



Aboriginal Affairs and
Northern Development Canada

Affaires autochtones et
Développement du Nord Canada

Final Report

Evaluation of the Northern Regulation, Resources and Environmental Management Programs

Project Number: 1570-7/10032

February 2012

Evaluation, Performance Measurement,
and Review Branch
Audit and Evaluation Sector



Canada 

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List of Acronyms

AANDC Aboriginal Affairs and Northern Development Canada

CIMP Northwest Territories Cumulative Impact Monitoring Program

EPMRB Evaluation, Performance Measurement, and Review Branch

INAC Indian and Northern Affairs Canada

LWM Land and Water Management

NAO Northern Affairs Organization

NGMP Nunavut General Monitoring Plan

NWT Northwest Territories

Executive Summary

Introduction

The Evaluation, Performance Measurement and Review Branch at Aboriginal Affairs and Northern Development Canada (AANDC) is conducting an evaluation of the Department's programming relating to regulation and management of resources and the environment in Canada's North. The main objective of the evaluation is to assess issues related to relevance and performance of the programs being evaluated. This final report presents the findings and conclusions of the evaluation research and makes observations and recommendations for the consideration of AANDC senior management.

The evaluation is in response to the Treasury Board requirement to provide complete evaluation coverage of all program spending. The results of the evaluation will help to inform any future directions, decisions and renewals of the programs being evaluated, including the renewal of Spending Authority #334, "*Contributions for Promoting the Safe Use, Development, Conservation and Protection of the North's Natural Resources*".

The programs evaluated are the sub-activities of the Northern Land, Resources and Environmental Management Program Activity, which falls under the Strategic Outcome "The North". The Program Activity is drawn from the 2011-2012 AANDC Program Activity Architecture. The activities and sub-activities to be evaluated include the following:

- Action Plan to Improve Northern Regulatory Regimes, which includes:
 - Regulatory Improvement, and
 - The Northwest Territories Cumulative Impact Monitoring Program (CIMP) and the Nunavut General Monitoring Plan (NGMP);
- Northern Oil and Gas;
- Mines and Minerals;
- Land and Water Management (LWM); and
- Environmental Assessment.

Three of the program areas included in the evaluation are newly initiated: Regulatory Improvement, CIMP, and NGMP. The evaluation therefore assesses only the relevance, design and early delivery of these three programs. The remaining programs are evaluated for the full range of issues.

The evaluation objectives were to examine, where applicable, the following:

- Planning, design, management, and delivery;
- Performance measurement processes and reporting;
- Efficiency and effectiveness of the program;
- Extent to which the program is on track to meeting planned outcomes;
- Extent to which the program has met planned outcomes;

- The extent to which the program’s operation acquires resources (financial, human and material) at the lowest possible cost; and
- The alternatives, lessons learned and best practices of the program.

Methodology

The evaluation incorporated the following lines of evidence: a literature review; an analysis of relevant administrative information and documentation; an analysis of administrative and financial data; key informant interviews; and case studies.

Findings

Relevance

The evaluation has found that the Northern Affairs Organization (NAO) programs examined in this evaluation are fully relevant to today’s circumstances. They are closely aligned with federal government priorities in the North and with AANDC’s strategic objectives and priorities. The programs are also in keeping with current federal roles and responsibilities in the North as reflected by land and water management, legislation, land claim agreements and the Department’s northern mandate, although this may change in the future as devolution agreements are reached with the Government of the Northwest Territories and the Government of Nunavut. While there are areas in which both levels of government and Aboriginal governing bodies work collaboratively in undertaking common activities, there are no apparent situations where overlap or duplication of roles suggest that the federal government should not be operating there. Finally, it is apparent that the programs respond to a clear, well-defined and growing need in the North for support in areas of resource development, an improved regulatory environment, and effective land and water and environmental management.

Performance

Regulatory Improvement

The Regulatory Improvement Initiative commenced in 2010, and is still developing new and amended legislation to help improve the regulatory environments in the North. It is premature to assess the quality of the legislation being developed or the results in terms of regulatory improvement. However, the evaluation has found evidence of success in reaching agreement on legislative change that addresses stakeholder and federal government concerns, particularly in Nunavut. In the Northwest Territories, most regulatory change is still at the consultation stage, in particular amendments to the *Mackenzie Valley Resource Management Act*, and this may prove contentious as industry, government and community priorities appear to differ in how to streamline regulatory processes. Notably, there is a perception among the large majority of external stakeholder organizations that AANDC supports an industry push to establish a single land and water board for the Northwest Territories in contrast to the existing network of regional boards, and most stakeholders, including the Government of Northwest Territories prefer to see streamlining within the existing structure that they believe is truer to the principles established in land claim agreements. Areas in the Northwest Territories without a comprehensive land claim

agreement pose additional challenges as regulatory reform issues often get tied to land claim interests. With the exception of the development of an agreement on water quality standards in the North, the Department has responded to recommendations from the Auditor General on regulatory and land and water management issues in the North, and recent progress has been made in that area.

CIMP and NGMP

Like the Regulatory Improvement initiative, the CIMP (Northwest Territories) and the NGMP (Nunavut) received funding in 2010 to establish ongoing programs; since then, they have established and strengthened operating structures such as steering committees with partner agencies, terms of reference for those committees, AANDC-based secretariats to work on behalf of the steering committees, communications strategies, and information management frameworks. The evaluation has found that managers and external stakeholders are satisfied with the early progress of these initiatives, and there is wide agreement that environmental impact monitoring will be critical in the North as mining and oil and gas resources are developed. Given the enormity of the task, challenges lie ahead in managing expectations, in shepherding a common approach to collecting and reporting environmental data so that regulators and other decision makers can eventually work from a common base of information. In addition, partnership development will be a key focus going forward.

Land and Water Management

The evaluation found that LWM is an active and effective contributor to regulatory processes in the North providing expertise that is highly valued. LWM is found to meet deadlines for technical contributions to license and permit applications, and processes lease applications in a timely fashion. The evaluation also found that there are concerns in the North about the Department's ability to adequately inspect lease, land permit and water license sites to ensure that terms and conditions are complied with. A "risk management" approach is in place in the Northwest Territories and in Nunavut, which essentially means that only the sites that are deemed to present the highest environmental risk and that are affordable to inspect receive attention. Furthermore, the systematic adaptive process that is in place is not enough to enable tracking and reporting on compliance with mitigation terms and conditions that are attached to licenses and permits; hence, land and water boards are unable to learn from experience and adapt their strategies accordingly. Evaluators were not able to obtain data to demonstrate the extent to which terms and conditions are being complied with, or to demonstrate the extent of inspections and reporting relative to demand. The lack of available data is problematic in itself, but LWM estimates of inspection coverage are low and predicted to get worse as demand is expected to increase due to economic development.

LWM and the public boards attach security deposit requirements to leases, land use permits and water licenses. This is done routinely and well-accepted formulae are used to determine security deposit amounts. However, the evaluation has found that the process requires updating in several respects. For example, compared to current reclamation costs, while legislation provides criteria for limits on security amounts, these amounts are very low in some instances. Despite the fact that AANDC holds securities for their own issuances and for those of the public land and water

boards, in some circumstances, the Crown may have responsibility when reclamation costs cannot be recovered, the setting of deposit amounts is often shared between LWM and the public boards, or between LWM and Aboriginal groups that have title over land acquired through land claim agreements. This shared responsibility can lead to confusion as to the costs associated with land reclamation on the one hand, and water reclamation on the other. In the case of projects that include Inuit-owned land in Nunavut, deposit amounts can reportedly be duplicative and higher than appropriate.

The evaluation noted that while LWM has a stated objective to support the capacity of Aboriginal people in resource management activities, this role appears to be taken up by the Board Relations Secretariat in the Northwest Territories, and LWM does not undertake activity in these areas except to hire local Aboriginal people, where possible, at regional and district offices. The Board Relations Secretariat has established collaborative processes with the public boards and with Aboriginal groups in the territory and efforts to expand training and orientation for board members has reportedly resulted in significant improvements in board member capacity.

Environmental Assessment

The Environmental Assessment function has a primary responsibility to advise the Minister on land and water application decisions, the appropriateness of associated mitigation strategies where the Department has a regulatory responsibility, and to provide advice and guidance to other regulators on technical environmental matters, especially as an intervener in environmental assessment and environmental impact review processes. The evaluation has found that the Environmental Assessment program has been successful in advising the Minister, such that there are very few disagreements with ministerial decisions that result in judicial reviews. The timeliness of the program's advice does not appear to be a factor in the timeliness of regulatory decision making. Delays that are the subject of considerable concern on the part of industry appear to be caused primarily by what is viewed by industry as inappropriate referrals of applications to full-blown impact reviews, particularly when applications are in areas not under a land claim agreement. Where land claim agreements are in place and communities are represented on regulatory boards, delays rarely occur.

Mitigation measures attached to land use permits and water licenses based, and to a significant degree based on technical advice commissioned and/or compiled by federal and territorial authorities (including AANDC Environmental Assessment managers and staff), are widely viewed as sound and sufficient to protect against environmental risk if they are complied with. As noted above, however, there is a strong perception on the part of external stakeholders and most AANDC respondents to this evaluation of a growing environmental risk associated with the limited scale of inspections and the lack of an adaptive environmental management mechanism available to regulators. This widely shared concern is exacerbated by the reduced ability of the Environmental Assessment program to fulfill its technical advisory role and its role as an intervener in public review processes, resulting from diminishing budget availability relative to increasing demand. In addition, the *ad hoc* and limited nature of funds available for external organizations such as community and environmental groups to participate in the review process may further limit the information upon which regulators base their decisions.

The evaluation also found that there are sometimes “orphan” measures that are routinely left out of mitigation strategies or not enforced because there is no clear regulatory authority responsible to enforce them and no clear standards to apply. These may include air quality, some aspects of wildlife management and socio-economic well-being. These areas are covered in the land claim agreements, and the public boards established by the agreements have a mandate to set terms and conditions to meet risks of impacts in those areas, but up to now, no action is being taken. It is apparent that agreement needs to be reached between levels of government, and with the parties to the land claim agreements, to establish jurisdictions, standards and enforcement mechanisms in these areas, but to date, there has been no apparent action to address this gap.

In Yukon, the functions assigned to most of the NAO programs being evaluated have been devolved to the Yukon Territorial Government. There remains an Environmental Assessment unit at the Yukon Regional Office to fulfill responsibilities associated with the environmental review legislation in the territory where Canada is the project funder. Under the *Yukon Environmental and Socio-economic Assessment Act*, an environmental impact review board was established (the Yukon Environmental and Socio-economic Assessment Board) similar to review boards in the other territories. AANDC is responsible to ensure that the Board functions as intended under the Act (in keeping with the Umbrella Final Agreement and the individual comprehensive land claim agreements that are in place with most First Nations groups in the territory). It has also recently been jointly responsible for a five-year review of the *Yukon Environmental and Socio-economic Assessment Act*. The Department pays the cost of the Yukon Environmental and Socio-economic Assessment Board, the participation of self-governing First Nations, three *Indian Act* First Nations and also Yukon Government. Currently, it is also funding the five-year review. Finally, the Department plays an environmental assessment role for some projects that take place on First Nations lands.

The evaluation did not examine in detail the Department’s effectiveness in fulfilling these responsibilities but it did find that there is confusion among stakeholders, such as the Yukon Territorial Government and the Council of Yukon First Nations as to the Department’s role in coordinating federal interventions in environmental impact reviews and its responsibilities relative to those of the Northern Projects Management Office managed by CanNor. As well, it is apparent that, despite devolution, Yukon First Nations groups feel strongly that AANDC is not fulfilling its responsibility to help protect the environment in the territory and to ensure that Aboriginal people have an opportunity to be full partners in license and permit decisions. AANDC officials point out that the Department does not have regulatory authority in the territory, or authority to determine the nature of participation in regulatory processes.

Resource Development (Mines and Minerals and Northern Oil and Gas)

The Mines and Minerals and the Northern Oil and Gas programs at AANDC are designed first and foremost to encourage and support mining and minerals and oil and gas exploration and development in the North. For Mines and Minerals, the Department is responsible for managing a regime that provides secure title to private sector mineral discoveries as well as other activities such as compiling, organizing and disseminating geoscience information to the mining industry. Mineral Rights Administration, which includes the issuance of licenses to prospect, prospecting

permits, and mineral claims in the Northwest Territories and Nunavut, is also part of the responsibilities. The evaluation has found that the Mines and Minerals program provides industry with a secure and well-defined process for title security in the Northwest Territories and Nunavut that mining companies have trust in and which results in few disputes.

Similarly, the “Call Cycle” managed by the Northern Oil and Gas program includes a competitive bidding process that provides industry with annual opportunities to obtain exploration rights in the Northwest Territories, Nunavut and offshore. The Call Cycle process, which begins with land parcel nomination and bid processes that lead to the issuance of exploration licences and subsequently to significant discovery and production licences, is considered fair and efficient by industry.

The North’s royalty regimes for producing mines and for oil and gas production are also found to be well managed and fair to industry and to Canadians in terms of royalty rates; it is also found to be meeting land claim-based royalty arrangements. Mining royalty income has increased over the five-year evaluation period with the increase in diamond mine production.

The evaluation has found that the Department’s contribution to increasing geoscience knowledge in the North, along with that of its territorial government and Aboriginal group partners in the Northwest Territories and Nunavut, is substantial and highly valued, and encourages investment in mining and oil and gas. It is apparent, however, that there is room for additional work in this area as that would likely bring more economic benefits to the North through increased resource development, which are not possible with existing resources. The Department has undertaken and been a participant in numerous research projects to produce a body of evidence on environmental and socio-economic interests to inform oil and gas resource development. The program has been commended for its role in initiatives such as the Beaufort Regional Environmental Assessment process.

The evaluation has found that despite the valued efforts of the program, there have been no overall increases in the amount of mineral exploration or in mining development over the five-year period of the evaluation. The numbers of prospecting permits issued, claims recorded and leases issued, and the land area covered by these permits, claims and leases, either declined or remained stable over the period. This recent lack of growth is attributed primarily to regulatory uncertainty and challenges in working with Aboriginal groups in areas not covered by a land claim agreement. Broad economic factors associated with the 2008-09 economic downturn and ensuing recession and decline in commodity prices also contributed significantly to the overall lack of growth over the five-year evaluation period. Estimates of known mineral reserves in the North have reportedly increased over the five-year period, but figures were not available for the evaluation.

In the Northwest Territories, industry’s spending commitments for oil and gas exploration have risen dramatically in the last two years and especially in 2011 after a major low during the 2008-09 economic downturn. In terms of Calls for Bids and number of hectares licensed for oil and gas exploration activity, figures have returned to previous levels and then exceeded them this past year: 2011 was a peak year for oil and gas commitments in the Northwest Territories with 13 land parcels in the Calls for Bids and 13 Exploration Licences issued. Although increased

exploration and development in Nunavut is widely viewed as inevitable in the near future, to date, Nunavut has not experienced similar success.

Despite only modest success in mining expansion during the period covered by the evaluation and gains made, only recently, in oil and gas exploration, resource industries in the North have clearly brought increased employment and income for Aboriginal people and other Northerners, and raised household incomes significantly in communities that are close to mining developments. Training and business opportunities through the operating mines and from oil and gas activities have brought gains to Aboriginal people in the types and status of jobs held, and have fostered success of some Aboriginal-owned companies set up to service the resource industry's needs. Northern educational institutions have oriented their training programs to meet mining and oil and gas industry-driven needs with some success. Impact and benefit agreements also appear to be bringing both economic and social infrastructure benefits to nearby communities.

The evaluation has also found that there is a wide disparity in views on the regulatory environment in the North as it pertains to resource development. Industry sees the process as far too slow and unpredictable and finds this to be a disincentive for investment. Aboriginal groups, territorial governments and public boards are positive about resource development and open to some streamlining and clearer definitions in the legislation, but remain committed to existing structures and review processes. Industry suggests that AANDC could be doing more to inform the public about the benefits of resource development and dispel fears of environmental impacts, and further, believes that the multiple roles of AANDC in economic development, environmental management and Aboriginal Affairs militate against such efforts.

Effectiveness

Activities in the program areas covered by the evaluation are consistent with expected outcomes. In one area, Environmental Assessment, there is some confusion among stakeholders with the Department's role because there is no formal environmental protection mandate. The Environmental Assessment program plays a coordinating role in bringing together interventions by the Department to environmental assessments and full impact reviews, and contributing technical advice in a range of areas, including ones for which the Department has no regulatory authority. This is highly valued work, but in the context of anticipated devolution, the issue of "orphan" measures and the Department's active encouragement of resource development, there is a lack of clarity for stakeholders about whether the Department has an environmental protection role.

The Mining and Northern Oil and Gas programs are highly effective in collecting, compiling and disseminating geoscience data, but there are further gains to be made, especially in building relationships on the ground (at exploration and development sites and in nearby communities) that are not possible with existing resources. Resources for inspection of sites, from a leasing and land and water management perspective, and in terms of post-project reclamation, are inadequate to monitor compliance with environmental mitigation strategies and do not allow for an adaptive environmental management approach for regulators. Coupled with limited resources for the

environmental assessment function, the lack of inspections appears to pose a risk of environmental impacts.

In Nunavut, while government and industry are actively encouraging resource development, the territory does not appear to have the appropriate capacity to cope with large-scale development and would have trouble handling rapid growth in exploration and development at this point. Public regulatory boards are reportedly short-staffed, and AANDC regional officials also find themselves barely keeping up with existing demands, especially with resources substantially below what is available in the Northwest Territories despite considerable exploration activity. Technologically, Nunavut is viewed by observers as being less technologically advanced when compared to many jurisdictions competing for investment from the resource sector. Communications and transportation technology are both insufficient to satisfy the expectations of large mining and oil and gas companies, and this could discourage investment.

Efficiency and Economy

The evaluation found that the programs experienced no unexpected major costs and were generally able to meet targets within budget, except where new demands required an adjustment to budgets. Budget constraints affected programs' ability to respond to increasing demands as efficiently as they would like, but this did not affect expenditures. The main budget issue is that while budgets in most areas remain at levels that reportedly reflect activity levels of 10 years ago, demand for services has increased significantly and is expected to increase further as resource development takes place and regulatory processes need to respond.

Other Issues

Program design – The evaluation has found that there are inherent challenges in the Department's roles in the North as a regulator and intervener in regulatory processes, as a proponent of resource development and as an environmental manager. There is a perception within the Department and externally that at times, these multiple roles prevent the Department from fully undertaking the individual roles, so that, for example, it may not be able to support resource development as fully as it should, and it may not be able to be as effective in its role as a key environmental manager in the North.

Program governance and implementation - The evaluation has found that the programs by and large deliver effective service with well-managed teams of dedicated, hard-working staffs. They appear to have clear guidelines for their work given the complexities of the environments they work in, partnerships with appropriate federal and other government departments and agencies, and regular venues for information sharing and sound program management. The programs participate in departmental planning and priority setting processes, several managers pointed out that this process can be top-heavy and lead to priorities that are not attainable in the established time-frames, so items tend to remain in work plans longer than desirable. However, there is no apparent disjuncture between program plans and priorities and the Department's high level plans and priorities.

Observations and Recommendations

Observations

The evaluation raises a number of important issues that fall within the domain of the federal government and which can be addressed by AANDC.

