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Chair

Mr. Chris Warkentin

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• (1530)

[English]

The Chair (Mr. Chris Warkentin (Peace River, CPC)): Colleagues, I call the meeting to order. This is the 34th meeting of the Standing Committee on Aboriginal Affairs and Northern Development, and this is a continuation of the study of land use and sustainable economic development that we have been undertaking over the last number of months, as you know.

Today we have the privilege of a guest joining us who will bring an opening statement, and then we'll have questions as usual. We have James Cada, the director of operations, and Keith Sayers, the lands and resources manager, from the Mississauga First Nation. Thank you so much for coming.

We have a third person, Julie Pellerin. It's good to have you back. For a minute I thought I should know your name, and of course I should. Thank you so much for joining us again.

Folks, we'll begin by having your opening statement.

Do you have just one opening statement?

Mr. James Cada (Director of Operations, Mississauga First Nation): No, we have two. I will be doing one first. Keith will talk more about the loss of use regarding forestry. That's more his forte.

The Chair: Perfect.

We'll turn it over to you, James, if you want to go first, and then we'll turn it over to Keith. Then we'll have questions for you.

Thanks so much.

Mr. James Cada: Thank you for having us here. My name is James Cada and I'm the director of operations for Mississauga. I've been there for, I'd say, 20 out of the last 25 years. I've been involved in lands since 1992.

For the Mississauga First Nation, our biggest challenge has been, and still is, the implementation of our northern boundary settlement agreement and the application of our first nation land code. We entered into the FNLMA initiative in March 2003, as we felt we were the rightful managers of our lands and the FNLMA provided the legal structure for that management.

Mississauga First Nation has been dealing with land issues since 1850, and we've always striven to utilize the four processes we are currently involved with to augment each other. Right now we're into the implementation of the northern boundary settlement agreement, the first nations land management initiative, highway ILA agreement negotiations, and flooded claims negotiations.

In 1850 Mississauga was a signatory to the Robinson-Huron Treaty. The land cessation was defined as the land between the Mississauga River and Penebawabecong up to the first rapids. When our northern boundary was surveyed in 1882, there were no rapids, and the boundary was placed far to the south of what was intended.

In 1994 the northern boundary settlement agreement was finalized and included 40,000 acres of land, which included 23 inland lakes. Canada agreed to set apart these lands for the use and benefit of the Mississauga, pursuant to the Indian Act, provided the title of the land was satisfactorily approved through the ATR and the environmental condition of the land was satisfactory to Canada.

The legal survey commenced in June 1995 and was completed in February 1996. Ontario passed its order in council on May 5, 1999, to transfer the unencumbered lands to Canada, to set apart as a reserve. However, the order did not take effect until Canada formally accepted the lands under the Federal Real Property Act in April 2001, two years later. Canada finally passed the OIC and granted the land reserve status on March 25, 2010—15 years and eight months later.

In Ontario, is the delay caused by the ATR policy itself, or is the system responsible for implementing the policy?

A property transfer assessment that was completed for the settlement lands in March 1995 found that only two concerns had to be addressed: a study of a closed dump and rehabilitation of three abandoned mines. The work was completed by Ontario in 1996, and since a PTA had a shelf life of only two years, follow-up studies had to be completed in November 1999, March 2003, and April 2005. There were and are no outstanding environmental issues. I'm sure the money used could have been spent more prudently. I'm guessing it cost probably at least \$150,000.

Canada had to create two easements in favour of Ontario Hydro and Union Gas. The first nation signed payment in lieu of tax agreements with both companies. Since the land was not formally transferred to reserve status, Hydro One had not included these easements in its calculations. Through negotiations directly with Hydro One, they agreed to pay the 50% payment in lieu of taxes in 2009, retroactive to May 2001, in the amount of \$568,000, which represented a loss of half a million dollars to the first nation.

INAC offered little to no support, as payment in lieu of tax agreements were between first nations and Hydro One. Union Gas, however, acknowledged that the lands belonged to the first nation and, regardless, paid their payment in lieu of taxes. Theirs was roughly \$39,000 annually.

We passed our northern boundary lands act on June 26, 2010, to add the northern boundary lands to our individual agreement on first nations land management. We were disappointed by the position taken by the lands and ATR unit to exclude the easements for Hydro One and Union Gas from that act and from transfer to the first nation's management. The response was that Hydro One and Union Gas easements had been excluded because they are interests in federal land that predate the setting apart of the northern boundary lands as a reserve, and therefore are not reserve interests, which cannot be transferred to the first nation pursuant to the FNLMA. As you know, these interests were not granted under the Indian Act. They were granted under the Federal Real Property and Federal Immovables Act, and the reserve was created subject to them. These interests do not form part of the reserve and therefore cannot be subject to the land code.

• (1535)

We had argued that the hydro easement clearly states that Her Majesty agrees that it will register this agreement in the reserve land register pursuant to section 21 of the Indian Act, which therefore would be an interest in Indian land. We didn't receive a response on that matter. We were contemplating invoking the dispute resolution mechanism but realized that this would delay the amendment to the individual agreement on first nations land management by years. Given the value of the annual payments, we figured we would like Canada to continue to mismanage the easements on our behalf. I say "mismanagement" for many reasons. How can third parties have interests in federal lands without an agreement? The easements should have been in place when Canada accepted the lands from Ontario back in 2000. And why does it take the department seven years to fully execute and implement an easement that it drafted?

Hydro One paid the rent for the first 10-year period, 1994-2004, but has not paid rent since. So as part of what we thought would be our new management's responsibility, formerly Canada's responsibility, we had an appraisal carried out for the easement lands. Hydro One also required their own appraisal as part of a 10-year renewal period. These were completed and reviewed in August 2001. Since there was a difference in the appraisals of greater than 10%, a third appraisal must be completed within 90 days, as per the agreement. However, because of the position the department had taken, Mississauga was no longer involved in that process. To date, no appraisal has been initiated. Instead, AANDC recently conducted a review of the old specific claims files by the DOJ legal counsel who worked on the settlement agreement. This review is meant to assist in explaining and clarifying the contradictory language contained in the easements and the 10-year renewal dates. Unfortunately, the review of the files has not provided clarifying information. Why would they not ask the DOJ, which signed off on the easements and then sent them up to Privy Council as part of the OIC, to grant the lands reserve status? The renewal date is either 2004, 10 years after 1994, or 2011, 10 years after the first appraisal of 2001.

As for Union Gas, it is paying its annual rent, but there is no record of the initial \$800 payment. The cheque has been stale-dated, and it was my understanding that this payment was required to validate the agreement. The annual payments are now being held in Revenue's suspense account and cannot be released because they say there is no mechanism to authorize the release. However, we question how they were able to release the first 10 years of the hydro rental payments.

The IA amendment was signed off on March 14, 2012, and we were proceeding to officially notify Ontario that we were registering their rights-of-way within the northern boundary settlement lands. We received from AANDC a notice that rights-of-way are not grants from Canada but rights reserved by Ontario at the time of transfer, and that therefore Canada had no responsibility for these rights-of-way and nothing to transfer to the first nation. So who is responsible for the management of the terms and conditions of this easement? Canada should have registered the rights-of-way under the Indian Act, as there are terms and conditions attached to each of the easements, with certain rights and obligations on Canada and Ontario. I do not believe that public policy and rational land management are served when easements like this are not registered publicly on the land.

In consultation with Ontario, we will be proceeding to register 16 rights-of-way and terminate five of them. Two of the rights-of-way are public and the others are private. As per the settlement agreement, if all of the lots benefiting from any of the rights-of-way are purchased by Mississauga, that right-of-way shall be deemed to be legally terminated. Ontario has agreed to ensure that these are terminated administratively. As part of the settlement agreement, Canada is required to add the properties to reserve. These are the private properties that were a must buy within the settlement agreement that Mississauga purchased at a total cost of \$2.4 million. These 35 properties consisted of dwellings and cottages that are still under Ontario's administration and control.

