

Fourth Session - Thirty-Ninth 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-Ninth Legislature

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**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

Wednesday, November 3, 2010

TIME – 7 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Leonard Derkach (Russell)

VICE-CHAIRPERSON – Mr. Gregory Dewar (Selkirk)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Mr. Gerrard, Hon. Ms. Wowchuk

Ms. Braun, Messrs. Derkach, Dewar, Mrs. Driedger, Messrs. Hawranik, Jha, Martindale, Pedersen, Ms. Selby

APPEARING:

Ms. Carol Bellringer, Auditor General

Mr. Harvey Bostrom, Deputy Minister of Aboriginal and Northern Affairs

Mr. Fred Meier, Deputy Minister of Conservation

Ms. Linda McFadyen, Deputy Minister of Local Government

MATTERS UNDER CONSIDERATION:

Auditor General's Report–Report to the Legislative Assembly–Audits of Government Operations–November 2009: Chapter 1, Meeting Manitoba's Obligations Under the 1997 Treaty Land Entitlement Framework Agreement; and Chapter 3, Assessment Services Branch

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Mr. Chairperson: Good evening, ladies and gentlemen. I'd like to call this meeting to order.

The meeting has been called to consider the Auditor General's Report–Report to the Legislative Assembly–Audits of Government Operations–November 2009: Chapter 1, Meeting Manitoba's Obligations Under the 1997 Treaty Land Entitlement Framework Agreement; and Chapter 3, Assessment Services Branch.

Before we get started, are there any suggestions from the committee as to how long we should sit this evening?

Mr. Doug Martindale (Burrows): Mr. Chairperson, I think we should endeavour to pass a couple of chapters, and at that time the Chair could ask what is the will of the committee, unless we get to 9 o'clock in which case you could ask that question then.

Mr. Chairperson: Thank you very much. Is there agreement to that? Is that agreed to? *[Agreed]* Thank you so much.

I'd also like to ask the committee another question: In which order does the committee wish to consider the two chapters?

Mr. Martindale: I would suggest that we do Treaty Land Entitlement first and then do Assessment.

Mr. Chairperson: Thank you very much. Is there agreement to that? Is there agreement? *[Agreed]*

Thank you. It's agreed.

So we will call: Meeting Manitoba's Obligation Under the 1997 Treaty Land Entitlement Framework Agreement.

And I will ask the Auditor first if the Auditor would like to—oh, pardon me. Before we do that, I would like to ask the Deputy Minister of Aboriginal and Northern Affairs to come forward as well as the Deputy Minister of Conservation, as well.

Now you may bring your staff up with you, and if you require more seating, just have them sit next to you—or at their chairs on the side. Now, I don't know if the ministers want to sit at the end or whether they want to sit in their places at the side; it is up to the ministers, but please come to the table. Ministers, please come to the table.

This is a little unusual because it isn't often that we have two departments coming forward, so, therefore, as long as the ministers are okay in sitting at the corners of the tables, we will proceed. Ministers, are you okay there? *[interjection]* Thank you.

I will now call on the deputy minister to make an opening statement—or pardon me, on the Auditor General to make an opening statement.

Ms. Carol Bellringer (Auditor General): I'm joined by three members of my staff, and Sandra

Cohen and Larry Lewarton were the two who worked on this particular audit. And Norm Ricard is also with us. He worked on the municipal assessment which will come up later.

The audit of Manitoba's Obligations under the 1997 Treaty Land Entitlement Framework Agreement, I'm—we conducted the audit. It was—this was issued in our November 2009 report. We looked at the systems and practices developed by Manitoba to fulfil its obligations under the framework agreement, and it's important to note that it was a framework agreement that involved the governments of Canada and Manitoba as well as the Treaty Land Entitlement Committee of Manitoba, which represented 21 First Nations.

So while it was difficult to separate the various administrative activities for each of the individual parties, we focussed only on Manitoba's identification of issues to be resolved on land selections and the resolution of those issues. In support of that, we reviewed Manitoba's data collection and file management as well as internal co-ordination amongst the provincial departments and agencies involved. We also reviewed Manitoba's role in communicating progress externally to other parties to the agreement and publicly.

We found that significant progress has been made in meeting Treaty Land Entitlement commitments. As at August 20th, 2008, Manitoba had transferred land to Canada or issued Crown land use permits for 61 percent of Crown land that had been selected under the framework agreement by First Nations. The Crown land use permits provide the First Nations with the exclusive use of the land subject to the agreed upon accommodation of third party and other interests, although they don't allow for the fuller use of the land that may occur once it's set apart as reserved by Canada.

So although the issuance of the Crown land use permit for the selected Crown land is an important milestone, the final desired outcome is the setting of part of the land as reserve. At August 20th, 2008, a total of 18 and a half percent of the total acres set out in the framework agreement had been converted to reserve status.

To—in reviewing the progress made to date, we noted that Manitoba was identifying most issues to be resolved on the land selections on a timely basis, that the Department of Conservation had developed a comprehensive data base known as TRELES to track individual parcel selections, the issues related to each

parcel selection and the dates the issues were identified and resolved.

The department had communicated the framework agreement goals and responsibilities to the other provincial departments and was co-ordinating Manitoba's implementation efforts. There was periodic communication with the First Nations regarding the status of parcel selections, and in concert with the other parties to the framework agreement, Manitoba was working towards the development of a documented long-term action plan for completing the framework agreement, and progress in terms of the number of acres of land transferred to Canada by Manitoba and the number of acres of land set apart as a reserve was tracked and periodically reported.

* (19:10)

At the same time, we did note some considerable challenges remaining, and we felt that Manitoba could build upon its accomplishments to date and further enhance the future ability to meet the framework agreement obligations and related commitments if it were to work with the other parties to the agreement to develop processes, to identify and facilitate a resolution to unauthorized structures in a more timely manner, increase the department's ongoing communication and co-ordination with other provincial government departments, further enhance communication with the First Nations by communicating on a more regular basis regarding the current status of all parcel selections, including the status of outstanding issues requiring resolution; enhance file management and documentation so as to provide a more easily accessible and complete record of activities conducted to identify and resolve framework agreement issues and concerns on individual land selections; further develop and document action plans for completing the agreement; communicate to departments a clear process for considering options and developing the views to be adopted during the course of ongoing discussions concerning implementation of the framework agreement; and supplement progress reporting on implementing the agreement to include information on the number of parcel selections transferred, the significant issues resolved in addition to the current reporting on number of acres for which Crown land use permits have been issued, acres transferred to Canada and acres set apart as reserve.

Mr. Chairperson: I thank the Auditor General for her opening statement.

We will move now to the Deputy Minister of Aboriginal and Northern Affairs, Mr. Bostrom, and please feel free to introduce your staff, if you would like to do that before you make your statement.

Mr. Harvey Bostrom (Deputy Minister of Aboriginal and Northern Affairs): Thank you, Mr. Chairperson.

I'm joined at the table by Robert Wavey. He's the manager in our Agreements Management section. And we also have staff here—further staff—Dave Hicks and Cory Young.

I want to thank, first of all, the efforts of the office of the Auditor General in reviewing and providing recommendations with respect to Manitoba's obligation under the 1997 Treaty Land Entitlement Framework Agreement. These recommendations have provided valuable assistance to us towards a commitment to expedite the transfer of TLE selections and acquisitions to the Government of Canada to be set apart as reserves for the entitlement First Nations. TLE is a long-outstanding constitutional obligation, and the fulfilment of this obligation is a priority for the Manitoba government. This was evidenced by the Manitoba government's support of the federal commitment in August of '06 to create 150,000 acres of new reserve lands in each of four years and a further provincial commitment in July '07 to expedite the completion of TLE in four years.

However, as indicated by the Auditor General, Manitoba's commitments are interdependent with the efforts of other parties and are highly dependent upon the ongoing commitment and co-operation of all the parties to the agreement. Manitoba alone cannot resolve interests and issues on land selections and Manitoba cannot transfer land selections until Canada requests and accepts the transfer of the land selections.

As the lead department, along with other departments, we've been involved and have increased efforts to work jointly and co-operatively with the other parties to the agreement to remove and resolve the barriers and obstacles to transferring land to Canada. Along with Manitoba Conservation, we've begun implementing a five-year provincial strategic plan that includes the Auditor General's recommendations. In addition to strengthening internal systems and practices in interdepartmental communication, the five-year strategic plan focusses on Manitoba's role to make land available to Canada for Canada to set apart as reserve land. This means

focussing efforts on resolving some 850 third party and other interests in issues affecting 225 selections.

