EVIDENCE
Whitehorse, Yukon
Wednesday, February 4, 2004 — 10:00 a.m.

Mr. Hardy: I will now call this hearing to order.

The Committee would like to thank the witness for appearing before us and for submitting the written submission to our request. Today, I'd like to welcome the following witness: Mr. Morrison, who is the Chair of the Yukon Development Corporation and the Yukon Energy Corporation. I'll introduce the members of the Committee and its advisors. The Committee members are: me, Todd Hardy — I'm the Chair; Patrick Rouble is the Vice Chair; Mr. Peter Jenkins, Ms. Pat Duncan, Mr. Eric Fairclough and Mr. Dean Hassard are the other Committee members.

The advisors from the Auditor General of Canada are Ron Thompson, Roger Simpson and Eric Hellsten.

The Clerk to the Public Accounts Committee is Floyd McCormick.

The Public Accounts Committee is established by order of the Legislative Assembly. We are a non-partisan committee with a mandate to ensure economy, efficiency and effectiveness in public spending — in other words, accountability for the use of public funds.

Our task is not to challenge government policy but to examine its implementation. The results of our deliberations will be reported back to the Legislative Assembly.

The Public Accounts Committee was formed in 1980 and reported annually to the Legislative Assembly until 1991. However, this committee has been inactive, with one exception, for the past 10 years.

This current committee intends to hold hearings and conduct investigations into the operations of government departments and entities in pursuit of improving accountability.

Because of the Committee's inactivity, there has not been much corporate knowledge and experience in how the Committee operates, so I'm going to lay down a few ground rules on how this Committee will operate.

The Committee sent out three questions to selected government entities regarding that entity's mandate and how that mandate is being fulfilled. The entities have already responded in writing. The questions and responses form the basis of these hearings that will take place over the next couple of days. We've already had one day of sitting.

Mr. Morrison will be invited to make a brief opening statement, and then members will ask questions. I ask that questions and answers be kept brief and to the point so we may deal with as many issues as possible in the two hours allocated for this hearing.

At the end of the hearings, the Committee will prepare a report of its proceedings and any recommendations that it makes. This will be tabled in the Legislative Assembly, along with a verbatim text of the hearings. It's our intention to hold regular meetings in the future that will deal with both new issues and follow up on previous hearings.

We will now proceed to the opening statement. Mr. Morrison?

Mr. Morrison: Thank you, Mr. Chair. Thank you for the opportunity to appear and discuss the operations of the Development Corporation for you this morning. I don't have any prepared remarks, other than we've already answered your questions that you provided us. I would be happy to answer any other questions that members of the Committee will have.

Mr. Hardy: Thank you, Mr. Morrison. I will start the questions today. I will start in the area of governance.

Mr. Morrison, could you explain what your titles, duties and responsibilities with respect to the Yukon Development Corporation, the Yukon Energy Corporation and Energy Solutions Centre are?

Mr. Morrison: Yes. I am presently the chair and CEO of all three of those organizations. I am responsible for the board and, as chair of the board, I am responsible to the Minister of Energy, Mines and Resources for the operations of each of those companies, reporting through the Development Corporation.

Mr. Hardy: Who is your employer? You are a chair; you are a CEO; so who is actually paying for — I believe you are under a contract.

Mr. Morrison: I'm an order-in-council appointment with the Yukon Development Corporation.

Mr. Hardy: My understanding is that when you were initially hired, there was a contract signed.

Mr. Morrison: No, sir. There was an order-in-council appointment that was tabled in this House. That's it.

Mr. Hardy: So there is no set time that you will be employed?

Mr. Morrison: The order-in-council appointment is effective for one year. It ends at the end of May this year.

Mr. Hardy: And there has been no change to that at all?

Mr. Morrison: There have been no changes, sir.

Mr. Hardy: In a Yukon government news release announcing your appointment, the minister responsible for the Yukon Development Corporation and Yukon Energy Corporation said, "Along with regular duties of the chair, Mr. Morrison has been provided an additional mandate to develop and implement a revised corporate government structure to improve accountability of Yukon Development Corporation and Yukon Energy Corporation." Could you give us a progress report on this task and what has been developed so far?

Mr. Morrison: I'll do my best. I feel quite strongly that government-owned corporations should have a very clear and well-developed system of governance and accountability. That was part of the mandate I was given, and I've been quite enthusiastic in terms of trying to build a new government system. What I can tell you at the moment is that I have a paper going to Cabinet in the very near future that outlines what the parameters — the framework — for a new governance system are. Once it has been through the Cabinet process, I'm sure that the minister — or if he so instructs, I — can discuss that, but at the moment it's going to Cabinet. But I am providing the recommendations to Cabinet that I was required to do and on the schedule that I was required to do it, which was this spring.

Mr. Hardy: So you anticipate that the recommendations that you have now brought forward — you have already submitted those recommendations of change?

Mr. Morrison: They are just going to Cabinet. They're in the Cabinet process.

Mr. Hardy: And you anticipate that, before the end of your term, you'll be able to implement the recommendations that you have submitted?

Mr. Morrison: I don't want to pick on your words, Mr. Chair, but before the end of my term, the recommendations will have been provided.

The recommended structure, whether it can be implemented by then or not, may take a little more time than that, but that's not particularly under my control at the moment. But it will all be there before my term ends, yes.

Mr. Hardy: The second part of my question, which you really haven't addressed, is: what has been developed so far? Can you give us an idea of what direction you are going in, what models you may have looked at as ones that could or should be implemented here?

Mr. Morrison: Well, please be assured, I'm not trying to wiggle around —

Mr. Hardy: Pardon me, I'm sorry. I didn't hear that.

Mr. Morrison: I'm not trying to wiggle around the issue of what we have done so far, but I have made recommendations to Cabinet. I don't think it's up to me to tell you what those recommendations are at the moment.

But let me talk about governance and some of the models that we have looked at. British Columbia, on a Crown basis, has a particularly well-thought-out and well-implemented model of Crown corporation governance. They have a very thorough system, in terms of — governance is not just the responsibility of the Crown. Governance is a process, and as a process it has responsibilities at all the different levels.

So what you see when you look at British Columbia — Manitoba has another particularly good system. And the B.C. and Manitoba systems are quite similar in many, many ways. They both provide a whole series of checks and balances, a series of accountabilities. They both provide requirements on the government. What I look at in the system as it is now — it is a broken system. It's not a system that has a complete process.

What I mean by that is — let me just give you the example: the corporations provide annual reports to government. I don't mean just to this government; I mean to government in general over the years, but there is no process and system. There is no systematic process for review of those annual reports or this information. There is no system for analyzing and dealing with corporate plans. There is no directives system where the corporations — I am only speaking about Yukon Development Corporation when I say "corporations", so don't take it to mean that I am talking about Crowns in general, because I don't know about the other Crowns here. But for the corporations, there is no ability for the Crowns to understand whether a mandate has changed. There is no direction coming from government. I don't see that that has been a consistent theme.

I am not being critical of government. I just don't think there is a process there. I think that's part of what I'm talking about that is missing.

Let me give you an example. In the B.C. system and in the Manitoba system, they both have what I will term as a Crown agency — either secretariats or councils. They have an agency that is responsible for providing oversight analysis and review to ministers responsible for Crown corporations so that annual reports go somewhere and can be reviewed and analyzed from both the financial side of the picture — so somebody is looking at the books. Are we spending the money in the direction that we want to see things being spent? The auditors examine the accounts to make sure that they are being properly done. So, they all have that check. But then they can advise the ministers on the activities of the Crowns and the ministers, as part of the government and the Cabinet, can look at the overall direction of government. What are the Crowns doing? Are they doing things inconsistently?

B.C. Crowns are provided with something called a shareholders' letter of expectation on an annual basis. That is a very similar process that happens in Manitoba.

