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**EVIDENCE**

**Monday, December 3, 2012**

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**Chair**

**Mr. Chris Warkentin**



## Standing Committee on Aboriginal Affairs and Northern Development

Monday, December 3, 2012

•(1605)

[English]

**The Chair (Mr. Chris Warkentin (Peace River, CPC)):** Colleagues, I call this meeting to order.

This is the 52nd meeting of the Standing Committee on Aboriginal Affairs and Northern Development.

Colleagues, today we have the opportunity to hear from officials with regard to Bill C-47 for the first hour of discussion. Because of the truncated timeframes today, we have three opening statements, all of which are comprehensive, as is the nature of this bill. We will hear the opening statements, and then I believe these officials will return with the minister at our next meeting when the minister comes with regard to the bill because the minister is on deck for the next hour for supplementary estimates (B).

That's the way we'll operate, so we won't be asking questions. We will simply hear the opening statements and then we'll proceed in that way to keep us on track with our timeframe.

Today, colleagues, we have four officials: Ms. Vézina from Indian Affairs and Northern Development, as well as Janice Traynor and Stephen Traynor, and we have Tom Isaac from the Department of Justice.

We'll turn it over to you.

Stephen, we'll begin with you. As I said, you're off the hook in terms of questions today, but we'll have a couple of days to consider what we want to ask before we have you back, so it's a blessing and a curse.

I'll turn it over to you, Mr. Traynor.

**Mr. Stephen Traynor (Director, Resource Policy and Programs Directorate, Natural Resources and Environment Branch, Department of Indian Affairs and Northern Development):** Good afternoon.

Thank you, Mr. Chairman, and members of the committee.

My name is Stephen Traynor, and I'm the director of resource policy and programs with the Department of Aboriginal Affairs and Northern Development. I had the distinct pleasure of directing the teams that put Bill C-47 together.

As you already know, Bill C-47, the Northern Jobs and Growth Act, has two parts. Part 1 is the proposed Nunavut Planning and Project Assessment Act, which responds to the government's obligations under the Nunavut Land Claims Agreement Act of 1993. Part 2 is the proposed Northwest Territories Surface Rights

Board Act and fulfills Canada's obligations under the Gwich'in Comprehensive Land Claim Agreement and the Sahtu Dene and Metis Comprehensive Land Claim Agreement in the Northwest Territories. Both of these acts were developed in consultation with the relevant aboriginal groups and governments in accordance with our legal obligations.

I have with me today the team leaders in charge of the preparation of these bills, Ms. Janice Traynor and Ms. Camille Vézina. Also accompanying us today is Mr. Tom Isaac, legal counsel.

With the committee's indulgence, Mr. Chairman, I would like to ask each in turn to provide an overview of the operation of each part of the bill, an undertaking that might take about 10 minutes each.

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

We'll now turn to Ms. Traynor for her opening statement.

**Ms. Janice Traynor (Environmental Policy Analyst, Environmental Policies and Studies, Northern Affairs, Department of Indian Affairs and Northern Development):** Thank you, Mr. Chairman.

I'm grateful for the opportunity to provide an overview of part 1 of the Northern Jobs and Growth Act today, the proposed Nunavut Planning and Project Assessment Act. This part sets out in federal statutes the Nunavut Planning Commission and the Nunavut Impact Review Board and formally defines the powers, duties, and functions of these two boards. As Mr. Traynor pointed out, this bill meets a legislative obligation of the Government of Canada under the Nunavut Land Claims Agreement.

You'll recall that this historic agreement, signed nearly 20 years ago between the federal government and the Inuit of the Nunavut settlement area, enabled Parliament to create Nunavut as an official territory in 1999. The Nunavut Planning Commission and the Nunavut Impact Review Board have operated under the provisions of the agreement since 1996. What Bill C-47 does is provide greater detail and therefore increased certainty about the functions of these two bodies. Most notably, the bill provides for a one-window entry point for development projects in Nunavut.

Here's how the two boards under Bill C-47 work.

The Nunavut Planning Commission prepares land use plans that are to guide and direct resource use and development and provide for both the conservation and use of lands in the Nunavut settlement area. The commission consults on the development of the draft plan, reviews it with the public, and then submits it for approval to the governments of Canada and Nunavut and the Inuit. The plan is in effect once it has the approval of all three parties.

With respect to individual project proposals, all prospective resource development projects in Nunavut will enter the planning and review process through the Nunavut Planning Commission. Project proponents are responsible for determining whether their project's activity meets the definition of a project under the act. If proponents deem their projects to be subject to the act, the proponents submit their project proposals to the Nunavut Planning Commission. The commission then determines if a land use plan applies to the area in which the project is located. If so, the commission judges whether the project conforms to the plan. All project proposals prepared by proponents such as mining companies must conform to their respective land use plans before they can go any further in the review and approval process.

As long as the project conforms to any applicable land use plan, the commission verifies whether it is on a schedule of projects exempt from screening by the Nunavut Impact Review Board. If the project is exempt, the commission judges whether it has concerns about the project's cumulative effects in the region. The commission sends the project to the Nunavut Impact Review Board for screening if the commission has concerns about cumulative impacts or if the project is not exempt from screening. The commission can grant minor variances to projects that do not conform to land use plans, or proponents can seek a ministerial exemption from conforming to a land use plan.

The commission must complete its work on each project within 45 days. The 45-day clock begins, once again, once the Nunavut Impact Review Board begins its work to screen a project proposal. The Nunavut Impact Review Board screens project proposals to determine if a project requires a review due to potential adverse impacts caused by the proposed development or because of public concern. If the board deems that a public review is required, the relevant ministers must decide within 90 days if the review should be conducted by the board or by a federal panel chosen by the Minister of Environment. All federal panels include members nominated by Inuit and the Government of Nunavut.

After the Nunavut Impact Review Board conducts a public review and prepares the review report for a project, the relevant ministers must decide within 150 days whether a project should proceed and whether to accept, reject, or vary any terms and conditions recommended in the report. The relevant ministers, however, must decide within 90 days if a report is deficient and must go back to the board for further consideration.

