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Chair

Mr. Chris Warkentin

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•(1105)

[English]

The Chair (Mr. Chris Warkentin (Peace River, CPC)): Committee colleagues, let's begin this 19th meeting of the Standing Committee on Aboriginal Affairs and Northern Development.

Today we have two representatives from the Institute on Governance who will bring an opening statement. Of course we'll follow up with questions.

We are scheduled to go for an hour and a half, colleagues. If there are questions to complete that duration we will do that. We'll run until colleagues are finished, and then the subcommittee has a short meeting, at which I'm hopeful we can get through a number of things.

Today we have two witnesses, as I said, from the Institute on Governance. We have Ms. Lefebvre and Ms. Edgar.

Thank you so much for being here. We appreciate your coming on short notice, and we know you have been undertaking some work that will be of interest to our committee, so we would like to turn it over to you for opening statements. Then we will follow up with questions.

Ms. Marion Lefebvre (Vice-President, Aboriginal Governance, Institute on Governance): Thank you very much for the invitation and for your time today.

My name is Marion Lefebvre. I'm the vice-president for aboriginal governance at the Institute on Governance. I'm going to take a moment to tell you a bit about our organization, and then I will turn this over to my colleague, Laura, who will speak to the paper in which you expressed interest.

The Institute on Governance has existed in Ottawa for over 20 years. As our name suggests, our focus is on governance. We work on the international, domestic, public, and aboriginal arena, and we do some work on corporate governance as well.

We offer three main service lines: policy-based research, advisory services, and training. We hope to be a leading expert in this field across all our subject matter specialties. We believe that improving governance in aboriginal communities is a very large key to unlocking the economic development potential of those communities, and to us that's an important connection to continue to make, given this committee's interest and subject matter specialty.

With that as a general background, we are a not-for-profit. We do projects very regularly. Over our 20-year span of existence we have done approximately 360 projects, which have focused on various

elements of aboriginal governance as it relates to both commercial and social service delivery. We hope that through the background we've been able to accumulate through those collective experiences we'll have something to offer you today.

You expressed a specific interest in a paper that my colleague, Laura Edgar, wrote three years ago, and I will turn it over to Laura to take you through her findings in this important area of land management.

Thank you.

Ms. Laura Edgar (Vice-President, Partnerships and International Programming, Institute on Governance): Good morning, everyone.

As Marion indicated, I'm just going to give a brief summary of the work we did for Aboriginal Affairs and Northern Development. The work was conducted in 2008, so some changes might have taken place since then that are not reflected here, but I will speak to the state at that time.

My presentation is going to be on the paper, "Environmental Protection: Challenges and Prospects for First Nations under the First Nations Land Management Act". I'm going to describe the environmental management gap that first nations face and some of the potential for first nations under the act and under the agreement to fill some of these gaps.

First of all, the environmental management gap is a result of the interpretation and application on reserves of federal and provincial environmental laws. As you're well aware, for environmental protection there are federal roles and there are provincial roles. A complex set of laws and regulations are at play. Section 91.24 of the Constitution Act, 1867, specifies that legislative authority of Indians and lands reserved for Indians rests with the federal government. As a result, provincial laws relating to lands and their use cannot apply of their own force on reserve land.

Section 88 of the Indian Act specifies that all provincial laws of general application are applicable to and in respect of Indians in the province. However, courts have ruled that provincial laws of general application referring to reserve lands and their use do not fall under section 88. So it leaves a little bit of a gap there in interpretation as to what can actually apply.

In terms of the scope of what we're talking about here, we're talking about waste and the environmental protection of air, of water, and of land. We're talking about resource management, land use and zoning, water use, source protection, and natural resource use. We're talking about environmental assessment, and, finally, we're talking about health, safety, and transportation, including things like ferries, which involve the water. It's a huge range of areas that are impacted and to which regulation may be required. Most of those, I should say, are at the provincial level, though some have a federal counterpart.

In terms of key federal laws that are at play, you do have the Canadian Environmental Protection Act, you have the Fisheries Act—which in particular deals with deleterious substances—the Transportation of Dangerous Goods Act, the Canadian Environmental Assessment Act, the Species at Risk Act, the Migratory Birds Convention Act, and the Indian Act and regulations relating to things like waste disposal, Indian timber and mining, and of course the Indian Oil and Gas Act.

That said, that still leaves a lot of gaps as to what can apply for first nations. Some of these I know the government is working on. At the time of writing this paper, they were doing more work on waste water and how to address some of those issues, as well as fuel tanks, and I think that one has now come into force. So there is work being done in this area.

That said, that still leaves some huge gaps in terms of waste water, source water protection, natural resources—with the exception of fish habitat and oil and gas, which are addressed by regulations—and environmental assessment, particularly when there's no federal trigger. So on reserve lands, if it's federal funding, there is an environmental assessment. That's a requirement. However, if it's private development, it's not a requirement. Then other gaps include health, safety, and transportation—including things like ferries and docks—fire safety, and roads and bridges.

With the First Nations Land Management Act also came agreements that first nations can enter into, which allowed them to fill the principal elements of the environmental management void, but the challenges of developing and operating an effective regulatory regime, which of course is a critical element of any management regime, should not be underestimated.

The act gives the number of law-making powers. Subsection 20(1) of the act provides for the power to enact laws respecting the interests in and licences in relation to first nations land, the development, conservation, protection, management use, and possession of first nations land, and any matter arising out of or ancillary to the exercise of that power.

In addition, subsection 20(2) provides for other particular powers, including the regulation, control, or prohibition of land use and development, including zoning and subdivision control, and, subject to the other sections, the acquisition and granting of interests in and licences in relation to first nations land—and prohibition in relation thereto—environmental assessment and environmental protection, the provision of local services in relation to first nations land, and the imposition of equitable user charges for those services. That's an interesting one, because typically that is not done for first nations, but if you look at Canada more broadly, user fees are a key part of how governments pay for such services.

●(1110)

Finally, the provision of services for the resolution of disputes in relation to first nations land is of course another key governance element. There has to be some sort of appeals mechanism.

Other critical aspects of the act and the agreements force a delegation of powers, so a first nation can delegate its powers to manage first nations land. There are a number of options that I'll get into in a moment.

There's a requirement for enforcement measures that are consistent with federal laws, such as the power to inspect, search and seize, and to order compulsory sampling, testing, or the production of information. Of course, there's environmental protection as well.

The environmental management agreements do actually encourage the participation of the provinces, but it's not a requirement. The environmental management agreements themselves, EMAs, are really plans for how the first nations will enact environmental protection legislation, including timing, resources, inspection, and enforcement requirements. They also identify areas essential for each first nation. These areas are solid waste management, fuel storage tanks and their management, sewage treatment and disposal, and environmental emergencies. There is also room for other areas specific to each first nation that they can also address, given their particular circumstances.

