



HOUSE OF COMMONS  
CANADA

CHAPTER 4, “SUSTAINING DEVELOPMENT IN THE  
NORTHWEST TERRITORIES,” OF THE SPRING  
2010 REPORT OF THE AUDITOR GENERAL OF  
CANADA

**Report of the Standing Committee on  
Public Accounts**

Hon. Joseph Volpe, **MP**  
**Chair**

FEBRUARY 2011  
**40th PARLIAMENT, 3rd SESSION**



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# **STANDING COMMITTEE ON PUBLIC ACCOUNTS**

**40th PARLIAMENT, 3rd SESSION**

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# **THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

has the honour to present its

## **TWENTY-FOURTH REPORT**

Pursuant to its mandate under Standing Order 108(3)(g), the Committee has studied Chapter 4, “Sustaining Development in the Northwest Territories,” of the Spring 2010 Report of the Auditor General of Canada and has agreed to report the following:

## INTRODUCTION

Canada's North is an important part of our heritage, national identity, and future. There are a number of natural deposits of diamonds, metals, minerals, and oil and gas in the Northwest Territories (NWT) which provide extensive opportunities for resource development. The economic benefits of development include the potential for direct and indirect employment, improved social conditions, and increased revenue for government. At the same time, it is important to protect the natural environment – the wildlife, water, and habitat that Aboriginal communities depend on. The impacts of climate change and air, land, and water contaminants are now understood to have a disproportionate effect on northern ecosystems.

The federal government has specific obligations relating to effective governance, environmental protection, and capacity building to provide for sustainable and balanced development in the NWT. Failure to meet these obligations could mean missed economic opportunities, environmental degradation, and increased social problems in NWT communities.<sup>1</sup> The federal government is mandated to put in place key measures to support sustainable and balanced development in the NWT. This includes land claim and self-government agreements, an environmental regulatory system, and support for skills training and economic development.<sup>2</sup>

In an audit included in its Spring 2010 report, the Office of the Auditor General (OAG) examined how Indian and Northern Affairs Canada (INAC), Environment Canada (EC), and Human Resources and Skills Development Canada (HRSDC) have supported these key measures in the NWT.<sup>3</sup> During the audit, in August 2009, the Canadian Northern Economic Development Agency (CanNor) was created, and the control and supervision of the Northern Economic Branch of INAC was transferred from INAC to CanNor.

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<sup>1</sup> Report of the Auditor General of Canada, Spring 2010, *Chapter 4, Sustaining Development in the Northwest Territories*, Main Points, Why it's important, paragraph 3 (p. 2).

<sup>2</sup> *Ibid.*, paragraph 4.90.

<sup>3</sup> *Ibid.*, What we examined, paragraph 3 (p. 1).

As the House of Commons Standing Committee on Public Accounts (the Committee) believes sustaining development in the North is important to improving the lives of northern Canadians, it held a hearing on this audit on 5 October 2010.<sup>4</sup> INAC was represented by Michael Wernick, Deputy Minister and Patrick Borbey, Assistant Deputy Minister, Northern Affairs. EC was represented by Paul Boothe, Deputy Minister. HRSDC was represented by Ian Shugart, Deputy Minister, and CanNor was represented by Nicole Jauvin, Deputy Minister and President. The OAG was represented by Sheila Fraser, Auditor General of Canada; Scott Vaughan, Commissioner of the Environment and Sustainable Development; and Frank Barrett, Principal.

The OAG's audit raised a number of issues, such as the negotiation of land claim and self-government agreements, the environmental regulatory system and monitoring of cumulative impacts, and support for skills training and economic development in the NWT. The audit noted that some improvements are needed in these areas, as is discussed below.

## **TIMELY FUNDING FOR NEGOTIATIONS**

One key point that was noted by the OAG in the report was that comprehensive land claim agreements (CLCAs) and self-government agreements (SGAs) are critical for development in the NWT. Given their complexity, CLCAs and SGAs negotiations usually take years.<sup>5</sup> The point that these agreements are critical to putting the other pieces of the puzzle in place (e.g. land plans, cumulative impact monitoring system, enforcement, etc.) was further reinforced by the Deputy Minister of INAC when he appeared in front of the Committee. As he pointed out, CLCAs and SGAs are “fundamental to development in the north and they're fundamental as a path for aboriginal people across the country, in terms of how they can take charge of their

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<sup>4</sup> House of Commons Standing Committee on Public Accounts, 3<sup>rd</sup> Session, 40<sup>th</sup> Parliament, Meeting 25.