The Mississauga First Nation council passed a band council resolution on August 9, 2000, requesting that the trust transfer the properties to Canada to be added to the reserve. The ESA follow-ups to these properties were completed in May 2003, 2005, and most recently in 2011. There are no environmental concerns that will impede the process.

• (1540)

On April 17, 2003, we requested that INAC appoint an agent for the transfer and offer of purchase for private properties. In November 2003, Ontario was prepared to transfer all provincial crown interests in those properties by ministerial order. In December 2003, we were given the final draft offers of purchase, which were accepted, and as of today they are still in the department for final approval.

On average, we are losing about \$85,000 annually for either rental or leases of those properties, and to date that total runs about \$935,000. Further, there are two small hydroelectric generation sites in the land claim area. The land for these sites is to be transferred to Canada, along with the water power leases, in the years 2037 and 2043 respectively, unless the first nation can reach an agreement with the respective owners. We are presently in negotiations with them.

However, our issue is that Ontario collects a gross revenue charge of 12% for these properties— 9% for water and 3% for land—and we are only receiving the water rental portion. We have asked that this be rectified, as the land portion is approximately \$350,000 to date. Of course we get no support from the department.

Our concern is that the settlement agreement says the total amount of all land rentals, royalties, energy charges, capacity charges, or any other payments received in respect of the lands or water power during this period shall be paid to Canada for the use and benefit of Mississauga.

On a good front, we are negotiating a new easement with Union Gas under our land code, and it should be completed, including a vote, within the next three months—a six-month turnaround time. We have made the same offer to hydro.

The benefit we see with the First Nations Lands Management Act will be the effective, efficient, and economic management of our lands. However, we need all the lands to be entered in the FNLM process, and the implementation of the ATR process is holding us back.

Thank you.

The Chair: Thank you very much.

Mr. Sayers, we'll turn to you now for your opening statement.

Mr. Keith Sayers (Lands and Resources Manager, Mississauga First Nation): Thank you for inviting us here to share information with you. My main function is to manage the lands prudently and wisely for the benefit of our members of Mississauga First Nation.

As we know, in 1994 Mississauga First Nation, Ontario, and Canada signed an agreement on a land claim involving a dispute on the survey of the northern boundary. This agreement provided Mississauga First Nation with new opportunities in the natural resources sector. This new land fits in the Great Lakes-St. Lawrence forest region, which has some of the most tolerant hardwoods within the north shore region. We were hoping to capitalize on the forestry's economic opportunities.

Prior to the 1994 land settlement agreement, Mississauga First Nation's land base was 1,977 hectares of land; about 1,100 hectares were productive forest lands. Under our existing land base, much of that was depleted due to various circumstances.

Along with that, we have 220 hectares of non-forest land, meaning rock and water. We have protected lands of 136 hectares, which we had to exclude from the annual level cut in our forest management plan. With that, we had a non-productive forest area equivalent to 515 hectares, which was just primary swamp, so there weren't really a whole lot of forestry opportunities on the present land base.

After 1994 the land settlement area increased our land base by an additional 16,000 hectares. Of that, we had approximately 2,400 hectares of fresh water containing both warm water fish species and some deep cold water lake species of fish as well that would promote hunting and fishing.

In addition to that, we had about 2,400 hectares of non-forest land, 350 of non-productive forest land, and on top of that we had about 12,000 hectares of productive forest land, and that's where we were hoping to capitalize on our economic opportunities in the forestry.

With this, we had to establish a 10-year forest benchmark, so in the initial phase from 1994 to 2004 we developed a forest management plan. Again, with the time lags we had to wait out the process to implement our plans because the new reserved lands were not under our control at that time.

We had to spend more dollars updating our forest management plan to bring it to its current state.

We're still waiting to implement our forest management plan, and we lost other opportunities in that section as well in terms of non-timber forest products.

So the timeframes that had an adverse affect on our plans stemmed from 1994. The settlement was agreed to in March 2010, when the order in council was signed giving our new lands official Indian reserve status. In June 2010 we passed a land law under our land code, hoping to add our lands to our land code. As we heard from Jim, in March 2012 the individual agreement was signed by the minister making our lands officially part of our land quota, which we can now implement.

So in that timeframe we lost many opportunities in the forest sector by missing employment opportunities related to harvesting the wood and to value added. We missed opportunities with sawmills and other small contracts that were presented to us. We couldn't make ends meet because of the timelines.

Since that time, Mississauga First Nation has lost \$10.5 million in stumpage revenues in the Ontario system in relation to direct jobs and spinoffs.

• (1545)

We lost about \$850,000 in land lease opportunities, whether it was through recreational or other types of business entities that wished to lease land from Mississauga First Nation and help stimulate the local economy.

Most recently, we could not make a move on a renewable energy sector because of the same issues; we could not access the lands to implement these projects. In addition to all that stuff, we had hunting and fishing opportunities that some of our members wanted to engage in, and non-timber forest products, but, again, we could not issue any kind of permit forms or leases to these individuals to capitalize on the new lands.

I feel the real losers in this whole process are the many elders who participated in 1994 as the negotiating team, who were present from day one to 1994, and who are no longer here with us. They will not see the full benefit of the new lands and how we can try to prosper and move on to the next seven generations whose futures will have something to look forward to.

In short, the ATR process has to be more effective in order for first nations to become more efficient in economic opportunities. If the Mississauga First Nation had experienced a speedy process, our current economic concerns would be very minimal.

• (1550)

The Chair: Thank you, gentlemen. We appreciate your opening statements. We're going to turn it over to my colleagues now for the fall-out questions.

We'll turn to Ms. Crowder first for seven minutes.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Thank you, Mr. Chair, and I want to thank Mr. Sayers and Mr. Cada for coming before the committee.

I have a number of questions. Just so I'm clear, in 1994 you had a land claims agreement signed, and in March 2010 an order in council was signed, and then in March 2012 the land code was signed. Have I got that—

Mr. James Cada: No, the amendment to the land code was done in 2009.

Ms. Jean Crowder: Okay. So the state now is that the additions to reserve haven't happened.

Mr. James Cada: The ATR happened on March 25.

Ms. Jean Crowder: Of this year, 2012?

Mr. James Cada: No, they happened in 2010.

Ms. Jean Crowder: So the additions to reserve are all completed now?

Mr. James Cada: For the 40,000 acres of reserve lands. The Little Chiblow lands still haven't even been processed or accepted by Canada.

Ms. Jean Crowder: They haven't even been accepted. So how many processes are still outstanding?

Mr. James Cada: The only process now that is outstanding is the Little Chiblow lands being added to reserve status, which requires the government to finalize the offer of purchase. The lands then are transferred. Ontario is simply waiting to get rid of their crown interests, so it's basically waiting for Canada to accept.

Ms. Jean Crowder: So it's in Canada's hands.

What's the unemployment rate for your nation?

Mr. James Cada: It's roughly, I would say, over 40%. That was just a rough figure that somebody threw together.

Ms. Jean Crowder: How many of your nation live off reserve? Do you know?

Mr. James Cada: The majority, probably about 700, live off reserve.

Ms. Jean Crowder: I haven't added up all of the numbers in terms of lost revenue, because you've had a couple of different

streams here. Part of the lost revenue you talked about was the stumpage revenue at \$10.5 million, and that included spinoffs, and that's using the Province of Ontario's figures. Is that correct?

Mr. James Cada: Yes.

Ms. Jean Crowder: Plus there are land lease losses. Do you have a ballpark overall of what your projected estimate of lost revenue is for everything, for leases on property, for the easements, and for lost stumpage? Do you have any kind of sense of what your nation could have earned since 1994 if this process had been expedited?

Mr. James Cada: Just based on Keith's number, we're probably looking at anywhere from \$10 million to \$12 million.

Ms. Jean Crowder: So for the 700-plus people who are living off reserve, it would have been an opportunity to come home. That's one of the things that would have happened, I would presume.