Each plan must include provisions for periodic review and updating, and it notes that federal laws will prevail if there are inconsistencies with first nations law.

I want to speak briefly now about regulation, with which I'm sure you're all very familiar. There are a number of issues around regulation that require a lot of judgment and good management and real capacity. The first is where to allocate scarce inspection resources. There's a risk management issue at play here constantly. There are never enough resources to ensure zero risk in all areas, so you're constantly having to make judgments about where you will put your scarce resources, how you will manage that risk.

The second issue is the development and implementation of a compliance and enforcement strategy and when to apply what enforcement instrument. If you have a series of warnings, and then penalties, what are those levels of penalties? All of those things require a lot of judgment, a lot of consistency, and good management. Avoiding regulatory capture while at the same time maintaining cooperative relationships with the organizations being regulated.... This of course becomes an issue in any small community of any type.

Having in place and managing the necessary scientific, technical, policy, and legal capacity is again a big challenge for smaller communities, as is the need to avoid inappropriate political interference. So a lot of these challenges are not specific to first nations. They exist in any community, but they're things we need to think about when we're talking about a regulatory regime.

Of course, there are additional challenges related to legislation. First of all, legislation reduces flexibility, so one is tied very much to the letter of the law. That has its pros, but it does limit you sometimes. Putting legislation in place is very time consuming and is not a quick fix, by any stretch, and it's costly to actually implement a comprehensive regulatory regime.

The main purpose in giving all that background is to provide you with some options for first nations under the act, and it was our main mandate in writing this paper. The overall goal of the First Nations Land Management Act is to meet first nations environmental needs. That was the primary purpose of the act, and we explored at least six options for exercising regulatory responsibilities for first nations who choose to work under the act.

The first is for the regulatory responsibility to stay with each first nation individually.

The second is the creation of a special-purpose aggregated first nation body. It could be a technical core, it could be a tribal council—something like that.

Third, there could be a contract with a province or even a regional municipal government. There are ways of accessing other resources to enter that regulatory regime. There could be a contract with a province, but through a negotiated agreement actually develop a special first nations body within the government that might eventually become its own governing entity. So there are ways of building capacity within provincial governments. Of course, you could also do nothing and wait for the federal government to fill various voids. As I said, some of those are being worked on, but realistically what we're talking about is some combination of all of the above, depending on what the regulatory object is.

• (1115)

We also created what we thought was a list of criteria for evaluating these options: which one is best for any particular issue, whether it's waste water or ferries or zoning?

Well, first, of course, is the ability to reflect first nations values. In some ways, the values when it comes to regulation are very consistent. Certainly, first nations expect the same level of standards as all Canadians. At the same time, how they deal with certain issues can be quite different, perhaps, from an appeal mechanism, or perhaps the penalties are different. There needs to be an ability to reflect first nations values.

Second is the extent to which the approach builds the governance capacity of first nations or bolsters future self-government initiatives. You want that capacity-building element.

Third—and this one is very key—is the separation of the regulator and the operator. Self-regulation is never a good idea when it comes to public health and safety or the environment. You need to be able to separate out who is doing the oversight, who is doing the enforcement, and who is actually delivering.

There are economies of scale. Of course, when you talk about the scientific expertise, the legal expertise, and all these different things, they're expensive, so the more you can benefit from economies of scale, the better.

Another one is harmony with surrounding jurisdictions. You have first nations with one set of rules and everyone around them with a slightly different set. It can add up to complications.

The other thing is that it's also harder to actually contract resources if they're working from a different regulatory regime, so some consistency is really important. Certainly, regulatory liability is a huge issue for first nations, or for anyone who takes on a regulatory framework: where does the liability lie?

Finally, how fast can the gap be filled? You don't want to be waiting 10 or 20 years for some of these things. You want them more on the ground. Others may be less of a priority.

Using those criteria, we looked at all of the different options for different subject matters, like waste water. For example, with waste water, given the high level of expertise required, the need to separate out the operator from the regulator, the importance of economies of scale, and the importance of the environment in terms of filling the gap quickly, that might be one where you might want the province to become involved. Now, that's a decision to be made, but that was our thinking.

For something like zoning, on the other hand, where the first nation can be a regulator but because they are regulating businesses and other things like that there is still that separation, they can take that on locally. They can build their own capacity and they can get it done quickly.

Our paper goes through an analysis of different options and applies these criteria to figure out which one might work best for which environment, recognizing always that each first nation is a little different and that this is not a one-size-fits-all.

That was the basis of the paper. It was presented to chiefs at a conference in B.C. a number of years ago. That's basically where our involvement with this paper ended.

Thank you.

• (1120)

The Chair: Ms. Edgar, thank you so much.

Ms. Duncan for seven minutes, please.

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Thank you, Mr. Chair.

These are really quick reviews. I have only seven minutes, so I'm actually going to give you some questions that are connected. They're not terribly complicated, and if you need a reminder, there is no problem. It's just easier, and then you can just address them together.

Thank you for your review. I went to your website to try to find papers and I didn't find this one that you're speaking from, so I will try again. It looks like it will be very useful.

I did a similar review on aboriginal safe drinking water, and I'm quite aware of the areas of federal jurisdiction for environmental protection of first nations lands. It's been an issue for a long time in Alberta, particularly where we have oil and gas development on first nations lands, and there has been a lot of toing and froing. The provincial energy board usually goes on and does the hearing but then refuses to make rulings on aboriginal rights. So it's still very complicated.

We had earlier this week the Land Claims Agreements Coalition presenting. One of the concerns raised by the Nisga'a, who are members of that coalition, is that they are frustrated that they're not getting the contracts to build capacity in their own first nation.

My first question to you would be this. Do you see value in actually engaging first nations and helping to build capacity of first nations so they might be more comfortable? Or do you ever employ and engage first nations lawyers or scientists or toxicologists or health experts in your governance and capacity building?

My second question, which you didn't mention, but it may well be in your paper, concerns benefit agreements. That seems to be an issue that keeps cropping up. At Attawapiskat we don't know what the benefit agreement is between them and De Beers. But that's obviously something that could help in capacity building in your land development, whether it's on reserve or whether it's on your traditional lands. Have you ever worked on providing model agreements? Are you aware if any of that kind of work is done here in Canada or in other countries?

The options that you list are a good beginning, but I'm noticing some that you're missing. One would involve the beginning part of your presentation about the potential in federal law. For example, when the Canadian Environmental Protection Act was first enacted in the mid-1980s, it actually set a whole part on federal and aboriginal land. That part is still there, and there has never been any law or regulation enacted there to in fact regulate environmental impacts on aboriginal land. So certainly there is the ability.

