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Chair

Mr. Lloyd St. Amand

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• (0915)

[English]

The Chair (Mr. Lloyd St. Amand (Brant, Lib.)): I will call the meeting to order, ladies and gentlemen.

To inform the committee members, although perhaps you're already aware of it, the environment commissioner from the Auditor General's department, Johanne Gélinas, who was invited by the committee to appear before us this morning, is not available. She's out of the country and is not scheduled to return until November 7. In light of that, rather than wasting our meeting time, our clerk contacted me yesterday afternoon to advise me of the unavailability of Ms. Gélinas and we made an executive decision, so to speak, that rather than waste the meeting time, we would have officials here with respect to the next issue, the specific land claims.

That brings us up to speed. As I entered the committee room eight or ten minutes ago, Mr. Martin informed me that there are representatives of the community in northern Ontario who are the subject of some discussion. They are here in Ottawa. I believe there are three in all. Mr. Martin proposes that for a defined period of time we allow them to be before us this morning. I'd like to briefly canvass the committee's thoughts about that.

Mr. Harrison.

Mr. Jeremy Harrison (Desnethé—Missinippi—Churchill River, CPC): I think it's absolutely appropriate that we hear from these individuals. I think we should welcome them to our committee today.

The Chair: Mr. Valley.

Mr. Roger Valley (Kenora, Lib.): I would like to hear firsthand from these individuals and I think we should take the time to listen to them. Do we know approximately how much time they're asking for, Mr. Chair?

The Chair: Mr. Martin may know.

Mr. Pat Martin (Winnipeg Centre, NDP): Mr. Chair, if I might, the delegation has an obligation at 10 o'clock, so they will have to leave here at 9:50 at the latest. I would suggest we could give them between now and 9:45. If we can take one half hour to hear their brief presentation, that would be all they would have time for, I think.

The Chair: Thank you, Mr. Martin.

Mr. Cleary.

[Translation]

Mr. Bernard Cleary (Louis-Saint-Laurent, BQ): Thank you, Mr. Chairman.

Is the community that we're going to meet with concerned by specific claims or not? Perhaps Mr. Martin could answer me.

[English]

The Chair: I don't know, Mr. Cleary. The particulars of all of the land claims are not within my grasp. I understand they are from the community that is affected now by the water issue.

Is that the case, Mr. Martin?

Mr. Pat Martin: Yes. This is the James Bay Cree Community Kashechewan that is having the tragic difficulties with their water supply. They are being airlifted from their community as we speak. This is an unplanned visit by them and we're asking the indulgence of the committee to hear them.

The Chair: Are there any further comments?

Ms. Barnes.

Hon. Sue Barnes (London West, Lib.): Thank you very much.

I think it's respectful to see them when they arrive. They're not here yet and we have time.

They are here now?

Mr. Pat Martin: They are here.

Hon. Sue Barnes: Okay. Then that makes a difference.

The Chair: I will then suspend very briefly. If we could remain seated where we are, we'll allow them to enter and identify themselves. Then we will reconvene in the next two minutes or so.

• (0918)

(Pause)

• (0922)

The Chair: I'll call the meeting to order again.

Before us are two gentlemen from Kashechewan First Nation. We very much appreciate your giving us some time this morning. We understand you have another commitment at 10 o'clock, but hopefully we'll have a half-hour to hear from you.

I'll let you know that the committee felt it was important, with your being here in Ottawa, that we hear from you. That was the unanimous view of the committee. This is an urgent situation.

I'd like, just for a moment, though, to thank the officials who are here on the land claims issue. They were here on short notice in a punctual fashion. I apologize to them for postponing their presentation, but I think, in the circumstances, they'll understand.

Before us, then, we have Grand Chief Stan Louttit and Chief Leo Friday. Gentlemen, the floor is yours.

Chief Leo Friday (Chief, Kashechewan First Nation): I just want to introduce my colleague, Dr. Murray Trusler, from Weeneebayko General Hospital. And I'd like to introduce our financial adviser and also engineer, Nabil Batrouny.

I thank you for the opportunity at this time. I just want to share with you the information we've been sharing with the Department of Indian Affairs for the past twenty years, and also that when they established our reserve in 1912, the people didn't want it where it is right now.

That's a problem with Indian Affairs, that they never listen to us. Even in 1957, when they asked us to move onto the reserve from the original gathering of our people every summer as a traditional culture—a yearly annual assembly—it was intended that it be located at the upper area, where there's no flood zone. Now they force people to live where it would be accessible by barge and easy for them to transport goods into the community.

When we request something like this, to make a point to benefit our people, it's never taken into consideration. What I'm saying now is, we just want to go back to where our people wanted to live in the beginning, when the location was established for our community.

We have lots of problems in the community. Our infrastructure is a disgrace; it's not worth fixing. As for the distribution water line, E. coli has been caught in the system. There's no way people feel safe using the system any more.

That's the bottom line. We need a new Kashechewan.

Now I'd like to turn it over to our Grand Chief. Maybe he'll have a few things I missed.

● (0925)

Grand Chief Stan Louttit (Grand Chief, Kashechewan First Nation): Thank you, Mr. Chairman, as well as members of the standing committee and other interested persons.

I'd like to acknowledge Regional Chief Angus Toulouse as well as the regional vice-chiefs for Ontario. Angus Toulouse works with us very closely on many of our issues.

The housing and infrastructure, as you already know, particularly in this community is a disgrace to the country. We all know, and it's been said many times before, that Canada is known—internationally, anyway—for its wealth and good standard of living. It's very unfortunate that in Kashechewan, one of many communities across the country, but specifically Kashechewan, it's third world, literally third world. That's not an exaggeration. And this is in Canada.

When our forefathers, including my grandfather, signed a treaty with the government back in 1905, with the province being a signatory of that, we had many visions in terms of what we thought would be a good future. We don't have a good future. Today, 100 years later, as we commemorate Treaty 9, there is nothing really for

the people of Kashechewan but a decrepit community without adequate water.

Water, as you know, is essential to the life of every human being in this country. In the past number of years, there has been a number of documented reports specifically regarding water. That's why you've been reading about it and hearing about it in the press. Two or three years ago you heard about Walkerton in Ontario, and the tragedy that happened there, where seven people were killed by their contaminated water system. This is another Walkerton waiting to happen.

A number of recommendations came out of the Walkerton inquiry. One dealt specifically with the water quality, or lack of, in first nations in Ontario. We don't know what happened to that. I don't know if the Ontario government acted in that particular area. My guess is probably not, because we would not be sitting here today talking about the lack of potable water for the community of Kashechewan.

Health Canada commissioned various reports, including the water advisory report of October 2004, which basically stated that the water quality in first nation communities was not up to par. Did Health Canada act on those things, and did they make any effort in terms of dealing with the issue? I don't know.

The Ontario Clean Water Agency provided a report and a letter in 2003 specifically regarding Kashechewan. What happened? I don't know. Probably nothing happened. Otherwise, we would not be here, and we would not be talking across the country and meeting with ministers and governments regarding the water in Kashechewan.

The point is that there have been documented reports of the situation in first nation communities, specifically Kashechewan, in regard to water. Has any action been taken? I don't know. Probably not, because we wouldn't be here today to talk about these things.

