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# **Standing Committee on Indigenous and Northern Affairs**

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**EVIDENCE**

**Tuesday, September 19, 2017**

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**Chair**

**The Honourable MaryAnn Mihychuk**



## Standing Committee on Indigenous and Northern Affairs

Tuesday, September 19, 2017

• (1100)

[English]

**The Chair (Hon. MaryAnn Mihychuk (Kildonan—St. Paul, Lib.)):** I wish to welcome everybody. The MPs have been away in their ridings, and I know that they are thrilled to be back in our nation's capital.

Before we start, I want to recognize that we're on the unceded territory of the Algonquin people.

We have a little bit of committee business to do before we hear from the department, and that is to elect the vice-chair. I'll turn this over to our new clerk, Mike, and we will proceed from there.

It's all yours.

**The Clerk of the Committee (Mr. Michael MacPherson):** 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. Arnold Viersen (Peace River—Westlock, CPC):** I'd like to move that Cathy McLeod be our first vice-chair.

**The Clerk:** It has been moved by Mr. Arnold Viersen that Cathy McLeod be the first vice-chair.

Are there any further motions?

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

(Motion agreed to)

**The Chair:** Perfect.

Now, pursuant to Standing Order 108(2), we are resuming our study on specific claims and comprehensive land claims agreements. We're very pleased to welcome the Department of Indian Affairs and Northern Development. We have three representatives, who are going to be talking about the technicalities of land claims.

We have a procedure that provides 10 minutes combined for all three of you for opening statements.

**Mr. Perry Billingsley (Associate Deputy Minister, Treaties and Aboriginal Government, Department of Indian Affairs and Northern Development):** It's 10 minutes for all three of us? I'm hoping it's not quite that long.

**The Chair:** Do you all get along?

All right, good.

We'll go over to you for your presentation, and then we'll have questions and answers.

**Mr. Perry Billingsley:** Good morning, Madam Chair and committee members. Thank you for having us here today to talk to you about comprehensive claims, specific claims, self-government, and some of the related negotiation and implementation processes that we have.

I would also like to acknowledge that we are on unceded Algonquin territory.

My name is Perry Billingsley. I'm the associate assistant deputy minister with the treaties and aboriginal government sector in the department. With me today I have Stephen Gagnon, who is the director general of the specific claims branch in treaties and aboriginal government, as well as Julie Mugford, who is the senior director of modern treaty implementation.

Today my goal is to provide an overview of federal negotiation processes to address indigenous rights and interests, as a bit of background for the questions that will follow. I will also speak to some of what we have learned from our indigenous partners and to our vision for moving forward with policy and policy reform.

What I hope to demonstrate is that to truly renew relationships with indigenous peoples based on the recognition of rights, respect, co-operation, and partnership, we need to acknowledge that different contexts and priorities require differing approaches to resolving rights issues. While we've had some successes with our policies to date, they need to be updated to better reflect the interests and priorities of indigenous peoples in negotiations. We need to expand our tool kit if we are to address the rights and interests of first nations, Inuit, and Métis across Canada.

We have tabled a number of handouts to facilitate further discussion and questions.

When we enter into negotiations with indigenous groups, we are coming to the table as partners, with the shared goal of advancing self-determination and self-government.

• (1105)

[Translation]

Currently, the department is negotiating several different types of agreements with indigenous groups. These agreements are related to the aboriginal and treaty rights set out in section 35 of the Constitution.

[English]

Through these various negotiation processes, we are working collaboratively with indigenous communities to advance their rights and interests, to build and renew relationships, to advance self-determination and reconciliation, and to close socio-economic gaps.

The department also negotiates specific claims settlements. Specific claims are made by first nations against the federal government that relate to issues with respect to the administration of land and other first nations assets and to the fulfillment of the pre-1975 treaties.

Canada's comprehensive land claims negotiation policy was first adopted in 1973 to address unresolved land claims and assertions of aboriginal rights not dealt with by treaty or other legal means. It has evolved over time, but the general purpose is to negotiate agreements to provide greater certainty over the ownership, use, and management of lands and natural resources.

[Translation]

In 1995, Canada released the inherent right policy, which recognizes the inherent right of self-government as a right under section 35. It advocates implementing self-government through practical and negotiated agreements.

[English]

In terms of outcomes and impacts of the kinds of agreements we negotiate, we look to census and national household survey data to point to better socio-economic outcomes for indigenous groups that have completed modern treaties and self-government agreements.

To use education outcomes as an example, census data from 1991 to 2011 show that as a group, self-governing first nations outperform the census category of registered Indians on reserve in terms of absolute educational outcomes as well as rates of change in improvements. Self-governing first nations have consistently lower high school non-completion and consistently higher post-secondary completion rates than the category of registered Indians on reserve.

