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Chair

Mr. Bruce Stanton

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• (0905)

[Translation]

The Chair (Mr. Bruce Stanton (Simcoe North, CPC)): Good morning to all members of the committee, guests and our witness. This is the 25th meeting of the Standing Committee on Aboriginal Affairs and Northern Development. On the agenda today:

[English]

continuing consideration of our study on northern economic development—in fact, the preamble to our study.

Members will recall that we are in the process of hearing witnesses who will help to shape our expected more thorough study on the important issue of northern economic development, i.e. economic development north of 60°.

This morning we welcome Neil McCrank, who is the author and in fact the facilitator of an important report on northern regulatory issues. Mr. McCrank will be here for the duration of our meeting.

Mr. McCrank, we welcome you. You have a ten-minute opening statement, and then we will go to questions from members. You may proceed.

Mr. Neil McCrank (As an Individual): Thank you, Mr. Chairman.

Bonjour.

Ladies and gentlemen, it's nice to be here with you. I would like to thank your clerk for making the arrangements so easy for me.

I hope to make a few opening remarks, because I understand that everyone has had access to this document, which is the report I prepared. I was hoping there would be somebody here from Indian and Northern Affairs to provide copies in case you didn't have them, but I see most people have it in any event. I haven't seen my colleagues from INAC show up, so I'm not sure if they're coming.

I thought for ten minutes or so I would outline the report, and then, as I understand it, the purpose is for you to ask questions about the report, which you probably had a good chance to review in any event. The outline would consist of a little discussion about the process and the mandate I conducted in preparing the report, some of the findings I made in the course of the time I was doing the report, some of the recommendations, and a brief comment about what I hope are the themes that arise out of this report from your reading of it.

First of all, in terms of the process, I was appointed a ministerial representative by Minister Strahl in November 2007, and the basic

objective was to hold discussions with all the stakeholders in the three territories to see if recommendations could be made that would improve the regulatory environment. It was left fairly vague in terms of the specifics of the assignment itself, because a lot of initiatives are going on in the north, as I'm sure you are aware, and I don't think the minister wanted to tie me down to one area.

It was part of what is referred to in the federal government as a northern regulatory improvement initiative, and this was just one component of that. Ongoing improvements were being made at the time I did my report and are still being made, and this was to be part of that initiative.

I held meetings in about a dozen places in the north and in other parts of Canada with over 100 groups or individuals. Sometimes it was one person. Mr. Bevington and I met at one point, and at other times we met with groups of people, or I met with groups of people pretty well all the time on my own, although I have to say I was very well supported by INAC, who provided me with logistical support and any other support I needed. They did not try to influence in any way the shaping of the report or the recommendations, but they were a great support to me.

The groups I met with were local communities; aboriginal groups; some signatories to the land claim agreements; and all three of the territorial governments, including premiers from two of the territories. I had a lot of involvement with the federal government and the various departments, because as I'm sure you know, there's regulatory overlap in a lot of areas from the federal government's point of view, and of course I spent a lot of time with the various regulatory bodies. I'll go through that in a little more detail in a minute, but that gave me a good perception or good perspective on what was happening north of 60.

Initially, and it continued to be the mandate, I was to look at all three territories. But it became pretty clear to me at the outset that this was a pretty ambitious project and that perhaps it should be limited to where I thought the most serious issues were, and in my view, that was the Mackenzie Valley south of the Inuvialuit area. So while I did spend some time in Yukon and Nunavut, most of my time was spent in the Northwest Territories.

After all the meetings were held and I got some ideas together, we held a round table of all the stakeholders who were prepared to come. We had a very big room, larger than this, full of people from all the different stakeholder groups that I talked about from the three different areas, including industry—that I should have mentioned, by the way—which was one of the participants. We had two days of intensive discussion, where we bounced some ideas around about what some of the recommendations might be. At this stage I would confirm that most of the ideas that are in the report are not necessarily ideas of my own but ideas that came out of that round table and earlier reports that had been commissioned.

Moving on to the findings, the findings of course were that there could be improvements made, as there can be in any regulatory system, I suspect, in any place in the free world. What I tried to do, though, was to put some science behind the review. I tried to compare what was going on in the territories with what one might consider to be a model regulatory system. And I outlined 11 criteria that I think should be looked at if you are looking at a regulatory body for the first time and trying to set it up.

And then based on that analysis, I came up with some recommendations as to what should and shouldn't be repaired in the territories. There were 22 recommendations of a specific nature, and they apply right across the three territories. Again I have to say that none of those are rocket science and none of those are dramatically new.

One thing I did in my report was outline all of the previous reports that have been conducted in the north, and the recommendations that were made and the status of the implementation of those recommendations, some of which have been implemented and some of which have sat on the shelf some place. I regenerated all of those reports and, from those, came up with another 22 recommendations, which, as I say, are repetitive to some extent of what had happened in the past, but they are still good recommendations that still need to be implemented. And we can talk about the individual ones in a minute. Most of them, again, refer to the Mackenzie Valley, although they refer to all three territories in the broad sense.

The major recommendations I made were with respect to restructuring in the Mackenzie Valley area. And this is the one that has probably gathered the most interest and attention from parties that are in the north or elsewhere and have commented on it, some favourably and some not favourably in terms of what the recommendations were. It was and still is my judgment that at the moment the regulatory systems, at least in the Mackenzie Valley, fail to deliver on two specific grounds. One is that the system is far too complicated, and second, there is not the capacity in the various boards that exist in the north to perform the duties that you would expect from a regulatory body.

I should outline at this stage that my count—and there were different counts of how many regulatory bodies exist in the north—as well as I could do it, was 17 regulatory bodies in the Mackenzie Valley, all dealing with resource development. As I say, that adds a huge amount of complexity and in many ways under-delivers from a capacity point of view because of the numbers of them.

So my recommendations were that some of those boards be merged and that there should end up being one land and water board

and one environmental board in, for instance, the Mackenzie Valley. One would say that takes away from the northern influence because the land claim agreements were all signed on the basis of local involvement and co-management of the resources. My suggestion is that it doesn't have to take away, because the influence can be brought to bear at an earlier point in the process, and that's at the land use planning stage. So a key or a fundamental component of the recommendation that we merge the boards would be that the land use plans have to be completed. They are not completed in most of the area of the north at the moment, and I think that's where the local influence, which is very important and is key, really, to the development of any community, has to be brought to bear.

The second component of that was that once this board that I had recommended be restructured is up and running, it should become the final decision-maker and it should not have to send recommendations here to Ottawa for the minister to make final decisions on. In other words, if we're going to set up a regulatory body that we have some confidence in, set it up and let it operate with that amount of confidence and make it the final decision-maker.

• (0910)

Of course, that board would consist of appointments by the federal government, but with the influence of the local government and the Northwest Territories government. That could change over time to be a NWT appointment process, or something of that nature.

Those are the recommendations I made. If one had sat in on the round table in Yellowknife in March 2008, one could have predicted those recommendations, because the discussion circled around all of those recommendations, including restructuring.

My final comment is on the themes that I hope come out of this report. The first one is that by no means is this report about resource development. It is not up to me to make a decision or recommendation on whether or not there is resource development in the north. That's to be made by the people who live in the north and are responsible for the northern communities. So this is not about resource development.

On what it is about, if a decision is made by those who are responsible—governments and local communities—to allow resource development, how can that resource development be done in an orderly and responsible way and in the public interest? That's where my recommendations come in on the regulatory bodies. That has been my role in life for a long time. I've been with regulators for a long time, and I've always said I am ambivalent as to whether or not development takes place. But if it's going to take place, let's ensure it takes place in a responsible way. So it's not about resource development; it's about ensuring that if there is resource development, it takes place responsibly.

The second theme that I hope comes through clearly is that local input is absolutely key to any development in the north. This has been clear from the land claim agreements that have been signed, which I fully support. The only difference I take with the current structure versus the way I suggest it should be is that the more appropriate time for that local input and influence to take place is at the land use planning stage, and not at the regulatory stage. At the land use planning stage you can carve off entire areas and say there should be no development for a variety of reasons, or there should be development in this area. But at that stage the regulatory system should kick in and make decisions as to whether or not the resource can be developed in an orderly and responsible way and in the public interest, taking into account very serious professional objectives relating to conservation, safety, engineering components, environmental aspects, and the like. But at that stage it's a technical decision and not a policy decision, as it is at the land use planning stage.

With those opening remarks, I'm open to try to respond to any questions members may have.

• (0915)

[*Translation*]

The Chair: Yes. Fine.

We will now begin the first round of questioning by the members. Mr. Bagnell, you go first.

You have seven minutes.

Hon. Larry Bagnell (Yukon, Lib.): Thank you, Mr. Chair.