In summary, I have tried to paint a picture of where things are at and what non-action has taken place in regard to the issue of water in our first nation communities, specifically Kashechewan. As the chief said, they are forced to live in a flood zone that floods every year. Last April they were evacuated because a dike didn't work that, like New Orleans, was built around the community. It failed, and they had to be evacuated. The government had told them to live there, where they didn't want to live in the first place, as the chief said. Next spring, when the water breaks up again, what's going to happen? Probably another evacuation.

● (0930)

Over the years, the government has spent probably \$1 million in evacuating people. That could have been a nice community elsewhere, which is what the community is striving for, out of a flood zone—where they wanted to be in 1957.

I'll just wrap this up. You probably have some questions or comments.

The Chair: Thank you very much, Chiefs.

I think in the interest of fairness, so that as many people as possible have an opportunity to ask a question, question and answer will be limited to two minutes per person, very tightly controlled. I will interrupt at the end of two minutes. I'll interrupt the questioner or the responder so that this is dealt with fairly. In the circumstances, hopefully everybody will get at least one question.

Mr. Valley had his hand up.

Mr. Roger Valley: Thank you.

Thank you for coming today and taking time to visit with us.

I saw some of the pictures on the news, as all of us did, of the water plant. Training for water plant operators has been a bit of a problem in my riding. It's something we strive for, to get operators trained.

To Chief Friday, has it been a problem for you to maintain trained operators for your water plant? Has it been an ongoing difficulty?

Chief Leo Friday: We've been establishing training proposals through the Mushkegowuk Council tech services. Every time we table a proposal, it's turned down. We've been having problems with training, accessing training dollars.

Mr. Roger Valley: So the people who ran the plant as best they could weren't trained in the use of the facility, I guess, is the result.

Chief Leo Friday: That's right.

Mr. Roger Valley: I think it said on the news that the plant was ten years old. I saw some of the pictures of some of the disrepair. When was the plant built, and when was the last upgrade, or have there been any upgrades at all?

Chief Leo Friday: They did some upgrades last year, but the way it was designed, the funding was very limited for it to run in the way it should run.

The contractor who built it for us said it wasn't going to last a month. A year later, it failed.

Mr. Roger Valley: I see you've provided some documents that were passed around. The new intake that's proposed will deal with the issue of the river running both ways. It's far enough upstream that it will deal with the problem of the tidal waters?

Chief Leo Friday: Temporarily, it will do the trick.

Mr. Roger Valley: Thank you, Mr. Chair.

The Chair: Thank you, Chief Friday.

I have Mr. Prentice, and then Mr. Cleary.

Mr. Prentice, please.

Mr. Jim Prentice (Calgary Centre-North, CPC): Grand Chief, thank you for coming here. As you know, we've followed this very closely.

I have a very straightforward question that I think is very important. The Minister of Indian Affairs is, at the end of the day, responsible, has a fiduciary duty to your people. He visited your community in August. Was he told at that time that people were getting sick because of the water, and was he asked to fix it?

Chief Leo Friday: No, he visited the community of Timmins. That's where we met him. We told him the problem, the whole story

of Kaskechewan, in 2002. We sent binders about this thick about the problems in the community, and we never heard anything about how he was going to deal with them.

Mr. Jim Prentice: He's on the record yesterday as saying he visited the community in August, but let's leave that for the moment.

At that time, was he told of significant medical problems for people in your community because of the water?

If Mr. Trusler can answer that, or any of the three of you, please do.

• (0935)

Dr. Murray Trusler (Chief of Staff, Weeneebayko General Hospital, As an Individual): The answer to that is no, we were never consulted. I never received any communications from the minister.

Mr. Jim Prentice: So, do you have the materials that were given to him when he went to Timmins in August?

Chief Leo Friday: We received all kinds of reports for the water quality since 1996. I believe he got all the reports, too.

Mr. Jim Prentice: Did that deal with the issue of E. coli in the water?

Chief Leo Friday: There was E. coli reported three years ago.

Dr. Murray Trusler: There have been reports to the federal government since 1998 consistently showing E. coli in the water. This was never dealt with.

The Chair: Thank you, Dr. Trusler.

Mr. Cleary, please.

[Translation]

Mr. Bernard Cleary: Thank you for meeting with us. It's a pleasure for me to discuss this question. I want to look into it and I'm going to continue to do so.

If I understand clearly — correct me if this isn't the case — in the past three years, you sent a document to the Department of Indian and Northern Affairs to warn it that you had a major problem, a health problem that could cause casualties, as had happened elsewhere in Ontario. But — and this is what I want to be sure about — you received no response. The department did not see fit to go verify your statements on site.

Did you communicate with the departmental people again to tell them that it was urgent? Did you ask them to come? Did you say it was up to them to contact you since they were aware of the situation?

[English]

Grand Chief Stan Louttit: The department funded the construction of that water plant. They worked with us in selecting the contractors. They're very well aware of the structure, how it's built, and its deficiencies.

We met not with the Minister of Indian Affairs but with his bureaucrats about the problems. Their response to us has always been to provide some interim band-aid solutions to try to deal with the problem at the time, without any effort—

The Chair: Thank you, Grand Chief.

Grand Chief Stan Louttit: Can I quickly add...?

The Chair: Mr. Martin may wish to pursue that, Grand Chief.

Grand Chief Stan Louttit: Okay. I'd like to add more.

The Chair: All right.

Mr. Martin.

Mr. Pat Martin: Chief, Grand Chief, and other witnesses, I appreciate the extraordinary effort you're making on behalf of the people you represent. You must be exhausted, because I'm sure that bringing your message here has been an intense and taxing thing to do.

Let me say on behalf of the people I represent that most Canadians are hanging their heads in shame that they've allowed these conditions to materialize, and that significant numbers of the population are being left behind in this way. It's unacceptable. It's inexcusable.

We've committed around this table that we will not play politics with this issue. That's the commitment I made to my colleagues here when we asked for special permission to allow you to make the presentation today.

I don't really need my two minutes. I'm going to let you use up whatever time you want of the time I've been allocated.

• (0940)

The Chair: Do you wish to finish your earlier comment, Grand Chief?

Grand Chief Stan Louttit: Very quickly, in terms of Mr. Cleary, we've been writing to the Minister of Indian Affairs since August 2004—I can produce letters—inviting him to visit our communities. He has never accepted. We met with him on August 19, as the member discussed. He knew about the problem. He never followed up or even acknowledged.... Even though he committed at that meeting that this was very important and that he would follow up with us quickly, it's now two or three months later and we've never heard from him.

The Chair: Thank you, Grand Chief.

We'll have Dr. Trusler, for perhaps 15 seconds.

Dr. Murray Trusler: I would just like to add that there's an integration process going on among the three agencies that provide health care in the region. This is the WHA, which is the organization I work for and which is under tribal council leadership, the provincial government, and the federal government.

This integration process was to come to fruition in April of 2006. It's been confounded by the federal government's lack of funding, and the whole thing is being dragged out. It may not even happen. We're very concerned about this. We need the support of the federal government. We need funding support.