Mr. James Cada: Keith talked about some of the other opportunities that went amiss. We did a couple of small sawmill studies about how we'd utilize the hardwoods. We haven't even taken it to the extreme of looking at the loss of jobs and so on. But the biggest problem, and why people are leaving the community, is employment. If we could provide them with stable employment, I'm sure we'd have a lot coming back home.

• (1555)

Mr. Keith Sayers: To add to that, we have some individuals who want to come back home because they know what is available to us once we have our plans in place and everything fits with our long-term planning goals of creating those economic opportunities. Again, we do have some individuals going to universities and colleges, with the intent of coming home to work for the community, once we can get all our plans in place and things are running smoothly.

Ms. Jean Crowder: As you rightly pointed out, the delays are costing you money, because you have to redo plans. You were talking about your forestry management plan. You've had to redo it because you weren't able to move forward on it. So it's not only the lost opportunities for people in employment and generating revenue for the nation; it's also a cost to you in terms of having to redo work that's already been done. Is that correct?

Mr. Keith Sayers: Yes, and we're going to face the same situation again, because our forestry management plan should probably be reviewed again, to update it and make sure the economics are appropriate based on today's forest industry and the direction that's going in. In addition to that, we have to update our land-use plan. Again, those are all costs that will be borne by the first nation in implementing all our planning and other strategies to create economic opportunities.

Mr. James Cada: Right now, I do believe we're up to five buildings that have to be demolished, torn down, due to the inability to provide a long-term lease or rental agreement to individuals, not only first nations members but to the mainstream. We've always complied with the request of the department not to quote any long-term interests on those private properties until the lands are transferred and so on. Because we're tied to that commitment, we're losing out. The losses are continually mounting because of the maintenance. If you don't have people living in those units, those losses are going to continue to grow. Basically, if this continues, we'll have no other option but to seek damages for that delay.

Ms. Jean Crowder: Do I have time?

The Chair: One minute.

Ms. Jean Crowder: If you were to make two or three recommendations to us as to how things need to be improved, what would they be?

Mr. James Cada: For me, it's the management or implementation of the ATR. Here in Ontario, I know for a fact that the lands unit is not fully staffed. I'm also aware of personal issues with management. There's a structure in place there that basically says, here's a work plan, or here's our business plan, and this is what we're going to get off the table. It seems as if they're doing more negotiating than implementing.

Ms. Jean Crowder: Implementation of land claims agreements is a criticism across the country. People sign agreements, but the implementation process drags on forever. Is there an adequate dispute resolution process, in your view?

Mr. James Cada: Under the ATR, no. I think the only dispute resolution—because we signed a settlement agreement—is to take it to court. The court's bottom line is going to be, “Here, you've got to go and do this under your ATR policy.” So you're back in the same boat.

The Chair: Thanks, Mr. Cada.

Mr. Rickford for seven minutes.

Mr. Greg Rickford (Kenora, CPC): Thank you, Mr. Chair. Thank you to the witnesses.

I thank my colleague who has brought forward a discussion I'd like to develop a little further with respect to additions to reserves. There is another subject that perhaps I'll get to later.

First of all, I want you folks to understand that you're exactly the kinds of witnesses we want to hear from at this committee—the perspective of the economic development people who have spoken to things like FNLM, first nations land management, and the board itself. Other witnesses, specifically from communities, have added their positive and critical impressions and experiences with respect to a number of activities and exercises that are involved in first nations land management, or, in a broader sense, land-use planning.

Keith, land management, as you rightly pointed out, represents significant economic benefits to a community. In your case, your concern is loss of opportunity, just as one example.

It benefits us all when we have a frank discussion about these matters, because these are long-standing structural challenges of a

decade or two that we must overcome. The important work the committee is doing here is to break some of this down.

I just want to ask a couple of questions.

You've identified that each parcel of land may have unique considerations to be resolved before adding to the reserve. What do you think is a reasonable timeframe?

This isn't an easy question because we've heard from the chief of Kitigan Zibi, for example, who said that some of the smallest parcels of land represent some of the biggest challenges to actually go through that process. Then others, without explanation, tend not to take as long, but represent larger pieces of land.

Generally speaking, James, can you comment on that?

• (1600)

Mr. James Cada: In all honesty, I can't speak for the department. I've seen a number of issues, or, to me, excuses on delays, such as changes in the formatting of OICs, orders in council, and so on and so forth.

These lands have been studied to death in regard to title and environment. There have been three studies on them. There are no impediments. The only impediment is to get the offers signed, the lands transferred to Canada, and the order in council completed. There is nothing else that's impeding that process.

Mr. Greg Rickford: There are some administrative or bureaucratic issues, in this case at the Department of Aboriginal Affairs. You feel we should be able to be more responsive. There are some complexities.

I'm going to move on to my question about third-party encumbrances. I understand that at least in one instance there was a nearby first nation that had some kind of dispute. Sometimes it's where the timelines get extended as you resolve these situations.

Could you speak to any specific third-party encumbrances and/or any lingering disagreements, if you will, with nearby communities, be they municipalities or a first nation, and what your experience was in that regard?

Mr. James Cada: For us, we've had basically no encumbrances. In the land claim consultation process there was a lot of uproar and so on, but I think a lot of that was dealt with through amendments or through the negotiations. We provided assurances for a lot of the hunters, the cottagers, and so on. We continued to do that as custodians, to allow that access, when the lands were still under federal status.

To me, there are no impediments. Union Gas and hydro, and Ontario, with its private right-of-ways and whatnot, are the only ones there. We've had no problems with them at all.

Right now, as I said, Union Gas is prepared to enter into an agreement under the land code and easement agreement. The turnaround time would probably be six months. That includes one month to allow for a vote.

Mr. Greg Rickford: They're a business moving at the speed—

Mr. James Cada: They always have been cooperative. Hydro One is interested. I think basically they're going to get tired of the issues they're dealing with, with the department, because their timelines continue to drag on.

Mr. Greg Rickford: James, I can appreciate that.

This time goes by so quickly, so I'm having to go over some stuff here more rapidly than I want to.

I know that in September 2000, the department released a final report, "Impact Evaluation of Contributions to Indian Bands for Land Management on Reserve". It's kind of a long title. I'm not sure if you're familiar with the report. But importantly, this final report recommended that the department "work towards national ATR legislation that incorporates process and approval improvements to streamline the process and increase efficiency".

Perhaps you would like to take this last minute or two to expound on that recommendation, based on a very experienced community in this regard.

• (1605)

Mr. James Cada: If there's legislation and there are timelines that go with that legislation, I would be all for it. We've discussed doing timelines in the settlement agreement. We've always gotten resistance—no, they can't commit to that.

Mr. Greg Rickford: It's a critical element, James.

I know that my time is set to expire, if you could answer briefly.

Mr. James Cada: That basically is it, in a nutshell. We've asked for a commitment. We were looking at that in the two other negotiations we're into. We want some type of commitment from the department that, yes, these are the timelines they can live up to, because we realize that for our lands, there is no encumbrance.

Mr. Greg Rickford: I appreciate, then, that this would be a fully integrated discussion between other levels of government implicated in this process, and perhaps even private sector stakeholders, such as Hydro One and Union Gas. Would that streamline it and make it more efficient? It would be consistent, I would think.

Mr. James Cada: Yes, it would. Because I can tell you, I know two corporations that are not happy with the process or with what they're being fed now by the department.

Mr. Greg Rickford: It sounds as if there are too many processes.

My time is up, but thank you, James. I appreciate it.

The Chair: Thank you, Mr. Rickford.

Ms. Bennett, we'll turn to you now for seven minutes.

Hon. Carolyn Bennett (St. Paul's, Lib.): As the parliamentary secretary stated, you're very experienced in managing land.

I was just wondering if you've had time to look at the budget implementation act and the changes in division 46 of the act to the First Nations Land Management Act and the number of pages there that would affect first nations land management.

Mr. James Cada: Unfortunately, no, we haven't. Usually a lot of that we leave to, I would say, our colleagues, the Lands Advisory Board, to advise us on those issues. We are aware of the new funding

increases we received, and we're more than grateful for that, because we knew the dollars we were getting weren't enough.