If a federal panel conducts a review, the relevant ministers must decide within 240 days whether a project should proceed and whether to accept, reject, or vary any terms and conditions recommended in the report. Within this time period, the ministers must seek the approval of their decision from the Governor in Council if the project was sent to the federal panel because it involved a matter of national interest.

If the responsible minister's decision is positive, the boards must prepare, within 30 days, a project certificate that sets out the terms and conditions of the project. Federal and territorial regulators must then make sure the terms and conditions described in the certificate are implemented in permits and licences. Enforcement provisions help ensure these terms and conditions are respected, especially as they apply to protecting the environment.

As I pointed out, Mr. Chairman, several timelines exist at key decision points in the process. These timelines help speed the consideration of projects and improve predictability and certainty for investors without jeopardizing environmental protection. In addition, federal panels and institutions of neighbouring jurisdictions may jointly review projects that cross territorial boundaries.

• (1610)

The Nunavut Impact Review Board can also review projects situated outside the territory if these projects might have adverse effects within the Nunavut settlement area.

With respect to resource developments that are now under way, Bill C-47 ensures that these projects can transition seamlessly to this new process by empowering the Nunavut Planning Commission to use existing land use plans and take into consideration existing rights, and by the Nunavut Impact Review Board continuing its assessment of projects that are in the process when the act comes into force under the rules that were in place when the project proposal was submitted.

In walking the committee through the process, I hope I've shed some light on how Bill C-47 enshrines in law a transparent process that is easily understood by all participants, sets out fair rules for developers, and establishes timelines for our environmental assessment decisions that will result in the process not exceeding 24 months for the board and the relevant ministers to make their decisions.

To recap, the bill establishes a single-entry, one-project—one-assessment method that simplifies the regulatory process, improves the likelihood that reviews will be carried out expeditiously and transparently, and, we believe, makes it possible for Inuit, the territorial government, and the federal government to cooperate to manage resources and lands in Nunavut in a clear and predictable manner.

Thank you, Mr. Chair.

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

We'll turn now to Ms. Vézina for an opening statement as well.

**Ms. Camille Vézina (Manager, Legislation and Policy, Resource Policy and Programs Directorate, Northern Affairs, Department of Indian Affairs and Northern Development):** Thank you, Mr. Chairman.

I'm pleased to provide an overview of the operation of part 2 of Bill C-47, the proposed Northwest Territories Surface Rights Board Act. This part is as important for what it doesn't do as for what it does, as we'll see.

As Mr. Traynor noted, establishing the board fulfills the Government of Canada's obligations under the Gwich'in Comprehensive Land Claim Agreement and the Sahtu Dene and Metis Comprehensive Land Claim Agreement. Both agreements refer specifically to the need for a surface rights board.

The establishment of the board is also consistent with the terms and the spirit of the Inuvialuit Final Agreement and the Tlicho Land Claims and Self-Government Agreement, the other two comprehensive land claims in the Northwest Territories.

The Tlicho agreement allows for the establishment of a surface rights board. The Inuvialuit Final Agreement specifies that any interim measures related to access across Inuvialuit lands to reach adjacent lands will be replaced when a law of general application, such as this act, is enacted.

Once established, the surface rights board will provide a single mechanism to resolve access disputes for the entire Northwest Territories.

It must be iterated that the surface rights board is being established as a tool of last resort. Its real efficacy stems from its mere presence, which provides the impetus for parties to negotiate agreements themselves.

As stated in proposed section 9 of the act, the board will consist of no fewer than five and no more than nine members, plus five alternates, and all members and alternates will be appointed by the minister. There is no nomination process contemplated in the bill, as there is no requirement for nominations in the land claims agreements; however, that does not preclude the minister from making a call for nominations or individuals from writing to the minister suggesting a candidate for board membership.

In accordance with proposed section 13, while appointing members and alternate members, the minister is required to appoint members who are residents of the Northwest Territories. Also in accordance with that same section, when dealing with a dispute related to a specific settlement area, the panel hearing the dispute will be composed of a panel of three, at least one of whom will be a resident of the particular settlement area, as is required in the land claims agreements.

Further, when appointing members for particular settlement areas, the minister must appoint members who have considerable knowledge in respect of the lands, the environment, or aboriginal traditional knowledge relating to the settlement area, a requirement which was added as an accommodation measure.

What specifically will the new Northwest Territories Surface Rights Board do, Mr. Chairman? The board is authorized to resolve disputes between holders of surface or subsurface rights and the owner or occupant of surface lands when agreement on terms, conditions, and compensation for access cannot be reached by the parties in question. The board will have jurisdiction to resolve access disputes throughout the Northwest Territories.

In accordance with proposed sections 56 and 71, when setting out the terms and conditions, the board would consider matters such as times when the right of access may be exercised, the location and route of access, the number of individuals who may exercise the right of access, activities that may be carried out, and equipment that may be used. The board also has the power to determine compensation for unforeseen damages that result from access, to award costs, and to periodically review or terminate access orders.

As indicated, the board will have jurisdiction over disputes that involve surface and subsurface rights. Surface rights are rights associated with land that relate to the ability of the owner or occupant to use and enjoy the land. Subsurface rights are typically mineral or oil and gas rights, often held by the crown, which are granted to third parties through other acts of Parliament.

Usually landowners enjoy surface rights but do not own subsurface rights. Landowners or third parties can obtain mineral rights or oil and gas rights from the crown through an act of Parliament, such as the Territorial Lands Act or the Canada Petroleum Resources Act. When the crown grants subsurface rights to a mining company, for instance, these rights include a right of access to the land to exercise the mineral rights.

•(1615)

In some cases, however, land claim agreements establish ownership of surface and subsurface rights. In these cases, aboriginal groups with settled claims may have full ownership, both surface and subsurface, of specific portions of land in their settlement areas.