Part of the funding issue is transfer money to upgrade the nursing station in Kashechewan. We brought this to the attention of Mr. Gavin Brown, and his response to us for interim funding was: we're \$5 million in debt, so we're just going to tread water.

The Chair: Thank you, Doctor.

I have Mr. Prentice, Ms. Barnes, Mr. Harrison, and Mr. Valley.

Mr. Jim Prentice: Just so the record is clear, is Mr. Gavin Brown in the Department of Indian Affairs?

Dr. Murray Trusler: No, he's in Health Canada.

Mr. Jim Prentice: Going back to the grand chief and the chief and your meeting with the minister on August 19, tell me very clearly what you asked him to do. Just take your time. I want to know exactly what you asked him to do for you.

Chief Leo Friday: We asked him to follow up on this document, which he never did. Also, when we had a problem in the community in the spring I asked him for funding to have a community assessment environmental study, and I never got anything with regard to water treatment and sewage, and the teaching, and the landfill. I basically told him we live in a contaminated area.

Mr. Jim Prentice: You're telling us today, Grand Chief, that you did not hear back from him after August 19—until when?

Grand Chief Stan Louttit: Until two weeks ago, when he came to the community after pressure from the opposition and the media. Finally he came into the community to meet with the community. On a note there just very quickly, it was getting late, and he couldn't leave, so we offered him a chance to stay in our community. Accommodations were available. He refused to; instead, he flew over to a neighbouring community to sleep there, because there was good water there.

Mr. Jim Prentice: Which community, Chief?

Grand Chief Stan Louttit: Fort Albany, which is a five-minute flight across the river.

The Chair: Thank you, Mr. Prentice, and Chiefs.

Ms. Barnes.

Hon. Sue Barnes: Thank you very much for taking the time to visit us today. I think it's important that we hear your stories, so that people can understand. Across the country, first nations water managements.... There is a strategy, I think. Just to give you some of the information I might have, although you said there's nothing going on, there is a strategy that has \$1.6 billion over five years in the country. It is invested by Indian and Northern Affairs and Health Canada. To give you examples, there are projections down the road of about \$300-plus million a year.

I don't want to waste a lot of time on that; I just wanted to assure you there is something. It's never going to be sufficient for somebody who's suffering in their community right now. I want to say to you that there are some moneys. There has to be a situation for helping your community today. We expect it to be ongoing. The only thing I'm going to say—because I don't want to politicize this—is that we will be trying to help in what way we can.

Also, this is across the country. I acknowledge that Mr. Martin, for his party, has said we want to make sure the best things are done. That, quite frankly, is why the government is engaged in this overall strategy of the round tables: to narrow that gap. Water strategy is part of it. We will have to be doing even better in every community that this is affecting, but the numbers overall are going down.

I just wanted to say that. And I just hope the situation improves in your community rapidly.

● (0945)

The Chair: Thank you very much, Chiefs.

It's 9:45. I understand from Mr. Martin that you're required to leave.

On behalf of the committee, thank you so much for coming. It's been a stressful, harried several days for you. We appreciate your taking the time out, and I appreciate the cooperation of the committee members.

We'll suspend for a couple of moments.

Grand Chief Stan Louttit: Thank you to the standing committee.

The Chair: Thank you.

● (0947)

_____ (Pause) _____

● (0953)

The Chair: Ladies and gentlemen, we will reconvene.

Before us are Mr. Michel Roy and Ms. Audrey Stewart, who are here to present to us on the specific claims issue.

Mr. Cleary, you had raised your hand. Very briefly, Mr. Cleary. I'm concerned that we've already kept the witnesses waiting some 50 minutes.

You have a question, Mr. Cleary?

[*Translation*]

Mr. Bernard Cleary: Mr. Chairman, after we've met with the witnesses, I'd like to have a few minutes to speak to the committee and present something to you.

[*English*]

The Chair: If you wish to speak to the committee about specific land claims, you can do that during the seven minutes allotted. Otherwise, I'll consider it irrelevant. We're dealing now with specific claims, nothing else.

Good morning, Ms. Stewart and Mr. Roy. The floor is yours.

[*Translation*]

Mr. Michel Roy (Assistant Deputy Minister, Claims and Indian Government, Department of Indian Affairs and Northern Development): Thank you, Mr. Chairman.

I'm going to make my presentation in French, then we'll be pleased to answer questions from committee members in both languages.

I want to thank the committee for inviting us to come and speak to it this morning about the Specific Claims Program.

The Specific Claims Program has been in existence for nearly 30 years now. The purpose of this conflict resolution program, which requires that both parties participate, is to resolve claims in which it has been proven that the federal Crown has a legal obligation to a First Nations community recognized as an Indian band under the Indian Act.

This program is an alternative to the litigation process and is designed to settle the grievances that the First Nations have against the federal Crown for failure to comply with historical treaties and some of its obligations under the Indian Act.

It should be borne in mind that, for more than 200 years, the government managed reserve lands and band monies on behalf of the First Nations. Obviously, over such a long period, errors were made and treaty obligations were not met.

Lastly, it should also be kept in mind that, prior to 1951, the First Nations communities were not permitted to retain the services of a lawyer. It was not until 1951 that they were granted that permission. Prior to that, they were therefore unable to state their grievances to the federal government or to any body, having no authority to retain specialized services.

In our view, a negotiation process is better than litigation in developing a common understanding of our history and, consequently, finding a solution acceptable to the parties.

It is important to note that this is a voluntary program for the communities, which can still turn to the courts to settle their grievances against the federal Crown. In our view, the fact that we receive more than 70 new specific claims every year means that this program is meeting a need, even though it is not a perfect fit.

In addition, in various cases, superior courts have asked the federal government to negotiate with the First Nations. Even in the context of the recognition of rights, the courts have always asked us, through various decisions, to negotiate with our Aboriginal partners rather than go to court.

To date, we have settled more than 260 specific claims and paid Aboriginal communities nearly \$1.8 billion in compensation at the national level. If you add the provinces' participation to that, more than \$2 billion has been paid in compensation to the Aboriginal communities.

To promote continued dialogue between the government and the First Nations, we think it important to maintain a negotiation process between the parties. That process must ensure that the grievance settlement takes into account the specific nature and needs of each community and that it improve the relationship between the Aboriginal communities and the federal government and, where applicable, with provincial governments.

In addition, there is a process for appealing from federal Crown decisions on the admissibility of their claims. The mandate of the Indian Claims Commission is to review, at the request of a community, the facts and analysis that led the federal government to reach a negative decision on a grievance. The Commission has responsibility for appeals from federal decisions and must make recommendations to the parties based on its analysis. It also offers mediation services, which from time to time have proven highly useful in reaching an agreement.

We are nevertheless aware of the criticisms that have been directed at the program for a number of years now. We have tried to respond to them. For example, more than 10 years ago, together with the Assembly of First Nations, we conducted a review process of the program and of the process itself. It appears that the results of that partnership did not necessarily meet expectations or solve the problems that had been raised.

We have nevertheless maintained our efforts to improve the system and process so that they more fully meet the needs of the communities.