So in other words, the Crown gets some direction from the government, based on what government's policy is, what its programs are, what its mandates are and in B.C. that information — so we've got a flow. You've got the flow from the Crown up through its board, up to the minister who has the offshoot of the Crown agency secretariat to help it analyze, and then the information from the minister, which is corporate plans and annual reports, flows to a standing committee on Crown corporations, and that Crown corporation standing committee then calls Crowns before them on a regular basis — and I'm saying "regular" versus — I don't know whether it's once a year or twice a year — and asks questions, discusses annual reports and corporate plans. So you've got a full flow of information and a full flow of accountabilities.

One of the things that seems missing here is there's a break. There aren't corporate plans provided on a regular basis. I think that has been sometimes and sometimes not. There isn't a regular appearance and accountability of the Crown before a committee of the Legislative Assembly. Again, it has been on a voluntary or on an ad hoc basis, and I don't think that those are very good situations. I think you need a proper governance framework that encompasses those sets of checks and balances. Rather than being specific, I think I'm trying to give you the picture that I see that there's a real opportunity to make some improvements to this system, and I don't see the system being just the corporation to the minister. I see the system as being the corporation, the board, the minister in Cabinet and the Legislative Assembly, being the public.

One of the things that we did this year that I will definitely be recommending is that the corporation, which is a public corporation, has a public meeting on an annual basis.

Now, we did that this year. We maybe didn't do as good a job as we could have and maybe we didn't give people as much notice as we could have, but the basis of that would be that, once we have our annual report in hand, we should be out in the public, providing copies in advance and saying to them, "Do you want to ask questions? Is there information we're not providing? Do you have concerns and issues?" Now, that's an additional piece of a governance framework that I think is particularly important on a Crown basis.

If we can find other ways to do it, we're regulated by the Yukon Utilities Board and, deservedly so, we're criticized for the fact that we haven't been before that board in a lot of years. The biggest regulatory benefit of being in front of the Yukon Utilities Board is that it gives the public and our ratepayers an opportunity to discuss what our rate structures are and how we're spending our money. Not being there is certainly a difficulty in the system, and we have to find a way to cope with that as well in this process.

Does that help?

Mr. Hardy: It helps a lot, Mr. Morrison, and thank you for being candid and being expressive about it. I don't think there's anybody on this Committee who would find criticism for any corporation taking the next step in ensuring that the public has some kind of input and the opportunity to attend a public meeting.

That has often been the question and, I believe, in our society, people more and more want to be involved in decisions and directions that are being given out at the corporation/government level.

Mr. Morrison: Just, if you don't mind, I'd like to add a point: one of the things that is also important in this process is to understand what the role of the board of directors is on a governance process. I think that's a role that not all boards understand. I think, based on my experience in the past and based on what I see, that we need to make sure the board has a public presence because it's the board that's accountable to government on behalf of the corporation.

That is a very different role for directors, in many instances, than it has been in the past. So I think when we try to understand those things, I just wanted to make sure that members of the Committee would understand that that's another area that we're looking at. Being on a board of a corporation that has the assets the size of the Yukon Development Corporation/Yukon Energy Corporation, it is an onerous task. It's a big job.

Mr. Hardy: I have a few more questions in this area, and you're kind of touching on them. I'm going to bounce around a little bit with them, because I just want to pick up where you just left off there.

Mr. Morrison: Sure.

Mr. Hardy: It's in regard to liability of directors and board members and stuff like that. What steps has the corporation taken in its advice to its directors in regard to liability?

Mr. Morrison: Well, we have an indemnification bylaw, and we have recently put in place officers and directors insurance. But I think, if I understand your question, I see those as the technical things that you do to protect directors from being sued or being involved in a legal claim and how they would cope with those. But I would say to you that a big part of what I see my job as — and I think as the governance process is — is helping directors understand what their role is and what their fiduciary duties are in regard to these corporations.

The directors are responsible for signing the financial statements. Now, I signed the financial statements this year on behalf of the board as the chair, but it's really the board that is providing those financial statements. I take very seriously that responsibility, and I have spent quite a bit of time with directors trying to help them understand what the ramifications are of the decisions that we make, and particularly the financial responsibilities that we have to ensure that the corporation is managed within proper accountability guidelines.

I think that we are still not doing the amount of training of directors that we need to do. I don't mean training of directors in how to run a meeting. I am talking about serious training of directors. I would say to you that the biggest reason in the past few months — or six months or so — that we haven't done more is because we have been dealing with other issues.

There have also been quite a few changes on the corporate governance side of the ledger in Canada. I am not paying that much attention to the U.S., but there are certainly a lot of things going on in Canada. I would like to see things just settle down a little bit so that we can start providing directors with training that isn't going to be irrelevant in a few months. We have spent some time with directors talking about educational programs and looking at some of the options. But it is a very, very important part of what we have to do as a corporation and as a board, to make sure that directors do understand their responsibilities.

Mr. Hardy: Thank you, Mr. Morrison. That was a long answer.

I just want to remind you that we probably have 60-some questions and we have less than two hours.

Mr. Morrison: You are asking me questions about things that I am really interested in, so, sorry.

Mr. Hardy: That is wonderful. We are very interested on this side. Just keep that in mind so that I don't have to interrupt you and tell you to shorten your answers.

Mr. Morrison: Okay, thanks, Mr. Chair.

Mr. Hardy: How has the *Corporate Governance Act* changed the reporting relationship and/or the organization of the Yukon Development Corporation and could you explain these changes? An example would be the annual negotiation of a protocol with the minister and any consolidation of corporate support services?

Mr. Morrison: Well, Mr. Chair, unfortunately, I don't think the *Corporate Governance Act* has changed any relationships or reporting relationships. I will be more than forthright in telling you that nobody has ever negotiated a set of protocols.

Mr. Hardy: Thank you very much.

Mr. Morrison: Now, just so I make sure I'm not saying something, or that people aren't misunderstanding me here, there was a set of protocols in place three or four or five years ago. Nobody has negotiated a new one.

Mr. Hardy: So it has been quite a few years.

The leadership, governance and accountability are also noted in the annual report. Does the YDC intend to continue with accountability plans even though there is no legislative requirement to do so?

Mr. Morrison: I haven't thought about that, Mr. Chair. I would say to you that I don't know if — we would certainly take a look at that. I would see it being a little different. I would see us providing corporate plans to the YUB and the government as our form of the accountability plan. In other words, "Here's our business plan; here's what we're planning to do," which I think is part of what I was saying before. It's part of the missing piece in the accountability process. We give you an annual report that tells you what we did, but we don't tell you what we're going to do, so there's nothing to really match it against.

Mr. Hardy: Thank you very much. I'm going to pass the questions over to Ms. Duncan now.

Ms. Duncan: Thanks very much, Mr. Chair, and welcome, Mr. Morrison. I appreciate your frank answers this morning and your time in coming before the Public Accounts Committee.

My first questions really focus on the mandate and protocol agreement. You've touched on it. The *Corporate Governance Act* outlines that there should be a protocol negotiated annually between the minister and the board, and you're indicating that has not been done.

Mr. Morrison: I can't see any new ones since the original one, and that tells me there have not been any new negotiations, and I haven't done one.

Ms. Duncan: Okay, well, the act was passed in 2002, so if you haven't done one, it hasn't been done.

The mandate of the Yukon Development Corporation, if you will, is planning and constructing energy infrastructure — your words in the last annual report, "…prospecting for renewable energy resources, implementing practical energy cost-saving solutions for consumers…" — some other points — "…and enhancing corporate governance and strategic planning."

From your answers earlier, my understanding is that over the last year the Yukon Development Corporation has really focused on the corporate governance, rather than the other parts of the mandate. Is that correct?