A number of observations were of a more general nature:

- the large majority of delays and other problems in the regulatory processes in the Northwest Territories arise when project applications are in regions not covered by a comprehensive land claim agreement, and the most effective solutions may lie either through an expedited land claim negotiation process or through other measures designed to foster a more collaborative path to sustainable development in those regions;
- the pace of regulatory improvement is dependent in part on internal resources targeted to the development, drafting and introduction of new and amended legislation, and anticipated economic benefits from regulatory improvement may be delayed to the degree that resources targeted to improvement are constrained;
- measures are needed to streamline the assignment of security deposits in the Northwest Territories, especially in Nunavut, to ensure that fair and sufficient amounts are arrived at. This could include legislative change to update maximum deposits, clarification of land and water components of securities, and consultations leading to jointly set deposit amounts for projects where there is shared authority;
- environmental risk increases in the North as the number of resource-related projects expands if resources devoted to environmental assessment, inspections and enforcement of mitigation strategies remain at the current level. Sufficient numbers of inspections and procedures are required to communicate and integrate inspection results, including compliance information, such that regulators have the information they need to manage an effective and adaptive strategy for mitigating environmental risk;
- an expedited process with territorial governments and Aboriginal partners could develop standards and establish responsibilities for enforcement of so-called “orphan” mitigation measures, including air quality, some aspects of wildlife monitoring and socio-economic well-being, to give meaning to their inclusion as areas for regulatory co-management in comprehensive land claim agreements;

- the Department's mining and oil and gas programs are viewed by industry as valuable contributors to fostering resource development in the North. Given the major potential economic benefits of further development, there are worthwhile opportunities for expansion of the work these programs undertake, both in geoscience and in working to strengthen mutual understanding and working relationships between industry and local communities; and
- in the North generally, and especially in Nunavut, there is an apparent need for the Department and other federal partners to identify communications and transportation infrastructure requirements that will attract private investment, and take measures to upgrade technology to standards expected by major investors.

Based on the observations and conclusions of this evaluation, it is recommended that NAO (AANDC):

1. takes measures to streamline the assignment of security deposits to ensure that fair and sufficient amounts are arrived at, such as legislative change to update maximum deposits, clarification of land and water components of securities, and consultations leading to jointly set deposit amounts for projects on Aboriginal-owned land;
2. continues its commitment to supporting regulatory processes in the North to ensure that environmental risks continue to be identified, adequate inspections of project sites are conducted and procedures are in place to communicate inspection results, including compliance information, such that regulators have the information they need to manage an effective and adaptive strategy for mitigating environmental risk;
3. takes steps to ensure that its managers and future evaluations have access to sufficient information to assess the adequacy of site inspections and compliance with the terms of leases, land use permits and water licenses; and
4. should work with other parties to address the issue of "orphan" and "out of scope" mitigation measures recommended by boards.

Management Response / Action Plan

Project Title: Evaluation of the Northern Land, Resources and Environmental Management Programs of the Northern Affairs Program

Project #: 1570-7/10032

1. Management Response

The Northern Affairs Organization welcomes the findings and recommendations of the *Evaluation of the Northern Land, Resources and Environmental Management Programs of the Northern Affairs Program*. The sector has reviewed the report and finds it to be a constructive and useful document, which will aid in program design and future planning. The report identifies areas of strength where we can stay the course, and areas that need our attention to improve how we achieve our objectives. The report identifies areas where risk can be managed and areas where processes can be clarified and improved.

Although the *Action Plan to Improve Northern Regulatory Regimes* is an ongoing and time-limited initiative, it was helpful for the evaluation to consider this work. It is important to note that the changes being pursued under the Action Plan will have a considerable impact on how we do our work in the North, and in some respects, the Action Plan could be characterized as paving the way for other improvements in how Canada carries out its mandate in the North. Once the work associated with the Action Plan is completed, there will be a stronger framework and a clear way forward to make some of the other changes identified in the report such as a new approach to inspections and security deposits.

The report identifies the challenges of continuing to protect the environment and support economic development in a climate where the number of resource-related projects increases. It will be important for the Department to be mindful of these challenges and continue to ensure adequate resources are available to carry out these responsibilities.

The findings and conclusions of this evaluation are consistent with the experiences and lessons learned of staff in Headquarters and the regional offices, and it will be an important tool for maintaining and improving the programs and services we provide to Northerners and Canadians.

2. Action Plan

Recommendations	Actions	Responsible Manager (Title / Sector)	Planned Start and Completion Dates
<p>1. NAO takes measures to streamline the assignment of security deposits to ensure that fair and sufficient amounts are arrived at, such as legislative change to update maximum deposits, clarification of land and water components of securities, and consultations leading to jointly set deposit amounts for projects on Aboriginal-owned land.</p>	We do concur.	<p>-Director, Lands and Water, NAO Headquarters Director, Operations, Northwest Territories Director, Operations, Nunavut</p>	<p><i>Start Date:</i> Immediately</p>
	<p>A working group has been established to examine issues surrounding reclamation security.</p>		<p><i>Completion:</i> A workplan for the activities of the securities working group is expected to be completed by the end of first quarter 2013.</p>
<p>2. NAO continues its commitment to supporting regulatory processes in the North to ensure that environmental risks continue to be identified, adequate inspections of project sites are conducted and procedures are in place to communicate inspection results, including compliance information, such that regulators have the information they need to manage an effective and adaptive strategy for mitigating environmental risk.</p>	We do concur	<p>- Director, Operations, Northwest Territories - Director, Operations, Nunavut</p>	<p><i>Start Date:</i> Immediately</p>
	<p>NAO will define the term “compliance” and establish clear policy and procedures on how the various levels of compliance are to be reported to the Land and Water Boards and in the public realm.</p>		<p><i>Completion:</i> March 31, 2012</p>
<p>3. NAO takes steps to ensure that its managers, and future evaluations, have access to sufficient information to assess the adequacy of site inspections and compliance with the terms of leases, land use permits and water licenses.</p>	We do concur	<p>- Director, Operations, Northwest Territories - Director, Operations, Nunavut</p>	<p><i>Start Date:</i> Immediately</p>
	<p>Information is available but not all of it electronically .It is not housed centrally as the regions and boards all have roles in the process and hold their own information. The Regions will develop options for improving access to the information from the various authorities.</p>		<p><i>Completion:</i> March 31, 2012</p>
<p>4. NAO should work with other parties to address the issue</p>	We do concur	<p>- Director, Environment and</p>	<p><i>Start Date:</i> Immediately</p>

<p>of "orphan" and "out of scope" mitigation measures recommended by boards.</p>	<p>NAO will encourage boards to direct mitigation measures to the appropriate regulatory authority and to ensure that mitigation measures are within the scope of the review process, to avoid "orphan" and "out of scope" measures. In addition, AANDC will review the issue of "orphan" mitigation measures and develop options that might address the issue. This work will be completed in the course of planned legislative and policy reviews of the regimes in each territory over the coming two to three fiscal years as part of the Action Plan to Improve Northern Regulatory Regimes.</p>	<p>Renewable Resources</p>	<p><i>Completion</i> March 31, 2015</p>
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I recommend this Management Response and Action Plan for approval by the Evaluation, Performance Measurement and Review Committee

Original signed on February 20, 2012 by:

Michel Burrowes
Director, Evaluation, Performance Measurement and Review Branch

I approve the above Management Response / Action Plan

Original signed on February 17, 2012 by:

Janet King
Assistant Deputy Minister, Northern Affairs Organization

The Management Response / Action Plan for the Evaluation of the Northern Regulation, Resources and Environmental Management Programs were approved by the Evaluation, Performance Measurement and Review Committee on February 24, 2012.

1. Introduction

1.1 Overview

Aboriginal Affairs and Northern Development Canada (AANDC) is conducting an evaluation of the Department's programming relating to regulation and management of resources and the environment in Canada's North. Alderson-Gill & Associates is conducting the evaluation on behalf of the Evaluation, Performance Measurement and Review Branch (EPMRB) at AANDC. This final report for the evaluation presents the findings and conclusions of the evaluation research and makes observations and recommendations for the future of the programs being evaluated for the consideration of AANDC senior management. The findings represent the integration and analysis of findings from a number of components of the study, including a literature review, document and data review, key informant interviews, and case studies.

The report is organized into several sections. First, it describes briefly the purpose of the evaluation. Then it provides a short overview of the programs that are part of the evaluation. This is followed by a section describing the methods used for the research components and any methodological limitations of which readers should be aware. The main body of the report presents the findings of the evaluation, organized according to the evaluation issues being examined, and the program outcomes and indicators being used to assess progress toward the achievement of objectives. Finally, the report provides a set of conclusions drawn from the findings and a set of recommendations.

This evaluation is in response to the Treasury Board requirement to provide complete evaluation coverage of all program spending. The results of the evaluation will help to inform any future directions, decisions and renewals of the programs being evaluated.

The evaluation objectives are to examine, where applicable, the following:

- Planning, design, management, and delivery;
- Performance measurement processes and reporting;
- Efficiency and effectiveness of the program;
- Extent to which the program is on track to meeting planned outcomes;
- Extent to which the program has met planned outcomes;
- The extent to which the program's operation acquires resources (financial, human and material) at the lowest possible cost; and
- The alternatives, lessons learned and best practices of the program.

1.2 Program Profile

1.2.1 Background and Description

The programs to be evaluated are the sub-activities of the Northern Land, Resources and Environmental Management Program Activity, which falls under the Strategic Outcome “The North”. The Program Activity is drawn from the 2011-2012 AANDC Program Activity Architecture. The activities and sub-activities to be evaluated include the following:

- Action Plan to Improve Northern Regulatory Regimes, which includes:
 - Regulatory Improvement, and
 - The Northwest Territories Cumulative Impact Monitoring Program (CIMP) and the Nunavut General Monitoring Plan (NGMP);
- Northern Oil and Gas;
- Mines and Minerals;
- Land and Water Management (LWM); and
- Environmental Assessment.

Three of the program areas included in the evaluation are newly initiated: Regulatory Improvement, CIMP, and NGMP. The evaluation will therefore assess only the relevance, design and early delivery of these three programs. The remaining programs will be evaluated for the full range of issues.¹

1.2.2 Objectives and Expected Outcomes

Cumulative Impact Monitoring Program

- Cumulative impact monitoring requires knowledge of baseline conditions or natural environmental trends so that additive development impacts may be discerned over time. The objectives of CIMP include:
 - a) encouraging community-based monitoring and community capacity-building;
 - b) providing resources to fill gaps in current monitoring activities;
 - c) reporting on the health of the environment, which focuses on biophysical components but may also include social and economic components in the future;
 - d) helping with better decision-making to protect the environment; and
 - e) encouraging the use of both scientific and traditional knowledge.
- CIMP delivers its outcomes by supporting and facilitating the development and maintenance of an environmental monitoring program to guide community-based government and industry environmental monitoring; it collects, integrates, analyzes and

¹ A description of the programs being evaluated is available in the Evaluation Methodology Report.

disseminates scientific and traditional knowledge on environmental trends and cumulative impacts in the North.

- While the ultimate outcome of CIMP is sustainable development in the Northwest Territories, the intermediate outcome is to attain an accessible knowledge base (baseline and trend information) that informs/supports decision-making while the immediate outcomes are standardized and consolidated environmental monitoring data and information and the assessment of cumulative impacts.
- The immediate priorities for year one are to create and staff the vacant positions, establish the information management structure (including an information management needs assessment), and develop important framework documents to ensure that projects are consistent with CIMP objectives and are carried out according to program standards.

Nunavut General Monitoring Plan

- NGMP is expected to contribute to increased understanding of three fundamental questions in environmental management: (1) What has happened? (2) What is happening? and (3) What is likely to happen?
- While the ultimate outcome of NGMP is sustainable development in Nunavut, the intermediate outcome focuses on the accessible knowledge base (baseline and trend information) that informs/supports decision-making and the immediate outcome targets a standardized and consolidated environmental monitoring data and information (consistent with protocols).

1.2.3 Program Management, Key Stakeholders and Beneficiaries

Cumulative Impact Monitoring Program

- The Minister of AANDC is responsible for the designation of a Responsible Authority. The Minister, in consultation with an established Working Group, takes the lead role in implementing CIMP. The Working Group is composed of members or observers of regional Aboriginal, federal and territorial government representatives.
- AANDC staff serves a CIMP Secretariat. The CIMP Secretariat, to be comprised of three full time equivalents (Program Manager, Administrative Assistant and a CIMP Advisor) will provide administrative support to the Working Group and the Valued Components Advisory Teams and deliver the program.
- The Valued Components is an approach being used by the working group to determine what elements of the environment should be monitored and how monitoring should be prioritized. The Valued Component Advisory Teams will be comprised of individuals with a range of technical and regional expertise associated with specific Valued

Components. The role of each Valued Components Advisory Teams will be to determine information needs and availability, assessing and analyzing existing information, identifying information gaps, allocating responsibility for filling gaps and determining how information and analyses should be managed and reported on. These teams will receive program related direction from the Working Group through the Secretariat.

- CIMP will fulfill a number of needs and expectations for various target populations. The primary stakeholders include:
 - Co-management and regulatory bodies (e.g., Renewable resource boards in the Gwich'in, Sahtu, and Tl'itcho regions, Environmental Impact Screening Committee, etc);
 - Aboriginal governments;
 - Aboriginal land and resource management organizations and research bodies (e.g. Gwich'in Social and Cultural Institute);
 - Federal government departments;
 - Government of the Northwest Territories; and
 - Industry (e.g., mining, oil and gas, etc).

Nunavut General Monitoring Plan

- An NGMP Working Group was established in 2007, with representation from the Government of Canada (AANDC's Nunavut Regional Office), the Government of Nunavut (Department of Environment), Nunavut Tunngavik Incorporated and the Nunavut Planning Commission.
- Currently, there is a proposed governance model for the NGMP which consists of a Steering Committee, Constituency Committee, Partner Advisory Group, NGMP Secretariat, and various Expert Advisory Teams. Once the proposed governance structure is in place, the NGMP Working Group will no longer exist. The Steering Committee's roles and responsibilities include:
 - Overall accountability for the NGMP;
 - Strategic oversight of NGMP implementation, accountability
 - Champion;
 - Coordination of NGMP activities;
 - Planning and implementing NGMP;
 - Facilitating communications and engagement;
 - Determination of 'key questions' and setting of priorities that will drive NGMP information collection and reporting, and the allocation of resources for data gap filling/capacity building;
 - Setting priorities (e.g., NGMP 'key questions', data gaps/development, capacity building needs), in consultation with constituencies, Partner Advisory Group, and Expert Advisory Teams, and other stakeholders;
 - Management of NGMP Secretariat (to be established to support the Steering Committee; and

- Development of an Agreement or Memorandum of Understanding to formalize the arrangement.

1.2.4 Program Resources

Action Plan to Improve Northern Regulatory Regimes

Cumulative Impact Monitoring Program

- Since 1999, CIMP has not received dedicated funding. Budget 2010 announced \$8 million over two years for the implementation of two community-based monitoring programs: the Northwest Territories CIMP and the NGMP. An approved Treasury Board submission (*Improving the Regulatory Regime and Environmental Monitoring in the North*) provides details on the new funding for CIMP. The funding sought includes salary dollars, Operation and Maintenance and Grants and Contributions.

Nunavut General Monitoring Plan

- Budget 2010 announced \$8 million over two years for the implementation of two community-based monitoring programs: the Northwest Territories Cumulative Impact Monitoring Program and the Nunavut General Monitoring Plan. An approved Treasury Board submission (*Improving the Regulatory Regime and Environmental Monitoring in the North*) provides details on the funding for NGMP. The funding sought includes salary dollars, Operation and Maintenance and Grants and Contributions.

2. Evaluation Methodology

2.1 Evaluation Scope and Timing

As per the Treasury Board decision that every program be evaluated within five years of its existence, EPMRB cost-recovered from the program. The Terms of Reference were approved by AANDC's Evaluation, Performance Measurement and Review Committee in November 2010, and field work was conducted between March 2011 and November 2011.

For each program, the evaluation examined the pertinent activities undertaken within the period of its existence covered from 2006-07 to 2010-11.

2.2 Evaluation Issues and Questions

In line with the Terms of Reference, the evaluation focused on the following issues:

Alignment with federal government priorities and departmental strategic outcomes

- The extent to which each program is aligned with federal government priorities and departmental strategic outcomes.
 - *Example:* To what extent are the objectives of the program aligned with the Government of Canada's approach to First Nations?

Alignment with federal government roles and responsibilities

- The extent to which each program is appropriate and consistent with federal government roles and responsibilities.
 - *Example:* Do the program duplicate or overlap with other programs, policies or initiatives delivered by other departments or jurisdictions?

Continued Need

- The extent to which they address, individually, a demonstrable and continuing need.
 - *Example:* Are these programs responding to actual needs?

Performance is defined as 'the extent to which effectiveness, efficiency and economy are achieved by a program.

Effectiveness (Success)

- The extent to which the expected outcomes have been achieved.
 - To what extent has the program achieved its intended results/outcomes?
 - Are activities supported by the program consistent with the achievement of its expected results, including how effectively results/outcomes are measured?
 - Have there been unintended (positive or negative) outcomes? If so, were any actions taken as a result?
 - How efficient and cost-effective is the program?

Economy

- The extent to which an operation acquires resources (financial, human and material) at the lowest possible cost.
 - Is the actual cost of inputs consistent with the planned cost?
 - Is the timing of acquisitions consistent between the actual and planned?

Efficiency

- The extent to which the maximum outputs is produced for any given set of resources or inputs, or when minimum inputs are needed for any given quantity and quality of service provided.
 - Are the most appropriate and efficient means being used to achieve the program's outcomes?
 - Could the same outputs be achieved with less resource?

Alternatives, lessons learned and best practices

- How could the efficiency and economy of the program be improved?
- How could you achieve the same level of outcomes?
- What are the lessons learned?
- What are the best practices that could be replicated?

Design and Delivery

- Has the program's design contributed to the achievement of the intended results/outcomes?
- Is the program being delivered effectively?
- Is the program governance efficient?
- To what extent are there means and tools for:
 - a) Obtaining reliable evidence of consistent program implementation?
 - b) Success/performance (including performance indicators)?
- Is a data collection mechanism in place?
- Are the programs implemented as planned? If not, why?
- To what extent do good guidance/monitoring exist?
- If applicable, to what extent are recommendations from past audits/evaluations been implemented as planned?

2.3 Evaluation Methodology

This section of the report describes the evaluation methods that were used. The methodology incorporated the following lines of evidence: a literature review; an analysis of relevant administrative information and documentation; an analysis of administrative and financial data; key informant interviews; and case studies. The subsequent sections provide a detailed description of each line of evidence.

Pre-consultation

The EPMRB team undertook pre-consultations for the development of the evaluation design. Discussion with representatives of the various programs, regional contacts as well as a review of key documents and literature provided was part of this process. This contributed to the development of the Draft Evaluation Methodology Report.

Pre-consultation interviews to inform the methodology were done with program representatives who acted as coordinators.

2.3.1 Data Sources

The evaluation's findings and conclusions are based on the analysis and triangulation of the following multiple lines of evidence:

- *Literature Review:*

A literature review was conducted to draw insights from external documents, including academic literature, reports of studies conducted externally with government funding, reports from federal departments other than AANDC, and reports from other levels of government and non-governmental stakeholders. The approach adopted for the literature review focused on documents external to AANDC that offer insights and a broad context for the activities of the Northern Affairs Organization (NAO) programs and their results. Since this review was intended to identify conceptual approaches to northern regulation, critical perspectives on regulation and the role of the federal government, it did not include the many legal and technical reports that are available, including land claim and self-government agreements, the various statutes and regulations that apply to northern regulation, and guidelines and procedural documents that outline the regulatory processes that are in place. These were reviewed as background material as part of the document review described later.

- *Document and File Review and Data Analysis:*

This key research method involved a review of the following: available AANDC planning and relevant program documents, including any pertinent founding documents, spending authorities, program descriptions, previous evaluations and audits, work plans and quarterly reports, copies of relevant legislation and agreements, and other appropriate documents. In addition, available program administrative data was reviewed.

The document and data review centered on the issues and indicators identified in the evaluation matrix. Drawing on the indicators, a set of required information was identified and was to be drawn from available program documents, available administrative data and data produced as program outputs. These were sent to each program area, and through an iterative process over several weeks, what information was available and how that could be obtained was determined.