[*English*]

I'm the critic for the north, so this is of great interest to me. I think we all understand the interminable delays in the Northwest Territories. The problem is that these structures, some of which you recommend altering, are set up in constitutionally protected land claims, as I'm sure you found out, that were developed over negotiations. I know ours took 30 years, and I'm not sure how long some of them took.

Do you think it's realistic to change those items? That's the problem. People see that there's a need for change, but I'm not sure whether those can be changed, in reality.

Mr. Neil McCrank: Honourable member, it's a very good question, and I think I got it all; I wasn't hearing all of it completely. But if the question is whether we can really expect that these constitutionally protected land claim agreements, from which the resource development regulatory bodies were developed or came out of, can be changed, I guess I understand the difficulty. In fact, I think I point out in the course of my report that at the round table discussion in Yellowknife, everybody agreed that reopening the land claim agreements would be very difficult. There's no question about that. There's a debate in some people's minds as to whether they have to be reopened or whether it can be an interpretation, the changes made just by interpretation. I'm not in that camp, because I think that would be avoiding the issue of re-addressing what I think was a fundamental error made when the regulatory bodies were set up, based on what was in the land claim agreements.

So I just say, whether or not legally you actually have to reopen it, I think there would have to be an enormous amount of negotiation

and all parties would have to agree. The question is whether they would agree or not. I can't answer that. I did have some discussions with various aboriginal communities in the course of my review. My own perception was that some of them were receptive to looking at that aspect, because they felt there was a problem, there were some difficulties with the regulatory system, and if it took reopening them for that purpose they were prepared to do that. I know some are dead against it, and I was told that face to face by a number of parties: just don't go there.

My comment to the minister when I prepared the report and presented it to him was that it would be difficult, perhaps impossible...I don't think so, but it would be difficult. But if there isn't an attempt made to restructure today, there are at least three and perhaps more land claim agreements that still have to be completed in the north, as you know—the Tlicho, Dehcho, and the Métis—and some of those may split into two to three claims. We will have maybe 30 regulatory bodies in the Mackenzie Valley when those are completed, if they're completed on the same basis as the earlier land claim agreements. In other words, this is going to grow, and 10 years from now we'll sit around this table and say, why didn't we at least start, when we had only 17, because now it's an impossible situation.

So the long answer to your question is yes, it will be very difficult. I don't think it's impossible. I would urge the federal government to consider it at this stage, before it gets to the point where it is impossible, and there will then have to be a reopening to restructure in some fashion.

• (0920)

Hon. Larry Bagnell: I don't think it's impossible to open them. The problem is that all three parties to the claims—the territorial, federal and first nation governments—all want to open them. Once they're opened, it's like opening Pandora's box. It's the same reason we won't have constitutional talks in Canada, because everybody wants everything. It would be a nightmare, because it would be starting the 30 years all over again, basically. That's the problem with opening them.

I have another question. You were talking about a final decision-maker and a board. That would not be for final decisions on the regulatory permits and project go-aheads and everything, which are still under the auspices of government and ministers, either territorially or federally, would it?

Mr. Neil McCrank: The answer to your second question is yes, it would be. There are regulatory bodies throughout this country that make those decisions on behalf of governments, as a delegate of government. If the government doesn't like what they do, they remove the board or change the board and put in a new group.

But that's the quasi-judicial independence, that you separate the political—in a regulatory system, which is what I'm talking about—from the mechanical, professional components associated with the regulatory body. But the answer is yes, it would be.

Hon. Larry Bagnell: How is that received by the industry? In the past I've heard there's quite a hesitation to having unelected bureaucrats make decisions on their projects. At least if a politician makes it, they can throw him out

Mr. Neil McCrank: Well, you're right. Industry would prefer to be able to use the political clout on all decisions that come in front of any regulatory body. In my view, that's the mistake that is made when they allow this. It should be made on a professional basis without politics involved. There were those who objected from industry. Right from the beginning, I was criticized, from my point of view, because I come from Alberta, where there's a suggestion that the Alberta system is not the way to go. Alberta has had some degree of success in developing its resources, and it is based on a process of independent decision-making.

Hon. Larry Bagnell: I have just one last quick question because my time is almost up.

On the land use claim, I don't know about the other two territories, but in the Yukon that's a function of the Yukon government. Although it's your recommendation, federally we don't have any control over it, or hardly any control over it. Is that the same situation in the other two territories?

Mr. Neil McCrank: In the Northwest Territories, for instance, in some of the agreements, there is a land use planning component that has not been fulfilled yet, and it is a responsibility, in my view, of the federal government to ensure that takes place. The devolution that occurred in the Yukon has allowed for that. In the Northwest Territories, the federal government still has a very big role in it.

Hon. Larry Bagnell: Thank you.

The Chair: Thank you, Mr. Bagnell.

Mr. McCrank, do you need translation for the French language?

Mr. Neil McCrank: I do.

The Chair: So if you're all set to go there, we'll go to our next question.

[Translation]

Thank you very much. Mr. Lemay will ask the second question.

You have seven minutes, Mr. Lemay.

• (0925)

[English]

Mr. Neil McCrank: Can you hold for just a second to make sure this thing is working.

The Chair: We won't take your time.

[Translation]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Take your time, you were born in Val-d'Or, so the important thing is that...

He's from the Abitibi region.

[English]

The Chair: It's channel number one, Mr. McCrank.

[Translation]

Mr. Marc Lemay: He's got to be a nice guy if he was born in Abitibi.

[English]

Mr. Neil McCrank: Yes, okay.

[Translation]

Mr. Marc Lemay: Welcome, Mr. McCrank. I read your report attentively. Allow me to read a sentence from the cabinet directive, which resulted in your being designated as the author of the report. Here it is:

It will improve timeliness by focusing resources on larger, more significant regulatory proposals, hold the Government to account by establishing service standards, and create pressure for continual improvement through periodic reviews, all while ensuring that the safety of Canadians is protected.

When I read the first sentence of the guide to your project, I found it interesting. However, you conducted an analysis, and I respect the work that you did. You noted that there are 17 regulatory bodies and you made recommendations that I will not read, but they can be found on pages 41 and following. The government, in its response of March 12, 2009 — it took 10 months to respond, since you tabled this report one year ago, that is, on May 20, 2008 — states the following:

Extensive restructuring is not required at this time, but targeted changes are needed to ensure the system operates as intended.

So did you do all this for nothing?

[English]

Mr. Neil McCrank: I hope not. Let me just make sure I understand the question. The question relates to the cabinet directive that was the foundation for my report, and it did come out in May, although it came out publicly in July 2008. You are referring to a response by the Northwest Territories government. Am I correct?

[Translation]

Mr. Marc Lemay: Yes.

[English]

Mr. Neil McCrank: Yes, and not the federal government. The federal government has not made their response yet to my report. I reread the response to my report from the Northwest Territories government last night. They have adopted almost all of the recommendations, the 22 specific recommendations that I made, as I say, which were made before. On the restructuring, they are saying they don't need the restructuring at this time, if you read it carefully. They say they need more time to see whether the current boards will actually work.

[Translation]

Mr. Marc Lemay: I'm sorry to interrupt you, Mr. McCrank, but in reply to a question from my colleague Mr. Bagnell, you just said that there is no time to waste because there are 17 regulatory bodies that are active there.

When I read your report, I get the impression that no one knows who is doing what. It is impossible to consolidate, or to figure out who is doing what in various sectors. Just look at the examples of water control, mining or natural resources.

I have a question. Aren't your recommendations being jeopardized with every day that passes?

[English]

Mr. Neil McCrank: Yes, if—

[*Translation*]

Mr. Marc Lemay: Ah! You're not a politician!

● (0930)

[*English*]

Mr. Neil McCrank: If the system had applied in Abitibi district to what's going on in the north right now, you would not have had any development in Abitibi, in my view.

The response by the Northwest Territories government, I think, is not the correct response. They don't think there should be restructuring, and I do. That's just a difference of opinion. I do believe, as you say, that time is marching and every month we miss the opportunity to take a look at this and put in place a system that will work, if there is to be resource development, will jeopardize resource development in the north.

[*Translation*]

The Chair: You have two minutes left.

Mr. Marc Lemay: You are here before the committee today. I know that all 22 of your recommendations are important, but if you had to pick one as a priority, which would it be?

[*English*]

Mr. Neil McCrank: There are 22 specific recommendations and then there's the restructuring recommendation. My own view is that the restructuring is the most important recommendation, but coupled with that is that the land use plans have to be completed. None of this, by the way, in terms of my recommendations, would occur overnight. You'd have to get the land use plans in place; you'd have to put in place the restructured boards, with the right capacity, before you'd give them the authority that I say they should have as independent bodies. That would take some time, but you start the restructuring as soon as possible.

[*Translation*]

Mr. Marc Lemay: I must not have much time left.

The Chair: Forty-five seconds.