[Translation]

The sectoral self-government agreement on education with the Mi'kmaq of Nova Scotia illustrates this effect.

[English]

The Mi'kmaq in Nova Scotia have seen improvements such as an 89% graduation rate in 2014-15, more than twice the average of all first nations schools in Canada, as well as improvements in literacy, numeracy, school attendance, and student retention.

Canada and the Anishinabek in Ontario hope to replicate the success with the sectoral agreement on education and the companion agreement with the Province of Ontario that was signed this summer with the Anishinabek Nation in Ontario.

I do want to say that negotiated agreements are only as good as their implementation. Federal departments in the past have found themselves challenged in meeting their legal obligations under modern treaties, which has been costly to Canada in terms of litigation.

More recently we have worked with the Land Claims Agreement Coalition, a group of representatives from different indigenous groups that have settled their land claims, and strengthened federal internal governance through the whole-of-government approach to modern treaty implementation, which was released in July 2015 along with a statement of principles on the federal approach to modern treaty implementation.

• (1110)

[Translation]

We've made positive inroads, but much remains to be done. We're continuing to work to improve our implementation efforts.

[English]

Canada also engages in negotiations, as noted earlier, to resolve historic grievances that first nations have against the crown. Since 1982, first nations have been able to make specific claims against Canada regarding the administration of land and other first nations assets, as well as the fulfillment of the terms of pre-1975 treaties.

The specific claims policy seeks to discharge the crown's outstanding legal obligations through negotiated settlements and achieve resolution of long-standing claims. Resolving specific claims is critical to rebuilding relationships with first nations. To date, Canada has settled almost 450 claims through negotiation. However, in recent years, we have heard concerns that first nations have with the specific claims process.

During a review of the Specific Claims Tribunal Act in 2015, first nations expressed concerns with the operation of the process, particularly with information sharing, the use of mediation, and funding.

[Translation]

Several recent reports, including reports from the Auditor General and the Standing Committee on Public Accounts, have concluded that Indigenous and Northern Affairs Canada isn't managing the resolution of specific claims in an appropriate or timely manner.

[English]

In response to these concerns, since June 2016 we have been engaged in a collaborative process with first nations, first nations organizations including the Assembly of First Nations, and other interested groups, to identify fair and practical measures to improve the process.

[Translation]

Since 2015, we've taken steps to address key concerns through a new approach in negotiations.

[English]

The new approach is called the “recognition of indigenous rights and self-determination discussion”. These interest-based discussions are about furthering self-determination through dialogue and partnership on the issues and interests that indigenous groups bring forward.

In conclusion, we know that a new section 35 policy suite is needed to replace and update our existing policy framework. Our rights recognition discussions are a starting point for this change, but we've been working with groups across the country to look at how we approach negotiations, how we negotiate, and the kinds of agreements that we're reaching. We continue to work with indigenous partners to guide our policy reforms.

Thank you very much.

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

We're going to open now a series of questions. We'll give you an opportunity to respond and continue the discussion.

First up we have from the Liberal side, MP Gary Anandasangaree.

**Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.):** Thank you, Madam Chair. Thank you to Mr. Billingsley for joining us.

I would just take a moment to welcome the new members, new colleagues from all sides, to the committee, and also to congratulate our outgoing member on the Liberal side, Don Rusnak, who is now the parliamentary secretary to Minister Philpott.

Mr. Billingsley, I'm looking at your comments with respect to outcomes and impacts. I notice that the cohort you look at is that self-governing first nations outperform the census category of registered Indians on reserve in terms of absolute educational outcomes and in rates of change and improvement. I'd like to get a sense as to what those numbers would be if you were to supplement those with the non-indigenous populations.

When we're looking at claims and outcomes, I think it's important to look at what the overall population cohort's achievements are, as opposed to within reserve and non-reserve outcomes. Ultimately, our objective is to ensure that we have equality of outcomes for all people.

• (1115)

**Mr. Perry Billingsley:** Compared to the all-Canadians category in the census—because we made a conscious choice to use census data so that other researchers could look at the same data and validate or not our conclusions—there are still gaps between self-governing indigenous groups and the all-Canadians category.

Right now what we're doing is working with indigenous governments, from all of those groups that have self-government, to look at the gaps, how we measure gaps, and what we can do to work better towards closing those gaps.

**Mr. Gary Anandasangaree:** Do you have a sense as to how big that gap would be at this point?

**Mr. Perry Billingsley:** If I hesitate it's because I can see the graph in my head. I believe it's online, and that's information we can follow up with. The best way to describe it is it's non-trivial. It is something

that we really need to work with indigenous governments on, in the self-governing communities.