Lastly, the federal government also offers financial support to First Nations communities to enable them to participate in the specific claims process. Out of a concern for transparency and justice, the funding granted is not managed by the specific claims team led by Ms. Stewart, but by another team.

The criteria used to analyze applications are public and are disclosed to every group that wishes to submit a claim.

We have an annual budget of approximately \$15 million, which is available for research support and negotiation support.

Thank you very much, Mr. Chairman.

• (1000)

[English]

The Chair: Typically, Ms. Stewart and Mr. Roy, we allow ten minutes for a panel to present. On that basis, there is yet four minutes.

Ms. Stewart, do you wish to present for four minutes?

Mr. Jeremy Harrison: Mr. Chair, I thought it was ten minutes each, generally.

Hon. Sue Barnes: Yes. That was the idea when we started.

The Chair: All right.

Ms. Stewart.

Ms. Audrey Stewart (Director General, Specific Claims Branch, Department of Indian Affairs and Northern Development): Thank you.

I'm the director general of the specific claims program.

I thought it might be helpful to the committee if I laid out the process and some of the key numbers. That might be a useful contribution to your considerations.

I'll be referring to some documents circulated to the committee members, notably the flow chart that speaks to the process within

specific claims and the Indian Specific Claims Commission. I think additional copies are available here.

Working off the specific claims process, the first stage is, of course, for the first nation to submit a claim. They do have financial support to develop those claims, and we get about 70 a year. Once that's received and acknowledged, the department conducts additional research to make sure all the facts are available. We share that with the first nation for their final review. Then we submit it all to the Department of Justice for an opinion on lawful obligation, which is the keystone of the policy. Claims which reveal a lawful obligation will be moved into negotiation.

In terms of numbers related to each of those three key stages, at the moment we're reviewing 148 claims, 162 have been returned back to first nations for their consideration, and 296 are with the Department of Justice for their views. That gives you a picture of where the work is at the moment.

Once we've received advice from the Department of Justice, we put together an advice package for the minister, who makes a decision as to whether the government is willing to negotiate this particular claim. About 70% of claims get accepted for negotiation; about 30% don't.

I'll just run down the acceptance side and then come back to what happens with the ones that are not accepted.

Of course, acceptance moves into negotiation. At the moment we have 85 active claims in negotiation, and then to resolution.

If a claim is not accepted for negotiation, the first nation has a number of options. They're free to submit new information or new allegations. That happens from time to time, and then the claim is reconsidered. They can ask the Indian Specific Claims Commission to hold an inquiry; a second flow chart shows what their process is. A minority of claims do end up in an inquiry held by the Indian Specific Claims Commission.

Many first nations actually are satisfied with the review of their claim. They understand their history better—our history with them—so not every claim goes into an appeal process or to litigation. About 35 ISCC inquiries are under way at the moment; I think the record overall has been that government accepts about 40% of their recommendations for reconsideration.

That's how the numbers work. There is a bit more detail in the material that's being circulated; I'd be happy to talk about that a bit more if anyone is interested.

Timing is always a consideration, because this is a lengthy process. It's lengthy because it's information-driven, and you have to get the information in order to make the decisions. We're often working in an area of long-ago history, and the law is not always clear, so it's hard to find the right information and to analyze it correctly, but that's the only way we and first nations can be sure there's fair treatment, and that's the core of our work.

Negotiations and the assessment stage are also often long, because about a third of these claims involve the provincial governments, so it's not just a decision for Canada and the first nation; provincial governments also need to go through their own processes.

• (1005)

Those are the initial points I'd like to make. I'd be more than pleased to answer any questions the committee might have.

The Chair: Thank you, Ms. Stewart and Mr. Roy.

I suspect the committee members will have some questions. We'll start with Mr. Harrison.

Mr. Jeremy Harrison: Thank you, Mr. Chair.

Thank you very much to our witnesses for their presentation here this morning.

One thing that I was hoping to hear during the presentation, and which I didn't hear, was what kinds of timelines we're talking about between each stage in this flow chart, between the submission of the claim, say, by a first nation and even a letter acknowledging receipt of the claim from the department.

Ms. Audrey Stewart: Once the submission comes in, the letter of acknowledgment goes out very promptly.

There are two main stages here. The first one is the question, does the federal government wish to negotiate this claim? Our average time there, at the moment, is running between five and seven years, which is comparable to the time this kind of case would go through in requiring litigation.

Mr. Jeremy Harrison: That seems like quite a length of time, waiting seven years to find out whether the government is even willing to negotiate on the claim. It would seem to me you're setting up an incentive mechanism for litigation on basically every claim.

I know first nations I've been dealing with in my constituency who have been going through this process, some of them for over a decade. If they had just litigated from day one rather than working cooperatively with Canada on this, they would have had it resolved one way or the other. The claims are fairly clear in a lot of cases, and it would have been finished at this point already, rather than waiting seven years simply for notification as to whether the government is going to negotiate the claim.

Why does it take seven years? That's my question. I think it's a question that a lot of first nations have as well.

Ms. Audrey Stewart: I'm not going to say it doesn't take too long. It does take too long. There are some reasons it takes a long time, and those relate to the nature of the information.

First of all, what we're looking at here are claims that go way back in history, so finding the relevant information is not a simple job. Many first nations conduct careful research. Not all do. Some of the claims that we get are better prepared than others. Therefore, if, for example, a first nation gives us a very well-researched and well-laid-out claim, our need to do additional research is much lower.

That's one of the areas we're now working with first nations on, to make sure they have a better understanding of what's needed, so when they submit a claim we don't have to spend as much time

doing additional research to cover other items that haven't been covered. That's certainly an area.

In this process leading up to the decision about whether or not to negotiate, there are at the moment three long, time-consuming activities. The one that takes the longest is waiting for the Department of Justice to have a lawyer available to deal with it. That's something that we in the Department of Justice are doing some work to try to minimize, but it is, at the moment, the longest gap. The second-longest gap is the time that a first nation takes to review the material we provide to them before it goes to the Department of Justice. The third-longest time is the time that our researchers take to do research to make sure the documentary record is complete.

I can't speak to how long it takes first nations to develop a claim before it gets to us.

• (1010)

Mr. Jeremy Harrison: Right.

What order does it go in, then? Do you need the justice department opinion before the research or anything else? What's the real holdup here? Are you under-resourced on the research side? What's the linchpin in the whole thing?

Ms. Audrey Stewart: The research happens first, and then the consultation with the first nation, and then the Department of Justice.

We have a couple of what are called "choke points" in the process at the moment. We've improved our efficiency in the research side. We're getting more claims to the Department of Justice. They don't have the capacity at the moment to deal with them. So they're working on efficiencies in their part, and we're working on efficiencies between what we do and what they do, to improve that.

Mr. Jeremy Harrison: Then how long does it take in the justice department to get the legal opinion?

Ms. Audrey Stewart: It varies from three to five years.

Mr. Jeremy Harrison: Okay. Well, that's crazy it would take such a length of time, in my opinion.

If there's a successful claim, how long does it take for the entire process? From day one of submission to the implementation, how long does that take?

Ms. Audrey Stewart: I've just pulled up the very latest one we've completed to try to answer that question. This one was submitted at the end of 1994. The claim was accepted for negotiation in April 2003, and the first nation voted in support of the settlement on October 20 of this year.

