

Fifth Session - Thirty-Eighth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Public Accounts

Chairperson
Mr. Leonard Derkach
Constituency of Russell

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PUBLIC ACCOUNTS

Wednesday, December 6, 2006

TIME – 7 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Leonard Derkach (Russell)

VICE-CHAIRPERSON – Mr. Jim Maloway (Elmwood)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Messrs. Gerrard, Selinger

Messrs. Aglugub, Cummings, Derkach, Hawranik, Maloway, Martindale, Santos, Schuler, Swan

APPEARING:

Hon. Scott Smith, MLA for Brandon West

Hon. Dave Chomiak, MLA for Kildonan

Hon. Stan Struthers, MLA for Dauphin

Mr. David Faurshou, MLA for Portage la Prairie

Ms. Carol Bellringer, Auditor General of Manitoba

Ms. Bonnie Lysyk, Deputy Auditor General and Chief Operating Officer

Mr. Hugh Eliasson, Deputy Minister of Competitiveness and Training, Department of Competitiveness, Training and Trade

Mr. Don Cook, Deputy Minister, Department of Conservation

MATTERS UNDER CONSIDERATION:

Auditor General's Report–Examination of the Crocus Investment Fund, May, 2005

Environmental Audits–Review of the Province of Manitoba's Management of Contaminated Sites and the Protection of Well Water Quality in Manitoba, dated November 2005

* * *

Mr. Vice-Chairperson: I wish to advise the committee that the Chairperson has told me he will

be a bit late for the meeting. He's on his way over from Windsor Park, and I expect him to be here momentarily, at which time he can take over the Chairmanship.

The meeting has been called to consider the following Auditor General reports– *[Interjection]*

I've been informed by the Clerk that Mr. Reimer is not an official member of the committee. So we must elect a new Chairperson.

Are there any nominations for the position?

Mr. Gerald Hawranik (Lac du Bonnet): Yes, I nominate the Member for Russell (Mr. Derkach).

Mr. Vice-Chairperson: Mr. Derkach has been nominated.

An Honourable Member: Point of order, Mr. Vice-Chairperson.

Point of Order

Mr. Andrew Swan (Minto): Yes, I know it's generally been the convention that's grown up around this committee that the opposition appoints the Chair–

Mr. Vice-Chairperson: Order, please. I must inform you that the only business we may consider at this time is the election of a Chairperson.

Our rule 7(3) states: "During the election of a Speaker there shall be no debate." *Beauchesne's* citation 760 notes: "Committees are regarded as creatures of the House."

This rule does extend to the election of a Chairperson in our standing committees. Therefore, any and all other matters must wait until the election of the Chairperson has been concluded.

* * *

Mr. Vice-Chairperson: Mr. Derkach has been nominated. Are there any other nominations?

Hearing none, I declare Mr. Derkach elected. Will you please take the Chair.

Mr. Chairperson in the Chair

Mr. Chairperson: Good evening, and we'll call the meeting to order. The first order of business is to consider the matters that have been brought before this committee for this evening's consideration.

The meeting has been called to consider the following Auditor General's reports: Examination of the Crocus Investment Fund, May 2005; and Environmental Audits – Review of the Province of Manitoba's Management of Contaminated Sites and the Protection of Well Water Quality in Manitoba, dated November, 2005.

Are there any suggestions for the committee as to how long we should sit this evening?

Mr. Jim Maloway (Elmwood): Mr. Chairman, I'd suggest we sit till 9 o'clock and revisit after.

Mr. Chairperson: Is that the will of the committee? *[Agreed]*

So the committee will sit until 9 o'clock, and then we will reconsider at that point in time.

Before we can proceed to discuss the reports before the committee, we must first consider an outstanding motion from our previous meeting. At the March 15, 2006, meeting of this committee, Mr. Cummings moved a motion relating to a letter submitted to the former PAC Chairperson from the former Leader of the Opposition, and the honourable Member for River Heights (Mr. Gerrard).

During debate on the motion, Honourable Minister Selinger moved an amendment. The amendment carried, but the main motion, as amended, is still before the committee. For your reference, the amended motion reads as follows:

THAT the list in the March 15, 2006, letter be accepted as a recommendation that those whose names appear on the letter also appear at the committee and that the Public Accounts Committee recommend this referral of the recommendation regarding witnesses be referred to the House Rules Committee.

What is the will of this committee?

Mr. Glen Cummings (Ste. Rose): Well, Mr. Chairman, no desire to slow down the process here this evening which, obviously, leaving that motion on the table would do, but I wonder if it would be appropriate to also ask at this time about other outstanding business that we've not yet completed. That was, I understood that there was an agreement between House leaders as to who would be available

for committee tonight. While that may be too soon to ask, I do not see at least one member here that we had asked to be available to appear.

Mr. Chairperson: The way I think we need to proceed is to, first of all, deal with the motion that's before us. We can either vote on this motion or you may decide to take some other action. After that motion has been dispensed with, we can then deal with other issues.

Mr. Cummings: I'm prepared to withdraw the motion in question.

Mr. Chairperson: Is there unanimous consent or agreement to withdraw this motion? *[Agreed]*

Then I declare the motion withdrawn.

Mr. Cummings: Is there a decision outstanding about which report we will deal with first?

Mr. Chairperson: Mr. Cummings, I guess I'm available for comment, but are there any suggestions regarding the order in which we should consider these reports?

Mr. Cummings: Well, I'd like to suggest that we would begin with the report on the Crocus Fund.

Mr. Chairperson: Are there any other suggestions? Is that agreed?

An Honourable Member: Agreed.

Mr. Chairperson: I'm sorry, Mr. Selinger.

Hon. Greg Selinger (Minister of Finance): I just wanted to, through the Chair, clarify with the opposition whether they thought they wanted to spend a lot of time on the Environmental Audits. If we think that we can deal with it fairly quickly, I'm wondering if we might want to just do that and get it out of the way, because we have people here on that one.

Mr. Chairperson: Any suggestions?

Mr. Cummings: Well, the fact is, I would suggest that this side of the table is a little bit concerned that we would get bogged down in the examination of the management of contaminated sites. We certainly want to spend a significant part of this evening on the Crocus Fund.

Hon. Jon Gerrard (River Heights): May I suggest that we allocate a specific amount of time to the audit on contaminated sites, let's say 45 minutes, and then move on to the other one, the Crocus?

Mr. Hawranik: May I suggest that, if we're to deal with both reports, we deal with Crocus first and proceed next to the contaminated site report and allocate, perhaps, at the end, 10 minutes to the contaminated site report, before 9 o'clock?

Mr. Selinger: My only concern would be that 10 minutes probably won't be enough to really deal with it in any reasonable way, and, if we're going to allocate some time, perhaps we could allocate enough time that we might be able to dispose of it.

Mr. Swan: Perhaps we could start on the Crocus report, go until 8:15, then step in to the other report, and, if that's concluded, then we could revert to the Crocus and accomplish as much as we can tonight.

Mr. Chairperson: Well, we've heard several recommendations, the last being from Mr. Swan. I'm wondering whether—I'm sorry, go ahead, Mr. Martindale.

Mr. Doug Martindale (Burrows): I will move that we spend till 8:15 on the Crocus report, and, at 8:15 we revert to the other report that's before us, for 45 minutes.

* (19:10)

Mr. Chairperson: Thank you for your motion, Mr. Martindale.

We've heard the motion, but I'm going to request that Mr. Martindale put his motion in writing, please.

Mr. Martindale: Sure.

Mr. Cummings: While Mr. Martindale is filling out his motion, I just want to make the observation that what we're doing is setting an advance time that will limit possible examination of both reports. The implication of the motion as I see it is that the examination of contaminated sites, the Environmental Audits would be expected to be passed. Is that the understanding of the table?

Then I just want to be on record as saying that while that may be appropriate at this end of the process, it seems to me that we are possibly giving short shrift to what is a very important item.

But we have two very important items on the table, and I just want it on the record the process that was undertaken on Environmental Audits, management of contaminated sites in this province is a significant piece of work. Ultimately, we need to give it the recognition that it deserves.

Mr. Chairperson: Thank you, Mr. Cummings.

It has been moved by Mr. Martindale

THAT the Public Accounts Committee deal with the Auditor General's Report – Examination of the Crocus Investment Fund, until 8:15 p.m. and at that time deal with the Environmental Audits until 9 p.m.

The motion is in order and the floor is open for questions.

Mr. Hawranik: Can I propose an amendment to that motion? The amendment—

Mr. Chairperson: Do you have an amendment, Mr. Hawranik? Do you have it written?

Mr. Hawranik: I will.

Mr. Chairperson: Thank you.

Mr. Hawranik: I would like to propose an amendment that, if we're dealing with the Environmental Audits till 9 o'clock, we go back to Crocus till at least 9:30 p.m.

Mr. Selinger: I believe we've already passed the motion on the original time structuring for the meeting to go till 9 o'clock and then to consider then if we want to consider.

I don't think this amendment is really relevant to this motion. I would suggest that it's out of order.

Mr. Chairperson: Mr. Selinger, the difference here is that the agreement was just that. It was not a motion passed by the committee. Mr. Hawranik is wanting to make an amendment to this motion, which is—we'll look at the amendment and then decide whether it's in scope and then we can have a debate on it after that.

It has been moved by Mr. Hawranik that this motion be amended by adding at the end,

THAT the committee also meet until 9:30 p.m. to consider the Crocus report, following the Review of the Province of Manitoba's Management of Contaminated Sites, which will conclude at 9 p.m. at the latest.

So the amendment is in order, and we will call for the two questions: one on the amendment, and then a question on the main motion.

Before we call for the question, a question has been called, are there any other comments to be made with regard to the amendment? If not, thank you.

The question before the committee is, I'll read it again—

An Honourable Member: Dispense.

Mr. Chairperson: Thank you.

Shall the motion pass? [*interjection*]

This is the vote on the amendment. The amendment is a motion.