**Mr. Gary Anandasangaree:** One issue we've heard is that while we have comprehensive agreements, implementing the agreements themselves has become quite a bit of a challenge. Could that be one reason these gaps would continue, or are there other reasons you can think of that could contribute to the overall gaps that we see now?

**Mr. Perry Billingsley:** In terms of the overall socioeconomic gaps, I think the main contributing factor has been where these communities have come from. They've climbed a pretty steep curve in terms of addressing the particular priorities in their communities that relate to the socioeconomic gaps.

I'll use the Mi'kmaq education agreement. It's not because we have an agreement with the Mi'kmaq that they're doing well in education. It's because now they have control over the education. In doing so, they've undertaken special programs that assist students with different approaches to teaching that reflect traditional learning approaches.

This all takes me back to a lot of work that has been going on. We're trying to work with the indigenous governments to understand what the gaps are because the gaps are not the same in every community. And how do we address those gaps?

**Mr. Gary Anandasangaree:** With respect to the timeline it takes for specific claims and comprehensive claims, we're basically looking at almost a generation passing before a community can enter into some form of a sub-government regime. With respect to the comprehensive land claims, we're looking at upwards of 20 to 25 years for an actual agreement to come into place. Similarly with specific claims, I think we're looking at upwards of 15 years for specific claims to be addressed. What can be done to reduce those timelines, and in the interim what kinds of measures can be put in to assist, so that we're not waiting a full generation before we can pass on some of the self-governing tools that are necessary for the levels of achievement that we're looking at?

**Mr. Perry Billingsley:** This is a question with some pretty complex roots. I think the average for comprehensive claims is still around 13 to 15 years. Part of that is because it is a huge change and a management challenge for both the federal government and the indigenous group.

I would also say that Canada's approach to comprehensive claims in particular, which is to say full and final and certainty, has not helped us, because when you tell people you're negotiating full and final and certainty, they want to make sure that every i is dotted and every t is crossed.

• (1120)

**The Chair:** You have thirty seconds.

**Mr. Gary Anandasangaree:** With respect to specific claims, what are the numbers in terms of timelines?

**Mr. Perry Billingsley:** I'm going to turn to my colleague.

**Mr. Stephen Gagnon (Director General, Specific Claims Branch, Treaties and Aboriginal Government, Department of Indian Affairs and Northern Development):** In the recent Auditor General's report, I believe the Auditor General said that the mean average for us was five years to settle a claim. I need to be careful about the context. We're settling claims in five years but some of these claims date back to the 19th century. We're constantly trying to focus on improving that. What came into place in 2007, though, was a statute that said if we're in negotiations for more than three years and a first nation is not happy with that, they can go to the Specific Claims Tribunal to have their claim viewed by the tribunal.

**The Chair:** Thank you.

Questions are now moving over to the Conservative side, and MP Cathy McLeod.

**Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC):** Thank you, Madam Chair, and thank you to the witnesses.

Before I get into my line of questions, I want to put forward a notice of motion pursuant to our standing order. As people may be aware, there have been huge and significant wildfires in British Columbia, Manitoba, and Saskatchewan that have had very significant effects on indigenous communities, whether those of the Ashcroft Indian Band, who lost half their homes, or communities in Manitoba from which, in the dead of night, people were moved to an evacuation centre for many weeks.

I don't want to take up a lot of committee time with this, but I think it might be important to have a meeting or two that looked at this particular issue. I'll just read out the notice of motion. I know we'll have time, but I wanted to get it on the record, because I think it is a very urgent and emergent situation concerning which we should make sure things are running smoothly.

The motion is:

That pursuant to Standing Order 108(2), the Committee immediately undertake a study on the long term impacts of this summer's wildfires on First Nations communities; that this study be comprised of no less than two meetings; and that witnesses include, but are not limited to, the Minister of Indigenous services and the Chair of the Ad Hoc Cabinet Committee on Federal Recovery Efforts for 2017 Wildfires; and that the Committee report its findings to the House.

Because it was such an emergency—it impacted so many communities, and even with such things as hunting there are issues—I hope that when we get to discuss this motion people will have had time to reflect on it and we can deal with it.

Thank you, Madam Chair, for indulging me on this.

Turning now to the witnesses, first of all thank you. We have talked about this particular study for a long time. I think we've bitten off a very large topic. Unfortunately, our colleague Mr. McLeod isn't with us. I know he was particularly interested in ensuring that it was a very comprehensive....

I'm going to come at it from a bit of a self-interest perspective, because I'm from British Columbia. Would it be accurate to say that out of all of the provinces and territories, the outstanding issues are perhaps largest in British Columbia? Would that be accurate, in terms of not having anything in place?

Could you speak to that for me?