Now, I'd like to take a minute to explain what went on in the negotiations here, because specific claims are not just about money. This one deals with a piece of railway land. In the negotiation of this claim, and indeed in the assessment of it, there was the whole history of railroads in Canada that had to be dealt with.

In this settlement, we were able to return land to the first nation. That required three levels of environmental studies. It required clearing access agreements for utilities and looking at road access through the reserve to the neighbouring community. There were a whole series of operational issues like that that needed to be resolved.

The point I'd like to make is that to deal with a specific claim is not necessarily a simple thing. There are a lot of factors that have to be involved to get an outcome that's good for the first nation, workable for the neighbouring community, and fair to the Canadian taxpayer.

Mr. Jeremy Harrison: Would you say this claim is representative, that 11 years is kind of the average? For the 268 claims that have been settled, is 11 years about the average for how long it takes? Because my understanding is that with a lot of these railway cases, this is an area of law that's pretty much settled. For other cases, where the law isn't so clear, I would imagine it would take a longer period of time. So is this 11 years representative, or is this short? Is this a quick resolution?

Ms. Audrey Stewart: I don't know if the Department of Justice would agree that railroads have settled law in all aspects, but perhaps we can leave that aside for the moment.

What's typical in this claim is that it did take a long time to be able to get all the work done to get to a decision to negotiate. That is a typical pattern in the process we're presently operating with.

A two-year negotiation to resolution is faster than we're usually able to achieve. This time we had a first nation that was very interested in getting a prompt resolution and very willing to work with us through the many steps, particularly the environmental ones that were important here.

• (1015)

Mr. Jeremy Harrison: Thank you.

The Chair: Thank you, Mr. Harrison.

Monsieur Cleary.

[Translation]

Mr. Bernard Cleary: Good afternoon. Thank you for being here.

I want to emphasize that I've worked for both Aboriginal groups and tribal councils in the specific claims field. In the tribal council area, I directed research for the Montagnais and Atikamekw communities. That was about 20 years ago, and less than half of those claims have been settled to date. They've been suspended for all kinds of reasons. In my view, that's mainly attributable to the Department of Justice. It assigns all its new employees to the study and analysis of claims cases. That's where they cut their teeth, and God knows it's a long process. You said five years, but it takes a lot more time than that.

Then they ask a series of questions. You no doubt know how it works. Those questions call into question virtually all the research. There's always something to be completed, and that takes an enormous amount of time. It's after that that the minister decides whether or not to proceed with it. From there, the parties can start negotiating. The negotiators have to begin by agreeing on terms. There's always a monetary assessment, since in order to seek

compensation, you have to know how much you can request. So they have to assess the damages. I don't know whether it's changed, but that required an assessment from the department and an assessment from the band. That gives you an idea. The band assessment was \$10 million, and that of the minister \$1 million. As a result, there followed a dispute over the assessment of damages, and that's what was negotiated.

All that to say that the system needs to be reviewed. Have you considered reviewing the system based on experiences in this case? There have been a lot. According to your file, there haven't been any major changes in years. Everyone obviously finds this too long. As an observer, you realize it's too long and that it makes no sense. It means something's not working.

Are the studies too long? Is it necessary to conduct so many studies? Is it in order to gain time in settling claims? I don't know, but the problem deserves serious study, and I believe you can set it up. Have you thought of that?

• (1020)

Mr. Michel Roy: As I said earlier, Mr. Cleary, we began reviewing the process with the Assembly of First Nations some 10 years ago in order to improve and expedite claims resolution. That attempt lasted a long time, but it has remained unsuccessful.

However, it nevertheless put us on the right track for potential solutions. For example — and Ms. Stewart can say more about it if you wish — instead of the Assembly of First Nations conducting its research and us ours, we're going to encourage joint research from time to time. We're trying to see whether we can do it together and whether both parties can agree on the terms of reference and so on. In addition, together with the Department of Justice, we're trying to group claims together under certain themes to expedite the process on the justice side as well. The purpose of these efforts is to try to determine new ways of doing things that will make it possible to accelerate the whole process a little.

Would Ms. Stewart like to add something on the subject?

[English]

Ms. Audrey Stewart: Thank you. I would just add a couple of things.

The point you've identified, where we need to rework, we need to go back and ask additional questions, has indeed been the focus of a lot of recent attention. We have, I think, improved our processes there, and we've started to work with first nations organizations to make sure that we're clear in what we ask of them, so that nobody has to do it again, we only do it once. But the thing I would remark is that particularly when some settlements go up as high as \$60 million, \$80 million, we can't reach a settlement at that level without careful attention so that we know it's a fair settlement.

Sometimes we can do without the studies, sometimes we need them. So this is something that will continue, a push for relevant information, so the parties can negotiate fairly and in an informed way. We can make it faster, but it can't make the need for an information base for decision-making disappear. And I know that's not what you are suggesting.

[Translation]

Mr. Bernard Cleary: I didn't want to suggest at all that it would be good to botch matters. The size of the claim is an important factor. When it's \$50 or \$60 million, it goes without saying that it's more complicated than a claim representing \$12 million.

[English]

The Chair: Thank you, Mr. Cleary.

Mr. Valley.

Mr. Roger Valley: Thank you.

Thanks for your patience today as we've got into this issue. My question will be for either one of you who will feel comfortable answering it. I have several short questions.

You mentioned there are over 70 new claims a year. I come from northern Ontario, where I think there are 30-some claims active, or something like that. There is quite a bunch of them, although nothing compared to what's out west. You mentioned that a third of the claims—I don't mean to put words in your mouth, and correct me where I'm wrong—involve provincial jurisdictions. I would be surprised if it's not more than a third of them that are dealing with provincial jurisdictions, because almost every claim in my riding has a provincial aspect to it.

I'll give you the example of Wapekeka. I spent the day there just recently, and what has happened to the community has happened in many communities. They have claims for this. They were a certain size. They were given so much land, or negotiated so much land, with their treaty rights and everything else. As are many communities in first nations Canada, they're growing rapidly population-wise.

I know there are processes to make sure there can be additions. I know it takes a lot of time through claims for an addition to a reserve. The provincial government has created parkland, which entirely encases the community, because of a major river they're on. So my situation is that in my riding almost every claim has to deal with the province.

How much time does it add to a claim to have a provincial jurisdiction? You mentioned in your opening statement, roughly one-third. Does that extend the time that's involved? You mentioned working in concert with the first nations. Everyone is working in concert now?

•(1025)

Ms. Audrey Stewart: If a provincial government is part of the negotiation, part of the settlement, if their involvement is required, yes, it takes longer. It takes longer for the provincial government to identify where it wishes to be involved, and it takes longer because they have their own considerations that need to be brought to the table and addressed.

I can't speak to the particular instance—

Mr. Roger Valley: No, it's just an example.

Ms. Audrey Stewart: —but yes, it does take longer. It takes longer because each party needs the opportunity to identify their interests, to put them forward and to have them addressed.