As well, Manitoba Conservation and ANA are participating in the development of a strategic implementation plan with Canada and the Treaty Land Entitlement Committee that represents the entitlement First Nations which identifies the selections to be transferred and converted to reserve annually over the next number of years. Discussion amongst the parties acknowledge at this point that transferring the remaining selections to reserve status in a reasonable time will be even more challenging. In other words, we've done the easy ones first and these ones are getting into more and more issues on each of the lands. Some of these selections have multiple issues that are difficult, and will take time to resolve before we can begin the next step toward making them available for reserve creation. The processes can be lengthy and subject to unpredictable delays.

I am happy to report, however, as of October 2010, Manitoba has transferred approximately 463,000 acres of Crown land and about 2,700 acres of residual interests in land that was acquired through purchase to Canada, of which Canada has set apart about 427,000 acres as reserve lands. In comparison, up to 2002, only about 7,000 acres had been transferred to Canada. Of the approximately 753,000 acres of total Crown land selected by the entitlement First Nations with their signed treaty entitlement agreements, Manitoba has either made available, issued exclusive-use permits or transferred land to Canada to set apart a reserve for entitlement First Nations for about 557,000 acres. This represents approximately 74 percent of the total acres selected to date, and this is in contrast to what the Auditor reported as 61 percent in a report two years ago.

For 2010-2011, under the strategic implementation planning, it's anticipated by the parties that Manitoba will transfer to Canada about 92,700 acres which Canada will convert into reserve land by March 2011. There remains about 95,000 acres of Crown land yet to be selected, and up to about 107,000 acres yet to be purchased by the entitlement First Nations. As well, six First Nations have yet to sign their TEA agreements representing about 137,000 acres of Crown land and about 14 percent of the total Crown land under the framework agreement. They have to enter into these agreements before they can select and before we can move the land.

The parties have identified these as priority issues in their joint planning efforts. In summary, it bears repeating that it requires the sustained co-operative efforts of all parties, which includes Manitoba, Canada and Treaty Land Entitlement Committee and the entitlement First Nations.

I've also been asked to provide some context on the programs and services discussed in the Auditor General's report. I just want to point out that the Aboriginal and Northern Affairs Department has an Agreements Management branch which has the lead role in this effort, and it—we're dealing with nine TLE agreements covering about 29 First Nations involving a transfer of up to 1.4 million acres of Crown land and residual interest in other land.

In addition to this work, this branch of the department is responsible for co-ordinating the implementation of the Northern Flood Agreement, the Grand Rapids Forebay agreements and other hydro-electric development land and natural resources related agreements. This involves 11 First Nations and five Northern Affairs communities. Over all, the agreement's management roles negotiate and co-ordinate the implementation and fulfilment of Manitoba's obligations under hydro-electric development, treaty land entitlement and other land and natural resources related agreements. They currently participate in five negotiations which are in various stages. So we have a lot more work to do. Thank you.

Mr. Chairperson: Thank you, Mr. Bostrom.

I'll now move to Mr. Meier. Mr. Meier, you may introduce your staff before you make your opening statement.

Mr. Fred Meier (Deputy Minister of Conservation): Thank you very much, Mr. Chairperson.

I'd like to introduce to the table here is Lori Stevenson, our senior manager of Crown Land and TLE programs from our Neepawa office, and Serge Scrafield, our assistant deputy minister responsible for this area is joining us in the back as well.

I'd like to begin by thanking Ms. Bellringer and the office of the Auditor General for the thorough review of meeting Manitoba's obligations under the 1997 Treaty Land Entitlement agreement. The examination process and analysis of Manitoba systems and practices, along with the recommendations put forward in the audit, have assisted Conservation in enhancing current processes

to further expedite the transfer of land to Canada under this agreement.

Conservation's main role in the implementation of the TLE Framework Agreement is related to the review and clearance of land selections submitted by First Nations. The review process begins with the circulation of a land selection to government departments and agencies, and the assessment of comments received in accordance with the principles of the TLE Framework Agreement. A formal response to the selection is prepared setting out the eligibility of the selection and any issues, conditions of transfer that need to be resolved prior to the selection moving forward. These conditions of transfer may require the involvement of various departments or agencies based on the particular conditions. Generally, Conservation leads the discussion where the issue is specifically related to departmental programs. Aboriginal and Northern Affairs generally leads discussions for all other issues, along with assistance from the administering departments, as appropriate.

*(19:20)

Upon resolution of the conditions of transfer, Conservation will verify the boundaries of the selection to be surveyed, and issue to the entitlement First Nation an exclusive-use permit for the selection. The issuance of the exclusive-use permit signifies that the parties have agreed to the land selection, and that the land selection is not subject to further change. Once Canada completes the survey of the land, which is subject to review and approval by the Manitoba Director of Surveys, Conservation prepares a Cabinet submission for the approval of the Lieutenant-Governor-in-Council under The Crown Lands Act. Under The Crown Lands Act, Manitoba is to set aside the unoccupied Crown lands transferred to the Province and in the 1930 Manitoba Natural Resources Transfer Agreement, sufficient land to enable Canada to fulfil its obligations under the treaties with the First Nations of the province.

In addition to the department's responsibilities in the review of land selections, resolution of transfer conditions, and the completion of the administrative land transfer process, the department also maintains a custom, computerized land management system and structured recordkeeping system. Reports and documentation are frequently requested and utilized by all parties.

I'd now like to touch on a little bit of progress associated with some of the different areas.

Section 4.2 sets out the need to identify and facilitate the early resolution of unauthorized structures and land selections. Conservation provides information to the parties about unauthorized structures identified through the circulation process or any other time that new information becomes available. In addition, Conservation provides advice directly to the First Nations regarding potential issues that may arise if any development occurs prior to the land being set aside as reserve.

Under section 4.3 dealing with the requirement for increased communication and co-ordination with other government departments, Conservation has assisted Aboriginal and Northern Affairs in the preparation of orientation material for meetings with MIT and Hydro. Conservation encourages and maintains an open-door policy in respect to inquiries from other departments and agencies regarding the Treaty Land Entitlement process.

Under section 4.4, the recommendations for increased communications with First Nations by ANA and TLEC, to support this recommendation, Conservation generates and distributes monthly TLE acreage and status reports for each First Nation to TLEC Canada, Aboriginal and Northern Affairs, civil legal services and the implementation monitoring committee chairperson. Detailed issue reports for each First Nation are generated and distributed on a quarterly basis. In addition, Conservation began the distribution of the detailed issue reports on a quarterly basis directly to First Nations in July 2010. Each report cover—each report provides the current contact names for each of the respective areas.

Under section 4.5, recognizing the value of Conservation's TRELES system and recommendations for further improvements, to avoid the duplication of effort, Conservation has made available to Aboriginal and Northern Affairs an indexed collection of key scan documents related to the individual selections made by the First Nations. Conservation will continue to work with ANA regarding file management techniques that can further enhance the central registry, as well as encourage other departments to forward pertinent information for inclusion. Due to the success of the TLE land management data base system, Conservation has offered and has provided advice to First Nations in the area of land management and mapping systems. Canada has also requested a meeting with Conservation staff in respect to the

development of a land-based tracking system and best practices.

Under section 4.6, the recommendation for annual and multiyear plans to be prepared in co-ordination with the parties. The implementation monitoring committee initiated the development of a three party strategic plan in 2009. Conservation is directly involved in the plan development, along with ANA, Canada and TLEC. Conservation has contributed a significant amount of the base line data, updates to the land transfer process manual and issue-specific process requirements. The result will be a multiyear plan that reflects participation by the parties.

Under section 4.7 of the report details specific issues that have been impeded, the transfer and recommended the implementation of clear processes and means to discuss Manitoba's view further, Conservation and ANA executive meet frequently to identify issues and consider options to expedite the transfer of land to Canada.

In addition to these TLE update meetings, the three party strategic planning session meetings are providing a good opportunity for implementation staff to openly discuss specific issues and impacts on transfer and time frames. The need for involvement by all parties in the successful resolution of the issues will benefit from these information- and knowledge-sharing opportunities.

And lastly, under section 4.9, addressing the need for increased internal and public reporting, Conservation staff has prepared and maintains a more comprehensive report of the status of the 1997 framework agreement that includes a number of parcels and details as to the level of difficulty associated with resolving outstanding issues. This report will be provided at the TLE update meeting. A detailed breakdown of the number of parcels and acres affected by specific issues is also available and will be provided to ANA.