In the majority of cases, documents and data files were delivered to evaluators by the program areas. The documents and data provided were supplemented by materials obtained in the course of field work in the three territories.

With the information in hand, evaluators worked systematically through each evaluation question and each program output/outcome and indicator. The documents and data were examined, notes were drawn from the documents and findings were written in a working paper organized by program areas. As well, findings from the individual program areas were used to address the general questions that applied to the group of northern programs together.

- *Key Informant Interviews/Focus Groups:*

The key informant interviews centered on the issues and indicators identified in the evaluation matrix. Drawing on the indicators, a set of interview guides was developed. First, a master guide was produced that included all questions to address the full set of evaluation issues. Then, a series of targeted guides were produced, drawing appropriate questions from the master guide according to the areas of expertise and responsibility of the respondents. The interview guides were reviewed by the project authority at AANDC and revisions were made to produce a final set of interview guides.

Using the advice of program managers and project authorities at EPMRB, a list of key informants was developed for each program area. These included AANDC managers and senior staff at Headquarters in Ottawa and at the Northwest Territories and Nunavut regional offices. In Yukon, most program functions covered by this evaluation have been devolved to the Yukon Government, so only the Environmental Assessment officer in Whitehorse was included on the AANDC interview list.

Interviews were initiated by an e-mail sent out by EPMRB at the Department to the prospective participants, explaining the purpose of the study, the methods being employed, information about the scope of the evaluation and the programs being evaluated, and our interest in meeting with them. This e-mail was followed up by a phone call and/or an e-mail from the external consulting team seeking to arrange a time and place for the interview. As part of arranging the interviews, potential respondents were provided with a copy of the interview guide suited to them and other descriptive information about the evaluation, if they requested it.

Most respondents agreed to participate unless they were unavailable during the period of the evaluation. The exception was some of the Aboriginal groups who declined to participate because they said they were too busy, not available, or because they were engaged at the time in negotiations on renewal of the regulatory regime in the North and did not want to prejudice their position in those negotiations by participating in the evaluation.

Ultimately, a total of 111 interviews were conducted, which do not include case studies. The following table is a summary of the numbers of interviews by type of respondent.

Type of Interview	#	%
AANDC Headquarters Officials	18	16.2
AANDC Regional Office Officials	25	22.6
Territorial Government Officials	13	11.7
Aboriginal Groups	11	9.9
Regulatory Board Representatives	17	15.3
Industry Associations	3	2.7
Individual Resource Companies active in the North	19	17.1
Other Federal Departments/Agency Representatives	3	2.7
Other	2	1.8
Total	111	100

Interview notes were compiled and organized by respondent type and by evaluation issue, and analyzed in order to identify overall findings for each evaluation issue and notable variances and trends in the findings across respondent types.

- *Case Studies:*

The case studies used a descriptive approach and not an explanatory one (where the study attempts to explain why certain behaviours occurred by determining cause and effect). Consequently, behaviour can only be described, not explained, and conclusions about cause-and-effect relationships cannot be drawn. The process used to conduct the three case studies includes the same general process followed for the other evaluation methods: planning, collecting and analyzing data, summarizing findings related to evaluation outcomes and indicators, and drawing conclusions.

The evaluators identified the projects and the stakeholders who would be involved, brainstormed the case study topic, considered the types of cases and why they were unique or of interest, and identified the information that would be needed and the sources. The selection of the three cases was finalized following receipt of a list of program projects and input from the program coordinators responsible for the Mines and Minerals and Northern Oil and Gas programs. Because of time constraints resulting from delays at the outset of the evaluation process, and recognizing that site visits could not be conducted, appropriate replacement case studies were selected and approved by the project authority.

Of the three cases studied, two focused on Mines and Minerals and one on Oil and Gas. The selection of these cases was done by region, and also because they provide a good representation of the various programs being evaluated, including projects from a variety of project categories, and for the potential of cases to provide information related to the key evaluation questions.

The case study methods included: 1) 17 interviews (by phone, using semi-structured guides) with regional program officials (five federal and two territorial officials), First Nations (four representatives and four Board members), managers, and/or staff responsible for projects and other stakeholders; 2) internet searches; and 3) a document review. Although site visits to regional centres were made to conduct interviews, visits to the three project sites were not conducted.

Using the results collected from the different sources of information, a report documenting the evidence related to the evaluation issues, outcomes and indicators was prepared for each of the three case study projects.

2.3.2 Considerations, Strengths and Limitations

This evaluation was highly complex in nature because it examined six separate but related programs, operating in three distinct Northern territories under a wide variety (and often a significant disparity) of conditions. This meant that the evaluation addressed broad issues, and evaluators were limited in the depth of research and analysis undertaken in individual areas.

The main methodological limitation to the document and data review is that it was limited to documents and data that the Department has created to manage and administer the programs, and those produced as program outputs. Evaluators were not able in most cases, due to time and budget constraints, to obtain raw administrative information from program files and compile and analyze it themselves. That has meant that some components of the evaluation were not able, for some programs, to arrive at firm conclusions about the extent to which program outcomes have been achieved. This was an expected limitation, and an effort was made to use multiple lines of evidence where possible to strengthen the overall evaluation findings for these outcomes. This limitation is recognized in the summaries of findings associated with each issue examined in the review where the types of information that were or were not available to support the analysis are identified.

A second limitation, relevant to this component and the other methods used for the evaluation, is that there are often factors beyond the control of the programs that can have a major impact on outcomes. For example, data on the frequency of mining and oil and gas exploration can reflect the quality of program activities but will also reflect broader economic conditions, including the prices of commodities. The evaluation recognizes the challenge in attributing results in such areas to the program as against other external factors, and therefore, limits its efforts to do so to obtain feedback from knowledgeable industry and government officials—no formal economic analysis was conducted to quantify attribution. Here again, multiple lines of evidence were used to strengthen findings.

With respect to the key informant interview component of the evaluation, there are methodological limitations that need to be kept in mind in interpreting the findings. First, by their nature, key informant interviews are largely subjective. They seek the informed opinions of the people working most closely for, or with, the program being evaluated, and those most closely affected by the program. For example, the views of AANDC interviewees provide important contextual information but are not sufficient by themselves to support findings. Findings in the report are made when key informants across a range of stakeholder types concur and when other lines of evidence also contribute to supporting the finding.

The other limitation is that a number of Aboriginal organizations in the Northwest Territories decided not to participate in the evaluation, and in some cases, participation was limited to certain subject areas and not others. Two groups formally declined to participate, and one group met with evaluators but declined to give detailed responses because they said they required more time and effort to develop full responses than they, and the evaluation, had available. This means that the views of Aboriginal organizations reported here excludes those of several groups in the Northwest Territories and may therefore not be representative of the overall views of Northwest Territories Aboriginal groups. The views of participating Aboriginal groups are therefore reported, but findings and conclusions are drawn taking into account the limited strength of the reported Aboriginal perspective, unless documentary evidence is also available.

A limitation of the case studies is that they rely mostly on a limited set of key informant interviews due to the unavailability of certain key contacts. As a result, there may be perspectives not sufficiently represented. Another limitation is the unavailability of some historical information. Since the background of the cases cover a decade or more, there were few people with sufficient knowledge of the early history of the projects. Time limitations for the evaluation meant that some early documentation was not possible to find and retrieve. As well, some of the information collected is retrospective in nature, including individual recollections of, and staff turnover in organizations can limit availability of information about past events. Recollections may at times be subject to inaccuracy.

To counter these challenges, evaluators made a concerted effort to contact relevant people for each of the cases and were able to obtain some pertinent documentation and information. From these initial contacts, evaluators were also referred to several other sources for consultation in order to obtain a clearer understanding of the cases being studied. The evidence from the case studies is used in combination with other lines of evidence to strengthen the validity of the overall findings of the evaluation.

2.4 Roles, Responsibilities and Quality Assurance

On behalf of EPMRB of the Audit and Evaluation Sector, AANDC, the project authority for this overarching evaluation, Alderson-Gill & Associates performed this evaluation. Aspects of the evaluation activities were conducted in-house.

Recognizing the variety of programs being evaluated, the Northern Resource Managers Committee played the role of a Working Group in order for the study to draw on the necessary knowledge and expertise in these fields, to provide input in the methodology and to validate findings.

3. Evaluation Findings - Relevance

The key findings regarding the relevance of the various programs focus on their continued need as well as their alignment with the priorities and the roles and responsibilities of the federal government as a whole.

The evaluation has found that the NAO programs examined in this evaluation are fully relevant to today's circumstances. They are closely aligned with federal government priorities in the North, and with AANDC's strategic objectives and priorities. The programs are also in keeping with current federal roles and responsibilities in the North as reflected by land and water management and regulatory legislation, land claim agreements and the Department's northern mandate, although this may change in the future as devolution agreements are reached with the Government of the Northwest Territories and the Government of Nunavut. While there are areas in which both levels of government and Aboriginal governing bodies work collaboratively in undertaking common activities, there are no apparent situations where overlap or duplication of roles suggest that the federal government should not be operating there. Finally, it is apparent that the programs respond to a clear, well-defined and growing need in the North for the support of resource development, an improved regulatory environment, effective land and water management, and environmental management.

3.1 To what extent are the objectives of the programs aligned with federal government priorities?

Documents reviewed, key informant interviews and available data show that the programs remain relevant to both federal government priorities and Aboriginal needs. In addition, the documents as well as the key informant interviews show that the role for the federal government in the North is clear and well-defined.

The alignment between the objectives of the various programs and the federal government's priorities is strong; these are evident, for example, in commitments made by the federal government in various fora (past budgets, speeches, etc.). Both the 2010 Budget and the 2011 Speech from the Throne confirm that the programs' objectives are still a key priority for the federal government.

In Budget 2010, funding for the two community-based environmental monitoring programs, CIMP and NGMP, was identified, where funding for the Environmental Monitoring element includes \$25,521,914 over five years for the development and implementation of the CIMP and the NGMP; this included an ongoing funding of \$4,994,850 for the continued implementation of these two programs. Further, these programs are required under several land claim agreements.

As it pertains to the regulatory and Environmental Assessment processes for resource projects, the 2011 *Speech from the Throne: Here for all Canadians. Stability. Prosperity. Security* also highlighted the need to “engage the provinces, territories and industry on ways to improve the regulatory and Environmental Assessment process for resource projects.”

3.2 To what extent are the objectives of the programs aligned with AANDC strategic priorities?

Available information shows that there is strong alignment between the objectives of the programs and AANDC strategic priorities; the programs are and remain relevant to AANDC strategic priorities. Key informant interviews and documents reviewed indicate that NAO program objectives align with AANDC priorities as presented in departmental planning and priorities documents.

The AANDC role in the North is extremely broad and includes settling and implementing land claims, negotiating self-government agreements, advancing political evolution, managing natural resources, including those of the Arctic offshore, protecting the environment and fostering leadership in sustainable development, both domestically and among circumpolar nations.

Linked to the preceding are the Department’s stated strategic priorities, including these three: Sustainable Development, Economic Development and Environmental Stewardship, and Settlement of Land Claims. The Department’s sustainable development strategies for 1997 and 2001 were built on a strong foundation of consultation and resulted in the adoption of eight sustainable development principles. These principles have formed the basis on which subsequent strategies have been developed.

Under Sustainable Development, for example, the evidence shows that the NGMP is well aligned with the eight AANDC Sustainable Development Principles. So while the key focus of the NGMP is the environment, it does consider economic factors, human health and community well-being. These are related to NGMP outcomes, which are, in turn, directly linked to improving the efficient use of natural resources. The latter is attained by providing to decision makers the best available scientific, traditional and local knowledge, and in so doing, addresses two other AANDC sustainable principles. Further, it is done by addressing an all encompassing approach of adopting a path that supports the meaningful participation of Inuit and Northern peoples while meeting land claim obligations, another AANDC sustainable principle. The objectives of the programs are aligned with these strategic priorities.

3.3 To what extent are the objectives of the programs aligned with federal government roles and responsibilities?

The documents and literature examined, as well as the key informant interviews, show that the objectives of the programs being evaluated are fully aligned with federal government roles and responsibilities in the North, as indicated in the Department's mandate and federal legislation pertaining to land and resource management in the North.

As stated in legislation, numerous federal resource management acts and regulations, such as the *Mackenzie Valley Resource Management Act*, the *Northwest Territories Waters Act*, the *Canadian Environmental Assessment Act*, and the *Fisheries Act* as well as settled land claims (and interim measures in advance of the settlement of claims), define the regulatory regime to which the NAO programs conform. As a result, the programs' alignment to the federal government's role and responsibilities is enhanced, recognizing that the Government has statutory and regulatory responsibilities using, as an example, Environmental Assessment and regulatory reviews.

Interviewees (both internal and external stakeholders) are of the view that the federal government's role is necessary, noting that it is the Government's responsibility to ensure that federal legislation relating to Environmental Assessments and regulatory reviews are appropriate as well as properly (i.e. effectively and efficiently) administered.

From another angle, the resource policy aspect of the program focuses on regulatory improvement through the Northern Regulatory Improvement Initiative (NRII), a priority of then Minister Strahl's 2008 mandate letter, which received mention in Budget 2007 and the 2008 Speech from the Throne. This aspect supports the federal government's roles and responsibilities as seen in its commitment to the negotiation of comprehensive land claims and self-government agreements. The programs participate fully in negotiations in the North, ensuring northern regulatory regimes are respected and integrated into the settlement of land claims agreements.

In the area of geoscience, the partnership that exists between AANDC and the Northwest Territories Geo-science office confirms how AANDC and territorial government officials, as well as external observers see an alignment in the objectives of the programs and with federal government roles and responsibilities. As a joint project of AANDC, the Government of Northwest Territories, the Geological Survey of Canada and employees of both levels of governments that staff the office and provide analysis, information and advice to individuals, communities, governments, and the mining and petroleum industry, including, but not limited to, such areas as mineral deposit studies, mineral and petroleum resource assessments, and community outreach.

3.4 Do the programs duplicate or overlap with other programs, policies, or initiatives delivered by other departments or jurisdictions?

The document review and key informant interviews identified areas of complementarity between AANDC activities and those of territorial governments, and did not identify areas of inappropriate overlap or duplication. Joint action in the geoscience area, for example, is found to be effective and conducive to strong, collaborative working relations with no apparent wasteful duplication of effort.

With respect to regulatory initiatives, there are indications that the Government of Northwest Territories, in its *Approach to Regulatory Improvement, March 2009* document, a response to Neil McCrank's Report *Road to Improvement* and other regulatory initiatives (e.g. the 2005 Northwest Territories Environmental Audit), has begun to adopt an approach to furthering regulatory improvement in the Northwest Territories. Its "overall approach is to complete and provide adequate capacity to the integrated system of land and water regulation" recognizing that "regulatory improvement is an ongoing process."

In addition to the preceding, the research shows that the land and resource management regime in the Northwest Territories shares decision-making responsibilities among many players, organizations and institutions. Further, the federal and territorial governments, as well as Aboriginal people and other residents are stakeholders in this system, which has its origins in part in the settlement of land claims throughout the territory. This, therefore, acts as a check on overlap or duplication.

With respect to Environmental Assessment in the North, the AANDC Minister, as the lead federal Minister in the North and as a final decision maker representing the federal government on major project Environmental Assessments, must make decisions on complex resource development situations; this AANDC role also includes the provision of technical environmental advice to regulators and decision makers. Interviews with stakeholders raised the spectre of some confusion over roles, especially over that of AANDC in the Environmental Assessment process. For instance, as a participant in the Environmental Assessment as expert adviser, AANDC makes the final decision on the outcome of the Environmental Assessment while being responsible for the "promotion" of resource development, presently the responsibility of CanNor.

In another context, the Department's requirement to manage multiple mandates, for example, being responsible for environmental protection as well as resource and economic development, leads to a perception: AANDC is seen both as the land owner as well as the developer. This creates confusion in terms of roles and responsibilities. Recognizing that the Government of Northwest Territories is placed within a similar context in terms of similar multiple mandates, the appearance of a duplication of work is present. An interviewee notes, however, that "lines are pretty clear, no overlap or duplication (if it is, it is marginal) except in resource development such as relates to the Mackenzie pipeline."

3.5 Do the programs respond to a continued need?

There is ample evidence in the documents and literature examined and in responses from key informant interviewees that indicate a continued and increasing need for federal government action to encourage resource development in the North and to contribute to land and water management, environmental assessment and monitoring of environmental impacts. The Cameron Hills Oil and Gas Project case study provides clear evidence that most Aboriginal peoples in the North consider the Northern Oil and Gas Program to be an essential component of economic growth. The Canada Benefits Component Plan of the Northern Oil and Gas Program is an important mechanism that enables Aboriginal communities to build an economic base and address infrastructure needs.

Generally, both resource and economic development in the North are clearly stated objectives of the federal and territorial governments and most Aboriginal and other stakeholders; as exploration and resource development expands in scope, there is an increasing requirement for regulatory action and environmental vigilance in which AANDC is mandated to play an active role.

Continued need is also demonstrated in Budget 2011, the *Next Phase of Canada's Economic Action Plan*, which builds upon investments since 2006, to support Aboriginal priorities, to address the barriers to social and economic participation that many Aboriginal Canadians face. Budget 2011 also builds on priority areas of the Government's Northern Strategy while making new investments that will improve the quality of life of Northerners and all Canadians. For instance, Budget 2011 includes new and ongoing support for northern infrastructure projects and increases in employment opportunities for Northerners

The CIMP is also another program that demonstrates a continued need. The monitoring of cumulative impacts is a requirement contained in the Sahtu, Gwich'in and Tlicho comprehensive land claim agreements and a statutory requirement of Part 6 of the *Mackenzie Valley Resource Management Act*. In 2010, Chapter 4 of the Office of the Auditor General's Report, *Sustaining Development in the Northwest Territories*, found that "the federal government is not meeting its responsibilities for cumulative impact monitoring".

Situating all the preceding in the context of the rapidly increasing development pressures that prevails throughout the Northwest Territories and Nunavut, the documents reviewed and the interviews conducted by the evaluators heighten the relevance and need of the NAO programs.

4. Evaluation Findings – Performance (Effectiveness / Success)

Activities in the program areas covered by the evaluation are consistent with expected outcomes. In one area, Environmental Assessment, there is some confusion among stakeholders with the Department's role because there is no formal environmental protection mandate. The Environmental Assessment program plays a coordinating role in bringing together interventions by the Department to environmental assessments and full impact reviews, and contributing technical advice in a range of areas, including ones for which the Department has no regulatory authority. This is highly valued work, but in the context of anticipated devolution, the issue of “orphan” measures that were raised earlier and the Department's active encouragement of resource development, there is a lack of clarity for stakeholders about whether the Department has an environmental protection role.

The mining and oil and gas programs are highly effective in collecting, compiling and disseminating geoscience data but there are further gains to be made, especially in building relationships on the ground at exploration and development sites and in nearby communities that are not possible with existing resources. Resources for inspections of sites from a leasing and land and water management perspective, and in terms of post-project reclamation, are inadequate to monitor compliance with environmental mitigation strategies and do not allow for an adaptive environmental management approach for regulators. Coupled with limited resources for the environmental assessment function, the lack of inspections appears to pose a risk of environmental impacts and a responsibility for clean-up.

In Nunavut, while the Government and industry are actively encouraging resource development, the territory does not appear to have the appropriate capacity to cope with large-scale development and would have trouble handling rapid growth in exploration and development at this point. Public regulatory boards are reportedly short-staffed, and AANDC regional staff members also find themselves barely keeping up with existing demands with resources substantially below what is available in the Northwest Territories, despite considerable exploration activity. Technologically, Nunavut is viewed by observers as being less technologically advanced when compared to many jurisdictions competing for investment from the resource sector. Communications and transportation technology are both insufficient to satisfy the expectations of large mining and oil and gas companies, and this could discourage investment.