Mr. Marc Lemay: Mr. Chair, I will continue in the second round. I sense that my colleague from the Northwest Territories has a few questions to ask.

The Chair: Very well.

[*English*]

We'll go to Mr. Bevington. We welcome Mr. Bevington back to our committee. It's great to have you here again.

The member for Western Arctic, go ahead with your question.

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

I'd love to get that name changed to the Northwest Territories, so if you can, convince everybody in Parliament to give me unanimous consent to get the name changed, which should have been done 10 years ago.

Anyway, to start off, I can agree totally with your recommendation to get the land use plans done, because that's part of the Mackenzie Valley Resource Management Act, which is a responsibility of the federal government. That is something that has failed

us over the years. Also, it has failed the other boards. The boards in the Northwest Territories can't rely on the land use plans to give the basis to make judgments on projects.

So in the absence of this basis of understanding that the land use plan gives, every single development has to be judged on its own merits, with no framework. As a person who sat on the Mackenzie Valley environmental assessment board, I know those problems, so I'm with you 100% on that.

As for the restructuring, I am absolutely opposed to that. In the early nineties, the Mulroney government decided that we would have regional land claims in the Northwest Territories. That decision was made. We were going towards comprehensive claims, and the decision by the federal government was to go to regional claims.

We have adapted to that. We have adapted the direction that we want to take constitutionally in the development of the Northwest Territories as an independent political unit based on regional land claims, not on a comprehensive claim. We've made that adjustment within the Northwest Territories. That's why I think you quite clearly see the Government of Northwest Territories saying no to the idea of restructuring.

Let's just go back to these 17 boards. If you're going to drill in the Sahtu region, for example, or if you're going to do a seismic program, there is one place where you put in your application: the Sahtu Land and Water Board. The land and water board has 45 days to put that forward, if they find that it has significant impact, to one single environmental impact review board for the whole Northwest Territories.

So in any region, there are only two steps in the environmental assessment process. The regional step deals within that region with the type of project going ahead. If there are problems with it, it goes to one single board for the whole Northwest Territories. So the complexity of it... For regional use for most projects, it is within the defined regions. These are big regions of hundreds of thousands of square kilometres. So within those regions, there is only one board that deals with the application, and within the Northwest Territories, there is only one board for all the regions that deals with environmental assessment. So it's not that complex.

Where the complexity came in, in the last seven years, was with the Mackenzie Valley pipeline, which traversed a number of different regions. There was a cooperation plan struck for that, and whatever happened with that is fine.

Really, that's the way it is. You've made your point about restructuring. I'm making mine.

When it comes to some of the other recommendations, did you take into account the legitimate desire of the people of the Northwest Territories to control development? Was that part of your mandate?

● (0935)

Mr. Neil McCrank: The answer to the second question is yes. Obviously the issue of co-management of the resources is currently in place. I still maintain—as I think I have as part of the theme of that report—that northern influence and local development influence are very important. I'm suggesting that the way that comes about is through the land use plans, where areas are decided as to whether or not they are subject to development and, secondly, with respect to the composition of the regulatory body, if it were restructured into one, where the local community has some say as to who's going to be on that board.

Mr. Bevington, I wonder if I can address the question that you asked. I think it's a good one, and that is, you really only apply to one board, therefore why am I suggesting this complexity? There are two answers to that.

One part is that most of the developers I talk to and know work in more than one area. They work in a variety of different areas, and if they do, they have to learn and understand and work with different water boards in all of the different areas, for instance. That leads to complexity and it leads to inconsistency, because there are allegations—rightfully or wrongfully made—that there are inconsistent decisions made from one region to another in the same general area.

The second part of that is this. I think it doesn't address the issue that I think is perhaps the most important, and that is the capacity to perform the function of a professional. I use that term advisedly, because I'm not talking about professional designations in terms of LL.B.s or engineering degrees, but professional in the sense of their approach to regulatory issues. I think the capacity to have boards in all of those areas that can perform that function is questionable. I would say that if you look at the entire dominion of Canada to provide 17 regulatory bodies in the resource development area that can provide the kind of professional approach that I'm talking about, you'd be hard pressed in the dominion of Canada, let alone in the Mackenzie Valley.

The Chair: You still have about 45 seconds, Mr. Bevington, if you have a short question.

Mr. Dennis Bevington: You said there seemed to be satisfaction with actual appointments made by the minister, whereas the record for the Northwest Territories through the Liberal government and through the Conservative government is that many appointments have made headlines. People are outraged at the political appointments that have been made to these boards. How could you say in your report that there seems to be satisfaction with the actual appointments?

I have another letter here from our minister complaining about an appointment that took a year and a half and then they rejected the Government of Northwest Territories' appointment to this particular board. It just goes on and on. We've had that problem from day one. How did you come up with this claim that there seems to be satisfaction with the actual appointments?

Mr. Neil McCrank: I came up with it based on what I heard, Mr. Bevington. The process, the delays in making appointments and so on, were the subject of debate, but this is the first I've heard of

anyone saying that the appointments that were actually made were inappropriate.

Mr. Dennis Bevington: Todd Burlingame, Gabrielle Mackenzie-Scott not being appointed.... Don't you remember hearing about those ones?

● (0940)

The Chair: We're actually out of time, Mr. Bevington.

Mr. McCrank, if you want to finish up there, feel free.

Mr. Neil McCrank: First of all, Gabrielle Mackenzie—

Mr. Dennis Bevington: Raised in Parliament—

The Chair: Mr. Bevington, let Mr. McCrank finish, please.

Mr. Neil McCrank: The lack of reappointment of Gabrielle Mackenzie-Scott occurred after I had finished my report, in actual fact. I'm just saying what I've heard from those in the north, including the NWT government, the Nunavut and Yukon governments, the local communities, the regulatory bodies themselves, and the industry. I heard no complaints about the actual people who sat on these commissions and boards. They thought they were trying their best to do a good job. That's what I heard. I may not have heard the full facts, but that's what I heard.

The Chair: Very well. Thank you very much, Mr. Bevington and Mr. McCrank.

Now we'll go to Mr. Duncan for seven minutes.

Mr. John Duncan (Vancouver Island North, CPC): Thank you very much, Mr. Chair.

It's nice to finally meet the person behind the report.

I was in Parliament here when most of the comprehensive agreements were argued, debated, and put through this Parliament, so I can remember many of the concerns that were expressed about the creation of a plethora of boards and commissions at that time. In a sense, your report validated a lot of the concerns that were expressed. I think it's an important document because it's a benchmark document.

It seems that we are spending a lot of our time right now discussing the NWT as opposed to the Yukon and Nunavut. I heard from a third party that there was quite a bit of difference in the approach taken by northerners, depending on their generation. Do you share that observation?

Mr. Neil McCrank: Yes and no. At the end of the day, I think most of the recommendations reflected what we talked about in Yellowknife, and all generations were around the table. But if you drilled down a little further, I think you would find that those in the younger generation, particularly from the local community, were more interested in seeing some progress made in development than some of the older generation groups. I think that's the only way I could put it. But it was not paramount in my report.

Mr. John Duncan: When we do a dispassionate analysis comparing the investor attitude of the three territories, it becomes quite clear that the situation in NWT is a complete disincentive to investors.

Did you have access to or a lot of input on how the NWT would be ranked from an investor-friendly standpoint?

Mr. Neil McCrank: That was put to me by a number of associations—the Mining Association and the Canadian Association of Petroleum Producers—that rank the different jurisdictions on their friendliness to development. I know that if you looked at them without drilling down much further, they would put the Yukon much higher than the NWT. I've forgotten exactly where Nunavut would rank.

I have some trouble with the ranking system. I don't think it tells the whole story. That's partly because in the last few years, particularly since I retired from my old job more than two years ago, I have spent a fair amount of time in South America looking at regulatory systems in places like Bolivia, Venezuela, and Brazil. I know, for instance, that the association surveys rank Bolivia higher than any of these jurisdictions in Canada. Having spent a fair amount of time in Bolivia looking at that, I think it's just dead wrong. There isn't a jurisdiction in Canada that would be as unfriendly as Bolivia, and yet they're ranked higher.

So I don't place a lot of faith in the ranking of them. They're a guide, and if they're there to ask further questions, that's helpful. In my own assessment, the Yukon would rank as the one most receptive to development. That's partly due to the fact that devolution has occurred and the Yukon government is taking steps in that direction. Nunavut might be second, and the NWT third.

• (0945)

Mr. John Duncan: There must be more than one set of international rankings, then, because I understood that the Yukon was ranked around fifth place. Bolivia was down in the 65th category.

Mr. Neil McCrank: There probably are a whole bunch of different rankings by whoever puts them forward.

Mr. John Duncan: Correct. That's the one that is oft quoted by the Yukon government. Let's put it that way.