Shall the amendment pass? [*Agreed*]

Now, we will call for the vote on the main motion.

* (19:20)

Shall the motion as amended pass? [*Agreed*]

We got all that out of the way.

Okay, we will now begin questions, and the Examination of the Crocus Investment Fund, 2005.

Does the honourable minister wish to make an opening statement? Also, would the minister please introduce officials in attendance.

Hon. Scott Smith (Minister of Competitiveness, Training and Trade): Mr. Chair, it's a pleasure to be here to deal with the Auditor General's Report – Examination of the Crocus Investment Fund. It's a pleasure to be here with my deputy minister, Hugh Eliasson, who's with us here tonight. It won't take up too much time. I know there will be questions on a very good report, and we look forward to answering those questions.

Mr. Chairperson: Thank you, Mr. Smith.

Does the critic for the official opposition have an opening statement?

Mr. Hawranik: No, there will be no opening statement. I would like to just get straight into questioning.

Mr. Chairperson: We thank the member.

Does the Auditor General wish to make an opening statement?

Ms. Carol Bellringer (Auditor General of Manitoba): Mr. Chair, first I'd like to introduce several members of the staff of the office of the Auditor General who are here in attendance today: Bonnie Lysyk is beside me, the Deputy Auditor General and Chief Operating Officer; executive directors Norm Ricard and Greg MacBeth; and audit principals Maria Capozzi, Ron Oswald, Larry Lewarton and John Heke.

One administrative issue that I need to bring to your attention in the context of the Crocus Investment Fund is, from May 12 to June 29, 2005, I was a member of the board of directors of the Crocus Investment Fund, and the audit report, of course, is on the agenda for today. Our office's legislation addresses situations where I'm unable to act and the Deputy Auditor General, in those situations, has the power of the position.

Thank you, Mr. Chair.

Mr. Chairperson: I guess, now, we will proceed to questions. The floor is open to questions.

Mr. Hawranik: Mr. Chair, I thank the Auditor for that statement and declaration. My question is to the Auditor General. On page 145, it indicated in January 2002, the finance official suggested that Crocus's continuing request for legislative amendments may be a sign of management issues and that an independent review of Crocus's operations may be in order.

Now, it was determined at earlier Public Accounts meetings that this, as I understand, was an e-mail that was sent from Finance to Industry, and it was also indicated by the deputy minister at previous meetings that it could have been sent to three, four or five people within the Department of Industry. That's on page 43 of December 8 *Hansard* in Public Accounts. So it was determined that it was an e-mail.

My question to the Auditor is whether that e-mail is a paper copy, or was it just in the memory bank of a computer?

Mr. Chairperson: The Auditor General, or the Deputy Auditor General?

Ms. Bellringer: If I could, Mr. Chair, if the deputy could please answer the question.

Ms. Bonnie Lysyk (Deputy Auditor General and Chief Operating Officer): With that particular one that you're mentioning, it was a copy of an e-mail.

Mr. Hawranik: I take it from that answer that the copy of the e-mail was in paper form?

Ms. Lysyk: Yes.

Mr. Hawranik: Now, it also was indicated on December 8 that it was addressed to three, four or five, I think the deputy minister indicated three or four or five individuals in the Industry Department. Was there any indication on that e-mail whether it was cc'd to other individuals?

Mr. Chairperson: I'm going to just ask for the correct pronunciation of your name, if I might. It's Lysyk? Ms. Lysyk.

Ms. Lysyk: Yes.

There was a cc on the e-mail.

Mr. Hawranik: Was it to one of the three, four or five individuals in Industry to whom it was addressed, or was it separate and apart from those three or four or five individuals?

Ms. Lysyk: I'll answer that, and then I'll put it in context, if I may. No, it was not cc'd to a member of Industry and Trade.

With respect to this section in our report, there has been a lot of discussion around it, so I think it's important that we put the comments and the material that we have in the report in context. During the course of an audit, a lot of documentation is accumulated. They're only specific documents that are referenced in the report, so it does not necessarily mean that our conclusions are based just on documents in the report. Chances are there was other supporting information.

A lot of focus and discussion has gone on around the January 2002 and who received what information, and, just to put it into context, in the whole section of the report what we're really saying in that section is that, as early as 2001 and, perhaps even sooner, there was documentation with an IEDM and the Department of Finance that indicated that there was an awareness around the liquidity issues around Crocus. The rest of the report basically deals with the issue of Crocus and the legislative amendments that they were requesting in order to address their liquidity concerns.

So I just thought it was important to put the context of that reference on page 145 in the context as it being one piece of information that cites a red flag.

Mr. Hawranik: Is part of your investigation, as the Auditor's investigation, did it include examining the computer from which the e-mail came or to where it went?

Ms. Lysyk: No. The majority of the documents with reference in this section were from IEDM or the Department of Finance or the files of Crocus Investment Fund.

Mr. Hawranik: Now that the Deputy Auditor indicated that it wasn't cc'd to any individual in Industry, was it cc'd to someone in Finance?

Ms. Lysyk: Yes, it was.

Mr. Hawranik: Was that cc given to the minister or the deputy minister?

Ms. Lysyk: No, it was not cc'd to a deputy minister at the time.

Mr. Hawranik: Could you clarify "at the time?"

Ms. Lysyk: Yes. The cc is not to a deputy minister in 2002.

Mr. Hawranik: Any indication of a reply to that e-mail?

Ms. Lysyk: No. The e-mail just basically dealt with the information that's on the bullet on page 145. We do not have a copy of a reply.

Mr. Hawranik: Did you discover any evidence whether or not that e-mail was or was not brought to the minister's attention?

Ms. Lysyk: No. We were not reviewing the documents with that objective.

Mr. Hawranik: So that e-mail could have been brought to the attention of a minister. You weren't looking for that particular piece, I take it, so it could have been brought to the attention of a minister, and you wouldn't have known it.

Ms. Lysyk: I suppose that's possible, but, as I indicated, we weren't looking for that.

* (19:30)

Mr. Hawranik: I note on page 146 of the report, reference is made to a higher authority. Was the e-mail addressed or cc'd to that higher authority?

Ms. Lysyk: Again, if I could place this in context, the point of reference is one piece of correspondence that highlighted that there were concerns around management issues around CIF. That's in the context of other correspondence around the issue of Crocus. So, going back to your question, in terms of higher authority, between 2001 and up, there was knowledge of issues around Crocus with an IEDM and the Department of Finance.

Mr. Hawranik: Again, given the reference to the higher authority on page 146, whoever that may be, maybe one or more persons, was that particular e-mail addressed or cc'd to the person referenced as the higher authority in the report?

Ms. Lysyk: No.

Mr. Hawranik: You indicate in the report on page 14 that the office did a limited review of Crocus, and in the Public Accounts on page 37 of the December 8 *Hansard* the Auditor stated that he didn't interview any ministers to prepare for the Crocus report, so he can't make specific reference as to what they did or did not know. Do you continue to stand by that statement?

Ms. Lysyk: Yes, and the reference to a limited review on page 14 was with respect to our initial scoping of what we would look at. The review was then expanded as indicated on page 14. But, yes, we did not interview ministers.

Mr. Hawranik: In your audit of the Crocus Fund, were you in particular looking for any political interference at Crocus?

Ms. Lysyk: No. The objectives of our review were as indicated on pages 15 and 16 of the report.

Mr. Hawranik: Given that it was an e-mail and the fact that you didn't interview the Finance Minister or the Minister of Industry, were the computers examined at all belonging to the Finance Minister or the Minister of Industry?

Ms. Lysyk: No. The focus of our review was on Crocus Investment Fund versus the ministers' correspondence.

Mr. Hawranik: Were the computers ever examined belonging to the Deputy Minister of Industry or the Deputy Minister of Finance?

Ms. Lysyk: No.

Mr. Hawranik: Was the computer of David Woodbury, who is a government appointee to the Treasury Board—was his computer examined?

Ms. Lysyk: No.

Mr. Hawranik: Was David Woodbury ever interviewed in your examination of the Crocus Fund?

Ms. Lysyk: During the course of any audit we interview many people. Thinking about this, it would likely be unfair to identify who during the course of an audit we have interviewed. That is not our customary practice to communicate that. I think the generalization we haven't interviewed ministers is a fine one to say, but to be specific to individuals, that would be a practice we probably wouldn't want to set a precedent for, or the office hasn't had a precedent for before.

Mr. Hawranik: I can't recall your answer to a previous question, but can you refresh my memory as to whether or not you examined any evidence on any computer?

Ms. Lysyk: During the work at Crocus Investment Fund we did review computer information that was resident on the computers at the fund.

Mr. Hawranik: Did you look for any evidence of deleted computer files or memos or e-mails at Crocus?

Ms. Lysyk: No.

Mr. Hawranik: Could the contents of the e-mail that is referenced in 2002 as coming from Finance to Industry, could the contents of the e-mail have been discussed with the minister without providing the particular e-mail to him?

Ms. Lysyk: The section of the report that deals with the monitoring of Crocus we believe does indicate that during a period of time there was an awareness within the Department of Finance and the Department of Industry that there were liquidity issue concerns with respect to the Crocus Investment Fund.

Mr. Hawranik: You think it was an awareness of liquidity within Finance and Industry. Did you find any awareness of such problems within Crocus to the level of the Minister of Finance or the Minister of Industry?

Ms. Lysyk: Could you repeat that question one more time, please?

Mr. Hawranik: Yes, you indicated that there was an awareness within Industry and Finance with regard to liquidity problems at Crocus. Did that level of awareness extend as well to the Minister of Industry and the Minister of Finance?

Point of Order

Mr. Chairperson: Mr. Swan, on a point of order.

Mr. Swan: I'm not certain that it's fair to ask the Deputy Attorney General. I mean, the question can be—sorry, the Deputy Auditor General—the question can be about whether she or any of the staff found any evidence. What Mr. Hawranik is asking her to do is to speculate about something that she would not have any knowledge of.