4.1 Regulatory Improvement

Immediate Outcome 1: A strong Aboriginal voice in regulatory improvement

There appear to be ample mechanisms in place through which AANDC has clear access in a systematic way to Aboriginal perspectives on regulatory improvement. It is not possible from the documents to determine the extent to which those perspectives are understood by the Department and are being incorporated into proposals being put forward. Consultations are ongoing on a wide range of regulatory issues, and there is a divergence on the nature of the consultative process, with Aboriginal representatives assuming a process of joint decision making, and AANDC taking the view that the federal government has a mandate to represent all Canadians, and is ultimately accountable for regulatory decisions in areas under its responsibility, so the Department is not just “one stakeholder at the table”.

For Nunavut, legislation has been prepared that appears, based on interviews, to reflect Inuit perspectives to the satisfaction of Nunavut Tunngavik Incorporated and the community-level organizations. However, this legislation has yet to be tabled in the House of Commons, so there are no actual regulatory changes to assess at this early stage in the Regulatory Improvement initiative.

4.2 Cumulative Impact Monitoring Program and Nunavut General Monitoring Plan

The available documents show that the CIMP and NGMP have established key core partnerships with other levels of government, institutes of public government related to environmental monitoring, and other organizations representing stakeholders. Since 1999, the multi-party CIMP working group has guided the development of CIMP. The documents also point to partnerships as ongoing priorities, with specific activities underway to recruit partners in various capacities and to secure agreements such as Memoranda of Understanding so that roles and responsibilities are clearly established. Interviews with AANDC officials and stakeholders in the North indicate that the CIMP and NGMP have established key core partnerships with other levels of government and Aboriginal groups, and are starting to develop partnerships with institutes of public government related to environmental monitoring, and other organizations representing stakeholders.

The interviews make it clear that the success of these initiatives depend on the strength of the partnerships they develop because of the broad scope and complexity of the task they are taking on. Neither initiative can expect to fund the full range of environmental monitoring that is required, or compile, manage, organize and disseminate all the available monitoring data without considerable participation from producers and users of monitoring data. For stakeholders, the initiatives are recognized as very important, but because the programs are at an early stage of implementation, the details of how structures will function and what role stakeholders might play is not yet determined.

Immediate Outcome 2: Establishment of Scientific and Traditional Knowledge as Environmental Impacts Inputs

There is little doubt from the founding documents and key strategic documents of the CIMP and NGMP that both initiatives are grounded in bringing together western scientific and traditional sources of information and knowledge. The documents demonstrate that this lies at the core of their planning and their guiding principles. Both initiatives are receiving project proposals that embody traditional knowledge approaches as well as scientific approaches. Key informant interviews confirm this intention on the part of core participants and show wide agreement that this is the correct approach, both to enable sound decision making and to enhance the credibility of the two initiatives in the environments in which they work. At this early stage, stakeholders are withholding judgement about how the marriage of the two information sources will work in practice. A small number of Aboriginal respondents shared concerns about the risk of “token” acknowledgement of traditional sources of information but a lack of a real role for it in decision making.

4.3 Land and Water Management

Immediate Outcome 1 - Support ongoing legislative, regulatory and policy improvement

The available documents demonstrate that there is a clear delineation of responsibilities within LWM for ongoing policy and regulatory improvement. It also shows evidence of several important examples of policy and regulatory change where land and water managers and staff in the regions have identified gaps and the need for updating, and where new policies and associated proposed statutes and regulatory changes have been developed as a result.

It is premature to assess the extent to which the legislative changes that go forward reflect LWM issues because no legislation has been tabled to date. However, it is apparent from interviews that LWM has an internal process with the regions to identify needed policy and legislative change, and a regular, formal mechanism at Headquarters for developing policy changes and feeding into the regulatory improvement process. AANDC Regulatory Improvement and LWM officials report close collaboration and confidence that LWM concerns will be addressed. However, resource constraints are acknowledged to be slowing progress on legislative change, and some matters important to the regions are not being addressed, particularly in relation to security deposits for land use permits and leases.

Immediate Outcome 2- Crown’s liability secured through appropriate security deposits

The information available demonstrates the consistent use of security deposits as a way to cover potential liabilities for environmental impacts and site reclamation costs where land lessees and project proponents fail to meet their obligations. They demonstrate that procedures are in place to ensure that consideration is given to the attachment of security deposits to leases, licenses and permits. Expertise from AANDC and other sources is applied, mainly using an accepted standardized method to arrive at deposit amounts intended to cover potential costs. However,

there appears to be a lack of documented information about the extent to which security deposits have been drawn upon and the extent to which they have proven adequate to cover actual reclamation costs. AANDC Northwest Territories regional officials say there have been no draws on security deposits to date because there have been no refusals to comply with inspector reclamation instructions. The main example of what happens without a security deposit is in the case of the Giant gold mine in Northwest Territories where no funds have been available from the former owners/operators to assist in the cleanup; no security deposit was in place for that mine.

Interviews with AANDC officials and industry suggest that the regime for establishing security deposits for leases, land use permits and water licenses requires updating and refining. Legislation provides limits to securities for land use permits under the *Territorial Lands Act*, which apply in the Inuvialuit Settlement Region in the Northwest Territories and in Nunavut, and these amounts are far lower than actual reclamation costs. This does not apply in the Mackenzie Valley, where a different regulatory structure exists as a result of land claim agreements in that region. In the Mackenzie Valley, land and water boards set security deposit amounts on advice from AANDC and the proponents.

The fact that the land and water boards set security levels while the Crown may bear the ultimate responsibility when costs cannot be recovered appears inappropriate to many federal observers. Where responsibilities for setting security levels are shared between AANDC and boards or Aboriginal communities (such as where jurisdictions overlap or where AANDC sets land use amounts and a board sets water license amounts), procedures are apparently confusing and often result in inappropriate total security amounts. Where the parties share responsibility and do not work together effectively, deposit amounts can be less or more than they should be.

Immediate Outcome 3 – Ensure proponent compliance with legislation or regulatory instruments through physical inspections as required by regional policies

Evaluators are aware from discussions with AANDC regional officials that there is a database in the Northwest Territories that is used by managers and inspectors to plan site inspections based on a risk management approach, and that a similar risk management approach is used in Nunavut. It is clear that some inspections are conducted each year, and findings from key informant interviews point to challenges in meeting demand for inspections. However, evaluators were not provided with information to enable them to assess the extent to which the terms of leases, land use permits and water licenses are being met by proponents, and the extent to which the Department is able to make such assessments on an ongoing basis based on its inspections.²

² At the end of the evaluation process, evaluators were informed that information is available on compliance, but that it would take weeks or even months to extract from individual project files. It is apparent that this kind of information is not currently available to program managers.

While details on numbers of inspections relative to the numbers of project sites of various sizes and the findings with regard to compliance were not available to evaluators, it is the clear and widely-held view of AANDC and external stakeholder organizations that the number of inspections being conducted annually in comparison to the number of open/active files the Department manages is very low, and presents a risk to the environment. This is apparently due to the high cost of northern travel and the lack of an increase in A-Base resources over the last 10 years or more, allocated for this function.

One case study found that AANDC inspections were successful at identifying compliance problems, most of which were minor violations. It was noted, however, that AANDC inspectors should be conducting more site visits to the mine. Another case study provides conflicting evidence about project compliance with legislation and regulations. AANDC officials and company representatives reported that they were satisfied with the current compliance monitoring system and the performance of the company and departmental inspectors. Government of Northwest Territories and local Aboriginal respondents were critical of regulators for not enforcing the monitoring process as specified in the Environmental Assessment. As noted earlier, they also pointed to the absence of provisions under the *Mackenzie Valley Resource Management Act* to ensure that Environmental Assessment measures have been properly implemented. Conversely, company representatives believe that they are subject to a much higher level of scrutiny (i.e., more frequent inspections) than would be the case in other jurisdictions such as Alberta.

While there have been no large-scale environmental impacts at the larger mining projects to date, there is wide concern that with existing inspection resources, there is insufficient knowledge as to whether efforts to mitigate environmental risk are effective, broadly speaking, and little basis for regulatory agencies, including government departments and the public boards to make adaptive, evidence-based decisions to ensure that the northern environment is protected. There is an apparent opportunity for coordination and cost-sharing among regulatory authorities to rationalize the function in the face of high travel costs. And, there is wide-spread concern on the part of AANDC respondents and external stakeholders that current resource levels, viewed as already below what is required to do the job properly, are likely to be increasingly insufficient as demand increases due to expansion of resource development.

Intermediate Outcome 1 - Timely issuance of land and water authorizations in Northwest Territories and Nunavut

Part of the impetus for regulatory improvement in the North has been the perception, particularly by companies wishing to do work related to resource development, that the current system causes significant delays that raise costs and discourage investment. As a broad objective, LWM is interested in contributing to the timely issuance of licenses and permits. The timing of these issuances is, to a large extent, beyond the control of the regional office land and water authorities because the public boards manage the review process and either issue the licenses/permits or make recommendations to the Minister. However, as the group responsible for land and water management within AANDC, LWM has an interest in helping to encourage timeliness of the process.

Stakeholders consulted for one case study project agreed that land and water authorizations had not been issued in a timely manner. Company representatives expressed a high level of dissatisfaction with these delays, reporting, for example, that land use permits always take longer than the 42 days prescribed by the regulations. Different stakeholders have very different views about the reasons for delays, with company representatives attributing delays to the land and water boards (e.g., a lack of capacity, use of "time-outs" in the review process) and First Nations holding the company responsible (e.g., by submitting unnecessarily complex applications, project splitting and multiple applications).

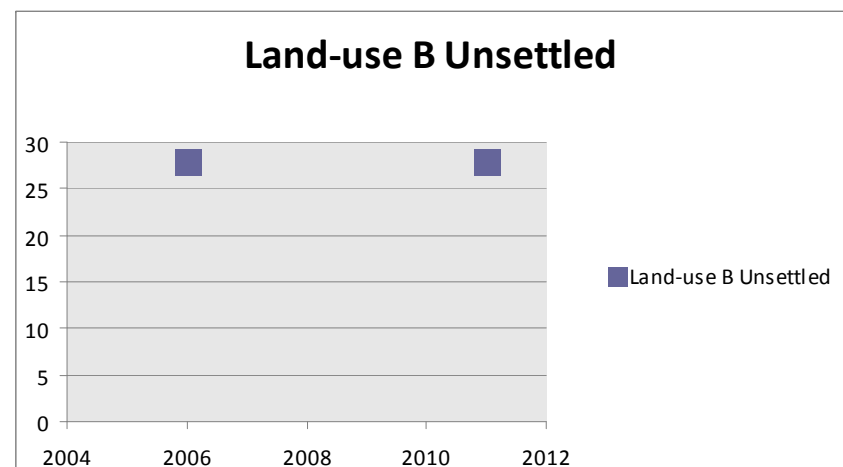
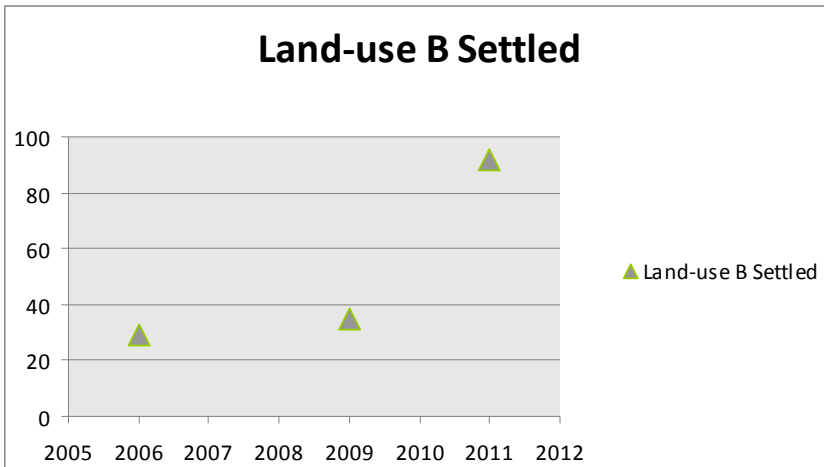
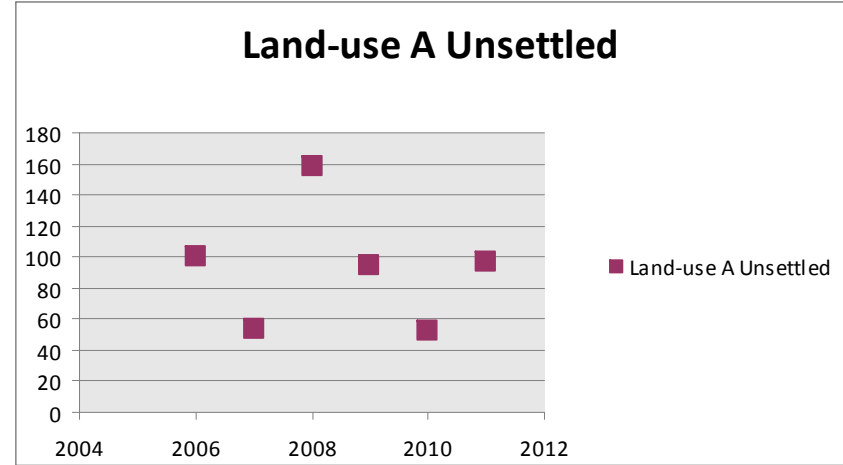
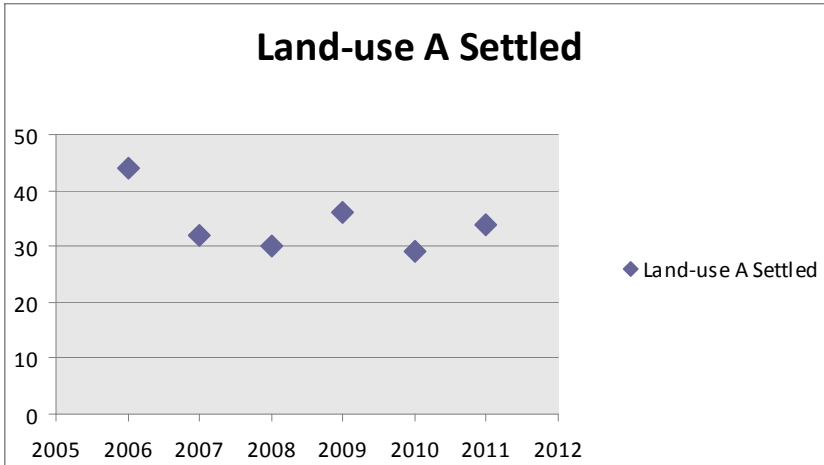
The following table describes the timing of land and water issuances from 2006 to the present. It distinguishes between "A" and "B" licenses and permits. Type A land use permits are for larger operations or projects exceeding certain limits related to the use of explosives, types and sizes of vehicles used, size of fuel storage tanks, extent of levelling and grading of land, weight of drilling equipment, and size of campsites. Class A water licences are for projects that are larger in terms of water requirements and waste deposits. They require a call for a public hearing, which may or may not take place depending on the level of public concern about the project. They are more likely to result in a public hearing, and therefore, more likely to take longer to process.

**Elapsed Time in Days from Accepted Application to Final Decision, Northwest Territories Land-Use Permits and Water Licenses, 2006-2011,
by Year, Type of Issuance, and Land Claim Settled or Not Settled³**

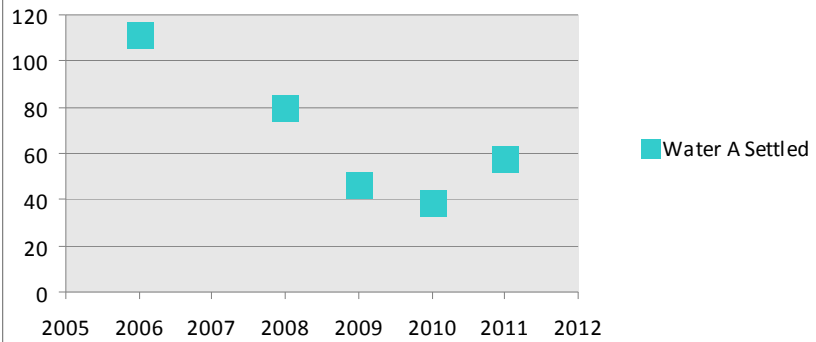
Type of Issuance/Settled-Not Settled	2006		2007		2008		2009		2010		2011		Average 2006-2011
	<i>Range (days)</i>	<i>Avg. (days)</i>	<i>Range (days)</i>	<i>Avg. (days)</i>	<i>Range (days)</i>	<i>Avg. (days)</i>	<i>Range (days)</i>	<i>Avg. (days)</i>	<i>Range (days)</i>	<i>Avg. (days)</i>	<i>Range (days)</i>	<i>Avg. (days)</i>	<i>Avg. (days)</i>
Land-use A Settled	5-95	44	14-45	32	4-38	30	5-88	36	7-45	29	27-39	33	34
Land-use A Unsettled	24-789	100	31-112	53	29-766	158	29-645	95	19-258	52	40-42	41	87
Land-use B Settled	29	29					35	35					32
Land-use B Unsettled	28	28											28
Water A Settled	112	112			80	80	43-49	46	39	39			58
Water A Unsettled	306	306	306	306			80-592	362	38-270	154			274
Water B Settled	40-78	57	36-72	50	25-111	49	42-88	65	27-53	45	40	40	51
Water B Unsettled	0-153	56	87-169	120	41	41	35-122	52	35-222	56			75

³ The data in this table is calculated from a spreadsheet provided to evaluators by LWM, taken from their internal tracking database. A small number of cases were not included in the calculations, either because the start or end date was not available, or because the end date was before the start date, presumably because of a typing error.

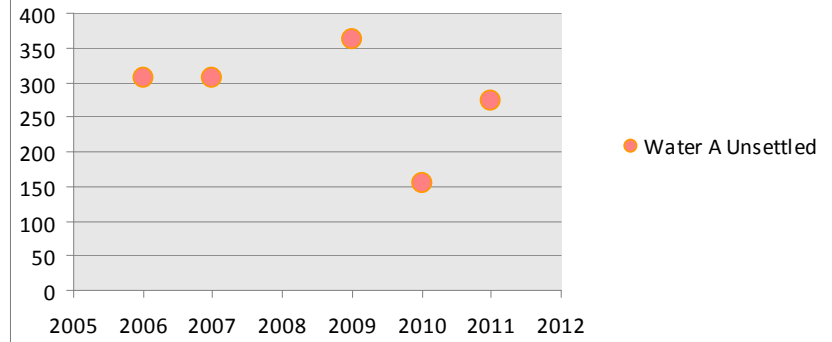
The following graphs represent the data in the preceding table and show the trend, over time, for each type of permit. They chart the Average Day trends between 2006 and 2011 for each of the permits.