I'd like to again thank the OAG for their review and the opportunity to provide an update on the department's progress. Thank you.

Mr. Chairperson: Thank you very much.

As has been our practice in recent months and also as is the, I guess, an agreement, we now move to questions rather than asking for statements from either ministers or from critics.

So I will now move to questions.

Mr. Gerald Hawranik (Lac du Bonnet): I guess my first question is to the Auditor. And I know the report was done in November of 2009 and the deputy minister just indicated that there's now a new five-year plan to include the Auditor General's recommendations.

Given the fact that it may take another five years or perhaps even more, is she planning on doing another follow-up audit? And if so, can she give us a time frame as to when she believes that she'll be able to conduct that audit?

Ms. Bellringer: We would follow this up, as we do all of our reports, three years after the issuance. So that would be followed up in 2012. And we use three years as a period of time where we believe that most of the recommendations would be implemented by then, and we didn't see any reason to do it in a different way, despite some significant progress they've identified.

Mr. Hawranik: Yes, and that's three years from what date would that be?

Ms. Bellringer: Three years from the issuance of our report, so from the November '09.

Mr. Hawranik: I guess what I look at—the Auditor had indicated that at the time of the audit, 61 percent of the land was actually selected at that time. Today we have—I hear from the deputy minister that 74 percent of the total acres have been selected to date, which is two years later. And given the fact that in June 2007 the Premier indicated that there was a commitment to expediting the work on the TLE Framework Agreement, can the deputy minister indicate, at that time in 2007 or following 2007, what was actually done to expedite that process, given the fact that we now hear that it may take another five years or more?

Mr. Bostrom: I just want to clarify that the 61 percent and the 74 percent refers to the land that has been transferred to Canada of the acres that have been selected. So the acres that have been selected are around 700-and-some thousand and we've transferred about 74 percent of those lands so far.

So it leaves us with approximately a quarter of the land to complete within the entitlement framework agreement, which is about a million acres. There's a lot of numbers flying around here, but in total we have a wider scope of work with TLE, and that is including land that has recently been approved by Canada for Peguis, which is another 160,000 acres, roughly, that we will have to work on.

So the five-year plan not only relates to the commitment that was made in 2007, but it also relates to other lands that are still—as part of the wider scope of the work that's required here.

Mr. Hawranik: I'd ask the deputy minister, with respect to the statement that was made in June 2007 by the Premier, we made a commitment to expedite the work, can he point to specific measures that were taken since that date of June 2007 to—specifically to expedite the work of the Treaty Land Entitlement Framework Agreement and fulfilling its commitments?

* (19:30)

Mr. Bostrom: Well, I think, both Deputy Minister Meier and myself have been pointing out the ways in which we have improved our systems to improve the movement of the land, and we've also improved our working relationships with the parties so that we've been able to make better progress. And I think the progress to date has been considerable given that, you know, in the first five years of the agreement, only about 7,000 acres were moved, and from that point until now, we have approximately 583,000 acres that have been made available to Canada for creation of reserve.

Mr. Chairperson: Mr. Meier, do you have anything to add to that? You may, of course, complement the answer, or if you have some other information you would like to add, you're certainly open to do that. I just need a signal from you.

Go ahead, Mr. Meier.

Mr. Meier: Thank you very much.

The only thing I would add to that are some of the more specific things that we highlighted in our opening comments. The fact that there is a process now for the deputy minister and myself to meet on a regular basis to review files to ensure that they have the level of oversight that are required, improvements made to our tracking information system that I had highlighted as well.

And, then, on our side, inside of Conservation, some issues that were related to the role we have for our director of surveys to approve the survey plans. We've increased staffing in that area as well to address some of the shortfalls that were identified, and we believe we've addressed those.

Mr. Hawranik: And just further to that, I'm just wondering if you could tell me how much extra staff was actually hired from June 2007 to date, how

many additional staff was hired with respect to this process. And one of the reasons why I ask that is because, of course, I've heard, in any event, that in Crown Lands in Portage la Prairie; they're fairly understaffed when it comes time to dealing with Crown land permits and when it comes time to dealing with other Crown land applications other than through the Treaty Land Entitlement Framework Agreement. And I'm just wondering if you could tell me how much additional staff was—or how much additional staff was hired since June 2007 to implement this agreement.

Mr. Chairperson: Just before—Mr. Meier, go ahead.

Was your question to Mr. Meier or Mr. Bostrom?

Mr. Hawranik: Either one.

Mr. Chairperson: Either one.

Mr. Meier: I'll have to get back to you with the exact numbers. A point of clarification, though, our office in Neepawa deals with Treaty Land Entitlement. The one in Portage la Prairie is associated with a different department and does general Crown land permits, and that. So I would have to get back to you from our department on the number.

Mr. Chairperson: Mr. Bostrom, did you want to add to that?

Mr. Bostrom: The question was how many staff had been added, and we did add one person to our TLE unit. I can't recall the exact date, but it's within the last couple of years, and that has enhanced our support in that area from seven people to eight people, so—and that person has been largely dedicated to the TLE files.

Mr. Chairperson: Thank you.

Mr. Hawranik: I noticed that some of the land gets transferred, of course, directly to the federal government. Some land is under Crown land use permits, and there's been some recent controversy in my constituency, in the Whiteshell Provincial Park, with respect to the petroforms in the Whiteshell Provincial Park, and I wonder if I could have an update in terms of whether an agreement was reached with Sagkeeng First Nation and whether that, in itself, will form part of the Treaty Land Entitlement to which they're entitled under the agreement that they would have signed.

Mr. Meier: In regards to Brokenhead Ojibway Nation who had the selections that were inside of the Whiteshell Provincial Park, the department has kept those selections on our TRELES system but has communicated to the community that they are generally unavailable for selection. We are currently working with the community, as per the framework agreement, to work on a co-management agreement with themselves and other interested First Nation communities in the sacred sites that are inside of the Whiteshell Provincial Park.

Mr. Hawranik: I note that during the minister's opening statement he indicated that there was a new five-year plan now for the department, including the Auditor General's recommendations. Does the deputy minister expect the process to be complete within that five-year time period—and I expect that it probably would have started November of 2009, the date of the Auditor General's report—or what's—what does he anticipate being completed within that five-year period?

Mr. Bostrom: I wish I had a crystal ball and was able to predict exactly. I do know that we've been making good progress, approximately 90,000 acres this year. We've got a little over—around 200,000 acres that are sort of in our hands right now, they're selected, that we're trying to work out the details on.

And I said—as I said in my opening statement, these lands are some of the more difficult ones. There's over 200 parcels within that 200-plus thousand acres. So there's a number of smaller parcels with numerous issues. So it's going to take some time and it's very difficult to estimate exactly. I do know that we are making every effort to meet the deadline that was set in 2007, and that deadline to us is that we want to move the Crown land in through our system so that it is ready for the federal government to turn into reserve. We can't make a commitment on behalf of the federal government as to whether or not they will be able to move as—that quickly. From our experience to date, we have generally been a—far ahead of the federal government and have had land ready and available for them to create reserves far ahead of their process to get it approved in their system.

Mr. Hawranik: Yes, Mr. Deputy Minister, you indicated as well in your report that there's 95,000 acres yet to be selected. I think you used the term during your presentation and there—at the time of the report there were six First Nations that have not signed agreements.

First of all, is it still the same—is it still six First Nations that have not signed any agreement, and secondly, are there any First Nations that have signed the agreement but have not selected all the land to which they are entitled, or is it that 95,000 acres just within the six First Nations who have not signed agreements?

Mr. Bostrom: I know these numbers can be confusing, even if they're right in front of you. But the 95,000 acres refers to the amount of land that the entitlement First Nations who have signed are yet to select, and the ones who have not yet signed—and there's six of them—there's 137,000, roughly, acres that they would be entitled to select once they sign their Treaty Entitlement Agreements. And we have been working very hard on getting these communities on side. They have some issues with the federal government which we are not on our own able to resolve, although we've been trying to mediate some of those issues and we're hoping that we will be able to get them to move relatively quickly once they have signed their agreements, because they have in fact preselected in advance of signing agreements—they've preselected about 86,000 acres and we've been working on those getting ready to approve them in the event that they come through with a signed agreement which is part of the framework agreement overall umbrella agreement.

Mr. Hawranik: So I—using those numbers, I guess what it tells me, too, is that there's about 240,000 acres still to which they are entitled to Crown land, but unable to be transferred because nobody has actually selected that land for—under that agreement itself.

