

2010



Report of the
**Auditor General
of Canada**
to the House of Commons

SPRING

Chapter 4
Sustaining Development in the Northwest Territories



Office of the Auditor General of Canada

The Spring 2010 Report of the Auditor General of Canada comprises a Message from the Auditor General of Canada, Main Points—Chapters 1 to 5, and six chapters. The main table of contents for the Report is found at the end of this publication.

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Ce document est également publié en français.

© Minister of Public Works and Government Services Canada 2010
Cat. No. FA1-2010/1-4E-PDF
ISBN 978-1-100-15343-8
ISSN 0821-8110

Chapter

4

Sustaining Development in
the Northwest Territories

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Sustaining Development in the Northwest Territories

Main Points

What we examined

The Government of Canada has highlighted the North as a fundamental part of our national identity and a vital part of Canada's future. For many years, and in its 2009 Northern Strategy, the government committed to protecting environmental heritage, promoting economic and social development, and improving governance so that northerners have greater control over their destinies.

In virtually every part of the Northwest Territories (NWT), land claims and self-government agreements have either been settled or are being negotiated. When a claim is settled, co-management boards are established that include federal and territorial representatives as well as members of the Aboriginal community. Responsibilities of co-management boards include developing land use plans and issuing permits for land and water use, often with conditions attached to protect the environment. Skills training and economic development programs are intended, in part, to help ensure that Aboriginal peoples in the Northwest Territories benefit from development and employment opportunities. Settled land claims, an environmental regulatory system, and community capacity to participate in economic development opportunities are key measures that support sustainable and balanced development in the NWT.

We examined how Indian and Northern Affairs Canada (INAC), Environment Canada, and Human Resources and Skills Development Canada (HRSDC) have supported these key measures in the NWT. We did not audit the activities of co-management boards.

Audit work for this chapter was substantially completed on 20 November 2009.

Why it's important

Natural deposits of diamonds, metals, minerals, and oil and gas in the NWT provide extensive opportunities for resource development. Economic benefits of development include the potential for direct employment, economic opportunities, improved social conditions, and increased revenue for government.

At the same time, the natural environment of the NWT is vast, fragile, and unique. Aboriginal communities depend on the wildlife, water, and habitat. The impacts of climate change and air, land, and water contaminants are now understood to have a disproportionate effect on northern ecosystems.

The federal government has specific obligations relating to effective governance, environmental protection, and capacity building to provide for sustainable and balanced development in the Northwest Territories. Failure to meet these obligations could mean missed economic opportunities, environmental degradation, and increased social problems in NWT communities.

What we found

- The Government of Canada (represented by INAC), the Government of the NWT, and Aboriginal groups have finalized land claim agreements in the Inuvialuit, Gwich'in, Sahtu, and Tlicho regions of the NWT. INAC has made progress toward finalizing the four comprehensive land claim settlements and ten self-government agreements still being negotiated in the NWT. However, significant delays in the Department's provision of agreed-upon funding to some First Nations have hindered their participation in the self-government negotiations process.
- An environmental regulatory system is mostly in place in regions with settled land claims—co-management boards have been established, development decisions are being made, and land use plans are being developed. INAC has improved its support to co-management boards since 2005 and has supported the development of land use plans in these regions. However, key components of the environmental regulatory system are missing in regions where land claims have not been settled and where regional co-management boards have thus not been established. In many cases, there is no clear requirement for land use plans or a mechanism for community involvement in decision making, and consequently decisions on development applications take longer than in regions with settled land claims.
- INAC and Environment Canada have not met their responsibilities to monitor the cumulative impact of development and of various pollutants on the fragile environment in the NWT, whether or not a settled land claim is in place. Therefore, co-management boards are missing environmental information that they could use in making decisions on development proposals.

- HRSDC's programs support skills training for Aboriginal peoples in the NWT and monitor short-term objectives and targets. However, the Department has yet to assess the longer-term impact of its skills training programs regarding sustainable employment of Aboriginal peoples.
- INAC's programs to support economic development in the NWT by funding community projects and activities lack a strategic focus and they do not have specific objectives against which progress can be measured and results tracked. The government recently transferred economic development programs in the NWT from INAC to the new Canadian Northern Economic Development Agency.

The departments and the Canadian Northern Economic Development Agency have responded. The departments and the Agency agree with our recommendations. Their detailed responses follow each recommendation throughout the chapter.

Introduction

4.1 The cornerstones of the Northwest Territories' (NWT's) economy are oil and gas development and mining. Because it is resource-driven, the economy fluctuates significantly, reflecting changes in the demand for fossil fuels and various minerals. Despite the current global economic conditions, the NWT's proven and potential resource base suggests that long-term production of oil and gas and minerals such as diamonds is likely to increase significantly.

4.2 The Government of Canada has highlighted the North as a priority and noted that it is a fundamental part of our heritage and our national identity, and a vital part of Canada's future (Exhibit 4.1). The 2007 Speech from the Throne declared that "the North needs new attention" and outlined the government's commitment to develop "an integrated northern strategy focused on strengthening Canada's sovereignty, protecting our environmental heritage, promoting economic and social development, and improving governance, so that northerners have greater control over their destinies." Since then, the federal government has announced several initiatives for the North, including the Canadian Northern Economic Development Agency and the Northern Projects Management Office.

Development in the Northwest Territories

4.3 In 1974, the Government of Canada appointed Justice Thomas Berger to conduct an inquiry into the social, environmental, and economic impacts of a proposed pipeline through the Mackenzie Valley. The 1977 report of the Berger Inquiry concluded that such a pipeline would pose significant risk to the environment and provide few long-term economic benefits to northern communities. It particularly raised concerns about the impact of development on Aboriginal peoples. It recommended that the pipeline project be delayed 10 years and that any development be preceded by land claim settlements with Aboriginal peoples.

4.4 Also in 1974, Indian and Northern Affairs Canada (INAC) began negotiating comprehensive land claim agreements (CLCAs) and self-government agreements (SGAs) with Aboriginal groups on behalf of Canada as part of the federal government's responsibility to oversee the evolution of governance structures in the NWT (Exhibit 4.2). Also known as modern treaties, CLCAs are based on claims that were not

dealt with by treaty or other means. Almost all the NWT is either included within settled land claim areas or is the subject of ongoing negotiations (Exhibit 4.3).

Exhibit 4.1 The Northwest Territories has distinctive qualities

The People

- In 2006, the population was 41,000, split evenly between Aboriginal and non-Aboriginal people.
- The Aboriginal population increased 11 percent from 2001 to 2006, and has a median age of 26 years.
- In 2006, 45 percent of the Aboriginal population 15 years and older had a high school diploma, compared with 67 percent overall for the NWT.

The Environment

- The NWT represents 13 percent of Canada's territory with 1.3 million square kilometres of land.
- From 1948 to 2005, the Mackenzie Valley District warmed by 2°C. By comparison, the temperature in Canada as a whole increased by 1.2°C over the same period.
- From 1996 to 2006, the Bathurst caribou herd in the NWT declined 63 percent, from 349,000 to 128,000.

The Economy

- In 2004, diamond mining accounted for nearly half of the NWT's gross domestic product.
- In 2005, the median income for the Aboriginal population in the NWT was \$20,080 and the unemployment rate was 20 percent.
- In 2009, the NWT had the highest per capita GDP in Canada: \$91,306.
- In December 2008, the average cost of a house in the NWT was \$362,363, making it the second most expensive housing market in Canada.

The Potential

- The NWT, Nunavut, and Arctic offshore hold 33 percent of Canada's remaining conventionally recoverable natural gas and 35 percent of remaining recoverable light crude oil.
- From 2007 to 2009, 19 percent of the NWT was covered by prospecting permits, mineral claims, and mineral leases.