Mr. Chairperson: Mr. Hawranik, on that same point of order.

Mr. Hawranik: Mr. Chair, I'm not asking for hypothetical. I'm asking whether there was any evidence or whether there was an awareness of liquidity problems at Crocus, whether she found any evidence of that within the knowledge of the Minister of Finance and the Minister of Industry. I'm asking her what she found in terms of evidence. I'm not asking her to speculate.

Mr. Chairperson: Any other contributions to that point of order? None? I thank you for the contributions, but, Mr. Swan, you do not have a point of order.

I would just have to note that the Deputy Auditor General may decide that a question is not one for her to answer, and she can make that known at that point in time.

* * *

Ms. Lysyk: In the report, we do identify that there was correspondence and discussions between the Crocus Investment Fund and the Province with respect to liquidity issues at Crocus.

Mr. Hawranik: You indicate that there was correspondence between the fund and the Province with respect to liquidity issues, but my question is to what level did that go. Did it go simply to the department itself or would it have gone as high as any one of the ministers, whether it be Industry or Finance?

Ms. Lysyk: In the sections of the report that deal with the monitoring by industry, economic development and mines, we do highlight a number of points. The points that are highlighted in this section deal with information that people within the Department of Finance and the Department of Industry and Mines were aware of.

Mr. Hawranik: Was there any evidence to show whether or not that level of awareness was at the ministerial level?

*(19:40)

Ms. Lysyk: The information that was contained in this report, in some instances, was information that was shared communication between the officials in the Department of Finance, Industry and Mines and their respected ministries.

Mr. Hawranik: We understand that it's the officials, themselves, and I take your definition or the associate auditor's definition of officials would not—

would that include ministers or would it just be civil servants within the departments themselves?

Ms. Lysyk: No. There was communication. The ministers with respect to those two portfolios would have had discussions. There is information that indicates there was communication from staff to their ministers with respect to the issues at Crocus Investment Fund regarding Crocus Investments Fund's request or changes to legislation. The changes to legislation related to the liquidity issues from Crocus's documents, with respect to changes that they needed for liquidity purposes.

Mr. Hawranik: Getting back to the e-mail, and again the question is: Could the contents of that e-mail, the 2002 e-mail, have been discussed with the minister without providing the e-mail to him?

Point of Order

Mr. Chairperson: Mr. Swan, on a point of order.

Mr. Swan: Yes, Mr. Chairperson. We have a question which is entirely hypothetical. He's asking the Deputy Auditor General and her staff to guess whether or not something did or didn't happen. It's fair game for Mr. Hawranik to ask about any documents, any e-mails, the results of any interviews, but to simply ask the staff who are here tonight to guess or speculate about what may or may not have happened is, frankly, an abuse of the Auditor General's office.

Mr. Chairperson: Mr. Hawranik, on the same point of order.

Mr. Hawranik: On the same point of order, Mr. Chair. I am not asking the Deputy Auditor whether it did or didn't happen. I am asking whether it's possible that it could have happened and, obviously, I am not saying whether it did or it didn't. I am not asking for a definitive answer.

Mr. Chairperson: Thank you. Thank you, Mr. Swan. With the greatest of respect, this is not a point of order, Mr. Swan, and therefore we will proceed.

I might just add, for the information of the committee, we do have professionals at the table, and if, in fact, a question is one that the Deputy Auditor General does not feel appropriate to answer I am sure that she will make it known in her response.

*(19:50)

Ms. Lysyk. Oh, I am sorry, Mr. Swan.

Mr. Swan: With all due respect, Mr. Chairperson, I wish to challenge that decision.

Mr. Chairperson: I am going to ask for the committee's indulgence for a minute or two until we check some rulings.

I'd like to thank the committee for your patience. The ruling of the Chair has been challenged. Shall the ruling of the Chair be sustained?

Voice Vote

Mr. Chairperson: All those in favour of sustaining the ruling of the Chair, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All of those opposed to sustaining the ruling of the Chair, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: You know, I have a problem here. I'm not like the Speaker. I don't hear as well.

Well, in my opinion, I would say the Yeas have it. Just thinking to how the Speaker would rule.

Formal Vote

An Honourable Member: Recorded vote, Mr. Chair.

Mr. Chairperson: A recorded vote has been requested.

Before we have the recorded vote, I will read the members of the committee: Mr. Aglugub, Mr. Cummings, the Honourable Mr. Gerrard, Mr. Hawranik, Mr. Maloway, Mr. Martindale, Mr. Santos, Mr. Schuler, the Honourable Mr. Selinger, Mr. Swan.

A recorded vote has been requested.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 4, Nays 6.

Mr. Chairperson: The ruling of the Chair has been overturned.

Ladies and gentlemen, for your information, what this means now is that the questions of a hypothetical nature, a precedent has been set here where questions of a hypothetical nature will be ruled out of order. This, of course, is not the practice of this committee, but, nevertheless, because the

ruling of the Chair was overturned in this matter, from now on for this committee hypothetical questions will not be allowed.

Hon. Dave Chomiak (Minister of Justice and Attorney General): In the interests of moving this along, I always thought that hypothetical questions, in any instance, were generally not in order.

Mr. Chairperson: For the information of the Government House Leader, I would like to inform you that, in the House, hypothetical questions are usually not allowed. However, in committees, hypothetical questions have been allowed, and that has been the practice over time. Thank you.

Any other comments in that regard? If not, we will go back to the questioning, and I will then ask Mr. Hawranik to rephrase his question.

Mr. Hawranik: Well, obviously, if the—just to give a bit of background to my next question, the contents of the e-mail, obviously, could have been discussed with the minister without providing the e-mail to him. Whether or not it was addressed to the minister or the deputy minister is almost irrelevant. E-mails can be reduced to paper form where they can be discussed with the minister directly. So, in reality, whether or not the e-mail, as the Premier (Mr. Doer) has stated, stood up in the House many times and said, well, the e-mail wasn't directed to the minister, and there was no cc to the minister, the e-mail didn't go to the Premier is almost irrelevant because, in fact, the e-mail could have been reduced to paper form, or the contents of the e-mail could've been directly discussed with the Premier or the minister, and they may have been aware of it. They could've been aware of it, and there was that possibility. The three red flags are, relatively, clearly documented on pages 145 and 146 of the report.

I ask the Deputy Auditor whether the Auditor General looked for evidence as to why those three red flags were ignored by the ministers.

Ms. Lysyk: I can't comment on whether the red flags were ignored per se. What I can comment on is that the documentation or the information that we highlighted did outline that there were liquidity concerns with respect to Crocus that stemmed from requests or were related to requests for legislative changes.

Mr. Hawranik: To the Deputy Auditor: Did the Auditor General look for evidence as to whether these red flags were known at the highest levels? Did you at all look for evidence as to whether they were

known by the Premier, the Finance Minister or the Industry Minister?

Ms. Lysyk: Our objective was not to look to determine whether ministers were aware of various pieces of correspondence, but the section that is outlined in the section dealing with IEDM monitoring identifies that there was an awareness within the two ministries, that there were requests from Crocus for legislative changes that were related to potential liquidity issues they were facing.

Mr. Hawranik: Did the Auditor in its investigation of Crocus interview anyone who was a member of the Treasury Board?

Ms. Lysyk: We interviewed a number of people throughout the two departments, as well as members in Treasury Board.

Mr. Hawranik: Members of Treasury Board include various ministers, and they also include the associate secretary, and you indicated that you did not interview any ministers.

Ms. Lysyk: We did not interview any ministers. We did interview people in administration, and I referred to it as Treasury Board, but Treasury Board Secretariat, I suppose.

Mr. Hawranik: Your audit of the Crocus Investment Fund, did you ask for any of the paper files of the Premier regarding Crocus?

Ms. Lysyk: No.

Mr. Hawranik: Were any paper files examined belonging to the Finance Minister or the Industry Ministry?

Ms. Lysyk: Not belonging to the ministers. No.

Mr. Hawranik: So all the files that you examined were, including computers, related only to those who were not ministers. In other words, you didn't examine any computers of the minister, you didn't examine any paper files of the minister, and you did not interview any ministers. Would that be correct?

Ms. Lysyk: That's correct.

Mr. Ron Schuler (Springfield): I have a few questions for Mr. Eliasson. My first question is: Sir, how long have you been Deputy Minister of IEDM?

Mr. Hugh Eliasson (Deputy Minister of Competitiveness and Training, Department of Competitiveness, Training and Trade): I became Deputy Minister of the Economic Development department in 1988. I served there until 1991. I then

became Deputy Minister of Government Services. I was then Deputy Minister of Advanced Education, and I became Deputy Minister of the Economic Development department again, in 1999. Throughout my tenure, it's had many different names.

Mr. Schuler: Could you tell us from 1999 until today which ministers you've served?

Mr. Eliasson: MaryAnn Mihychuk, Scott Smith and Jim Rondeau.

Mr. Schuler: So, over the years, is it fair to say you would've prepared many briefing notes for all three ministers?

Mr. Eliasson: I actually don't prepare briefing notes.

* (20:00)

Mr. Schuler: Of course, the deputy minister is correct. I am not under the assumption that he at night sits with his candle flickering next to his notepad and he in longhand writes out the briefing notes. I, of course, meant that the department under his leadership, they would be the ones who would prepare briefing notes for ministers on various topics. Is that correct?

Mr. Eliasson: That's correct.

Mr. Schuler: Would it be fair to say that your department, through your leadership, would have requested briefing notes to be prepared on the Crocus Fund?

Mr. Eliasson: Briefing notes were prepared on the Crocus Fund; that's correct.

Mr. Schuler: Would it be fair to say that the ministers that you served from 1999 on would have been briefed by yourself and by officials from your department?

Mr. Eliasson: Yes, that's correct.

Mr. Schuler: When you were briefing the minister from, the minister of the dates November 4, 2003 to October 12, 2004, could you tell us who would have been part of that briefing insofar as public servants? Who would have been in the meetings?