Are they still—and I'm not sure whether—I can't—I don't think you answered the question in terms of the six First Nation communities, whether they are the same—whether they—are there still six that are—have not signed agreements, or is it less than that since 2009. Is it still six First Nations outstanding?

Mr. Bostrom: At the moment there's still six, but we are hopeful that one is very close to signing, and so we'll be down to five hopefully very soon.

* (19:40)

Mr. Hawranik: Can you tell me what involvement Aboriginal and Northern Affairs has in the process with respect to private land acquisition?

Mr. Bostrom: The role of the Manitoba government with respect to private land is we respect the agreement that's been made where the federal

government has provided the funding to the First Nations to purchase. So there must be, obviously, a willing purchaser and a willing seller, and once that deal is consummated and they have the land in their hands, they take that land to—make notice of this by a band council resolution to the federal government that they want to have this land transferred to reserve status. And when that is ready to happen, Manitoba's only role in this is to transfer the residual interest in that land, generally the mineral rights to the land, as part of that transfer to the federal government.

So we don't have a role in terms of assisting them with the purchase part or their role as far as working with the federal government to get the land approved for reserve agreement. The federal government inspects the land to see if it's suitable, if there's any third-party interests, or whatever, before they accept it.

Mr. Hawranik: You indicated that out of the six First Nations communities that have not signed agreements, one is close to signing an agreement. Can you give us an indication as to what the issues are with respect to the other five who have not signed agreements?

Mr. Bostrom: Well, I don't have that detail in front of me. I would—I guess we could supply it if it's required. The—one of them, as I recall from memory, O-Pipon-Na-Piwin, is formally South Indian Lake. They're a new reserve, so they're in the process of developing their systems and so on. We're—we don't think that they have that many difficult issues to resolve, so they should be able to move relatively quickly.

Marcel Colomb, which is in the vicinity of Lynn Lake, is very near to signing. That's the one that I said we're hopeful that this will be done very soon.

Fox Lake, my honourable friend here is a member of that First Nation and a former chief so he's very familiar with the issues there, and I could get him to give you the full description of it, if you would desire it. But they do have issues with regard to some of the fiduciary responsibilities of the federal government respecting the Hydro developments that took place near their community, and they still have those in their mind as outstanding issues that need to be resolved, and until those issues are resolved they don't feel that they should proceed to sign the TLE agreement.

Similarly, with Sayisi Dene, they have an outstanding issue with regard to a relocation—no, not

a relocation, but a claim for land in Nunavut. When the territory of Nunavut was created, they made the case to the federal government that they should have had territorial rights up into Nunavut, and the federal government did not resolve them at that time, and they still maintain that those issues should be resolved before they will sign an agreement with the federal government on treaty land entitlement.

York Factory—*[interjection]* yeah, there was actually a ratification at York Factory, but there was some legal difficulty with that ratification, so they're in the process of getting it reconfirmed. That's another one that's kind of on the verge of, we hope, of being resolved.

Mr. Hawranik: Yes, I thank the minister for that response, and I would look forward to having a commitment for a written response perhaps to each of the six that are still outstanding and the summary, if I could, of all the outstanding issues and concerns that each of the First Nations communities have prior to signing an agreement. And perhaps if you could even provide me with just a brief summary as to what the department is doing to resolve those issues, I would appreciate that as well. I wonder if I can get the commitment from the deputy minister with respect to that.

Mr. Bostrom: Yes, Mr. Chairperson.

Mr. Chairperson: Thank you.

Mr. Hawranik: One of the issues with respect to the process is that—I note from the Auditor General's report was that—is unauthorized structures on land that is being selected.

Can you indicate, give us some general information, first of all, as to what the process is with respect to unauthorized structures and how many issues are outstanding with respect to unauthorized structures on land that has currently been selected?

Mr. Bostrom: Yes, Mr. Chairperson, the—we think that this issue has been largely resolved because the concern for unauthorized structures came primarily from the federal government who had rules about accepting land that had unauthorized structures on them.

They have since developed an agreement, which is a legal instrument, which they can execute with the First Nation in question where there are unauthorized structures on a proposed piece of entitlement First Nation land. And, as long as the

First Nation agrees that they will take responsibility for those unauthorized structures, the federal government will agree to proceed to move that land to reserve status.

Their concern, I believe, is one of fiduciary interest or fiduciary responsibility. So, as long as it's clear and understood and there's a legal document executed in advance of the reserve being created, they will proceed. So it's—our view is that in those cases we think that we can probably move quite quickly on all of those kinds of lands.

Mr. Chairperson: Thank you, Mr. Bostrom.

Mr. Hawranik, I'll allow you one more question, and then I'll move on to another questioner and we'll come back afterwards to you.

Mr. Hawranik: Okay, I think the time is obviously of the essence here, so I'll—I wanted to ask another constituency question, particularly with respect to the north shore of Lake Lac du Bonnet. And, as I understand it, and from the municipality there in which that Crown land is located, is that Norway House First Nation, I believe, has selected that land as part of its treaty land entitlement under the agreement. And, first of all, could the minister—deputy minister indicate, first of all, is it Norway House First Nation that has selected that land, how much land have they selected on the north shore of Lake Lac du Bonnet, and, thirdly, is there a framework within the department to perhaps compensate the municipalities that perhaps lose land within their municipality by virtue of the Treaty Land Entitlement Framework Agreement?

Mr. Chairperson: Mr. Hawranik, before I allow Mr. Bostrom to answer that, I just have to remind you that this is not considered part of the Auditor General's report, but I will certainly allow the deputy minister, if he chooses, to answer the question, but it is not—we're treading on a very margin here of what is in the scope of the audited statement of the department.

So, Mr. Bostrom, you have the opportunity to answer, or not to answer if you don't choose.

Mr. Bostrom: Thank you, Mr. Chairperson. I know that I don't have the detail in front of me, but I do know that there are competing interests and competing selections in that particular area. And, as I say, I don't have the specific details, but from what I understand so far there has not been any decisions to proceed.

With regard to municipal compensation, there is a provision for municipalities to get five times the tax rate that they would have ordinarily been collecting on land that's acquired within their municipality; but, unless the land in question has been in some private hands prior to this selection, there probably would not have been any taxes being paid on that particular location. So that policy mainly applies to land which is purchased within municipal boundaries.

Mr. Chairperson: Thank you, Mr. Bostrom.

*(19:50)

Mr. Gregory Dewar (Selkirk): Mr. Chair, on page 25, the Auditor comments on communications with First Nations, and she suggests that the communications between First Nations in Manitoba could be further enhanced. And my question to the deputy minister is: What action has his department taken to improve communications between your department—both your departments and First Nations of—in Manitoba?

Mr. Bostrom: We have developed systems to ensure that we have good information on each parcel of land, and my colleague here has talked about the TRELES system which they have, which details exactly where the land is, what issues are involved on the land. That information is communicated to the entitlement First Nation on a regular basis. They are able to access that information any time. We have improved our communication with the entitlement First Nations to ensure that we are working with them to try to overcome any of the barriers that are there.

For example, one of the issues would have been portages, where Department of Conservation had reservations about allowing land that was ordinarily used for portages on some important canoe routes to be turned into reserve land. We've managed, through consultation with our sister department and the entitlement First Nations and some research on the issue itself as to how valid this claim was about the portage, to remove at least four or five of those in just recent weeks, and so it involves, I think, around 25,000 acres. So that land is now being made available as a result of that effort. So I think we have, before and after the report of the Auditor, been working on improving our communication with entitlement First Nations so that we can work together with them to resolve those issues.

We also work with the Department of Indian Affairs to ensure that there's no issues there, and if there are, that, you know, we can work with them to resolve those issues as well.

Mr. Chairperson: Mr. Dewar.

Mr. Dewar: No, it's fine, thank you.

Mr. Martindale: I have a question and a comment by way of background, and I want to thank the Auditor General for her helpful background information. I have heard the terms "land claims" and "treaty land entitlement" bandied about as if they were synonymous. In my understanding, they're not, because treaty land entitlement really refers to the process of transferring land to First Nations for reserve status and it would be my—and I don't think there are any outstanding land claims in Manitoba. Is that correct?

Mr. Bostrom: You're correct. You're correct about the treaty land entitlement process as being a constitutional obligation dating back to the time the reserves were first surveyed and they were short-changed on the survey, so this is a way for both federal and provincial governments to overcome that and to compensate the First Nations by land for the land that they would have—they were missing in the first place.

