

Mr. Martin Egan: Well, in and above any economic development, it has brought certainty to a legal situation that was uncertain, and it has fulfilled a treaty obligation. So there's that aspect of it. I guess we haven't done the assessment of how this has impacted the economic situation of those first nations. We've been dealing with the legal obligations.

Hon. Mauril Bélanger: I'm sorry, I didn't quite hear that last sentence.

Mr. Martin Egan: We've been dealing with this because it's a legal obligation, and we haven't done the assessment of what the positive impacts would be on the economic situation.

Hon. Mauril Bélanger: North of 60°, do we deal with it because it's a legal obligation?

Mr. Martin Egan: I would assume so, yes.

Hon. Mauril Bélanger: Yet we do the evaluation of the economic impact. So why would we not do it south of 60°, especially if you have substantial amounts of money being used? I'm not criticizing that it's being done. It's just that once it's done, do we not have an interest in knowing whether it's positive or negative, or do we not have any role there? I'm not trying to crucify anybody; I just need to understand.

Ms. Sara Filbee: The issue of whether there have been specific results for specific lands added is a much smaller question than the bigger issue of what is necessary to increase economic development results across the spectrum in terms of aboriginal populations, in our case, south of 60°. Have we focused on the specific issue of economic benefits because of specific lands? No, we haven't. We've done a lot of work and a lot of research and investigation with respect to the important factors for economic development so that we will know how we can best operate to promote economic development. That's where we have been spending our energies with respect to that nature of inquiry.

Hon. Mauril Bélanger: I have a final question, Mr. Chairman. What are the tools you have for evaluating these economic development initiatives or results? What tool do you use to evaluate them? Do you have any such tools?

Ms. Sara Filbee: I'm not sure I quite understand what you mean by tools. We're really at the stage of developing a method of analysis and planning with respect to how we can best support economic development. In this case, because we're talking about ATRs on reserves but also for the rest of the aboriginal population, there are a number of tools or levers, many of which are not under the control of the federal government. There are some tools we have, such as aboriginal economic development programming, for funding of aboriginal businesses and funding of community development planning and planners. So there are a number of tools along those lines.

I'm not sure I quite understand the question.

• (1040)

Hon. Mauril Bélanger: I'm not sure why, then, it's called lands and economic development division. That throws me off.

Thank you, Mr. Chair.

The Chair: That's it, Monsieur Bélanger.

I don't have any more speakers at this point, so I would just say, in wrapping up, that there were a couple of important questions on which you undertook to get some responses. We'd certainly appreciate that, if you could contact the appropriate officials in the department.

[Translation]

On behalf of the members and the committee, I thank you for your presentations, your answers and your comments.

[English]

We certainly appreciate that.

For the members, we're going to see you Thursday morning at 6 a. m. near the Confederation Building.

You have a question, Madam Crowder.

Ms. Jean Crowder: It's not about Thursday.

When the Auditor General came last week—Monsieur Bélanger pointed this out—she did a presentation on the northern reports. I wonder if at some point it might be of value to have the department responsible for those particular areas come to the committee, because

there were a number of issues raised that she specifically said we need to talk to the department about. The department is here today. It's not their responsibility to deal with those issues north of 60°. I wonder, if we have some time, if we could look at our schedule and have the department in for those particular areas.

I think Mr. Russell also raised child welfare. I think it would be timely to have the department back on that. We had them in initially when the AG's report came out. It committed to an action plan. I think it would probably be good to hear about their progress.

The Chair: Okay, we do have a meeting coming up, a third meeting on this particular subject, so we will undertake to see if we can do just that and make the officials appropriate to the issue available.

Ms. Jean Crowder: Can I ask a question about the treaty land entitlement meeting to deal with Treaty No.1? I don't know if other members are getting calls, but my office is getting calls about the number of chiefs who are coming and the amount of time they have to speak. My understanding is that there are a number of chiefs coming. They've been told that they have just 10 minutes for the whole group, and I just need clarification on that, because we are getting a number of phone calls.

The Chair: When there is one witness, essentially. They can come as a group, but normally there is just one presentation.

I'll ask the clerk, though. Have there been other requests to make more time available?

The Clerk of the Committee (Mr. Graeme Truelove): No, they haven't contacted me about that.

I understood this was one organization, so I told them they would get ten minutes per organization, as per usual. If the committee wants to consider it in another way, then I'll certainly call them and make a change.

Ms. Jean Crowder: They're coming for an hour, and we only have one set of witnesses in that hour.

The Chair: There has been another request on the same subject. The Treaty Land Entitlement Committee was the other organization that wished to speak in that regard, from Manitoba, I believe

Ms. Jean Crowder: We have two witnesses in one hour, then, so that can be problematic.

The Chair: We do. *C'est cela*. We were going to spread that across the whole two hours, so with the two witnesses there now, we would likely have the availability to work both of them in.

Ms. Jean Crowder: Okay, so it's two hours for the two witnesses.

The Chair: We were originally planning some committee business as well. The thought was that we could put the committee business off to the end of that meeting. We'd still need perhaps twenty minutes or so to wrap up, but we'll try to accommodate them. And as with the chiefs, if there are more, we do have some latitude there. We'll try to accommodate them as best we can, while still giving time for members, of course.

Okay. That's all. Thank you very much.

This meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

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