Mr. Morrison: Well, we certainly have at the board level and we have made, I think, significant progress on the strategic planning side of things as well. We are not where we should be, by any stretch of the imagination, but we spent, with the boards and management of the corporations, and the full management teams, several days this fall, both engaged in a strategic planning process and doing the work prior to that, and then coming up with new business plans.

I'm not happy with the form that the business plans and the corporate plans are in — yet. I'm not happy with the strategic planning process — yet. But it's a step forward. The strategic planning process — setting priorities and establishing those priorities — still needs quite a bit of work because I think part of the problem is that the governance system isn't as complete as it should be, so it's very difficult to provide that priority basis. There's too much unknown. It's too much of a board-based system, or a management-based system.

It needs some work, but we're making some strides. On an operational basis, we are doing quite a bit in terms of renewable energy technologies. I mean, we have wind-monitoring stations in half a dozen — seven or eight communities. We're looking at a whole series of options on geothermal projects in Haines Junction and Watson Lake, one at the Vanier School. We put a heat pump into the fish hatchery last year. So there are several microhydro studies underway. I'm more concerned — I'm probably talking too much again, but I'm more concerned about the fact that we may have too many things going on on too many fronts with not enough focused effort. We may be spread too thin. We may be trying to do too much in those areas.

Let me give you an example. We're looking at a wind project in Destruction Bay, and we're also looking at a microhydro project in Destruction Bay. Well, we can't do both. We may not be able to do either. So are we really putting too many resources into that and maybe not enough into something else? So I'm not sure that we have a good focus on our strategy, and that falls out of the planning process.

Ms. Duncan: It also falls under the question: is the corporation currently able to accomplish its mandate? Is that mandate too large?

Mr. Morrison: Good question. I think it's a very broad mandate, and I'm not sure that I would narrow the mandate, because that may limit you from trying to do one thing or another that might be quite a beneficial project. But we have to find a way to focus the efforts on an annual basis. So what are we spending our money on and how do we set those priorities? And I think we need to do a lot better job of that and spend the available dollars in a more cost-effective or value-for-money method.

Ms. Duncan: The Yukon Development Corporation mandate is set out in pieces of legislation. It also receives its mandate via order-in-council from Cabinet, in part.

Mr. Morrison: Yes, in part.

Ms. Duncan: As far as I know, there is not a legal requirement that the OICs be tabled in this Legislature. They are made public; they are not tabled in the Legislature.

Have there been any orders-in-council passed in 2002, other than your appointment, giving direction to the Yukon Development Corporation?

Mr. Morrison: The only one, in my understanding, is on the clawback of the RSF and I understood that was tabled. We pulled back the summer penalty on the RSF. That was done in the spring by order-in-council.

I didn't understand they weren't tabled. My understanding is that all orders-in-council were tabled in the House at some point. Maybe when the House isn't sitting, if they are issued, I guess they get tabled in the next session. Certainly, it was public. It was in the press.

Ms. Duncan: I would like to move into the rate stabilization fund, which is the RSF that you just referred to.

The rate stabilization fund was infused with $3 million in 2002. The Government of Yukon put an additional $3 million in and the idea was to extend the life of the rate stabilization fund to 2005. $3.39 million was spent on the rate in 2002, and the balance of the fund, according to the 2002 financial statements, was just over $2 million.

Mr. Morrison: That's correct.

Ms. Duncan: What is the current status of the rate stabilization fund, and how long is it intended to last? Is it intended to go to 2005 still?

Mr. Morrison: Right.

Ms. Duncan: The final part of that question is: how does Yukon Development Corporation intend to prepare consumers for the end of this subsidy by government?

Mr. Morrison: I'm not sure I can answer the last part but let me answer the first part. The contribution amount from government is gone. You will see that in the 2003 fiscal year, we, YDC, will have contributed about roughly a little over a million dollars to top that fund up. My read of the order-in-council that infused the fund with more money required that the fund would run to March 31, 2005, and whenever the government-provided funds ran out, YDC would provide the rest of those monies up to a maximum of $7.5 million.

We anticipate that we'll provide about $4.5 million in additional funds over and above the million dollars to get us to 2005. My understanding of that is that we have to provide that money by March 31, 2004. So even though 2004 won't use $4.5 million, it's my understanding that we'll have to take the hit on our financial statement of 2004.

We'll provide all the money; we have the money to provide for this fund. How we're going to prepare customers — I haven't thought about that yet. The conundrum for us is it's not a utility program, it's not a YDC program, it's a government program. And although there are customers — ours and Yukon Electrical's customers — and it would be a significant hit on their electricity bills, I don't know how we would deal with the customers on that issue, and we will certainly be putting our minds to it in this coming year.

I don't have an answer today.

Ms. Duncan: In the financial statements — and I'm going with the 2002 financial statements as 2003's haven't been tabled yet — the long-term debt of YDC is noted at $42,439,000, and it includes an outstanding note with Canada regarding the sale and the transfer of the NCPC assets and the sale of secondary power. Now, this matter is in some dispute, and it has dragged on for a very long time, and you're very familiar with it.

Mr. Morrison: Yes, I am.

Ms. Duncan: Can you advise us of the current status, please.

Mr. Morrison: I have probably about three problems in that regard. I have a problem with my auditors, who are sitting across the room, who have very legitimately raised the issue and we pointed out — If you look in the statements in 2002, you will see that we actually put a note in there indicating that this was a potential problem. It's the treatment of that problem in this coming year that is going to present us with a very difficult issue, because it's about $700,000 or $800,000. It's very significant.

I just came back from a meeting with Indian and Northern Affairs in Ottawa. There has been some disconnect on the issue. We've been paying what we think we should pay under the legislation. The question is that the federal government feels that secondary sales have pushed us over a threshold limit, which means we should be paying them substantially more. I will say this to you: if secondary sales push us over a limit, and there's some legal decision that in fact they are pushing us over that limit, we will review whether or not we're going to sell secondary power. We only gets three cents for it, and we share that with Yukon Electrical. So if we have to pay out more money in loan payments than we're getting in income from selling secondary power, we're really going to have to question whether or not we're doing the ratepayers any favours. We've raised the issue with the federal government. They said, well, they were waiting for us. My staff are saying, "Well, they've never asked us for the money. They've never demanded we pay them."

I understand now they're going to ask us. You know, it's like let sleeping dogs lie, and I went and said, "Well, come on, you guys, we have to sort this thing out." But we have to find a way to resolve the issue. It's a very significant issue for Yukon ratepayers. And we've got to get the federal government to come to the table to do that. My argument is that the secondary sales shouldn't affect — the entire reason that the threshold limits are there is because of the Cypress Anvil mine or the Faro mine at the time. I was at the table. I was on the federal team. I don't recall anybody saying, "Well, what if you sell secondary power? That will bump it up." The Yukon negotiating team negotiated that flexibility into the note for a very real and good purpose. It was, what happens if the mine goes out of service? How do we pay the bills? It was very good that they did it. It would have cost the Yukon ratepayers a lot of money. So we're trying to fix it, but it's a big problem.

Ms. Duncan: And it doesn't sound like it's close to resolution.

Mr. Morrison: I'm afraid not.

Ms. Duncan: The capital assets in the financial statements are listed at $153,602,000. So you have this group of capital assets, and of course you also have debt and your financial statements. You've heard the discussion in this Legislature and outside that the Government of Yukon's assets are $340 million. Where does Yukon Development Corporation fit in that $340 million?

Mr. Morrison: I don't know.

Ms. Duncan: Thank you. The Yukon Development Corporation conforms to the Yukon *Financial Administration Act*, but Yukon Energy and Yukon Energy Solutions Centre do not.

Mr. Morrison: Right.

Ms. Duncan: In other words, then, those two entities don't have to follow the normal process of contracting rules and sole-source contracts and Management Board submissions. They go to the board of Yukon Development Corporation for their approval or —

Mr. Morrison: Or their own boards.