**Mr. Perry Billingsley:** I think so, yes.

**Mrs. Cathy McLeod:** That was a yes, then? Okay.

I think we started the comprehensive land claim process in British Columbia way back in 1993. When you talk about 15 years, I look at the map, and of course the resolved issue is this tiny little piece of blue and a little bit larger. I guess there are a number of questions around this. We're hitting a significant number of years since 1993.

Do overlapping claims still create a barrier, and if so, is work towards resolution of that particular issue being done by the involved communities?

• (1125)

**Mr. Perry Billingsley:** The short answer is yes, there is work being done by the involved communities. Much of this is being facilitated by the British Columbia Treaty Commission. We are working with the treaty commission as well as with communities in negotiation to address the issue of overlapping claims.

We like to think that there are essentially two sorts. There are shared territories and there are overlapping claims. Shared territories are generally those in which communities themselves find a way to address their mutual interests in the given territory. The overlapping claims arise when the communities are having challenges in coming to an agreement.

**Mrs. Cathy McLeod:** Is the overlapping claim issue a current barrier to resolution? There are parties that have been at the table since 1993. How many would you say are right at the end, hopefully, of their process and ready to sign an agreement?

I see that we have a couple from 2009, 2011, and 2016. Again, it's a very small piece on the blue map. For example, are the In-SHUCK-ch almost ready to sign?

**Mr. Perry Billingsley:** I'm afraid I'll have to get back to you on where the In-SHUCK-ch are in terms of any overlap issues that are there. I do know, for example, that for Pacheedaht and Ditidaht, they're working on resolving their overlaps between the communities, and that they have interest in the park that's been created and in working with Parks Canada.

**Mrs. Cathy McLeod:** Way back when the process first started, there was significant community involvement and recognition that the people who lived in the valleys had lived and worked together for many years and that it was appropriate and important to keep everyone, both first nations and non-first nations, up to date. When the NStQ was ready for the next steps, all of a sudden there were land maps on the table and many of the people who lived in the community were caught unaware. I think everyone wants resolution, and certainly had the third parties been kept in the conversation, they would have been able to come up with something that would work for everyone, or at least feel that they were knowledgeable about what was happening. Have we completely drifted away from that piece of the process, in terms of ensuring that the people in the valley are working together and moving forward together?

**Mr. Perry Billingsley:** I don't think we've completely drifted away from that process. The consultations with the general public and anyone who may be affected continue. I think, however, we have moved away from what was a formal process. How we engage with the general public is certainly something we should look at when we're doing our policy reforms.

**Mrs. Cathy McLeod:** I know you indicated that certainty was a barrier, but I think there's also some value to certainty. Maybe you can talk a little bit more on that particular concept, on the pros of certainty, because you want to have agreements, and you want to be able to move forward and not leave that unsettled nature of the agreement out there forever. I think there are probably some pros and cons. Maybe you could talk a little bit, because intuitively I think coming to an agreement knowing that the agreement is not going to keep reopening is probably important.

•(1130)

**Mr. Perry Billingsley:** I may not have been as clear as I wanted to be. I agree with you that certainty remains important, and there are certain elements of any agreement that are going to require certainty so that parties can depend on it. What has happened in the past is that we have probably overstressed certainty as the outcome of an agreement. Predictability is one of the things we're looking for. You can balance predictability and certainty in an agreement along with some of the other considerations.

**The Chair:** Questioning now moves to MP Romeo Saganash.

**Mr. Romeo Saganash (Abitibi—Baie-James—Nunavik—Eeyou, NDP):** Thank you, Madam Chair.

I want to say from the outset, welcome back to all of you. When we left, it was summer. Now we've come back, it's still summer. That's kind of fun for all of us.

First of all, I took great interest in the proposal to do the study, because I come from a region where the first modern treaty was signed back in 1975—the first treaty that involved a province as well. It was kind of interesting how development happened from there on.

I smiled when you said that negotiated agreements are only as good as their implementation. You're dead right when you say that, because it was a challenge for us to negotiate the James Bay and Northern Quebec Agreement from the outset. Little did we know that the greatest challenge was the implementation. I always use the example of chapter 28, on social and community development, where it is said that on an equal basis, Canada and Quebec will construct community centres in every Cree village. That took about 25 years to implement, because it was claimed by both governments that there was no definition of a community centre. It's true, but it's rather bad faith, if you ask me.

You used a lot of United Nations declaration language in your presentation. I noticed “respect”, “co-operation”, “partnership”. The principles that we find in the preamble of the UN declaration are now put forth by this government as basic principles for this renewed nation-to-nation relationship. I agree with that approach.