I worked in the Yukon and I'm familiar with Yukon law, and somewhat with that of the Northwest Territories. Those governments, to their credit, actually allow for agreements with first nations governments to deliver responsibilities. Federal laws do not do that. So that would be one mechanism.

You have said that maybe there could be an agreement. The problem is, by and large, that federal law doesn't enable them to enter into agreements with first nations. In some cases, that's allowed for in our first nations final agreements. But I've noted that in the Yukon first nation final agreements and self-government agreements, they don't actually give any power to enforce. You could be appointed as a federal enforcement officer but you don't actually have.... I wonder if you could speak to the limitations in the law and in the agreements to actually transfer those duties.

Plus, what I've noticed in talking to first nations is that they don't like having provinces involved. It's interesting; in B.C. they seem to be moving towards looking into these tripartite or bilateral agreements with the provinces. If you move to the prairies, they're absolutely digging in their heels. In fact, they say they don't even want to deal with Aboriginal Affairs; they just want to deal with the

crown. So there is some of this historical reluctance to deal with other orders of government. I wonder if you've run into that.

That's probably plenty of questions, if you could try to speak to those.

The Chair: There are three minutes left to answer, so take your best shot at that. If not, we'll come back to those questions, I'm sure.

Ms. Marion Lefebvre: We'd like to take a shot at some of them at least. I think the first one is the issue of capacity building among first nations. You used the example of the Land Claims Agreements Coalition—the Nisga'a, for example.

You have to bear in mind our organization is very small. We have about 20 people on staff. We do now use associates as a model. In fact, as we speak we are building a team of first nations specialists, who will be our primary lead on most of the government projects we undertake in the future. Generally speaking, I had the very big honour of having worked at one point for the federal government on the Nisga'a land claim. I can understand their frustration completely, in that 10 years after, they are not exercising the jurisdictions they feel they should be, because they don't have the internal capacity at this juncture. Capacity building to exercise the transfer of powers that were embedded in those agreements is going to be the *sine qua non* of their success.

The Nisga'a, much to their credit, are a people who understand that this is going to be a generation in the making, but they want to see the next 10 years bring that actual capacity into their communities. Due to their relatively isolated location...to exercise those powers they really have to have that capacity there. They don't have a plethora of other partners to build out, let's say, a base for an economy of scale. I can understand their frustration in the capacity building to actually "do". A portion of the scope of the actual activities that Laura spoke about is absolutely necessary. We couldn't support that notion stronger. In our own practice, we are trying to do exactly the same thing.

On benefit agreements, no, we don't have any direct experience in the negotiation of benefit agreements. We have worked with partners. I'll give you an example. The New Relationship Trust, a first nation organization based in British Columbia, right now is undertaking a study of benefit agreements for the purpose of conducting workshops to help first nations understand what directions have been taken by a number of first nations, what they consider successful, and what they would choose to do differently if they had the opportunity to do it again. That's exactly the kind of learning experience, by first nations for first nations, that will make a difference in making those benefit agreements useful and powerful for the improvement of the community as a whole.

•(1125)

The Chair: Thank you very much. I hate to interrupt because I know there are many more questions to answer there. We'll move on, and I'm sure that Ms. Duncan will have you return to those questions.

Mr. Payne, for seven minutes, please.

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

Thank you to the witnesses for coming today. It's important that we hear your work. Certainly, there is lots of it to be done, I'm sure.

Your institute has done some work on options to fill regulatory gaps on reserves with respect to environmental issues. One of those proposals is for the federal government to fill on-reserve environmental management gaps. What kind of federal legislation would you propose? For instance, the First Nations Commercial and Industrial Development Act allows federal regulations to replace provincial regulations, and for those federal regulations to be enforced by provincial bodies, all to fill a gap for regulation of commercial and industrial activity on the reserve. Is that a possibility for a method to look after the environmental gap?

Ms. Marion Lefebvre: We can only speak to the generality. It offers a legislative opportunity to do so. I can't speak to the particulars. I'm sorry.

Mr. LaVar Payne: Okay.

Is there any existing federal legislation that could be amended to address the issue?

Ms. Marion Lefebvre: It's my understanding that the reason the land management legislation was introduced was to provide an opt-in clause for first nations to, in effect, opt out of the Indian Act and move to this specific regime where they would have the opportunity to develop what would work for them.

At this point, it has not had broad-based uptake. Clearly, one of the alternatives would be to try to amend the Indian Act itself. There are a lot of very, very strong reasons for moving to the opt-in process that is embedded in the act we spoke about today. I think creating the capacity to allow more first nations to exercise it is one of the obvious routes that our organization would support.

•(1130)

Mr. LaVar Payne: Okay. In your opinion, if a first nations community cannot address all the environmental management gaps at the same time, are there any environmental management gaps that should have priority?

Ms. Laura Edgar: That's a tough one.

As an institute, we have done a lot of work on drinking water, waste water, and runoff and the implications for human health when those systems are not properly regulated. Everyone is aware of the broader Canadian issues that have happened on that front, so I would say that should be a priority area. But I think that's something the first nations, given that they're each distinct, need to have a voice in as well.

Mr. LaVar Payne: Okay.

Your institute has proposed a new and comprehensive federal environmental regulatory system to cover areas. Have you or would you?

Ms. Laura Edgar: I'm sorry, could you repeat the question?

Mr. LaVar Payne: Would your institute propose a new and comprehensive federal environmental regulatory system to cover the reserves?

Ms. Laura Edgar: I suppose it's an option. The challenge is the amount of time it would take to be put in place.

When you're looking at federal legislation, the issue goes beyond first nations to military land and other federal lands, so it's actually fairly complex. Most of the regulations are already in place in the provinces, though they vary province to province. In terms of consistency across first nations, federal regulations are best. In terms of consistency within an area so that a first nation is consistent with its neighbours, provincial regulations are actually a better bet. Again, that's a bit of a trade-off that needs to be considered.

Mr. LaVar Payne: How would we make sure that happens, either in a provincial or a municipal process? Obviously some of these are a very high priority, particularly when you're talking about drinking water, waste water, and certainly run-off. We know of leaky fuel tanks and all those things that do create some major issues. The question is how we would work with first nations, whether it's the municipality or the provincial government and at the same time ensure that the federal regulations are met.