Mr. Eliasson: Well, obviously, depending on the issue. It would depend on the issue what officials were involved.

Mr. Schuler: I'll rephrase my question, when the department was briefing the minister on Crocus, the Crocus Fund between November 4, 2003, and

October 12, 2004, which officials would have been present at those meetings?

Mr. Eliasson: Well, I can answer it in general terms. I don't recollect who was present at every particular time, but most commonly it would be the Director of Financial Services and the account manager within that branch who carried primary responsibility for Crocus.

Mr. Schuler: Anytime between 1999 to present, would Mr. David Woodbury have been part of those briefings?

Mr. Eliasson: Mr. Woodbury was not part of briefing that the department, that our department provided to the minister.

Mr. Schuler: Would Mr. Woodbury have been in the meetings when the minister was being briefed?

Mr. Eliasson: Mr. Woodbury, as I recall, was present in some meetings when legislative options were being discussed regarding Crocus.

Mr. Schuler: Can he, the deputy minister, tell us when he first became aware that there were financial difficulties at the Crocus Investment Fund?

Mr. Eliasson: The first indication that I had that there were issues with valuations was on September 24, 2004.

Mr. Schuler: Can the deputy minister then tell us, did he promptly brief the minister of the concerns that were raised with him?

Mr. Eliasson: Following the publication of Crocus's share price on September 24, I notified the minister of the fact that the share price had been devalued.

Mr. Schuler: I seem to have it as September 23, 2004, when the board approved the drastic write-down, 23rd, 24th, whichever. So, until that point in time, you were not aware that there was that severe of a problem at the Crocus Investment Fund?

Mr. Eliasson: That was the first indication that I had that there were valuation issues at Crocus.

Mr. Schuler: But, previous to that, were you aware that there were difficulties at the Crocus Investment Fund, not necessarily valuation issues?

Mr. Eliasson: Well, what kind of issues are you referring to?

Mr. Schuler: We were all, sort of, around when a former colleague from Fort Whyte was going to have a press conference and then withdrew the press

conference, although he bore the brunt of many in the city and ended up being right. For that, many Manitobans owe him a great apology.

When the former Member for Fort Whyte stepped forward and raised some issues for which he then was greatly punished in the media, did you, sir, ask your department to look into any of those issues that there were problems at the Crocus Investment Fund?

Mr. Eliasson: No, I didn't. The Member for Fort Whyte, at the time, raised those issues, and then I believe that not long after he changed his position on those issues.

Mr. Schuler: Did the minister at that time indicate to you that, perhaps, some of those issues that were raised should, perhaps, be looked into?

Point of Order

Mr. Chairperson: A point of order, Mr. Swan?

Mr. Swan: Yes, the Member for Springfield has gone on for some time, and we want this to proceed. I think he's now well outside of questions that are appropriate for the deputy minister under rule 118.1(2). I would hope, Mr. Chair, that perhaps the member could simply ask some questions in a different way so that we can keep things moving tonight, but the question is out of order.

Mr. Chairperson: Mr. Schuler, on the same point of order, please.

Mr. Schuler: Yes, I mean, really what we are doing is dealing with the report here, and that's where we want to focus ourselves on. On page 182, 5.4 Recommendations, point No. 5, "That IEDM define the appropriate course of action to take when information obtained indicates that compliance with the spirit and letter of applicable legislation may be in jeopardy." That's actually where we're zeroing in on. In fact, on page 183, the OAG suggests that certain events should have prompted the department to take action above and beyond its routine monitoring. The department acknowledges that Crocus strictly requested legislative changes, so on and so forth.

So what we're actually doing is bearing down on these various issues, and we are really focussing on the report. Again, we do have at this committee the tyranny of the majority, and I understand that the governing party can overrule the Chair at any time, but I actually think we're well within the report and what we're trying to do here.

Mr. Chairperson: On the same point of order, Mr. Swan?

Mr. Swan: I commend the Member for Springfield. He has pointed to a section of page 182 which is, indeed, the recommendations of the Auditor General's department. What he's quoted, of course, is that there be a definition of the appropriate courses of action to take when information obtained indicates that the compliance with the spirit and letter of applicable legislation may be in jeopardy. Of course, what this is talking about is prospectively what the department should be doing, and it's fair game for him to ask the deputy minister what steps the department has taken since the Auditor General's report has been issued, ask about the implementation, but the difficulty is that my friend is asking questions from before the Auditor General's report came out, so it is outside of section 118.1(2).

Mr. Chairperson: Are there any other contributions to this point of order? Thank you to the committee.

Ladies and gentlemen of this committee, may I just read the section from our rules that relate to these types of questions. It's section 118.1(2). I will just read the last sentence. "The deputy minister may be questioned on matters related to the Auditor General's report recommendations and related matters of administration within the department. Questions of policy must be directed to the minister."

* (20:10)

Now, I think we want to get on with as many questions that are related to the Crocus Fund, which we are examining at this point in time, as we can. I would just like to caution those members

I would just like to caution those members of the committee who are asking questions to ensure that those questions are relevant to the report. I'm not suggesting that they are not, but in this instant, ladies and gentlemen, I have to rule that this is not a point of order, but I do, at the same time, respect the views of members of this table and caution members to ensure that we do stay within the parameters of what we are here to examine. Thank you.

* * *

Mr. Schuler: Again, I think it's very healthy to know within what framework decisions were being made that we understand what kind of legislation then was necessary and is necessary. Certainly, the response from the department was very clear. The department acknowledges that Crocus frequently requested

legislative changes, but understand that we need a little bit of background. Now, I didn't think we were too over the top with those questions. We only have a few more questions left, and then we have to move on to the next report.

So I do want to ask the deputy minister one more time, and I'll rephrase my question: When the deputy minister was briefing the minister on Crocus, when did he raise a red flag with the minister in regard to the Crocus Fund?

Mr. Eliasson: There are several issues that have been identified in the Auditor's report. Many of the red flags talk about the repeated requests for legislative change, and the department acknowledges that Crocus did make several requests for legislative change over the entire tenure that I've been with the department since 1999. They were not alone in doing that. The other labour-sponsored investment fund that operates in Manitoba also requested legislative changes. The legislative changes that were made occurred in 2001, and they occurred in the spring session of 2005 and the spring session of 2006, and those are the three instances where legislation was changed during the time that I was deputy minister of the department.

In the time in between, Crocus was advocating for legislative changes, and I think the Auditor's report directs that towards their response to potential liquidity issues, and the department was in frequent discussion with Crocus over how to deal with redemptions.

The legislation requires that investors leave their investment in place for eight years. So, at some point, redemptions are going to occur, and that's not a secret to anybody. Crocus had two of their biggest selling years in '98-99 and in '99-2000, and the majority of those sales occur in the latter part of the RSP season. So January and February account for the bulk of sales for both funds in any particular selling season.

The whole period is eight years. So, from '99 to February of 2007 would be a big redemption period, and from 2000 to February of 2008 would be a big redemption period. That was what was coming down the pipe for Crocus, and they had several ways to deal with that. One was to change the legislation to put in place an exclusive maintenance test instead of a pacing requirement on placing new money as it was sold. That is similar to the legislative regime that exists in Ontario, and it's similar to the legislative regime that exists for federally registered funds.

The province of Québec is quite different in that—my understanding is that the investment in labour-sponsored funds in Québec is locked in until such time as the investor retires and converts their investment into a RIF. So they don't have the eight-year hold period, but it could be much longer depending at what age someone began investing in those funds. So that was the challenge that Crocus had.

Another way to deal with the coming redemptions was to liquidate their investments. To my knowledge, Crocus never failed to redeem legitimate requests for redemption right up until the time when they stopped trading on December 10.

So, when we talk about liquidity problems, it's a potential liquidity problem, and they needed a plan in place to deal with that. That was the discussion that the department had continually with Crocus.

Mr. Chairperson: The hour being 8:15, I am going to ask that we now move to consider the Auditor General's report regarding Environmental Audits – Review of the Province of Manitoba's Management of Contaminated Sites and the Protection of Well Water Quality in Manitoba, dated November 2005.

I would ask the minister who is responsible along with his officials to take their places, please.

Before we begin the questions, ladies and gentlemen, I would ask the minister responsible whether he has an opening statement, and I would also ask him at this time to introduce officials of his department that are at the table.

Hon. Stan Struthers (Minister of Conservation): I would be happy to, Mr. Chairperson. I am joined by my very talented Deputy Minister Don Cook.

I want to begin by saying that I am very pleased to be here tonight to answer some questions and talk about the report that is before us. I very much look forward to working through the recommendations of this report, and I think it is very useful in helping us, our department, deal with contaminated sites. I very much appreciate the level of co-operation between our department and the office of the Auditor General.

With those few words, I look forward to some questions.

Mr. Chairperson: Thank you.

Does the critic for the official opposition have an opening statement?

Mr. David Faurichou (Portage la Prairie): I want the record to reflect that the report that we're now discussing was tabled in the House November 25, 2005, in excess of a year ago, and there is a lot of material that is within this document that is of vital importance to the province. So I would just like to get to the meat and potatoes of it right away.

Mr. Chairperson: I thank the member.

Does the Auditor General have an opening statement?

Ms. Bellringer: I'll just briefly go through the nature of—there are actually two audits included in this report. One of them is on the management of contaminated sites, and that one we had initiated in response to the Public Sector Accounting Board which is PSAB of the Canadian Institute of Chartered Accountants, the requirements of the accounting body to accrue and disclose environmental liabilities in accordance with recent standards for accounting for liabilities and contingent liabilities.

When we looked at it, we examined the provincial management of sites owned by the departments and special operating agencies, orphaned and abandoned mines and the O & A fuel storage sites.