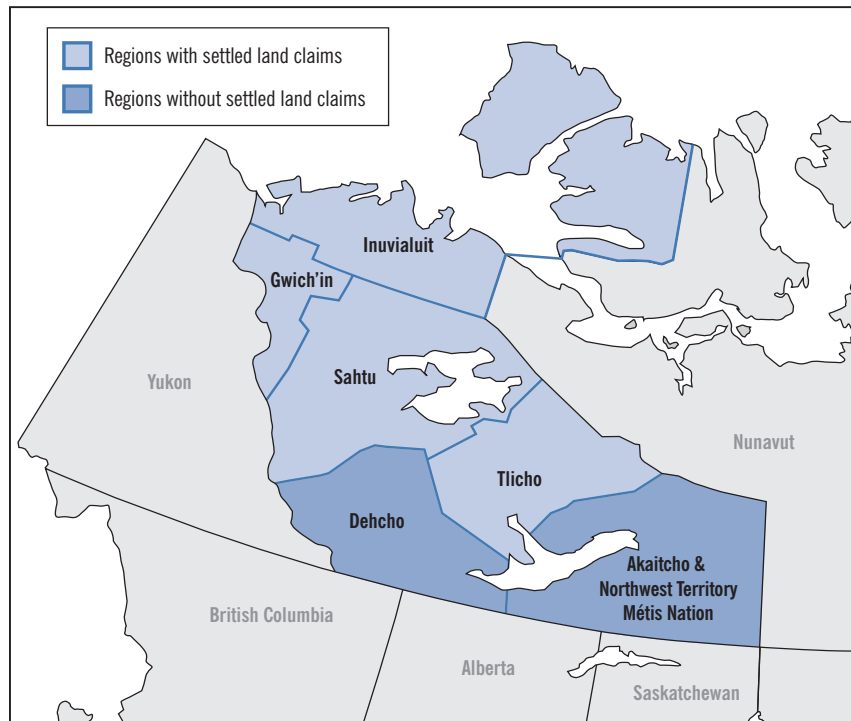
Exhibit 4.2 Comprehensive land claim agreements (CLCAs) and self-government agreements (SGAs)

CLCAs

- Transfer title to Aboriginal groups for selected lands, provide financial compensation, and other defined rights. In exchange, the group relinquishes its rights to title over other lands within its claimed territory.
- Establish co-management boards so that the Aboriginal groups will be involved in decision making on renewable and non-renewable resources, environmental management, and land use planning.
- May provide for continued use of lands for traditional activities, such as hunting and trapping.
- Provide the means for the Aboriginal groups to participate in economic opportunities and maximize the social benefits from them.
- May include more than two dozen chapters on a range of topics from harvesting rights to economic provisions.
- Give certainty to ownership and use of land and resources.

SGAs

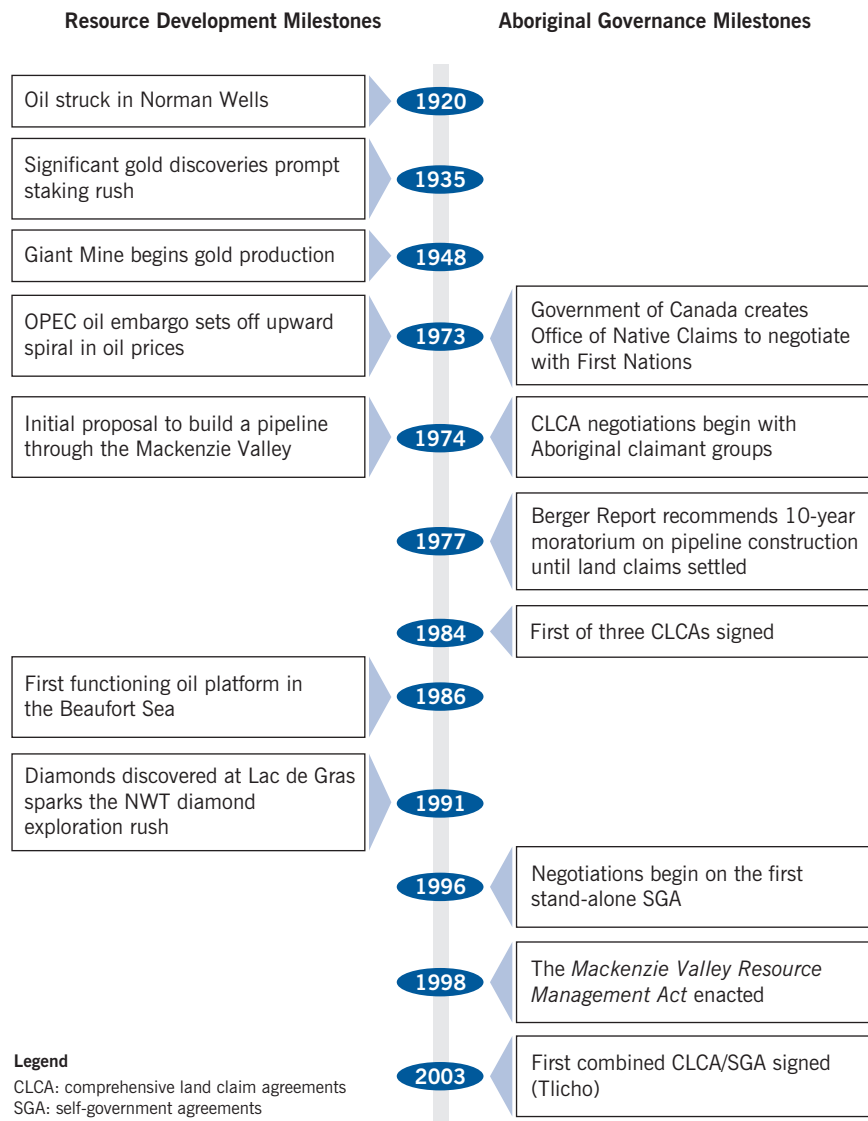
- Establish Aboriginal governments for matters internal to their communities and integral to their unique cultures, identities, traditions, languages, and institutions; and with respect to their relationship to the land and resources.
- May include jurisdictions such as education, policing, health, social services, and natural resource management.
- Involve establishing governing structures, internal constitutions, elections, and leadership selection processes.

Exhibit 4.3 Comprehensive land claims in the Northwest Territories

4.5 The proposed Northwest Territories Mackenzie Gas Project would deliver natural gas to market via a pipeline that follows the Mackenzie Valley and a gathering system connecting anchor fields located in the Mackenzie Delta. In June 2002, environmental and regulatory agencies in the North created a Cooperation Plan and, in 2004, announced the appointment of the Joint Review Panel to evaluate the potential impact of the Mackenzie Gas Project in the Northwest Territories on the environment and livelihood of people in the project review area. Subsequent to our audit, in December 2009, the Joint Review Panel issued its final report. The report concluded that, subject to the full implementation of the panel's 176 recommendations, the adverse impact of the Mackenzie Gas Project would not likely be significant and that the project would likely make a positive contribution toward sustainability. Government and industry responses to the Joint Review Panel report are pending.

4.6 The timeline depicted in Exhibit 4.4 provides a history of northern resource development and settlement of land claims and self-government agreements.

Exhibit 4.4 Timeline—Development in the Northwest Territories (NWT)



The federal role

4.7 The federal government has a mandate to promote political and economic development in the NWT and to protect the environment. Although there are many federal departments and agencies with responsibilities in the North, our audit looks at some of the responsibilities of Indian and Northern Affairs Canada, Environment Canada, Human Resources and Skills Development Canada, and the new Canadian Northern Economic Development Agency.

4.8 The *Department of Indian Affairs and Northern Development Act* mandates the Minister of Indian and Northern Affairs Canada to undertake, promote, and recommend policies and programs for economic and political development of the NWT. The Department has lead responsibility for managing Crown lands and for managing water, mineral, and oil and gas resources throughout the NWT. It negotiates land claims and self-government agreements on behalf of the federal government and is responsible, in part, for land development, environmental protection, and cumulative impact monitoring in the NWT.

4.9 Environment Canada is one of several partners responsible for environmental stewardship in the NWT and has various responsibilities related to cumulative impact monitoring and research.

4.10 Indian and Northern Affairs Canada and the new Canadian Northern Economic Development Agency have mandates to support regional economic development in the NWT. Human Resources and Skills Development Canada's mandate is to establish and implement programs designed to support projects or other activities that contribute to the development of human resources and to the skills of Canadians.

4.11 In previous audits of the North, we looked at specific issues such as the implementation of CLCAs and federal support to co-management boards. In this audit, we take a broader look to determine whether the responsible federal departments have laid the foundations for sustainable and balanced development in the NWT.

Focus of the audit

4.12 The focus of our audit was to determine whether Indian and Northern Affairs Canada, Environment Canada, and Human Resources and Skills Development Canada had adequately implemented key measures to prepare for sustainable and balanced development in the Northwest Territories. In August 2009, during our audit, the Canadian Northern Economic Development Agency (CanNor) was created. Responsibilities for the INAC economic development programs included in the scope of our audit were subsequently transferred to this new agency.

4.13 The key measures or pillars for sustainable and balanced development that we looked at were the settlement of CLCAs and SGAs, the establishment and implementation of a regulatory system

that protects the environment, and the support of appropriate economic development and skills training programs for Aboriginal peoples.