Ms. Laura Edgar: As you know—and I think it's very important—there is a movement towards more tripartite agreements. But one thing our paper looks at is there's no point in having regulatory regimes if the first nations don't have the capacity and the resources to meet those regimes because they're immediately going to be in non-compliance. So I think the first priority has to be building the capacity for them to actually do what they need to do, now, to manage effectively. Then, further legislation in some sort of collaborative process is the best approach.

Mr. LaVar Payne: Thank you.

The Chair: There's about a minute and a half left if anybody has any additional questions.

Mr. Rickford?

Mr. Greg Rickford (Kenora, CPC): Actually, no, because I'm going to get into a horrendous situation where my question is—

The Chair: Absolutely, yes.

There will be opportunities for additional questions.

Ms. Bennett, you have seven minutes.

Hon. Carolyn Bennett (St. Paul's, Lib.): Thank you very much.

Mr. Chair, before asking my question, I just want to give a notice of motion, unless there's consensus to go with this, which as you know we would always prefer:

That the committee hold two emergency meetings to determine what immediate steps are required to address the on-reserve housing crisis confronting first nations communities across Canada, and that the committee request testimony from the Assembly of First Nations, the Minister of Aboriginal Affairs, Attawapiskat First Nation, Wasagamack First Nation, Elsipogtog First Nation, Kwickwitaneuk-ah-kwaw-ah-mish First Nation, and any other witnesses deemed appropriate.

The Chair: Thank you for making us aware. I'm sure the committee will get to that. We'll make sure that gets distributed to committee members in both official languages.

You can proceed with your questioning. Thank you.

Hon. Carolyn Bennett: In your remarks you made it clear that you have to separate management and regulation. I think we've learned this the hard way in the Canadian Food Inspection Agency. You can't do both things well. One of your recommendations was to move the regulatory function within the first nation. But you said perhaps this could be kicked up to a first-nations-led regulatory body that would build capacity across Canada and share that capacity with all first nations. I would love for you to tell me how you think that would look, how long it would take. Is this something that could be done quickly?

My second question is about building capacity. The community colleges, the polytechnics, the aboriginal polytechnics—all seem to believe that governance is something they would love to be able to teach everywhere. They want to begin to build that capacity. Can you tell us where that's working, or how you would roll it out more generally?

My third question has to do with paperwork and forms. You spend more time filling out forms than doing the job. Are there some streamlining methods that would allow this important work to be done in a simpler way?

• (1135)

Ms. Laura Edgar: As to the regulator versus the operator, whether or not this should stay with the first nations will depend on the function. For example, zoning would be okay, because the first nation can get a regulator and they are regulating businesses and other such things. But when you get to things like waste water, do you want the first nation operating the treatment plan also making its own regulations? There are a number of options for delegating that authority to other bodies. It could be delegated to a tribal council or a technical body like OFNTSC. The challenge there is that the tribal councils are creations of the first nations themselves, so it's not a full separation of regulator and operator.

The other option is to go with the province. But first nations do not necessarily want to work with the provinces. That becomes a real challenge, but that is where most of the capacity for these kinds of functions resides. There could be a way of working with the provinces. That's why we made the suggestion of creating a first nations unit within a provincial government. In the shorter term, first nations would be hired and they would be building their capacity within the government. Perhaps in the longer term they could separate out and become their own regulatory entity and do the oversight.

I don't know how long something like that would take. Anything tripartite tends to take time, but these would be some of our recommendations for ensuring separations between the regulator and the operator.

Hon. Carolyn Bennett: We've heard, especially in certain communities, that using provincial standards is sometimes a great problem in places where there's much knowledge but little facility in writing a written test. What about an oral test? A person might have encyclopedic knowledge of every bacteria, every emergency procedure. Could such a system be designed by first nations for first nations?

Ms. Laura Edgar: Sorry, we're talking about—

Hon. Carolyn Bennett: The certification and the regulation.

Ms. Laura Edgar: It's possible.

I don't know all the provincial systems that well. In Ontario, with OFNTSC, they do a lot of capacity-building work, and they have made adjustments to keep valuable people—oral testing, grandfather clauses, and things like that.

As to the broader system of certification, the provincial regulations are there. If they are incorporated into a first nation, there are challenges. There would need to be adaptations on a number of fronts to make it relevant to a first nation. But first nations expect the same quality of drinking water and environmental protection as everyone else. They expect the same things, so some of that stuff has to be there.

• (1140)

Ms. Marion Lefebvre: I would make one observation about your initial comment. It may be the case that trying to go immediately to a national structure is seeking perhaps the most comprehensive and perhaps the most useful structure, ultimately, but a lot of work can be done from region to region, province to province.

Setting the goal of looking to that kind of aggregate, in the first instance, might be a much more constructive way to build the pattern and support and knowledge of the capacity-building process to eventually lead to a national structure, because there are a number of provincial aboriginal organizations that I think are in a position to want to move very quickly in this regard.

I certainly wouldn't want to assume that the only option—

Hon. Carolyn Bennett: No, I was thinking that maybe that was what Ms. Edgar had said. But you're saying you can do it step-wise.

Ms. Laura Edgar: Step-wise, yes.

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

Mr. Wilks, for seven minutes.

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you, Chair.

I have three questions for you, and then I would like to get back to the waste water treatment that you're speaking of.

Certainly the Aboriginal Affairs and Northern Development officials have appeared before this committee several times, and they've advised that participating first nations are recommending an amendment to the first nations land management agreement that would eliminate the requirement for EMAs.

I have a three-part question for you.

The first one is this. In your review of the environmental protection agreement and FNLMA, were any issues raised relating to the EMAs in that context?

Secondly, in your opinion, what would be the purpose and effect of eliminating EMAs required from the FNLMA? And I sound like I'm on Facebook right now—OMG.

Thirdly, and, Laura, you touched on this, do you have any concerns that eliminating the requirement of EMAs could lead to environmental protection laws that in some instances would not match the standards of provincial and/or municipal laws or regulations?

I'll let you answer those three and then we'll carry on.

Ms. Laura Edgar: In terms of the first question on whether the issue was raised, no, it was not during our work, but that was almost four years ago. So it could have come up since then.

In terms of the effect of eliminating EMAs, what I like about the EMA is that it is actually like a work plan: how are we going to get this done? Does it have to be that formal? Probably not, but there needs to be some framework, some sort of agreement on how we are actually going to get this implemented.

In terms of the gaps, I think the act itself covers enough in terms of requiring consistency and things like that, but the lack of an EMA on its own probably isn't going to have an impact on the environment.

Mr. David Wilks: Further to that, Dr. Bennett was just speaking in regard to waste water and water treatment centres, and certainly we conform to a national safe drinking water standard. The problem you have, and I'll speak specifically to British Columbia and then specifically to Interior Health... Ms. Duncan may be able to speak to the Vancouver side of it with regard to the health authorities, as the health authorities in British Columbia then come along with a different standard. In fact, they have what they call a five, four, three, two, one, zero standard, which just about sounds impossible. Interior Health has that standard.