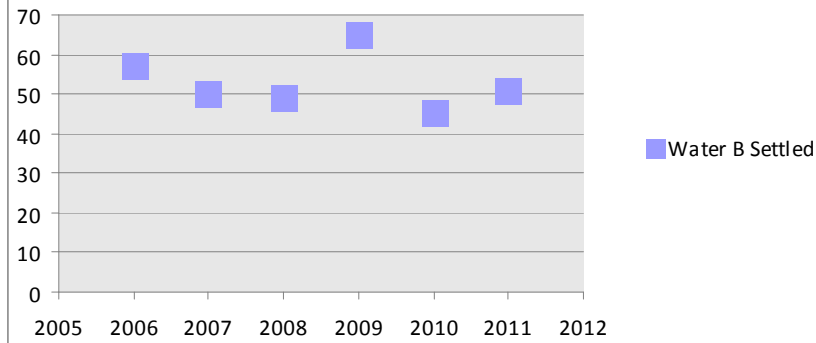
Water A Settled



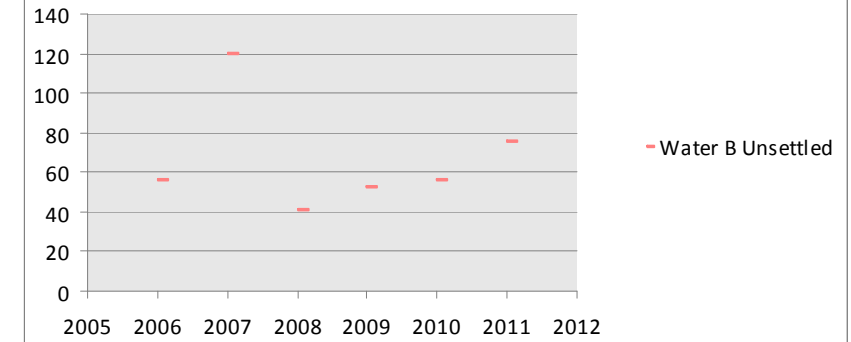
Water A Unsettled



Water B Settled



Water B Unsettled



Available data on the issuance of land use permits and water licenses in the Northwest Territories indicate that elapsed times for most categories are reasonable, with averages ranging from 28 days to 87 days. With water licenses for larger projects, the elapsed time in areas with settled land claims is also modest, averaging 58 days. In unsettled land claim areas, however, the elapsed time is considerably longer, going as long as 592 days in one case and averaging 274 days.

It is important to point out that the *Mackenzie Valley Resource Management Act* and land use regulations allow boards to ‘stop the clock’ when they require additional information or further studies. So, the Board can stop the clock on Day 25 to undertake further studies, which could take an indeterminate period of time to complete, and when it completes the further studies, the clock restarts at day 26 until issuance. The averages in the table include such periods of additional study by the boards.

As well, the level of information provided to the boards by project proponents and interveners, including the Department often highly influences total process duration. It is unknown the extent to which applications that take longer were deemed complete by the Board on initial application, or if there were any delays by the developer in needing more time to submit information. Intervenors can also influence timing if boards accept their requests for additional information from proponents.

Finally, it should be noted that for Type “A” water licences, the AANDC Minister can, under the *Northwest Territories Waters Act*, render a decision. So although the overall average is 274 days, this limits the time that the Board has to accept comments, plan and deliver a public hearing, write a draft licence and solicit comments, finalize the licence and send it to the Minister (where it is vetted by AANDC Headquarters Environmental Assessment officials in order to fulfil their role to advise the Minister).

In summary, then, there are a variety of participants in the process, any of which can take actions that may cause delay in the processing of applications, and the data is unclear about the relative influence of these participants.

Intermediate Outcome 2 - Support capacity of Aboriginal people in resource management activities

The responsibility for supporting capacity of Aboriginal people in resource management has been centralized in the Northwest Territories region to a Board Relations Secretariat. The Land and Water Management group does not undertake activities in this area. The Board Relations Secretariat has produced training and orientation materials and provided general and subject-specific training to board and committee members in the Northwest Territories. Training priorities are identified jointly by Aboriginal and other board/committee chairs through their collaboration at the Northwest Territories Board Forum, so that training efforts can be targeted according to needs identified by those chairs. This support is available to boards and board members whether or not they are Aboriginal people.

According to board representatives and Aboriginal groups interviewed, this activity has brought significant improvement in board training and helped to improve board capacity. There continue to be concerns among board members and staff and some Aboriginal groups that board funding relative to workloads makes it difficult for them to allocate enough time and resources to further developing their technical capacity. Two case studies, one for a project in the Northwest Territories and one in Nunavut, both identified limited capacity and limited resources to participate in resource development activities as important issues. While representatives of both boards and First Nations organizations identified some sources of funding to support Aboriginal capacity building and participation, they characterized the funding as limited and inadequate.

For Aboriginal groups, privately negotiated impact benefit agreements are viewed as the main vehicles for local Aboriginal capacity development, and these are viewed by those interviewed as bringing positive results in terms of training and employment, although specific information was not made available to evaluators. In Yukon, there are serious concerns on the part of Council of Yukon First Nations representatives that AANDC is not taking up its responsibility to ensure that First Nations groups can participate fully in the regulatory process, partly due to limited funding but mainly by not supporting their desire to be consulted, not only during the assessment phase of reviews but also in final decision making by regulators and responsible ministers. AANDC respondents said that it is not the Department's responsibility to ensure adequate consultation by regulators except when AANDC is the regulator, which it is not in Yukon. They said that AANDC has a responsibility to consult and support First Nation capacity to be consulted but only when AANDC is a decision maker.

4.4 Environmental Assessment

Note: Environmental Assessment is the only remaining AANDC function in Yukon of the programs being evaluated because of the recent devolution of responsibilities to the Yukon Territorial Government. In Yukon, the Environmental Assessment's responsibilities are different than elsewhere in the North. There is no role for AANDC as provider of technical expertise or as an intervener in project applications that go before the Yukon Environmental and Socio-economic Assessment Board. There is no regulatory role in the management of land and water. The Yukon Regional Office is responsible to administer the funding of the Yukon Environmental and Socio-economic Assessment Board and the funding of Aboriginal participation in Yukon Environmental and Socio-economic Assessment Board and other regulatory processes in the territory. The office has a role to ensure that the Yukon Environmental and Socio-economic Assessment Board functions as intended under the overarching land claim agreement in Yukon—the Umbrella Final Agreement. This has recently included funding, joint management and active participation in a five-year review of the *Yukon Environmental and Socio-economic Assessment Act* (the Act that sets out the regulatory process followed in the territory).

Despite this very limited role in Yukon in the areas under study, issues were raised in the Yukon interviews that parallel those in the Northwest Territories and Nunavut. The findings for Yukon are referred to as appropriate in the Environmental Assessment section below.

Immediate Outcome 1: Environmental assessment mitigation measures that balance economic and environmental considerations

Mitigation measures associated with land and water permits/licenses are typically highly technical, with many measures that are common to all or most projects, and other measures that address project-specific technical matters of environmental concern. A review of a set of recent mitigation measures makes it clear that an assessment of the extent to which they balance economic and environmental interests is highly subjective. The general approach appears to be that applications are granted unless there is an apparent or perceived high environmental risk (including cultural and socio-economic), and that identified risks are addressed through mitigation measures. Data show that the vast majority of land and water board decisions are not the subject of judicial review applications, suggesting that they are deemed by affected stakeholders to be, at least, appropriate under existing laws and regulatory procedures. It may also indicate a degree of satisfaction that environmental concerns have been addressed adequately in the conditions tied to land use permits and water licenses.

Mitigation measures applied to land and water licenses in the Northwest Territories and Nunavut are widely viewed as sound and appropriate, and until recently, there was a generally-held view that the regulatory boards had sufficient technical information upon which to make good decisions. Recently, however, resource constraints and increasing demands have begun to reduce the ability of AANDC to participate to the same level in providing boards with technical environmental advice. This is viewed with considerable concern by the boards and by other northern stakeholders, and acknowledged by regional AANDC officials as reducing their ability to participate as effectively in the regulatory process.

A number of factors have a majority of those interviewed, including several AANDC officials in the regions and at Headquarters, concerned that there will no longer be a proper balance of development and environmental interests in the North. These factors include substantially reduced funding for environmental protection, inspections and enforcement relative to demand; limited availability of participant funding to enable external interveners to play a role in the regulatory process; and the perception that regulatory improvement is being driven by AANDC toward a regime with reduced environmental protection and reduced community influence. Industry representatives said that while they share concern about environmental impacts, they don't see the balance leaning toward development, and find that some environment-related mitigation measures don't appear to have a scientific basis, especially for smaller exploration projects.

One case study found conflicting views about environmental assessment mitigation measures, which ranged from them being a complete failure to being very successful. A local Aboriginal representative identified inadequate development and implementation of a Caribou Management Plan and the recent use of hydraulic fracturing as failures of the Environmental Assessment process for the project.⁴ Another local Aboriginal leader said that economic and environmental considerations have been balanced in the project but that the community has not realized many of the economic benefits from the project. A Government of Northwest Territories representative

⁴ An AANDC respondent said that the perception that high volume hydraulic fracturing is in use on this project is not true. Evaluators were not in a position to determine the validity of the concern.

stated that environmental mitigation measures for the project have been poor, mainly because the company has operated with Type B Water Licenses, which are intended for exploration and not for production facilities. Conversely, AANDC representatives disputed some criticisms of the project, pointing out that while the type of license can influence the extent of environmental review that takes place, it does not determine the mitigation measures that can be applied.

Immediate Outcome 2: Timely advice to the Minister on environmental review decisions

The available documents do not provide answers as to how timely the advice is that is provided to the Minister on projects requiring environmental assessments. While it is apparent that timelines for project approvals are an issue of concern to some stakeholders in the North and to industry in particular, there is no available record of the frequency of complaints about overall timeliness or the timeliness of AANDC actions in particular. The data on the time taken within the Department to release ministerial decisions shows considerable variation depending on project size and scope and the environmental and political dynamics involved, with some projects requiring a very long time period and others being dealt with quickly.

AANDC Headquarters officials are satisfied that they are providing timely advice, given external factors beyond their control. They also point to the lack of judicial reviews of ministerial decisions as evidence of the quality of the advice being provided. The shared perception internally and by external observers is that a primary driver of delay in the regulatory process is the requirement for environmental assessments or full impact reviews for projects in areas not under a land claim agreement with the associated consultation requirements. This delays the ultimate delivery of advice to the Minister but is not the responsibility of the Environmental Assessment function. External observers point to delays in ministerial decisions, saying that most decisions are timely, but those that are not are often delayed for long periods. No information was available to support or refute this observation or to explain the possible reasons.

Immediate Outcome 3: Technical guidance that provides value to environmental assessment board decisions

There are documented procedures in place to guide the Department in its response to regulatory boards on projects seeking permits and licenses in the North. These procedures recognize board timelines and establish practices to ensure that deadlines are met. Board registries make available submissions from all stakeholders throughout the process of an application being reviewed and approved or denied, so it would be possible to examine this information project by project to determine the nature, extent and timeliness of AANDC participation. However, the Department has not compiled such information to date.

One case study demonstrated that AANDC was extensively involved in the Environmental Impact Review process and that the Department provided valuable technical guidance to the Environmental Impact Review process. AANDC identified four concerns about the project based on the potential for adverse effects and recommended that the mine proposal be subjected to a review as prescribed in the Nunavut Land Claims Agreement.

Intermediate Outcome 1: Effective environmental agreements

Environmental agreements have been entered into in the Northwest Territories for three very large diamond mining projects. The agreements are monitored by a separate independent monitoring agency in each case. Reports from those agencies indicate some variation in satisfaction with compliance, with one project, in particular, apparently raising concerns over compliance and some resulting environmental impacts. However, there are no major impacts reported to date, and there is evidence that the agreements, and the existence of independent monitoring, have helped to limit the frequency of compliance-related disputes and provided a mechanism for ongoing monitoring in areas covered by land use permits and water licenses, as well as in areas such as air quality and wildlife management for which regulatory authority is lacking in the Northwest Territories.

Intermediate Outcome 2: Proposed legislative changes reflect Environmental Assessment advice

This outcome is dealt within the context of the Regulatory Improvement section of the document review where the proposed legislative changes are examined broadly. Environmental Assessment officials within the Department are satisfied that current proposed regulatory improvements reflect advice from Environmental Assessment and are satisfied with the pace of reform. However, especially in the Northwest Territories Regional Office, there are concerns about being left out of the *Mackenzie Valley Resource Management Act* amendment process, and concerns as well that industry-driven streamlining of the regulatory system will compromise what they see has a successful process, which has held to the precautionary principle in balancing economic and environmental factors in decision making.

Intermediate Outcome 3: Strategic Environmental Assessments that meet federal government standards

Documents demonstrate, and AANDC officials agreed, that there is a clear and well documented process in place at AANDC for the determination of Strategic Environmental Assessment requirements, for the conduct of Strategic Environmental Assessments, and for the internal and Cabinet approval processes, with each approval step clearly identified. These are based on the most recent Cabinet directive related to Strategic Environmental Reviews. Departmental roles and responsibilities are also clearly established. The NAO has adapted the departmental approach and established its own internal procedures and guidelines that are fully and clearly documented. There appears to be little risk that Strategic Environmental Assessments will not be produced as required.

Intermediate Outcome 4: An adaptive management capacity that tracks mitigation results and helps guide decisions

This outcome has been addressed above in the Land and Water Management section, where inspections and enforcement are examined, and the views of all stakeholders, including AANDC Environmental Assessment officials are reported.

4.5 Mines and Minerals

Immediate Outcome 1: Secure title to private sector mineral discoveries

There is a clear and well-defined process for title security in the Northwest Territories and Nunavut. This process is established by regulation under the *Northwest Territories and Nunavut Mining Regulations*. Mining regulations in the Northwest Territories and Nunavut are based on the principle of free-entry, which provides individuals and companies with, among other benefits, a predictable and fair first-come, first-served system with no room for interpretation or discretion. There are few disputes in the minerals tenure system related to title security. The only recent significant dispute, which involved a Ministerial Review, related to the determination of costs of operating a diamond mine for the purposes of royalty assessment.

AANDC is working on amendments to the mineral tenure related provisions of the Northwest Territories and Nunavut Mining Regulations. The amendments will focus on modernizing the administration of the mineral tenure system, including fees and work reporting requirements (including automated systems of mineral rights administration such as Map Selection). AANDC is working on separate mining regulations for the Northwest Territories and Nunavut.

Detailed information on the process for title security is readily available. The Northwest Territories Regional Office also produces a set of "At a Glance" information sheets, including one for the Mining Recorder's Office that provides contact information for the individuals responsible for various client services, information services, and operation activities.

Industry is satisfied overall with the process in place that ensures security of title and with AANDC's role in administering this process. However, many respondents expressed dissatisfaction with the timing of processes for water permits and environmental assessments. The total amount of timing required for all permitting processes has caused many respondents to have negative opinions about minerals exploration in the North, particularly in the Northwest Territories. The opinions of approximately half of the mining industry companies consulted also were negatively affected by problems related to land claim uncertainty and access to lands for which they have received an exploration permit. Industry opinion was unanimous in wanting the federal government to resolve Northwest Territories land claims to ensure a more consistent process for security of title.

Disputes related to title security are not an issue for industry stakeholders interviewed for this evaluation.

The findings of the diamond mine case study, which were consistent with other findings about security of title, identified no serious issues related to Mining Leases, Surface Leases or Class A Land Use Plans. There was only one minor disagreement between AANDC and the company over the amount of the security deposit that would be allocated between the Surface Lease and the Water License. AANDC wanted more of the security deposit placed on the Surface Lease since in the event of a mine bankruptcy, the deposit would be easier to retrieve for the Department.

Immediate Outcome 2: Increased private sector mineral exploration

Overall, there were no increases in private sector mineral exploration over the five-year evaluation period. The numbers of prospecting permits issued, claims recorded and leases issued, as well as the land area covered by these permits, claims and leases, either declined from 2006-07 to 2010-11 or remained relatively stable from the start to the end of this time period.

In the Northwest Territories, there were significant declines in exploration activity following the economic downturn in 2008-09, particularly for the number of claims recorded and prospecting permits issued. These numbers showed increases in 2010-11, although not yet up to 2006-07 levels. In Nunavut, there were also declines in the numbers of prospecting permits issued, claims recorded and leases issued, as well as in the land area covered by prospecting permits, although the most significant declines were in 2010-11, a year later than what occurred in the Northwest Territories.

Mining industry representatives believe that this decline is the result of regulatory uncertainty and the challenges and uncertain outcomes associated with Aboriginal groups in areas without settled land claims. AANDC personnel and industry observers believe that the Department has been good at encouraging mineral exploration and investment, although they acknowledged the limitations on their ability to influence outcomes as compared to broader economic factors and the impacts of regulatory barriers.

Immediate Outcome 3: Fair financial return from the private extraction of a public resource

The top average royalty rate of 13 percent applicable in the Northwest Territories and Nunavut is in the mid-range among the profit-based royalties in Canada. Similarly, the royalty rate in the Northwest Territories and Nunavut is in the mid-range compared to the profit-based royalty rates in selected countries that compete with Canada for mining investment. The revenue-based royalty regimes of most of the international jurisdictions are not directly comparable to the Canada Mining Regulation -- now the *Northwest Territories and Nunavut Mining Regulations* in the territories -- royalties based on profit. A comparison of royalties and taxes shows that the Northwest Territories and Nunavut, on a combined royalty and taxes basis, are in the mid-range compared with 10 mining jurisdictions in eight other countries.

Almost all mining industry representatives think that current mineral royalties represent a fair burden on proponents, and that the royalty regime does not have a negative impact on mining decisions. Only one industry respondent said that royalties are at the high end compared to the rest of the world. A few respondents were not sure and did not comment. Overall, royalty rates are not a problem for industry and this issue is far down on their list of priorities.

Immediate Outcome 4: Share of royalty revenues to First Nations with settled land claims

The documents present a clear picture of the royalty sharing terms of the three settled land claim agreements in the Northwest Territories and the Nunavut Land Claims Agreement. A breakdown by specific land claim agreement of the total dollar value of approximately \$25 million for royalties shared with First Nations between 2006 and 2010 was not available, however, so a

direct comparison of the land claim terms and royalties is not possible. There were no indications from any of the documents or data or from interviews that there has been any inconsistency in the terms of the land claim agreements and actual royal revenue sharing.

Immediate Outcome 5: Increased geological knowledge of the North's mineral resources

As part of its partnerships with territorial governments and Natural Resources Canada for the Northwest Territories and Nunavut geoscience offices, AANDC contributed approximately \$9.6 million to the geoscience offices over the five year period from 2006-07 to 2010-11. AANDC contributed substantial additional funding to the geoscience offices for projects and other purposes through various sources, including Strategic Investments in Northern Economic Development, the Protected Areas Strategy and a temporary fund of special resources made available by the Minister at the time. These funds total approximately \$13 million over the five year period.

The Northwest Territories and Nunavut geoscience offices have compiled a large amount of geosciences information in electronic databases. These databases are found by users to be very well organized and are said to be easily accessible through flexible and user-friendly online searches. The information produced and distributed by the geoscience offices is used extensively by industry, primarily through the online Gateway. In the most recent year from October 2010 to September 2011, there were approximately 4,200 downloads of reports and over 1,200 registered users of the Northwest Territories Geoscience Office website, with over half of the users in the mining and minerals industry.

The great majority of mining industry representatives consulted thinks that the geological science services supported by AANDC and provided through the geoscience offices are very good, are provided at good value, and are helpful to the mining industry. In Nunavut, these functions are undertaken jointly by AANDC, the Government of Nunavut and Nunavut Tunngavik Incorporated, and this collaboration is viewed as highly functional and effective. Although AANDC geoscience programs and personnel are highly rated by the industry, there was a consensus that AANDC should be investing more in geoscience to help realize the minerals potential of the North. Most respondents said that, given the huge potential for mines and minerals development in the North, AANDC invests much less in geoscience than provincial governments responsible for mining in jurisdictions south of 60.

Intermediate Outcome 1: An increase in mineral discoveries and development

The following information on the number of leases in the Northwest Territories and Nunavut was provided by the Mining Recorder's Offices.

Northwest Territories: Mineral Leases

	2006-07	2007-08	2008-09	2009-10	2010-11
# of Leases issued	14	49	9	46	17
# of Leases in good standing	1,293	1,329	1,219	1,229	1,273
Area of Leases issued	11,107	33,160	6,565	21,833	10,291
Area of Leases in good standing	843,604	871,479	896,691	794,828	835,424

Nunavut: Mineral Leases

	2006-07	2007-08	2008-09	2009-10	2010-11
# of Leases issued	15	82	72	129	4
# of Leases in good standing	478	471	n/a	n/a	499
Area of Leases issued	14,220	143,239	111,281	212,654	3,476
Area of Leases in good standing	365,780	352,527	n/a	n/a	917,213

The data from the Survey of Mineral Exploration show a decrease in "mineral exploration and deposit appraisal expenditures" in the Northwest Territories from \$176 million in 2006 to \$83 million in 2011. This compares to increases during this time period from \$211 million to \$333 million in Nunavut and from \$106 million to \$256 million in the Yukon.