4.14 More details on the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

Observations and Recommendations

Aboriginal governance and control of land and resources

4.15 Agreements with Aboriginal peoples setting out governance rights and the ownership of land and resource rights are important for environmental protection and economic development because they help provide a level of certainty and predictability for business, industry, communities, and governments.

4.16 We examined whether Indian and Northern Affairs Canada (INAC) had finalized or made progress toward agreements on the ownership of land and resources, and governance rights of Aboriginal communities in the Northwest Territories (NWT), under the 1986 policy on comprehensive land claims and the 1995 policy on the inherent right to self-government.

4.17 We expected that INAC had made constructive efforts to finalize comprehensive land claim agreements (CLCAs) and self-government agreements (SGAs) in the NWT by establishing processes for negotiation, following them, and monitoring and adjusting them as necessary. We looked at how many agreements had been finalized, and reviewed policies and procedures for those under negotiation. We also reviewed documentation on active negotiations, including work plans, agendas, meeting minutes, and progress reports. We interviewed INAC officials and representatives from Aboriginal communities and from the Government of the Northwest Territories.

Progress is being made on finalizing outstanding land claims

4.18 Negotiating agreements is complicated and there are differences among and within regions and communities in the NWT, and among the goals of the various Aboriginal groups. To be successful, therefore, the federal government recognizes the need to be flexible. Given their complexity and potential for lasting impact, CLCAs and SGAs can take many years to conclude. The Aboriginal groups we interviewed that have yet to settle their claims all expressed a desire to finalize these agreements.

4.19 INAC has established processes for negotiating land, resource, and self-government agreements. The Aboriginal group initiates the process, which includes INAC and the Government of the Northwest Territories. After Canada accepts a claim, the parties negotiate a framework agreement to outline the issues that will be included and the timelines for reaching an agreement-in-principle. To help maintain the momentum of negotiations during this process, Canada and Aboriginal groups may enter into interim agreements that address issues such as land use planning, pre-screening processes for development permits, and economic development measures. The final agreement details all provisions and related roles and responsibilities, and must be ratified by all parties.

4.20 Working with Aboriginal groups and the Government of the NWT, INAC has finalized four CLCAs covering over half the area of the NWT since the 1977 recommendations of the Berger Inquiry. One of them—the Tlicho Agreement—is also an SGA (Exhibit 4.5).

4.21 Four CLCAs in the Akaitcho, Dehcho, and Northwest Territory Métis Nation regions are currently under negotiation. Ten self-government agreements are also under negotiation in the Akaitcho, Dehcho, Gwich'in, Inuvialuit, Sahtu and Northwest Territory Métis Nation regions.

Exhibit 4.5 Four comprehensive land claim agreements have been finalized

Description of agreements	Comprehensive land claim agreements (CLCAs)			
	Inuvialuit	Gwich'in	Sahtu	Tlicho
Agreement signed	5 June 1984	22 April 1992	6 September 1993	25 August 2003
Beneficiaries*	4,000	3,200	3,200	3,500
Land obtained				
Surface	90,650 km ²	22,329 km ²	41,437 km ²	39,000 km ²
Subsurface**	12,950 km ²	6,158 km ²	1,813 km ²	39,000 km ²
Financial compensation	\$152M over 14 years	\$141M over 15 years	\$130.4M over 15 years	\$152M over 14 years
CLCA co-management boards	Fisheries Management, Wildlife Management (NWT and North Slope), Environmental Impact Screening and Review	Renewable Resources, Land and Water, Land Use Planning, Environmental Impact Review, Surface Rights	Renewable Resources, Land and Water, Land Use Planning, Environmental Impact Review, Surface Rights	Renewable Resources, Land and Water, Environmental Impact Review
Aboriginal communities	6	4	5	4

* Approximate number based on information from the Government of the Northwest Territories

** Subsurface land obtained is typically part of the surface area and includes resources such as mines and minerals.

4.22 We found that INAC has made constructive efforts to negotiate CLCAs and SGAs and has followed the established processes for negotiation. The Department's efforts include developing and acting on annual work plans with other parties at each main negotiation table and attending scheduled meetings. INAC also reviews and assesses the activities at each negotiation table annually to determine progress and make recommendations as required. These reviews include quantitative measures of actions and progress and a qualitative analysis of successes and challenges. We found that INAC has consistently conducted these reviews for all negotiation tables.

4.23 Based in part on these reviews, INAC has used alternative approaches at negotiation tables that appeared to be stalled. For example, in one case, INAC proposed steps the Aboriginal group could take to outline its position. The group accepted this proposal and plans to present its work to the Department for response in the coming months. The Department has also negotiated interim agreements with groups in unsettled regions for the purpose of advancing negotiations. These agreements provide benefits and protect resources in advance of an agreement-in-principle.

4.24 We found that INAC had established a process through which these agreements are being negotiated, had monitored activity, and had adjusted the process as necessary. While much remains to be done, in our view, the efforts to settle CLCAs and SGAs along with the four concluded CLCAs represent a significant achievement and an important step toward sustainable and balanced development in the NWT.

Delays in funding self-government negotiations undermine the process

4.25 INAC has entered into contribution agreements with Aboriginal communities to fund their participation in negotiations on self-government. This funding allows Aboriginal groups to obtain legal advice, hire staff and negotiators, and consult within the community. We looked at the funding process and contribution agreements for negotiations on self-government in selected communities for the fiscal years 2007–08 and 2008–09 to determine how and when communities had received the funding.

4.26 We found that the nature of the annual funding process makes it difficult for communities to receive funding at the beginning of the fiscal year within which it must be spent. On average, the agreements we looked at were signed more than six months after the beginning of

the fiscal year and several were signed within the last month before the agreement expired. This means that communities need to complete the activities required under the agreement long before receiving any funding.

4.27 INAC officials told us that communities are expected to self-finance their self-government negotiations activities either by reallocating funds or by borrowing. This can have significant consequences, particularly for communities with limited resources. In First Nations without CLCAs in place, officials told us that this situation has resulted in overdraft charges and penalties, damaged business relationships, delays in meeting payroll, and the loss of experienced staff. These can affect First Nations' ability to participate in negotiations.

4.28 Recommendation. Indian and Northern Affairs Canada should identify and implement mechanisms, such as multi-year funding for contribution agreements, to ensure timely funding of the activities of Aboriginal communities regarding negotiations on self-government.

The Department's response. Agreed. The Department acknowledges the requirement for mechanisms such as multi-year funding for contribution agreements and will be implementing the new Transfer Payment Policy, which allows for multi-year funding to recipients, targeted for 31 March 2011.

Environmental regulatory system

4.29 The natural environment of the Northwest Territories (NWT) is vast, fragile, and unique. Protecting the environment is important as Aboriginal communities in the NWT depend on the wildlife, water, and land for subsistence and for economic development opportunities. Comprehensive land claim agreements help protect the environment by setting aside land of environmental and cultural importance to the community and by establishing a land use planning process.

4.30 The development of natural resources in the Northwest Territories is subject to a complex regulatory system involving various federal departments, the Government of the NWT, and Aboriginal groups. This system seeks to balance the needs of industry for certainty and predictability with the rights of Aboriginal groups to make decisions that affect their lands and interests, including environmental protection. Indian and Northern Affairs Canada (INAC) is responsible for supporting co-management boards and land use planning, and for environmental management matters including environmental monitoring and inspection and enforcement of development permits. Environment Canada is also responsible for cumulative impact and

environmental monitoring in the NWT. We expected that INAC and Environment Canada had each acted on their respective responsibilities in this area.

4.31 We examined whether INAC and Environment Canada had established and implemented an adequate regulatory system to manage land and water resources and to protect the environment in the NWT. We did not audit the role or operations of co-management boards.

4.32 We reviewed documentation and interviewed officials from INAC and Environment Canada in Yellowknife and the National Capital Region. We also interviewed representatives of selected co-management boards and members of Aboriginal communities.

The environmental regulatory system is mostly complete in regions with settled land claims

4.33 In provinces such as Ontario, communities affected by development are consulted but final decisions may be made by government or those not directly from the community. In most of the NWT, community representatives exercise final decision-making power through co-management boards, and formal consultation is a critical component of these decisions.

4.34 Two regulatory jurisdictions exist in the NWT: the Inuvialuit Settlement Region, which covers the northernmost regions of the territory, including islands in the Beaufort Sea; and the Mackenzie Valley, which includes all other areas of the NWT. The regulatory environment of both jurisdictions is structured around regional co-management boards (Exhibit 4.6), whose purpose is to ensure that Aboriginal peoples and other northerners can participate meaningfully in decision making.