Hon. Carolyn Bennett: With respect to that need for "free, prior, and informed consent" on laws affecting first nations in Canada, according to the rights of indigenous peoples, it seems that there are quite significant changes in this budget act. I don't know whether the advisers were asked.

It seems that land surveys are no longer required. The verb has been changed: the "Surveyor General may prepare". It seems that legal descriptions have been changed, and it seems that no longer are the environmental management agreements necessary. I was just wondering how much consultation had been done on these rather significant changes to the First Nations Land Management Act before the bill was tabled.

Ms. Julie Pellerin (Manager, Support Services, First Nations Lands Management Resource Centre): The way the Lands Advisory Board works on these amendments...and these amendments are always improvements to the framework agreement—the framework agreement is the underlying document. The act is amended after the framework agreement is amended. The first nations that are in operation are actually the ones that help develop the amendments and the improvements. The reason the changes were made to the land description report was that we had noticed that land description reports were being held up, and they affected the first nation's ability to vote on their land code. The reason for that is if there is an uncertainty as to the status of the land, then the land description report cannot be completed until the research has been done to clearly identify if it is reserve land.

So the changes to the framework agreement will assist in developing administrative lines that will be able to set aside land where the title is uncertain in order to facilitate the first nation being able to go to a vote. The new funding and the new memorandum of understanding are based on a 24-month timeline, which is actually very doable. But in order to be able to do that, NRCan and Canada have to be able to complete a land description report in a timely fashion.

The environmental management agreement... That's not to say that there is no environmental management or environmental assessment under a land code, but what we've noticed is that the first nation has not been able to implement any because the environmental management agreement requires Canada to come to the table, and we have not been able to get Environment Canada to agree to an environmental management agreement for any of our 37 first nations that have land codes. This is exactly what self-government first nations are able to do. They implement their own environmental management laws, their own environmental assessment agreements, and they're based on good practice and on the notion of trying to match them up with other jurisdictional laws, so that they're consistent, so the minimum standard will be there.

•(1610)

Hon. Carolyn Bennett: I guess what I'm really asking the chair and the parliamentary secretary is whether or not we could have a technical briefing on the changes that are in the budget implementation act before we're asked to vote on that—maybe including the advisory board.

In my question on the order paper, the part for your band or first nation, Mississauga No. 8—is that correct?

Voices: Yes.

Hon. Carolyn Bennett: It did have that you put in that request—this is on the ATRs and the number across the country—May 28, 1994 and completed March 25, 2010. Then there's another one that says “NA” that they don't have any information on, which they say is active.

Do you think you could help the department get this a little bit more complete in terms of what they've put on the order paper with respect to your band?

Mr. James Cada: We would have to see that order paper.

Hon. Carolyn Bennett: “NA” apparently means they don't have any information.

Mr. James Cada: Who doesn't? The department doesn't?

Hon. Carolyn Bennett: Well, “NA” means not available, and it would require additional time to conduct archival research to obtain the proposal date.

Mr. James Cada: Again, maybe the—

Hon. Carolyn Bennett: I was just going to say that maybe we could table this here with this committee, in terms of all of the ATRs that are outstanding across the country, and maybe that would allow first nations to verify what's here.

Mr. James Cada: Excuse me, maybe it was just the terminology you used, but we had thorough consultation and input in regard to a recall of amendment 5, and basically that sounds like everything you're talking about. Mississauga First Nation is actually now probably ready to proceed to step three under the old environmental management planning process. Because we don't have a lot of environmental issues, we're moving forward, and hopefully that will get signed off and then we can actually, probably, have laws. I think we were looking at a timeline, at least in regard to waste management, by the end of this calendar year.

So yes, I think there were...just by the terminology used. But we were consulted and we did provide a lot of input.

The Chair: Thank you, Ms. Bennett.

We'll turn to Mr. Payne for seven minutes.

Hon. Carolyn Bennett: Mr. Chair, could we ask the department for a technical briefing on the changes to the Land Management Act? It is a bit surprising that that would be put in this document before this study has even been completed.

Also, I will give the clerk the questions I had on the order paper so they can be circulated to all members of the committee.

The Chair: At committee business, I think we can discuss if it's something that we as a committee want to do—to have a technical briefing here. That would be something totally workable.

Hon. Carolyn Bennett: Whichever, yes.

The Chair: If it's something you want to set up with the parliamentary secretary, I'm certain he can do that as well. We can discuss that at future business, for sure.

Hon. Carolyn Bennett: Thank you.

The Chair: We will turn to Mr. Payne now.

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

Thank you, James, Keith, and Julie for coming today.

As you know, we are talking about land use and sustainable development. Your testimony here today is extremely important in that we hear your version of what is going on. Being that you were a signatory to the first nations land management regime with your operational land code—I believe you said you had that in 2009—can you tell us how the entry into the FNLN has been an important step forward for the Mississauga First Nation's economic situation?

I'm not sure who wants to respond to that, but any or all would be fine.

•(1615)

Mr. James Cada: I would say the biggest thing for us is that we see a future, a future that we control, and one that is based on our timelines, as we move along. Decisions are going to be made by the community. Unfortunately, in all honesty, we are actually legally into it for, what, three months? We haven't had time to really enjoy it all, but we do realize which direction we are heading in.

I think we explained earlier about the losses. Well, some of those losses—the forest can be redone, but there are some others that have been lost, because if you haven't cut it, it's probably dead and gone by now after 10 years.

Mr. Keith Sayers: Yes. Back in 1994, the forest industry was doing fairly well across the country. We had some of the best wood there to take advantage of, but we could not get a permit because it was not part of the first nation's land or it wasn't deemed in-reserve. We could not get a permit from Indian Affairs to start looking, so we had to move on other areas.

Again, it was unfortunate we lost these opportunities. We were gearing up, in terms of the whole lands management aspect. We went as far as negotiating with the Province of Ontario to establish, I believe it was, the first first nations conservation officer program in the province of Ontario. Because of the timeframes and the lack of financial resources, that program was dissolved.

Again, I am a member of Mississauga First Nation. I was working in that capacity in the late 1990s, but I did leave because other areas were starting to move. To come back again and see a similar process still occurring where nothing can move—it does get frustrating. We lose a lot of our technical people, because what was an opportunity is still on hold. These other opportunities do surface, and they tend to move on, because that's where the opportunities are.

Mr. LaVar Payne: I certainly appreciate the frustration.

Sorry, Julie, go ahead.

Ms. Julie Pellerin: I want to add to that. I have been working with Mississauga for I don't know how many years now. What's interesting with Mississauga is that when they were going through the land description report process, they discovered they had only 0.16 acres. So when they say they have had only a few months now of really trying to benefit from economic development, their land code was implemented on 0.16 acres, a vacant little piece of grassland, basically. For them, their opportunities are upcoming now, with the addition of lands added to the individual agreement. Not only have they faced delays in processing the additions to reserve, but also in processing the individual agreement once the OIC was signed.

Mr. LaVar Payne: Just in terms of the big picture, could you mention one or two of the bigger opportunities you see for Mississauga as a result of this?

Mr. James Cada: I think one is the forestry side of things. I think the other aspect is going to be the land leasing. We're well aware of what's going on across the country with other first nations. That seems to be the way to go. With 23 inland lakes, the possibilities are there and are endless. Again, we are going to do it in a sustainable way and make sure that all planning procedures are there and in place.

The other issue would be the forestry and to move on forestry, but as Keith said, the sector is really suffering big time now, and it's not something you're going to get rich quick on.

Mr. LaVar Payne: Thanks, James.

I have another question before we run out of time here. What kinds of economic development opportunities does the FNLM provide your first nation that you would not have had under the Indian Act land management regime?