* (20:20)

In the course of the review at the time of the report, we found the Province had not developed adequate processes to identify and remediate its own contaminated sites. We also pointed out that the legislation was not clear regarding the responsibility and liability for the O & A mine sites and for the O & A fuel storage sites, and those sites that may have been abandoned have left the Province with the responsibility for assessment of remediation with costs potentially exceeding \$75 million.

I will add that one of the recommendations was that there be an inventory of this information available for the Public Accounts audit for the year ending March 31, 2006. I can confirm that, since the period of this audit, we've worked through with the department a reasonable way to accumulate this information; \$142 million was recognized in 2006 with agreement on how this can be put in in a reasonable way through the phase into 2009.

The second audit included in the report is with regard to the well water quality. In there we described the responsibility of well owners, but the

responsibility for the protection of the resource for all citizens. We did identify concerns, and have recommendations with respect to inadequate public communication, underdeveloped standards and legislation, and limited provincial review and monitoring practices. We did note the department's been taking action on a number of water protection initiatives, but emphasized continued effort needed to ensure water is adequately protected for the benefit of future generations. Thank you, Mr. Chairperson.

Mr. Chairperson: I thank the Auditor General, Ms. Bellringer.

The floor is now open for questions.

Mr. Faurshou: I would like to identify who is available to be questioned here this evening because it has been identified by the Auditor General that, in the first section, there was co-operation from three different departments of government. I'm wondering whether they are represented here tonight in addition to Conservation, Industry, now, which would leave the Ministry of Competitiveness and economic development, or is that now a department that has responsibility for the mines' fund, the mining redevelopment fund? Also, the Department of Finance is mentioned in here as well.

Could I ask the minister to identify if there are individuals from those varied departments that this report is pertinent to?

Mr. Chairperson: Minister Struthers, would you please answer that question, since you would know the answer?

Mr. Struthers: Was I taking too long?

Mr. Chairperson: Yes.

Mr. Struthers: Well, I'm joined by my deputy minister for Conservation. The question that was asked, at least partially, falls in the STEM. The "M" stands for mines in the new department chaired by my colleague, Jim Rondeau. We can answer some of the questions on a policy basis that the members may have. We'll try our best with that. That's all of the staff that we have here tonight.

Mr. Chairperson: Thank you, Minister. Just before we proceed, I'd just like to ask Mr. Faurshou that, if he would identify who he would pose the question to, if it's other than Minister Struthers or his deputy, then we'll have to defer those questions to the appropriate ministry, or perhaps Mr. Struthers could identify that that belongs to a different ministry, and

then we could proceed in a fashion where those ministers could then be asked to take the chair.

So, Mr. Faurshou, if you would please continue.

Mr. Faurshou: Thank you very much for the Chair offering those words of guidance. I will then attempt to comply.

It is in the Auditor's report that there were departments engaged, and that very much a co-operative effort was provided to the Auditor General. Now, in regard to the year that has lapsed now, from the initial \$75 million of potential liability, am I correct in hearing now from the Auditor General that this figure has been revised now to upwards of \$142 million from when the report was published?

Ms. Bellringer: Mr. Chairman, the 75 million that I mentioned was the estimate at the time of the report when it was issued and 142 was the number that was more precisely calculated at the time of the audit of the Public Accounts for the year ending March 31, 2006.

Mr. Chairperson: Thank you.

Mr. Faurshou: In the year that has lapsed, I would like to ask the Minister of Conservation (Mr. Struthers) whether he has, from his department, instructed his colleagues in the very departments responsible for the orphan and abandoned mines as well as orphan and abandoned fuel storages as well as the other departments that are the reporting agent of a special operating agency of government.

Mr. Struthers: I want to be clear that the 142 has been booked. It's something that we are striving towards. It is contained within several different departments of government: ours, along with a small amount in Aboriginal and Northern Affairs; industry, economic development and mines; transportation and government services. What we have done is we have taken these on as a liability that we are working toward. We are developing plans for reporting of this over a three-year period in, as has been previously stated by the Auditor General. We want to work from the basis of the principle of polluter pay. We want to develop an approach where if we can locate, and we have the ability to have any entity that causes the pollution in the first place, if we can work a way that they pay for this.

We don't want that to land on the back of the Manitoba taxpayer, so we have developed some strategies in terms of that. If we cannot accomplish

that and, in the case of a number of orphaned or abandoned gas stations, of which there are a number in rural Manitoba and others and in the city of Winnipeg, we do accept the responsibility to move forward with a plan to remediate or contain, whatever is the best scientific approach to each of those sites independently. But we do start from the premise of polluter pay and then move forward on behalf of the Manitoba taxpayer to see if we can deal with those contaminated sites from there.

Mr. Faurichou: Thank you, Minister, for the response. I do observe that the Finance Minister is in attendance this evening. Is it possible for the Finance Minister to reply to the statement made by the Minister of Conservation (Mr. Struthers) in regard to the liability has been booked by the various departments and identified by the Department of Finance as a liability pertaining to the very departments?

Mr. Selinger: Yes.

Mr. Faurichou: I appreciate the brief and precise reporting. In regard to the current inventory of sites, obviously it's almost doubled now, the amount of money. Is this a complete report as to the potential liability or is there still more yet to come? Are there areas of government that have yet to report their potential liabilities?

* (20:30)

Ms. Bellringer: Mr. Chair, in general the answer is that the phasing goes through to 2009. Specifically, I don't know the details of that phase-in.

Mr. Faurichou: Sorry. Perhaps I can clarify: \$142 million is what has been booked to date. Are there any areas of government that you have yet to hear back from as far as your request for potential liability?

Ms. Bellringer: In effect, there's more to come. It's not so much a matter of not having heard back yet. It was the actual inventorying of—to derive the information and get the estimate of the liability takes some—is the process that's taking place over a multiyear period. As to whether there're liabilities known at this point, subsequent to March 31, 2006, it's not something we've looked into. I'm not aware.

Mr. Faurichou: Thank you very much for the response. I know this is a work in progress here, but I'm trying to gauge as to whether there are any delinquent departments of government that aren't taking this inventorying process seriously, and

whether the Minister of Conservation is, in fact, bringing down the gavel in this regard with any other of his colleagues that are not yet taking this inventorying seriously.

Mr. Struthers: I want to assure my friend from Portage la Prairie that we are taking it very seriously. There are no departments that are being delinquent. We have, in fact, established an interdepartmental committee to track these sites. It's correct; it's ongoing. The work is being done by a whole number of different departments, including Infrastructure and Transportation; our Department of Conservation; Health; Intergovernmental Affairs; Science, Technology, Energy and Mines; Justice; Agriculture; Water; and Infrastructure and Transportation. So we believe we've covered the bases and that we have everybody working together to make sure that we can stay abreast of this issue.

Mr. Faurichou: I do appreciate the minister's response and his expression of confidence that his colleagues are not going to give any grief to the process, but, just for clarification, back to the Auditor General, is that it's anticipated that it'll be upwards to two years before this process will be complete and all complying or necessary compliance is accounted for?

Ms. Bellringer: Mr. Chair, yes, that's correct. In fact, it's three more fiscal years or year-ends, so March 31, 2007, '08 and '09 that we've already been made aware of the fact it'll take that length of a period before everything's complete.

Mr. Faurichou: I was just wondering whether the minister was trying to get the Chair's attention, but I'd like to move on to the second portion of the report as it pertains to Manitoba's most valuable natural resource envied by the world wide that, here in Manitoba, we have more fresh water per capita than any other jurisdiction on the globe.

What I'm concerned about is the change in boiled water advisories and the number of communities affected by orders from the Department of Conservation. I would like an update today as to the number of communities and the affected number of Manitobans that are under boiled water advisories.

Mr. Struthers: From Conservation's perspective, we play a role through our public health inspectors when it comes to the boil water orders, but we know, though, that it's the Department of Water Stewardship that makes the call in terms of boil water orders. They do that, actually, in conjunction

with the Medical Officer of Health, so that's the appropriate avenue for the Member for Portage to be pursuing.

Mr. Faurshou: Well, I thank the minister for his response, but I'd like it to be a little more specific. It is his department's responsibility for the inspectors, although it's not his department that does publish the report. However, I'm certain that the minister has a specific number of communities that have boil water orders today.

Mr. Struthers: As I said, we do participate in that. A number would be available to the Member for Portage from the Department of Water Stewardship. I don't have that in my head here tonight. I do know we have one in a provincial park that we're moving forward to work on, but for a complete number I think you need to speak with somebody in Water Stewardship.

Mr. Faurshou: Has there been a change, to the minister's knowledge, of the publishing and communication of boil water orders? My understanding is it was freely accessible on the Web site before, and now my understanding is that you have to apply through Freedom of Information to get a listing of the communities under boil water advisories.

Mr. Struthers: Those sorts of things are handled through the Office of Drinking Water. To my knowledge, there hasn't been a change in that process, but, again, he'd be well advised to take that up with the Department of Water Stewardship and, in particular, the Office of Drinking Water.

Mr. Faurshou: In light of the opening remarks by the Auditor General, I think this point is very valuable, that persons come and go from various communities. If you're visiting, for instance, a community, I would trust that the hotel or motel that one would be staying in, in one of these boil water advisory plagued communities, that they would be duly notified, but I think it's incumbent upon government to freely offer this information as persons come and go to varied areas of the province on a daily basis.

I would like the minister's assurance to investigate this question.

Mr. Struthers: I live in a community that was under the issuance of a boil water order back in the 1990s, and I remember the signs that were posted everywhere so that when the Member for Portage comes through our beautiful community to cheer for the Dauphin Kings against the Portage Terriers or

something like that, he wouldn't get caught drinking nasty water.

There are rules that are followed when boil water orders are put in place. I can say that those rules are followed in the communities that are under boil water orders. There are signs that are posted and there are efforts underway to make sure, as we all want, that the steps are taken that are necessary to get rid of the boil water order that's there in the first place.

But in terms of numbers and the rest of it, I think he needs to speak with Water Stewardship in terms of that kind of detail.