You did make a recommendation. I think one of your 22 is dealing with something akin to a major project management office being utilized in the north. We're moving obviously in that direction. I'm just wondering if you have any words of wisdom in terms of the practicalities and the process of setting up a northern major project management office. Where would you suggest we focus, and what kind of staffing priorities?

You did indicate the difficulty in finding technical expertise in the Dominion of Canada. Maybe you have something you can share with the committee in this regard.

Mr. Neil McCrank: Thank you very much for the question. You're right. I was asked to take a look at that possible office.

I have two comments to make. One is that I think the office that's in southern Canada dealing with the major projects can be very successful, because the maze of trying to work your way through and coordinate even within the federal government milieu, let alone within the provincial or territorial milieu, is difficult.

There's huge hope for success south of 60 on the major projects management office. I think the same can apply to the north. One

comment, though, is that it has to be northern. That was clearly delivered to me by all of those people in the north, that this has to be a northern office. It cannot be a satellite of the southern office. I agree with that. There are different issues.

The Chair: We're actually out of time, Mr. McCrank, so would you finish, please.

Mr. Neil McCrank: I'll just finish by saying that I have no answer in terms of capacity, but I think there would be great interest in somebody performing that role in the north.

[*Translation*]

The Chair: Thank you, Mr. Duncan.

We will now go to the second round.

Mr. Russel, you have five minutes.

[*English*]

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

Good morning, Mr. McCrank. It's good to have you with us.

I want to follow up on some of the line of questioning that has taken place around the table.

When I read your recommendations, it seems to me that many of them are predicated on proper implementation of the land claims agreements themselves. For instance, there are the land use plans, which are usually part of the land claims agreements. We've heard a number of different parties come to this committee and in other forums talking about the proper implementation of land claims. I'm just wondering if the proper implementation of land claims was an issue that was raised during your consultations. I think it also speaks to your issue of capacity. Given that a number of these boards or commissions are due to the land claims agreements, that a number of the appointees are from the land claims groups themselves, which is understandable, of course—I think it's a must—I see this as part of a land claims implementation process as well.

I want you to comment, because I heard one of my other colleagues raise this. Is the complexity having to do with the number of regulatory boards, or is it about the differing regimes in different regions? For instance, if there was consistency in terms of regulations in the northern parts of, say, the Northwest Territories and the southern part, would that make it easier? If it's not the number but the process, so to speak, maybe that's the easier thing to do than, say, opening up the land claims agreements themselves.

When you say "restructure", that's about numbering, it seems to me. If you can do more consistency, at least with different boards, maybe that's a better way to go. Can you make some comment on that?

• (0950)

Mr. Neil McCrank: Thank you.

First with respect to whether or not concerns were expressed about the implementation of land claims agreements in total, there were and there always will be, I suppose, to some extent, some people thinking they should move faster. I don't have any comment on whether or not the federal government is performing its role in completing the land claims agreements, and implementing them or not, with the exception of the complaints that not enough money was put into funding the various boards, and that does go to capacity issues. It may or may not be the case, but my comment on it would be that even if you put all the money into a system that's not structured properly, it's not going to work much better than it did.

It leads me to the second part, and that is your question of whether or not it's inconsistency in the areas that is the concern or whether it's an actual capacity issue within a specific area. My answer is that there has been an attempt, and I think a genuine attempt, by the boards to make themselves more consistent. They have a board forum that I attended a few times when the chairmen of all the boards in the Northwest Territories get together and the chairman of the National Energy Board is there and a variety of other organizations to try to bring consistency to the table. I don't think that's going to be enough, because there's a bigger capacity issue relating to whether or not the job can be done in the local area, consistent or not with anybody else. That's where I say the issue is that complexity and capacity are almost one and the same with respect to that part of the equation.

Mr. Todd Russell: So if we had capacity and we had consistency, would we need restructuring?

Mr. Neil McCrank: If you had the capacity I'm talking about in terms of professional regulatory bodies—and again, I use the word "professional" advisedly—and consistency across the boards, you probably would not, but I don't think you're going to be able to get there from here.

Mr. Todd Russell: You could have capacity and consistency problems with two as opposed to 17.

Mr. Neil McCrank: You're absolutely right.

Mr. Todd Russell: So it depends on which way you want to look at this, I guess. It seems to me that restructuring might be more difficult. If we put money in or if we put some effort into capacity and we put it into consistency, then maybe the other more difficult task of restructuring could be put off.

[*Translation*]

The Chair: Mr. McCrank, you may give a brief answer.

[*English*]

Mr. Neil McCrank: I don't want to repeat myself. If you examine the current structure and the current Constitution, I think the capacity problems are constituents of the various components. I think you'd see that capacity is going to continue to be an issue in that part of the world. As I say, it would be in the entire Dominion of Canada where you have to try to put 17 land and water boards together to do the job that I think needs to be done.

• (0955)

[*Translation*]

The Chair: Thank you very much.

Mr. Rickford, you have five minutes.

[*English*]

Mr. Greg Rickford (Kenora, CPC): Thank you, Mr. Chair.

Thank you, Mr. McCrank, for joining us today. We'd been looking forward to talking with you about your report and its recommendations.

Mr. McCrank, I want to spend a little bit of time talking about land use planning, perhaps in not as technical a fashion, although in my own study of law I was fascinated with land use planning as it intersected with first nations communities and traditional lives of northerners particularly. Obviously, coming from the Kenora riding, that's an issue in a number of areas, including forestry and mining.

I think in our riding, which does come to the shores of Hudson Bay, we're doing a pretty good job of understanding and respecting core principles of land use planning around a number of resources. There are some serious considerations in these regards, obviously—the integration of first nations communities' sense of resource management on that land and making policy on the basis of what ministries of natural resources have viewed historically as the crown's, and in terms of licensing and traditional thoughts by first nations, including the animals on those lands, many of them migratory.

In what I have read so far, land use planning appears to be a critical issue in that it must reflect northern, in particular first nations, values in terms of use and impact. Then obviously there's the representation of things like migratory animals. I know, particularly in the Northwest Territories, that's an important process that hasn't been protected.

In view of those things, could you talk about what kinds of consultations you had with first nations in the Northwest Territories? What is their opinion or assessment of the regulatory framework, and what is their appetite for reform in these regards?

Mr. Neil McCrank: Thank you for that question.

It varied from north to south, with the very northern end, the delta of the Inuvialuit area, believing that their regulatory system works quite well. As you know from my report, I did not make specific comments, other than general ones, about the Inuvialuit area because I think they have actually tried to make it work, are doing so, and I didn't want to touch that.

The further south you came the less enthusiastic people were in the local communities about the current system. I did not, unfortunately, spend any time with the Dehcho community. We were supposed to, but there was a change of leadership and also there was a death in one of the families when we were trying to arrange dates, and we couldn't do it. I actually ran into Grand Chief Gerry Antoine yesterday, last night, coming down on the plane and we chatted for a little while. He now wants to get together and review this, I think. I told him what I was doing this morning, so he's interested.

There's no question that, in any of the areas, the regulatory bodies that currently exist will say to you publicly that they're very much in favour of the current system and the local input that they get from the system. This is partly, I think, because in some areas the land use plans have lagged and this is their only chance to separate an area from development. Privately, I can't think of any of the regulatory bodies I met that didn't say there had to be some change in the regulatory system, because it's simply not working from their point of view either, but they won't say it publicly.

Mr. Greg Rickford: Interesting.

In your introductory remarks you made it clear that the report was not about resource development but is about assuring that it takes place responsibly. I wondered if you might, in my last minute or so, expound on that and comment, to the extent that these questions I've asked you play a part in that responsible assessment that you've made. It was sort of an overarching theme.

Mr. Neil McCrank: What I meant by "responsible" is that it has been the practice I engaged in when I was doing a regulatory body, that you make decisions in the public interest, taking into account societal, environmental, and economic impacts, and in that respect make decisions in the public interest.

To respond to where I think you were going with your question, I think the land use planning function, if it's up front, will engage in a lot of the economic issues. Those will be out of the way, and you'll then deal with specifically the ones that I referred to earlier—the engineering, public safety, conservation, and environmental issues at the regulatory stage. I think they're separate, and if they can be

separated—and I think they can—I think it makes for a much more logical process of development of resources.

• (1000)

[*Translation*]

The Chair: Thank you, Mr. Rickford.

Mr. Lemay, you have five minutes.

Mr. Marc Lemay: Thank you, Mr. Chair.

Mr. McCrank, you would be an excellent mediator, and I hope that the federal government will be able to recruit you once you have finished studying governments in the south, Bolivia, etc. You could come back up north, I think that we need you.

You state that once the land use plan is approved, it is the Mackenzie Valley Land and Water Board that should be designated as the sole regulatory body. In an ideal world, such a body would exist and be granted powers.