You also talk about self-determination. I recall reading the mandate letters, both to the indigenous affairs minister and to the Minister of Justice. Both referred to the UN declaration as a basis of

a new nation-to-nation relationship. The PM has used that as the basis for a renewed relationship with indigenous peoples.

My question, very simply, is this. Has there been thought put into using the UN Declaration on the Rights of Indigenous Peoples as the basis for a new policy? You agree that it needs to be updated. “Updated” is the word you used. Is that a feasible proposition?

**Mr. Perry Billingsley:** Certainly there are parts of the UN declaration that will be integrated into policy reforms. I see the impact of the UN declaration in respect of outcomes. In its last annual report, the B.C. Treaty Commission made a very interesting case for modern treaties being the expression of the UN declaration.

I would also add that James Bay Cree was also the first self-government agreement.

**Mr. Romeo Saganash:** One of the things that needs to be said here is the fact that, although the James Bay and Northern Quebec Agreement clarified the concept of certainty, very few people know that we've since signed more than a dozen complementary agreements. These agreements are evolving as well.

The other question I have, which I think is important, is this: there is a ministerial committee led by the Minister of Justice to review legislation and policy. Have they approached you on reviewing this land claims policy?

•(1135)

**Mr. Perry Billingsley:** Yes, they have. We are working with that committee in terms of reviewing the self-government policy, the comprehensive claims policy, and the specific claims policy.

That is a top-down exercise, and we're also at the same time pursuing a bit of a bottom-up exercise by working with different indigenous groups on what they see as the reforms necessary to the comprehensive claims policy.

**Mr. Romeo Saganash:** Will that review be based on the UN Declaration on the Rights of Indigenous Peoples?

**Mr. Perry Billingsley:** I think that review will seek to find ways to implement the UN declaration.

**Mr. Romeo Saganash:** Another question has been on my mind a lot. How much have the courts influenced the policy over the years? In other words, is the policy in any way informed by the legal principles articulated by the courts, and if so, how?

**Mr. Perry Billingsley:** Yes, the policies are informed by court decisions. Some of them are very directive. I would point to how reconciliation has been integrated into the policy as a result of court decisions over the past 10 years.

**Mr. Romeo Saganash:** I have 45 seconds left.

My other question is similar to what Gary was pointing to, the length of negotiations with the Innu and Atikamekw nations. We'll be meeting with them in Quebec City next week. Their negotiations have gone on for 35 years now. How do you propose to deal with the fact that while negotiations take place, "development" continues to happen on those territories and over the resources of these people? How do we deal with that unjust, in my view, situation?

**Mr. Perry Billingsley:** While development is continuing, the court direction on duty to consult continues to apply to any development in the area, in the territories of those communities. Just because we are still negotiating, just because we haven't reached an agreement, that doesn't mean that the duty to consult does not apply—to the contrary.

**The Chair:** Questioning now moves to MP Mike Bossio.

**Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.):** Well, where to start?

As Romeo said, welcome back, everyone. It's great to be back around the table to deal with this important, but, yes, very large issue around land claims.

I have the Mohawks of the Bay of Quinte in my riding, and they have been negotiating the Tyendinaga or Culbertson Tract land claim since 2003. I actually moderated a town hall discussion in 2007 on this issue, when it looked like the government was seized with doing negotiation. That lasted about a year, and then nothing. Everything is kind of pulled back now. I know that we are entering into negotiations with them again, and thankfully it looks like there is going to be some progress on some fronts.

In the south, the agreements are now in areas that have become developed, and this adds a much more complicated component to negotiating these agreements.

My question is, what can we change? We're going to the Mohawks of the Bay of Quinte as part of our travel plan a week Friday, so we'll be hearing from them, but I want to hear from you. What do we need to do? What do we need to change to speed up the process of negotiating these agreements?

The specific land claim agreements.... Yes, we say we're going to do three years, and then three years, and then the tribunal, but when you're dealing with an issue this complicated.... What can we change that will help resolve this?

**Mr. Perry Billingsley:** On that point, I will defer to my colleague from the specific claims branch.

• (1140)

**Mr. Stephen Gagnon:** We get this question all the time: How can we speed things up? You know, I'm going to sound overly bureaucratic. These are complex things, and you pointed to some of the complexities.

We are now dealing with a claim that started in the 18th century and is now in a developed area. I apologize, but there are certain issues with respect to confidentiality. I can't go into the details of the agreement, but the first nation in question holds strong views about the way the claim could be settled. It's always a delicate balance between the people who now hold land and the first nation and what it wants to do.

There is no easy answer to the question you're posing. I guess the answer is that there is a statutory time limit. If the first nation doesn't like the way the negotiations are going, they have an option to go to the tribunal or to go to a court at any time. I don't want that to happen, but it is really difficult to balance those interests. I think that's what we are struggling with a bit on the Mohawks of the Bay of Quinte file.