Mr. Faurshou: Well, I'm rather disappointed that the minister did not communicate to other colleagues of the necessity of being able to answer questions at the Public Accounts Committee, and I would advise when next we have an opportunity to discuss a report of this nature that it would be prudent for the minister responsible to bring along personnel who would be able to answer the questions that we have here tonight.

Can we then ask the minister how far along—in the 41 recommendations that are in this section, could he identify what number have been accomplished, the number that are outstanding, or, effectively, where we are in regard to their report; in very short order, 41 minus 19, as an example, acted on.

* (20:40)

Mr. Struthers: First of all, I look forward to my friend from Portage la Prairie indicating which ministers he'd like to have at the committee here to ask the questions to. I was asked to come and answer questions in terms of this, and I'm here and willing to take a crack at the questions that he's posing. But I would advise him that if he wants the Minister of Water Stewardship (Ms. Melnick) here, just ask and I'm sure she'll come.

I'm very happy with the progress that we've made in terms of working through the recommendations that are in the report. I consider the report a very useful document in moving forward on a whole number of issues having to do with contaminated sites. We were very quick to indicate that we would be following up on all of the recommendations in this document, and that we're very appreciative of the time frames that have been established for us to move through those recommendations.

We have introduced legislation dealing with the polluter-pay principle, which is fundamental. We did that through The Dangerous Goods Handling and Transportation Act. We wanted to make sure they moved quickly so that Manitobans can understand that the polluter-pay principle is something that is very important to us.

We've been working on water strategies; we've been working on The Water Protection Act, a number of steps that we think addresses many of the goals, targets that have been set through this report. But we are committed. We said it from the beginning we are committed to working on every one of these recommendations, and we will be working through those over the period of time that we've worked out at the Auditor General's office.

Mr. Faurschou: I don't want to spar with the minister on this behalf, but I would believe that, if I was coming to answer questions tonight, I think it would be incumbent upon the minister to prepare any and all questions emanating out of the report, rather than the person that is coming to ask the questions.

I now yield the floor to the honourable Member for River Heights.

Mr. Gerrard: Thank you. My question to the deputy minister. The extent of liability at a given site will depend on the extent to which the site is actually to be cleaned up and restored to natural condition. Can you tell us, in calculating liability, what level of restoration to sort of state of nature is contemplated?

Mr. Don Cook (Deputy Minister, Department of Conservation): I'll speak to the largest group, and that's the orphaned and abandoned petroleum sites. We, in order to come up with an estimate in fairly short order, did use some fairly gross estimates that we've gained from previous experience, including empty sites. In fact, knowing that we needed more information to carry out site investigations, we worked with the Auditor General's office and made it clear that, in order to really nail down these costs rather than providing a wide range, we would need to do some site investigations. So that's partially, I believe, the reason why we got an extra three years to take a look at some of these sites and really help nail down what the costs will be.

We did pick a number for petroleum sites that, for Winnipeg, we had a number that we worked with, and we were able to multiply the number of abandoned sites using that number. For northern Manitoba, the number is going to be a little bit

higher, well, quite a bit higher, about 20 percent higher we estimated. For rural Manitoba, it would be about 10 percent higher than the sites in Winnipeg. For now, using the information we had, that's the approach we took to book the liability.

As we move forward with doing the site investigations and collecting more information, we will have the opportunity then to really narrow down exactly what the cost is. Is it above the average that we used? Is it below the average that we used? In the end, we'll be able to have a much more accurate figure, we hope, by that three-year time frame that we've been given, but we know we have to get at it and that time will allow us to get much closer to what the real number is.

Mr. Gerrard: The process and the situation with regard to contaminated mine sites like Sherridon and Lynn Lake, what level of restoration back to a state of nature is contemplated in the liability estimate?

Mr. Cook: Well, again that's a question that to get right to the detail needs to be addressed to the Mines Department, but I know they are taking the same approach. They are in the process of hiring consultants to target the five highest priority mine sites in northern Manitoba to get busy and collect that information to really determine exactly what type of remediation is needed depending on the site that they're dealing with. So there's work to be done there as well.

Mr. Gerrard: I would ask the deputy minister to give us the list, the specific list of the five highest priority mine sites and the liabilities associated with each.

Mr. Cook: That would have to be a question that goes to the Mines Department. I think that could be provided by the Mines Department.

Mr. Gerrard: I'd like to ask the Auditor General the same question. She had the information on the 142 million. Perhaps the Auditor General has this information.

Ms. Bellringer: Mr. Chair, we don't have that information with us tonight, but it could be obtained from either the Department of Finance or we can take it as information and provide further information to the committee.

Mr. Gerrard: I would hope that it would be possible to have that information provided in some fashion because it's obviously critical.

What is the relative contribution of abandoned mine sites to the oil and gasoline sites? What's the relative contribution of the 142 million of the two? Let's go to the Auditor General if she's got it.

Ms. Bellringer: No, I do not.

Mr. Gerrard: To the deputy minister, in the 142 million, how much is abandoned oil sites and how much is abandoned mine sites?

Mr. Cook: Again, at this point in time, the estimate is that 39 million is booked by Conservation, the majority of which is the orphaned and abandoned petroleum sites, and the IEDM folks have identified that at this point in time—again, it's early in the process—that \$66 million represents the figure that they've identified as a liability.

Mr. Gerrard: I would ask for a specific abandoned mine site. I know that part of this may be Mines' responsibility, but I think that the Department of Conservation has some responsibility here, if I took, as an example, the site of Sherridon, that you would have a containment of the problem, that you would have a necessity to do something about the huge tailings pile and there would be a necessity to do a clean-up on Kississing Lake where there's a huge amount of contamination that has gone to the lake.

In terms of a liability calculation, what has to be done in terms of each of the three processes?

Mr. Cook: You're correct. For several years we've been working very closely with mines up at the Cold Lake-Kississing area, up at Lynn Lake, the sites up at Lynn Lake. Our environment officers have worked quite closely with the Mines folk to carry out initial assessments with the real focus on understanding the environmental issues that need to be protected and dealt with and the recovery that needs to be made, raising those issues and raising the profile of those issues with the Mines people.

Many of those studies have taken place both at Sherridon and at Lynn Lake. So Mines now has that information and they're moving now more into the implementation phase, into the phase where they're actually looking at beyond site assessments. We are still at the site assessment stage. There still needs to be some work done at the site assessment stage, but in terms of the clean-up phase, that's what this estimate that's been booked is intended to deal with to allow for, actually, implementation of the clean-up phase.

* (20:50)

Mr. Gerrard: I would have some concerns with the size of the liabilities that are booked in terms of the costs of what would need to be done to appropriately clean up, contain, the leaching of toxic wastes, to address the tailings file and to clean up Kississing Lake.

I think that the clean-up at Lynn Lake has probably been underestimated. You can't give me the specific site, but I would ask, for example, that the situation at Lynn Lake is such that the acid mine tailings are under a part of the town and are causing huge problems with the water pipes, and to actually address this is probably significantly more than has been calculated to date.

I don't know whether you can comment as to whether the town infrastructure that would need to be addressed has actually been included in the liability here.

Mr. Cook: No, I'm not able to comment on that.

Mr. Gerrard: I note on page 25 that there's a reference to federal legislation in the fact that provinces received a warning from Environment Canada respecting alleged violation of federal legislation as a result of pollution from orphaned and abandoned mine sites.

Can the deputy minister provide us an indication as to what the violation is and what the nature of the warning is?

Mr. Chairperson: Mr. Cook.

An Honourable Member: On page 25, the Province has received a warning—

Mr. Chairperson: Dr. Gerrard, just for the record, please.

Mr. Gerrard: On page 25 of the report that I've got, in the box where it says conclusions, right at the bottom, it says: "The province has received a warning from Environment Canada respecting an alleged violation of federal legislation as a result of pollution from orphaned and abandoned mine sites."

Can the deputy minister provide us an explanation for what the nature of the violation is and what has been contained in the letter and when it was received?

Mr. Cook: No, I can't. Again, that's a question that needs to be directed to the Mines Department, and I'm sure that they'd be able to provide you with the specifics behind that warning.

Mr. Gerrard: I'd like to ask the same question of the Auditor General because this is the Auditor General's report, and presumably the Auditor General has some background.

Ms. Bellringer: There's a little bit more information on pages 28 and 29 where that same comment is just further explained. The various bullets in section 4.34 are related.

Mr. Gerrard: Is this in reference at all to the fact that there are concerns over the water supply to the town of Lynn Lake and the possible contamination, to the Auditor General.

Ms. Bellringer: I'm sorry, I'm looking at some of the backup that was in the file, and it's saying that it's not the town site. I'm not sure if that answers your question or not, because I'm not that familiar with the details on it.

Mr. Gerrard: I think we are probably going to have to get the Minister of Mines back on another occasion before we can pass this, but I do have one other issue that I just want to pursue. I'd like to ask the Auditor General: If you have a site that's severely contaminated with phosphorus, does that class as a contaminated site?

Ms. Bellringer: Mr. Chairman, in the context of this report, we haven't answered that question, so I don't have a technical answer for you. I'm not sure which portion of it you'd expect us to have an answer to.

Mr. Gerrard: Let me ask the deputy minister whether he has a technical answer to whether a site severely contaminated by phosphorus would be considered a contaminated site.

Mr. Cook: We have a long list of sites that we track and not all of them are—you know, we have a difference between a contaminated site and an impacted site. We actually track on our Web a couple of thousand sites. I've looked at it, and I don't recall seeing a phosphorus site on there at all. So that's about as technical as I can get for you right now. But again, it's mostly a lot of petroleum and a lot of metals and things like that, batteries, et cetera, that kind of stuff. But I can't recall a phosphorus one.

Mr. Gerrard: You know, in this, let me just pursue this for one more moment here. You know, we clearly have some sites, you know, Lake Winnipeg where there's a huge amount of phosphorus. What I'd like is some clarification as whether a site with a large overload of phosphorus would be included in

any way in these contaminated sites from a technical perspective. To the deputy minister.