Ms. Duncan: Is part of your governance work bringing those two entities in line with the way the rest of the Government of Yukon-type entities operate?

Mr. Morrison: Well, I think that definitely part of the governance work is to find a way to make the corporations op erate on a consistent basis. The argument is that the corporations are *Business Corporations Act* companies and are therefore subject to operate as a business. I don't have a problem with that.

I think in the governance process, though — I don't agree with the argument that a subsidiary of a Crown is not a Crown. I don't agree. So, you know, I'm not sure how that fits in, but my point here is that I would say that you have to operate the utility as a business. It is a business. It competes and is regulated as a business, the same as any other utility.

My feelings would be that the corporations have to have proper accounting processes and proper purchasing guidelines. Having them different is a bit of a problem. It's not a horrendous problem. There has to be a consistent governance system.

Ms. Duncan: They are, after all, running a business with taxpayers' money and there has to be accountability.

Mr. Morrison: You have my 100-percent agreement that there has to be lots of accountability. It is ratepayers' money, yes.

Ms. Duncan: I will just ask this last question in light of the time. The Yukon government can ask the Yukon Development Corporation to pay dividends to the government. They can do that.

Mr. Morrison: Yes.

Ms. Duncan: Can you explain for the average Yukoner how this happens?

Mr. Morrison: The Yukon government has, in the past, required the corporation to pay a dividend — not very often and not for quite a long time. My understanding is that it can do that because it has those powers under the *Yukon Development Corporation Act*.

In any event, the government can always issue a directive or an order-in-council to require the corporation to do something. It is an agent of the government.

What has happened in the past is the government has required funds or has felt there was a need for monies to do certain things. I can't remember everything, but some of them certainly weren't anything to do with the corporation's current mandate. They required the corporation to pay the money to the government and the corporation did it.

The process would be far better if there was an actual dividend policy that established a proper commercial relationship whereby the corporation would look at its net income and, on some formula basis, pay a dividend to the government — its owner or shareholder.

I'd prefer to have it clear and established up front rather than to be intermittent or hit-and-miss or without any policy framework.

Ms. Duncan: So right now, under the act, what would happen is Cabinet — and it would have to be Cabinet; it wouldn't be the Energy minister going to the board.

Mr. Morrison: No, it would have to be Cabinet and it would have to be an order-in-council.

Ms. Duncan: Right. Okay.

There are a couple of other financial questions; however, in light of the time, my sense is that my colleagues would also like to ask some questions, so perhaps we could submit these in writing afterward if we run out of time, Mr. Chair?

Mr. Hardy: We are going along fairly well. How about we conclude everybody else's questions? There should be time and you could come back to them.

You'll have to do a little switching, that's all, Mr. Morrison.

Mr. Rouble will take over now.

Mr. Rouble: Thank you, Mr. Chair. Good morning, Mr. Morrison, and thank you very much for attending our hearings here today and for your frank answers so far.

I'd just like to make a note that the Public Accounts Committee has pooled our questions and then divvied them up and each one of us is asking questions regarding specific areas. The areas I'm going to look into today are risks and your performance. I'd like to start off in the area of risk.

With the three entities that you have responsibility for, what do you see as the key risks facing those entities?

Mr. Morrison: Well, I think one of the key risks — probably the major key risks — is financial capacity. Why I say financial capacity risk is that we are managing a whole series of programs, some of which are funded, some of which are jointly funded. What I mean by funded is there has been money set aside for them, monies that government provided to the corporations in past years. We're running out of those monies. The RSF is a financial capacity risk we have. We don't have any way to generate money to offset that fund at the moment.

Primarily the biggest risk is what we will be allowed to put into rates on the Mayo-Dawson line — as a financial risk. It's not in rates. Will the Yukon Utilities Board allow it all in or some of it in? That's a big risk.

We have physical risk on the utility side, physical risk of weather impacting the plant usage or damaging equipment and the plant. There are quite a few series. This actually will be the first year we are actually looking, with the auditors, at a risk-based audit. In other words, we've identified the risks and the auditors will examine a series of risks on all the corporations and that will be part of the audit program this year.

I'm happy to be able to share some of those with the Committee. I don't have any difficulty with that, if Committee members would like to see that. It's part of the audit plan.

Mr. Rouble: That will be coming in your — I'm sorry — your audit plan?

Mr. Morrison: It's in the audit plan for this year. It's the process that we've gone through with the auditors and the audit committee. So, the auditors have — and we have — identified a series of risks and the audit will be based on — and will look at — those risks.

Mr. Rouble: I think the Committee would appreciate it if you forwarded it to us.

Mr. Morrison: Okay.

Mr. Rouble: Okay, the next area that I would like to go into, then, is performance. As you've discussed earlier, the entities for which you are responsible have very broad mandates with very broad objectives. How do you measure your performance and your accomplishments of those objectives?

Mr. Morrison: Within Yukon Energy Corporation, our performance is measured from a financial aspect on what is called a rate of return. A rate of return that we are permitted or allowed to earn by the Yukon Utilities Board is 9.14 percent. Certainly in the last six or seven years, we have not attained that rate of return. This year we will probably — I guarantee you that we won't attain our rate of return, and it will be in the seven-percent range this year. The reason that we haven't done that is that, in order to achieve that rate of return, we would have had to put rates up, and we've been reluctant to do that.

So are we measuring our performance? You could look at it and say, "Well, you haven't earned your rate of return, so you are not really financially performing very well." But, on the other hand, we've been able to avoid raising rates. There hasn't been a rate increase in seven years either.

On the other side of the Development Corporation, the Energy Solutions side, we don't measure our performance. That's a difficulty that I have as well — and the board has. It's very difficult to measure performance on some of the programs that we manage.

Let me give you an example. We have a program called community wind assessment program. So we can do wind assessments in small communities and, like, for lodges and businesses. And we do that. So we do the wind assessments. The program does wind assessments; that's great. Do we ever install any wind facilities, or do the individuals or the communities do them? Not very often. So would you say the program is a failure? I don't think so. I think the program is still beneficial, because we went out there and looked at it, and it was an opportunity to assess whether we may be able to provide some alternative energy sources. But maybe we found out that that location wasn't very good and wouldn't support a wind process. But we do honestly have to find a way to provide some — and that's what I was talking about earlier about the strategic planning process and the board process. Our planning process doesn't take that into account yet. So where are we focusing our energies? You know, how do we value and how do we assess whether we are really performing in certain areas and programs. We're not very good at that.

Mr. Rouble: Do you have a series of set objectives for each of the different entities?

Mr. Morrison: We do. We have objectives. But what I'm saying to you is that our objective would be that we would have four or five wind assessments, and we have them. What I'm getting at is: is doing that year after year after year and not putting any wind — and I'm not suggesting that we haven't done wind, but I'm saying if you did all those wind assessments and never came up with a wind project, how would you assess that program? Maybe you should re-look at it over a few years. So we're not very good at that. And we do report in the annual report on a number of these things. But I don't think they're really good performance measurements. They're not as broad or detailed as they should be.

Mr. Rouble: I am going to agree wholeheartedly with that.

Earlier you commented that Yukon Energy Corporation is a business.

Mr. Morrison: Yes, I think it is.

Mr. Rouble: Is the driving force behind that entity the return on investment?

Mr. Morrison: I would say that the driving force behind that entity is making sure the customers in Yukon have both the safety and security of a power supply first. I was talking about the return on investment as a measure of whether or not we're actually performing at the financial level we should be.

I'm sure the board and management of the corporation would tell you the same thing. We first and foremost need to make sure that the communities we serve on a retail basis as well as those we serve on a wholesale basis — such as Whitehorse and Haines Junction and other places like that — that they have a safe, secure and adequate supply of power on a 24-hour day, seven-day-a-week basis. That's the driving force.