• (1620)

Mr. James Cada: Here's a perfect example. Because it was under the Indian Act, we lost out on the opportunity for a solar farm, 50 acres of land, probably around \$120,000 annually. We couldn't do anything because we couldn't move on it. We were waiting for this process, for the lands to be...one was the additions to reserve, and then getting the amendment signed. I have to acknowledge that the amendment only took a year and a half. It was supposed to be only... was it a six-week or a six-month turnaround? Compared to the ATR, it was commendable, but again our problem was that it was the ATR people who basically caused us the delays or the grief. They were ones who had the input. They were the ones who were part of the settlement agreement.

Mr. LaVar Payne: Keith or Julie, do you have any other comments?

Mr. Keith Sayers: The inland lakes, the whole process.... We lost an opportunity in other areas. Because of the nature of our land base, we had no way to protect all sides of it, in terms of monitoring. So people come and go. They started taking resources that we could have taken full advantage of and capitalized on, promoting services such as hunting and fishing and to some extent forestry operations. But due to our inability to have the staff, due to lack of capacity in that area, we just couldn't monitor out there on a timely basis, and the province was very reluctant to get involved because of the nature of the land.

The Chair: Thank you, Mr. Payne.

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

[Translation]

Mr. Jonathan Genest-Jourdain (Manicouagan, NDP): Good afternoon, Mr. Cada. Do you understand French?

[English]

Mr. James Cada: No, I can hear it.

[Translation]

Mr. Jonathan Genest-Jourdain: During your presentation, I think you mentioned the fact that there are three abandoned mining sites on your territory and that the land had to be rehabilitated. Did your community benefit during that rehabilitation? Do you have the workforce, the technology and the know-how to rehabilitate mining sites and environmentally contaminated sites?

[English]

Mr. James Cada: The three abandoned sites were very small. I think one was probably about 65 feet deep. The largest I think was 300 and required a concrete cap. The other two were basically backfilled. No, we did not see any benefits from those sites due to the nature.... It was something that was done quickly and by the Ministry of Natural Resources, as that was part of their duty prior to the transfer to Canada for the lands, to make sure they were free and clear. So, no, we didn't see any benefits. I'm glad it was done expeditiously by the province.

[Translation]

Mr. Jonathan Genest-Jourdain: In your presentation, you mentioned the possibility of having recourse with federal government agencies, given how poorly certain parcels of your reserve territory have been managed, but that you were reluctant to seek a remedy because it might undermine future economic claims or processes or territorial development.

Could you expand on that and tell us a little more about this problem?

[English]

Mr. James Cada: One of the issues is that we are in negotiations in two other areas, what we call the ILA highway agreement and also our flooded lands.

As I said earlier in my presentation, we've always used the four processes that we do have in order to augment each other and not fight each other. Yes, those are options, and there are always available options. I think it's a last-ditch option if you have to go to court.

We've been in negotiations on the ILA highway agreement since roughly 1999, and I think we're at draft number 19. There are options there. We tread lightly. We didn't even want to go to dispute resolution under the FNLMA process, simply for the fact that we want to get on with the management of our lands and we want to continue to move forward. So we're going to do it the best way we can; hopefully we can resolve it through the negotiation process.

• (1625)

[Translation]

Mr. Jonathan Genest-Jourdain: So the judicial process might dampen the relationships you have with federal agencies.

[English]

Mr. James Cada: Yes, and I think that's the thing. If you look at the Specific Claims Tribunal Act, it's basically in there. Negotiations are off the table. We have to tread lightly in Mississauga because we do have these two claims that are going on, and as far as we're concerned, they should be finalized.

The three-year term for the flooded lands expires next August. As I said, we have to look at and weigh all our options, and hopefully we can resolve this through negotiations.

Again, our biggest concern is going to be the implementation side of things. This is something the membership has to vote on. If the membership says no, we're not going to wait another 15 years; obviously, then, we would have no other alternatives.

[Translation]

Mr. Jonathan Genest-Jourdain: Thank you.

How much time do I have left?

[English]

The Chair: Twenty seconds.

[Translation]

Mr. Jonathan Genest-Jourdain: I would like to share it with Ms. Hughes, but...

[English]

The Chair: We'll have more time for Ms. Hughes to ask questions down the road.

We'll turn to Mr. Clarke now for five minutes.

Mr. Rob Clarke (Desnethé—Mississippi—Churchill River, CPC): Thank you, Mr. Chair.

And I thank the witnesses for coming here.

I'm reviewing your Mississauga First Nation 2010 land resources annual report. You stated that the lands resources program is working on the matrimonial and real property law environmental management agreement components of your land code.

I'm hoping you can describe the process of developing your land code right now, if we have enough time.

Mr. James Cada: You may mean implementing, because our land code is passed.

Right now we're going to be proceeding to step three of the environmental management process, which is basically developing the laws. I think we have everything in place. The other thing we're looking at now is the registration of documents and looking at the leasing of the lands.

It's something we've been trying to apply as a policy over, I would say, the last five years, since we had a draft plan code. We used it as a policy guide for anything we do; when it was finally passed, we had something to follow.

Mr. Rob Clarke: How is your plan handling the matrimonial property issues that are coming forward very soon? Also, for instance, the environmental management....

Mr. James Cada: The MRP are at their third or fourth draft, I think, and hopefully that's their final one. We were hoping they were going to have it tabled May 17, which is our annual health fair, where we do have a lot of people, but it may be put off for another month or so. That basically is moving forward.

Mr. Keith Sayers: To add to that, we have established under our land code a land resources committee that developed the MRP to be implemented under our land code. However, we're still trying to work out some of the legal side of things in that regard. It just keeps going back and forth to our legal adviser to make sure all our concerns are dealt with in an appropriate fashion.

Hopefully we do have the final draft in a stage now...and as Jim mentioned, we're hoping to have it targeted for a community session in a couple of weeks. But due to other things developing, we'll probably push that back another month or two, just to make sure we have everything in place for the MRP.

• (1630)

Mr. Rob Clarke: How much time do I have, Mr. Chair?

The Chair: You have about two minutes.

Mr. Rob Clarke: Julie, hopefully you can help add some more clarification. What are the issues, points, or problems the community is facing in regard to the MRP? We hear it going back and forth for legal counsel. What are some of the factors in play here?

Ms. Julie Pellerin: Do you mean specific to Mississauga?

Mr. Rob Clarke: Yes, please.

Ms. Julie Pellerin: I think one of the first things was that they really didn't have any lands to manage, so in order to properly sell the MRP to the membership, it really needs them to have a vested interest in what the outcome is. Aside from that, it simply takes the time it takes to draft it and make sure that it reflects the community needs and wants. Basically, that's pretty much it.

Mr. Rob Clarke: What about the environmental management agreement and the challenges facing the first nations community?

Mr. James Cada: I think we're into step two, now that there's no environmental management agreement required. However, we are in the stage where we do have an environmental management plan, which I reviewed on the plane today. Its main focus is the community engagement strategy, but it also addresses all the environmental issues that we've had out of step one. I think we're moving forward, and as I said, I'm hoping by the end of this calendar year we will at least have our waste management law in place.

Again, because Mississauga didn't have a lot of environmental issues—most of them are home-grown, like septic systems and dealing with things like that. Of course, I'm sure you're aware that we're sitting right beside Cameco, so we have to deal with those issues, which will probably far exceed what we anticipated in the amount of work, technical expertise, and legal advice that we're going to require. Those are some of the long-standing issues in regard to environmental management.

The Chair: Thank you very much, Mr. Cada.

We'll turn to Mr. Bevington for five minutes.

Mr. Dennis Bevington (Western Arctic, NDP): Thank you, Mr. Chair.

Thank you, Mr. Cada and Mr. Sayers.

I noted there was some concern about support within the structure. You mentioned that. In February 2011 you conducted an online survey. Was that to understand better the residents' point of view on certain things?

Mr. James Cada: No. That was our land-use plan, wasn't it? Was that in the report? Can you clarify that for me?

Mr. Dennis Bevington: Yes, it conducted a land use and resources management plan survey.