Mr. Cook: I'm just referring to The Contaminated Sites Remediation Act and looking at the definition, and there's nothing specific in the definitions that relate specifically to phosphorus.

Mr. Chairperson: Mr. Struthers, would you like to add to the answer?

Mr. Struthers: Thank you very much, Mr. Chairperson. I just want to assure the Member for River Heights that Lake Winnipeg is not on the list.

Mr. Gerrard: Clearly, there is an issue here in terms of contaminated impacted sites and whether areas which are severely contaminated by phosphorus should be included. That may be something that we're going to have to, you know, take up in the future. But certainly, from the number of sites and one of the questions that I would have, let me go back then to the mine sites, there are several thousand sites. The deputy minister has indicated what and there are 225 in this report. What proportion of those 225 are orphaned and abandoned mine sites?

Mr. Chairperson: Your question is to—

Mr. Gerrard: To the deputy minister.

Mr. Cook: I've got it here somewhere. The number of orphaned and abandoned petroleum sites that we've identified, through the process that we've really gone down the path a long way on, is 239 at this point in time. And those are sites that we truly don't think have an owner. Those are sites that, you know, meet the orphaned sort of definition that there's no one to go to in terms of the clean-up requirements. So that's the vast majority of them. In terms of the other sites that we've identified, I've got the number here. Bear with me. It's number, 47 on top of that, but I'll get you the exact number here as I'm digging through my paper.

* (21:00)

Mr. Chairperson: I'm going to interrupt questioning on this report at this time because I believe there was an agreement that at 9 o'clock we would move back to the consideration of the Crocus Fund annual Auditor's report. So at this time we will conclude for this sitting the questioning on the Environmental Audits and they will be considered at another meeting.

Now may I ask the appropriate minister and his staff to take the chair to consider the Crocus Investment Fund.

Mr. Maloway: Mr. Chairperson, I would suggest that the committee would rise at 9:30.

Mr. Chairperson: Mr. Maloway has suggested that the committee should rise at 9:30. Are there any comments respecting that at this time?

I think we voted on the motion to rise at 9:30. Unless there's unanimous consent of the committee to do otherwise, I would suggest that this committee will rise at 9:30.

We will now open the floor to questions on the Crocus Investment Fund, the Auditor's report.

Mr. Cummings: My question is to the minister. I believe he assumed responsibility for the Department of Industry in early November of '03. Was he briefed about any issues at Crocus Investment Fund at that time?

Mr. Smith: Thank you for the question. The time I came into that ministry was November 4 of '03, and I stayed in that ministry till October 12 of '04. At that time, there was briefing certainly on Crocus. I met folks from Crocus and certainly got to know the file.

Mr. Cummings: Did the minister say he met with folks from Crocus?

Mr. Smith: During that time, we were introduced to people from Crocus, yes, during that time.

Mr. Cummings: Did Mr. Woodbury report to him or discuss the Crocus file with him?

Mr. Smith: Many staff discussed certainly the file with me over the period of time that I was in the chair, and certainly staff had discussed it, as we've mentioned here tonight, as the Auditor General includes in the report, certainly issues regarding some issues with the Crocus Investment Fund.

The discussions were mainly around liquidity and pacing. Certainly staff over many years had discussed that issue. Certainly, the previous ministers have identified that. It's something that was brought to the attention of the department over a period of time from Crocus and, as well, from the other equity fund.

Mr. Cummings: Yes, I'll pursue some of those topics in a moment, but did Mr. Woodbury act as a liaison or provide communication to him about Crocus?

Mr. Smith: As mentioned before, many staff provided information certainly regarding, as was identified in the report on page 145, issues regarding liquidity and pacing. A lot of staff had provided briefings certainly, and, yes, staff had discussed liquidity and pacing in both Finance and Industry, Economic Development.

The issues that were brought up prior, and as identified in the Auditor's report, certainly had nothing to do with performance, as had been mentioned prior. The different recommendations that were brought forward and considered and looked at by staff were certainly put into context and forwarded to the ministers.

The issues of some changes, both with ENSIS and Crocus, were forwarded, looked at by staff, considered, and there were many discussions on liquidity and pacing. Certainly, that was done in the department.

Mr. Cummings: Well, I'll pursue the minister's thoughts on liquidity later. I do want to know if Mr. Woodbury was one of the people who briefed him about the Crocus Fund.

Mr. Smith: As has been mentioned, there are many briefings by staff. Certainly, briefings were done over a period of a number of years with the department, if the information provided was provided by a Canadian economic development committee, and certainly provided by staff, many staff over the period of years that many ministers sat in that chair. The briefings were regarding liquidity and pacing. Those were discussed many times throughout my term in the seat.

Mr. Cummings: I am inquiring about Mr. Woodbury. I believe his first name is David.

Mr. Smith: I know the members both in the House and at committees have asked many times, was it the butler in the pantry with a tuba? Quite frankly, the members have launched out many names over many, many years regarding this issue. I can certainly tell the member that liquidity and pacing were discussed and considered by both the Finance Department and officials, and by the officials in Industry, Economic Development and Mines. Over that time, it's quite evident and quite obvious in the report that we are discussing here today that the issues that were being dealt with, and dealt with by staff, were issues that weren't to do with evaluation. They were issues to do with liquidity and pacing.

Mr. Cummings: Well, if the discussions were about liquidity and pacing, did Mr. Woodbury advise the minister?

Mr. Smith: As the member keeps asking, for a while it was, I believe, Eugene Kostyra. Then it was Woodbury and then it was Peter Pan. Quite frankly, staff certainly put together notes. Staff talked with different officials. Staff advised on issues and, certainly, over a period of time that I was in the Chair, information was relayed to me regarding the Crocus Fund that was established in '92. The privately-managed fund obviously had legislation drafted in 2002. The definition was clear, and it's clear in the Auditor's report, the responsibility of the province. Those responsibilities are what we were dealing with.

It was the responsibilities of the department to look at our general role in the legislation that we had and, certainly, on dealing with our part in the Crocus Fund. Any information of relevance to the government on our legislation was brought forward, and it was brought forward to all ministers throughout the years. The legislation, obviously, was changed in 2001, giving more authority for the Auditor General. That was something that we saw as positive. There were issues of many kinds brought forward dealing with our component of legislation with the Crocus Fund.

Mr. Cummings: Well, Mr. Chair, my question is to the minister. He mentioned legislation. The legislation that Ms. Mihychuk referred to as being developed when she was minister seemed to vaporize when this minister came into that office. Did he discuss this legislation with Mr. Woodbury, and why was the decision made to drop it?

* (21:10)

Mr. Smith: As was mentioned before, there were discussions, certainly, over the period of time on liquidity and pacing, and discussions through staff in both Finance and Industry, and Economic Development and Mines at that time. The performance and evaluation were not discussed. That was not something that was the government's responsibility. The different staff that advised and brought forward, the potential that was brought forward by ENSIS and Crocus was considered and looked at over a period of time. The previous minister, MaryAnn Mihychuk, certainly stated quite openly that legislation was not drafted and brought forward. The considerations were never moved forward. The considerations that were brought

forward by Crocus and ENSIS to look at development of super funds was not brought forward and not acted on.

I know the members prior had felt that there should be an inquiry because there was a superfund developed, and then, when they found out the superfund was never developed, they wanted an inquiry to look at why it wasn't developed. So the basic premise of members opposite has been just like the Member for Springfield (Mr. Schuler) that's asking about e-mails that have been answered multiple times. The issues of discussion have been answered many times on liquidity and, certainly, pacing and on the government's responsibility that's identified very, very clearly in the Auditor's report that we take quite seriously.

The 20 recommendations that were dealt with by an in-depth study of the Auditor General's report were quickly implemented by us on their recommendations. The implementation team advised how to move that forward quickly. About 20 of the 120 recommendations were the responsibility of the government on the government's side. Those were quickly acted upon, and all those recommendations are now completed.

Mr. Cummings: Mr. Minister, the fact that you have refused to acknowledge that Mr. Woodbury is at all part of the process around the knowledge of government about the Crocus Fund certainly points to the fact that you believe there is something there that you need to conceal. My question was very simple. Did you have an opportunity to discuss the Crocus Fund with Mr. Woodbury, and did he act as a liaison between Crocus and the government?

Mr. Smith: Obviously, the member is using hypotheticals again. He's looking at innuendos again. He is talking about, obviously, a liaison person that works with multiple departments. Certainly, Mr. Woodbury, over a period of time, has worked for the government, obviously. The information that is forwarded between departments certainly is done. Officials communicate back and forth, which is done. The issues at hand that we are dealing with, and certainly dealing with in Crocus, involved our piece of the Crocus legislation, which is dealing with making sure that the legislation follows. That was my staff recommendations on our piece of the legislation.

The evaluation and many other issues that the members want to confuse with issues of who saw an e-mail and who didn't see an e-mail is also dealt with

in the Auditor's report. The confusion that the members certainly seem to have is the difference between liquidity and pacing, and performance and evaluation, and that's quite obvious when the members are speaking and asking the questions they are.

That was clearly identified by the Auditor in the report on, I believe, page 145. The issues dealing with e-mails, which the members again asked over and over again, were clearly dealt with by the Auditor General and answered. The answer from the government has always been, yes, discussions were held involving the Crocus Fund dealing with issues regarding pacing and liquidity. Those were issues that were brought forward by Crocus. Those were issues that were brought forward by ENSIS, and those were issues that were dealt with by staff with best recommendations.

The members also want to talk about a legislation that was drafted and brought forward, which is nonsense. Quite frankly, the government did not bring legislation forward. The government did not introduce legislation. The consideration by the Auditor in the report, in fact, had talked about the changes that were recommended or wanted by the fund. It would have weakened, actually, the legislation. So it's quite clear. It's identified in the report. It's something that's been brought forward and asked prior. Certainly, the Auditor concluded in the report a full two chapters on the role of the Province, and the Auditor identified the Province is not responsible for performance and evaluation of Crocus's privately managed fund.