4.35 Co-management boards and land use plans are two important components that are established in the NWT as a result of comprehensive land claim agreements (CLCAs).

4.36 Co-management boards. INAC has important responsibilities related to supporting co-management boards, particularly on developing the capacity of board members. In 2005, our Office and INAC conducted separate audits of the regulatory system in the NWT and identified a number of weaknesses related to the Department's support to co-management boards under the *Mackenzie Valley Resource Management Act*. The Department committed to addressing many of

the weaknesses. In 2007, the Minister of Indian and Northern Affairs Canada initiated the Northern Regulatory Improvement Initiative and appointed a special representative to recommend how to advance the regulatory systems in the NWT.

4.37 In this audit, we examined the Department's progress in implementing numerous commitments, which it made in 2005, related to supporting the co-management boards. We expected that the Department had made satisfactory progress in addressing the weaknesses found in the 2005 audits.

4.38 We found that INAC has met its commitments and addressed many of the weaknesses identified, which included a lack of support for developing the capacity of board members, unclear roles and responsibilities of the boards, and lack of strategic direction to carry out their mandate. The Department supported a forum where members of the co-management boards meet regularly to discuss matters of common interest. The Department's support through this forum over the last five years has resulted in strategic plans, shared best practices, orientation manuals, and training initiatives. In addition, we found that the Department provided some supplementary funding to boards to adjust for increased workloads.

4.39 Land use plans. Land use plans are important for developing effective, predictable, and consistent regulatory systems. They define where and under what conditions resource development activities may take place and what land will be set aside from development to protect the environment or important cultural territory.

Exhibit 4.6 In the Northwest Territories, co-management boards make decisions on development

The *Mackenzie Valley Resource Management Act* came into force in 1998 as a result of the Gwich'in and Sahtu comprehensive land claim agreements. The Act created co-management boards for the Gwich'in and Sahtu settlement areas, and established the Mackenzie Valley Land and Water Board to issue land use permits and water licences in areas where claims are unsettled.

Under the Inuvialuit Final Agreement, although the institutions differ, the processes of the regulatory system in the Inuvialuit Settlement Region are similar to those in the Act, but they are governed by different statutes. Contrary to those in the Mackenzie Valley, the co-management bodies that carry out these processes are not legislative bodies but they do have similar decision-making powers.

Land claims include provisions for 18 co-management boards with responsibilities including issuing development approvals, land use planning, renewable resources, and environmental impact review. These boards include members nominated by the Aboriginal community, the Government of the Northwest Territories, and the Government of Canada.

4.40 The requirement for land use planning derives from CLCAs or interim agreements reached during the negotiation process. In the Inuvialuit Settlement Region and the Tlicho territory, land use planning is done primarily by the community.

4.41 In other areas with settled land claims, land use planning involves the participation of community, territorial, and federal representatives. INAC's role is to support the completion of land use plans by providing advice, expertise, and funding to the planning boards; to review and comment on draft land use plans; and to advise the Minister on their approval. We expected that the Department had done this for land use plans where warranted, as per the *Department of Indian Affairs and Northern Development Act*, the *Mackenzie Valley Resource Management Act*, and settled CLCAs.

4.42 INAC supported the development of the Gwich'in Land Use Plan, approved in 2003. The Department is currently supporting the development of a land use plan in the Sahtu region. It provided ongoing advice on how to balance conservation and development; technical assistance to ensure that the Plan would be comprehensive, integrated, balanced, and reflect the roles and responsibilities of all participants; and funding for land use planning.

4.43 We found that, in regions with CLCAs, INAC had enabled systems and structures that support land use plans. This contributes to an adequate regulatory system to manage land and water resources and to protect the environment.

Key components are missing from the environmental regulatory system in areas without settled claims

4.44 Regions without comprehensive land claim agreements do not have regional co-management boards, and therefore there is uncertainty about Aboriginal title to the land, how it may be used, and who should be consulted to make decisions about development. Some interim agreements are in place to address certain environmental issues and give Aboriginal groups input into decisions while negotiations on land claims continue; however, without regional co-management boards, the system is incomplete.

4.45 Community representation in development decision making. Areas of the Mackenzie Valley where claims are still unsettled do not have their own regional co-management boards. In these areas, the Mackenzie Valley Land and Water Board (MVLWB) is responsible for issuing land use permits and water licences. Currently, only four seats of the 20-member Board are reserved for representatives from

unsettled areas. Community leaders from these areas have indicated that this process does not provide adequate representation for their communities. Even though two groups have negotiated interim agreements with the federal government in order to have input into the permit screening process, the MVLWB still makes the final decisions in these areas, covering almost 30 percent of the NWT—an area roughly the size of Newfoundland and Labrador.

4.46 Development permits. Staff at the MVLWB told us that the review period for development permits can be longer in areas with unsettled claims because those communities, not feeling represented in the existing process, try to influence decision making through other means. They do this by requesting additional environmental assessments and consultation, which may delay approvals. For example, one Akaitcho First Nation requested referral of a logging application for environmental assessment and subsequently took the matter to court. After approximately two years, the permit was denied.

4.47 Another example relates to an oil and gas development application in the Dehcho region. In the absence of a regional co-management board, this application was reviewed by the MVLWB and subsequently approved. The Dehcho then took the matter to court, arguing that the Crown had not sufficiently consulted them when it approved the permit. After almost two years, the courts upheld the First Nation's application and set aside the permits.

4.48 We compared the number of applications for development permits referred for additional consultation in the regions with unsettled claims to that in the Tlicho territory, which has a settled land claim. We found that, since 2005, dozens of applications had been referred to the Crown for additional consultation in regions with unsettled claims, while we were told that none had been referred in the Tlicho territory.

4.49 Land use plans. We noted a lack of specific mechanisms for developing land use plans in areas without settled land claims. This has complicated the environmental assessment process and has led to ad hoc planning. For example, INAC committed in 2007 to developing a balanced Land and Resource Management Plan for the Upper Thelon Area as a result of an environmental assessment. Progress on this plan has been slow due to impasses related to disputes over control of territory in areas of unsettled land claims. In the Dehcho territory, the lack of requirements for land use plans has been partly addressed by an Interim Measures Agreement.

4.50 Without a formal land use plan, the MVLWB is obliged to make development decisions on a case-by-case basis. Decisions related to project approvals may therefore take longer because it has not been determined where different types of development should take place and what conditions should be applied.

4.51 Recommendation. Indian and Northern Affairs Canada should work with Aboriginal groups and the Government of the Northwest Territories to conclude agreements for regions without settled claims that meet the needs of all parties. These agreements should contain provisions and clear processes for developing land use plans and for providing effective representation on bodies that make decisions on resource management and development.

The Department's response. Agreed. The Department will continue to work with willing partners to settle land claim agreements. The Department considers land use planning as an important tool for balancing investment and development opportunities with environmental stewardship and community aspirations.

The *Mackenzie Valley Resource Management Act*, proposed legislation for planning and assessment in Nunavut, and most northern comprehensive land claim agreements specify a clear requirement for land use plans. The need for improved land use planning as a fundamental component of the northern regulatory regime has been identified in a number of reviews and studies over the past few years, including most recently the *Road To Improvement* report by Mr. Neil McCrank. The Department is committed to working with First Nations and Inuit in the advancement of land use plans pursuant to land claim agreements, legislation, and policy direction. The framework for land use planning will continue to be within the broader structure created by the *Mackenzie Valley Resource Management Act*.

The federal government is not meeting its responsibilities for cumulative impact monitoring

4.52 Environmental monitoring provides important information for decision making on development. This is particularly important in the NWT due to the fragile ecosystem, the profound changes taking place as a result of climate change, and the long-range transport of air contaminants. Whether or not a region has a CLCA, INAC and Environment Canada both have responsibilities for monitoring cumulative impact (Exhibit 4.7).

Exhibit 4.7 Traditional knowledge is an important part of cumulative impact monitoring

- The term “cumulative impact” refers to changes to the environment caused by an activity combined with changes caused by other past, present, and future activities. To understand how development may contribute to cumulative impact, scientists need baseline environmental conditions against which to monitor changes so that they can predict and assess how proposed development will affect the environment.
- Traditional knowledge refers to the knowledge and understanding of the environment that is passed from one generation to the next. Traditional knowledge can improve resource management decisions. A community-based program to monitor cumulative impact would use both scientific and traditional knowledge.