The board has no jurisdiction in cases in which aboriginal groups enjoy ownership of surface and subsurface rights, except to resolve disputes related to access across those lands for commercial purposes. The board does, however, have jurisdiction in cases in which an aboriginal group has ownership of surface rights but the crown holds the rights to the subsurface. In these cases, the board replaces the interim arbitration measures related to access in the four land claim agreements.

I want to ensure that I have been very clear and that there is no confusion: the board has no power to grant rights, whether mineral, oil, or gas rights.

The Canada Petroleum Resources Act sets out the process for issuing oil and gas rights throughout Canada, including the north.

Mining regulations in the Territorial Lands Act outline the process for staking mineral claims and establishing mineral rights. Regulations in that act also establish the Mining Recorder's Office, the body responsible for recording claims and issuing prospecting licences and permits.

The Northwest Territories Surface Rights Board will make access orders related only to terms, conditions, and compensation only after such rights have been issued, and only after an access agreement cannot be negotiated by the parties and one or both have made proper application to the board.

This leads me to how the board will deal with the applications it receives. As I've stated already, a proponent of resource development would have a right of access granted under an act of Parliament, such as the Canada Petroleum Resources Act. If the right of access is subject to consent of a landowner, such as a designated organization on aboriginal-owned land, the proponent must negotiate for access with the landowner as holder of surface rights.

If the two parties cannot reach an agreement after negotiations, either of them may apply to the board for an access order. The board will review the application to ensure that in accordance with board rules, the parties have attempted to resolve the matter in dispute by negotiation in good faith, and the application is within its jurisdiction. If the application is within its jurisdiction and negotiations between the two parties have been conducted or attempted in good faith, the board will be required to accept the application.

In accordance with proposed section 42, the board will convene a panel of three members to hear the application, unless the parties consent to a one-member panel. A one-member panel could be requested by the parties if an accelerated process is desired.

The panel will conduct a hearing and then issue an access order. The panel is required to take into account any factors and materials it considers relevant when it sets out terms, conditions, and compensation. When determining terms and conditions, the panel may include any that are appropriate to minimize damage to or the peaceful enjoyment of land.

With respect to compensation, the panel considers factors such as market value, loss of use, cultural attachment, effects on wildlife harvesting, damage, nuisance, and inconvenience.

After receiving an order, a proponent is able to exercise its right of access in a manner consistent with the terms and conditions set out in the order and any other requirements set out in other acts of Parliament or land claim agreements.

A party to an order is also permitted to apply to the board for a review. During the review, the board has the authority to amend an order in an appropriate manner if it determines that a material change in the facts or circumstances relating to the order has occurred.

Keep in mind that the board is the final decision-maker. No mechanism exists to enable parties to appeal an order. However, orders of the board may always be judicially reviewed by a court.

An order of the board may also be made an order of the Supreme Court of the Northwest Territories once a certified copy of it is filed with the court, making it enforceable in the same way an order of the court is.

That's how the specific provisions of Bill C-47 will apply in the Northwest Territories, Mr. Chairman.

• (1620)

I want to conclude by emphasizing that Bill C-47 will not create or take away any rights or create an additional arbitration process. It will simply replace arbitration measures related to access that were intended as interim measures in land claim agreements. It will provide a single board and a well-defined process for resolving access disputes in the Northwest Territories. Bill C-47 is consistent with the applicable land claim agreements, and the process it establishes will be, and will be perceived as, fair and equitable.

Thank you, Mr. Chairman.

• (1625)

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

I want to thank all four of you for coming and all three of you for your opening statements. We will welcome you back at our next meeting. I'm hopeful that you'd be able to attend with the minister so that we might be able to ask for any clarifications that the committee members would wish.

Committee members, we have just a few minutes before the minister will be showing up, so we'll suspend the meeting for the next five minutes and then return when the minister arrives.

The meeting is suspended.

• (1625)

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

• (1630)

**The Chair:** Colleagues, I call this meeting back to order.

For our second order of business today, colleagues, we have the minister here and we want to thank him for joining us today.

Pursuant to Standing Order 81(5), under supplementary estimates (B), we are today considering votes 1b, 10b, and 25b under Indian Affairs and Northern Development, and under Health we are considering vote 35b.

Minister, we'll turn it over to you for your opening statement and, as is our custom here, we will then begin our rounds of questioning.

Thanks again for being with us. We appreciate it.

We turn the meeting over to you.

**Hon. John Duncan (Minister of Aboriginal Affairs and Northern Development):** Thank you, Chair. I'm happy to speak to the Aboriginal Affairs and Northern Development Canada supplementary estimates (B) for fiscal year 2012-13. The investments included in the supplementary estimates are part of the Government of Canada's overall strategy to address the needs of first nations, northerners, Métis, and non-status Indians. Essentially they reflect decisions taken in the March budget that could not be reflected in the main estimates.

I'd like to share with you details about a very few items listed in the supplementary estimates (B).

Overall, they provide the department with an additional \$468.9 million. Safe and clean drinking water is vital to the health and safety of every Canadian, and that is why improving access to safe drinking water on-reserve is a priority for our government.

Through these estimates we are investing an additional \$136.5 million this year to continue to support the implementation of the first nations water and waste water action plan, as announced in Budget 2012.

These funds are part of our government's comprehensive long-term plan to improve on-reserve water and waste water systems. This plan is based on three pillars: enhanced capacity building and operator training, enforceable standards and protocols, and infrastructure investments. These funds contribute directly to this long-term plan by reducing risk levels and improving access to safe, clean water on reserve.

More specifically, these funds will go towards operations and maintenance of water and waste water systems, training of first nations water and waste water operators, water and waste water infrastructure projects, and program operations.

The second-largest item included in these estimates, \$125.6 million, will support the continued implementation of the 2007 Indian Residential Schools Settlement Agreement. This agreement is a court-administered settlement agreed to by multiple parties, including legal counsel for former residential school students and the Assembly of First Nations. It is intending to bring a fair and lasting resolution to the legacy of the Indian residential schools.

These funds were used to address the higher than anticipated number of applications and the complexity of cases. This money was used to process applications for both the common experience payment and claims for the independent assessment process.