What we have found with first nations and municipalities...and I'll speak to the municipality where I was the former mayor, which was Sparwood. We've never had a problem with any form of turbidity, with any form of anything. We test our water once a day. It's sent to an independent laboratory in Calgary. But IHA doesn't recognize the national drinking standard; they fall to the provincial standard.

So my question is, if first nations determine that they wish to go on their own, we do have a federal standard in place that they could follow for safe drinking water? Would your recommendation be that they follow the national standard? Or do we convolute the problem and bring in the provincial standards?

• (1145)

Ms. Laura Edgar: Oh, that's a question....

The institute has done a considerable amount of work on drinking water. I don't know about B.C. specifically, but again, I'll just say that there are national drinking water quality standards.

There is not an effective regulatory regime for drinking water at the national level. There is one at the provincial level, along with all the support systems that requires. Again, if first nations were to incorporate by reference provincial ones, changes would need to be made. It's not a wholesale "here you go", but to me it makes the most sense for a first nation to have the same drinking water requirements and all of that as all of its neighbours do. That just makes sense to me.

Mr. David Wilks: Further to that, and Dr. Bennett alluded to it as well, with regard to waste water treatment systems, depending on the system, it depends on how they get training and at what level they are. As operators, they can be at either level 1 or level 2. The ones I'm familiar with are level 2 operators. It takes about seven years to get trained to be a level 2 operator. For level 1, you can be there after around one year.

The problem with level 2 operators is that... Let's use the Nisga'a as an example, because that's at around 1,500 people, or maybe fewer than that, not including Greenville and Canyon City. But if we used New Aiyansh as a specific example, they would require only a level 1 operator, but it would be the optimum for them to have a level 2 if they wanted to go to a system in years to come. The problem is that you have to send that level 2 operator out to a larger centre, such as Prince George or Kelowna, and then we fall into the provincial system again, which some are very standoffish about entering into.

I do get a little concerned when I hear that we want to try to create something specific to first nations on waste water treatment, because there is a standard law that comes along with that. I'm quite concerned that if we didn't follow the provincial standard, we could run down a road that we don't want to run down.

My question, then, further to what Dr. Bennett said, is with regard to waste water treatment. Where first nations are standoffish with regard to dealing with the province, how do we get by that hurdle? It is really difficult to say, "You're going to be able to do this, but the rest of the province has to do that."

Ms. Marion Lefebvre: I think that's an issue that eclipses this particular topic.

What I think from our institute's point of view is that it's not looking at it as a measure that undermines the jurisdiction and authority of the individual first nation, but as a measure that starts to reinforce for that individual first nation the opportunity for growth, for economic diversity, and the opportunity for an expansive service arrangement, if there is compatibility, in the actual application of the jurisdiction they're exercising, with neighbouring jurisdictions. So it's creating the environment, let's say, in which you can present this material as something that will generate opportunities as well as quality of life for reserve citizens, as opposed to looking at it as a prohibition on the exercise of their individual jurisdiction.

It's as basic as trying to present that information as clearly and non-judgmentally as possible, I think, because you've pointed out exactly what it implies: more costs up front and a longer delay in having the actual technical capacity to operate in their own domain. But if you're building a regulatory regime, you're doing it for the very long haul, for very long-term benefits. In our view, this is the goal that offers the most long-term benefits for the most.

Mr. David Wilks: Thank you very much.

• (1150)

The Chair: Ms. Duncan, for five minutes.

Ms. Linda Duncan: I want to follow up from the questioning.

I sat on the board of ECO Canada for seven years. That is the environmental careers organization; it's the environmental sector table of the federal government. After the problems with contamination of water, including in first nations communities, to its credit the federal government established, through ECO Canada and through community colleges, the BEAHR program—specific training at a level where there might be a literacy problem. Are you aware of that? I don't know how far spread that is, but I know certainly in the Prairies there are partnerships, and I'm thinking also in B.C., so that first nations members are going to be running waste water and safe drinking water facilities. Actually, you can go to specialized training. My understanding is that the tribal colleges would also like to do this, but they just had all their federal funding cut.

Ms. Marion Lefebvre: I think you're referring to the circuit rider program?

Ms. Linda Duncan: No. The circuit rider program is where they send in a federal official, or a provincial person in some jurisdictions, supposedly to teach but they end up just solving the problem. There has been a program to train first nations people in community colleges, but maybe you're not aware of that.

Ms. Marion Lefebvre: I'm aware just in terms of the subject matter, not more than the subject matter.

Ms. Linda Duncan: Okay.

Go ahead Jonathan.

[*Translation*]

Mr. Jonathan Genest-Jourdain (Manicouagan, NDP): Ms. Edgar and Ms. Lefebvre, good morning.

I have a brief question, but first of all I want to give you some context.

I worked as a lawyer for two years for my band council of the Uashat Mak Mani-Utenam nation. In the course of my work, a situation was brought to my attention concerning a gas station that had been in business in my community for about 20 years. There had been no environmental analysis of the site or of the condition of the station's tanks.

What resources are available to communities, both those who are signatories to the First Nations Land Management Act, or function in compliance with it, and those who are not? What resources are available to deal with that type of situation, which could have serious environmental repercussions?

[*English*]

Ms. Laura Edgar: I don't know if I can answer the question in terms of what resources are available. I think someone from the department would be better placed for that. Certainly, those under the First Nations Land Management Act have the opportunity to manage zoning requirements better and to put in regulations around health and safety for things like gas stations to ensure there aren't emissions that there shouldn't be and things like that. The act allows for the first nation to develop regulations on that front. I can't answer in terms of resources.

[*Translation*]

Mr. Jonathan Genest-Jourdain: I have a brief question for you.

Earlier, you talked about this regulation and its introduction. You talked about political interference. Can you tell us more about that?

[*English*]

Ms. Laura Edgar: This isn't something specific to first nations. This can be any small community where this becomes an issue. The familiarity of everyone can allow for undue influence on processes and decisions around enforcement and things like that. The more you can separate the regulator and the operator and have a regulatory framework that clearly spells out the steps that need to be taken, the less opportunity there is for individual members to try to influence an outcome.

[*Translation*]

Mr. Jonathan Genest-Jourdain: Do I still have a minute?

[*English*]

The Chair: Yes.

[*Translation*]

Mr. Jonathan Genest-Jourdain: I'd like to know if lawyers were called on to validate some of your legal viewpoints when your report was drafted, so as to support your objectives.