In your opinion, should this board be responsible for ensuring compliance with the treaties and agreements reached with the Tlicho, for example? I am talking about the land claims on this territory. The federal government is still part of this process. Are you suggesting that the Mackenzie Valley Land and Water Board should be the ultimate authority and that the federal government, that is, the Department of Indian and Northern Affairs, should respect any decision it makes, for example, on land claims?

[*English*]

Mr. Neil McCrank: Thank you, Mr. Lemay, and thank you for the compliment that you made to me.

The answer to your question is yes, it should be the final decision-maker as it relates to permitting of resource development. I've never contemplated that it would be in any way the arbitrator of land claim disputes that arise out of the land claim agreements. Perhaps one could set up a board that would do both functions, but I actually believe that the regulatory function I was talking about was just the permitting of the resource development, and not that component.

[*Translation*]

Mr. Marc Lemay: I respect your opinion a great deal. However, if I understand correctly, the Department of Indian and Northern Affairs would continue to be responsible for implanting and ensuring compliance with the treaties.

[*English*]

Mr. Neil McCrank: With respect to other issues, other than permitting of resource development, yes, I would think that INAC would still be responsible for the decision-making until devolution actually occurs in the NWT.

[Translation]

Mr. Marc Lemay: It would be difficult. Your opinion is probably valid for everything that is going on in the Mackenzie Valley, but could this also apply to the Yukon and Nunavut?

[English]

Mr. Neil McCrank: In the Yukon at the moment, the permitting is actually finalized at the territorial level. In Nunavut it is not yet. There, as in the Mackenzie Valley, recommendations for development have to be made to the Minister of Indian Affairs and Northern Development. So depending on which jurisdiction and where devolution is at, that would be the answer to the question.

•(1005)

[Translation]

Mr. Marc Lemay: Who currently plays the role that you want to see transferred to the Mackenzie Valley Land and Water Board?

[English]

Mr. Neil McCrank: At the end of the day, these recommendations are made by the Mackenzie Valley.... It's not all issues, but for instance, on class A water licences it's the Mackenzie Valley Land and Water Board that makes the decisions. Whether it be the regional boards or the central board, they make a recommendation to the Minister of Indian Affairs and Northern Development, and that decision is made here in Ottawa.

[Translation]

Mr. Marc Lemay: You would like these decisions to be made in the place where they will apply, that is, in the north.

[English]

Mr. Neil McCrank: I suggest that once the body has been structured in a way that works and there is some maturity associated with the board, the final decision would be made at the board level. There are always court challenges that can be made in any board in any part of the world, but that decision is final and it does not come to Ottawa for that decision to be made.

[Translation]

The Chair: Thank you, Mr. Lemay.

Mr. Payne, you have five minutes.

[English]

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

I'd like to thank Mr. McCrank for coming. He's a fellow Albertan, as was noted, so I'm pleased to have one of my folks here with me today.

Mr. McCrank, in terms of some of your recommendations here, your number 7, which notes that the federal government should ensure that each regulatory body has a structured plan for orientation, training, continued education for each member who's appointed, could you describe the average level of these three important capacity-building initiatives in existing regulatory bodies?

Mr. Neil McCrank: Thank you, Mr. Payne. It's good to be here with you from Alberta.

Actually, I reread this last night on the way down, and I think I would have reworded this a little better if I'd had a little more time. Having said that, let me just talk about those three areas that I talk about.

I don't think the NWT is much different from any other part of this country: people are appointed to boards, they're told to make it work, and they don't really get any guidance from anybody.

I chaired a committee in Alberta a couple of years ago on the agencies, boards, and commissions that come out of the Alberta government. When we started the process, I was told we were to look at 125. When we finished, we found out there were 250. Obviously, governments don't necessarily keep track of their agencies, boards, and commissions as well as they should, and in keeping with that, training and orientation and continuing education are often absent. So the NWT is no different.

Having said that, I think an ideal system would be that when people take on these roles, they.... The NEB is a good example of people who are actually, I think, brought to Ottawa for some course that's put on for them. They're continuously upgraded, and they're allowed to go to meetings where they can get upgraded. I don't think that's necessarily occurring in the NWT, or in most boards in Canada. It should be. It's very important that we allow them to keep up with current technology and current thinking in those areas.

I hope that answers your question, sir.

Mr. LaVar Payne: Okay.

In looking at the different boards, did you see any differences in anything in terms of any training or capacity that each of these boards would have had?

Mr. Neil McCrank: I don't want to be unkind to any of them, but frankly, I don't think there was much with respect to any of those areas. There was very little orientation. I did meet with some of the new members of some of the boards, and there didn't seem to be any real effort made.

Part of it was funding. Part of it was just that new boards take a little while to develop the process of engaging. The NEB, which has years of experience, now knows how to do it. I think it just takes time.

Mr. LaVar Payne: You did touch a bit on some of the ideas that you thought of in terms of having those individuals come to Ottawa and take some training. Are there any other best practices that you would suggest as well as that?

•(1010)

Mr. Neil McCrank: One of the new things they are doing at the moment—it started just before I started my review—is the board forum, which is developing a best practices approach for all the boards in the NWT and trying to share those. That was new on the scene, and that should be continued and furthered and supported by all government levels.

I think there's just a variety of efforts that can be made to make sure that the boards are capable and have the capacity to do the job, including those areas I've talked about.

Mr. LaVar Payne: In terms of the boards and the number of boards and the future boards that might be there, the NWT certainly has a small population. What are your thoughts in terms of how they'll be able to recruit individuals, particularly the skilled individuals who would be required for these boards?

Mr. Neil McCrank: I think that's one of the key problems. It's one of the reasons I think the number of boards should be limited, in that the ability to appoint people who would have the interest and the energy to do the job we're talking about is limited with the number of people who exist in the Northwest Territories.

I don't want to be critical—I saw people really trying to do their jobs as well as they could—but, you know, there's a limit to what you can expect from a small community of people. I hope I made my point clear there, without going further.

The other side of the coin is that we're expecting an awful lot from these small communities in terms of leadership and expertise that we perhaps spread too thinly. If we take out of those communities all of the local leaders and put them on boards of this nature, which are supposed to be neutral in terms of development, who's actually going to represent the community in its thinking about development in an area?

That, I think, is one of the problems, and that's why, if we have one board, we could provide money—in fact, intervenor funding is not something I talked about in this document, but it was talked about at the forum—to these communities, to these people who are not appointed to these boards but are still leaders in the community, who can provide the input that we need in local communities as to whether or not there should be development in an area.

Mr. LaVar Payne: Thank you.

The Chair: That will do it, then, Mr. Payne. Thank you very much.

Just before we go to Mr. Bevington, Mr. McCrank, I'll ask for one point of clarification. You said you didn't see a lot of effort put into training. I presume that meant training up to the organization, in terms of getting its board members up to date. You said afterwards that there was, in fact, a lot of genuine interest on the part of individual land and water board members, but that this was somehow a failure of the organization from lack of effort. Would that be correct?

Mr. Neil McCrank: Chairman, there were many complaints about the fact that each of these organizations was underfunded. Whether that was accurate, I don't know, but because of that view, one of the areas that immediately suffers when there's an underfunding issue is the training and the orientation of people.

The point I was trying to make is that the individuals were very genuine in their efforts to try to do the job they were required to do—very genuine in that respect.

The Chair: Okay. Thank you for that.

Now we'll go to Mr. Bevington for five minutes.

Mr. Dennis Bevington: You've talked a lot about the importance of qualifications. My experience with these boards over the years since their inception is that there have been many people with good experience on them. In the beginning, many people on those boards were highly skilled. Those people, if they took a strong attitude on the boards, weren't reappointed. We see that over and over again. These appointments were put forward by land claims groups or by the Government of the Northwest Territories and were rejected by the federal government. I can go through a list of names if you want, but I think it's more important to understand that this process has been going on.

We get people on these boards—good people, people with Master's degrees, chairs of one of our renewable resource or college boards—and then they get taken off. Right now, the attitude towards the boards is that if you're not politically tied and don't keep your mouth shut, you're not going to stay on the boards.

My experience on the boards, when we stood up against the cooperation plan, was that every single member on that Mackenzie Valley Environmental Impact Review Board who stood up against the cooperation plan on the Mackenzie Valley pipeline, because we thought it wouldn't work, was removed from that board and replaced with someone else, whether it was Gordon Ray, Frank Pope, me. This was a list of people—

•(1015)

The Chair: It might be better to refer to the—

Mr. Dennis Bevington: This is a very important recommendation that has been made. There's nothing wrong with the appointments.

The Chair: Let's say that In terms of the names—

Mr. Dennis Bevington: I've actually put these names in front of Parliament on occasion, so it's not that these...and these people all understand what's going on.

Mr. Greg Rickford: Leave the politics at the door.

The Chair: Carry on.

Mr. Dennis Bevington: So did you not hear this at all in your consultations?