<sup>5</sup> *Chapter 4*, paragraph 4.18.



economic, social, and cultural futures,”<sup>6</sup> and are therefore critical to the future of First Nations groups, and of sustainable development in the NWT as a whole.

To date, INAC has finalized four CLCAs covering over half the area of the NWT. Four CLCAs in the Akaitcho, Dehcho, and Northwest Territory Métis Nation regions are currently under negotiation. Ten self-government agreements are also under negotiation in the Akaitcho, Dehcho, Gwich’in, Inuvialuit, Sahtu and Northwest Territory Métis Nation regions.

The Committee notes that, according to the audit, INAC had made constructive efforts to clarify the land, resource, and governance rights of claimant groups in the NWT in its negotiations of CLCAs and SGAs. In some cases, the Department had negotiated interim agreements with groups in unsettled regions for the purpose of advancing negotiations.<sup>7</sup> INAC has entered into contribution agreements with Aboriginal communities to fund their participation in negotiations. This funding allows Aboriginal groups to obtain legal advice, hire staff and negotiators, and consult within the community.<sup>8</sup>

There were significant delays in funding to First Nations which can impede their effective participation in negotiating SGAs.<sup>9</sup> As the Auditor General stated, “Year after year, the funding has to be reviewed and approvals obtained. There are certain requirements, including I believe that of producing an audited financial statement from the previous year. It obviously takes some time to obtain these documents, then the department must proceed with the approval, which slows down the granting of the funding to aboriginal people for the negotiations.”<sup>10</sup>

The Deputy Minister of INAC explained some of the problems encountered by his department that have led to the delays. He said:

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<sup>6</sup> Meeting 25, 11:55.

<sup>7</sup> *Chapter 4*, paragraph 4.23.

<sup>8</sup> *Ibid.*, paragraph 4.25.

<sup>9</sup> *Ibid.*, paragraph 4.26.

<sup>10</sup> Meeting 25, 11:35.

You can only put in multi-year agreements if you have a multi-year program. I cannot sign and commit funds for programs that are going to expire. Part of it is trying to stabilize the funding base of the programs. Part of it is the red tape around federal contribution programs, which was the subject of the blue ribbon panel on grants and contributions. Minister Toews announced the government response to it, and all departments that do grant contribution work will be implementing the new transfer payment policy on April 1. That creates some pretty exciting opportunities to have more stable, predictable funding agreements if you have a stable program base, and we will try to take advantage of that.<sup>11</sup>

The OAG recommended that INAC implement mechanisms, such as multi-year funding for contribution agreements, to ensure timely funding for the activities of Aboriginal communities regarding negotiations on self-government.<sup>12</sup> INAC agreed and indicated that it will move forwards when the new Transfer Payments Policy, which allows for multi-year funding to recipients, will come into effect on 31 March 2011. Following the OAG, the Committee recommends:

#### **RECOMMENDATION 1**

**That Indian and Northern Affairs Canada identify and implement mechanisms by 31 March 2011, such as multi-year funding for contribution agreements, to ensure timely funding of the activities of Aboriginal communities regarding negotiations on self-government.**

#### **ENVIRONMENTAL REGULATORY SYSTEM**

Having an adequate regulatory system in place helps to manage land and water resources and to protect the environment.<sup>13</sup> The OAG also found that, in regions where CLCAs exist, the environmental regulatory system was mostly complete. Co-management boards had been established in these regions and INAC had made progress in supporting the boards to develop land use plans. These boards are important as they make decisions on development. The audit also noted, "In most of the NWT, community representatives exercise final decision-making power through co-

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<sup>11</sup> Meeting 25, 12:15.

<sup>12</sup> *Chapter 4*, paragraph 4.28.