An additional \$124 million will be invested this year for the Indian residential schools settlement allotment for independent assessment process compensation payments. This was largely due to our very successful outreach effort, through which 98% of former residential school survivors, including individuals in remote communities, were contacted about this settlement process. The government will continue to honour its obligations under this historic agreement.

These estimates also include \$7.4 million to support commemoration initiatives under the agreement.

I was honoured to dedicate a stained glass window in the Centre Block just last week, here on Parliament Hill, above the House of Commons members' entrance. The window is a visible reminder of the legacy of Indian residential schools. It's also a window to a future founded on reconciliation and respect.

In the past few months, by working in partnership with first nations, we have made significant investments and progress on policy and legislative initiatives that clearly demonstrate this government's commitment to making real progress on issues that matter to aboriginal peoples and northerners.

One of these issues is education. Budget 2012 committed to fund, over three years, \$100 million for early literacy programming and other education supports and services, and \$175 million to build and renovate on-reserve schools.

• (1635)

Building on these commitments, a total of \$45 million for 2012-13 is included in supplementary estimates (B) and is allocated towards the development of systems and supports to ensure readiness for first nation education legislation and the construction or renovation of schools on-reserve.

Of this amount, \$20 million went towards the 2012-13 call for proposals for the first nation student success program and the education partnerships program. The first nation student success program funds special projects for schools that enhance first nations students' K-12 education on-reserve. Special projects can include funding for early literacy programming, special math training, and so on.

The education partnership program supports tripartite partnerships between the province, first nation schools, and educational organizations.

Another \$25 million will be applied to accelerate the construction and renovation of schools on-reserve, including funds for the feasibility study for new schools in Fort Severn, Pikangikum, and Tl'etinqox-t'in first nations.

Turning to the north, meeting the needs of northerners remains a high priority for this government and that is why with these estimates we are investing \$5.9 million to continue the diamond valuation and royalty assessment program. It ensures northerners continue to benefit from the royalties associated with diamond production in their region.

Recently we launched the Nutrition North Canada food retail subsidy program on April 1, 2011, which is intended to improve access to healthy, perishable foods for the residents of eligible northern communities. Subsequently northerners asked for changes to be made to the non-perishable list so that this subsidy could go directly toward perishable items such as fresh bread, vegetables, milk, and meat. We responded to these requests, and in October of 2012 the final list of commodities eligible for subsidies was fully implemented.

We've also implemented accountability measures for retailers and suppliers, and audits confirm that they are complying with the program. Data gathered from retailers registered with the program shows that prices have dropped by as much as 37% on some products, and there's been an 8% drop in the cost of the northern food basket.

Ongoing communication, outreach, and nutrition education activities are key components of the program, and through the Nutrition North Canada advisory board we are continuing to engage with northerners in an ongoing dialogue about Nutrition North Canada. The supplementary estimates (B) includes \$2.5 million to support the operations of the Nutrition North Canada program. These funds will be used in 2012-13 to meet the demand for subsidized healthy foods.

These initiatives are but a few examples of the concrete actions that support the government's goal of improving the quality of life for aboriginal peoples and northerners. I am confident that the investments included in the supplementary estimates (B) will lead to further progress for aboriginal people, northerners, and all Canadians.

Thank you, chair, and with that I'll do my best to answer any questions on the supplementary estimates that members of the committee might have.

• (1640)

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

Colleagues, I just wanted to point out that the Library of Parliament has provided us with a comprehensive document through our analysts that may be of some assistance in keeping colleagues' questions to the material at hand.

We'll begin now with Ms. Crowder, for up to seven minutes.

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

I want to thank the minister for coming before the committee today, and I also want to acknowledge the very good document that was presented to us. It would actually be really nice if the minister would answer every question that is in that document.

Since the minister is only here for one hour and we have limited time, I'm going to pose four questions to the minister and I would appreciate it if answers to whatever questions the minister can't answer today could be supplied to the committee in writing.

First, on the first nations water and waste water, I noted in the research document supplied to us that the first nations water and waste water action plan, which ended on March 31, 2012, was actually not formally renewed, even though there is additional investment. In light of the national assessment report, is the department considering comprehensive additional investments, aside from what is allocated annually for increased capital expenditures, for on-reserve water and waste water, and if so, how much? If not, why not?

The second question I have has to do with the specific claims. I know the minister is well aware that there is a review process coming up next year. I know there is additional money under vote 10, but could the minister indicate what the difference is between a concluded claim and a settled claim?

On page 85 in the supplementary estimates (B) there is an indication of readiness for first nations education legislation. We know we already have one piece of first nations education legislation in British Columbia, and I wonder if any of that allocated money will be going toward funding the B.C. First Nations Education Act, because I understand that negotiations are still lagging.

My final question is the one that it would be useful for the minister to respond to today. I understand that on the disclosure of documents to the Truth and Reconciliation Commission of Canada, currently \$2.38 million in the budget is going in the supplementary estimates (B) from the department to the RCMP. The Truth and Reconciliation Commission of Canada interim report indicated there are various concerns around the delays, and I understand the commission has to finish its task by June 30, 2014. The minister in question period today indicated that these documents will be provided in 2013, but it wasn't clear on what date in 2013.

The commission has indicated that in order for them to meet their mandated obligations and enforce compliance of the parties' obligations to produce relevant documents, it's unlikely this

document completion process will be completed without a significant shift in attitude on the part of Canada, and those parties have been reluctant to cooperate.

Minister, I wonder if you could start with the issue around the document release and perhaps tell us exactly and what efforts will be made, and when, in 2013 to accommodate the commission being able to meet its mandate by June of 2014.

• (1645)

**Hon. John Duncan:** Thank you very much.

Question 4 is the one you would like me to address first. I'm not trying to avoid your question, but I do have sitting beside me my representative on the truth and reconciliation all-party group that deals with this whole issue, so if you wouldn't mind, I'd like Deputy Minister Wernick to address this issue because he can do it much more comprehensively than I can.