Mineral Exploration and Deposit Appraisal Expenditures, by Province and Territory¹, 2006 to 2011 (in \$ millions)

	Nunavut	Northwest Territories	Yukon	North
2006	\$211	\$176	\$106	\$493
2007	\$338	\$194	\$145	\$677
2008	\$433	\$148	\$134	\$715
2009	\$188	\$44	\$91	\$323
2010 ²	\$264	\$85	\$150	\$499
2011 ³	\$333	\$83	\$256	\$672
Total	\$1,767	\$730	\$882	\$3,379

1. This table shows only the figures for the three territories.

2. Preliminary estimates at February 2011.

3. Pending intentions at February 2011.

Mining Production in the Northwest Territories, Nunavut and Yukon (in \$ millions, figures are approximate)

	Nunavut	Northwest Territories	Yukon
2006	\$20	\$1,650	\$40
2007	\$20	\$1,800	\$80
2008	\$10	\$2,150	\$200
2009	\$0	\$1,500	\$280

Compared to the preceding five-year period, the cumulative totals for 2006-07 to 2010-11 show that there has been a significant increase in mineral discoveries and development in the North. A total of \$3.38 billion was committed for exploration and deposit appraisal expenditures, including \$1.77 billion in Nunavut, \$730 million in the Northwest Territories, and \$882 in Yukon. There were 302 new leases issued for discoveries in Nunavut and 135 in the Northwest Territories. During the evaluation period, two mines came into production: Agnico-Eagle's Meadowbank Gold Mine in Nunavut in 2010, which is the first gold mine in Nunavut, and DeBeers' Snap Lake Diamond Mine in 2007 in the Northwest Territories, which is the third diamond mine in the Northwest Territories. In addition to these two mines, there are a total of 13 mining projects in the Environmental Assessment or Environmental Impact Review process: seven in the Northwest Territories and six in Nunavut.

Looking just within the five-year evaluation period, starting in 2006-07 and continuing to 2010-11, minerals discovery and development in the North has been stable or declined somewhat.

In the Northwest Territories, the numbers of leases in good standing has remained relatively stable over the five-year period from 2006-07 to 2010-11: i.e., 1,293 in 2006-07 and 1,273 in 2010-11. The numbers of new leases issued were similar at the beginning and end of the five-year period (14 and 17, respectively), with significant increases in 2007-08 and 2009-10. The patterns over time are similar in the Northwest Territories for the land area of new leases issued and leases in good standing.

In Nunavut, the number of leases issued was 15 in 2006-07, increased several fold over the three-year period from 2007-08 to 2009-10 (to a high of 129) and declined to just four in 2010-11. The number of leases in good standing has been very similar over the five-year period, although data is not available for two of the years (2008-09 and 2009-10). The total area of leases in good standing increased substantially in 2010-11 (to 917,213 hectares), which is partly the result of the large number of new leases issued in 2009-2010.

The data for 2006 through 2009 do not show a significant increase in the value of mine production in the Northwest Territories and Nunavut. There was a significant increase in Yukon during this period. The overall figures for 2010 (which were not available at the time of writing this report) would show an increase in production values for Nunavut with the production start-up at the Meadowbank Gold Mine. As noted previously, there are at least 13 projects in the Northwest Territories and Nunavut that are strong candidates to be producing mines. These projects will lead to future increases in the value of mine production.

Since 2005-06, the overall level of mineral exploration activity in the North has not increased year over year. While the annual value of minerals exploration expenditures increased significantly between 2005-06 and 2010-11 in Nunavut (by approximately 50 percent) and in Yukon (by approximately 150 percent), annual exploration expenditures declined by over 50 percent in the Northwest Territories.

Intermediate Outcome 2: Stable or increasing mineral resources and resources

AANDC and territorial government officials report that estimates of known mineral reserves in the North have increased over the evaluation period, but the aggregate numbers were not available for the evaluation.

Intermediate Outcome 3: Increased employment and revenue sources for Aboriginal and Northern peoples and communities

Diamond mines are major employers of Northerners, with more than 15,000 person-years of northern employment in the mining industry in 2009. The mining industry is the largest employer of Aboriginal people in the North. The following table from Northwest Territories and Nunavut Chamber of Mines presentation (*Promoting Northern Economic and Resources Development*, June 2011) shows the total northern mining-related employment for Aboriginal peoples, other Northerners and Southerners from 2006 to 2009. Aboriginal employment in diamond mining has made steady and progressive growth, from approximately 5,500 person-years in 2006 to 8,000 in 2009. The 2006-07 totals for Aboriginal employment in diamond mining were approximately double the number employed at the beginning of the decade. Aboriginal employment figures were very similar to the employment figures for other northern residents.

**Cumulative Employment in Northern Mining Projects
(person-years, figures are approximate)**

	Aboriginal People	Other Northern	Southern	Total
2006	5,500	6,000	9,500	21,000
2007	6,500	6,500	11,500	24,500
2008	7,500	7,000	13,500	28,000
2009	8,000	7,500	15,000	30,500

Employment data for the Meadowbank Gold Mine in Nunavut showed that there were 1,189 employees working at the mine in September 2009 (258 of whom were Nunavut-based employees). Employment data for 2010 when the mine began production were not available.

The Northwest Territories unemployment rate fell below the national average in 2007. The two largest diamond mines (Ekati and Diavik) met or exceeded their targets for hiring Aboriginal people set out in their Socio-Economic Agreements.

In the Northwest Territories, employment levels at the two major diamond mines were relatively stable over the 2005 to 2010 period while median incomes increased by 17 percent for households and 11 percent for individuals (to 2009). In Nunavut, median incomes also increased by 15 percent for households and 12 percent for individuals during this period, but mining employment is only beginning to ramp up.

Data to address the indicator dealing with revenues to communities from northern mining activity are not available. However, it can be said that revenues to communities from mining activity are generated both from employment and from Impact and Benefit Agreements with mining companies. Mining industry representatives cited schools, training, jobs, facility investments and other economic benefits as advantages to the North because of mining activity. To improve benefits from mining activity, respondents think that there is a need for more training programs to increase capacity of Northerners to participate in mining, as well as a need to resolve outstanding land claims and develop better partnerships between the Government and industry to remove roadblocks to development.

Case studies from a diamond mine in the Northwest Territories and a gold mine in Nunavut both found that the mines have brought substantial benefits to communities in the vicinity of the projects and employment to Aboriginal people and other Northerners. Ekati is among the top three employers in the Northwest Territories mining sector, which is the largest employer of Northerners in the Northwest Territories, and consistently has exceeded its targets for Aboriginal and northern employment. Northerners represent over half and Aboriginal people represent about one-third of the total workforce, including close to half of skilled and professional positions. The Ekati Diamond Mine Community Partnership Program provides financial and in-kind support to local communities for projects that promote safety, the environment, youth development, community arts and cultural activities, and social well-being. The Inuit Impact and Benefit Agreement in place for the Meadowbank Gold Mine also has led to substantial employment and other benefits to local communities. Approximately one-quarter of the workforce is Nunavut-based, although most of their employment is in lower skill positions. A 2009 report by the Socio-Economic Monitoring Committee for the Meadowbank Gold Mine concluded that the mine has had a positive impact on the Inuit and northern residents of the Kivalliq region.

Aboriginal groups pointed to the need for better and timelier communication from the federal government about potential developments in their areas, so they are in a better position to plan before companies initiate their work. The development of Aboriginal businesses for support and supply of operating mines, particularly the diamond mines in the Northwest Territories, has been important for economic development in Aboriginal communities. Future economic benefits for Aboriginal communities will be greater if a comparable Aboriginal business infrastructure for minerals exploration is developed. AANDC personnel identified future risks to employment and revenue benefits for Northerners when operating diamond mines close because current exploration activity is inadequate to sustain the industry.

Intermediate Outcome 4: Training and business opportunities for Aboriginal and Northern peoples

Limited information is available to address indicators related to training and related employment. For training positions, the most recent socio-economic monitoring reports produced by the Diavik Diamond Mine and Snap Lake Diamond Mine indicate that the mine operators have made commitments to hiring and training apprentices in skilled trades. Only the Ekati Diamond Mine report provides a breakdown of the northern or Aboriginal status of apprenticeship trainees or trained and qualified journeypersons. In 2009, 81 percent of apprentices at Ekati were Northerners, including 70 percent who were Aboriginal people. Information on the number of

training assignments completed is not available. Ekati also has a Mine Training Program for northern and Aboriginal people that contributes to company efforts to place Aboriginal people and Northerners into professional and skilled positions at the mine. There is also limited information that directly relates training to employment results. Two of the diamond mines hired people for work experience terms, including the on-the-job training component of apprenticeship training.

Documents and data on the number of new northern businesses and new Aboriginal businesses are not available. Documents on mining company spending on purchases from northern and Aboriginal businesses indicate that these expenditures have been substantial, that the expenditures have increased over the 2006 to 2009 period, and that purchases from both northern and Aboriginal businesses represent a substantial proportion of total expenditures. The gold mine case study found that approximately 36 percent of the company's cost of mine construction was spent through Inuit owned companies (\$273 million of \$749 million by 2009).

Mining industry representatives and other stakeholders were near-unanimous in agreeing that mining activity has resulted in many training and employment opportunities for Aboriginal people and other northern peoples. The large companies owning and operating the three Northwest Territories diamond mines in the Northwest Territories have trained and hired many Aboriginal people and northern people, and this is typical where mines are developed and started producing in the North. Agnico-Eagle, which operates the Meadowbank Gold Mine in Nunavut, reported that the company had provided over 4,500 hours of training to Nunavut-based employees by 2009. Smaller minerals exploration companies generally have not been involved in hiring and training people from the North.

There have been a number of new technical, mining-related training programs in the North in recent years. The training programs with classroom components have been run by the Mining Training Society in Nunavut and the Northwest Territories, Aurora College in the Northwest Territories and Arctic College in Nunavut. Mining Training Society training programs are driven by industry needs, such as the recent need for programs related to underground mining.

4.6 Oil and Gas

Immediate Outcome 1: Increased exploration and presence of companies in the North

AANDC is responsible for managing the development of oil and gas resources on federal lands in the Northwest Territories, Nunavut, and the northern offshore. Petroleum resource management in areas of federal responsibility north of 60 is exercised under two federal statutes: the *Canadian Petroleum Resources Act* and the *Canada Oil and Gas Operations Act*.

The Northern Oil and Gas Branch manages the rights issuance process for the Department and issues exploration licences, significant discovery licences, and production licences. Industry is provided with an annual opportunity to obtain exploration rights through the following Call Cycle process:

1. Expressions of interest from industry and indications of support from communities.
2. Request for input from communities and other government agencies and departments.
3. Calls for Nominations, which enables industry to specify blocks of land of interest for subsequent inclusion in a Call for Bids.
4. Calls for Bids, by which interested companies bid for exploration licences on specific blocks (or parcels) of land by making financial and other commitments to undertake exploration activities. Successful bidders are selected based on the highest financial commitment.
5. Issuance and management of exploration licences.

In the last two years in the Northwest Territories, oil and gas exploration activity returned to previous levels following a steep drop after the 2008-09 economic downturn. A high level of response to the most recent calls process has led to 2011 being the most active year during the evaluation period. Exploration activity in Nunavut has been negligible, with no companies responding to Calls for Nominations or Exploration Licences issued.

The 2006 - 2011 trend in the number of hectares licensed for oil and gas exploration is similar to the trend in the number of Exploration Licences issued. The numbers are within a range from 2006 to 2008, fall to zero in 2009, increase to approach previous levels in 2010, and reach a new high in 2011 as more companies submitted bids for exploration licences. The major factor influencing the number of hectares licensed for oil and gas exploration during the evaluation period was the economic downturn in 2008-09 and temporary decline in commodity prices.

Twenty companies obtained a total of 29 new licences for oil and gas exploration activity in the North between 2006 and 2011. A total of 10 companies that previously were not involved in oil and gas exploration in the North obtained new exploration licences between 2006 and 2011.

Industry is satisfied overall with AANDC's administration of the permit and license issuance process (the Call Cycle). Some recent procedural changes (e.g., a change to the Terms and Conditions made effective this year that give companies six months to see if they want to fulfill their commitment/bid, which allows them to avoid losing their deposit if they are unable to come to agreement with the community with the land parcel), along with regional office efforts to engage communities and companies in the process, helped the 2011 rights issuance to be the most successful in many years, with a total of \$530 millions committed for exploration work on 11 parcels of land in the central Mackenzie Valley.

Industry commended AANDC for its role in some specific oil and gas development initiatives such as the Beaufort Regional Environmental Assessment process. Industry also commended regional office staff for being highly qualified and for doing a very good job with the available resources. Nevertheless, government and industry stakeholders identified some other factors related to regulatory processes for oil and gas exploration as problematic. It is important to note that most of these factors are in areas for which Northern Oil and Gas is not responsible. Representatives of an operating oil and gas project characterized the regulatory environment in the Northwest Territories as slow, complex, expensive and not conducive to increased exploration for oil and gas. Government of Northwest Territories representatives agreed that the oil and gas regulatory system in the Northwest Territories poses a disincentive for investment,

but attributed this to the inconsistent application of the rules (not specified), which create uncertainty for oil and companies.

There is a consensus among industry that AANDC should continue to support oil and gas development in the North by shortening the time for the application process for permits, streamlining and speeding up the regulatory process, and strengthening the Department's role in educating the public about the industry and the benefits of development. Aboriginal respondents did not comment on oil and gas development in particular, but they remain committed to the existing processes and structures for permit and license applications and environmental reviews, and while they recognize that some streamlining is desirable, they are reluctant to support substantial structural changes to the current processes.

What industry sees as AANDC's caution in promoting the oil and gas industry was attributed to the multiple roles that the federal government must play in the North.

Immediate Outcome 2: Evidence-based resource development that accommodates environmental, social and economic interests

The documents demonstrate that there is an extensive body of evidence directly related to environmental interests, some evidence related to economic interests, and very little related to social interests that can inform resource developments. The documents also demonstrate that extensive efforts have been undertaken by AANDC and other governmental and non-governmental agencies to collect, analyze and interpret evidence related to the environmental dimensions of resource developments.

Most of the oil and gas industry respondents believe that there is not an appropriate balance between economic, environmental and social considerations. They perceive that far more weight is given to environmental considerations in resource development decisions, and that many decisions are not based on sound science.

Immediate Outcome 3: Communities engaged in resource development

AANDC and other agencies of the federal government are guided by the relevant land claim agreements in their consultations with communities. Where relevant, AANDC conducts consultations under Section 35 of the *Constitution Act, 1982*. For development projects and related activities for which the Department has responsibilities to consult with Aboriginal and northern communities, the Northern Oil and Gas Branch and others in the Department have undertaken and participated in extensive consultative and engagement initiatives. These initiatives included both ones for which the Department acts as the sole agent (e.g., Northwest Territories Regional Office interactions with First Nations about opening land parcels for exploration) and others which involve multiple stakeholders (e.g., Mackenzie Gas Project consultations).

Information to address the indicators related to community involvement in the development of impact and benefit agreements, and other processes related to resource development in their areas are not readily available from documents or data sources from the Department or other

sources. It is important to note that the impact and benefit agreements are private agreements and AANDC does not collect the information on them and cannot establish processes for their conclusion. The Northern Oil and Gas program established guidelines for the northern benefits requirements of the Canada Benefits Plans (under the *Canada Oil and Gas Operations Act* and approved by the Minister), which have been reviewed in recent years and are subject to consultation with stakeholders.

Industry representatives commented that there is some uncertainty about the respective responsibilities of the Government and industry for community engagement. It is very clear from departmental information that companies are strongly encouraged, even required, to consult with communities that might be affected by their oil and gas development proposals. However, the particular requirements vary with the circumstances and companies need to examine previous cases and precedents (e.g., from the National Energy Board and land and water boards) or to rely on their own experience and expertise to develop a better understanding of their responsibilities.

Industry believes that community consultations about oil and gas development projects generally are adequate and that consultations are being conducted consistently. AANDC officials with the Northwest Territories Regional Office believe that industry understands the importance of community consultation better than in the past and that companies are consulting with communities more consistently. Industry representatives would like to have a clearer articulation of the respective roles of the Government and industry for community engagement and consultation. Industry also would like to see AANDC play a stronger role in promoting the potential opportunities and benefits associated with oil and gas developments.

For northern communities, the quality of engagement is said to vary from company to company, with some very informative and genuinely collaborative, and others seeming to be just covering off a responsibility. However, communities generally were reported to be satisfied with the process of negotiation of impact and benefit agreements. One concern raised was with regard to environmental impact review hearings. Recently, AANDC officials in the Northwest Territories are sometimes not able to attend hearings when they are held in communities because of budget constraints, and Aboriginal respondents in the Northwest Territories view this as inappropriate and an “abdication” of the Department’s responsibility to help ensure that the best possible information is brought to the review process.

Immediate Outcome 4: Fair return on development revenues accruing to the Crown

The *Northern Oil and Gas Annual Reports, 2006 - 2010*, report that the royalties received from oil and gas production on northern frontier lands from 2006 to 2010 are as follows:

- 2010 - \$15,762,287
- 2009 - \$18,876,656 (includes a deposit of \$4 million against an estimated audit assessment. The final amount owing will be finalized in 2011.)
- 2008 - \$30,381,061
- 2007 - \$25,078,071
- 2006 - \$30,477,442

Royalty revenues have decreased from 2006 to 2011, mainly as a result of decreased oil and gas production. There is limited information with which to compare the royalty regime applied in the North with other jurisdictions. In a Fraser Institute survey in which respondents rated the royalty regimes (fiscal terms) of jurisdictions around the world, the Northwest Territories was not well ranked relative to other jurisdictions. Nevertheless, almost two-thirds (62 percent) of companies responding did not indicate that the fiscal terms are a deterrent to investment in the oil and gas sector in the Northwest Territories.

Industry is satisfied overall that the royalty regime for oil and gas production is fair and appropriate. The fiscal regime and royalty rates are such that they have little impact on their investment decisions. Representatives of the owners and operators of a producing oil and gas project stated that the royalty regime in the North is competitive with royalty regimes in other Canadian jurisdictions and that it is satisfactory from the perspective of business. AANDC officials also believe that royalty rates represent fair return to the Crown.

Intermediate Outcome 1: Employment, training and related benefits for Aboriginal people and Northerners

The Government of Canada has Comprehensive Land Claim Agreements with Aboriginal groups in the North, including, within the Northwest Territories, the Sahtu Dene and Métis, the Gwich'in, the Inuvialuit and the Tlicho; and with the Inuit in Nunavut. These provide for resource royalties collected from Crown land to be shared with these groups. The Northern Oil and Gas Branch provided information on the resource revenue sharing formula (*Royalty sharing agreements with Aboriginal groups in the North*, Northern Oil and Gas Branch, AANDC). The formulas presented in the following table applies to the total royalties collected from all resource activities and includes oil and gas, mining, diamonds, and gravel.

Royalty sharing agreements with Aboriginal groups in the North

Aboriginal Group	Agreement	Royalties as a % of revenues	
		On first \$2M of revenue	On revenues over \$2M
<i>Mackenzie region</i>			
Gwich'in	Gwich'in Land Claim Agreement	7.500%	1.50%
Sahtu Dene and Metis	Sahtu Land Claim	7.500%	1.50%
Tlicho	Tlicho Land Claim Agreement	10.429%	2.086%
Deh Cho	Interim Resource Development	12.250%	2.450%
<i>Nunavut Settlement</i>			
Inuit	Nunavut Land Claim Agreement	50.00%	5.00%

Negotiations with the Deh Cho for a land claim agreement are ongoing, although an Interim Resource Development Agreement is in place.