**Mr. Mike Bossio:** There are restrictions as far as buying land and then turning that over to the communities, and restrictions around the title of the land. I mean, I realize that you can only go so far. Six Nations, as you know, they say is the trillion-dollar claim because of the property it sits on.

I want to generalize. I know you can't discuss a specific claim. Are there tools that we could add?

You said that we need to develop more tools and other avenues to try to find solutions. Are there any tools that the department is working towards or looking to recommend that we can get on the record to be part of this study that would benefit the department and the communities?

**Mr. Stephen Gagnon:** Right now we are working through the Assembly of First Nations, with first nations groups, to get ideas to try to co-develop some kind of policy. One of the things the focus would be on is improving our work at the assessment phase.

I think the issue you're raising is always going to be a very complicated one to deal with. The approach has been to try to provide cash in these cases so that the first nation can buy land on a willing-buyer, willing-seller basis, so that the rights of the people who are already there are also being protected, to the extent that we can.

Again, I'm not trying to avoid your question, it's just that there isn't an easy answer to that one. First nations don't always like that approach. I don't know that you can get into a situation where you're taking land from people who are already there, right? That's probably always going to be the most difficult part in settling some of these claims. Some of them are over 100 years old. Time has passed. People are there. People have rights.

How do you try to balance those? It's one of the most difficult things we have to deal with.

**Mr. Mike Bossio:** At the same time, when you have a willing-seller, willing-buyer kind of approach, the finances aren't there because we don't do it. I know that the provinces will do it and we utilize that avenue, or the community itself can do it. The Mohawks can do it.

Of course, once again, these communities are financially strapped themselves. To go out and buy the land from a willing seller to then become reserve land, it's out of pocket for them when they already have programs that are in desperate need of funding in the first place.

Once again I go back to, are there—?

**The Chair:** One minute.

**Mr. Mike Bossio:** Okay.

We need to try to approach this from a different angle.



This land isn't getting any cheaper. The longer we wait and the longer we delay it, the more expensive the final price tag is going to be. I think we need to think outside the box. Yes, we need to find legislative methods of getting there that don't cost money, but we also need to put funding there so we can make these communities whole. It's not going away.

**Mr. Stephen Gagnon:** Very quickly, I'll just clarify, sir, what I meant.

In claims settlement, there would be a large financial cash component so that the first nation could then go out and buy. It's not asking them to go out and buy land and then.... That's the point of the settlement in some cases.

You're right, the province can come to the table, and where there are crown lands, that can become part of the settlement. That's already part of the process.

•(1145)

**The Chair:** Okay, we're moving to the five-minute round.

We will start with MP Arnold Viersen.

**Mr. Arnold Viersen:** Thank you, Madam Chair.

I welcome everyone back to Ottawa. Like Romeo was saying, it's good to be back in summer. When I left home, my windshield wipers were firmly attached to my windshield. This is like Mexico.

In regard to our study, we're looking at modern treaties. I am wondering if you could elaborate on that term. It's in our motion in quotation marks.

Could you elaborate on what that term means to you?

**Mr. Perry Billingsley:** Modern treaties are the continuation of the treaty process that began in the 1800s.

I mean, that's really—

**Mr. Arnold Viersen:** Is it a term that you use at all or is there something...? I noticed that comprehensive land claims is not in quotation marks.

**Mr. Perry Billingsley:** No. Comprehensive land claims is the official title of the policy.

**Mr. Arnold Viersen:** Okay.

**Mr. Perry Billingsley:** As part of our policy renewal, that is something that we will be looking to change to a more appropriate name for our policy. Modern treaties is something that has come into current usage, particularly coming out of B.C.

**Mr. Arnold Viersen:** When we say that they are synonymous, would you agree with that assessment?

**Mr. Perry Billingsley:** Yes.

**Mr. Arnold Viersen:** We've heard before that there's about 630-something first nations across the country. How many of those 630 are eligible for a comprehensive land claim?

**Mr. Perry Billingsley:** I don't have that specific number handy. I know that—

**Mr. Arnold Viersen:** Maybe I can rephrase the question. Are first nations that are under a current numbered treaty, not a modern treaty, eligible to pursue a comprehensive land claim?

**Mr. Perry Billingsley:** The short answer is no. If land claims and other issues have been addressed by either a historic treaty or other lawful means under the policy, they're not eligible for a modern treaty.

**Mr. Arnold Viersen:** A comprehensive land claim, i.e. modern treaty, and perhaps self-government...then bands that are under a numbered treaty are not eligible for that kind of an agreement?

**Mr. Perry Billingsley:** They're not eligible for comprehensive claims, but they are eligible to negotiate self-government arrangements.