<sup>13</sup> *Ibid.*, paragraph 4.43.

management boards, and formal consultation is a critical component of these decisions.”<sup>14</sup>

Regions where land claims are not settled did not have an adequate regulatory system in place. When land claims are not settled, uncertainty about Aboriginal entitlement to the land persists. There are also questions about how the land could or should be used and who should be consulted about development and when.<sup>15</sup> Also, development decisions and issuance of permits can take longer because the communities who live in areas with unsettled claims try to influence decision-making by asking for additional environmental assessments and consultation.<sup>16</sup>

With respect to land use plans, there has been a lack of specific mechanisms which has complicated the environmental assessment process and has ultimately led to ad hoc land planning. Without a formal land use plan, the Mackenzie Valley Land and Water Board has had to make development decisions on a case-by-case basis. Given the fact that settled land claims bring more certainty in regions where they apply, the Committee believes that INAC’s work with Aboriginal groups needs to continue in this regard. Indeed, the OAG recommended that INAC work with Aboriginal groups and the Government of the NWT to conclude agreements for regions without settled land claims.<sup>17</sup> However, until these agreements are reached, the problem of an adequate regulatory system remains. The Committee believes that INAC needs to work towards interim solutions for these areas, such as interim land use plans and community impact monitoring, as outlined in the *Mackenzie Valley Resource Management Act*, which would improve the regulatory system in the NWT. Therefore, the Committee recommends:

## **RECOMMENDATION 2**

**That Indian and Northern Affairs Canada work with Aboriginal groups in the Northwest Territories to develop interim land use plans**

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<sup>14</sup> Ibid., paragraph 4.33.

<sup>15</sup> Ibid., paragraph 4.44.

<sup>16</sup> Ibid., paragraph 4.46.

<sup>17</sup> *Chapter 4*, paragraph 4.51.

**and community impact monitoring for areas without settled land claims.**

## **CUMULATIVE IMPACT MONITORING**

Environmental monitoring provides vital information for decision-making on development, which is especially important in the fragile ecosystem of the NWT. In order to understand how development may affect the environment, scientists gather baseline environmental conditions against which changes can be monitored and cumulative impacts can be assessed. However, the OAG found that INAC had not met its responsibility to monitor cumulative impact in any of the four regions, and that Environment Canada had failed to meet its commitments to support INAC in these activities. As the audit pointed out, “Lack of progress on implementation of a cumulative impact monitoring program in the NWT limits the ability of co-management boards to understand baseline conditions, track and monitor environmental change, and ultimately identify the effect of development on the environment.”<sup>18</sup>

The OAG recommended that INAC carry out a program to monitor cumulative impact in the NWT.<sup>19</sup> In its response to the recommendation, INAC stated that ongoing funding was provided in 2008 to expand the scope of the program and that INAC, along with its partners, would determine the needs and priorities for environmental monitoring in order to fulfil its obligations and commitments. INAC also added, “Should additional funding become available, further investments in the Northwest Territories Cumulative Impact Monitoring Program will be considered.”<sup>20</sup>

For its part, EC supports INAC in identifying the information requirements for cumulative impact monitoring and for planning and implementing these programs in the NWT. The Deputy Minister for EC noted his department is present in Northern Canada, including the NWT, through a variety of monitoring activities, for example, monitoring species at risk, or federal contaminated sites, etc. EC also conducts limited monitoring of weather, climate, water, stratospheric ozone, and air quality throughout the NWT

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<sup>18</sup> Ibid., paragraph 4.60.

<sup>19</sup> Ibid., paragraph 4.61.

<sup>20</sup> Ibid., INAC’s response after paragraph 4.61.

under the guise of the *Canadian Environmental Protection Act* and the *Department of the Environment Act*. In 1999, both INAC and EC committed to funding and implementing the Cumulative Effects Assessment and Management Framework for the NWT. However, 11 years later, the OAG concluded that the framework has not been implemented.