Mr. Roger Valley: Following Mr. Cleary's line of questions, you mentioned things are working better. Mr. Roy said we've revamped this program, we looked at it a number of years ago to make it more streamlined. You mentioned it is working better when you are dealing with first nations, because you research it only once. Does that happen with the province, the research is done only once, or are we researching in different timeframes?

Ms. Audrey Stewart: We aren't always beautifully coordinated with the provinces, so that just as we have capacity restrictions, so do they. Sometimes the federal government comes to a decision to offer to negotiate before a province does, sometimes it's the other way around. We share our information base with the province.

Mr. Roger Valley: So by your hesitation, I take it that things are not as smooth in working with the other jurisdictions as they could be to start to move these claims at a—I don't know what the term would be—realistic or faster or a more appropriate pace. Would you care to comment on that? I don't imagine.

Ms. Audrey Stewart: I think all I can say is that each party needs to be there voluntarily, needs to understand why they're there and what they can offer. Of course, every time you add another party to a process coordination gets harder. When are you going to have meetings? What's the schedule of work?

But we have found that provinces recognize obligations to first nations in their own way, and the record of a third of settlements involving provinces does speak to their contribution.

Mr. Roger Valley: Now I'll refer again to my own riding. Out of the 30-some claims that are in my jurisdiction or my riding, many of them seem very straightforward as surveying issues. It's hard to understand how it takes that long for something as easy as to survey land, but I know you have to go back into antiquity, you have to go back and raise these things. But it seems from the bit I know about the issues with the provinces there are always walls thrown up when one jurisdiction approaches the other, and I don't think that's serving the process.

Maybe it's time.... You mentioned that a number of years ago this was looked at. Is there any possibility where we can get better cooperation between jurisdictions? I know you can only speak from the federal side, but has this been tried? Has someone looked at this?

Ms. Audrey Stewart: We do have periodic meetings with.... I think you're from Ontario?

Mr. Roger Valley: Yes.

Ms. Audrey Stewart: We do have periodic meetings with the Government of Ontario to try to coordinate our work, which we've been doing for the last year or so, and we're seeing some greater coming together on priorities there, but we could always do better.

Michel.

Mr. Michel Roy: Madam Stewart is right. We have at least once a year some meetings involving myself with, for example, the deputy minister in Ontario responsible for the specific claim process. Madam Stewart is working with her team at the level of officials with the Province of Ontario. It seems we can build relationships like that with the provinces.

Some provinces have more experience in dealing with specific claims than others. They are less concerned, if I could say that, because they are going through it. If we think about Saskatchewan, for example, where we have a huge number of TLE agreements done and signed involving the province, it's easier for the province to get involved in the specific claims because they better understand their responsibilities in regard to claims.

• (1030)

Mr. Roger Valley: Lastly, and you may want to comment on this, from my experience we spend far too much time trying to manage risk. And I understand why you have to do that, but I think we should be turning our thoughts more to providing opportunity and resolutions to these claims, and I know it's difficult for you when you have to manage the risk. You mention the risk of \$60 million to \$70 million claims. How much do we spend trying to manage the risk would be my concern.

I don't know if they have time to respond or not, Mr. Chairman.

Thank you.

The Chair: We'll begin our second round of questioning.

Mr. Harrison.

Mr. Jeremy Harrison: I know Mr. Valley represents northern Ontario and a great number of first nations and reserves, as do I. I represent northern Saskatchewan—the northern half of the province, 58% geographically—with a very large number of first nations. We have a very large number of specific claims, as I'm sure you know. I have to express the frustration they feel. I hear from them quite regularly. A very deep level of frustration is felt by these first nations who have been deprived of land—and Mr. Valley alluded to it—by things as simple as surveying errors.

You wouldn't expect it to take 12, 13, or 15 years to rectify a surveying error, when it's as clear as day.... I'm not saying there shouldn't be investigation into it, but really, I think the timelines are excessive. When you're dealing with issues as straightforward as that, I don't understand how these claims can be put at the bottom of the pile and never seem to be dealt with.

I'm expressing on behalf of those first nations the incredible frustration that's out there. I'm sure you hear of it, but it really is something that I feel as well. It's holding back these first nations. It's holding back development in communities. For example, in my hometown of Meadow Lake, much of the development in the community should be taking place on land that is right now under negotiation for a specific claim. This should be something that's being used to benefit the first nations. This very valuable land is where the development in the community should be taking place. Instead, it's happening out in an area that isn't a natural area for the development.

There are real economic consequences here for the delay. There's a real impact on the lives of first nations people and on the success of first nations, because of the length of time we're taking.

I'll follow up on the last question I asked you, Ms. Stewart. I think what you had essentially told me was that eleven years was a little quicker than usual. I'm wondering if you could give me an average of how long it takes for a specific claim to be resolved. Out of the 268, what would be the exact average length of time for those claims to be resolved?

Ms. Audrey Stewart: I can't give you an exact time. I'm trying to remember numbers here. I would say, taking the 268 that have been resolved, the average time would probably be nine or ten years.

Mr. Jeremy Harrison: And those were generally the more straightforward cases. Is that right? The more complicated ones are still in the pipeline. Would that be a correct assessment?

Ms. Audrey Stewart: No. There have been some extremely complicated ones that have been settled in that group as well.

Mr. Jeremy Harrison: But in general terms, though, the more complex ones are in the pipeline.

Ms. Audrey Stewart: No, I wouldn't say that. I would say that's a characteristic group.

Mr. Jeremy Harrison: I would make a request of the department to file with this committee the average length of time for each claim, how long, on average, the claims that have been settled and how long the claims that are working their way through the process, at each stage, have been in the pipeline as well, if that would be possible.

Ms. Audrey Stewart: We could give you some summary data, if that would be helpful.

• (1035)

Mr. Jeremy Harrison: Why is it unreasonable?

The Chair: You were saying, Ms. Stewart?

Ms. Audrey Stewart: I think summary data could be provided relatively quickly, if that would be helpful.

Mr. Jeremy Harrison: I would like the numbers at some point, but summary data in the near term would be acceptable.

The Chair: Thank you, Mr. Harrison.

Ms. Barnes.

Hon. Sue Barnes: Thank you.

Just for the record—because I know I wasn't on the record when I said that I hadn't said a word—I would like it to be recorded that I didn't say anything, and I will not have words attributed to me that I didn't even say.

We'll start from there. When I look at that, I think we're here to get a process going, and asking for average times is like asking for average times of litigation. We're in an alternate dispute settlement resolution method here, one in which both people have to choose to be there. Nobody forces anybody to come to this table, so maybe I can just sort of start from that.

To me, complexity in general would be an issue. The complexity of a case, whether it's in litigation or alternate dispute resolution, would be one of the issues. That complexity could be from many factors—complexity of the case, complexity of the information, complexity of the partners involved, and just the complexity of a group of people at different levels all dealing with management issues surrounding resources.

Let's start with resources of the commission. You see annual reports from these commissions over the years. Are they using their full budgets, for instance, right now? Does anybody have that answer for me?

Ms. Audrey Stewart: The ISCC publishes an annual report, and in that they do report on their expenditures. In the last five or six, there's an indication they've never used all their authorized funds.