**Mr. Michael Wernick (Deputy Minister, Department of Indian Affairs and Northern Development):** Thank you, Mr. Chair. Thank you, Minister.

I'll try to be very short about it. We are providing documents as they are ready, in batches. Our undertaking to the commission is no later than next July, and we've offered many mechanisms for them to come over with researcher status and access documents they feel they need in order to do the report writing between now and the end of June.

**Ms. Jean Crowder:** Mr. Wernick, I understand there are some challenges with the digitization and all of that. Does that include that assistance?

**Mr. Michael Wernick:** No. Every document we turn over to them is digitized and tagged in a way that is conducive to search. I don't know if the churches are doing the same, but every federal document goes over digitized and tagged for searchability.

The question before the court is of the relevant scope of documents and what is appropriate to turn over to the commission in order for it to meet its mandate. We have, I think, a legitimate disagreement with them about the relevance of documents from the 2005 negotiations. We simply disagree with them that they need to see all the applications and decisions coming out of the adjudications that are now under way. There is no question that everything that's relevant up to the closing of the last school in 1996 they will get, and even everything up to the conclusion of the agreement in 2005 they will get.

We have tried to scrape some money together to help the other departments, as you see in these estimates. The other large document holders, because of the residential schools experience, were the RCMP and Health Canada. We are acting as the sort of orchestra leader to make sure all federal documents are turned over.

We've turned over a million documents already, and we will certainly be complete by next spring.

**Ms. Jean Crowder:** With regard to the money that's going to the RCMP, could you be a little more specific about what it is that the RCMP is being asked to supply?



**Mr. Michael Wernick:** I don't know specifically what they require, but the RCMP detachments were involved in the removal of children from communities to take them to schools, so the commission certainly feels that it's relevant to get access to the records from that period that come up through the RCMP. It's part of the history of the experience from the first school being opened to the last school being closed in 1996.

• (1650)

**Ms. Jean Crowder:** Could we get an update on the funding for the B.C. first nations education, since there is money for legislation in the supplementary estimates (B)?

**Mr. Michael Wernick:** I can get you something in writing on that. We are flowing money to all B.C. first nations as part of our recent agreement with them. The disagreement we have with some of the first nations about the self-government funding is not interfering with that.

**Ms. Jean Crowder:** The own source revenue agreement isn't interfering with it?

**Mr. Michael Wernick:** It's interfering with a complete agreement with them, but we are not holding up other forms of funding that are available to all B.C. first nations.

**Ms. Jean Crowder:** Is the own source revenue on the table as being considered part of the funding for the B.C. First Nations Education Act? That's an important element in terms of future legislation that's proposed around education. I understand that in the supplementary estimates (B) there is money earmarked for the future legislation. Are you anticipating, Minister, that OSR will be on the table?

**Hon. John Duncan:** I don't know what you mean by on the table. OSR, as it sits right now in British Columbia, would be required if they were in sectoral self-government. They're not in sectoral self-government; therefore, it's not an issue.

If we end up with first nation legislation on education, which is the direction we're headed, we haven't even started the engagement yet on the intensive consultation that we've committed to. It would be kind of inappropriate for me to talk about whether something is in or out.

**The Chair:** Thank you, Minister.

Mr. Rickford, we'll turn to you now. You have seven minutes.

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

Thank you, Minister and officials, for coming here today.

Minister, I have a couple of questions around education. Of course, this is something that I've taken a particular interest in. I have been no stranger in your office, campaigning for a commitment to a couple of schools in the great Kenora riding. I'm pleased that we have had some movement on that.

As I look through the estimates here, I want to break down this \$45 million that is allocated for the development of systems and supports, which is to ensure readiness for first nation education legislation and construction or renovation of schools on reserve.

This seems like an appropriate and responsible way to proceed, but I wonder if you could give us a little bit more detail on how this

money will be spent and where schools will be constructed or renovated as part of this specific line item.

**Hon. John Duncan:** Thank you.

As you know, Budget 2012—the economic action plan 2012—had \$275 million in additional funding both for schools and for readiness for legislation for the new system that would be outlined in legislation.

For 2012, that was over three years. For 2012-13, the new investment will be \$45 million to be allocated as follows: \$20 million to respond to the 2012-13 call for proposals for the first nations student success program and the education partnerships program, which involve review and assessment by a national selection committee, and \$25 million in 2012-13 to begin priority school construction projects.

You asked about the communities. You will be happy to know that the first one is Fort Severn, the northernmost community in Ontario, where you and I actually made that announcement. There is also Pikangikum, another community well known to you, where we made an announcement, and Tl'etinqox-t'in in British Columbia. As well, there is school replacement in Kwakiutl, also in British Columbia; design for school replacement in Lax Kw'alaams in B.C.; construction of addition and renovation for Peter Ballantyne in Saskatchewan; and design and construction for a new K-12 in Shamattawa, Manitoba. A portion of the \$25 million was also allocated to St. Mary's in British Columbia to complete their school construction project, which is a kindergarten to grade 7 school, which I've also visited during the construction phase.

• (1655)

**Mr. Greg Rickford:** Thank you, Minister. I appreciate that.

I want to spend a little bit more time on this particular line item with respect to what has clearly been a priority in the potential for a thoroughly consulted but nonetheless important step toward legislation. Of course, we know the physical presence of schools or their rehabilitation is also a key element to that success.

It seems to me that we're focused on education outcomes. I was wondering if you could elaborate on how this is intended to improve first nations education outcomes with specific reference to this idea of readiness for education legislation.

**Hon. John Duncan:** In order to improve the educational outcomes, we have to establish structures and standards to support strong and accountable systems on reserve.

Right now, first nations students on reserve are the only children in Canada, with the exception of first nations children on reserves under self-government agreements, whose education is not governed by comprehensive education-specific legislation.

What we have clearly is a need for legislation to provide the framework for reform and better results, and that has been backed up by studies. We're all aware of the national panel on K-12 education. We're aware of the standing senate committee report. We're aware of the Auditor General's report. They're all basically mirroring each other and saying the same thing.