4.53 Under the *Mackenzie Valley Resource Management Act* and specific CLCAs, INAC is responsible for monitoring cumulative impact in the NWT. The Minister of Indian and Northern Affairs Canada is responsible for collecting and analyzing scientific and traditional knowledge to monitor the cumulative impact that land and water use and deposits of waste have on the environment. The Minister may also designate an alternative responsible authority to fulfill these responsibilities but has not done so to date.

4.54 Environment Canada currently conducts limited monitoring of weather, climate, water, stratospheric ozone, and air quality throughout the North, including the NWT, under its national mandate derived from the *Canadian Environmental Protection Act* and the *Department of the Environment Act*. Some of these national programs provide data for assessing cumulative impact. Environment Canada is responsible for providing technical advice for cumulative impact monitoring initiatives led by INAC. In 1998, Environment Canada began to work with partners to deliver the Northern Ecosystem Initiative, and in 1999, the Department committed to funding and implementing the Cumulative Effects Assessment and Management Framework for the NWT in collaboration with INAC.

4.55 Cumulative impact monitoring in the NWT is intended to provide co-management boards with environmental information to support informed decision making on development approvals and resource management. We expected that INAC had established needs and priorities for monitoring cumulative impact and had implemented a plan to fulfill its responsibilities. We also expected that Environment Canada had supported INAC in these responsibilities.

4.56 Indian and Northern Affairs Canada. In 2005, INAC conducted an environmental audit as required by the MVRMA and reported that, despite years of planning, a program to monitor cumulative impact had not been implemented, as required under the Act and settled land claims. The report identified the lack of long-term, multi-year funding as a limiting factor.

4.57 We found that INAC had made little progress since 2005. In 2009, it developed a draft operational plan that identified tasks for a program to monitor cumulative impact and began to increase spending in this area. However, the draft plan does not identify specific monitoring requirements, the resources needed to carry out the program, or timelines for key milestones. We found that, 11 years after receiving the mandate to do so, INAC had not yet put in place a program to monitor cumulative impact. Decision makers therefore have incomplete or limited data on environmental baseline conditions and the cumulative impact of development decisions.

4.58 Environment Canada. Working with multiple partners, in 1998, Environment Canada established the Northern Ecosystem Initiative (NEI). Among other things, this initiative was aimed at developing a monitoring network and tools to assess and manage cumulative impact linked with resource development in selected communities in the NWT and across the North. The Department reported that the NEI developed and tested indicators of cumulative impact and created computer modelling tools that could eventually be used across northern regions. This initiative ended in 2008. Although the Department informed us that it is working toward a new priority ecosystem management framework to guide its investments in ecosystems across Canada, it has not yet committed to any replacement initiative for the North.

4.59 In 1999, the ministers of Indian and Northern Affairs Canada and Environment Canada committed to provide adequate resources to support the development and implementation of a Cumulative Effects Assessment and Management Framework for the NWT. The framework included, among other things, a provision to better coordinate data collection among federal, territorial, and Aboriginal governments and industries, consistent with commitments made under programs to monitor cumulative impact. Although Environment Canada continues to track progress on this initiative, funding aimed at supporting its development and implementation ended in 2007 and the framework has not been implemented.

4.60 The lack of progress on the implementation of a cumulative impact monitoring program in the NWT limits the ability of co-management boards to understand baseline conditions, track and monitor environmental change, and ultimately identify the effect of development on the environment.

4.61 Recommendation. Indian and Northern Affairs Canada (INAC) should develop and carry out a program to monitor cumulative impact in the Northwest Territories (NWT). In doing so, INAC should work with Aboriginal groups to identify the information requirements of the co-management boards in the NWT for cumulative impact monitoring and provide a means of sharing this information among the federal and territorial governments, co-management boards, and Aboriginal communities.

The Department's response. Agreed. As required in land claim agreements, a Northwest Territories Cumulative Impact Monitoring Program was initiated in 1999. Ad hoc and short-term funding has meant that it has not been possible to completely deliver on its mandate and objectives. Ongoing funding was provided in 2008 to expand the scope of the program, and INAC, with its partners, will determine needs and priorities for environmental monitoring in order to fulfill its obligations and commitments in this regard. Should additional funding become available, further investments in the Northwest Territories Cumulative Impact Monitoring Program will be considered.

4.62 Recommendation. Environment Canada should support Indian and Northern Affairs Canada (INAC) in identifying the information requirements for cumulative impact monitoring, and for planning and implementing programs to monitor cumulative impact in the Northwest Territories (NWT).

The Department's response. Agreed. Environment Canada supports the needs and requirements for cumulative impact monitoring in the NWT and acknowledges INAC's lead.

In light of this recommendation and the recommendations contained in the Joint Review Panel (JRP) Report for the Mackenzie Gas Project (MGP) (released December 2009), Environment Canada will work along with INAC and other government departments to develop the Government Response to the JRP Report that will lay out appropriate actions and in doing so will address the findings and recommendations of the Office of the Auditor General.

Indian and Northern Affairs Canada has not determined levels of compliance

4.63 In 2009, INAC was responsible for enforcing about 2,400 active permits and licences in the NWT. The Department's target for the 2008–09 fiscal year was to inspect 50 to 60 percent of its annual caseload. We found that the Department had carried out about 300 inspections, representing 13 percent of its caseload.

4.64 Included in these enforcement responsibilities are land and water permits and licences issued by co-management boards. These generally place terms and conditions on the developer's activities to protect the environment. INAC is responsible for enforcing these terms and conditions through site inspections during and after the activities, according to its Compliance and Enforcement Policy and the MVRMA. We expected that the Department had adequately inspected and enforced the environmental provisions in land use permits and water licences.

4.65 Since the mid-1990s, INAC has been using a risk-based system to prioritize its inspections. Although the Department has procedures in place to plan and track inspections and follow up on violations, it has not established what rate of compliance is sufficient and how many inspections and other enforcement actions it needs to conduct to achieve those rates. Nor does it report the extent to which inspected permit and licence holders are compliant.

4.66 Recommendation. Indian and Northern Affairs Canada should determine the level of compliance necessary and determine the appropriate level of site inspection and other enforcement actions required to achieve it. The Department should also provide information to co-management boards on rates of compliance with terms and conditions of land and water permits and licences.

The Department's response. Agreed. In order to ensure that existing resources are utilized in the most efficient way possible, the Department uses a risk-based approach to prioritize enforcement. The level of compliance, as it applies to legislation within its mandate, will be defined by the Department. The Department will then confirm and make the necessary changes to systems and procedures to ensure that appropriate inspections are being conducted on land and water authorizations and then communicate these changes to the co-management boards.

Skills training and economic development

4.67 Lack of capacity has been consistently identified as a principal barrier to improving economic conditions in Aboriginal communities. Aboriginal communities have lower rates of participation in the labour force and significantly lower average incomes as compared with the national average. Barriers to employment include a lack of basic education and job skills.

4.68 Our Office has also conducted an audit of education in the Northwest Territories (NWT), which will be reported to the NWT Legislative Assembly in May 2010. The audit looked at how the Department of Education, Culture and Employment has planned, monitored, and reported on the education and training programs that are designed to increase opportunities for NWT students to participate fully in the social and economic development of the Northwest Territories.

4.69 Providing services that meet the needs of the NWT is a challenge because of the Territory's many unique characteristics. The NWT consists of 33 mostly small and remote geographic communities spread over a land mass roughly the size of Alberta and Saskatchewan combined. Aside from the capital Yellowknife, communities range in size from about 50 to 3,800 people, and 27 of them have a population of less than 1,000. The two major highways reach fewer than half the communities; many rural and remote communities can be accessed only by plane, boat, or winter ice roads.

4.70 The *Department of Indian Affairs and Northern Development Act* mandates that the Minister is responsible for "undertaking, promoting, and recommending policies and programs for the further economic and political development of Yukon, the Northwest Territories and Nunavut." The *Department of Human Resources and Skills Development Act* mandates that the Minister may establish and implement programs designed to support projects or other activities that contribute to the development of the human resources of Canada and the skills of Canadians. In this audit, we looked at federal support for skills training and economic development in the NWT.

4.71 We expected that Human Resources and Skills Development Canada (HRSDC) would have developed and implemented programs and initiatives that supported skills training for Aboriginal peoples in the NWT and assessed the effectiveness of these programs. We also expected that Indian and Northern Affairs Canada (INAC) would have developed and implemented programs and initiatives that supported economic development for Aboriginal communities in the NWT and assessed and reported on the effectiveness of these programs. We reviewed documentation and files, including internal

audit and evaluation reports on economic development programs within INAC. We also interviewed federal officials, and industry and Aboriginal representatives from several regions.