Hon. Sue Barnes: After I looked at some of the material and tried to understand it—and there are volumes of it, obviously—I don't think any person has a complete understanding of any one of the multitude of issues here. I look at reports and see claims settled, for instance, by this body, which is essentially an appeal body. Are they settled there, or what is the real function of that body? What's the mandate?

Ms. Audrey Stewart: I should say that we in the first nations settle claims. The ISCC, as an appeal body, holds inquiries and makes recommendations to government. I think that when they say a claim is completed, that's what they're referring to in their numbers—either that, or...they do from time to time assist by providing facilitation services at negotiation tables; when they've finished their work there, they will issue a report that identifies it as a completed claim.

Hon. Sue Barnes: I think probably the concern for first nations awaiting these claims is they see a situation in which the Specific Claims Resolution Act is not being implemented at this time. Their concern is whether this creates further backlog or affects resources—like, what's happening here?

We've heard concerns around this table. That's partly the reason members have wanted to do this study. Exactly how will the department reduce backlog? What's happening on the ground right now, and is this a real concern? What's happening?

Ms. Audrey Stewart: What's happening on the ground now is that we're reviewing our internal processes. We can do that now because we're now working directly with first nations, so we're reviewing our internal processes. We've identified a number of time savings that are significant in terms of our work, so we'll be implementing those.

We've identified a number of areas in which to work with first nations. I mentioned earlier the idea of improving the submission of the claim—so they know what they need to do, so that we can deal with it faster—and other places in the process, such as the division of work between us and the Department of Justice, so that they can become more efficient.

All of those will make our process more efficient. I can't say, in the spirit of full truth and openness here, that we can do enough simply through efficiencies to reduce significantly the amount of time first nations have to wait.

• (1040)

Hon. Sue Barnes: Are there enough resources to support the process?

Ms. Audrey Stewart: I don't think you'd ever find a program manager here to say there's enough money.

Hon. Sue Barnes: All right.

Maybe this is for Mr. Michel Roy. In the past Canada has challenged this Indian Specific Claims Commission's mandate and jurisdiction. Wouldn't it be more effective to cooperate with the commission? Why does this occur from time to time?

The Chair: Very briefly, Mr. Roy.

Mr. Michel Roy: Thank you.

Of course, cooperation is always the best way, and that's the way we want to approach the work with the commission. At one point the commission was, in our view, going beyond its mandate in the context of accepting claims under appeal, where Canada didn't have a chance to take a decision on the admissibility of the claim. So for us it was clear that the commission was outside of its mandate and we had to challenge.

The Chair: We have Mr. Cleary for a second round of five minutes, and then Ms. Karetak-Lindell.

[*Translation*]

Mr. Bernard Cleary: The question for the Aboriginal side concerns the fact that the Government of Canada is both judge and party in this process. Everyone has criticized the government for that.

As officials, do you have a say on the subject? Is it normal for Canada to be both judge and party? We've long requested that an independent commission be held. The Royal Commission mentioned this possibility, but we can't get this demand accepted.

Are you examining this possibility? Don't you think it's much more normal that an independent commission have a mandate to resolve these questions? It doesn't have to be the Minister of Indian Affairs because ultimately he can constantly influence the course of affairs. It could even be political, although I won't claim that's the case. You're always blamed for the fact that you're both judge and party.

Mr. Michel Roy: I'd like to point out that the very principle of the approach is really conflict resolution. To apply this solution, rather than institute legal proceedings, both parties must nevertheless be at the table and be in agreement. This has to be done on a voluntary basis. So it's necessary for Canada to be in a position to judge whether the claims of the First Nations really give rise to a legal obligation.

For us, the entire concept of alternative dispute resolution is the basis of the process, hence the importance for us both to be present and for us on the federal Crown side to have the opportunity to decide whether there is indeed an obligation that we must meet.

The subsequent negotiation is then very useful in that it becomes easier to build a relationship with the First Nations. In addition, as I said earlier, it's a better way to meet the needs of that community. As Ms. Stewart mentioned, the idea is to rewrite history, the real one. The First Nations now have their own lawyers, who provide them with legal representation. In that way, they have a certain amount of protection and an independent opinion. Among other things, that opinion does not come from the federal government.

I don't know whether that's all right, Ms. Stewart?

Ms. Audrey Stewart: It's all right. Thank you.

Mr. Bernard Cleary: Note that I'm not satisfied by your answer, even though it isn't inaccurate as such. It must be understood that we're talking about a negotiation here, but also about a political action, whether it be for the First Nations or for the government. Whether we like it or not, we live in a civilization of law. The proof of that is that, even though the minister ultimately has the last word on all this, the Department of Justice plays a fundamental role.

We should also not lose sight of the fact that the negotiation concerns, first and foremost, money issues. I know there are slightly different specific claims, but the vast majority of them result in compensation for harm caused. Above all, this is a political question.

I suggest that you continue improving this process. I quite agree that you should conduct consultations. However, if people don't show up and that ultimately stops the process, I think you should find other solutions. They exist, and they could make it so the small communities don't have to wait for these amounts. These are often very significant amounts for their economic development, among other things. The communities don't claim that money just for the fun of having it.

•(1045)

[English]

The Chair: Thank you, Mr. Cleary.

Ms. Karetak-Lindell.

Ms. Nancy Karetak-Lindell (Nunavut, Lib.): Thank you.

I want to get on record who rejected the claim in the first place for the first nations to go into this process.

Ms. Audrey Stewart: The first nations start into this process when they feel that the government has mishandled their land or their assets. That's what starts it. Their submission comes to the department. The department and they interact and get advice from the Department of Justice. Then the minister either agrees to negotiate or does not agree to negotiate.

Ms. Nancy Karetak-Lindell: I just want to make sure this is not a claim that has been rejected by the courts or the province. I just want to make sure.

My next question then is, what is the appeal of going through this process versus, as Mr. Harrison was saying, just going to court? I would think it would be because courts are a win-lose situation—

there's a chance it could go the other way—but a negotiated one is where they have an opportunity to work things out; there may be less in legal fees.... I don't know. What would be the appeal of going through this process?

Ms. Audrey Stewart: I think you've identified some of the key aspects. I'd just like to refer to the claim I was talking about earlier as being a good example why. Yes, it took a long time, but the settlement we got, which put land back to the first nation, which straightened out access problems for that first nation and its neighbour—and yes, there's a financial component to it—is the kind of settlement you could never get out of litigation. The community and the department have drawn closer together through the problem-solving.

So the money is important, and Monsieur Cleary is exactly right, even money.... It doesn't have to be \$10 million to make a difference to a first nation, to be part of their economic development, part of their future. Sorting out relationships with their neighbours and learning to work better with us and our learning to work better with them are equally important, and you just don't get that in litigation, where it's win-lose and money's the answer.

Ms. Nancy Karetak-Lindell: That's the idea I got, that it's for a healthier future for everyone around—all the parties—that you might not necessarily get in a court case.

Coming to my next question, in the past maybe two years or so, we would like to think there has been a change in statements coming from the Prime Minister and certainly the minister. We as Inuit have certainly felt that there's been a shift in thinking about how to deal with aboriginal issues in this country, maybe more than when I was first elected eight years ago.