Mr. Neil McCrank: I don't want to be difficult, but I'm trying to separate the two reports I did, one after the other.

One was on the appointment process in Alberta relating to agencies, boards, and commissions, and I clearly heard it there; there's no question about it. The recommendation that we made—which I would have made, I think, if I had heard a lot about it, in the Northwest Territories—was that the appointment process should be transparent, based on qualifications for the jobs as opposed to politics. It doesn't mean that people for a particular political party wouldn't be appointed, but rather that appointment should not be based on politics. That was the recommendation I made in Alberta, and I would stand behind that recommendation, if one were to ask me, in the NWT as well.

Mr. Dennis Bevington: Well, here is the next question. One of the things that happen with boards when they put forward recommendations is that government agencies present at the board level, and then the recommendations go forward from the board to Ottawa, and these same agencies then get another kick at the cat with the recommendations that come from the board. Do you not think it would be better—and this is something the boards are asking for—that government agencies other than INAC leave their recommendations with the board, and then, when the process goes forward to Ottawa, that simply the INAC minister be responsible for those recommendations?

Mr. Neil McCrank: Are you referring to the responsibility the minister has under section 130 of the Mackenzie Valley Resource Management Act, whereby he gets recommendations and then a further review is done in Ottawa?

Mr. Dennis Bevington: Yes, that's right.

Mr. Neil McCrank: You'll note that this was one of the recommendations I made, number 17: that a protocol be developed to deal with those, because I heard those complaints. I'm not saying which way it should go; I'm just saying it should be more open and transparent—it's on page 31 of my report—and that a protocol should be developed so that people understand how this system actually works. It comes here and it's a big black hole, the decision comes out some time later, and nobody knows how it was reached. I think it's important that people know how decisions are reached.

Mr. Dennis Bevington: I think you're correct on the land use plans. As I said, there's a lot of trouble with restructuring.

Take the capacity issue. I was on the Mackenzie Valley Environmental Impact Review Board trying to deal with the socio-economic impacts, which we have to deal with under the law. We didn't have the money to have an economist on board. The capacity is really limited. I think you talked of that. In order to accomplish the work, you need to have people who can provide you with the answers.

Mr. Neil McCrank: I tried to address that issue. I can't remember the recommendation specifically, but it's that there should be capacity.

I guess it's on page 23; it's recommendation number seven. The specific recommendation relating to that issue was that the federal government should ensure that a regulatory body has a structured... Oh, that's with respect to education. But I did, earlier in that section, talk about the capacity issue in terms of funding, to ensure that the boards have the funding to do the job they are required to do.

Mr. Dennis Bevington: Is it possible to file a letter as evidence?

The Chair: I don't think we can do that. It would have to be by unanimous consent of the committee, and it would have to be in both languages.

But thank you very much.

Do you have a question, Mr. Russell?

• (1020)

Mr. Todd Russell: I have a comment.

The Chair: Maybe we'll work it in during your next time slot, if you have one.

Thank you very much, Mr. Bevington.

Now we'll go back to Mr. Duncan for five minutes.

Mr. John Duncan: Thank you once again.

I'm trying to get a little clarity in my mind. Your report is primarily dedicated to what changes could be made at the federal... it's a recommendation to the federal minister. I guess my question is whether there are some obvious things the territories or the aboriginal groups could do that are either not talked about or that are worthy of injecting into this discussion today and of which you became aware during this exercise.

Mr. Neil McCrank: Mr. Duncan, I can't say there are any with respect to the Northwest Territories government. They obviously, as you know, are looking for devolution to occur, so that they get more control of the process in the north. I did spend some time with them, and that's their main pitch, because they believe those decisions should be made in the north.

With respect to aboriginal communities, they would have to cooperate on recommendations I've made. I think almost any of them would require perhaps not that the aboriginal community take the first step, but obviously they would have to agree to cooperate. If amendments were going to be made to the land claims agreements, obviously they would have to be involved very much in that process.

My assignment was to make recommendations to the federal government, but obviously, as I point out in the report, there has to be some cooperation from the different parties throughout the agreement.

This might be a good time, if I may, Mr. Duncan, just to jump off on that point.

If you look at the restructuring recommendations that were made, restructuring option A would, I believe, require changes to the land claim agreements, or very serious negotiations up to and perhaps including changes. Option B was something a little less than that, in that you turn the local boards into administrative bodies with no quasi-judicial component—that would be handled by the central board—with the notion that, depending on how this worked, eventually you would get to the point of option A in any event. I just wanted to make sure we understood that there were two separate options.

Mr. John Duncan: Regarding this whole question of devolution in the NWT, when devolution occurred in the Yukon we had an umbrella agreement in place for the Yukon first nations. It was fairly simple in terms of how the devolution process could be achieved, and it was the same in Nunavut with the Nunavut agreement. I'm just wondering, devolution in itself is complicated in the NWT at this point, is it not? It has to happen in a far different way because of the number of agreements that are in place, the number of governments that are in place. This is not something I've thought a lot about before today, but perhaps you could comment on that.

Mr. Neil McCrank: It will be a sort of indirect comment in that I wasn't specifically looking at that issue. I did note how it occurred in the Yukon and the fact that they're moving in that direction—that is, the federal government—in both the NWT and Nunavut. I don't think there's any doubt that the complexity in the Northwest Territories relating to individual regional land claim agreements will add to that problem. It will be probably easier in Nunavut, as it was with the Yukon, because there's one agreement for the entire Nunavut with the three associations in Nunavut. I haven't really been part of that. I just assume it's very difficult or it would have been done.

•(1025)

Mr. John Duncan: I know I've still got some time.

The Chair: Actually, we're out of time.

Mr. John Duncan: We're out of time?

The Chair: You'll have another question coming up.

Now we'll go to Mr. Bagnell for five minutes.

Hon. Larry Bagnell: Thank you.

On the consistency of the different areas, I have no problem with their being different. That's why there are different boards in different areas. If a company wants to set up in China or Iran or Canada, Canada has the right to have different laws, and the reason we have different boards in the Yukon and in the Northwest Territories is so the local people can have the things they want in their area. I don't have a problem with that.

Keeping that as an assumption, my question is this. What is the biggest holdup? The biggest problem in the Northwest Territories, I think, is the Mackenzie Valley pipeline. What is the biggest holdup? If as Dennis says, you can do a project in a particular area and you only have to go through one board—which of course might be different if you're going to the next area—that's fine; that's the people's right. But I assume the problem then in the Mackenzie Valley pipeline is that you are going through so many jurisdictions. It gets complicated because of the length of it and all the different areas it goes through.

What would you say is the biggest thing that's dragging on the Mackenzie Valley pipeline regulatory approvals?

Mr. Neil McCrank: It was made clear to me right at the very beginning that this was the subject of other processes and I was not to be reviewing the Mackenzie Valley. So any discussion I had was very informal and not on the record. I'll leave that to the process that is occurring before the joint panel review and the National Energy Board. It's a linear project. You've answered the question to some extent in your question in the sense that it adds to the complexity. I guess there are all sorts of speculations as to whether there's a problem there and what that problem is. I haven't really contemplated what it is.

Hon. Larry Bagnell: If there were a project, let's say a mine in the specific area, and the region happened to have a land use plan—if we caught up on those, and I totally agree with you that we should have those done all over Canada—it would solve a lot of problems. Assuming there was a land use plan and there was a mine going to set up in the area now, are there big problems in the Northwest Territories?

Mr. Neil McCrank: If you look at the three or four diamond mines that have established themselves, they've been through the process and obviously they were able to make it work well enough for them. It was a costly exercise, so I'm told by the mining companies, but so be it; that's part of the price you pay. I think the difficulty was more in the very much smaller mining projects, like a diamond drilling site for a prospect, which goes through a very complicated process that is deterring some of the mining projects from occurring. I was advised, for instance, that there are mine sites right on the border of the Yukon and the Northwest Territories—and you know about this, I'm sure—where the decision was made that they would do it all in the Yukon because they knew the process and could make it work. If they got into the NWT, it was too complex, too unpredictable, to make it work.

I was a regulator, so I know there are always complaints about regulators in the business. I take that with a grain of salt, but that's what I was told.

Hon. Larry Bagnell: INAC is sort of a schizophrenic creation, in the sense that it has at least three mandates that are not always congruent: aboriginal rights, environmental regulation, and promotion of northern development. Did you find that an interesting speculative issue in your discussions?

Mr. Neil McCrank: It certainly came up, Mr. Bagnell. You're absolutely right, they're juxtaposed one to the other. Sometimes they're opposite and there's a conflict. I didn't comment on that because I was looking at only the regulatory system, but there's no question that the issue of at least the two sides of INAC came up in a lot of discussions that I heard about, just the way you've described it.

Hon. Larry Bagnell: Please make any further comments on Nunavut. You haven't talked about that much.