Settlement negotiations, including resource revenue sharing, are also underway with the Akaitcho and the Northwest Territory Métis Nation Aboriginal groups.

Regarding the settlement with the Inuvialuit, instead of royalty sharing from Crown land, the Inuvialuit received a larger quantum of private lands from which they receive 100 percent royalties at rates set by the Inuvialuit. Consequently, and differing from the settlements further south in the Mackenzie Valley, resource royalties from Crown lands within the Inuvialuit Settlement Region are not subject to royalty sharing.

**Oil and Gas Contribution to Resource Revenue Shared with Aboriginal Groups:
2008 - 2010 (in \$1,000s)**

	2008 ¹	2009	2010	Total
Gwitch'in	\$575.7	\$403.1	\$356.4	\$1,335.2
Sahtu	\$575.7	\$403.1	\$356.4	\$1,335.2
Tlicho	\$801.7	\$561.3	\$496.2	\$1,859.2
Deh Cho	\$940.3	\$658.5	\$582.2	\$2,181.0
Total	\$2,893.4	\$2,026.0	\$1,791.2	\$6,710.8

1. The 2008 figures may change depending on the results on a recently concluded audit.

While there is much information that points to employment, training and related benefits to Aboriginal peoples and other Northerners from the oil and gas industry, there is limited quantitative data about specific benefits. This limited data reflects the early stage of development of the sector in Northwest Territories in two ways: there is a limited number of exploration projects, and exploration activities, being only the first step, do not generate the same level of benefits as the production phase.

Information available from the Northern Oil and Gas program shows that direct employment for Aboriginal peoples and other Northerners from offshore oil and gas projects totals 147 person-years over the evaluation period. This represents approximately one-quarter of the total employment generated by offshore oil and gas developments. Information by type of offshore job and/or occupation, on the training that led to these employment positions, and on employment-related or on-the-job training data are not available. Employment data for onshore oil and gas developments are not available. A new tracking system for the onshore industry will provide employment and other benefits data in the future.

Under the Canada Benefits Plans that companies are required to submit before receiving authorization to proceed with any oil and gas work, companies are encouraged to give first consideration to local northern Aboriginal and other northern residents and businesses. In a Canada Benefits Plan, a company proposing an oil and gas work or activity is required to describe the principles, strategies and procedures that ensure Canadians and Canadian businesses are provided full and fair opportunity to participate in the project. The Department also requires that a company monitor and report on the implementation of the commitments made in a Canada Benefits Plan. The available household income data is not sufficiently detailed to permit comparisons of the overall increases and any increases attributable to employment in oil and gas and related industries.

An oil and gas project case study found that stakeholder opinions differed widely about the performance of the Cameron Hills Benefit Plan with respect to providing employment, training and other benefits for Aboriginal peoples and other Northerners. Paramount Resources representatives believe that the Cameron Hills Benefit Plan is fair and adequate. They said that the company has given contracts to northern and Aboriginal companies even when they were not the lowest bidder and when they lacked full capacity to provide the products and/or services. Conversely, a representative of the Deh Cho Nation believes the plan was completely unsatisfactory. The lack of social or environmental agreements for the Cameron Hills development also was criticized.

Data on the overall numbers of training positions offered and accepted by Northerners are not available. Information from the Government of Northwest Territories indicates that both formal and on-the-job training are available for people interested in working in the oil and gas industry or wanting advancement within the industry.

Employment and training benefits for Aboriginal people and other Northerners from oil and gas developments have been limited so far by the limited amount of production. Nevertheless, all respondents believe that there are more training opportunities now for Aboriginal and other northern peoples because of oil and gas activity than there has been in the past. Most respondents think that AANDC has indeed helped to increase training and employment opportunities. In order to promote development and increase training and employment opportunities, industry would like AANDC to play a stronger role in educating communities about the differences between exploration and extraction. The view widely held by industry is that unrealistic community expectations about the money and other benefits that can be generated by exploration activities are a barrier to further exploration, as these expectations make it more difficult for communities and companies to negotiate agreements acceptable to both parties.

Intermediate Outcome 2: Significant economic opportunities for northern communities (and other provinces)

The available information points to substantial benefits for some communities in the North, with significant potential for the future. Although the oil and gas industry in the North is still in its early stages of development, already at current levels, the investments by this sector constitute a significant part of territorial and local economies. Benefits and impacts of oil and gas development in the North include direct benefits to Aboriginal and northern communities (seen through Canada Benefits Plans and private benefits agreements), investments made by industry, territory-wide impacts of oil and gas contribution to the Northwest Territories economy, and induced socio-economic benefits of increasing petroleum activities. The oil and gas sector's contribution to gross domestic product (including extraction, engineering construction, and pipelines) amounted (approximately) to between \$451 million and \$627 million a year in the most recent five years of data available from Statistics Canada (2003-2007), constituting about 12-15 percent of the territorial gross domestic product. These totals do not include other oil and gas supporting activities or spillover effects on other sectors. The Canadian Association of Petroleum Producers has calculated that annual net cash expenditures by oil and gas companies in the North have ranged from \$328 million to \$593 million in recent years.

Documents and data are not available to quantify the number of new businesses resulting from northern oil and gas development. There is indirect evidence about economic opportunities for northern communities in the spending by oil and gas companies on Aboriginal and other northern businesses. These data show total spending on Aboriginal and other northern businesses of \$54.5 million. There was an increase in purchases from Aboriginal and other northern businesses in the 2008-2010 period compared to 2006 - 2007. The data show a similar pattern for purchases from other Canadian businesses (i.e., non-northern), without as large an increase in 2009.

The benefits from oil and gas production activity do not reach all communities. This is illustrated by the Cameron Hills Oil and Gas Project, one of just two producing projects in the Northwest Territories. Cameron Hills is a small oil and gas project that, at the time of the case study, employed just 10 full-time workers, three of whom are Aboriginal people from nearby communities, and operated for only three months of the year. Company representatives stated that 25 percent of the \$4.5 million spent on the project in 2011 were purchases from northern companies. First Nations representatives were critical of the minimal benefits and opportunities associated with the project. Government of Northwest Territories representatives agreed that few members of local communities obtained work through the project, mainly because of the small scale of the project.

Nevertheless, almost all respondents agreed that the overall levels of oil and gas activity has brought employment dollars and jobs to the communities and tax dollars to the territorial governments. The majority of respondents felt that the benefits were adequate for the North relative to the magnitude of the exploration activity and level of production. All industry respondents want to increase both the levels of activity and the economic benefits to northern communities. Respondents identified uncertainty about regulations and correct procedures, different agendas of governments and regulatory bodies, and a lack of a consistent and clear approach to reviewing land use applications as barriers to further development.

Intermediate Outcome 3: Social acceptance of resource development

There is little or no information available from the documents or data about social acceptance of resource developments. However, all interview respondents agreed that resource developments are aligned with the priorities of most Aboriginal peoples and other Northerners in settled land claim areas. It is more difficult to be confident about the degree of alignment in unsettled land claim areas in the Northwest Territories, where discussions and negotiations about developments are more complicated and where there is more uncertainty in communities about the benefits of oil and gas developments. For example, based on interviews conducted for the oil and gas project case study, communities in the Cameron Hills area were not satisfied with their level of involvement in this oil and gas development.

AANDC Northwest Territories Regional Office emphasized that it takes time and work to establish relationships with people in communities who are less familiar with resource development and to build trust so that the costs, benefits and impacts of oil and gas development can be discussed openly and objectively. Industry representatives believe that the oil and gas developments are consistent with the needs and priorities of Northerners and that the economic opportunities from oil and gas development are greater than ever. AANDC Nunavut Regional

Office officials and Government of Nunavut officials pointed to similar circumstances in that territory, where community relationships and information-sharing are key to community acceptance of development. Industry appreciates support from AANDC personnel to help inform and educate Northerners about oil and gas development.

Intermediate Outcome 4: Environmental knowledge for resource development

There is a broad consensus that environmental knowledge is essential to sound resource development decisions. The Department has developed and implemented the Petroleum and Environmental Management Tool as a means to collect, integrate and disseminate environmental knowledge for a wide range of proponents, users and stakeholders. The Petroleum and Environmental Management Tool has not been in place long enough for its effectiveness to be documented.

Based on the results of a recent public hearing workshop in Norman Wells, some community representatives believe that more needs to be done to incorporate Traditional Knowledge into development decisions.

Stakeholders have varying views about the use of environmental knowledge in decision making about oil and gas developments. Industry representatives tend to think that environmental science is strong but that the science often is applied inappropriately in the regulatory process, which can focus on minor details at the expense of the big picture. AANDC officials agreed that there is good environmental science but think that there have been problems using the knowledge because of the accessibility of data sources. CIMP was recognized as a program that will help address this problem. Government of Northwest Territories officials consulted for this evaluation had different opinions about the use of environmental science. There was both agreement and disagreement that environmental science is used appropriately in resource development decisions.

5. Evaluation Findings – Performance (Efficiency and Economy)

The evaluation found that the programs experienced no unexpected major costs and were generally able to meet targets within budget, except where new demands required an adjustment to budgets. Budget constraints affected programs’ ability to respond to demands as efficiently as they would like, but this did not affect expenditures. The main budget issue is that while budgets in most areas remain at levels that reportedly reflect activity levels of 10 years ago, demand for services has increased significantly and is expected to increase further as resource development takes place and regulatory processes need to respond.

5.1 Regulatory Improvement

As noted earlier, the Regulatory Improvement, CIMP and NGMP programs are at an early stage in development, and the evaluation focused on relevance and early implementation issues. Rather than have a separate section in the report for “early implementation”, the findings for these programs are presented in this performance section. It is noted that expectations for program outcomes are very limited at this point. The evaluation presented an opportunity to examine progress to date.

Output 1: New/amended legislation, ready to be tabled, that addresses stakeholder concerns about northern regulatory regimes

A document entitled *Key Legislative and Regulatory Developments to Improve the Process in Northern Project Development (May 2011)* is the most recently available reference to the status of the new and amended legislation being prepared. The document shows the following:

Legislation	Status	Explanatory notes
The <i>Nunavut Planning and Project Assessment Act</i>	First introduced in the House of Commons in May 2010. Legislation is ready to be reintroduced	Will provide a legislative framework for land use planning and environmental assessment in Nunavut
The <i>Northwest Territories Surface Rights Board Act</i>	Expect legislation ready to introduce for April 2012.	Will provide a single process for dispute resolution between land owners (surface rights holders) and mineral rights holders (sub-surface rights holders) who have not been able to reach a negotiated access agreement
The <i>Mackenzie Valley Resource Management Act</i>	Expect legislation ready to introduce for June 2012.	To clarify terms, enact timelines, establish thresholds, eliminate duplication, and may include board restructuring
The <i>Northwest Territories Waters Act</i>	Expect legislation ready to introduce for March 2013.	Will define jurisdiction of the board, and make its structure and appointment process consistent with the <i>Mackenzie Valley Resource Management Act</i>
The <i>Yukon Surface Rights Board Act</i>	Expect legislation ready to introduce for April 2012.	Will provide for indemnification and immunity for board members and employees
New regulations and regulatory amendments	Spring and summer 2012	Will fill gaps to increase certainty and predictability

The available documents demonstrate a consistent effort predating the Action Plan and continuing since 2010 to improve the regulatory process in the North in a consultative fashion. Documents show evidence of ongoing communications, the planning of formal consultations, and a clearly stated intention on the part of AANDC to include stakeholders in the consideration of improvement issues and the identification of solutions that balance the range of needs and concerns. There is also clear evidence of new and amended legislation being developed and drafted (and in one case, introduced in the House of Commons) in relation to regulatory improvement.

It is too early in the process to assess results of regulatory reform in the North against stakeholder concerns since most reform began in 2010 or later and is still at the consultation stage. The Department has in hand ample documentation of stakeholder concerns across the full range of issues being examined, but it is not possible at this stage to assess the extent to which consultations will lead to proposed changes that satisfy stakeholder concerns. For AANDC officials, the overall view is that the Department has had success so far in finding agreement on regulatory reform in some areas, and that amendments to the *Mackenzie Valley Resource Management Act* and several other areas of regulatory change are still at the consultation stage. Stakeholders in the Northwest Territories generally reserved judgement about the directions being taken because areas of greatest concern to them, reflected in the *Mackenzie Valley Resource Management Act*, have not been finalized, but aside from industry, they had serious concerns about the *Mackenzie Valley Resource Management Act* consultative process and the extent to which their expressed views will ultimately be taken into account. There was a strongly expressed concern that the federal government has already decided on certain changes to the regulatory regime in the Northwest Territories and that there will not be a genuine collaborative process to craft regulatory change. In Nunavut, the experience to date has been positive by all accounts, with the *Nunavut Planning and Project Assessment Act* process viewed as a successful confluence of interests.

Output 2: Regulatory and policy/program changes developed that address Office of the Auditor General of Canada 2005 and 2010 recommendations

The Auditor General of Canada has produced two recent reports with chapters pertaining to northern development and regulation. The first, written in 2005, was on (then) Indian and Northern Affairs Canada's (INAC) role in the development of non-renewable resources in the Northwest Territories. The purpose of the audit was to examine how well INAC had managed its responsibilities in the application and licensing process.

The report concluded that INAC had not adequately managed its responsibilities. In particular, it said, INAC has not provided adequate direction to the public boards to ensure their effective operation, including standards for water quality and guidance on key terms in the legislation; the Department has not ensured that the boards have suitable management structures and capacity to carry out their responsibilities; and, the Department has not obliged the boards to be more accountable for managing their responsibilities aside from financial reporting.

Relevant 2005 recommendations

- Indian and Northern Affairs Canada, in consultation with the boards under the *Mackenzie Valley Resource Management Act*, should develop guidelines for clarifying key terms in the legislation.
- Indian and Northern Affairs Canada, in consultation with the boards under the *Mackenzie Valley Resource Management Act*, should develop standards for water and the Minister should direct the boards to use the standards.
- Indian and Northern Affairs Canada should work with the boards under the *Mackenzie Valley Resource Management Act* to identify best practices and to assess training needs and provide for them, where appropriate.
- Indian and Northern Affairs Canada should work with the boards under the *Mackenzie Valley Resource Management Act* and other boards in the Northwest Territories to develop a permanent process for sharing best practices and solutions to the challenges they face.
- Indian and Northern Affairs Canada, in consultation with the boards under the *Mackenzie Valley Resource Management Act*, the Aboriginal communities in the Northwest Territories, and other stakeholders, should clarify the roles and responsibilities of the boards.
- Indian and Northern Affairs Canada should establish an ongoing process of consultation between the heads of the boards under the *Mackenzie Valley Resource Management Act* and the senior officials of the Department.

The second Auditor General of Canada report, produced in 2010, related to sustaining development in the Northwest Territories focused on how INAC, Environment Canada and Human Resources and Skills Development Canada have supported measures for sustainable and balanced development in the Northwest Territories. The report makes observations and recommendations in a number of areas, including governance and control of land and resources, the environmental regulatory system, and skills training and economic development. In its conclusions, the audit found that while INAC has made constructive efforts to complete land claim and self-government agreements and to clarify the land, resource and governance rights of claimant groups in the Northwest Territories in that process, delays in funding from the Department may be impeding the effective participation of Aboriginal groups in negotiating self-government agreements. It also concluded that while co-management boards are in place and INAC has supported land use planning in areas under land claim agreements, there is not an adequate regulatory system in areas without an agreement, that communities may not be adequately represented in the land and resource management process and that development decisions may be taking longer than in the settled areas. Throughout the Northwest Territories, INAC was found to have not met its responsibilities to monitor cumulative impacts, and Environment Canada was found not to have supported INAC in this process. As well, INAC was found to lack sufficient available information on compliance with land use permits.⁵

⁵ AANDC officials in the NWT Regional Office say that the information is available but would require several months of manually file review and compilation of the information.

Relevant 2010 recommendations

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

Issues raised in the 2005 and 2010 Office of the Auditor General reports that are relevant to the Action Plan are the subject of ongoing consultation between AANDC and other stakeholders in the North, including the boards established under the *Mackenzie Valley Resource Management Act*. Documents show that amendments to the *Mackenzie Valley Resource Management Act* to address some of the issues are a particular focus of the Department's work at present, but it is too early to know the extent to which the resulting legislative and policy changes will satisfy the Office of the Auditor General recommendations. Interviews indicate that some Office of the Auditor General recommendations related to regulatory improvement have been responded to in a clear and direct fashion, that others related to the *Mackenzie Valley Resource Management Act* are still in the process of being addressed, and that two of the recommendations have not been addressed fully. One is the need to be more systematic in monitoring compliance with license and permit terms and conditions and reporting back to the land and water boards on compliance rates.⁶ This issue is of concern to many stakeholders in the Northwest Territories. Government of Northwest Territories and First Nations respondents are critical of the absence of provisions under the *Mackenzie Valley Resource Management Act* to ensure that Environmental Assessment measures have been properly implemented.

The second one is the need for water quality standards to guide water license mitigation strategies. Regulatory change has yet to be developed but there have been advances in policy. Land and water boards in the Northwest Territories have recently released a Water and Effluent Quality Policy that AANDC contributed to, and AANDC in the Northwest Territories has developed a new classification system and are hoping to have developed a method for determining water quality objectives in the 2012-2013 fiscal year.

The Department is also apparently addressing Office of the Auditor General recommendations pertaining to board operations and practices, including training, through its work with the boards and others on the Northwest Territories Board Forum. While the boards have a working group

⁶ AANDC officials told evaluators that the recommendation on monitoring compliance and reporting back to the boards on compliance rates has been addressed. The Northwest Territories region has developed a Field Operations Directive that defines compliance and sets out the procedure for reporting to the boards. It is in its first year of implementation so no report has been made to the boards as yet – this will be done for the first time in April 2012.

that has made strides in producing clearer guidelines on water and effluent standards, it is unclear from the documents what role AANDC may have played.

Output 3: Successful agreement on terms for restructured land and water regulatory regime

Restructuring of the land and water board regime in the Northwest Territories is the subject of current deliberation and consultation. The degree of agreement that will emerge on this matter is unknown, although documents suggest a potential divergence with industry preferring a streamlined structure, and the boards, the Government of Northwest Territories and the Gwich'in Tribal Council preferring improvements to the system while maintaining the existing structure. AANDC appears to be encouraging consideration of restructuring.

5.2 CIMP and NGMP

Output 1: Creation and staffing of operational structures

Both the CIMP and the NGMP have established central operating structures, comprised of steering committees and secretariats. Steering committees have fully-developed Terms of Reference, although the documents indicate that the CIMP committee (called the Working Group) Terms of Reference were not yet finalized at the time of the most recent report. The secretariats for both initiatives are housed at AANDC and managed by AANDC officials.

Staffing of the secretariats has apparently been a major focus for both initiatives but with no clear deadlines articulated in the available documents. Progress on staffing has been slower than hoped for, with the challenges of establishing job classifications and job descriptions, attracting and maintaining staff in small northern communities, and the slow pace of federal staffing processes. NGMP staffing is reportedly underway but there was no indication at the time of the evaluation of progress in filling the positions, which have been created and approved.

Output 2: Establishment of adaptive information management procedures

Output 3: Development of framework documents to guide operations

Both CIMP and NGMP have information management frameworks under development that are intended to collect data from contributors using mutually compatible formats, manage and organize that data and make it accessible to decision makers and other stakeholders. There is now a test portal for CIMP that is publicly available. The frameworks also appear to have an adaptive aspect in that they are intended to build knowledge in priority areas over time, and transfer that knowledge in aid of up-to-date decision making. Both initiatives are in the process of identifying core “valued components” that provide a substantive framework for the data collection and organization. Both initiatives also have begun development of information management systems, with assistance from AANDC Headquarters, and website portals to support their management frameworks. In addition, both initiatives have a communications plan in place.