In terms of land claims, I don't have the detail in front of me. I don't want to answer off the cuff about that. I think there may be some land claims. I mean, you know, there's some land claims that are kind of informal and some more formal, so, you know, it may be difficult to answer in any case, but I'd have to give you a more legal description from our legal counsel on what we would consider to be valid land claims other than treaty land entitlement in Manitoba.

Mr. Chairperson: Mr. Martindale, once again, that was not covered in the Auditor's report, but we'll allow that. I'd ask that we continue and try to focus on the report.

Mr. Martindale: Thank you, Mr. Chairperson. Can the Deputy Minister of Aboriginal and Northern Affairs indicate whether the process of TLE could be sped up significantly if the funding for surveys was increased by the federal government?

Mr. Bostrom: The federal government, I must say, have been considerably co-operative with us and have been maintaining their commitment to move 150,000 acres a year. It's not always money when it

comes to surveys. Some of it is weather conditions and a number of other factors that come into it. Possibly we could move some land more quickly, but so far they have been more or less reasonably keeping up with the land that's in the pipeline for Manitoba in terms of getting it surveyed and turned into reserve. So we haven't had to really push them on that score.

Mr. Martindale: Are there other particular barriers that more effort could be focussed on or is being focussed upon?

Mr. Bostrom: Yes, there's multiple issues and what we hope for is good co-operation from our partners in order to move the issues. That's the key, where we have a willing partner to work with in terms of removing barriers. Usually we can, and our—I must say our departments in government have been very co-operative in that regard. We've been able to resolve a whole list of those barriers around winter road access and portage access and under 1,000 acres, and a whole number of issues that are just skated off to the boards now because we've had good co-operation.

Mr. Chairperson: Mr. Meier, did you have something to add to that? I'm sorry.

Mr. Meier: Yes, the only thing that I would add to that is that I think that during our opening statements we also identified some of the other barriers and the deputy minister had indicated the barriers associated with communities that haven't signed on, as well as some of the other ones. There has been significant process in-progress in those areas that were associated with either of the two departments in things such as our own director of surveys in the survey plans, parcels of land within municipalities, Manitoba Hydro issues. Ones that our departments can influence, there has been significant progress on those.

Mr. Martindale: Could the deputy minister tell me if there is a process for settling disputes and if so, what is it and could you briefly describe it?

Mr. Bostrom: There is a process. In fact, the Treaty Land Entitlement Framework Agreement sets out a process for dispute resolution. The first line of dispute resolution is what they call Implementation Monitoring Committee, and that—with representatives from all the parties on that they are expected to get together and try to mediate any disputes. If they fail they can refer it to Senior Advisory Committee, which is made up of the regional director

general of INAC, the chair of the Treaty Land Entitlement Committee of the entitlement First Nations and the Deputy Minister of Aboriginal and Northern Affairs. And in my experience—and it's been nine years now in this role—I've only been asked to go to one meeting in that regard. And beyond that process there's also processes in place for mediation and binding and non-binding arbitration. So we've got the whole gamut. We just haven't used all of those tools yet.

Hon. Jon Gerrard (River Heights): First, a question on the unauthorized structures. I note a comment here that some of these are principal residence of significant value. Can you give us an indication of the largest sort of unauthorized structures and, you know, an explanation for some background in this area?

Mr. Bostrom: Yes, I can't give you the detailed response exactly, but we do know that most of these unauthorized structures are band-owned buildings. They can be as simple as a trapper's cabin or a outpost camp somewhere, fishing camp, or it can be someone from the First Nation who has built a full three bedroom house or whatever, and—but it just so happens that it's on this land that's been selected to become a reserve. And INAC had been taking the position, up till now, that they would not accept these properties unless those structures were removed. So finally, I guess common sense prevailed and they came up with a, you know, a very useful instrument, which is a legal document, as I described earlier.

Mr. Meier: Yes, the only thing I would add to that is there was a question around how large are these or what extent they would be, and to our knowledge, you know, the largest would be a principal residence.

* (20:00)

Mr. Gerrard: Now, there's a discussion here of mining-related issues where there is mining claims. Can you provide us an understanding of the issue, the extent to which mining claims were present, and to what extent, and what was done to resolve where there was a mining claim?

Mr. Bostrom: Mining claims are one of the third-party interests that we have to deal with. We work very closely with our colleague department on that. They're probably one of the more difficult ones to resolve because, you know, there are major value involved here.

The way that the process has been working is that where a selection is made where there's a mining

claim, it's generally disallowed because that is a third-party allocation of Crown land, and it's like if somebody has a lease or some other binding instrument with the Crown on that land, we cannot allocate it to Treaty Land Entitlement as long as that interest remains.

So it's up to the First Nation really in the end to try—if they really are adamant about getting that particular piece of land, to arrive at some kind of an agreement with the holder of the interest, and there is some money that's been set aside within the Treaty Land Entitlement Framework committee for First Nations to use for that purpose. I mean, they could agree, as a group, to invest some money in some areas that may be of particular value and interest to them.

Mr. Chairperson: Mr. Meier, do you have an addition to that answer?

Mr. Meier: No, nothing further to add.

Mr. Chairperson: Okay. Thank you.

Mr. Gerrard: Now, a similar question in relationship to heritage sites, provincial parks, protected areas, what was the process not only for identifying them but for dealing with the issue when you found, you know, heritage sites or a selection in a provincial park or an existing protected area?

Mr. Bostrom: The identification of the site is usually done through Conservation when they do their process of sending around to all the agencies of government, circulating the requests to see if there's any knowledge on anybody's part about an interest in that area, and of course, within parks, it's right in the agreement, the treaty land framework agreement that, generally speaking, land within parks will not be eligible for selection. And in the case of the site, that the petroform site within the Whiteshell park, as you know, probably, it's a site that's used by many First Nations and it has, you know, a sacred—it's considered a sacred site by many First Nations and it's not something that we could, as a government, allocate to just one.

So I think the offer that's been made by the Minister of Conservation (Mr. Blaikie) and the government of Manitoba in that regard is that there would be a process put in place to allow for First Nation participation in a management arrangement for the future of that site as to what kind of use it's put to and how people would get access to it and so on and how it can be—the insurance can be in place for it to be protected.

Mr. Chairperson: Mr. Pedersen.

Oh, I'm sorry, Mr. Meier, did you have an addition to that answer? I'm sorry.

Mr. Meier: Thank you very much, Mr. Chair.

Yes, the only thing I'd clarify on the provincial parks is those are for provincial parks that were established prior to the signing of the framework agreement in 1997. Those that are established after the framework agreement are generally available.

And there was also a question regarding the Protected Areas Initiative which is run out of the Department of Conservation. Those protected areas, because they were established after the framework agreement in 1997, are also available for selection.

Mr. Blaine Pedersen (Carman): Just a little point of clarification for me, in terms of mineral rights, on Crown lands that are selected as TLE and it's transferred to the federal government and back to—as part of the TLE.

In private land—and there's a reserve in my constituency which has bought private land—if the landowner that you've bought—the Crown—the Manitoba Crown buys the land and then turns it over into the TLE and it becomes part of the reserve land then. If the private landowner does not have the mineral rights, does the Crown—and the Crown, obviously, has the mineral rights, then—does the Crown automatically transfer those mineral rights with the TLE then?

Mr. Bostrom: Yes, Mr. Chairman, that is exactly what's done. The Crown, where the previous owner does not have the mineral rights—and I'm not sure what the law is here, but I'm not even sure if mineral rights can be transferred by purchase. But, certainly, our role is to transfer the residual interests, including mineral rights, to the federal government so that that then becomes federal Crown land, and then they declare it as reserve. All reserves in Manitoba have our federal Crown land with mineral rights.

Mr. Chairperson: Okay. Any other questions?

Mr. Hawranik: Yes, just a couple of more questions.

The Auditor General, in her report, found that communication and co-ordination with other departments could be further enhanced and, as an example that was used, apparently the majority of staff never received orientation, even with respect to the requirements of the 1997 framework agreement.

Can you update us in terms of—particularly with respect to that comment, whether the orientation has now occurred and whether all staff are familiar with the 1997 framework agreement?

Mr. Bostrom: Mr. Chairperson, we use a strategic approach in terms of ensuring that the appropriate officials are—receive the orientation that's required, and we work with those departments who have an interest that needs to be resolved and work with those officials in that—in those departments so that they understand their role in working with us to resolve those interests. And as I reported earlier, I found that our co-operation from departments has been excellent in that regard. We have, certainly, I think, overcome any hesitation on anybody's part and we've had a—good results in working out a satisfactory resolution in most cases. Some—in some cases, for example, with—for example, with Infrastructure and Transportation, where there's a winter road route and there's been a claim on the route, we've facilitated meetings between MIT officials and the First Nation in question and been able to resolve the matter at that point without—and then we could move the land.