**Mr. Arnold Viersen:** Self-government is not tied to a land claim is what you're telling me.

**Mr. Perry Billingsley:** No, it's not. In the past, it was not part of a modern treaty negotiation. That changed in the early nineties and now it is considered an essential part of a modern treaty. However, you don't need to have a modern treaty process to negotiate self-government.

**Mr. Arnold Viersen:** Would you say that most of Stephen's work would be in places that aren't under a numbered treaty?

**Mr. Stephen Gagnon:** I'm sorry, but most of our work would be in places where there are numbered treaties, yes.

**Mr. Arnold Viersen:** Numbered treaties.

**Mr. Stephen Gagnon:** Historic treaties is what we call them.

**Mr. Arnold Viersen:** Historic treaties.

**Mr. Stephen Gagnon:** We generally tend to divide them between what happened before 1975 in the James Bay and then what happened after. That is how I would define that.

**Mr. Arnold Viersen:** You're working on things that have already been agreed on and people are saying this is not being lived up to.

**Mr. Stephen Gagnon:** To some extent. Let's say there was a numbered treaty out west and we have not yet fulfilled all the terms of the treaty land entitlement. That would be a claim that I would deal with. However, we also deal with just management of lands and assets, so it's not only treaty-related in my world.

**Mr. Arnold Viersen:** The border between Alberta and the Northwest Territories, Saskatchewan and the Northwest Territories, and B.C. and the Northwest Territories is all grey, yet I imagine there are some sorts of negotiations going on with that area. How do the jurisdictional boundaries with the territory and the province affect specific land claim? I note that my riding nearly goes up to there. The first nations in the area don't distinguish between Saskatchewan, Alberta, or the Northwest Territories. How does that play into it? Are there hard lines when it comes to a specific land claim agreement and provincial and territorial boundaries?

•(1150)

**Mr. Stephen Gagnon:** Are you asking about specific claims or a specific comprehensive claim?

**The Chair:** Member, you have only a second to respond.

**Mr. Arnold Viersen:** Oh, okay. I'm running out of time already.

**Mr. Stephen Gagnon:** I don't want to be flippant, but it is complicated. We do have cross-boundary claims that we have to deal with too that are more jurisdictional.

**Mr. Arnold Viersen:** Do you have any examples of a cross-boundary claim?

**The Chair:** We'll be able to answer that in the next round, I hope. Thank you.

We're moving on to MP Will Amos.

Sorry, Arnold, but we ran out of time.

**Mr. William Amos (Pontiac, Lib.):** Thank you, Madam Chair.

I appreciate this opportunity. As a new member on this committee, I'd like to say hello and thank you for welcoming me. I'd like to start by saying *meegwetch* to all of the Algonquin constituents in my riding of Pontiac, on whose traditional lands we now sit, for the advice they've given me over the past months and years as to how they see crown-indigenous relations. My education in this regard has been a slow evolution. I really have them to thank.

I'd like to follow up on the line of questioning around specific claims. It's wonderful to have this expertise from the department here. For those who are not aware, the Algonquin of Kitigan Zibi have been undertaking a specific claim negotiation with the Government of Canada for some time now.

I think one of the most interesting challenges around our road to reconciliation is engaging non-indigenous people in these challenging issues. I think it's fair to say that fewer than 0.1% of my Pontiac constituents are aware that there is a specific claims process negotiation with the Algonquin, or have any understanding of what that might entail. While I appreciate that there are confidential aspects to this negotiation—and those are really important—I think it would be helpful if there was, on the public record, what the average Pontiac resident should understand around the specific claims process that is being undertaken with the Algonquin.

I wonder if Mr. Gagnon could please outline what the average constituent in Pontiac needs to know about the specific claims process vis-à-vis the Algonquin.

**Mr. Stephen Gagnon:** Well, without getting into specifics about the actual claim—and fortunately, I'm not really up to speed on all the actual specifics, so I'm probably not going to get myself into a bunch of trouble—I guess I would say that the average citizen needs to know that the process we're going through is an acknowledgement that Canada has done something in the past that it needs to fix, that we've somehow wronged the first nation and we need to find a way to reconcile that, if I can use that term, or correct what happened in the past. They need to know that if land interests are going to be at play, there will be consultations on that, but ostensibly this is an issue that the Government of Canada has acknowledged and is trying to settle, to correct something it either never did in the past or it did incorrectly in the past, and there needs to be some kind of agreement to solve it.

I don't know if that goes far enough, sir.

**Mr. William Amos:** Sure. That's helpful.

I wonder—apart from the obvious circumstance in which there's a third party landowner whose interests would be affected—if there are circumstances in which public consultations that occur in communities would be affected by a specific claim.