My question is, have statements made recently by the Prime Minister and even the Minister of Indian Affairs at, let's say, round-table discussions that have been going on for the past year changed a bit how the department deals with and views some of the claims that have been before you? Sometimes our frustration is we're very encouraged by the statements the Prime Minister has made, but when their intent starts to trickle down, some communities are feeling there's not much change at the bureaucratic level. That's where some of our frustrations are, as aboriginal groups.

I'm just wondering, has that caused any differences in how some of these claims are viewed? I know it's a difficult question.

•(1050)

Ms. Audrey Stewart: It's a kind of “have we changed our behaviour” question? The kinds of changes that are occurring are a greater working with first nations to identify what we need to do to get a better result in the end. This is the kind of work that takes a long time to show results, because the process is so long.

Ms. Nancy Karetak-Lindell: I understand.

Ms. Audrey Stewart: But we have always tried to be very transparent with first nations as to what our process is. What we're adding to that now is the discussions I mentioned earlier with the research directors as to how to work together. That, I think, is important, but our focus is always with the individual first nation with whom we're negotiating. We still have to rely on the Department of Justice. It is a lawful obligation requirement that's fundamental to the program.

But as to how we work with first nations, we are continuing to become more open with them.

The Chair: Thank you, Ms. Karetak-Lindell.

There would appear to be no further questions. We normally go back and forth. Is there nobody from the Conservative ranks?

Ms. Barnes.

Hon. Sue Barnes: Thank you very much.

For the record, I want to put a few facts on the table—just simple ones. How does the specific claims branch pay for settlements? Where does that money come from?

Mr. Michel Roy: We have a budget of \$100 million a year for settlements. When it's needed, we can, through a special process, have access to the fiscal framework to pay for claims that will be going over the \$100 million we have agreed to.

Hon. Sue Barnes: What would happen to the specific claims branch if an independent claims body is eventually established?

Mr. Michel Roy: I would say in this case that Canada will always need the ability to review, to analyze, and to negotiate in order to participate in the process, so the specific claims branch will have to be maintained.

Hon. Sue Barnes: Okay. As a general question, why would the number of claims be increasing? Is it increasing?

Ms. Audrey Stewart: The number of claim submissions we get has been relatively stable over the past five to ten years, but there are court decisions that have indicated greater federal responsibility in, for example, expropriations. We are expecting those decisions to lead to more claims in the future.

Hon. Sue Barnes: Okay. What about research funding guidelines? Are they provided to first nations? Are you doing this up front? Has this changed over time? I know you've touched on different processes, but what's changed?

Mr. Michel Roy: The research guidelines and the funding guidelines are being provided to first nations when they come into the process, because they need to understand. We want to make sure they understand how it's working and what criteria would be used. It's being shared; it's a public document we are sharing with the first nations.

Hon. Sue Barnes: Do you ever refuse first nations funding for research?

Mr. Michel Roy: Well, we may sometimes refuse first nations for funding, because one of the key elements will be the fact that it has to be a community recognized under the Indian Act. Sometimes we had groups come to us that were not recognized as bands; then the funding will be refused. The other occasion was with the ISCC process, the commission process. When we are challenging the

mandate of the commission, then, of course, we will not fund the first nations to participate in that process, because we are challenging the mandate.

Hon. Sue Barnes: Okay. I have one last question. Are first nations involved in the claim assessment process? If not, why not? I think that would be more in Ms. Stewart's area.

•(1055)

Ms. Audrey Stewart: Yes, they are. They, of course, are the submitters of the claims. All the research we have developed goes back to them for their review. Where they're not involved is in the preparation of the legal advice, but once the minister has made a decision, there is always an offer to go over the decision, explain the reasons for it, and be open to further input from the first nations.

Hon. Sue Barnes: I think that will be all for now.

Thank you, Mr. Chair.

The Chair: Next is Mr. Valley, who wishes to utilize the final two minutes of Ms. Barnes's time, and then Mr. Harrison.

Mr. Roger Valley: Thank you.

I'm just looking at your flow chart. Ms. Barnes raised the question of the research money and stuff like that, but can you give us a flavour? I want to know how long the first box takes.

You get a BCR from a band council. They want to submit a claim. Obviously, they're going to be informed of the opportunity for research funds. How many of the years of process does it take just for the first one to go through, in your experience?

Ms. Audrey Stewart: We have no access to that information. There's funding provided to first nations. The BCR comes in with the claim, so until we get the claim submission....

I know some claims have been worked on for many years before they get to us.

Mr. Roger Valley: The "many years" that you gave us as an example—is that from the time you get it?

Ms. Audrey Stewart: That's from the time we get it. We have no information about how long first nations' development time is.

Mr. Roger Valley: My concern is the quality of the claims that come in at the start. Are they worked right through the process before you see them? Is the package you receive sufficient for you to start the claim?

Ms. Audrey Stewart: The package we receive is what the first nation feels ought to be sufficient for us, but that's where we need to work with them to make sure—

Mr. Roger Valley: That it's a package that can actually stand the test of time.

Ms. Audrey Stewart: —that it's a package that can move through quickly; yes.

Mr. Roger Valley: So how is that done? Is it through correspondence from you back to the band? How does that work?

Ms. Audrey Stewart: First nations are often supported by provincially organized research groups. We'll be working with those groups to clarify requirements and make sure that when first nations submit claims they can move quickly through the process, and they don't have to go back for additional research or questions.

Mr. Roger Valley: Do you have a timeline for that? Do you see this process finishing—that you're going to have this ironed out, and the proper package will come forward?

The Chair: Ms. Stewart, please be extremely brief.

Ms. Audrey Stewart: Yes.

Our target is to have that information developed with first nations within a year.

The Chair: Thank you.

Mr. Harrison, you have about two minutes; then we have to leave the room.

Mr. Jeremy Harrison: Right. Well, my question will probably take longer to answer in depth.

As I'm sure you know, the 37th Parliament passed Bill C-6, which purported to deal with a number of these issues. I'm wondering if you could tell me what the current status of Bill C-6 is.

Mr. Michel Roy: As you certainly know, the AFN and some of the first nations had some difficulties with Bill C-6. So the minister decided to postpone the implementation of Bill C-6 for now.

Mr. Jeremy Harrison: Is the intention to give the bill royal assent at some point? Or is the bill thrown in the garbage?

Mr. Michel Roy: We already have royal assent for the bill. Right now, it's a matter of implementing the bill. You may want to ask the minister about those plans.

Mr. Jeremy Harrison: Has the department been given direction to prepare to implement the bill at some point?

Mr. Michel Roy: We are waiting for the decision. It's the minister who will decide about the implementation.

The Chair: Thank you, Mr. Harrison.

I apologize, Mr. Cleary. We won't reach you because of the time constraints.

If I may retain the attention of the committee for a moment, less than 24 hours ago our researcher and clerk were advised that Ms. Gélinas could not appear. On behalf of the committee, I appreciate the efforts of Ms. Hurley and our clerk to arrange for our two witnesses to be here this morning from the department so our time could be utilized productively.

To yourselves, Ms. Stewart and Mr. Roy, thank you very much for your appearance and your answers. It's been helpful.

The meeting is adjourned.

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