So it's been a question of strategically working with the right people. I don't think it's really necessary for us, at this point, to orient all the departments as to their role in treaty land entitlement, but rather to identify those that we need to orient.

Mr. Hawranik: Yes, the Auditor also recommended that there be an improvement to the department's file management system and, first of all, has the deputy minister ensured that this has been completed and, if it has, what did it involve and what was done to improve that management system?

Mr. Bostrom: Mr. Chairperson, I guess I could read out the whole strategic plan here, but I'll summarize. We have been developing an electronic file system, and we're expecting that to be completely in place within this fiscal year.

Mr. Chairperson: Okay, seeing no further questions, is the committee agreed that we have completed consideration of Chapter 1, Meeting Manitoba's Obligations Under the 1997 Treaty Land Entitlement Framework Agreement of the Auditor General's Report to the Legislative Assembly, Audits of Governments Operations, November 2009?

Agreed? [*Agreed*]

I will now—I thank the deputy ministers for—and their staff—for coming forward, and I also want to thank the ministers as well.

* (20:10)

Now, I'll invite to the table the Deputy Minister of rural—or pardon me—Local Government.

We'll begin this section, then, by asking the Auditor General if she would like to make an opening statement.

Ms. Bellringer: This audit examined assessments conducted in four municipalities as part of the 2006 general reassessment.

Our audit focussed on whether there were well-defined assessment processes, whether they were consistently followed and necessary information was available to make reasonable assessments or judgments of residential, farm and commercial property values. As a result of having completed this audit, we concluded that the property assessments we examined were conducted in a manner consistent with the branch methodology.

For income-generating commercial properties, we felt that there was a need for the branch to increase its efforts to obtain business income and expense information from a greater proportion of property owners, that the branch should strengthen its risk-based field inspection process to ensure all properties are inspected within a reasonable cycle.

The conclusions on the validity of a sale and on the property characteristics at the time of sale are frequently based on assessor judgment only. As such, in many cases, the vendor or purchaser are not contacted nor is the interior of the property inspected or the interior characteristics otherwise confirmed.

We felt that the branch needed to ensure that the values recorded in the construction cost system reasonably reflect actual construction costs for the reference year, and in 2005 a quality control review function had been introduced, and that was with respect to the sales verification process. We felt with the risk conditions that the—that were faced by the branch that that supported the need for a comprehensive quality control review function.

And also we felt that the branch needed to demonstrate that the assessment services are effective, and to that end the branch had recently begun to explore the use of ratio studies. Thank you.

Mr. Chairperson: Thank you, Madam Auditor General.

Welcome to the table, Ms. McFadyen, and I'm going to ask you perhaps to make an opening statement, but before you do that, you may introduce your staff as well.

Ms. Linda McFadyen (Deputy Minister of Local Government): I have with me tonight Laurie Davidson, who is the assistant deputy minister responsible for Provincial-Municipal Support Services, which includes the Assessment branch. Mark Boreskie is the provincial municipal assessor. Lynne Nesbitt is the head of policy and legislation in that division, and Lloyd Funk is the valuation specialist in Assessment Services.

I'd like to thank the committee for the opportunity to provide an update on the Department of Local Government's response to this audit report which was issued in November of 2009, but before I begin I'd like to note that the Assessment Services branch delivers assessment services in all Manitoba municipalities except for the city of Winnipeg; Winnipeg has its own assessment service.

The audit report is highly technical, given the nature of property assessments, including the methodology's statistical tests used to establish fair market values as required by the legislation. Therefore I'm pleased that this audit was undertaken, because it should provide assurance to the committee, to municipalities, and to property owners that the assessment system is basically sound and reliable.

The department supported and accepted all nine recommendations of the Auditor General, which were aimed at ensuring well-defined, consistently followed property assessment processes are in place and that the information necessary for reassessments is available.

I would like to note that the reasonableness of assessments doesn't require an audit review because all property owners who disagree with their assessment, with the value of their assessment, have the right to appeal to their local board of revision and to the municipal board. So the reasonableness of assessments is reviewed by these two quasi-judicial bodies.

I can advise the committee that seven of these recommendations have been implemented by the department and were in place for the recent 2010

reassessment. As well, substantial progress has been made to full implementation of the remaining two recommendations.

Prior to updating the committee on our progress towards the implementation of the two outstanding recommendations, I'd like to briefly provide an overview of the context within which the assessment system functions and our long-standing commitment to continuous service improvement.

As the Auditor General noted in the report, property taxes are a significant source of funding for local governments and school divisions, and property assessments form the basis for distributing taxes to individual property owners; therefore, assessments must be accurate, comprehensive, current and determined in a consistent manner to ensure fair distribution of the tax. Both governments and the Assessment Services Branch recognize this.

Substantial assessment reform began in the early 1990s in response to the Manitoba Assessment Review, which was the Weir committee, recommendations from that committee, and court decisions that directed assessments be updated and maintained at current market levels. The assessment reform initiative, which included market value assessment of properties, reassessment of all properties every four years, which has now been updated to every two years, an automated computer valuation system, a new municipal assessment act and public education was viewed as a multiyear initiative.

Following introduction of the five components just mentioned, a need to plan for improved service was identified and a continuous improvement plan was implemented by Assessment Services Branch in 1994. The plan has become a rolling plan with improvements implemented continuously, enhancing assessment information available to property owners on our Web site to allow them to better evaluate the accuracy of their assessments, and implementing most of the recommendations in this audit report.

Our continuous improvement approach to ensuring high quality assessment role has been largely successful, we believe. Most property owners are satisfied with their assessments. Our 2009-2010 annual report indicates that the appeal rate in general assessments declined between 2002 and 2006 and remains steady in 2010. And that rate is that only 0.5 percent of the assessment roll entries were appealed to the board of revision.

I would also like to add that our continuous improvement approach is aimed not only at ensuring a high quality assessment role, but a high quality role produced cost efficiently and effectively. We've worked hard to contain cost increases because this system is paid for by municipalities in a large part.

I'd like to briefly update the committee on our progress towards implementing the recommendations. As I noted earlier, seven of the nine recommendations have been implemented fully. The remaining two are well on their way. The first of those two outstanding recommendations is that the branch strengthen its information request practices in order to obtain a greater proportion of requested annual income and expense statements. Strengthened branch practices could include the use of available fines.

Assessment Services has taken significant steps to implement this recommendation so that the number of financial returns to be used in the assessment of commercial and industrial properties is increased. However, I think it's important to note that we've tried to do this in a property owner-centred way, recognizing the challenges faced by many small business owners in rural Manitoba. For example, we don't ask property owners to restate their financial information or to fill out forms but to provide the existing financial information that they have that they're filing with income tax, those other kinds of requests that are already in place.

* (20:20)

To increase the number of financial returns, assessors carried out a phone campaign which resulted in a 40 percent increase in the number of 2008 financial statements received. Our 72 percent return rate exceeded most other jurisdictions that we examined. The 2009 requests were mailed out a month earlier than in previous years to coincide better with typical year-ends for most companies. A fall 2010 phone campaign is being evaluated to ensure that we get a high rate of return for the 2009 financial statements as well.

But it's also important to note that individual financial returns are not the only source of information we use in establishing assessments in—the income base. Third-party reports from CMHC realtors are also used, as well as extrapolation and other statistical techniques.

The second recommendation that we're working on is that the branch strengthen its risk-based

inspection approach by developing reasonable inspection cycles for each type of property. Timely inspections is also integral to ensuring high quality comprehensive and accurate property assessments. Assessment Services inspects properties to ensure new construction and changes to existing properties, such as renovations, are reflected on the assessment roll.

However, physical inspection of property by an assessor is only one way of ensuring information about properties is accurate and up to date. We also rely on other information sources, such as telephone conversations with owners, reviews of financial statements, analysis of their photos, et cetera.

Assessment Services has adopted a risk-based approach to inspections aimed at maximizing the tax base of municipalities in a cost-efficient manner, and this has resulted in substantial revision to work planning, resource allocation and reporting practices. We want to prioritize the inspections to those that are—have—yield the greatest value in that—for the municipalities.