[*English*]

Ms. Laura Edgar: We were asked to look at it from a broader regulatory perspective. It was not a legal analysis.

[*Translation*]

Mr. Jonathan Genest-Jourdain: Thank you.

[*English*]

The Chair: Thank you.

There are a few seconds left, if anybody has any follow-up questions.

Ms. Linda Duncan: I have a follow-up question.

The Chair: Make it a short follow-up.

Ms. Linda Duncan: I think you mentioned this, but there is potential for each first nation to develop and enact its own rules—if they have a first nation final agreement and they opt into the land management act system. Isn't there a potential problem in capacity, and then you don't have national consistency for every first nation?

• (1155)

Ms. Marion Lefebvre: I think you're aware that those agreements generally, like this legislation, require adherence with the broader regulation as the baseline for—

Ms. Linda Duncan: But there is no federal regulation. That's what you said.

Ms. Marion Lefebvre: Usually those agreements, for example, in provinces will at that juncture be applicable to the prevailing provincial legislation. You're absolutely right. It doesn't provide for the opportunity of uniformity. It only provides for, at this point, comparability or above, based on the legislation the signatory to the treaty chooses to exercise. It does not guarantee uniformity between these various administrations.

The Chair: Thank you.

Mr. Seeback, you have five minutes.

Mr. Kyle Seeback (Brampton West, CPC): Thank you, Mr. Chair.

I want to go back quickly to something people have been discussing a little bit today under the FNLM regime. You talked about it in your paper, and I was actually able to find it online. You talked about EMAs, and they seem to be a large impediment. Maybe I'm just not understanding what you're saying. What do you propose would be the replacement to EMAs under the FNLM regime?

Ms. Laura Edgar: I'm not sure I actually have a proposal.

When we did this paper, we were not looking at the administration of the act and its process. We were looking, again, at the regulatory options for first nations as they move forward. So I'm not sure I have an option for you there.

Mr. Kyle Seeback: You do talk about certain other approaches to the environmental regulations, and you talk about the regulatory gap. Is there any analysis at all on what the cost would be if the federal government tried to step in and fill those gaps?

Ms. Laura Edgar: No. Our paper did look at some of the costs of implementing a comparable provincial regime, in terms of the cost to have an inspector, how many—I think it was about 60% more in support staff to support that inspector—and those kinds of things. We did look at the huge cost of the inspection and enforcement options of it, but we didn't look at it in terms of how it would play out across the country.

Mr. Kyle Seeback: What were some of the costs, then, when you looked at it on the provincial scale?

Ms. Laura Edgar: For example, in Ontario—and this is, again, four years ago—the salary level for inspectors ranged from \$63,000 to \$75,000 annually, with benefits on the top. Saskatchewan's range was similar at \$59,000 to \$72,000. Then there were the travel costs associated with inspections. They varied from \$500 per inspection to

\$1,500 for a fly-in community. So the costs associated are not inconsiderable. And that was with one particular function.

Mr. Kyle Seeback: That's water, right?

Ms. Laura Edgar: That was water, in Ontario only. Because of the expertise required, these are not inexpensive positions to fill and to support.

Mr. Kyle Seeback: You say in your paper as well that there's some disagreement as to whether provincial laws related to land use can be applied on reserve. I take it that has some constitutional and other legislative hurdles. Can you expand any further on that?

Ms. Laura Edgar: This, again, was based on 2008. There may have been additional rulings since that time that I'm not familiar with.

But based on what we knew at the time.... The court had basically ruled that you can't assume, because it's provincial and because the federal law says provincial laws can apply to Indians, that therefore they apply to Indian lands. So it's in limbo a little bit, in terms of whether it's actually applicable.

I'm not sure it's actually been tested fully in courts. Do you know?

Ms. Marion Lefebvre: Not on that subject matter. I'm not aware.

Mr. Kyle Seeback: You're not aware of that. Okay.

It's hard. I know you don't have information on cost. Did you look at any other costs associated with...other than water treatment? I did read that part in your paper.

• (1200)

Ms. Laura Edgar: We have done other work on other areas; I don't have that information with me. But we have done cost analysis for other areas as well.

Mr. Kyle Seeback: Other environmental areas.

Ms. Laura Edgar: I believe so, yes. I could check our papers for that if you like.

Mr. Kyle Seeback: That would be great.

You talk about the environmental management gap, and it's not just a set of rules. What is really encompassed by the environmental management gap?

Ms. Laura Edgar: In addition, if you're looking at... I talked about the various subject matters with regard to land and water and those kinds of things.

But if you look at an effective regulatory regime, it starts with approvals processes. There are certification requirements. Actually, there are many different approvals processes for some of them. There are permits that are issued. There are inspections. There's enforcement. There are appeal mechanisms. It's a fairly comprehensive set of tools that all have to work together effectively for it to be effective.

Mr. Kyle Seeback: Right.

How am I doing for time, Mr. Chair?

The Chair: You're actually out this second. You are depleted.

Ms. Duncan for five minutes.

Ms. Linda Duncan: Thanks, Mr. Chair, and I'll probably share that time.

If we go back to your review of environmental protection law regulations generally, we have to look at it in what the legal framework is right now. For most first nations, particularly under modern treaties, the environmental assessment rules and all those are already prescribed constitutionally. The first nation doesn't have the power to set about enacting its own environmental assessment system. So I'm a little puzzled about the suggestion that they might set about enacting their own environmental assessment and so forth.

Certainly even under the Indian Act, there are some limited rules for dealing with landfills and so forth, and that's been the frustration—that the act is so outdated that it doesn't give those full ambit. Under the land management code, there is some limited capacity, but whatever they enact, they can't override the constitutionally entrenched processes.

I frankly can't conceive of any first nation, even as advanced as they are—and there are a lot of them who are very advanced and have been able to bring back into their community, and keep in their community, lawyers, toxicologist, scientists, and managers and so forth. It's hard enough for a federal or provincial government to enact and cover all regulations needed to manage safe drinking water, source water, environmental impact assessment, and dangerous goods. I'm a little puzzled at your suggestion that they would even begin to be able to promulgate those rules on their own, even if they finalized their treaty, even if finally they received the dollars under that treaty. Is there not some other measure that's needed to fill that gap?

We're stuck in the middle, where with some success the federal government has said, “Yes, we support you moving to self-government”. At the same time, there is this big gap of catch-up, and they want to be able to have this regulatory framework because they're dealing with resource extraction and development opportunities on their lands...and most of them don't want to sign agreements with the province.