While the CIMP and NGMP anticipate challenges in managing expectations and engaging partners to be actively involved in the initiatives in a planned way, the structures are in place to move forward as planned. There remains a process of consultations with partners and other stakeholders to establish some of the parameters for an adaptive information management structure and processes.

6. Evaluation Findings – ‘Other Issues’

The Evaluation of the Northern Regulation, Resources and Environmental Management Programs of the NAO at AANDC has pointed to a number of important issues that the federal government, and AANDC in particular, may wish to address. The following observations point to potential actions that fall outside the responsibility of NAO, but that could have an impact on the ability of the Department to achieve its northern objectives.

6.1 Observations

The evaluation has observed that:

- the large majority of delays and other problems in the regulatory processes in the Northwest Territories arise when project applications are in regions not covered by a comprehensive land claim agreement, and that the most effective solutions may lie either through an expedited land claim negotiation process or through other measures designed to foster a more collaborative path to sustainable development in those regions;
- the pace of regulatory improvement is dependent in part on internal resources targeted to the development, drafting and introduction of new and amended legislation, and that anticipated economic benefits from regulatory improvement may be delayed to the degree that resources targeted to improvement are constrained;
- measures are needed to streamline the assignment of security deposits in the Northwest Territories and especially in Nunavut, to ensure that fair and sufficient amounts are arrived at. This could include legislative change to update maximum deposits, clarification of land and water components of securities, and consultations leading to jointly set deposit amounts for projects where there is shared authority;
- there is apparent increasing environmental risk in the North as the number of resource-related projects expands while resources devoted to environmental assessment, inspections and enforcement of mitigation strategies remain at levels reflective of earlier levels of demand. Sufficient numbers of inspections and procedures in place to communicate and integrate inspection results, including compliance information, are required such that regulators have the information they need to manage an effective and adaptive strategy for mitigating environmental risk;
- there is a need for an expedited process with territorial governments and Aboriginal partners to develop standards and establish responsibilities for enforcement of so-called “orphan” mitigation measures, including air quality, some aspects of wildlife monitoring and socio-economic well-being; in order to give meaning to their inclusion as areas for regulatory co-management in comprehensive land claim agreements;

- the Department's mining and oil and gas programs are viewed by industry as valuable contributors to fostering resource development in the North. Given the major potential economic benefits of further development, there are worthwhile opportunities for expansion of the work these programs undertake, both in geoscience and in working to strengthen mutual understanding and working relationships between industry and local communities; and
- in the North generally, and especially in Nunavut, there is an apparent need for the Department and other federal partners to identify communications and transportation infrastructure requirements that will attract private investment, and take whatever measures are feasible to upgrade technology to standards expected by major investors.

7. Conclusions and Recommendations

7.1 Conclusions

Relevance

The evaluation has found that the NAO programs examined in this evaluation are fully relevant to today's circumstances. They are closely aligned with federal government priorities in the North and with AANDC's strategic objectives and priorities. The programs are also in keeping with current federal roles and responsibilities in the North as reflected by land and water management and regulatory legislation, land claim agreements and the Department's northern mandate, although this may change in the future as devolution agreements are reached with the Government of the Northwest Territories and the Government of Nunavut. While there are areas in which both levels of government and Aboriginal governing bodies work collaboratively in undertaking common activities, there are no apparent situations where overlap or duplication of roles suggest that the federal government should not be operating there. Finally, it is apparent that the programs respond to a clear, well-defined and growing need in the North for the support of resource development, an improved regulatory environment, effective land and water management, and environmental management.

Performance

Effectiveness

Activities in the program areas covered by the evaluation are consistent with expected outcomes. In one area, Environmental Assessment, there is some confusion among stakeholders with the Department's role because there is no formal environmental protection mandate. The Environmental Assessment program plays a coordinating role in bringing together interventions by the Department to environmental assessments and full impact reviews, and contributing technical advice in a range of areas, including ones for which the Department has no regulatory authority. This is highly valued work, but in the context of anticipated devolution, the issue of "orphan" measures that were raised earlier and the Department's active encouragement of resource development, there is a lack of clarity for stakeholders about whether the Department has an environmental protection role.

The mining and oil and gas programs are highly effective in collecting, compiling and disseminating geoscience data but there are further gains to be made, especially in building relationships on the ground at exploration and development sites and in nearby communities that are not possible with existing resources. Resources for inspections of sites from a leasing and land and water management perspective, and in terms of post-project reclamation, are inadequate to monitor compliance with environmental mitigation strategies and do not allow for an adaptive environmental management approach for regulators. Coupled with limited resources for the environmental assessment function, the lack of inspections appears to pose a risk of environmental impacts and a responsibility for clean-up.

In Nunavut, while the Government and industry are actively encouraging resource development, the territory does not appear to have the appropriate capacity to cope with large-scale development and would have trouble handling rapid growth in exploration and development at this point. Public regulatory boards are reportedly short-staffed, and AANDC regional staff members also find themselves barely keeping up with existing demands with resources substantially below what is available in the Northwest Territories, despite considerable exploration activity. Technologically, Nunavut is viewed by observers as being less technologically advanced when compared to many jurisdictions competing for investment from the resource sector. Communications and transportation technology are both insufficient to satisfy the expectations of large mining and oil and gas companies, and this could discourage investment.

Efficiency and Economy

Regulatory Improvement

The Regulatory Improvement Initiative began in 2010, and is still developing new and amended legislation to help improve the regulatory environments in the North. It is premature to assess the quality of the legislation being developed or the results in terms of regulatory improvement. However, the evaluation has found evidence of success in reaching agreement on legislative change that addresses stakeholder and federal government concerns, particularly in Nunavut. Most regulatory change in the Northwest Territories is still at the consultation stage, in particular amendments to the *Mackenzie Valley Resource Management Act*, and this process may prove contentious as industry, government and community priorities appear to differ in how to streamline regulatory processes. In particular, there is a perception among the large majority of external stakeholder organizations that AANDC supports an industry push to establish a single land and water board for the Northwest Territories in contrast to the existing network of regional boards, and most stakeholders, including the Government of Northwest Territories, prefer to see streamlining within the existing structure that they believe is truer to the principles established in land claim agreements. Areas in the Northwest Territories without a comprehensive land claim agreement pose additional challenges as regulatory reform issues often get tied to land claim interests. With the exception of the development of an agreement on water quality standards in the North, the Department has responded to recommendations from the Auditor General on regulatory and land and water management issues in the North, and recent progress has been made in that area.

CIMP and NGMP

Like the Regulatory Improvement Initiative, the Northwest Territories Cumulative Impact Monitoring Program and the Nunavut General Monitoring Plan received funding in 2010 to establish ongoing programs, and since then, have established and strengthened operating structures such as steering committees with partner agencies, terms of reference for those committees, AANDC-based secretariats to work on behalf of the steering committees, communications strategies, and information management frameworks. The evaluation has found that managers and external stakeholders are satisfied with the early progress of these initiatives, and there is wide agreement that environmental impact monitoring will be critical in the North as

mining and oil and gas resources are developed. Challenges lie ahead in managing expectations given the enormity of the task, and in shepherding a common approach to collecting and reporting environmental data so that regulators and other decision makers can eventually work from a common base of information. In addition, partnership development requires further effort, with some stakeholders not yet seeing an active role for themselves in the impact monitoring initiative.

Land and Water Management

The evaluation found that LWM is an active and effective contributor to regulatory processes in the North, providing expertise that is highly valued. LWM is found to meet deadlines for technical contributions to license and permit applications, and processes lease applications in a timely fashion. The evaluation also found that there are serious concerns in the North about the Department's ability to adequately inspect lease, land permit and water license sites to ensure that terms and conditions are being complied with. A "risk management" approach is in place in the Northwest Territories and in Nunavut, which essentially means that only the sites that are deemed to present the highest environmental risk and that can be inspected receive attention. Furthermore, there is no apparent systematic, adaptive process in place to track and report on compliance with mitigation terms and conditions attached to licenses and permits, to enable land and water boards to learn from experience and adapt their strategies accordingly. Evaluators were not able to obtain data to demonstrate the extent to which terms and conditions are being complied with, or to demonstrate the extent of inspections and reporting relative to demand. The lack of available data is problematic in itself, but LWM estimates of inspection coverage are alarmingly low and predicted to get worse as demand is expected to increase due to economic development.

LWM and the public boards attach security deposit requirements to leases, land use permits and water licenses. This is done routinely, and well-accepted formulae are used to determine security deposit amounts. However, the evaluation has found that the process requires updating in several respects. Compared to current reclamation costs, while legislation provides criteria for limits on security amounts, these amounts are very low in some instances. Despite the fact that AANDC holds securities for their own issuances and for those of the public land and water boards, and that the Crown is recognized as holding ultimate responsibility when reclamation costs cannot be recovered, the setting of deposit amounts is often shared between LWM and the public boards, or between LWM and Aboriginal groups that have title over land acquired through land claim agreements. This shared responsibility often leads to confusion as to the costs associated with land reclamation on the one hand, and water reclamation on the other. In the case of Inuit-owned land in Nunavut, deposit amounts can reportedly be duplicative and higher than appropriate. Finally, many sites go uninspected past the window for securities to be retained for reasons described above, so the Crown could be subject to liabilities that the deposits are designed to cover.

The evaluation noted that while LWM has a stated objective to support the capacity of Aboriginal people in resource management activities, this role appears to be taken up by the Board Relations Secretariat in the Northwest Territories, and LWM does not undertake activity in these areas except to hire local Aboriginal people where possible at regional and district

offices. The Board Relations Secretariat has established collaborative processes with the public boards and Aboriginal groups in the territory, and efforts to expand training and orientation for board members has reportedly resulted in significant improvements in board member capacity.

Environmental Assessment

The Environmental Assessment function has a primary responsibility to advise the Minister on land and water application decisions and the appropriateness of associated mitigation strategies where the Department has a regulatory responsibility, and to provide advice and guidance to other regulators on technical environmental matters, especially as an intervener in environmental assessment and environmental impact review processes. The evaluation has found that the Environmental Assessment program has been successful in advising the Minister, such that there are very few disagreements with ministerial decisions that result in judicial reviews. The timeliness of the program's advice does not appear to be a factor in the timeliness of regulatory decision making. Delays that are the subject of considerable concern on the part of industry in the North appear to be caused primarily by what is viewed by industry as inappropriate referrals of applications to full-blown impact reviews, particularly when applications are in areas not under a land claim agreement. Where land claim agreements are in place and communities are represented on regulatory boards, delays rarely occur.

Mitigation measures attached to land use permits and water licenses, based on a significant degree on technical advice commissioned and/or compiled by federal and territorial authorities, including AANDC Environmental Assessment managers and staff, are widely viewed as sound and sufficient to protect against environmental risk if they are complied with. As noted above, however, there is a strong perception on the part of external stakeholders and most AANDC respondents of a growing environmental risk associated with the limited scale of inspections and the lack of an adaptive environmental management mechanism available to regulators. This widely shared concern is exacerbated by the recently reduced ability of the Environmental Assessment program to fulfill its technical advisory role and its role as an intervener in public review processes due to budget availability. In addition, the *ad hoc* and limited nature of funds available for external organizations such as community and environmental groups to participate in the review process may further limit the information upon which regulators base their decisions.

The evaluation also found that there are sometimes "orphan" measures that are routinely left out of mitigation strategies or not enforced because there is no clear regulatory authority responsible to enforce them and no clear standards to apply. These may include air quality, wildlife management and socio-economic well-being. These areas are covered in the land claim agreements, and the public boards established by the agreements have a mandate to set terms and conditions to meet risks of impacts in those areas but, to date, regulatory authority and/or implementation accountability are lacking or unclear. In some cases, mitigation measures have been identified in Environmental Assessment reports that are out of the scope of the Environmental Assessment process. It is apparent that action is required among the parties to the Environmental Assessment and regulatory processes to address the issue of orphan and out-of-scope mitigation measures recommended by boards. Agreement also needs to be reached between levels of government, and with the parties to the land claim agreements, to establish

jurisdictions, standards and enforcement mechanisms in these areas; to date, there has been no apparent action to address this gap.

In Yukon, the functions assigned to most of the NAO programs being evaluated have been devolved to the Yukon Territorial Government. There remains an Environmental Assessment unit at the Yukon Regional Office to fulfill responsibilities associated with the environmental review legislation in the territory where Canada is the project funder. Under the *Yukon Environmental and Socio-economic Assessment Act*, an environmental impact review board was established (the Yukon Environmental and Socio-economic Assessment Board) similar to review boards in the other territories. AANDC is responsible to ensure that the Board functions as intended under the Act and in keeping with the Umbrella Final Agreement and the individual comprehensive land claim agreements that are in place with most First Nations groups in the territory. It has also recently been jointly responsible for a five-year review of the *Yukon Environmental and Socio-economic Assessment Act*. The Department pays the cost of the Yukon Environmental and Socio-economic Assessment Board, the participation of self governing First Nations, three *Indian Act* First Nations, and also the Yukon Government. Currently, it is also funding the five-year review. Finally, the Department plays an environmental assessment role for some projects that take place on First Nations lands.

The evaluation did not examine in detail the Department's effectiveness in fulfilling these responsibilities, but it did find that there is confusion among stakeholders such as the Yukon Territorial Government and the Council of Yukon First Nations as to the Department's role in coordinating federal interventions in environmental impact reviews, and its responsibilities relative to those of the Northern Projects Management Office managed by CanNor. As well, it is apparent that, despite devolution, Yukon First Nations groups feel strongly that AANDC is not fulfilling its responsibility to help protect the environment in the territory and to ensure that Aboriginal people have an opportunity to be full partners in license and permit decisions. AANDC officials point out that the Department does not have regulatory authority in the territory, or authority to determine the nature of participation in regulatory processes.

Resource Development

The Mines and Minerals and Northern Oil and Gas programs at AANDC are designed first and foremost to encourage and support mining and minerals and oil and gas exploration and development in the North. For Mines and Minerals, the Department is responsible for managing a regime that provides secure title to private sector mineral discoveries as well as other activities such as compiling, organizing and disseminating geoscience information to the mining industry. Mineral Rights Administration includes issuing licenses and permits to prospectors and mineral claims in the Northwest Territories and Nunavut. The evaluation has found that the Mines and Minerals program provides industry with a secure and well-defined process for title security in the Northwest Territories and Nunavut that mining companies trust and which results in few disputes.

Similarly, the "Call Cycle" managed by the Northern Oil and Gas program includes a competitive bidding process that provide industry with annual opportunities to obtain exploration rights in the Northwest Territories, Nunavut and offshore. The Call Cycle process, which begins

with land parcel nomination and bid processes that lead to the issuance of exploration licences and subsequently, to significant discovery and production licences, is considered fair and efficient by industry.

The royalty regimes in the North for producing mines and for oil and gas production are also found to be well managed and fair to industry and to Canadians in terms of royalty rates, and to be meeting land claim-based royalty arrangements. Mining royalty income has increased over the five-year evaluation period with the increase in diamond mine production.

The evaluation has found that the Department's contribution to increasing geoscience knowledge in the North, along with that of its territorial government and Aboriginal group partners in the Northwest Territories and Nunavut, is substantial and highly valued, and encourages investment in mining and oil and gas. It is apparent, however, that there is room for additional work in this area that would likely bring economic benefits to the North through increased resource development, which are not possible with existing resources. The Department has undertaken and been a participant in numerous research projects to produce a body of evidence on environmental and socio-economic interests to inform oil and gas resource development. The program has been commended for its role in initiatives such as the Beaufort Regional Environmental Assessment process.

The evaluation has found that despite the valued efforts of the program, there have been no overall increases in the amount of mineral exploration or in mining development over the five-year period of the evaluation. The numbers of prospecting permits issued, claims recorded and leases issued, and the land area covered by these permits, claims and leases, either declined or remained stable over the period. This recent lack of growth is attributed primarily to regulatory uncertainty and challenges in working with Aboriginal groups in areas not covered by a land claim agreement. Broad economic factors associated with the 2008-09 economic downturn and ensuing recession and decline in commodity prices also contributed significantly to the overall lack of growth over the five-year evaluation period. Estimates of known mineral reserves in the North have reportedly increased over the five-year period, but figures were not available for the evaluation.

In the Northwest Territories, industry spending commitments for oil and gas exploration have risen dramatically in the last two years and especially in 2011 after a major low during the 2008-09 economic downturn. In terms of Calls for Bids and hectares licensed for oil and gas exploration activity, figures have returned to previous levels and then exceeded them this past year: 2011 is a peak year for oil and gas commitments in the Northwest Territories with 13 land parcels in the Calls for Bids and 13 Exploration Licences issued. Although increased exploration and development in Nunavut is widely viewed as inevitable, to date, Nunavut has not experienced similar success.

Despite only modest success in mining expansion in the evaluation period and gains in oil and gas exploration only recently, resource industries in the North have clearly brought increased employment and income for Aboriginal people and other Northerners, and raised household incomes significantly in communities close to mining developments. Training and business opportunities through the operating mines and from oil and gas activities have brought gains to

Aboriginal people in the types and status of jobs held, and have fostered success of some Aboriginal-owned companies set up to service resource industry needs. Northern educational institutions have oriented their training programs to meet mining and oil and gas industry-driven needs with some success. Impact and benefit agreements also appear to be bringing both economic and social infrastructure benefits to nearby communities.

The evaluation has also found that there is a wide disparity in views on the regulatory environment in the North as it pertains to resource development. Industry finds the process far too slow and unpredictable and finds this to be a disincentive for investment. Aboriginal groups, territorial governments and public boards are positive about resource development and open to some streamlining and clearer definitions in the legislation, but remain committed to existing structures and review processes. Industry suggests that AANDC could be doing more to inform the public about the benefits of resource development and dispel fears of environmental impacts, and believes that the multiple roles of AANDC in economic development, environmental management and Aboriginal affairs militate against such efforts.

Program design – The evaluation has found that there are inherent challenges in the Department’s roles in the North as a regulator and intervener in regulatory processes, as a proponent of resource development and as an environmental manager. There is a perception within the Department and externally that, at times, these multiple roles prevent the Department from fully undertaking the individual roles, so that, for example, it may not be able to support resource development as fully as it should, and it may not be able to be effective in its role as a key environmental manager in the North.

Program governance and implementation - The evaluation has found that the programs by and large deliver effective service with well-managed teams of dedicated, hard-working staffs. They appear to have clear guidelines for their work given the complexities of the environments they work in, partnerships with appropriate federal and other government departments and agencies, and regular venues for information sharing and sound program management. The programs participate in departmental planning and priority setting processes, and several managers pointed out that this process can be top-heavy and lead to priorities that are not attainable in the established time-frames, so items tend to remain in work plans longer than desirable. However, there is no apparent disjuncture between program plans and priorities and the Department’s high level plans and priorities.

7.2 Recommendations

It is recommended that NAO (AANDC):

- takes measures to streamline the assignment of security deposits to ensure that fair and sufficient amounts are arrived at, such as legislative change to update maximum deposits, clarification of land and water components of securities, and consultations leading to jointly set deposit amounts for projects on Aboriginal-owned land;

- continues its commitment to supporting regulatory processes in the North to ensure that environmental risks continue to be identified, adequate inspections of project sites are conducted and procedures are in place to communicate inspection results, including compliance information, such that regulators have the information they need to manage an effective and adaptive strategy for mitigating environmental risk;
- takes steps to ensure that its managers and future evaluations have access to sufficient information to assess the adequacy of site inspections and compliance with the terms of leases, land use permits and water licenses; and
- should work with other parties to address the issue of "orphan" and "out of scope" mitigation measures recommended by boards.