So we do that as follows. We look at properties that have sold, since this information is crucial to the reassessments; properties with new construction; and properties with appeals. Assessment Services has re-engineered and improved its inspection processes, concentrating on inspections of properties that have sold and properties with new construction. This will make inspections more efficient, as well as increase the number of inspections that can be carried out. Key process improvements include: developing a new building permit recordkeeping in our assessment computer system; a centralized input of permit information so that we can monitor progress and ensure the consistency of information that's being recorded, and it also helps us to prioritize the inspections on a weekly basis. We've also improved the documentation of reviews that have been undertaken. We've assigned responsibility to a team of assessors so that inspections of sold properties and properties with new construction are better co-ordinated throughout the province and enable more assessors to be in the field. We're working very closely with the Department of Labour to ensure that Assessment Services is provided with building permits issued by that department, and we're working with municipalities and planning districts to encourage them to enforce their building systems rather than relying on assessors to go out and find new construction on the landscape.

We're confident that through these substantial re-engineering efforts our risk-based approach to inspections has been strengthened, which has improved the quality and accuracy of property assessments province-wide.

So in conclusion, the Department of Local Government remains committed to continuous improvement to ensure the quality of—the delivery of quality assessment services in a fiscally responsible manner, fully accountable to our municipal and other clients.

And I'd like to thank the Auditor General for the assistance that her auditors and consultants provided to us in the process of this audit and in this final report.

I'd be pleased now to answer any questions.

Mr. Chairperson: Thank you very much, Ms. McFadyen.

The floor is now open to questions.

Mr. Pedersen: In this Auditor General's report you said that that there's a couple that you haven't fully implemented yet, and one was the income and expense method of getting the statements and then doing an assessment based on them.

Is—when you said you've—in your statement you said you're working towards better results in there. Is this something that is going to—is it continuing to improve on your basis of what you said, or have you kind of hit a bit of a ceiling in there and there's, perhaps, different methods of looking at updating assessments?

Ms. McFadyen: As I mentioned in my statement, we instituted a process of following up the letters that we've sent out asking for the information with telephone calls, and that significantly improved our return rate last year.

This year we added to that. We sent out our notices a month earlier so that it would, I guess, be closer to the time that businesses were actually generally looking at their financial information related to income tax, those other kinds of things, so we sent out our notices sooner and—in hopes that that would help. We did not get a substantially greater return by the letter, so we're going to follow it up with telephone reviews—telephone calls again.

Mr. Pedersen: Just in terms—companies have different year-ends, they could be anytime during the

year, so it's—I'm not sure whether you'd actually be able to get it, but—and you're basing it on when you're—when you're doing your income and expense, for what year, then, are you reviewing of income and expense? Is it the most recent year or is it a specific year that you're asking for?

Ms. McFadyen: It would be the most recent year.

Mr. Pedersen: So it really wouldn't matter. They could do it for whatever year they've completed, then. That's not really—trying to hit a target of when their year-end is—it's not really relevant in here because it's the most recent year in there.

Ms. McFadyen: Some businesses obviously work on a calendar year and others work on a fiscal year basis. So we're looking for their most recent information, the most recent information that would be available to the buyer of that company, for example. That's what we're looking for. But remember that our assessment reference year—like we're looking to value against a reference year, right? So we can use various—we can convert the various year-ends into something that makes sense into our reference year.

Mr. Pedersen: So, obviously, the Auditor identified this as a source of problems that's created, and it's not necessarily your creation of a problem, here; it's how to get the information from businesses. And, ultimately, there will always be some businesses that will not comply, so what is the alternative for you to get a current assessment, then?

Ms. McFadyen: If a business receives an assessment, we did not get their information directly from their income statement and we had to use one of the other sources, such as this CHMC, or the MLS, or realty kind of information, and that businessperson did not agree with the valuation, the assessment valuation, and they appealed it, and based on information that they now are making available, they won that appeal, we actually have the ability to say, that's fine, you've won that appeal, but the assessment reduction and the tax reduction that goes along with that assessment reduction, presumably, is not going to be implemented till the next year. So it is in their best interest to get back to that—get us that information, make sure that we have it in a timely way.

* (20:30)

Mr. Pedersen: That's obviously an incentive, then, for them to comply.

There was supposed to be guidelines developed here for the frequency of property reviews. Have you implemented those?

Ms. McFadyen: Yes, we have implemented those guidelines. Do you want further detail on that?

Mr. Chairperson: Mr. Pedersen, you want more detail on that?

Mr. Pedersen: If it's lengthy, I would take them as written response, Mr. Chairman.

Mr. Chairperson: Ms. McFadyen, can you provide them in writing?

Ms. McFadyen: We haven't—this is one of the recommendations that we haven't fully implemented at this point so I can certainly tell you about the—we haven't established all of the cycles. What we have been doing is improving our recordkeeping of all the building permits so that we can better identify where the inspections are needed. We've developed new, standardized weekly reports from our computer system so that we categorize and prioritize the type of building permits. So for example, a brand new addition is going to be a higher value than a deck, and we want to make sure that we do the higher value ones first.

Documentation of the report reviews so that we've got a comprehensive trail of what's been inspected and what hasn't and how we've done that, and we've also done that alteration of staff so that we've put teams in place to actually be able to go out and do the inspections on a more timely basis.

And as I mentioned in my opening statement, we are prioritizing the higher value types of changes for inspection. I think it's interesting to note that, you know, we have about 445,000 properties on the rolls. Of those, about 40,000 of the rural entries would be income statements. So those are properties that don't require inspections; 100,000 of them are bare land so they're not buildings that need to be inspections as well. So when you look at that sort of overall 35 percent rate of inspections that have been done, a lot of those properties are properties that don't need to be inspected on a regular basis. So really what we're focussing on is those cycles, and we're developing the information and the processes so that we can put the cycles in place.

Mr. Pedersen: So use of building permits, this is something new for using as a means of assessment, and if I can just qualify that a little bit, we all know we have to get a building permit before we can do

anything. So if it wasn't for the use of the—I would assume part of the reason for a building permit is so the municipality knows about emergency services required for any particular building but if assessment branch wasn't using these building permits before, why were we doing them for so many years?

Ms. McFadyen: Building permits, Mr. Chairperson, are done for a number of different reasons and including safety inspections and building code standards, a whole host of different reasons, not just for assessments. Building permits have always been used, but in the past, there wasn't a centralized way of doing it so municipalities would be issuing building permits but they weren't all being correlated and brought together. So that's what we've been moving towards. We're getting building permits that are issued by Department of Labour directly to us, and we're making sure that those things are brought together on a province-wide basis so that we can actually prioritize the inspections across the province. Obviously, before, we would have situations where some municipalities were better than other municipalities and we weren't getting them.

Mr. Pedersen: So if the guidelines are still being developed and you've explained how they've been developed to date yet when will—is there a target in mind for when these guidelines will be fully implemented, or fully developed and then fully implemented?

Ms. McFadyen: Our target date for the full implementation of the cycles would be 2014.

Mr. Pedersen: In the Auditor General's report here, page 113, there is some question about—the Auditor General brought forth some concerns about assessor judgment alone being used in terms of the validity of—when a property is sold, it's registered with—the sale is registered with Land Titles, there's a value put on it from Land Titles, so I'm assuming from their—how or what was—I won't assume anything. If you could explain how the assessor used judgment alone to assess the validity of the sale, like, what was the criteria involved in there and how did that process work?

Ms. McFadyen: For clarification, are you asking me how it used to happen or how we have improved it to ensure that that is not happening now?

Mr. Pedersen: Mr. Chairperson, obviously, let's talk about how it's been improved.

Ms. McFadyen: We've done a number of things. One of the things is to develop a guideline and to make sure that they are in the manuals, and it's an on-line manual, for the assessors to use. So we're talking about actually verifying the sales that were out there, and assessors—we found that assessors were using their own judgment just from their own knowledge. So what we've done is to put in place a system. I'm just looking for the detail here, actually.

We've done a couple of things here. We provided direction into the on-line procedural manual on sale verification and characteristic confirmation processes so that the assessors know what the process that they're supposed to be following. And in addition to that, we've given them guidelines on applying their discretion in verifying and confirming characteristics of sales. And we're conducting quality assurance on verifications and confirmations, so we have a weekly report system that comes out so that the managers, the supervisors, can actually look into that and go back and verify that these things are happening.

Assessor judgment alone is sufficient to assess the validity of sale in circumstances where parties involved in the sale, including the purchaser, the vendor, and MLS are not available. So that's the narrow case where the assessor is required to use their judgment, if they can't verify it with the seller, the purchaser, or the MLS agent. In those cases, assessor judgment may be made where the assessor has knowledge of sales of comparable properties that were verified with one of the parties to the sale.