That's the key to success. That's the key to ensuring first nations students achieve the same outcomes as other Canadians. This has been our priority for some time, and we've made significant investments.

In 2008 we made an additional \$268 million commitment and \$75 million ongoing for the reforming first nation education initiative. Something Jean Crowder was making reference to was the \$15 million annually for supporting the FNEC in British Columbia through the tripartite education framework agreement.

All of that has led to the foundation for our Budget 2012 commitment for having legislation in place by September 2014 to basically tie it in with the school year.

**Mr. Greg Rickford:** If you can, Minister, I have one more question.

I noticed these estimates also indicate almost \$2.4 million is allocated for specific funding to construct first nations education facilities. What is that in particular?

**Hon. John Duncan:** That's an interesting small item. It is for the completion of two school projects. One is the Cat Lake school project in Ontario. I'm not sure whose riding that's in; is it in yours? The other is the Red Earth project in Saskatchewan. That's probably in Rob Clarke's riding, seeing as how you guys seem to have most of the first nations in your respective provinces, or very many.

The Cat Lake project is the construction of a new school, while Red Earth is an addition and renovation to the existing school. The money will facilitate the ongoing work to complete these projects.

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

**The Chair:** We'll turn now to Ms. Bennett for seven minutes.

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

Mr. Chair, first I'd like to raise the fact—and I apologize for not having raised it earlier—that there was a protocol at this committee that when the minister appeared, the meeting would be televised. We have always done that in the past. I would like to put on the record that this was something we unfortunately assumed, and that was a mistake.

• (1700)

**The Chair:** Yes. I think we all did, and we didn't make arrangements. I know those rooms are tied up. I take your point, and we certainly will look into that henceforth.

**Hon. Carolyn Bennett:** At the minister's next appearance, could we...?

**The Chair:** We will work to make that arrangement.

**Hon. Carolyn Bennett:** I'll just follow where Greg was going.

As you know from the special Chiefs Assembly on Education, some serious concerns were expressed. In looking at the estimates, I guess we're.... What exactly does “readiness for first nations

education legislation” mean? What systems and supports are being developed? I need to know specifically what first nations have been consulted to develop the systems and supports or what first nations have been consulted on insuring the readiness for first nations education legislation.

It seems odd, in a set of estimates, that when everybody is worried about not being able to pay teachers properly, the issues that are continually raised by the chiefs are that this.... I'm not sure what this muddy language means.

**Hon. John Duncan:** Thank you for the question.

During the life of this government—I talked about going back to 2008—we've done such things as the first nation student success program. We've also worked with first nation education authorities. We have examples in Nova Scotia and British Columbia, but we have other examples in virtually every province where we have signed regional accords and worked with schools in a way that promoted readiness for aggregation of schools so they would not all be operating as single entities and would have secondary support services like curriculum development and all that kind of thing.

**Hon. Carolyn Bennett:** Does that reflect the national panel? It said it would support the development of regional first nations education organizations. Is that what that money goes to now?

**Hon. John Duncan:** That's what it's been going to since 2008.

We've put in some additional moneys this year, knowing full well that we're cranking it up. We're going to be pushing the envelope because we want to get first nation education in place. We have a commitment to do it between now and September 2014. If you think about consultation, drafting legislation, tabling legislation, getting legislation through the House, and so on, that's a pretty tight window. That's what this money is for.

**Hon. Carolyn Bennett:** We're concerned over what was expressed by the chiefs—any chief, or any place you go—about the money being transferred into the classrooms to be able to pay the teachers properly, and money for language and culture just doesn't seem to come anymore. These are the things first nations are asking for.

It's not in the supplementary estimates. Can we expect that this gap in language and culture will be funded in the 2013 budget?

**Hon. John Duncan:** All I can do is make reference to the agreement we have in British Columbia.

The language and culture issue was a sticking point in our dealings with FNEESC. I'll stand corrected if the deputy has better detail or information, but my understanding is that we funded the equivalent of ESL on the basis that it would assist in the language and culture component of the education.

We have provincial comparability; it took extra money to do that. This is what I've always talked about. We're looking at getting to comparability. The legislation will include the whole funding model, so that not only will we have a framework for education that everyone can hang their hats on, but we'll also have a commitment on the funding side, which everybody has been clamouring for.

• (1705)

**Hon. Carolyn Bennett:** I have to reiterate my colleague's concern about own source revenue. It seems that people are making money running a development, and then that goes to pay for the sewage. I think we've heard that at Westbank. We've heard it at a number of places. Own source revenue is a real stickler for FNEESC and for people across the country.

Minister, after the beautiful stained glass window, I am concerned about the estimates. Even though you've allocated some money toward the Truth and Reconciliation Commission, there is trouble now with the documents and trouble with the commission starting late.

Would you be able to commit that the Truth and Reconciliation Commission will have the time to do its job properly? It seems a bit ridiculous that they're not even going to get the documents until after the date you're telling them they have to finish. They need the money to do this properly.

With regard to the February 24 report, I read it as an open plea for help—your help—to get them the money and the time to do the job properly. Turning over the documents seems to be taking way too long, obviously, but the fact that the Aboriginal Healing Foundation was rolled up.... It seems that the commission is not going to be able to do its work unless they get the extra time and the extra money.

**The Chair:** We're about a minute over, but I want to give the minister an opportunity to respond briefly.

**Hon. John Duncan:** As the deputy indicated, the documents should all be in their hands next year. Their wrap-up isn't until 2014, so I fail to see the issue on the documents.

I can't speak for the other parties, the churches and so on, but federally I think we're in pretty good shape.

**The Chair:** Thank you, Minister.

We'll now turn to Mr. Richards for seven minutes.

**Mr. Blake Richards (Wild Rose, CPC):** Thank you, Mr. Chair.

Thank you, Minister, for being here. I certainly appreciate it.

I want to ask you about the total of \$136.5 million in the estimates to support the continued implementation of the first nations water and waste water action plan.

I wonder if you would elaborate a bit for the committee on how those funds will be used.