We need to be able to finance that system, so we need a rate of return in order to finance ongoing operations. We have to make some money. If we don't make money, then we're going to be coming to the government with our hand out and nobody wants that.

There are ways to provide a good system and still not be part of the government vote to operate in a businesslike manner and provide a good service for the customers.

Mr. Rouble: I can certainly see your desire to recover costs and expenses. Is there a concerted effort to generate a profit above and beyond that?

Mr. Morrison: We have to make a profit above and beyond covering our expenses and costs or we won't have the money to invest in the system — new capital, new operational requirements. You can't operate this like a government department. If you want to do that, that's fine. If you're going to just recover costs and make your payments, you can run it in a department-like fashion, but somebody has to make an investment. Somebody has to invest.

I mean, our annual capital program is in that $5-million range. That's not Mayo-Dawson line capital. That's not major projects. That's annual maintenance capital for keeping this $150 million worth of assets in good operating order.

If you don't have a way to finance that — and that's what profit does — somebody has to be able to provide the dollars. You have to have a capital structure that lets you continue your operations and expand and grow when necessary.

Mr. Rouble: Okay, as I understand this regulatory accounting — and it's a bit of a challenge to wrap your head around regulatory accounting — your rate of return is based on your amount of equity and the return on equity is set by the Yukon Utilities Board.

Mr. Morrison: That's correct.

Mr. Rouble: The equity in Yukon Electrical has grown, though, in recent years through retaining earnings.

Mr. Morrison: Yes.

Mr. Rouble: My question is: what is the relationship between your debt and your equity?

Mr. Morrison: We have a mandated 60:40 debt/equity ratio. In other words, we have to maintain a capital structure that is 60-percent debt and 40-percent equity.

Mr. Rouble: Who set that mandate?

Mr. Morrison: The Yukon Utilities Board.

Mr. Rouble: The Yukon Utilities Board has set that?

Mr. Morrison: That is not uncommon. The Yukon Utilities Board would set a debt/equity structure for any utility that it regulated. 60:40 would be a pretty good debt/equity — I mean, it's a relatively fair debt/equity ratio, I would say to you.

Mr. Rouble: Is there a desire to grow the equity base of the corporation?

Mr. Morrison: Well, I'm not sure in what sense. There is a desire to grow the corporation in the sense that we need to provide power for new community growth, industrial growth or economic growth. So, there is a desire to meet that as part of the corporate mandate. That will, on its own, grow the equity.

Let me give you an example: the Mayo-Dawson line. Building that facility increased our equity by $12 million and our debt by $18 million. So the equity is growing as you add capital assets. We're not growing the equity just for the sake of having more equity, and it won't do us any good, because we can't earn a return on it.

Mr. Rouble: Thank you very much. The other question was, how do you know the corporation's assets are being utilized to their fullest potential?

Mr. Morrison: The corporation's assets aren't being utilized to their fullest potential. We have excess capacity — significant excess capacity on the Whitehorse-Aishihik-Faro system, hydro excess capacity, and we have significant excess capacity on the Mayo-Dawson system. We are actively pursuing customers. We provide operating statistics and information to the Utilities Board on a regular basis. The management reports to the board on their activities to try to utilize these assets in the best possible manner. I don't think it's any secret that we're talking to B.C. Hydro about running a line to Atlin, to see if we can sell some more of our excess hydro to them.

It's management's job to do exactly what you say. The corporation's job is to maximize the usefulness of those assets for the benefit of the customers. I think one of the things we haven't done a particularly good job of over some years is trying to utilize the assets that we have and generate that extra revenue for the corporation so that it will help the existing customers. Hydro at this point is basically all revenue. Anything we sell is all revenue. There aren't any additional costs. We have already incurred the costs.

Mr. Rouble: Thank you.

Mr. Hardy: Thank you, Mr. Rouble.

The next person who will be asking questions is Mr. Hassard. He will be asking questions on planning.

Mr. Hassard: Thank you, Mr. Chair, and thank you, Mr. Morrison, for appearing before us today.

I actually have two areas for questioning, the first being planning and the second being the Energy Solutions Centre.

The last time that YDC went before the Yukon Utilities Board for a general rate application was 1996. When do you plan to seek another general rate application hearing to discuss rates?

Mr. Morrison: We don't have a specific plan. We are looking at the moment at doing some analysis — doing a great deal of analysis — to determine whether or not we may have to apply in 2005. This is kind of between the proverbial rock and a hard place. We really need to find a way to appear before the Yukon Utilities Board as part of our accountability to ratepayers. We haven't been there in seven years. But I don't want — and I don't think anybody wants — a rate increase. So, what do we do?

As managers of the assets, we are looking at every possible source and every possible way that we can keep rates at the level they are at now. But that keeps me away from the Yukon Utilities Board. So it's a bit of a conundrum. I've sought some advice. I've talked to other jurisdictions to see — how do we deal with this problem? It's a problem and I am honestly trying to scratch our heads on it and figure out what we should do. There are some administrative reasons that we could maybe go before the board, but that's the situation at the moment. We don't have a specific plan to apply for a rate increase. I don't want to apply for a rate increase but I have to find a way to go to the board and have a review of the operations.

Mr. Hassard: Do the three corporations you're responsible for have business plans?

Mr. Morrison: Yes, they do.

Mr. Hassard: You have to bear with me. We distributed these questions among ourselves so I'm not sure if someone wanted more information on that. I'll leave it at that.

How do these corporations prioritize their objectives?

Mr. Morrison: We have an annual business planning meeting, as I mentioned earlier. The board and management spend a couple of days locked in a room together, going through what we did the year before, what we see as the requirements from a technical point of view, are there things we really have to do — like, are there things like equipment retirements that are happening, are there systems that really need to be reviewed — and we come up with a series of priority items for the year. It could be a better system; I think it will be over some time. But a big part of it is that some of our programs and a lot of our work doesn't stop on an annual basis. The energy system is the energy system and it continues.

So what needs to be done is, in many ways, a technical question. Is there equipment that needs to be upgraded? Is there equipment that's retiring? How are we going to cope with that?

We're in the process right now of developing an infrastructure plan that will give us, on the energy side, a look into the future as to what we think we're going to need, how we would cope with growth, how we would expand the system to meet requirements in communities.

We do spend some time doing it, and both the board and management are involved.

Mr. Hassard: Do you feel the budgetary allocations of the corporations match their priorities?

Mr. Morrison: I think the budgetary priorities in the Energy Corporation do. I think we need to do some more work on the Development Corporation on the energy solutions side to focus our programs and our program spending. I think the money being spent matches the priorities. I think sometimes the budgeting process is a little broader than it needs to be.

Mr. Hassard: What opportunities do you see for enhancing partnerships for service delivery in the near future?

Mr. Morrison: I think there is quite a bit of opportunity. We do a lot of partnership work now in all three corporations. As an example, we have a joint wind-monitoring project in Old Crow with the Vuntut Gwitchin Development Corporation. We have talked to the Mayo-Dawson line. We did a benefit agreement with Na Cho Nyäk Dun and Tr'ondëk Hwëch'in, and we tried to develop some partnerships and have an investment agreement that we're negotiating with those two organizations regarding the line. So it's pretty much, I think, part of the way of life for us at the moment. On the energy side, I think there are all kinds of opportunities in terms of partnerships. We could be partners in small generating systems with development corporations or businesses. There is quite a bit of opportunity out there.

Mr. Hassard: Maybe I'll move on to the Energy Solutions Centre. Why was the Energy Solutions Centre created?

Mr. Morrison: Well, you're asking me a question I can't answer, but let me take a stab at why I think it was created.

I think it was created — I'm a fairly frank individual, so let me tell you why I think it was created. I think it was created to avoid having to operate as a government department. It's a stand-alone business; it delivers programs on a very different basis from what the Development Corporation could. I think it is part of what the difficulties are in the governance process.