Mr. James Cada: Yes, we did. I think there was a total of 135 questions. The reason behind that survey...we wanted to develop the land-use plan. I don't know if we mentioned that, but we do have a draft land-use plan that we basically had in place prior to even having the land code. So we were doing that prudent planning, and we do have to revisit that and maybe make a few alterations. There's not a lot required.

It was based on the survey. We asked about hunting, we asked about fishing, we actually threw in some housing—it was a very well-designed survey, but we did have input from elders and so on. When we designed it, we sent it off to the operative membership, and we did get a very good response.

Mr. Keith Sayers: That was one of the things we had to do in terms of our own due diligence in making sure that our community

members were consulted. Because we could not get out to reach each individual, the online survey was designed, and people were encouraged to complete it, so we could come up with a summary as to where the community wanted to go in that regard.

Mr. Dennis Bevington: It was a fairly detailed one, with 135 questions.

Mr. James Cada: Yes, and some of it was fairly...“Do you agree with this” and “Do you agree with that?” I think that was where we got our direction, especially when we talked about the hunting and fishing. Once the land has reserve status, they are under our position.

I think we had to make it clear that we were going to try to continue with the permits for the non-natives to continue to have access to those lands. Obviously, there were fees charged, and that's where we got into the conservation officer program. It was effective, but as Keith said, we weren't able to generate the revenues required from the lands to sustain it because we didn't have access to that revenue.

•(1635)

Mr. Dennis Bevington: I'm looking at your report, and I see the goal statement:

To ensure that the Reserve land belonging to Mississauga First Nation is for the use of Mississauga First Nation members, that the land mass be protected and that the cultural and traditional values of the Mississauga First Nation people will be the mainstay of land issues and matters.

Is that the real meat of what you're doing?

Mr. James Cada: Yes.

Mr. Dennis Bevington: How did people take the idea of different forms of land ownership?

Mr. James Cada: I would say that compared with some other first nations I've seen that have land claims and settlements, we didn't have per se the mass squatting or people moving ahead of the first nation. I guess you could basically say that there were people moving out and claiming spots, and so forth. Right now we have about 31 temporary land-use permits that we're going to look at trying to introduce long term, and those are just for community members.

Mr. Dennis Bevington: They're for band members. Okay.

There was another interesting thing. There was mention of some land sales, and then you met with the Minister of Natural Resources, and no more land will be sold in the future.

Was that...?

Mr. James Cada: Those are lands outside of the reserve boundary, which is basically what we claim as our traditional lands. There's no land claim or anything in place. That's dealing with those types of issues.

The lands and natural resources committee was established mainly for the land code, but because we have such a group, we expanded them to include the traditional lands. There were some areas that... As part of an MNR process, we identified all of our traditional land values in those areas, the crown lands along the Mississagi River system. They have those. When they wanted to do land sales, they basically came to us and consulted. We're still working on a process.

The Chair: Thank you very much, Mr. Cada and Mr. Bevington.

We'll turn to Mr. Wilks now for five minutes.

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

Thanks, James and Keith, for being here today. It's a pleasure for us to have you here.

I want to focus on your 2010 annual report. I'll leave the answers open to whoever wants to answer them. Your 2010 annual report makes reference to the Mississauga First Nation's land and resource committee and the land and resources unit. As I understand it, this is an advisory board that reports back to chief and council and from there moves forward.

Can you tell me what type of land management administration your first nation has in place and what you foresee moving forward?

Mr. Keith Sayers: Right now, with the signing of the IA, adding our lands... We never really had anything to work with except for the 0.16 acres of land. Currently, the intent of the lands and resources committee is to provide recommendations to council for implementation. Right now, we're still new in this process.

Mr. David Wilks: What do you see as some of the potential opportunities as you move forward?

Mr. Keith Sayers: One thing is the lease agreement we're looking at for a solar array farm. A presentation was made to the committee. Because of the uniqueness of our committee, it being a cross-section of the community, each member voiced concerns and then provided a final recommendation to council to either accept a lease agreement or deny the lease, based on their decisions.

Mr. David Wilks: It would seem to me as though, with this advisory board, there's a great opportunity to expand upon economic development in the future, not singly to solar development but also to forestry or whatever other opportunities may evolve.

Can you expound upon some of the opportunities that may become available to you now that you have expanded lands, outside of forestry and the environmental aspect of it?

• (1640)

Mr. Keith Sayers: We see opportunities in tourism, such as bear-hunting services, fishing services, deer-hunting services. We have a lodge, but we're still struggling with negotiating with the Province of Ontario on promoting fishing opportunities. I foresee some of those as good economic benefits for our band members who want to engage in that kind of activity. We would allocate a piece of land that we can identify through the mapping process and would say, you can have this piece of land, for whatever lease rate we decided was fair to the individual and fair to the first nation. There are definitely good opportunities in that sector, regardless of what the forestry industry is like right now.

Those sides of the natural resource situation present a good opportunity.

Mr. James Cada: I'd like to add to that.

You talked about the lodge. There was what they called the Chiblow Lake Lodge. Unfortunately, the settlement agreement says we buy buildings and the land and not chattels. It was bought as a business, but we ended up arguing. We bought it as buildings and so forth, and we've been striving to make it better. The lodge itself has deteriorated to the point where I guess it's redundant.

We have plans for a new building. We have already built seven new cottages over the years. It's the development corporation that has been doing this, but the issue is the limited access and then the regime that you have to follow there, because they're basically on provincial and private lands, so you have to follow the regimes.

Our issues or problems may come when it is time for the funding. I think it's around \$1.2 million for the improvements we want to do, and we're shooting for this year. We just hope we don't run into any problems that, because they're provincial lands, may be a detriment to funding.

Ms. Julie Pellerin: Could I respond to that?

Mr. David Wilks: Sure. Then I have another quick question for Keith, I believe.

Ms. Julie Pellerin: In regard to economic development, for the land code first nations, in general, it's hard to say what the economic developments will be. It's hard to anticipate what the members will want by way of getting into business. It's hard to anticipate what developers or potential third-party businesses will want to do business with the land code first nation.

Mississauga is along the Trans-Canada Highway. I just wanted to add that whenever an opportunity does come to them, they will be in charge and they will negotiate directly with that third party. When talking about economic development, the possibilities are endless, and the drivers of this are going to be the first nations.

The Chair: Unfortunately, Mr. Wilks, you're out of time, but I think we'll have time to get to follow-up questions later on.

We'll turn to Ms. Hughes now for five minutes.

Mrs. Carol Hughes (Algoma—Manitoulin—Kapusksing, NDP): Thank you very much.

Aanii. Bonjour. I'm really happy to see you here.

I believe I was at one of your powwows when the land code vote was happening. I could see all the signs and I knew that people were engaged. Discussion at the powwow was about the land code; that was good.

You are right—this is part of what I was going to mention—that you are right on the Trans-Canada Highway, and the opportunities could be endless for you. I think the surrounding communities in the area help as well. It's not as if you're there and there's nothing else; there are lots of other opportunities.

I want to touch base, because there was discussion about matrimonial real property coming forward. I think my colleague across was talking about the government MRP law at first, and you talked about the one that you're actually designing. I know that Anishinabek Nation was not supporting the government's MRP legislation. I'm not sure whether you want to comment on that.

The other thing I wanted to ask about was with respect to specific claims. You mentioned some other outstanding...negotiations, I would say, and you talked about flooded lands. Is that under a specific claim?

• (1645)

Mr. James Cada: Flooded lands fall under the specific claims act, yes.

The other one was started, I believe, around 1999 or 2000; it was around the ILA highway negotiations. That one was supposed to be a quick administrative fix, and.... It's this day and age; we're nearing completion. I think our biggest problem is getting the legal counsels to get together.

Mrs. Carol Hughes: That is one of my questions. What are they telling you, when you're asking for an update on this and asking what the reason is for the slowdown? What are they telling you?

Mr. James Cada: You don't really want to know what my suggestion would be for the reasons.

As far as I'm concerned, there are no major issues. It is a coordinating effort; it's one of getting the legal team together along with the full table.