• (1030)

Mr. Neil McCrank: I only spent two days in Nunavut. I had good briefings by the Nunavut government, by Nunavut Tunngavik Inc., by the mayor and a variety of other people in Iqaluit. From what I could see, I actually thought there was a desire to make the system work, and work reasonably well.

Having said that, industry...for instance—and I won't give the specifics—one particular organization came to me with a project that they had in Nunavut. If they scoped it out on the regulatory bodies, from the regulatory bodies' point of view, from the application to the building permit, if you want to call it that, it was 14 years. Of course they said there's no way anybody will invest. They've since pulled off that project completely, so I'm told.

I didn't spend a lot of time there, but it's not without its problems. I had an impression when I was there that things were pretty smooth, but I'm not sure they're quite that smooth.

On the project that I'm talking about, by the way, I asked the company before I would write it up—which I didn't do—“Have you tried to run this past the regulatory bodies to see if they agreed with that 14 years?” They hadn't done that, so I said that, in the absence of that, I was not writing it up in my views.

Perhaps that answers the question.

Hon. Larry Bagnell: Thank you.

The Chair: Thank you, Mr. Bagnell and Mr. McCrank.

Now to Mr. Clarke, for five minutes.

Mr. Rob Clarke (Desnethé—Missinippi—Churchill River, CPC): If possible, I'll share my time with Mr. Duncan as well.

The Chair: Sure, by all means. Go ahead.

Mr. Rob Clarke: Thank you, Mr. Chair.

Thank you very much, Mr. McCrank, for coming today.

I have a couple of questions here. Coming from a first nations background myself, I'm kind of curious in regard to the consultation process that you undertook with the first nations and Northwest Territories. How many consultation meetings did you have with first nations?

Mr. Neil McCrank: There is a list. I think I met with every land claim agreement signatory in one form or another and all of the unsettled areas, with the exception of the Dehcho. We tried to set up meetings with them in Fort Simpson; they simply didn't work out. That's why I made the comment that I met Grand Chief Antoine last night.

Without going to the document—it's there, the list of all the parties—I would think probably, because some of them I met more than

once, we had a dozen to 15. And they weren't called consultations, by the way. They made this clear at the outset: is this a form of consultation by the federal government? I said no. I'm not sure what that means anymore. You'll note that I made a recommendation about consultation in the document, as well, and what that should mean on the part of the federal government.

But it's probably 12 to 15. I'd have to go back through the list.

Mr. Rob Clarke: What is their opinion of the regulatory process, as it stands right now?

Mr. Neil McCrank: I made a comment earlier. All would publicly state to you and to me that they are working well and that we should not consider any improvements. Privately, I was advised otherwise by many of them, that they thought there should be some changes. So I guess that's where it stands.

Mr. Rob Clarke: When you say “privately”, what's their appetite for reform, then?

Mr. Neil McCrank: Privately, some of them were, I think, in favour of the recommendations that I made. As I say, what's in this book was all discussed in Yellowknife at the round table, and all, with the exception of the Dehcho, were represented at the round table.

Mr. Rob Clarke: Okay, John.

Mr. John Duncan: Thank you very much.

We never actually finished our conversation on a northern major projects management office. Would you like to carry on? I felt that you had something you wanted to comment on there.

Mr. Neil McCrank: I think I made the point that I think it has hope in the south; hopefully we'll have hope in the north. It should be driven by the north. It shouldn't be in the south. The capacity to fill the job, which you commented on, I think, probably exists in the south, as well. I know that they had difficulty finding the right person. I think they found the right person, and I believe that Phil Jennings is still in charge of that office. They'll have similar problems in the north, but I expect that with the challenges that would exist in putting together an office in the north to run the projects....

By the way, I have said that it should be a little different from the one in the south in that it should have the ability to confer with the regulatory bodies. I don't foresee any major changes in the immediate future, so you still have those 17 bodies to deal with. They should have the ability to confer with those bodies—not direct them, but confer. They should also have the authority to look at all projects, not just at the major projects, because there are a lot of smaller projects. First of all, there aren't the numbers in the north that there are south of 60, so you would have a limited number. But the smaller ones are sometimes extremely important as well.

I will give you an example. When I was in the north, I went out to a diamond drilling site 100 miles or so north of Yellowknife. It was a very small area that was having trouble going through a massive regulatory system for a small drilling component, and they were complaining about it. I think that a major projects management office or a major and minor projects management office would assist in bringing that to closure.

• (1035)

Mr. John Duncan: I understand that the diamond mines filled a great void in the NWT when they came into being and that those may not have proceeded in the timely way they did if they had fallen within a different land category or a different status. They were under one of the areas with the least regulatory and bureaucratic burden.

Were you given confirmation of that kind of status as well?

Mr. Neil McCrank: Well, I heard rumours to that effect. Actually, my own belief is that these mines are so large that they will take the effort to actually make them work, regardless of where they are in the area. They have enough people and enough resources to make them work. Nobody said that the system can't work for very large projects of that nature, but you lose a lot between the small and large projects that are troublesome.

The Chair: We're over time now, if that's all there is. Thank you, Mr. McCrank, Mr. Duncan, and Mr. Clarke.

Now, *est-ce qu'il y a une autre question du Bloc? Non?*

Okay, I have Mr. Payne. You had another question. Go ahead.

Mr. LaVar Payne: Thank you, Mr. Chair.

Mr. McCrank, in terms of the land use planning, I certainly think we share the priorities you were talking about, and we're working on getting it settled and moving forward. Obviously there are some major challenges there with it being a tripartite process involving the Government of Canada, the NWT, and first nations.

Do you have recommendations on how we might get the other levels of government on board on this issue?

Mr. Neil McCrank: The only recommendation I would make is to just seek them out. I think one of the major responses of the NWT to my report was that the land use plans have to be complete. All the aboriginal communities I met talked the same way and said that land use planning is a key to this function. They just couldn't get it, seemingly, through the process. And of course, I think the federal government is interested. It's a question of putting a priority on this, and that's why I worded it the way I did.

Mr. Payne, you and I both know, coming from Alberta, that we don't really have a land use plan fully sanctioned in Alberta. It was one of the banes of my existence as the chair of the Alberta Energy and Utilities Board that there were times when we weren't able to navigate through because there were no land use plans. So I'm a great supporter, obviously, of land use plans, and I think there's an appetite, if we put a priority on it, to make it happen.

Mr. LaVar Payne: You're right, we don't have that in place. I believe they're working on it.

• (1040)

Mr. Neil McCrank: They're close.

Mr. LaVar Payne: In terms of what we're talking about here, if we're able to get some action on land use, would this improve the regulatory system, even with the 17 boards we currently have, and bring some consistent context?

Mr. Neil McCrank: I think the land use plans would help in the process, but I don't think they would solve the issue that we have, which is that there is a complex series of regulatory bodies that do not have the capacity to do the job they were set up to do.

Mr. LaVar Payne: Is this a good short-term or medium-term option while we work on the more complex problems of board structure in land claims?

Mr. Neil McCrank: Regardless of what else you do, I think the land use plan should be a priority. From there, you can make other choices and other decisions. So in my view, would land use plans would be a good start? They absolutely would.

Mr. LaVar Payne: Thank you.

The Chair: Thank you, Mr. Payne.

We'll go to Mr. Bevington, then I have a short question, and then we'll go to Mr. Bagnell for a short question. I think that will just about do it.

Mr. Bevington.

Mr. Dennis Bevington: I think we are moving along here, but there's still a little confusion about the boards. Five of the boards are land use planning boards. Five of the boards that are involved are actually supposed to do the land use planning and come up with a land use plan. That's what five boards in five regions do. Five boards in five regions do the renewable resource work. They look at the wildlife and habitat. They're intimately involved in decisions about things that perhaps don't affect development as much as they do socio-economic traditional practices in communities. You have two boards that are set up for those reasons. The third set of boards is the land and water boards, which look at development and, within 45 days, either make a decision or push them up to an environmental assessment.

The 17 boards are divided into three very distinct areas according to region. They're not always engaged in every single project. Is that correct?

Mr. Neil McCrank: One or more of them is engaged in every single project.

Mr. Dennis Bevington: You can either get through a development project with one board—for example, if the land and water board sees your application and says, okay, there's no problems with it, go ahead—or they can kick it up to the environmental assessment board, which is one board for the whole territory. The complexity is not on every project.

Mr. Neil McCrank: It's not on every individual project, but if the project included more than one region—and as I said, a lot of industry has the capacity and the will to want to go to a lot of different regions—then they would involve a lot of different boards. But you're right, if you took one specific project like the Diavik Mine—one project, one area—you could get through the process if you had the money to support it.

Mr. Dennis Bevington: That applies to probably 90% of the projects. There has only been one project, as far as I know—the Mackenzie Valley pipeline—that has tied together so many of these different regions. Most of the projects are region sensitive.