Funding aimed at supporting the development and implementation of the Cumulative Effects Assessment and Management Framework for the NWT ran out by 2007. During the hearing, the Deputy stated that EC “had to make decisions in the interim period in order to make sure that we were able to support the monitoring programs and we were able to do that. But with the new funding announced in budget 2010, I think we’re in a good position to support the monitoring that will continue to be needed.”<sup>21</sup> According to the Deputy Minister of INAC, Budget 2010 committed \$11 million over two years for the streamlining of regulatory regimes in the north and more than \$8 million over two years for community-based environmental monitoring and reporting on baseline data collection through the Northwest Territories Cumulative Impact Monitoring Program and the Nunavut General Monitoring Program.<sup>22</sup>

There was a commitment to develop a Cumulative Effects Assessment and Management Framework 11 years ago, which has not been fully implemented. Since newly announced funding is only for two years, the Committee recommends:

### **RECOMMENDATION 3**

**That Indian and Northern Affairs Canada and Environment Canada obtain stable funding to complete the Cumulative Effects Assessment and Management Framework for the NWT.**

In its action plan in response to the OAG’s recommendation, EC stated that it will continue to provide support to INAC, as required, by participating in steering committees, and providing analysis of the Joint Review Panel for the Mackenzie Gas

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<sup>21</sup> Meeting 25, 11:40.

<sup>22</sup> Meeting 25, 11:15, and Action Plan, Indian and Northern Affairs Canada, response to *Sustaining Development in the Northwest Territories* (Chapter 4 of Spring 2010 Report of the Auditor General of Canada). Please also refer to *Budget 2010*, pages 93 and 107.

Project. However, it is not clear what is entailed by “providing support.” The Committee believes that EC should clearly identify what actions it will be taking and recommends:

#### **RECOMMENDATION 4**

**That Environment Canada clarify its action plan. The action plan should specify what type of environmental impact information Environment Canada will be collecting. It should also specify how Environment Canada will assist Indian and Northern Affairs Canada in identifying information requirements to carry out their joint responsibilities for cumulative impact monitoring in the NWT.**

#### **SKILLS TRAINING AND ECONOMIC DEVELOPMENT**

Lack of capacity has long been identified as a principal barrier to improving the economic conditions in Aboriginal communities. Support for skills training and economic development in the NWT is key to developing capacity in northern communities in order for them to benefit from the opportunities provided by development. Human Resources and Skills Development Canada’s (HRSDC’s) programs support skills training in the NWT.

In August 2009, the federal government created the Canadian Northern Economic Development Agency (CanNor). The Agency took over responsibility of INAC’s economic development programs for the NWT. Part of the new agency’s priorities will be to coordinate and deliver existing programs and services, measure the results of economic development and programming in the NWT, and tailor programs and activities to the needs of the North.

The audit found that HRSDC did not assess whether its programs are achieving their longer-term objective and outcome regarding sustainable employment for Aboriginal peoples in the NWT. The OAG recommended that HRSDC should assess the impact of its Aboriginal training programs and ensure that they are leading to improvements over time.<sup>23</sup>

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<sup>23</sup> Chapter 4, paragraph 4.78

The Committee notes that HRSDC has recently launched a number of initiatives in this regard and has begun working with CanNor to ensure increased coordination of CanNor's economic development programs and HRSDC's labour market programming. For example, both departments have recently signed a four-year Memorandum of Understanding (MOU) to facilitate effective collaboration relating to program planning and delivery of their respective programs in the North.<sup>24</sup>

Many of these initiatives are part of the action plan HRSDC presented to the Committee prior to the hearing. HRSDC has stated that the new Aboriginal Skills and Employment Training Strategy (ASETS) program, which was launched on 1 April 2010, seeks to improve the measurement of outcomes through Aboriginal service delivery organizations' development of strategic business plans as a condition of funding. The ASETS will replace the Aboriginal Human Resources Development Strategy (AHRDS) and the Aboriginal Skills and Employment Partnerships (ASEP) Program which expires in 2012. The new program will develop a logic model and indicators, and it has been adjusted to provide more information on longer-term outcomes of the program (on employment duration, earnings reliance on employment insurance, etc.).<sup>25</sup> As it is still early in the implementation of these initiatives, the Committee recommends:

## **RECOMMENDATION 5**

**That Human Resources and Skills Development Canada provide a progress report to the Public Accounts Committee by 30 April 2011 on steps taken to address the Office of the Auditor General's recommendation contained in Chapter 4 of the Spring 2010 Report.**

The OAG found that INAC's economic development programs did not have clear objectives. The OAG also found that, with the exception of specific measures for tracking activities for the Aboriginal Business Development Canada program, INAC did not track the performance of programs which seek to contribute to Aboriginal economic development in the NWT. Without clearly stated objectives, measurement and tracking

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<sup>24</sup> Action Plan, Human Resources and Skills Development Canada, response to *Sustaining Development in the Northwest Territories* (Chapter 4 of the Spring 2010 Report of the Auditor General of Canada), pp. 2-3.