I hope you can understand that Ontario has, I would say, about seven representatives; they have the MTO, the MNR, and then the Ministry of Aboriginal Affairs. AANDC, on the other hand, basically only has two; one is the negotiator and the other the Department of Justice.

At the last call, we figured they really only need maybe two more meetings. It's just a matter of getting them to meet.

Mrs. Carol Hughes: Right now, because it's so new, partnerships are not being forged with other businesses, or are some businesses saying they have an interest, and once this is settled you should let them know, as they're looking at bringing their businesses to your community?

Mr. Keith Sayers: Again, we had some discussion on solar energy with one of the initial proponents. Once we determine our next steps in that regard, then, yes, we would be engaging in negotiations with that proponent to bring a solar farm to Mississauga First Nation. There are other issues with that, which are outside the process, on Lake Huron right now.

Mr. James Cada: The other issue.... The ones we are getting a lot of interest on are outside the reserve boundaries and in our traditional lands—mining and so on. As I said, there were three mines in the

existing area. Obviously, they were closed for a reason, and that was due to poor quality.

Mrs. Carol Hughes: I want to go back to your ATR. I know you got the order in council, but has it been signed off by the minister?

Mr. James Cada: The additions to reserve were—

Mrs. Carol Hughes: When was it done?

Mr. James Cada: That was March 25, 2010. It was signed off by Privy Council.

Mrs. Carol Hughes: Okay.

Mr. James Cada: That was the OIC granting the lands reserve status.

Mrs. Carol Hughes: Okay. One of our other witnesses said you were still waiting for the minister to sign off on it.

Mr. James Cada: He just signed off on the amendment to the first nations land management agreement, our framework agreement that added the reserve lands to the original amendment. That gave us our legal teeth to proceed. That was March 14 of this year.

Mrs. Carol Hughes: I think Julie wanted to add something.

Ms. Julie Pellerin: Yes. That was Chief Robert Louie who spoke, and he met with the minister the night before his presentation to the committee. At that time it wasn't signed, but since then it has been signed, so that's an update on that.

The Chair: Thank you so much.

We'll now turn to—

Mrs. Carol Hughes: Already?

The Chair: Yes, and we even let you go over time. I know how that is.

Mr. Boughen, we'll turn to you now for five minutes.

Mr. Ray Boughen (Palliser, CPC): Thank you, Chair, and welcome to the panel. We're glad you're able to spend part of your day with us.

Looking at some of your recent documentation, your 2010 annual report mentions that your community was concerned with how the FNLM decision would impact the Mississauga First Nation's members who live off the reserve. How has that implementation of FNLM affected them? Do you have any kind of feedback on that?

• (1650)

Mr. James Cada: Can you rephrase that? You're saying that the off-reserve membership would be affected by the FNLM?

Mr. Ray Boughen: No. I'm saying, has it been? Has the implementation of FNLM affected people who live off the reserve?

Mr. James Cada: No. Unfortunately, it only applies to the land and not to the people off reserve. Those off reserve have been consulted, I think, throughout the process. They had to be part of the vote, which was difficult for us because we've had numerous votes with our trust. One of the requirements was that 35% had to vote, and of that 35%, 50% were in favour. So out of nine votes through our trust, I think we were two out of six, or something of that nature, to spend dollars when they wanted to do that.

So, yes, those off reserve are consulted, but unfortunately their concerns are not shared by vote per se.

Mr. Ray Boughen: Has it encouraged members to return to the reserve since you put it in place?

Mr. James Cada: I would say to a certain extent we are seeing some influx. One of the things is that the housing list is growing. Hopefully, we're looking at ten units this year, and then bringing a lot of people back. They do see some of the benefits, especially with the ones who got an education in the natural resources field; that's what we're targeting now, and also environmental management, and then we'll be looking into biology and those other areas, plus construction.

Mr. Ray Boughen: Right.

Mr. Keith Sayers: Just to comment on that, the opportunity is also there for them to acquire a small piece of land for recreational camps, which some are doing now. They want information on where they can get a piece of property for some camps.

Mr. Ray Boughen: What kind of input have you received in regard to FNLM from community members who live off the reserve?

Mr. James Cada: I would say not a lot. I can't remember the vote. I think we had 22 votes, so the majority, I believe 70%, was the on-reserve vote, but don't quote me on it. Even though 60% to 70% of the members live off reserve, we really have to target the ones on reserve to ensure we can do some of these things, when we base it on 35%.

We have some off reserve who are not far away, in the Sault Ste. Marie and Sudbury areas. People in those catchments tend to have input and they come back to the reserve. For the other ones, it's more of a seasonal thing.

Mr. Ray Boughen: What would you say is the long-term vision that you have with FNLM in place now and your moving forward as a first nation on reserve? Do you see acquisition of more land possible? Do you see some industrial operations, some manufacturing? What do you see down the trail?

Mr. James Cada: We do have an industrial park, which was private property we purchased outside of the settlement agreement. That is there. The province has very limited land. There are lands in our area that are provincial lands, and we are well aware and the province is aware. Those are some of the things we are looking at in our negotiations.

Do you really want my answer? In all honesty, we want full control and management of our lands. Basically, we want AANDC out of our affairs so that we can move on.

Mr. Keith Sayers: To add to that, regarding opportunities, locally there are lands for sale, but because of the time required to add them to the reserve, we may lose those opportunities for implementing projects, such as a quarry. We know that Ontario Trap Rock, which is not too far from us, is doing well. There are areas that have been identified as having trap rock, but we can't capitalize on that because of the process in making those lands reserve lands.

• (1655)

The Chair: Thank you, Mr. Boughen. And gentlemen, thank you.

We are now finished our second round of questioning, colleagues, but I know there are a couple of questions that are still outstanding and we do have a little time. I am going to turn to Ms. Crowder first to ask some short questions.

Ms. Jean Crowder: Yes. It will be a short question just for clarification.

You outlined very well the complexities of land management, whether it's having to deal with additions to reserve, the FNLMA, the process around the highway, and then the specific claims. You're having to deal with a whole series of different processes.

I have a question about the flooded claims and the specific claims process. Is that working for you? Is the specific claims process going forward?

Mr. James Cada: It's moving. The number crunching has come out again, and we've had changes in regard to meetings, whether they're going to be conference calls or face to face at the table. Those changes have come, and we're still waiting for, I guess, confirmation of the negotiator, once he knows what his final budget is. I think everybody's feeling that crunch.

Other than that, we're moving forward. As we said, August 24, 2013, is the actual three-year cutoff as per the legislation or policy, but there have been some first nations that have been able to continue on past that three-year period. I am hopeful we can be there and have that completed by August. Based on the experience of dealing with the northern boundary and all the issues with that, along with the ILA highway negotiations that we've been doing for almost 12 years now, I'm quite confident that we can meet that deadline.

Ms. Jean Crowder: As you're well aware, the specific claims legislation was designed to prevent you from being in negotiations for 12, 15, 20 years.

On that specific claim, was that one that had previously been in the process?

Mr. James Cada: It goes back to the 1800s. I think the real formalization goes back to 1974. It all has to do with an order in council that was passed. I think it was the infamous 0.16 acres. So, yes, we're hoping we can have this resolved.

Ms. Jean Crowder: So that claim has actually been outstanding for decades. But now it's under the new process, so let's hope you'll see some resolution.

Mr. James Cada: Yes.

Ms. Jean Crowder: Okay. Thank you very much.

The Chair: Thank you, Ms. Crowder.

We'll turn to Mr. Rickford.

Mr. Greg Rickford: One of the most important words in the title of the study we're doing is "sustainable". I think we've worked very effectively with our friends across the way here to contemplate the environment in part of this.

James, you made some clear remarks about the stewardship of a number of resources on this land and your strong desire to develop it in a sustainable way. You mentioned fishing, tourism development, and forestry.

Julie, thank you for coming and the important work that you're doing with this group. It's nice to see you back here again.