Now, the members confuse the issue. The issue is the fund has each individual component, the government, the Crocus board, the Securities Commission, the Auditor General and the different components that each one was responsible for. We certainly looked to what we were responsible for, which was the legislation that we did look after. The legislation and anything concerning the legislation on the part of the government, was brought forward to the departments, my officials, and looked at. But the members confusing issues and talking about valuation and bringing forth valuations is, quite frankly, sheer nonsense.

The Auditor General identified quite clearly who's responsible for valuation, and members keep confusing the issue of valuation, performance, liquidity and pacing. It's a spiral and a circle game, and they keep searching for the Mrs. Big that was out

there. Quite frankly, we haven't seen Mrs. Big and they keep looking for Mrs. Big. We've heard it over and over again and with innuendos and we've heard it over and over again by the members opposite.

So the monitoring, certainly, and promotion that was considered by the department was looked at. It was looked at by the Auditor and recommendations were made in the report. We accept responsibility for that and those changes were made.

Mr. Cummings: Mr. Chairman, the minister says that there was no legislation. Does that mean that he was not apprised of the legislation that was being considered prior to him coming to this department? Was he apprised of the legislation that Ms. Mihychuk referred to as being all about accountability?

Mr. Smith: We on this side of the House and certainly the government has always been accountable. Certainly, that's been identified quite thoroughly in the Auditor General's report. The issues that we were responsible for were certainly looked at and addressed. Twenty recommendations were made in the Auditor General's report, which we acted on. Certainly, there were changes that were made.

The member is asking whether we were accountable. Absolutely. We were accountable for the legislation that we had to uphold. That legislation was quite clear and it's extremely clear and identified in the Auditor General's report. The members don't like to hear it, but they keep referring to performance issues. That certainly keeps coming back and forth.

Point of Order

Mr. Chairperson: Are you on a point of order, Mr. Cummings?

On a point of order, Mr. Cummings.

Mr. Cummings: A point of order. I have recognized that we cannot demand answers, but I'd be happy with a simple yes or no from this minister. We have very limited time. He knows that. He's trying to run out the clock.

Mr. Chairperson: On the same point of order, Mr. Swan.

Mr. Swan: Mr. Chairperson, the minister is giving a full and complete answer to the question. I believe his answer is still shorter than the average question that Mr. McFadyen has been asking every day.

Mr. Chairperson: On that point of order, members of this committee, I'd like to indicate that this is not a point of order, but I do humbly request that answers and questions should be relevant and direct. We do allow a certain amount of discretion, but answers and questions should be respectful.

* * *

* (21:20)

Mr. Chairperson: Mr. Smith, to continue.

Mr. Smith: Thank you very much, Mr. Chair. As the Auditor General had mentioned, the complexity of the original legislation, certainly, is not a yes and no answer, and we took action on that. The Crocus prospectus, obviously, says, and if the member wants to be accurate: None of the securities administrators or any other department or agency of the government has assessed merits of the investment fund.

We certainly did what was accountable to us. The fund's board was responsible for managing the fund in the interest of the shareholders, the fund's external auditors were responsible for auditing the fund's financial statements, the fund's underwriters were responsible for signing off the prospectus, and Manitoba Securities was responsible for monitoring the integrity of value.

Now, the members keep talking about value and performance. So I'm clarifying for the members, certainly, what we're accountable for, and that is that the fund met the policy objectives of the legislation. That is quite clear. When the Auditor General, with his discretionary powers, considered whether we did, in fact, do that, he made recommendations, and those recommendations, of the 20 that were forwarded to government, were followed. Certainly, the member doesn't seem to want to hear that.

Mr. Gerrard: Yes, I have a question to the Auditor General, first off, a clarification on page 146. The discussions which were held in mid-2001 with the Crocus Investment Fund dealt with a number of matters, including concerns that the government consider the impact of proposed changes on current and future shareholders of the Crocus Investment Fund, changing its risk profile. Can the Auditor General give a little bit of explanation as to exactly what the issue was here?

Ms. Lysyk: Basically, there is a relationship between a liquidity crisis and the portfolio of investments that a labour-sponsored fund would have. So, if there isn't an exit strategy that provides a liquidity for

continuing to operate the fund, that is a significant issue. So that point does relate to the risk profile of Crocus in the sense that the turn period on the investments was anticipated to be seven to 10 years, but the expected life cycle was likely to be longer.

Mr. Gerrard: To the deputy minister, was this particular concern over changing the risk profile of the Crocus Investment Fund brought to the attention of the minister?

Mr. Eliasson: I think that's actually in the Auditor's report. It relates to a discussion that Crocus officials had with officials in the department, outlining what their 10- to 15-year vision of the Crocus Fund would be. In that 10- to 15-year vision, they saw themselves becoming managers of other funds. That was sort of the long-term vision that officials commented on having, raising different issues that should be considered.

Mr. Gerrard: On page 131, the fund of February 21, 2000, the fund sent a letter to the Minister of Finance (Mr. Selinger) advising that the sale of shares for the 2000 selling period would exceed \$30 million; \$30 million was the limit. That information to the deputy minister clearly went to the Minister of Finance. Did the Minister of Finance provide a reply?

Mr. Eliasson: I can't comment exactly on the form of reply, but, in two selling seasons, Crocus's sales exceeded the \$30-million cap. There was a \$30-million cap established for each of the funds as a mechanism by which government could control its overall exposure on the tax credit. So there was a total of \$9 million budgeted to cover tax credits on the two funds on an annual basis. In two of those years, Crocus provided notification that they would exceed that \$30-million cap. The government considered their request to be permitted to exceed that cap and analyze the sales of both funds. The tax credit would be within the overall budgeted amount of \$9 million. So the government entered an agreement with Crocus to approve the amount that they exceeded the sales limit by, and in exchange for that approval Crocus undertook to invest 75 percent of the amount that was over the selling cap in small business. So they applied and received approval to exceed the selling cap in those two years.

Mr. Gerrard: To the Auditor General, my understanding is that, by having sold more than \$30 million, this was one of the reasons why there was concern over liquidity, that in the seven years from that time you would then have potential redemptions

of \$30 million. This was an issue, that when the Crocus Investment Fund wasn't following the original plan, it was one of the things which was starting to create issues around long term as to how do you manage redemptions of more than \$30 million. Is that correct?

Ms. Lysyk: The relationship is the higher the amount of money that fails, then in the longer term you have to pay back more of that money. So the risk of a fund increases as the sales limit increases.

Mr. Gerrard: Would it be fair to say that, by allowing the Crocus Investment Fund to sell over its cap, the Crocus Investment Fund itself was, in fact, put at higher risk?

Ms. Lysyk: Under the fund there's a cap set, that if a cap is exceeded, there is a penalty assigned to the labour sponsored fund for selling beyond what they're required. So in these cases the fund requested, I guess, retroactive approval in a few cases for overselling on the fund.

So in terms of risk, they did sell more than what was initially anticipated under the act. The level of risk would be a judgment call at that period of time when the sale was made.

So it would be unfair for me to sit here and assess the decision around that at the time.

Mr. Gerrard: But, to the Auditor General, it is true that there was no penalty, as was initially prescribed, under the act provided?

Ms. Lysyk: That's correct. The penalties were waived.

Mr. Gerrard: On page 127: "At June 30, 2001, the Fund's investment in Company GG exceeded the 10% maximum allowable investment amount for a single investment as set out in The Manitoba Employee Ownership Fund Corporation Act."

To the Auditor General, this was clearly a breach of the act as it was at that point, although the act was changed later on. Is that correct? I mean, there was no one arguing that this was not over the 10 percent limit.

Ms. Lysyk: At that point in time, that would be what we're concluding, yes.

Mr. Gerrard: My question to the deputy minister: Was this issue of the fund breaching the terms of the original act, exceeding the 10 percent maximum allowable investment, was that brought to the attention of the minister?

Mr. Eliasson: No.

Mr. Gerrard: My understanding is that there was a legislation that was put in place as a result of that to allow the Crocus Investment Fund to operate in a different way and that that was passed—in fact, there's mention here—by September 30, 2001, of that year.

You indicate that the minister was not aware, yet the minister must have been aware for the reasons of the legislation which would be part of this 10 percent maximum. Is that not correct?

* (21:30)

Mr. Eliasson: No, that's not correct.

The Crocus Fund reported their audited financial statements for the year, and the end of their fiscal year was September 30. So their audited financial statements for the fiscal year ending September 30, 2001, would have been submitted to the department sometime within six months of year end. The audited financial statements were not available to the department until within six months after September 30.

The legislative changes that were made in 2001 were in part designed to bring—there were two acts. There was The Crocus Fund Act, and it applied only to the Crocus Fund, and then there's The Labour-Sponsored Venture Capital Act that would apply to any other labour-sponsored fund that is established in the province. To date, there's been one fund established under that legislation.

So you had two funds competing in the same market, but under different acts. The Crocus Act, which was originally known as The Employee Ownership Act was, I think, passed in 1992. It needed to be updated and brought in line with The Labour-Sponsored Venture Capital Act, which was passed in 1997. So there were different provisions in both acts. The part of the act that related to what is referred to as the 10 percent rule, in the original Crocus Act it was 10 percent of the fund to a maximum of \$750,000.

Mr. Chairperson: I'm sorry to interrupt you, Mr. Eliasson, but the hour being past 9:30 p.m., it was the agreed hour at which we would adjourn.

But just before we adjourn, in the interests of saving paper, it would be appreciated if members of the committee would leave behind the unused copies of reports so they may be collected and reused at the next meeting. So, if you've got a copy in your office, please leave behind those that are on the table.

So the hour being 9:30 p.m., committee rise.

COMMITTEE ROSE AT: 9:32 p.m.

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