**Hon. John Duncan:** Obviously what we want to do on water and waste water is reduce the risk levels and deliver better results. We had the national assessment in 2011, so we had a benchmark to operate from. We have a long-term plan to improve on-reserve water and waste water.

Budget 2012 investments will support improvements in several areas. It has increased funding for on-reserve water and waste water operator training and operations and maintenance. With regard to supporting the creation of regional hubs to monitor and, where feasible, operate systems remotely, there is a huge opportunity there with new software and technology.

There is the opportunity to develop new circuit rider training program minimum program requirements. The circuit riders provide on-site training and mentoring. I've actually seen them in operation. I've gone to enough water plants now that I've seen these guys in action. I think it's pretty rewarding to see how things are coming along. A lot of the risk associated with water and waste water systems is not necessarily the infrastructure; it's the operators and the maintenance and the monitoring.

We're also supporting first nations in developing regional hub expertise and prioritizing capital investments to target the highest-risk systems. We've been doing a lot of that. For example, last year the government supported 402 major and minor first nation water and waste water infrastructure projects, and 286 are planned for the current fiscal year. Fewer infrastructure projects are planned and under way because we are now directing increased funding to operator capacity and improving the operation and maintenance of the systems.

It's important to note that economic action plan 2012 includes \$331 million over two years to secure the progress made to build and renovate water infrastructure.

I think that's probably a fairly comprehensive response.

• (1710)

**Mr. Blake Richards:** I appreciate it.

How much time do I have, Mr. Chair?

**The Chair:** You have three and a half minutes.

**Mr. Blake Richards:** That's excellent, because I have a couple of further questions and wanted to make sure there was going to be time.

You focused quite a bit in your response on the waste water parts, and that's certainly appreciated. One of the key priorities of our government, though, has been addressing safe drinking water and making sure that all first nations communities have safe drinking water.

Could you elaborate a bit on that particular aspect of it, on how this \$136 million will help to contribute towards what our government is doing to ensure that there's safe drinking water in those communities?

**Hon. John Duncan:** Yes, certainly.

I think we made some very nice progress here. The percentage of first nation systems that have operators certified to the level of the drinking water systems has increased from 51% to 60%. One of the difficulties is that you train operators in these systems and they are poached, because they're in demand, by other institutions, organizations, municipalities, and so on. In any case, we're on the right track.

The proportion certified on waste water systems—and I know you want to talk about drinking water—has increased from 42% of operators to 54%. During the time since the national assessment, the percentage of high-risk water systems has decreased by 8.1%, and the percentage of high-risk waste water systems has decreased by 2.1%. In all cases, we're heading in the right direction.

We'll make more dramatic results with operator training. That's where much of the risk is, so we're going to be focused on that. We have all the systems and training programs and circuit riders in place now. We just need to get the certification process taken care of, at which time we'll start to see risk ratings really improve.

**Mr. Blake Richards:** Thank you.

Can you tell me when our government expects to have finished our work of bringing first nations water and waste water systems up to standard?

**Hon. John Duncan:** That's a very good question.

From 2006 to 2014 we will have invested more than \$3 billion in this project. We need Bill S-8. This is why we introduced Bill S-8, the Safe Drinking Water for First Nations Act. As we build capacity in first nations and as we continue to improve everywhere, we need national standards, or regionally sensitive standards but national legislation, to deal with all this.

We will get to a steady state on required investment at some point. I'm not sure when that will be. We'll obviously need another pretty comprehensive assessment at some point.

• (1715)

**The Chair:** Thank you, Minister.

We'll turn now to Mr. Genest-Jourdain for five minutes.

**Mr. Jonathan Genest-Jourdain (Manicouagan, NDP):** *Mon-sieur le ministre*, how much of the requested allocation of \$46 million will be directed to the development of systems and supports and how much will be directed to support the construction and renovation of schools on reserves?

Also, what percentage of the total capital spending needed for school facilities construction is represented by this amount in the estimates?

Finally, how many first nations communities are awaiting construction of new schools, and how many first nation schools are identified as requiring major repairs?

**Hon. John Duncan:** You always ask the most complicated questions.

I thought I had broken the \$46 million down in my introductory remarks. You're talking about money that was going to school infrastructure in the amount of about \$25 million, and then about \$20 million to education readiness, of which \$15 million was for the student success program and \$5 million was for partnerships.

It is an accounting balancing act when you get into school infrastructure. Up until now, anyway, we've been on a cash basis when building schools. We're on a cash basis for every phase leading up to construction—the design and so on—and you don't spend all of a school's component in one fiscal year, so I can't answer your question as to how much is for construction, how much is for design, and how much is for the other phases.

Perhaps the deputy has an answer.

**Mr. Michael Wernick:** I think we would have to follow up in writing, Mr. Chair. Sometimes they are renovations—expanding a gym, making sure the washrooms are retrofitted in a building that's acquired, generally making the building serviceable—and sometimes they are new build projects.

We have more than 80 school projects under way across the country right now. I'd be happy to provide a list. They range from the very large new builds in northern Ontario that the minister mentioned to the simple retrofitting of washrooms to make sure that a school can be expanded.

**The Chair:** Go ahead, Mr. Genest-Jourdain.

[Translation]

**Mr. Jonathan Genest-Jourdain:** How much time do I have left, Mr. Chair?

[English]

**The Chair:** There's about two minutes remaining for questions.

[Translation]

**Mr. Jonathan Genest-Jourdain:** Mr. Minister, since we are now reviewing your department's expenditures in relation to the supplementary estimates (B), would you be ready to provide the Parliamentary Budget Officer with the details of the cuts in your department?

[English]

**Hon. John Duncan:** We have provided a lot of information to the Parliamentary Budget Officer. As far as I know, we've responded to his questions. I have a list somewhere here of all of the material we provided to him. It's very comprehensive.

• (1720)

**Mr. Michael Wernick:** If it is helpful, Mr. Chairman, we posted on the website, as most departments did, all of the financial information.