4.72 We asked HRSDC to identify programs that support skills training in the NWT and we asked INAC to identify programs that support local economic development. We also looked at benefits plans, which fall under the mandate of INAC and are intended to help ensure that individuals or groups have access to economic, training, and employment opportunities from oil and gas development on their lands. Exhibits 4.8 and 4.9 summarize the key programs we examined. We did not assess programs delivered by the Government of the Northwest Territories.

Exhibit 4.8 Two national programs support skills training for Aboriginal peoples

Program	Program Description—Human Resources and Skills Development Canada
Aboriginal Skills and Employment Partnership (ASEP)	Promotes increased participation of Aboriginal peoples in major economic developments through a collaborative approach of Aboriginal, private sector, and provincial/territorial partnerships. The overall objective is sustainable employment for Aboriginal peoples in major economic industries, leading to lasting benefits for communities, families, and individuals.
Aboriginal Human Resources Development Strategy (AHRDS)	Funds Aboriginal organizations throughout Canada to design and deliver programs to help prepare Aboriginal peoples for obtaining meaningful and sustainable employment.

Exhibit 4.9 Four programs are aimed at economic development

Program	Program Description—Indian and Northern Affairs Canada*
Community Economic Development Program (CEDP)	Provides financial support to First Nation and Inuit communities for economic development initiatives, including planning and capacity development initiatives, proposal development, leveraging of financial resources and for carrying out various other economic development activities.
Community Service Support Program (CSSP)	Funds the implementation of national and regional plans to deliver support services to First Nation community economic development organizations. The services are intended to increase the economic capacity of community organizations to carry out one-time projects and ongoing activities related to economic development.
Community Economic Opportunities Program (CEOP)	Provides project-based, proposal driven support to those First Nation and Inuit communities that have identified economic development opportunities. The program is expected to lead to community economic benefits as a result of planning and negotiating activities, research and advocacy initiatives, and economic infrastructure projects.
Aboriginal Business Development Canada	Supports the establishment and growth of Aboriginal-owned and controlled businesses and works with Aboriginal clients across Canada, through financial contributions for activities including business planning, support, start-ups and acquisitions, expansion, and marketing.

*The territorial component of all of these programs was transferred to the new Canadian Northern Economic Development Agency in August 2009, during the course of our audit.

Human Resources and Skills Development Canada does not yet assess the long-term impact of skills training programs

4.73 HRSDC identified several programs aimed at supporting skills training in the NWT through various means. We focused on the two programs aimed at supporting skills training for Aboriginal peoples within the NWT (Exhibit 4.8). We looked at whether HRSDC had identified the needs of the NWT in the implementation of these programs and whether the Department knew if the programs were meeting their objectives.

4.74 HRSDC also has other programs related to labour market development, which involve transfer payments to provincial and territorial governments, including the Northwest Territories. We did not audit these because we focused on programs specific to Aboriginal peoples and delivered by the federal government. Similarly, INAC also has a program aimed at providing skills training to Aboriginal communities—the Strategic Investments in Northern Economic Development program. We did not examine this program since it was being restructured at the time of our audit, with a view to being transferred to the new Canadian Northern Economic Development Agency.

4.75 The Aboriginal Human Resources Development Strategy (AHRDS) and the Aboriginal Skills and Employment Partnership (ASEP) are both national programs that support skills training initiatives in the NWT. Through AHRDS, HRSDC provides funding to Aboriginal organizations, who decide for themselves what training needs should be addressed. AHRDS delivered funding in this manner to eight regional organizations in the NWT between 2004 and 2009. ASEP seeks proposals and allocates funding for projects based on proposals received. Since 2003, ASEP funded five proposals for skills training in the mining, oil and gas, and construction sectors. This program was well received by communities we interviewed.

4.76 We found that HRSDC has established clear objectives and targets and that the Department reports on short-term objectives for both of the programs we examined, including the number of individuals participating in skills training initiatives and the number of people employed. However, we also found that the Department has not assessed these programs' progress toward their longer-term objective and outcome regarding sustainable employment for Aboriginal peoples. This is important in order to understand if these programs are contributing to a positive long-term impact and if Aboriginal peoples are obtaining the skills needed for sustainable employment.

4.77 HRSDC informed us that it was waiting for the completion of the first five-year period of the ASEP program, which ended in March 2009, to conduct such an assessment and that it intends to assess the long-term impact of both programs, by March 2012 for ASEP and by March 2014 for AHRDS.

4.78 Recommendation. Human Resources and Skills Development Canada should work with Aboriginal groups and the Government of the Northwest Territories to assess the impact of their Aboriginal skills training programs and ensure that they are leading to improvements in the skills and employment prospects of Aboriginal peoples over time.

The Department's response. Agreed. As noted in paragraph 4.75, the Department provides funding to Aboriginal organizations who decide for themselves what training needs should be addressed. This Government of Canada policy decision acknowledges that Aboriginal communities in the North and across Canada are best placed to develop and deliver programs and services to meet their unique needs and priorities, including those identified under their land claim settlements. It is also important to note that the Government of Canada has taken explicit policy decisions to transfer responsibility for the development and delivery of labour market training programs under Employment Insurance to provinces and territories that are better positioned to address their priorities and needs. As noted, the Department is measuring immediate employment outcomes and will continue to work with Aboriginal communities and other partners to assess longer-term impacts and ensure that programs are leading to improvements over time.

Economic development programs lack a strategic focus and do not measure performance

4.79 INAC identified four programs aimed at supporting economic development in the NWT (Exhibit 4.9). We assessed whether these programs adequately supported economic development in communities.

4.80 We found that INAC's economic development programs do not have clear objectives. Instead, the programs share a number of broad objectives that are both general and vague. For example, two of these programs share objectives including "more investment in communities" and "more, larger and stronger community businesses." Without clearly stated objectives, measurement and tracking of the performance of programs are not possible.

4.81 We also found that INAC did not monitor its programs' performance or review information reported by the recipients of

funding. With the exception of some specific measures for tracking activities for the Aboriginal Business Development Canada program, INAC does not track the performance of these programs, individually or collectively, in a way that informs whether they actually contribute to Aboriginal economic development in the NWT. As a result, the Department cannot determine whether its programs have achieved their intended results or adequately supported the local economic development of Aboriginal communities in the NWT.

4.82 Most of INAC's economic development programming in the NWT is based on a strategy released in 1989. This strategy had not been updated to reflect the emerging needs of Aboriginal communities, the changing economy, or the impact of existing programs until 2009. Instead, individual economic development programs evolved in response to a variety of audits, evaluations, and stakeholder input but without alignment with overall objectives or with each other. In April 2009, the Department conducted an evaluation that considered the continuing need for, possible duplication of, or gaps in programming.

4.83 In 2009, the federal government released its Framework for Aboriginal Economic Development, intended to replace the 1989 strategy. Officials told us that the Framework is a first step in redefining and implementing a government-wide and nationwide approach to Aboriginal economic development. However, northerners we interviewed were concerned that the Framework may not address the unique needs of Aboriginal groups in the North. The Framework has yet to result in any changes to economic development programming in the NWT.

4.84 During our audit, the federal government established the Canadian Northern Economic Development Agency and transferred to it the delivery of INAC's economic development programs for the NWT. Some of the new agency's priorities are to coordinate and deliver existing programs and services, measure results of economic development programming in the NWT, and tailor programs and activities to the needs of the North. By the end of our audit, it was too early to determine how the Agency will affect economic development in the North or how it will align with the new Federal Framework for Aboriginal Economic Development.

4.85 Recommendation. The Canadian Northern Economic Development Agency (CanNor) should clarify the objectives of its economic development programs in the Northwest Territories and develop a strategic approach to delivering federal programming that includes the identification of needs and gaps, clear and coordinated

objectives, effective performance measurement, and consistent reporting on results.

The Agency's response. Agreed. While CanNor was not included in the scope of the audit, the Agency accepts the responsibility to implement the recommendation by virtue of the program responsibilities transferred to it by Indian and Northern Affairs Canada (INAC) in August 2009 and CanNor's northern economic development mission. CanNor's implementation of the recommendation will focus on meeting local needs and will commence, on a priority basis, building upon existing progress and resulting from review activity already undertaken. This process will involve further consultations with key stakeholders and program clientele, and operate in close collaboration with INAC in the context of the recently announced new Federal Framework for Aboriginal Economic Development.