<sup>25</sup> HRSDC's Action Plan, pp. 2-3.

of the performance are difficult. In addition, the Department did not know whether its programs had achieved intended results or adequately support Aboriginal communities.<sup>26</sup>

Most of INAC's economic development programming in the NWT is based on a 1989 strategy. In 2009, the federal government released the Framework for Aboriginal Economic Development to replace the previous strategy. Department officials told the OAG during the audit that this new Framework is a "first step in redefining and implementing a government-wide and nationwide approach to Aboriginal economic development."<sup>27</sup> However, northerners interviewed by the OAG were concerned that this new Framework may not address the specific needs of Aboriginal groups in the North.<sup>28</sup>

Since its creation in August 2009, CanNor has begun working on a number of issues raised by the OAG's audit. CanNor has five priorities with respect to economic development programming as raised by the OAG: a) clarifying program objectives; b) identifying and responding to needs and gaps under the existing programming; c) improving program coordination; d) putting in place an effective performance measurement system; and e) reporting results regularly. According to its action plan, by 1 April 2011, CanNor should have a 5-year plan in place to report on performance. As the Committee would like to ensure that this plan is completed as intended, it recommends:

## **RECOMMENDATION 6**

**That the Canadian Northern Economic Development Agency provide the Public Accounts Committee with its 5-year plan to report on performance by 30 April 2011.**

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<sup>26</sup> Chapter 4, paragraph 4.81.

<sup>27</sup> Ibid., paragraph 4.83.

<sup>28</sup> Ibid., paragraph 4.83.



## CONCLUSION

Protecting and developing the North is a key responsibility of the federal government, as there are a number of natural deposits of diamonds, metals, minerals, and oil and gas in the Northwest Territories (NWT) which provide extensive opportunities for resource development. The Committee believes that sustaining development in the North is important to improving the lives of northern Canadians. The Committee also believes that the federal government must uphold its specific obligations with regards to effective governance, environmental protection, and capacity building to provide for sustainable and balanced development in the NWT.

The Committee notes that there were significant delays in funding to First Nations which can impede their effective participation in negotiating SGAs and that INAC should identify and implement mechanisms to ensure timely funding. The Committee also notes that INAC and EC had not delivered on earlier commitments to develop and implement an environmental regulatory system and cumulative impacts monitoring. It recommends that INAC work with Aboriginal groups in the NWT to develop interim land use plans and community impact monitoring for areas without settled land claims. The Committee also recommends that INAC and EC obtain stable funding to complete the Cumulative Effects Assessment and Management Framework, and that EC should clarify its action plan to specify what type of information it will be collecting on behalf of INAC to carry out their joint responsibilities for cumulative impact monitoring.

The Committee further notes that there were gaps in HRSDC's support for skills training and oversight of economic development by INAC. It has requested that HRSDC provide the Public Accounts Committee with a progress report by 30 April 2011. The Committee also acknowledges that CanNor has recently taken over responsibility of INAC's economic development programs for the NWT and has begun clarifying some of the program's objectives. It looks forward to obtaining CanNor's 5-year plan to report on performance by 30 April 2011.

# APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<b><u>40th Parliament, 3rd Session</u></b>		
<b>Canadian Northern Economic Development Agency</b> Nicole Jauvin, Deputy Minister and President	2010/10/05	25
<b>Department of Human Resources and Skills Development</b> Ian Shugart, Deputy Minister		
<b>Department of Indian Affairs and Northern Development</b> Patrick Borbey, Senior Assistant Deputy Minister, Treaties and Aboriginal Government Michael Wernick, Deputy Minister		
<b>Department of the Environment</b> Paul Boothe, Deputy Minister		
<b>Office of the Auditor General of Canada</b> Frank Barrett, Principal Sheila Fraser, Auditor General of Canada Scott Vaughan, Commissioner of the Environment and Sustainable Development		

# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings (40th Parliament, 3rd Session: [Meetings Nos. 25 and 37](#)) is tabled.

Respectfully submitted,

Hon. Joseph Volpe, M.P.

Chair