I tend to want to look at things and, if you have a difficulty, you try to resolve the problem. I think sometimes people try to make a sideways shift. I think it's a great concept. I don't necessarily think it was created for the right reasons, but I think it's a great concept and delivers some very good programs.

Mr. Hassard: Why do you feel it's separate from the Yukon Development Corporation and the Yukon Energy Corporation?

Mr. Morrison: Because it can operate in a less restrictive manner.

Mr. Hassard: What plans exist for the Energy Solutions Centre?

Mr. Morrison: We have a business plan for the coming year. The Energy Solutions Centre, as I said to you, is a big part of our overall corporate structure. It's business as usual. We're just doing our year-end. We are involved in a lot of ongoing programs. Those programs are all continuing.

Mr. Hassard: What is the relationship in policy, financial and any other terms between YDC/YEC and the Energy Solutions Centre?

Mr. Morrison: Well, the three corporations have a very complex relationship, unlike the actual organizational structure would suggest. There is a lot of inter-relationship. There are people in the Energy Corporation who are running Energy Solutions Centre programs. It's the same for the Development Corporation. There are people in the Development Corporation who are involved in programs that are basically Energy Corporation programs.

It is confusing, complex, and it requires some very detailed restructuring. We are trying to cope with some of these issues right now.

There is also a whole series of independent contractors who are involved in all this stuff. It's very difficult to figure out who is funding what. I mean, the Energy Solutions Centre is funded by money out of the Development Corporation but the money is in the Development Corporation budget and the programs are carried out in the Energy Solutions Centre. It is really difficult and, from my perspective, in terms of accountability, it is very hard to figure out who really is sometimes doing what.

I am not a fan of this system. I think that sometimes people mistake the fact that the board wants to be able to provide good accountability and good financial management structures with us not liking what people are doing. We like the programs. In many cases we have real difficulty in trying to figure out where the money is going, how it is flowing, who is doing what and are there duplications of effort? There are lots of those.

Mr. Hassard: Given it is that complex, what performance measures are used to monitor programs delivered by the Energy Solutions Centre in reference to Yukon Development Corporation's mandate?

Mr. Morrison: They're subjective performance measures, in that we have undertaken programs and have we completed them. But we don't have detailed performance targets in the same sense as I think what you're asking me.

Mr. Hassard: Who does the Energy Solutions Centre report to?

Mr. Morrison: The management of the Energy Solutions Centre reports to the Energy Solutions Centre's board, and the board, I guess, theoretically, reports to the Development Corporation board. But, I mean, part of the problem here is that these boards are all the same people. So one of the difficulties that we have is that you change hats.

Mr. Hassard: Thank you. I appreciate your frank answers. That's all I have.

Mr. Hardy: Thank you, Mr. Hassard. Mr. Fairclough.

Mr. Fairclough: Thank you, Mr. Chair. I thank the witness for coming forward. I do have a couple of brief questions. It is in regard to projects that the corporation may do or could have done.

I was a bit surprised, I guess, at what you said about the *Corporate Governance Act* and the fact that it really hasn't changed anything in regard to the reporting process. I'm not sure whether this is to do with the day-to-day operations or in regard to rates and so on, but I'm interested in projects.

How does the *Corporate Governance Act* change the way in which energy projects are approved and carried out and the accountability for these projects to the board, to Cabinet and to the Yukon people?

Mr. Morrison: Are you talking about energy projects or are you talking about projects on the Yukon Energy side of them?

Mr. Fairclough: The Yukon Energy side.

Mr. Morrison: The *Corporate Governance Act* doesn't have any impact on Yukon Energy. Yukon Energy programs still function — and the system that has been in place since Yukon Energy went back to sole-source management; in other words, since the management contract ended and the company was set up as a stand-alone company in 1998-ish. The same process exists: the Energy Corporation is accountable under the Yukon Utilities Board. We haven't been there so it's the dilemma I was talking about earlier, but projects go from management up to the board and they're approved by the board. In terms of major capital, there is a provision that they could be reviewed by the Yukon Utilities Board — or they don't have to be but can go ahead with ministerial approval. The Yukon Energy Corporation provides an annual report to the minister, the same as the Development Corporation, but there are no additional systems within the *Corporate Governance Act* that impact the Yukon Energy Corporation.

Mr. Fairclough: The Yukon Utilities Board is used to review capital projects?

Mr. Morrison: Not at the present, no.

Mr. Fairclough: But it can be?

Mr. Morrison: There is an ability for the board to do it.

Mr. Fairclough: Why weren't they used, for example, on the Mayo-Dawson transmission line?

Mr. Morrison: I don't know, other than the fact that the corporation did not feel it was required to get — I think it's a permit or a certificate or something — from the board and they went ahead on their own. I believe the minister signed off on that, and away they went.

Mr. Fairclough: With regard to the *Corporate Governance Act*, with the corporation — it has been in place now since 2002. Has there been any work done to try to make it work?

Mr. Morrison: The *Corporate Governance Act*?

Mr. Fairclough: Yes.

Mr. Morrison: The *Corporate Governance Act* only applies to the Development Corporation.

Mr. Fairclough: Yes.

Mr. Morrison: To be honest with you, the major changes under that act were appointing the President of YDC as the Deputy Minister of Energy, Mines and Resources. That's a change. The protocols are supposed to be negotiated. They haven't been. That may have brought some change. I don't know that.

The protocols that exist certainly don't provide new governance structures.

Mr. Fairclough: Would it improve the reporting process to Cabinet?

Mr. Morrison: I don't think so. I feel that protocols are certainly a way to better provide a clarification of roles, but I don't see that the protocols would have provided a better reporting structure. My preference would be to have a better governance system than just trying to use protocols. Certainly they were a betterment to what was there, but I think we would be better with a full, proper governance system than just trying to use the protocols.

In the past, the protocols talk about what the role of the minister is. What is the role of the board? What is the role of the president? The minister and the president and the board know what their roles are. What the protocols were being used for was to make sure that the government didn't meddle in the Energy Corporation's business. I don't think that's the role of a protocol.

That's just my particular take on things.

Mr. Fairclough: Okay. There just doesn't seem to be the interest there from the corporation to look at making that work — seeing it as not having any major difference from the present system is one of the reasons.

Mr. Morrison: I wouldn't say it's a lack of interest. I think the corporation — and I can certainly tell you the board of the corporation — is very interested in new governance systems, but I don't think the *Corporate Governance Act* that is there does anything to change what exists today.

Mr. Fairclough: In regard to the Mayo-Dawson transmission line, there has been a lot of talk about it — the cost overruns, and so on. Has there been an independent audit conducted on the cost overruns that were involved in this particular line?

Mr. Morrison: I'll change the tense of the word. There is an independent audit being conducted by the Auditor General's office.

Mr. Fairclough: When is that to be completed?

Mr. Morrison: May or June — I can't quite recall from the audit plan, but I think June. I always like to hurry the auditors up a little bit, so I'm using June.

Mr. Fairclough: The public has a lot of concerns with regard to the line itself and who is going to be footing the bill for the cost overrun, but one of the things they were concerned about was to do with the bids and the way in which they were handled by the corporation and so on. Three bids came in and only one was looked at. Can you tell us why?

Mr. Morrison: The bidding process works like this: it was a request for a proposal for a design-build process. So bidders, in a sense, were coming forward with their own designs and their own proposals. They were required to provide their proposals in two envelopes. One envelope had the price in it, and one envelope had the technical specs of their bid. The technical specs of their bid — and this was all laid out beforehand. The technical specs of their bid had to meet a certain series of criteria, and certain pieces of information had to be provided. Two of the bidders were disqualified at that stage. Their envelopes were not opened; they were sent back to them. That left one bidder.

Mr. Fairclough: One of them a Yukon company?