Indian and Northern Affairs Canada does not track and monitor benefits plans

4.86 Under the *Canada Oil and Gas Operations Act*, industry must develop benefits plans when undertaking oil and gas activities in the NWT. These plans are intended to lead toward training and employment opportunities. They are submitted by industry to INAC and outline the strategies and principles the developer will use to ensure that the local community can benefit from proposed projects through, for example, increased employment or participation in the supply of goods or services. The plans may also include training, employment, and other provisions, making them potentially significant to Aboriginal individuals, businesses, and communities. The Minister of Indian and Northern Affairs Canada must approve or waive the requirement for a benefits plan before a development project can begin. We expected that INAC would have developed a process for approving these plans.

4.87 The Department has developed guidelines for approving benefits plans and provides these requirements to developers. These guidelines set out the information that developers must include in their plans and what they must report annually. We analyzed a sample of benefits plans and annual reports approved since 2005 to determine if they contained all the required information.

4.88 We found that most of the plans INAC approved did not include all the requirements listed in the guidelines. We also found that most of the annual reports did not include all of the information required. Moreover, the Department had not tracked whether industry had carried out its plans. Without an approval process for benefits plans

that includes reviewing what is being reported, or tracking the impact of implementing these plans, INAC does not know the extent to which development projects are benefiting communities through access to training and employment opportunities.

4.89 Recommendation. Indian and Northern Affairs Canada should ensure that benefits plans related to development projects under the *Canada Oil and Gas Operations Act* meet the requirements set out in the Department's guidelines before approving projects, and that annual reports include information on how the plans meet these requirements. The Department should also track and measure the training and employment opportunities achieved through benefits plans.

The Department's response. Agreed. As part of overall efforts to modernize its approach to resource management issues, the Department is addressing issues related to benefits plans and will intensify its efforts, working with other parties, to meet the Department's guidelines, and track and measure the training and employment opportunities achieved.

Conclusion

4.90 The departments we audited are mandated to put in place key measures to support sustainable and balanced development in the Northwest Territories. These key measures include land claim and self-government agreements, an environmental regulatory system, and support for skills training and economic development.

4.91 The Government of Canada, as represented by Indian and Northern Affairs Canada, the Aboriginal groups, and the Government of the Northwest Territories, settled four comprehensive land claim agreements (CLCAs) in the NWT, one of which includes a self-government agreement (SGA). Four CLCAs and ten SGAs remain under negotiation. Our audit found that INAC has made constructive efforts to clarify the land, resource, and governance rights of claimant groups in the NWT in its negotiations of CLCAs and SGAs. We also noted, however, that delays in funding to First Nations can impede their effective participation in negotiating SGAs.

4.92 We concluded that where CLCAs exist, the environmental regulatory system is mostly complete. Co-management boards have been established and INAC has made progress in supporting them to develop land use plans. Where land claims are not settled, we concluded that INAC has not put in place an adequate regulatory system, communities may not be adequately represented, and development decisions may take longer.

4.93 In all regions of the NWT, our audit found that INAC has not met its responsibility to monitor cumulative impact. Nor has Environment Canada met its commitments to support INAC in these activities. We also found that INAC lacks information on compliance with permits. These are important obligations, critical to protecting the fragile environment of the NWT. Our audit concluded that the federal government has been unsuccessful in establishing a regulatory system that satisfies the needs of all parties.

4.94 Support for skills training and economic development in the NWT is key to developing capacity in northern communities in order for them to benefit from the opportunities provided by development. Human Resources and Skills Development Canada's (HRSDC) programs support skills training in the NWT. However, our audit found that HRSDC does not assess whether these programs are achieving their longer-term objective and outcome regarding sustainable employment for Aboriginal peoples in the NWT. We also found that INAC economic development program objectives are vague and the Department does not measure the results of its programs. We concluded that INAC and HRSDC do not know the extent to which their skills training and local economic development initiatives are building the capacity of Aboriginal peoples in the NWT.

4.95 Overall, we concluded that Indian and Northern Affairs Canada and Environment Canada have not adequately implemented key measures designed to prepare for sustainable and balanced development in the Northwest Territories. While progress has been made, key measures remain to be adequately implemented, including the establishment of an environmental regulatory system throughout the NWT and economic development programs that address the Territory's unique needs. Furthermore, HRSDC has yet to assess the longer-term impact of its skills training programs regarding sustainable employment of Aboriginal peoples in the NWT.

About the Audit

All the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for its audits, it also draws upon the standards and practices of other disciplines.

Objective

The overall objective of our audit was to determine whether Indian and Northern Affairs Canada (INAC), Environment Canada, and Human Resources and Skills Development Canada (HRSDC) have adequately implemented key measures to prepare for sustainable and balanced development in the Northwest Territories.

Our sub-objectives were to determine whether

- INAC has made constructive efforts to clarify the land, resource, and governance rights of Aboriginal claimant groups in the Northwest Territories according to the Comprehensive Land Claims Policy (1986) and the Inherent Right of Self-Government Policy (1995);
- INAC and Environment Canada have established and carried out an adequate regulatory system to manage land and water resources and protect the environment in the Northwest Territories; and
- INAC and HRSDC can show that they have adequately supported skills training and local economic development initiatives designed to build the capacity of Aboriginal peoples and residents in the Northwest Territories.

Scope and approach

While many federal and other entities have responsibilities and mandates regarding the development of Canada's North, the entities included in this audit are Indian and Northern Affairs Canada, Environment Canada, and Human Resources and Skills Development Canada. In August 2009, the Canadian Northern Economic Development Agency was created, and the control and supervision of the Northern Economic Development Branch, which was responsible for the economic development programs included in this audit, was transferred from INAC to the Agency.

Although we included it in the survey phase of our audit, we did not conduct an in-depth audit of INAC's Strategic Investments in Northern Economic Development (SINED) program. This was because the Department was in the process of restructuring SINED during our audit in order to address recommendations made by its internal audit, and we were informed of plans to transfer the program to a new organization in the coming months.

During our audit, we met numerous stakeholders outside the federal government. These included officials in the Government of the Northwest Territories; community leaders in many of the Aboriginal communities in the NWT; and representatives from co-management boards, including the Mackenzie Valley Land and Water Board. While not included in the scope of our audit, they gave us their perspectives on federal activities and processes.

Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
Aboriginal governance and control of land and resources	
We expected Indian and Northern Affairs Canada (INAC) to have made constructive efforts to reach agreement on the land and resource rights of Aboriginal claimant groups.	<ul style="list-style-type: none"> • Comprehensive Land Claims Policy, INAC, 1986 • <i>Department of Indian Affairs and Northern Development Act</i>, section 5
We expected INAC to have made constructive efforts to reach agreement on how Aboriginal claimant groups will exercise self-government.	<ul style="list-style-type: none"> • The Government of Canada's Approach to Implementation of the Inherent Right and Negotiation of Aboriginal Self-Government, INAC, 1995 • <i>Department of Indian Affairs and Northern Development Act</i>, section 5
Environmental regulatory system	
We expected INAC to have made satisfactory progress to address the weaknesses in the regulatory system consistent with commitments made further to previous audits.	<ul style="list-style-type: none"> • <i>Mackenzie Valley Resource Management Act</i> • <i>Department of Indian Affairs and Northern Development Act</i>, section 6(1) • 2005 April Report of the Auditor General, Chapter 6, Indian and Northern Affairs Canada—Development of Non-Renewable Resources in the Northwest Territories—responses to recommendations 6.47, 6.52, 6.59, 6.60, 6.76, 6.77, 6.83 • INAC response to the NWT Environmental Audit, recommendation 38, INAC, 2005
We expected INAC to have supported the development and approval of land use plans.	<ul style="list-style-type: none"> • <i>Department of Indian Affairs and Northern Development Act</i>, section 6(1) • <i>Mackenzie Valley Resource Management Act</i>, sections 11, 12, 15, 26, 40, 43, 90 • Comprehensive Land Claim Agreements for Gwich'in, Sahtu Dene and Metis, and Tlicho
We expected INAC and Environment Canada to have established needs and priorities for environmental monitoring and implemented a plan to fulfill their obligations in this regard.	<ul style="list-style-type: none"> • <i>Mackenzie Valley Resource Management Act</i>, section 146 • INAC response to the NWT Environmental Audit, recommendations 49, 50, 12, INAC, 2005
We expected INAC to have provided adequate enforcement of environmental provisions of land use permits and water licences.	<ul style="list-style-type: none"> • <i>Mackenzie Valley Resource Management Act</i>, sections 84, 85, 86 • INAC response to the NWT Environmental Audit, recommendation 12, INAC, 2005
Skills training and economic development	
We expected INAC and Human Resources and Skills Development Canada (HRSDC) to have identified training and skills development needs in the NWT and to have provided programs and initiatives for Aboriginal peoples and residents.	<ul style="list-style-type: none"> • <i>Department of Indian Affairs and Northern Development Act</i>, section 5(6) • <i>Human Resources and Skills Development Act</i>, sections 7 and 5(2) • Comprehensive Land Claim Agreements for Gwich'in, Sahtu Dene and Metis, and Tlicho • The Western Arctic Claim—Inuvialuit Final Agreement