[Translation]

**Mr. Jonathan Genest-Jourdain:** I am sorry, but I have to interrupt you.

I am going to move a motion asking the following: "That the Committee call on the Minister of Aboriginal Affairs and Northern Development to commit to providing the PBO with the information requested on the cuts in his department".

[English]

**The Chair:** Thank you.

It's fine to table it with the committee, but that motion doesn't coincide with the subject material that's at hand, because, of course, those would be reflected in the main estimates, not in the supplementary estimates.

We'll take this into consideration, and 48 hours' notice will be required for it.

Go ahead, Ms. Crowder.

**Ms. Jean Crowder:** As a point of order, Mr. Chair, I think it actually is directly related to the supplementary estimates because of the spending review.

**The Chair:** That's not a point of order, but for clarification, that isn't actually composed—

**Ms. Jean Crowder:** I think it's a point of order, because he was saying that you're dealing with it here—

**The Chair:** It doesn't fall under supplementary estimates (B). If you can provide to me which estimate it would fall under, we could have a discussion.

This effort has been undertaken in other committees by members of the New Democratic Party. This is the same ruling as every single other committee has been given, so I think there is precedent with regard to this, and clarification has been brought to the members of the New Democratic Party with regard to it.

Your time is up, Mr. Genest-Jourdain. We'll turn to our next questioner.

Go ahead, Mr. Wilks.

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

Thank you, Minister, for being here today.

I have three questions for you with regard to your opening remarks, which I'd like you to elaborate a little more on; then we'll move from there.

The first is with regard to the \$125.6 million allocated in supplementary estimates (B) for the continued implementation of the Indian Residential Schools Settlement Agreement. As you're aware, St. Eugene Mission is within my area. You were out there this summer and saw that this former residential school has been changed into a hotel and casino, which is quite impressive.

Could you speak to the supplementary estimates (B) and the \$125.6 million?

**Hon. John Duncan:** Okay.

We're all aware, but need to be reminded, that the implementation plan for the Indian Residential Schools Settlement Agreement began on September 19, 2007. We have just passed the five-year mark. We have been diligently fulfilling our commitments and obligations under the court-ordered settlement agreement. That includes the common experience payment, the independent assessment process, the Truth and Reconciliation Commission, the commemoration, and the measures to support healing.

In September of this year we allocated \$725.6 million over four years for the continued implementation of the settlement agreement. That was to cover my department, Health Canada, and the RCMP. My department was allocated \$125.6 million for 2012-13 to address the unanticipated complexity of the common experience payment, the higher volume of the independent assessment process, and some

other commitments. Those include processing requests and appeals to the National Administration Committee and to the courts, enabling the Indian Residential School Adjudication Secretariat and the department to continue processing independent assessment claims and supporting our legal obligation to disclose all relevant documents to the Truth and Reconciliation Commission.

**Mr. David Wilks:** Thank you very much, Minister.

Further to that, one of the things you mentioned just after the Indian residential school settlement was \$124 million with regard to the independent assessment process and the alternative dispute resolution. I wonder if you could expand upon that a little further.

• (1725)

**Hon. John Duncan:** Do you mean the process?

**Mr. David Wilks:** Yes.

**Hon. John Duncan:** There are some very dedicated people who are involved in that process, I must say. It's a claimant-centred, non-adversarial, out-of-court process for the resolution of claims of sexual abuse, serious physical abuse, and other wrongful acts suffered at Indian residential schools. It was part of the settlement agreement as an enhanced alternative dispute resolution.

Claims under the independent assessment process and remaining alternative dispute resolution claims are resolved by independent adjudicators. Awards are determined using a compensation framework set out in the settlement agreement and approved by the courts. Since we had an increased volume of applications and we wished to complete the assessment process in a timely manner, we increased the number of claims resolved through hearings in 2012-13. This resulted in a higher number of awards and created a funding pressure for this fiscal year of \$124 million. I call that expediting.

**Mr. David Wilks:** Excellent.

Thank you very much, Mr. Chair.

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

Thank you, Minister. We want to thank you for coming today, as well as Mr. Wernick and Ms. Swords. We appreciate your being here to answer questions with regard to the supplementary estimates (B).

Colleagues, we will move to votes, but before we do, we have Ms. Crowder.

**Ms. Jean Crowder:** I am fine with our dealing with the motion on Wednesday, but I do want to point out to the committee that on page 86 of the estimates, under vote 10, it actually does indicate "the Vote due to savings identified as part of the Budget 2012 Spending Review...and due to a realignment from contributions to grants", so it is actually in the supplementary estimates (B) around the spending. The motion, Mr. Chair, I believe, was in order for today because it's related to the topic at hand.

**The Chair:** I did rule that. I did have the forewarning that this has been brought forward in other committees. The same ruling, as well as the advice, was consistent.

**Ms. Jean Crowder:** I could challenge the chair, but we'll deal with it on Wednesday.

**The Chair:** I appreciate that. Thank you, Ms. Crowder.

Colleagues, we have the estimates before us. It's our responsibility to vote with regard to these and then refer them back to the House, so I simply will move through the votes quickly. There are five that have been referred to us, so we'll run through them. I'll be looking for confirmation or for not confirming them, and then we'll report that back to the House.

Shall votes 1b, 10b, and 25b under Indian Affairs and Northern Development carry?

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

Department

Vote 1b—Operating expenditures.....\$248,444,500

Vote 10b—The grants listed in the Estimates and Contributions.....  
\$222,352,170

Canadian Polar Commission

Vote 25b—Program expenditures.....\$1

(Vote 1b, 10b, and 25b agreed to)

Shall vote 35b under Health carry?

HEALTH

Canadian Northern Economic Development Agency

Vote 35b—Contributions.....\$3,000,000

(Vote 35b agreed to)

**The Chair:** Shall I report these votes back to the House?

**Some hon. members:** Agreed.

**The Chair:** I will report this back to the House.

Colleagues, we will adjourn here momentarily, but I did want to invite members of the subcommittee to just quickly chat up here. I know that there was some discussion with regard to future business, so we will adjourn this meeting.

The meeting is adjourned.









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