Mr. Morrison: Not that I'm aware of. They may have had Yukon companies as subcontractors, but not Yukon companies. Not that I'm —

Mr. Fairclough: And that's normal with the corporation, in handling bids like this?

Mr. Morrison: I don't know that it's normal. It certainly is practised. I don't know how to answer your question. Is it done 90 percent of the time or anything like that? I would suggest to you no. I don't know what percentage of the time it is a system that is used, but it is used from time to time. The philosophy behind the system is so that price doesn't prejudice your decision on technical aspects. I'm not commenting on whether I agree with it or think it's good, but that is the philosophy that's behind it.

Mr. Fairclough: Many feel that this project was also rushed. It came into some problems with, for example, other governments, First Nation governments, crossing First Nation lands and so on.

Mr. Morrison: Right.

Mr. Fairclough: Is there any legal action that will be arising out of the construction of this line, either with governments or individuals, trappers and so on?

Mr. Morrison: On that side of the issue, not that I'm aware of. We haven't had any claims from anyone in Yukon, so any organizations, any First Nation governments, either federal government agencies were saying we didn't meet the terms of a permit of contract. We've solved all those problems.

By the way, we have reached total completion on the Mayo-Dawson line, just as a technical detail for those who might be interested. Chant has been paid; we are continuing to clean up some work, but we're doing it ourselves. There will be legal claims and legal actions, I am quite sure, that will result from claims made by the contractor, Chant, against the corporation. They have a very large claim for extra work that they have filed with us. There has to be a process. I mean, they have given it to us. We're certainly not writing anybody any cheques, so I'm sure, at some point, there will be some legal action in that regard.

Mr. Fairclough: What's the total of the cost overrun on that project as of today?

Mr. Morrison: The original bid price was $27.2 million, and I think we're at $36.2 million, so it's $9 million.

Mr. Fairclough: That's fairly large.

Mr. Morrison: It's horrendous.

Mr. Fairclough: That's a huge percentage. Can you tell us when the total cost of the construction will be? When will we know the total cost?

Mr. Morrison: I don't anticipate the $36.2 million number should change other than claims. Now, I mean I don't anticipate it. I haven't been told there are any other numbers out there. The claims process, if successful, would change the total cost of the project, if the contractor were successful.

Mr. Fairclough: Right. Can you tell us what other major projects the corporation is looking at and is interested in that could be coming forward soon?

Mr. Morrison: Well, I mentioned it earlier, and we've certainly been very public about it. We've got to find a customer for some of the excess power that we have in the Whitehorse system. I'd be really happy if we could find a customer for the excess power in the Mayo system, as well. But we have had some preliminary discussions with B.C. Hydro. They are interested in a proposal for the provision of power to Atlin. Atlin is an isolated diesel in the B.C. system. It would entail us building a transmission line. I'm sure everybody cringes when they hear that, with the Mayo-Dawson experience, but it's certainly not as significant a project as the Mayo-Dawson line — probably in the $6-million neighbourhood. That would be the major project that we would have in front of us at the moment.

Mr. Fairclough: The one from Stewart Crossing to Pelly Crossing is not in the near future?

Mr. Morrison: Not in your lifetime or mine. The cost of that portion of the line is as much as the Mayo-Dawson line. That's the estimated cost or preliminary cost. And there are no customers. I mean, there is no way to offset that cost by new load. You're not eliminating a lot of diesel. In the Dawson system, remember, the system is saving diesel cost and replacing it with the cost of the hydro line. There is not enough, at least at the moment, in the Stewart Crossing piece for anything to go forward in the next little while.

Mr. Fairclough: That includes tying the grid from the Mayo dam into the bigger grid into Whitehorse and it would cross into Carmacks?

Mr. Morrison: That's right. On an economic basis, that's not a project that would go forward at the moment. If it went forward because somebody provided some free money — capital — maybe; but not on an economic basis at the moment.

Mr. Fairclough: Okay. I guess with regard to discussions about the governance discussion and projects, the Utilities Board is not used presently but can be. How much discussion has taken place to really look at how, perhaps, the Utilities Board could be a part of the approval or planning of projects by the corporation?

Mr. Morrison: I would prefer a system where major projects had to have prior approval of a public utilities board. That's a system that exists, certainly in the Northwest Territories and it exists in Alberta.

If you think about it this way — at least my view of it is that if you build a major project — let's just say for the sake of argument that your estimate for the project is $20 million. So now I want to switch to this issue of risk. So my risk is that I go out and build it and then I go to the Yukon Utilities Board and say, "Well, I want to put this into rates", and the Yukon Utilities Board scrutinizes and says, "Well, gee, why did you do this and why did you do that?" and, "No, we are not approving this." They say, "Well, that's great. You can put $15 million into rates." So now I've just put $5 million of my shareholders' equity at risk.

But if I go beforehand and the Yukon Utilities Board says, "Well, you can only put $15 million into rates", then I have to decide whether I go ahead, whether I revise the process and the project. You know, how do I cope with this $5-million difference? My preference is a system that does it beforehand.

Others may view it differently, but if you have the Yukon Utilities Board approval and you have a budget and you manage to that, then you've just minimized your risks because you know they're going to put it into rates, because they have already told you that if you go up front.

Mr. Fairclough: That's $9 million over on this project, and you said the next opportunity to look at rate increases would be 2005.

Mr. Morrison: Maybe.

Mr. Fairclough: Is that to address the overruns on the Mayo-Dawson transmission line?

Mr. Morrison: The process that will happen the next time we go to the Yukon Utilities Board will be exactly what I said to you. What the Yukon Utilities Board does when we apply for a rate increase is they examine our entire rate base. So they look at all the assets we have in operation, one of which will be the Mayo-Dawson line, and they will decide, based on the testimony of experts, based on intervenors' questions, how much of that rate base they're prepared to allow us.

So let's talk specifically about the Mayo-Dawson line. We're at $36.2 million. The Yukon Utilities Board could say to us, "You can't put that all in rates; we think you should have been more prudent; you did things you didn't need to do; the contract overruns are not recognized." I don't know what their reasons would be, but there would be a whole range of reasons, and we would have to provide whatever that difference is.

Let's just say they said we could only put $30 million into rates. That's what we would earn a return on and that other $6 million would come out of our equity. We wouldn't be allowed to charge the ratepayers for that.

Utility accounting being a little different means that we earn a return on what is an approved rate base. So if we have items that aren't part of that approved rate base, we can't earn a return on that. We have no equity in that.

I hope I was not too —

Mr. Fairclough: No. It just struck me as — I didn't think that this would happen.

Mr. Morrison: I'm not saying it will happen, but it certainly could happen. They could decide — they can make that decision.

Mr. Fairclough: That's an avenue in which the corporation would like to go, though?

Mr. Morrison: Which?

Mr. Fairclough: To look at rate increases to offset the costs of the overrun —

Mr. Morrison: No, no, no. I'm not suggesting that the Mayo-Dawson line will create rate increases. What I'm suggesting to you is they'll look at it as part of our rate base, and they will decide whether or not they will allow all of it to be charged to that account, that rate base account. And that rate base determines what we can earn equity on.

Mr. Fairclough: Maybe not all of it, but the corporation would like to go that route, to try and recover some of the costs?

Mr. Morrison: I'm not suggesting you're trying to put words in my mouth, but that's not how it works. We will apply to the Yukon Utilities Board for a rate increase. But the Mayo-Dawson project will not on its own stimulate a rate increase, because it is offset by savings in diesel. But regardless of whether it stimulates a rate increase, the Yukon Utilities Board will decide how much of that project — any or all of it — will be allowed to earn a return on.

Mr. Fairclough: Okay.

Mr. Morrison: I'm not trying to avoid your question; I'm just trying to give you a different answer.

Mr. Fairclough: Okay. This ain't the Legislature.