Criteria	Sources
We expected INAC to have developed and carried out policies, programs, and/or initiatives that adequately support economic development in the NWT.	<ul style="list-style-type: none"> • <i>Department of Indian Affairs and Northern Development Act</i>, section 5(6) • <i>Human Resources and Skills Development Act</i>, sections 7 and 5(2) • Comprehensive Land Claim Agreements for Gwich'in, Sahtu Dene and Metis, and Tlicho • The Western Arctic Claim—Inuvialuit Final Agreement
We expected INAC and HRSDC to have assessed and reported on the effectiveness of programs and initiatives for capacity development and economic opportunities.	<ul style="list-style-type: none"> • <i>Preparing and Using Results-based Management and Accountability Frameworks</i>, sections 1.1, 1.3, Treasury Board of Canada Secretariat, 2005 • <i>Results for Canadians: A Management Framework for the Government of Canada</i>, Treasury Board of Canada Secretariat, 2000 • Comprehensive Land Claim Agreements for Gwich'in, Sahtu Dene and Métis, and Tlicho • The Western Arctic Claim—Inuvialuit Final Agreement
We expected INAC to be fulfilling its requirement to approve benefits plans that provide access to training and employment opportunities.	<p><i>Canada Oil and Gas Operations Act</i>, section 5</p>

Management reviewed and accepted the suitability of the criteria used in the audit.

Audit work completed

This audit addressed programs and activities of the selected federal departments between 2004 and 2009. Certain tests relied on information dating back as far as 2000. Audit work for this chapter was substantially completed on 20 November 2009.

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Appendix List of recommendations

The following is a list of recommendations found in Chapter 4. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
Aboriginal governance and control of land and resources	
<p>4.28 Indian and Northern Affairs Canada should identify and implement mechanisms, such as multi-year funding for contribution agreements, to ensure timely funding of the activities of Aboriginal communities regarding negotiations on self-government. (4.25–4.27)</p>	<p>Agreed. The Department acknowledges the requirement for mechanisms such as multi-year funding for contribution agreements and will be implementing the new Transfer Payment Policy, which allows for multi-year funding to recipients, targeted for 31 March 2011.</p>
Environmental regulatory system	
<p>4.51 Indian and Northern Affairs Canada should work with Aboriginal groups and the Government of the Northwest Territories to conclude agreements for regions without settled claims that meet the needs of all parties. These agreements should contain provisions and clear processes for developing land use plans and for providing effective representation on bodies that make decisions on resource management and development. (4.44–4.50)</p>	<p>Agreed. The Department will continue to work with willing partners to settle land claim agreements. The Department considers land use planning as an important tool for balancing investment and development opportunities with environmental stewardship and community aspirations.</p> <p>The <i>Mackenzie Valley Resource Management Act</i>, proposed legislation for planning and assessment in Nunavut, and most northern comprehensive land claims agreements specify a clear requirement for land use plans. The need for improved land use planning as a fundamental component of the northern regulatory regime has been identified in a number of reviews and studies over the past few years, including most recently the <i>Road To Improvement</i> report by Mr. Neil McCrank. The Department is committed to working with First Nations and Inuit in the advancement of land use plans pursuant to land claim agreements, legislation, and policy direction. The framework for land use planning will continue to be within the broader structure created by the <i>Mackenzie Valley Resource Management Act</i>.</p>

Recommendation	Response
<p>4.61 Indian and Northern Affairs Canada (INAC) should develop and carry out a program to monitor cumulative impact in the Northwest Territories (NWT). In doing so, INAC should work with Aboriginal groups to identify the information requirements of the co-management boards in the NWT for cumulative impact monitoring and provide a means of sharing this information among the federal and territorial governments, co-management boards, and Aboriginal communities. (4.52–4.60)</p>	<p>Agreed. As required in land claim agreements, a Northwest Territories Cumulative Impact Monitoring Program was initiated in 1999. Ad hoc and short-term funding has meant that it has not been possible to completely deliver on its mandate and objectives. Ongoing funding was provided in 2008 to expand the scope of the program, and INAC, with its partners, will determine needs and priorities for environmental monitoring in order to fulfill its obligations and commitments in this regard. Should additional funding become available, further investments in the Northwest Territories Cumulative Impact Monitoring Program will be considered.</p>
<p>4.62 Environment Canada should support Indian and Northern Affairs Canada (INAC) in identifying the information requirements for cumulative impact monitoring, and for planning and implementing programs to monitor cumulative impact in the Northwest Territories (NWT). (4.52–4.60)</p>	<p>Agreed. Environment Canada supports the needs and requirements for cumulative impact monitoring in the NWT and acknowledges INAC's lead.</p> <p>In light of this recommendation and the recommendations contained in the Joint Review Panel (JRP) Report for the Mackenzie Gas Project (MGP) (released December 2009), Environment Canada will work along with INAC and other government departments to develop the Government Response to the JRP Report that will lay out appropriate actions and in doing so will address the findings and recommendations of the Office of the Auditor General.</p>
<p>4.66 Indian and Northern Affairs Canada should determine the level of compliance necessary and determine the appropriate level of site inspection and other enforcement actions required to achieve it. The Department should also provide information to co-management boards on rates of compliance with terms and conditions of land and water permits and licences. (4.63–4.65)</p>	<p>Agreed. In order to ensure that existing resources are utilized in the most efficient way possible, the Department uses a risk-based approach to prioritize enforcement. The level of compliance, as it applies to legislation within its mandate, will be defined by the Department. The Department will then confirm and make the necessary changes to systems and procedures to ensure that appropriate inspections are being conducted on land and water authorizations and then communicate these changes to the co-management boards.</p>

Recommendation	Response
<p>Skills training and economic development</p> <p>4.78 Human Resources and Skills Development Canada should work with Aboriginal groups and the Government of the Northwest Territories to assess the impact of their Aboriginal skills training programs and ensure that they are leading to improvements in the skills and employment prospects of Aboriginal peoples over time. (4.73–4.77)</p> <p>4.85 The Canadian Northern Economic Development Agency (CanNor) should clarify the objectives of its economic development programs in the Northwest Territories and develop a strategic approach to delivering federal programming that includes the identification of needs and gaps, clear and coordinated objectives, effective performance measurement, and consistent reporting on results. (4.79–4.84)</p>	<p>Agreed. As noted in paragraph 4.75, the Department provides funding to Aboriginal organizations who decide for themselves what training needs should be addressed. This Government of Canada policy decision acknowledges that Aboriginal communities in the North and across Canada are best placed to develop and deliver programs and services to meet their unique needs and priorities, including those identified under their land claim settlements. It is also important to note that the Government of Canada has taken explicit policy decisions to transfer responsibility for the development and delivery of labour market training programs under Employment Insurance to provinces and territories that are better positioned to address their priorities and needs. As noted, the Department is measuring immediate employment outcomes and will continue to work with Aboriginal communities and other partners to assess longer-term impacts and ensure that programs are leading to improvements over time.</p> <p>Agreed. While CanNor was not included in the scope of the audit, the Agency accepts the responsibility to implement the recommendation by virtue of the program responsibilities transferred to it by Indian and Northern Affairs Canada (INAC) in August 2009 and CanNor's northern economic development mission. CanNor's implementation of the recommendation will focus on meeting local needs and will commence, on a priority basis, building upon existing progress and resulting from review activity already undertaken. This process will involve further consultations with key stakeholders and program clientele, and operate in close collaboration with INAC in the context of the recently announced new Federal Framework for Aboriginal Economic Development.</p>

Recommendation	Response
<p>4.89 Indian and Northern Affairs Canada (INAC) should ensure that benefits plans related to development projects under the <i>Canada Oil and Gas Operations Act</i> meet the requirements set out in the Department's guidelines before approving projects, and that annual reports include information on how the plans meet these requirements. The Department should also track and measure the training and employment opportunities achieved through benefits plans. (4.86–4.88)</p>	<p>Agreed. As part of overall efforts to modernize its approach to resource management issues, the Department is addressing issues related to benefits plans and will intensify its efforts, working with other parties, to meet the Department's guidelines, and track and measure the training and employment opportunities achieved.</p>

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