The policy has been followed and reliance of assessor judgment as a source of information has decreased about 40 percent since the implementation of that. There are and will continue to be cases where assessors' judgment is deemed sufficient, where parties to the sale are not available and the assessor has extensive local knowledge of the real estate markets. But those are rarer now, much rarer, and we've given very clear guidelines around that.

Mr. Pedersen: So, just going back into the Auditor's report here, on page 113, it was nine of the 19 sales, and five were land only and 14 were land with building, where they were assessed on—based on the assessor's judgment only. So nine of the 19, is that—what would be the ratio now of—and obviously I'm not going to hold you to a hard and fast number, but has it improved there significantly or is there much change there?

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Ms. McFadyen: As I indicated, we believe that it has reduced by at least 40 percent since then, and we would say, roughly, that now you would see maybe a quarter of sales are being—not being verified by outside information.

Mr. Pedersen: But then, of course, you've already said that it depends if the assessor has knowledge of the transaction; that would, I would assume, be part of that 25 percent.

But just for clarification, you said that before when the—when there was no verification of the buyer, the seller or the—if there was a realtor involved in there, it was done by the—the assessor did it by their own judgment. Did I hear you correctly on that?

Ms. McFadyen: The assessors rely a lot on their—of their knowledge of the market, right? And so if a sale appears to be out of line, then they're going to be verifying it much more regularly than if they, you know, they're seeing those kinds of sales going on on a regular basis.

So, you know, there is a place for judgment to be in place but they try to verify. If it looks out of line at all, they're verifying them.

Mr. Gerrard: Now, I just want to know a little bit more about the income-based assessment process which you use, I think, for about 40,000 properties. Now, if you have two properties which are identical size in terms of land and have identical structures on them, but one is managed better than the other so that there's a whole lot better income flow than the other one, do you then have a much higher assessment for the one which is generating more income even though the properties are structurally identical and in similar locations?

Ms. McFadyen: By and large, that's true. If one is better managed, you're going to have better income. The assessor also, though, looks at an average base of a comparable type of property to see whether that's vastly out of line.

But keep in mind that assessment is not an individual appraisal. So, assessment in an assessment process is a mass appraisal; you're not going out and doing every single individual piece of this. So, you know, it is a mass basis. You're looking at averages. You're looking at comparables and that kind of thing.

Mr. Gerrard: But you are taking into account the income generated from that particular property

independent of what the structure itself or the land base might be worth. Is that right?

Ms. McFadyen: In this case, the income represents what the value of the land is. So we're not doing a separate assessment of the land and the building versus the income approach. It represents this because these are income-generating properties. So, I mean, it's a technical kind of process, but it—and we try to take comparables into consideration. But there's not a separate assessment for the building and the income.

Mr. Gerrard: Now, when you're using income-based assessments for certain types of properties, there could be quite traumatic shifts from one year to another, depending on the economy or tourist infrastructure, depending on the weather, the Canadian-U.S. dollar ratio and various other things. I mean, is this, you know, how do you take these factors into account in—if you're using a primary income base for valuing the property?

Ms. McFadyen: So this is not done on an annual basis. It's done over the cycle, right? You—we're getting the information over a number of years, but once we establish the reference year, the reference year value is in place until the next reference year, until the next assessment cycle. So it's, you know, that going up and down—and keep in mind that it also—all properties of that type would be changing, as opposed to individual properties. So when you have reassessments you have shifts between different types of properties because other—some properties—some types of properties go up and others go down.

Mr. Gerrard: Just to clarify, you're using, when it finally comes down to it, an individual year, not an average over several years?

Ms. McFadyen: You're establishing at a single year. You're using a number of years to establish that single year. I don't know if that makes sense, but that's the best way I can explain it.

Mr. Gerrard: So you're getting the income statements from a series of years and you're using that series of years to value the value of the property. Is that what you're saying?

Ms. McFadyen: Yes.

Mr. Gerrard: Okay, one more question. In terms of the ratio, give us a little bit of an understanding of what kind of ratios are used in this ratio assessment.

Ms. McFadyen: You're talking about the last recommendation of the assessor; I actually have some information here.

Ratio studies are statistical tests to help determine the quality of assessments, and they're based on the ratio of sales prices to assessments. Hence, the name ratio study. They're set out—they set out standards. There's standards that are set out by the International Association of Assessing Officers that those ratios should fall into so that we can use—we can do the ratios and we can check whether or not we're falling into those standards, and then we know whether we have to go back in and redo the assessments or question what our assessments are. So the principal tests that we use are assessment-to-sale ratio, the coefficient of disbursement—dispersion and the price-relate differential.

Mr. Bidhu Jha (Radisson): Now, I was looking at the No. 104, when it said mass appraisal technique, and then, look at some of the recommendations. Now, I understand the assessment system is very technical; so are the recommendations.

Would you say—it's a very simple or a very complicated question—that as of now that we feel that the overall system is sound and safe?

Ms. McFadyen: I'd note, first of all, that the Auditor General pointed out in her audit that she didn't include an evaluation of reasonableness. So she looked at the technical processes and are we following those, and we talked about earlier, the reasonableness of an assessment has checks and balances built in through the appeal process.

The Auditor General actually made a few statements, I think, that gives us a great deal of comfort that we have a sound system in Manitoba. She said that property assessments were conducted in a manner consistent with the methodology that was sent out for them, that assessment methodologies are being correctly applied and that branch methods were consistent with the International Association of Assessing Officers.

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I think it's also important to note that the Auditor—it wasn't just the Auditor General's officer that was looking—office—that was looking at this. The office brought in an outside consultant from B.C. who was an expert in assessment, and so these recommendations and the statements that are in the report, I think, are a result of a pretty thorough overview of the assessment system in Manitoba.

Mr. Jha: Now, there is something in here called that—your two-year assessment system process. What is the logic behind this two-year process?

Ms. McFadyen: I think that when you bring assessments closer together, you eliminate a lot of the ups and downs that are going in. So what we can do is we can smooth it out. The longer you have between valuation of properties, the bigger the change that's going to be in that assessment and the bigger the opportunity or the greater the opportunity for shifts among types of properties. So when we're bringing them closer together, we're giving taxpayers a much greater comfort that they're looking at an assessment that's actually current, they're looking at a value that's relatively current, and I think it's also much better for municipalities. It gives them a much more consistent idea of what their assessment base is worth.

An Honourable Member: Thank you.

Mr. Chairperson: Thank you.

Mr. Pedersen: Just to follow up on that, it's a two-year assessment now, but it's—am I correct in saying it's a four-year—it's a paper assessment on every—on two years and it's a major reassessment on four, or is it a complete reassessment every two years?

Ms. McFadyen: No, it's a complete reassessment every two years now.

Mr. Pedersen: Thank you for enlightening us on that, because that was different than what we were talking about earlier in—before we started here.

Just one other issue that I would like to bring up that the Auditor brought out, and it's about cost components, the six cost components, page 115, 116, and that you are using 1988 numbers and you are just using a rate of inflation on them to upgrade. Have you changed that system since the Auditor General did her report?

Ms. McFadyen: Yes, we've actually instituted a number of measures to bring that up to date. First of all, we've developed a spreadsheet-based system of recording cost data and sources, and we've linked that master record with all our building component costing spreadsheets. So we've linked that all together so it's centralized. The information's readily available. The new spreadsheet system was developed and implemented for the 2010 reassessment that's just been completed.

Because we have it now in an electronic format, the supporting documentation and the source information is available for all decisions, so all of the assessors have access to that information on a readily available basis, and we've also included into the guidelines in the manuals a description of the costing process, including data acquisition, so that they know how they are to go about that costing process.

Mr. Pedersen: So in your opinion, is it working much better, then, than your old system?

Ms. McFadyen: Yes, it's working much better. We put together the manuals and it really is working well for us.

Mr. Chairperson: Are there any further questions?

Seeing none, does the committee agree that we have completed consideration of Chapter 3, Assessment Services Branch, of the Auditor General's Report to the Legislative Assembly, Audits of Government Operations, November 2009?
[Agreed]

What is the will of the committee?

An Honourable Member: Committee rise.

Mr. Chairperson: Committee rise. The hour being 8:55, committee rise. Thank you, Ms. McFadyen and staff, and thank you, Mr. Minister.

COMMITTEE ROSE AT: 8:55 p.m.

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