Mr. Neil McCrank: That depends on which industry you're talking about, but both the mining industry and the oil and gas industry expressed to me the concern that they would be working in two or three different areas. As a result, they would have to learn and run through two or three different boards in the course of that, with the projects sometimes overlapping and sometimes not overlapping.

Mr. Dennis Bevington: The same might be the case between northwestern Alberta and northeastern B.C. They might have the same particular problem. Is that correct?

Mr. Neil McCrank: That's correct. If a company in B.C. wanted to do work in Alberta, they would deal with one regulatory body as opposed to, if there was an area 10 miles in length, dealing with four or five.

Mr. Dennis Bevington: In some respects, it's not that there are so many boards; it's the fact that the companies think there are somewhat different standards in each board, or that somehow these boards are judging projects differently. Doesn't that go back again to land use plans? If the land use plans were settled, the companies would understand very well what's required of them when they go into an area.

Mr. Neil McCrank: My understanding of what we would be doing in terms of land use plans is that you'd carve off areas that are subject to development and areas that are not subject to development. On those that are subject to development, then you'd go through the different land and water boards or the environmental impact review board, and each area would have its own set of rules respecting that.

• (1045)

Mr. Dennis Bevington: And the problem of those rules that respect development—even down to the size of a seismic cut—were issues that we didn't have answers to when we were on the Mackenzie Valley board, because the land use plans had not been done. So they hadn't set the standards for development in the areas that they were going to open up for development. They hadn't even determined which areas were going to be there for development and which weren't without those land use plans.

Mr. Neil McCrank: Mr. Bevington, you and I may have a fundamental difference in understanding. The land use planning function, in my view, would be to determine whether an area should be developed or not. Once it can be developed, then the specific rules and guides relating to how the development would occur would come out of the regulatory body in that area. And that's where you get inconsistency from area to area.

The Chair: Okay, that will do it. Thank you, Mr. Bevington.

Now I'm going to take one of the government spots here, and then we'll go to Mr. Bagnell for a wrap-up question.

First of all, I have a couple of questions just for clarification, Mr. McCrank. In terms of the coverage of NWT, would it be fair to say that the regulatory boards have entire coverage of the territory? No matter where one would develop in NWT, you would be dealing with at least one of the.... In other words, is there 100% coverage of the territory in that respect?

Mr. Neil McCrank: That is correct, according to my understanding.

The Chair: The issue of land use planning has been kind of shunted around our committee here this morning. Just so it's clear for the record, you gave an example that the first order of priority would be to complete land use plans. If I was to draw a parallel to, say, my understanding of it here in Ontario, for example, it would be tantamount to the community there in fact prescribing some sort of official plan or designating the lands for different uses—in other words, environmentally protected lands or making decisions about which areas within their jurisdiction or region would be set aside for specific purposes that would restrict development. And these would be local decisions. Is that the correct understanding?

Mr. Neil McCrank: I'm not sure how it works in Ontario. I think I did read that a bill was just introduced relating to land use plans for northern Ontario. I haven't read it yet.

But what I'm thinking of and the way I'm describing it is that it comes out of the land claim agreements. And the role of the federal government is that together they would decide. For instance, in the Gwich'in area there would be a decision made on a land use planning function as to which areas would be developed and which would not be developed. And from that process the federal government would designate what the land use plan would actually be.

The Chair: I think your suggestion was that on your option one, for example, the local community or local interest would still be in fact represented via the land use planning process.

Mr. Neil McCrank: Absolutely. What I am trying to do is move up the local influence to an earlier point in time, and not at the regulatory stage but at the land use planning stage, which I think is where you should make those policy decisions, and local people should have a huge input in that respect.

The Chair: Finally, in light of the topic we have at hand here, and as I alluded to in my opening remarks, the committee is considering a broader study of northern economic development. If you were to provide some guidance, what would you suggest in terms of the area this committee could best be tasked to concentrate on in terms of an effective contribution to advancing northern economic development? If you had a suggestion, what gap or what area would we be best to concentrate on?

Mr. Neil McCrank: The easy answer for me would be to say you should choose the Mackenzie Valley, as I did. In retrospect, if I were to do it again, I would have spent a lot more time in the Yukon right at the outset, because they seem to be able to make it work, and what is it there that is different from that and NWT and Nunavut? So I think I'd try to go to some success points first and see how that occurred and then move on to some of the weaker areas after that. That's the only guidance I could give, sir.

•(1050)

The Chair: Okay, thank you very much.

Now we'll go to Mr. Bagnell.

Hon. Larry Bagnell: Thank you. I just have one short question. It's partly to get it on the record and partly to ask the question.

Someone approached me, and I don't even know where in Canada they live, but they said there was an issue related to the ongoing review of the environmental assessment processes both in Nunavut and the Yukon. The problem was intervenor funding. I've approached the deputy minister of INAC, and he said he would follow up on this. So I'm sure we'll hear back from him. But I'm curious about whether you have heard about any issues at all with intervenor funding.

Mr. Neil McCrank: Well, I certainly heard comments about intervenor funding in the course of my review, leaving aside the reviews they're having in the Yukon and in Nunavut, though I didn't know about the latter specifically.

I did not address that issue in my document. It's a minefield when we talk about intervenor funding, as we all know. The only similar comment I made was that if we were to release some of the local leaders from responsibility for these boards, they could provide information from the community level. And I think I said something to the effect that there would have to be some support, because obviously nobody wants to continue to do this for nothing.

Specifically, I know that the review of the YESAA legislation, the Yukon Environmental and Socio-economic Assessment Act, is ongoing. I think I heard at the time I was talking with some of the environmental groups in Whitehorse that there was a concern about funding, but I can't be more specific than that, Mr. Bagnell.

It's important that we get the right information in front of these reviews. And if that requires some intervenor funding, I'm supportive of that, if it helps this process.

Hon. Larry Bagnell: Thank you, sir.

The Chair: Okay, thank you very much.

[Translation]

On behalf of the members, I would like to thank you for your presentation.

[English]

As a reminder to members, there is not a meeting on Thursday morning, June 11, as it's the first anniversary of the residential school apology. We'll reconvene back here this time next week, when we will have a panel of representatives from the non-renewable resource sector in the north considering same topic as today.

Again, enjoy your day.

Mr. John Duncan: I have a point of order, Mr. Chair.

The Chair: Oh, I'm sorry, Mr. Duncan, on a point of order.

Mr. John Duncan: Well, it may be a point of interjection. I just wanted to talk for a minute about June 11, which is Thursday.

All of you may have received some information about Thursday. There is a ceremony that starts at 5:15 in the morning at Victoria Island. I plan to be there. I think the smudging ceremony is at 5:30. But more importantly, the minister would like to invite all members of the committee to join him on the bridge at 10:30. There's going to be some kind of handshaking ceremony with the first nations leadership and members of Parliament, the minister, and others.

I thought it would be worthwhile to convey that to the committee. It would be on the bridge, while they march towards the Hill.

Mr. Marc Lemay: That would be at 5:15?

Mr. John Duncan: No, it would be about 10:30 or 10:45.

There's also a pancake breakfast down there for you at 7:30.

The Chair: Okay. Did everyone hear that? Does everyone know where Victoria Island is in proximity to...?

Is that it, Mr. Duncan?

Mr. John Duncan: No, the place is a five-minute walk from the Hill.

The other thing I wanted to offer is that the McIvor decision is a huge decision of the Supreme Court on first nations membership issues. We don't have any free meetings between now and the break, but I was wondering about the appetite for a briefing from the department on the McIvor decision. It would be voluntary. What would the appetite be for that?

Some hon. members: Agreed.

•(1055)

The Chair: There's seems to be a consensus on that. So Mr. Duncan, if the department can perhaps set a time before the break so that members might be able to attend that all-party briefing, it would be—

Mr. John Duncan: Are there any suggestions on a time?

Mr. Todd Russell: Yes, I think that would be quite helpful and certainly appreciated.

On the Maa-nulth treaty, they have been calling my office, and I'm just wondering if there's going to be legislation this spring. My understanding was that there was going to be legislation, then there was not going to be legislation. Which is it?

Mr. John Duncan: I can't give you a comprehensive answer, but we are looking at it very seriously. It's on our agenda. We're getting the calls too.

The Chair: Mr. McCrank, did you have a point?

Mr. Neil McCrank: Mr. Chairman, just very briefly, I really appreciate the opportunity to appear before your committee. I didn't say this at the outset because people would think you're backing down from your recommendation, but the purpose of my report was to generate some discussion. If that's what it has done and, from that, opportunities arise and improvements can be made, then I think we've accomplished our goal. It was for the purpose of trying to

ensure that the issues were on the table and that they were discussed properly.

Thank you very much for the opportunity.

The Chair: And we thank you.

There being nothing else, the meeting is adjourned. I'll see you next Tuesday.

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