**Mr. Stephen Gagnon:** I don't know for sure, but, for example, in cases where crown land would potentially be part of a package, there will be a public consultation session. If it's just financial though, I don't know whether that would be the case.

**Mr. William Amos:** I have read the briefing notes with regard to how specific claims are compensated, the rules around situations in which there was an illegal or inappropriate taking of land, and the valuation of that land at the time of the taking. I wonder if you could elaborate a little further on how the government approaches the compensation issue, and how first nations like the Algonquin are able to use those funds thereafter once they are compensated.

• (1155)

**Mr. Stephen Gagnon:** I could answer the second part of your question first. The first nation would decide how it's going to use its lands. Typically there are trust agreements put in place. We don't generally get involved in how the money is used.

The first part is much more technical, and I might be getting a little out of my depth in how we do that. It sometimes depends. There's often a loss-of-use component. Often the value of the land at the time is brought forward. There are many ways to bring forward loss from a historic loss.

**Mr. William Amos:** Thank you.

**The Chair:** This is going to be the last round, and it's going to Kevin Waugh.

**Mr. Kevin Waugh (Saskatoon—Grasswood, CPC):** I too am new to this committee, so thank you very much.

I'm from Saskatoon. I was a trustee for 10 years with the Saskatoon Public Schools division, and we have a unique agreement that we signed two years ago with the Whitecap Dakota. I'm going to say it was a unique agreement because Saskatoon Public looks after Whitecap Dakota education. We're on their reserve from K to 4, and then they come into the city of Saskatoon and use our schools. In fact, we named one of our schools in Stonebridge Whitecap. We opened it last week.

Why can't we do more of these agreements between cities and first nations? They're reaching out. We've all seen their education numbers for graduation. You know that this agreement took years and there was a lot of paperwork back and forth, but it was a celebration. This agreement is the first of its kind. I think it's a template for everyone in this country to follow.

I would like your thoughts on the agreement between the Saskatoon Public Schools or the board of education and the Whitecap Dakota.

**Mr. Perry Billingsley:** I think it was a very positive development. I think it is an approach, and I know that Chief Bear is addressing the indigenous education component at home in Whitecap Dakota.

These kinds of agreements between communities and first nations exist all over the country. They are very much under the radar. They are not necessarily on education, but they are on the delivery of different services, education being one of them.

It is the education component. What has been done in Saskatoon I think is very valuable.

**Mr. Kevin Waugh:** It's something to follow up on. We all have stats. I've seen the stats out of Nova Scotia and I'm very encouraged. Everybody wants graduation rates. Sometimes, through accountability, it's hard to get graduation rates out of certain areas in this country. My province is Saskatchewan and at times nobody wants to admit there have been difficulties. We do need to move that forward and get people pushed across the line of a grade 12 education.

**Mr. Perry Billingsley:** Yes, I quite agree, and that is what we're hoping will come out of the recent agreement that was signed with the Anishinabek First Nation. I believe that 23 first nations signed on. We have a good-sized aggregate that gives us some of the elements of school boards and that kind of a thing. That agreement was complemented with an agreement between the Anishinabek and the Province of Ontario in terms of looking at curriculum development and results and transferability between school boards.

**Mr. Kevin Waugh:** I love that. We don't need to reinvent this. How do we get that pushed across the country? It looks like it's working. I'm going to reach out to them after this, but I am tired of each school board and each district doing their own little thing, when we have seen successes here obviously. How can we share those successes?

• (1200)

**Mr. Perry Billingsley:** We are very active in trying to share the approach of the sectoral self-government arrangement. I know that

the education branch is very active. There's the example of a Manitoba school board that was put in place. I'm afraid that I'm blanking out on the name, but that is another approach.

I know that some Treaty No. 4 first nations from Saskatchewan are interested in pursuing that kind of approach.

**Mr. Kevin Waugh:** I won't go into that. We're here more about land claims.

On your comprehensive land claim policy, what is the status and the current work taking place now to update the comprehensive land claim policy? It's on page 6 here.

**Mr. Perry Billingsley:** We have about 46 negotiation tables across the country, from the Northwest Territories to transboundary agreements between Yukon and B.C., and B.C. into Yukon. We have an agreement that we're negotiating or a claim that we're negotiating in the Maritimes, but the majority of our business is in B.C. It's an active business plan.

**Mr. Kevin Waugh:** Thank you very much.

**The Chair:** That concludes our first hour. I want to thank the department for coming out and all of you for enlightening us in our journey, our beginning, our adventure, in land claims, specific and comprehensive.

Thank you very much for coming. *Meegwetch.*

We will take a short break because we are now going to move to the in camera committee business section.

We'll have a five-minute break, and then we'll come back to business.

*[Proceedings continue in camera]*

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