My understanding is that one of the options that the Indian Affairs expert panel suggested was under the proposed safe drinking water laws—the federal ones. The option is for a first nation to simply adopt by reference the provincial law. So in fact they're actually applying a federal law, but it's through the federal law... My understanding is they're not actually going to embrace the provincial law. I don't think constitutionally that's even possible. I wonder if you could speak to that.

Ms. Marion Lefebvre: I think you are speaking to a means by which provincial standards that flow from that law could in effect be endorsed and adopted, but adopted in a way that does not suggest that the first nations are subservient to the provincial statute.

So what that accommodation achieves is the practical application of comparable standards without a compromise to the legal position that has been adhered to by many first nations with respect to what they would consider to be an undue interference with their jurisdiction by the direct application of provincial statute.

● (1205)

Ms. Linda Duncan: I just wanted to clarify. That's what you're suggesting. You're not suggesting that the first nations will embrace the provincial government coming into it.

Some of them are saying, we don't really carry either way, we just want the assistance. But my understanding is that in a lot of areas they just dig in their heels. So you have to come out with some mechanism. It frankly makes sense because then everybody who lives in Alberta, for example, will all have the same safe drinking water standards, but you have to find a way to do that.

Where it gets more complex is when you're dealing with things like source water protection. Therein lies the problem. As you pointed out, there is a federal legislative gap. I'm just wondering how—if you've talked to first nations in your capacity building and so forth—do they struggle with it, do they want some national standards so that they have the same opportunity to protect, or do they want to just enact their own rules?

Have you had discussions, if you're building capacity and so forth between...? Are they seeing that all the tools, options, and support are being given to them to try to sift through all these alternatives so that they can move forward and have the regime in place, and at the same time have the dollars there so that they can build the capacity to both put in place those rules and to implement them?

The Chair: Thank you, Ms. Duncan. You are out of time, but I'd like to give some time for an answer. It's only right.

Ms. Marion Lefebvre: Unfortunately, my answer is going to be brief, because no, I have not had those discussions on this subject matter. I can say for sure that a number of first nations professionals and technical specialists understand the importance of achieving that, but I haven't talked to any leadership about their current plans to set this as their priority.

I do want to say, as Laura tried to allude to earlier, that the paper was written from the bias of looking at it in terms of its regulatory capacity and not in effect as a reflection of what it can or cannot do from a broader legal perspective with regard to the respect and the exercise of jurisdictions.

The Chair: Thank you very much.

Mr. Boughen, for five minutes.

Mr. Ray Boughen (Palliser, CPC): Thank you, Chair.

Let me take this opportunity to welcome our panel. Certainly I echo my colleagues in suggesting it is very generous of you to share your time with us because your information is vital for our decision-making process.

When we look at foreseeing what's happening at the provincial level in addressing regulatory and environmental issues on reserves, do you have any advice to offer that would set a standard, or that if we looked across the country would be something that would apply to all reserves in the provinces? Do you have a standard set of reference materials that you could use or a standard set that says what should be incorporated to have this come together properly—regulations where there are gaps now?

Ms. Marion Lefebvre: That wasn't the approach of the paper we did. The approach was to try to say these are the issues you should be concerned about; these are various mechanisms that could be employed to achieve a comprehensive result; and these are the considerations that you should look to around each of these possible options. We looked at it as an opportunity to create options, not to prescribe a specific set of—

Mr. Ray Boughen: Are those in the paper?

Ms. Laura Edgar: Yes.

• (1210)

Mr. Ray Boughen: Okay, thank you.

What are methods by which this could be done in terms of federal or first nations legislation or contact? What method do you see would allow this to happen, to shrink this gap and make a standard set of regulations?

Ms. Laura Edgar: Again, I'm not sure you're ever going to get a fully standard set of regulations across the country. Some of the functions are better served through incorporation by reference to provincial regulations, say for waste water, but with adaptations to meet first nations needs. Zoning bylaws vary across the province or the country, so I'm not sure you're going to get a standard, but I think the provincial regulations are probably where most of the best lessons learned can come from in terms of moving forward more quickly.

Mr. Ray Boughen: What would the incremental costs and the resources involved be for the province if they have an established system in place? Have you any idea of numbers there?

Ms. Laura Edgar: I don't, sorry.

Mr. Ray Boughen: In your research do you not tie any cost factors to implementing any of the—

Ms. Laura Edgar: The paper does a brief analysis of some of the inspection-associated costs for a couple of functions in a couple of provinces, just to be illustrative, but we haven't done a comprehensive study on that front.

Mr. Ray Boughen: Okay.

Are there challenges with provincial administration and enforcement of regulations on reserves? In other words, do you have a problem with their regulations? You have the reserves over here. Is there a conflict because one does not mesh with the other?

Ms. Laura Edgar: Definitely they don't mesh well. The provinces do not play a role on reserve, and that is one of the questions and one of the issues, but right now they do not play a role.

Mr. Ray Boughen: You're saying that across Canada there is no provincial involvement with reserves.

Ms. Laura Edgar: There is not on these issues. In other areas there is more collaboration, I believe, but not related to this.

Mr. Ray Boughen: Okay. Thank you.

How much time do we have, Mr. Chair?

The Chair: It's less than a minute, so we wouldn't want you to get started again for fear that we would be pushing over time again.

Mr. Nantel, for five minutes, to end. If you have time, I know Mr. Genest-Jourdain would take any extra time.

Mr. Pierre Nantel (Longueuil—Pierre-Boucher, NDP): Absolutely. It won't be a long answer, I guess.

[*Translation*]

If my mother were to call me to ask me what is going on in Attawapiskat, I would really not know what to answer her, aside from saying that this is deplorable.

However, given your expertise, when I look at the six options you are proposing to deal with these issues, I wonder if you can tell us, in your opinion, where the problem lies and what the solution is, in your six proposals.

[*English*]

Ms. Marion Lefebvre: The paper we wrote was with respect to an opt-in piece of legislation. The opt-in legislation has not been broadly taken up because it does represent a huge challenge to most first nations.

The first nation you identify would probably not in the short term look to these kinds of solutions and probably will continue to be more dependent on the solutions available under the current administration of the Indian Act.

I really don't have enough knowledge to speak to what has contributed to the situation they find themselves in or to look at what might represent the best way to achieve long-term solutions for the variety of social and economic challenges they face. I feel that without the kind of specific knowledge that would be helpful, I would not offer any generalization about their situation.

The Chair: Mr. Genest-Jourdain.

[*Translation*]

Mr. Jonathan Genest-Jourdain: Ladies, you raised the possibility, for the first nations that are signatories of the framework agreement of letting the federal government take over matters relating to environmental management. Could you tell us a bit more about that?

[*English*]

Ms. Laura Edgar: I don't think I understood the question. I'm sorry.