Keith said there weren't any environmental issues and that the recommendations in the environmental management agreement should be looked at as an important part of moving this process forward. But this still doesn't deal with the potential residual matter of a newly expanded land base with the potential for environmental issues to arise. We've heard about the environmental management gap, which I think contains two primary issues: capacity, which includes training, and inadequate enforcement.

Could you give us a few closing thoughts on environmental preparedness, from the perspective of both a resource person and someone on the ground?

• (1700)

Mr. James Cada: Right now, I would say we have one of the most sought after environmental workers under contract with us. We're going into our second year and we're hoping we can keep her on for the third. She has her B.Sc. and is familiar with the territory. We're really striving forward towards our plans.

We recently looked at our step two, milestone one. We have our plans in place, and the chief and council we have now are probably six to seven months into their three-year term. They've also identified this as an issue for their strategic plan over the next three years. It's all coming together, and I hope we can build the capacity you're talking about. We just had a university student visiting, and we already have a plan to bring her back into the community.

Mr. Greg Rickford: So you feel well positioned, Julie? I know you wanted to add a piece from the broader resource work that you do.

Ms. Julie Pellerin: Yes, the environmental management agreement was a huge stumbling block. We hope this will allow us to develop more support for our first nation, and we're currently working on that. I have another conference call next week with our consultant on developing all of these base laws.

Capacity has always been an issue and always will be. We have received much more funding for our first nations, which we appreciate, but it's still not enough to cover all the gaps within those capacities. There are huge areas that two or three staff members must be very knowledgeable in. But I think for them a lack of capacity is outweighed by the will of the first nation, whereas under Canada there was the capacity but a lack of will. So those are the areas that the first nation will be addressing.

Mr. Greg Rickford: At the same time, Canada is recognizing that this was a major stumbling block and has received your recommendations. And I think that's consistent with the self-governing component that's built into this framework, because it says loud and clear that you are the best people to be stewards of this within this framework, with respect to the environment. Is that a fair statement?

Ms. Julie Pellerin: Yes, and on your question on the enforcement, we'll be working on that as well. Actually, Keith and I just talked about that. It takes the engagement of the local enforcement agencies, the provinces and the government, and the first nation to work collectively on putting that together.

Mr. Greg Rickford: I just have a quick comment. We have a first nations case services.... Mind you, they don't have the training, but in the interim we're looking at that as a possibility to the duty enforcement side of things in the environment—not only just in the environment, but also in some of the hunting and fishing activities.

Mr. Keith Sayers: It's some of the MNR stuff.

The Chair: Thank you.

That, colleagues, is a lesson on how not to ask a short question. You did use your full five minutes plus a little bit more. Because there are still two questioners who would like clarification on one point, I do want to ask them...if they keep it short, we could actually fit them both in. Otherwise, I'll have to pull it back.

We'll turn it to you, Mrs. Hughes, and we'll see how we go along.

Mrs. Carol Hughes: I would respectfully ask for a little bit of flexibility here.

I just wanted to touch base on your easement land that you talked about, with respect to the impact these outstanding issues have on your ability to maybe move forward on the FNLMA, as well as on the specific claims again. So I just want to touch base on that briefly as well.

Could you maybe tell me when was the last time you were at the negotiating table for the specific claims? I'm assuming you haven't received a final offer. I've had two other first nations in the area that have received a final offer, yet haven't been to the table for years, so they're shocked. I'm just wondering if you can maybe elaborate for me where you're really at with that, whether you are actually at the table negotiating....

Then it's just to confirm that you said there are no contaminated sites on your land and that this is likely why your FNLMA has progressed so quickly?

• (1705)

Mr. James Cada: No. First off, in regard to the flooded lands, negotiations are ongoing. We've been trying to make sure we have a table meeting every two months. What stage are we at? Again, Canada has a rental model that's not acceptable to the first nations, so those are issues we still have to deal with. We are in the process of doing the appraisal right now. Once the appraisal is done, we're hoping that will turn the tide in regard to negotiations on that.

So yes, we are moving. I do believe that August is a good target date, provided we don't run into any stumbling blocks before then.

The first nations lands management initiative hasn't moved any faster because of no contaminants. The process, once we've passed our land code.... As we said, unfortunately, it was a year and a half to actually have those lands included. So no contaminants didn't really have an effect in regard to that, because of the process we had already started. I think I alluded to the fact that where we used each process to complement each other, we used the FNLMA process to complete an ESA that we used for the additions to reserve policy. So those types of things have gone on.

What was the third thing? The easements. The easements aren't impacting us because they're pretty straightforward. If we want to use those lands, we can use them, as long as we're not going to cause any harm or whatnot to the hydroelectric transmission lines. You don't want to be fooling around with them—230 kVA and 115 kVA—and there's a 12-inch gas line.

As I said earlier, we've gotten to the point where it really hurts because of the principle that we are not going to be the managers of those easements, as they sit now with Canada. However, we're in the process...and I'm quite confident Union Gas will sign on to an easement under our land code, and then basically cancel the agreement it has with Canada. We're hoping Ontario Hydro will do the same.

Does it really hurt because they continue to mismanage them? Yes.

The Chair: Thank you very much.

We'll turn to Mr. Wilks for the final question.

Mr. David Wilks: Yes, quickly. Thank you very much.

It's my understanding that some of you have received land management training. Could you tell me where you got that training, and do you have any recommendations for additional training?

Mr. James Cada: For myself, I really never had any formal land management training. A lot of this has been, I guess you would say, self-taught or through experience. As I said, I've been dealing with lands since 1992. At Mississauga we're always dealing with lands and lands issues. So it was really that process itself and teaching myself.

The public administration and governance program at Ryerson was a great benefit, and it was geared with FNTI, so they meshed it with a lot of aboriginal issues. So there were some there.

I was also given the opportunity to work in Tyendinaga, which is a huge reserve. I was acting manager; I was thrown into the position for six months. You want to learn about lands issues? You learn them pretty quickly there.

Other than that, sitting at the negotiation table, moving forward, dealing with the legal counsel—that's where a lot of my training and experience have stemmed from.

The Chair: Thank you.

Ms. Pellerin.

Ms. Julie Pellerin: To add to that, we are a fairly young organization. Our first land codes took effect, three of them, on January 1, 2000, and we have received very limited funds in order to be able to develop our capacity-building modules for the first nations.

All of the work is on the ground with the first nation. We do have a capacity-building training and professional development team. We've developed virtual resources with courselets online for the first nations, and we are in development right now for a certification program as well.

• (1710)

The Chair: Thank you very much.

We do want to thank our witnesses first for coming. We do appreciate your answers. Obviously when we're running out of time and pressed for time, that means we're getting great information from you and great questions, but not necessarily short ones. It's a complicated issue, and we appreciate your in-depth and on-the-ground knowledge of it.

Mr. Cada, Mr. Sayers, and Ms. Pellerin, thank you so much for coming and giving up your valuable time to share with us.

We'll now suspend for just a minute, colleagues.

• (1710)

(Pause)

• (1710)

The Chair: I wanted to inform you, colleagues, that I've received a letter from our vice-chair, Dennis Bevington, that he is resigning his position as vice-chair. So we will seek to elect a new vice-chair. I think there's a little bit of an arrangement as to who they would like to nominate.

I'm going to move out of my seat, and our clerk will take over for that election process.

As I leave, I'd like to make a nomination of that person when I get to a different seat.

The Clerk of the Committee (Mr. Jean-Marie David): Pursuant to Standing Order 106(2), the first vice-chair must be a member of the official opposition. I am now prepared to receive motions for the first vice-chair.

Mr. Chris Warkentin: I'd like to nominate Jean Crowder as first vice-chair.

The Clerk: It has been moved by Mr. Warkentin that Ms. Crowder be elected as first vice-chair of the committee. Are there any further motions?

Is it the pleasure of the committee to adopt the motion?

Some hon. members: Agreed.

The Clerk: I declare the motion carried and Ms. Crowder duly elected.

The Chair: Colleagues, I'm going to suspend for the purpose of going in camera for committee business.

[*Proceedings continue in camera*]

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