[*Translation*]

Mr. Jonathan Genest-Jourdain: I spoke too quickly.

When you spoke, you mentioned the possibility of the federal government taking over responsibilities related to environmental management, at the request of the first nations that are signatories of the framework agreement. Can you tell us more about that?

[*English*]

Ms. Laura Edgar: I think I understand.

One of the options we did say was that the first nations can continue to work under the federal regulatory regime, where one exists, and then the liability continues to rest with the federal government, which is where it is now.

Where we identified there might be a gap is where there's no federal funding to trigger an environmental assessment for a first nation. If the federal government is funding a building, or waste disposal, or whatever it's funding, there are requirements under federal law. Sometimes that does not apply. I think it was with the gas station that you provide an example of where it's private development. That is a gap right now that needs to be addressed.

• (1215)

The Chair: You have about a minute left, if there are any additional follow-up questions. I think generally most of the questions have been answered.

Ms. Linda Duncan: I'll just add that I really appreciate your paper, and regrettably, I couldn't find it on your website. Mr. Rickford has very kindly given me a copy, and I look forward to going through it.

I think you've done a good job of outlining where the regulatory gaps are.

And I really appreciated, Madame Lefebvre, your comment just now to my colleague's question, that there's a good number of first nations communities that don't even have the option right now of considering doing this. Some who are more advanced could.

It's looking like in fact we're going to have to have two systems. We need federal regulations to fill the gap, and then we also need capacity building for those who want to go their own way. I'm wondering if you would agree with that, that it isn't necessarily that one option is the best. Different options may make sense for different first nations.

Ms. Marion Lefebvre: I think we would find in this area, as well as in many others, that you might have a common end point, but you have to have transition, measures that will allow for various first nations at their current state of development to access that end point. So capacity building is a definite essential, as well as the regulatory framework.

Ms. Linda Duncan: Thanks so much.

The Chair: Thank you very much.

Mr. Rickford is our last questioner.

Mr. Greg Rickford: Thank you, Laura and Marion.

First of all, I want to say, Laura, please convey my thoughts to John about this paper. There's an abundance of precision here. I always enjoy going to the table of contents and realizing that I already appreciate what's in the paper in terms of the subject matter, and you've broken it down.

I think at this point, as this is the last round of questions, what we understand about the First Nations Land Management Act can at times be a little restrictive in some of the broader economic initiatives that are occurring. Outside of the paper, Laura and Marion, perhaps you could comment on process: practical and overview perspectives on developments that include a group of first nations.

I'm thinking of the Ring of Fire, for example, in northwestern Ontario. Four of the communities that are going to play a pivotal role in that are in my riding in the west corridor. I don't know how much

you know about this project, but it's the largest chromite deposit in the world, with a 200-year sustainability capacity, so it's significant. We're just embarking now on the process of working through the environmental assessments, in the context of whether it's a joint panel review or the more standard CEAA process. In my own assessment and knowledge, there is some dispute among communities themselves.

If you have any experience in these regards, I'd appreciate your perspective: how we approach that kind of scenario, because the land management act deals with the specific reserve. I'm not sure this fairly reflects...I'm starting to understand just through the Ring of Fire, for example. The other one I would use is the Whitefeather Forest Initiative, where it's just Pikangikum, and they have their stewardship planning process.

At the same risk Linda had of making this a 10-minute question with a 30-second response—and I mean no offence to my colleague—step outside the box, perhaps this paper, and reflect on that and maybe discuss some approaches or your own experience.

Ms. Marion Lefebvre: I would say it's an absolute essential to step outside the legislation, because of course you're looking at developments that entail traditional lands, but not necessarily reserve lands. Of course, this legislation is restricted to reserve lands in its application. I would just say—

• (1220)

Mr. Greg Rickford: I'm a lawyer, but I don't believe the law is necessarily always, if ever, a solution to things.

Ms. Marion Lefebvre: The issue of the Ring of Fire is a huge challenge. This has been the experience time and time again; trying to come to grips with even coordinating a joint review with existing provincial bodies and the federal body through CEAA is a challenge in itself. Many provinces do have MOUs with the federal government with respect to joint environmental review planning.

Then you have a huge overlay of the challenge of appropriate consultation and accommodation as it relates to Canada's current understanding of its responsibilities, as was largely developed in the 2004 litigation jurisprudence realm, Taku River Tlingit and Haida. So those standards of consultation are very high. They fall on both crowns. How they are played out in areas such as the Ring of Fire are huge challenges and have to be seen as a huge overlay onto the existing environmental review process. I don't think there is one methodology that's been employed yet in any part of Canada that's the perfect answer.

Mr. Greg Rickford: I think the territories were taking us there, and certainly the McCrank report flagged these and dealt with them, but I appreciate what you're saying and I want to hear more about that.

Ms. Marion Lefebvre: I think you will appreciate, too, that this speaks to quite an extended timeframe for bringing the communities onside with what the potential is and what the implications might be.

A very interesting development, as I understand it, is that the National Centre for First Nations Governance is organizing workshops for first nations within the Ring of Fire area. They want to start building a base of understanding as to how they might approach engagement discussions and how they might approach consultations with both crowns. That kind of information sharing is an excellent first step. It goes without saying that the consultation requirements that flow from our current understanding of the jurisprudence are high. It will demand an excellent effort on the part of both crowns to ensure that the communities are well informed and that their concerns are well understood and accommodated, to the extent possible, within the perspective of a development going forward.

Mr. Greg Rickford: Laura, do you have anything?

The Chair: You are out of time. Unless there is something, this would be the last word.

Thank you so much for responding to the questions. We appreciate the paper, and I know that colleagues who haven't read it will take the opportunity now to read it. We appreciate, again, that you came in on short notice. I appreciate the testimony today. Thank you so much.

Colleagues, before we adjourn, I just want to make the committee members aware that for Tuesday's meeting, we have confirmed that

the Environment Canada folks will come here to speak on this subject. As well, representatives from the Auditor General's office will be speaking specifically to chapter 6, "Land Management and Environmental Protection on Reserves", of the 2009 report. It's targeted to that. The representatives will be here prepared to speak to that.

Colleagues, thank you so much.

Ms. Bennett.

Hon. Carolyn Bennett: I take from this that there's not a consensus that we could use Tuesday's meeting to have a look at the housing crisis.

The Chair: We have confirmed the witnesses. I think this is a subject we could probably—

Hon. Carolyn Bennett: Those are government officials. They can come at any time. There's a crisis.

The Chair: There doesn't seem to be a consensus to make that change and address that at this next meeting. I know we'll have the discussion at the subcommittee in relation to that.

The meeting is adjourned.

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