Mr. Morrison: I know. I'm trying to be clear, but I don't think I am. I apologize.

Mr. Fairclough: One more question, I guess, in regard to the cost overrun. Can you tell us why there was such a cost overrun? I mean, who is at fault here for not seeing the true costs of the transmission line? And it just took the public by surprise, and I think they'd like a really clear answer.

Mr. Morrison: I can't tell you exactly why. What I am hoping is that the audit process — the special audit the Auditor General's office is doing — will answer a number of those questions. We can all speculate as to why, and I think this is too important, too complex and involves too much money to speculate, and that was the principal reason the board requested the Auditor General come and do this independent examination. I don't think it's fair to point fingers without that information.

Mr. Fairclough: Thank you for your answers and thank you for coming.

Mr. Hardy: Thank you, Mr. Fairclough. I am going to ask Mr. Thompson to comment on the audit, since that has come up a couple of times and he has some information to share in that regard.

Mr. Thompson: Thank you, Mr. Chair. Just a quick word on the audit: we certainly are doing an audit of that. I just wanted members to understand that the results of that audit will be included in a report on other matters that will be tabled in the Legislative Assembly here when the audit is finished by Mrs. Fraser. There's nothing being done that's going around the Legislative Assembly. It's coming directly here once it's done.

Thank you, Mr. Chairman.

Mr. Hardy: Thank you, Mr. Thompson.

That's basically the questions that were laid out up to this point. We always have some time left over, as we now have, for people to follow up on some questions, Mr. Morrison, so I'll open the floor. I believe Ms. Duncan had a couple more financial questions.

Go ahead, please.

Ms. Duncan: I just have a couple of other questions. I did ask you earlier, Mr. Morrison, about the capital assets and the Yukon Development Corporation and where that fits in with the Yukon government books, and you said you didn't know. That's correct?

Mr. Morrison: I don't know — I haven't been following the discussion on the value of the government's assets, and I don't know if that $150 million is in there or not. I can't answer that question.

Ms. Duncan: So it may be that YDC is as a lump sum amount, then, or something.

Mr. Morrison: Oh, it could be, yes. I just don't know how the consolidation of assets is rolled up.

Ms. Duncan: Okay, thank you. I will pursue that with the Minister of Finance, then.

Yesterday, in discussing this *Corporate Governance Act* — and we've had quite a discussion about it this morning. Yesterday, we had quite a discussion with the deputy minister responsible for the Yukon Housing Corporation about the *Corporate Governance Act*. The intended effect was to bring the corporations in. So for the Housing Corporation and the Liquor Corporation and the Lottery Commission, that has been brought into Community Services. He talked about efficiencies that had been achieved. He said that it had been very good with respect to human resources and policy and communications, and they were working toward the financial management systems.

Mr. Morrison: Right.

Ms. Duncan: Now, you've had a different view this morning of the *Corporate Governance Act* with respect to YDC.

Mr. Morrison: Yes.

Ms. Duncan: Well, YDC has all these separate administrations as well — YDC/YEC and the Energy Solutions Centre.

Mr. Morrison: Yes, they do.

Ms. Duncan: For example the pension plan. It is entirely separate from YTG's.

Mr. Morrison: The YEC pension plan, yes.

Ms. Duncan: Yes. So are there any efficiencies through the *Corporate Governance Act*, or are there any efficiencies anticipated through the governance that you're proposing right now to Cabinet and caucus.

Mr. Morrison: I think there are lots of efficiencies. I am not trying to be critical of the act. I am just trying to be forthright in saying that I don't think it has made any difference to the corporations — the YDC, and its subsidiaries.

I think part of the problem in that respect is that the Development Corporation is certainly very clearly a Crown and what I would call a policy Crown. I think there is a very broad range of Crown corporations, and they range from policy Crown corporations on the one end of the spectrum to commercial Crown corporations on the other end of the spectrum. And Crown corporations can fall somewhere in the range.

If you look at the federal system, they have really done a good job in that respect, because they have actually categorized them. And I can't remember what the terminology is, but basically they have categorized them along that spectrum. I think the Development Corporation reporting better to government — and because it is more part of government or has been recognized to be more part of government, there probably should have been some developments there. And I can be chastised for maybe not doing some things in the last several months, but I wasn't there at the beginning of the process.

But on the Energy Corporation side, I think, actually, trying to bring that in closer to government is a mistake. First of all, you don't want a business trying to operate as government. You want to be fish or fowl; you want to be one or the other. And I think there are some very clear lines that have to be established — and I hope will be established in a governance system. The *Corporate Governance Act*, I think, from my perspective, just didn't go far enough. It's not as encompassing as I'd like to see it. As a personal observation, I don't think the Deputy Minister of Energy being the president of Yukon Development Corporation is a very — it's too messy. I don't think that's a good idea. But is it a good idea on the Housing Corporation side? Maybe it is. Does the Housing Corporation have a vote? If it does, that would make a difference to me. You know, where is it getting its funding? How is it getting its funding? But Yukon Development Corporation is only getting funding from government to implement government policy initiatives.

Government said, "We want you to do this, here's the money" — the RSF, green power, energy efficiency and wind research. Other than that, these corporations are funding themselves, so if you try to hire management to look after the ratepayers and to run what is a utility system, is it a good idea to have them really close to government, really far away and, if they're far away, how do you make them accountable? I think that's the question: how do we make the organizations accountable? I think there are ways to do it. You've heard some of my thoughts on those things this morning, but I don't think the *Corporate Governance Act* would really do enough from the Energy Corporation's point of view and the Energy Solutions Centre's point of view. I don't think it ties them in enough. It just doesn't cover the bases it needs to.

Ms. Duncan: Well, we'll look forward to hearing the solutions you propose to government, particularly in the area of accountability.

Another area with respect to accountability — and I again relate it to the financial statements — is environmental liabilities. The 2002 annual report states that no such specific liabilities have been recorded in the corporation accounts.

Now, the Government of Yukon has finalized their list of assets and we have heard it indicated that they have started the work on recording environmental liabilities. Has there been any work at all in this respect or just that note in the financial statements?

Mr. Morrison: Primarily the environmental impacts would be within Yukon Energy, and we have a very well-established and just-completed environmental audit of our facilities. We have a senior manager who is responsible for safety and security, as well as environmental issues. We have a proper management scheme in terms of looking after these things. Do we have huge liabilities? Well, we have an old claim against the federal government for some oil spilled at the Whitehorse Rapids plant. I'm sure there's certainly risk of some claim for some oil spilled. When you're using diesel, you're not going to get away from that; there's some risk there.

But we don't have any significant environmental issues that I am aware of today.

Ms. Duncan: Are they listed in the 1987 transfer of the NCPC assets? Did we cover this off with Canada?

Mr. Morrison: I think we did. Now, I wouldn't swear on a stack of Bibles on that, but it's back that far, that's for sure.

Ms. Duncan: Just a last question — and it really relates to the accountability and the governance. The issue for the public and for government and the corporations is, for example, on policy issues like a cold weather policy. It's well and good that Yukon Electrical Company Limited has a cold weather policy that says they don't shut off people's power in very cold Yukon winters. It can happen that the minister can be called upon to answer the same question on the floor of this House as to why Yukon Energy Corporation doesn't have that policy. But the minister's ability to tell Yukon Energy Corporation to have that policy is somewhat limited. That relates to corporate governance and it relates to accountability.

Mr. Morrison: Right.

Ms. Duncan: Similarly, Cabinet may approve a major project such as the Mayo-Dawson transmission line — or not — but therein their accountability and ability to influence that changes.

Mr. Morrison: Yes.

Ms. Duncan: Do you agree with that, and do you agree that it is a governance and accountability question that has to be resolved?

Mr. Morrison: I don't think the cold weather policy is. The cold weather policy is an operating policy. It's part of the delivery of service. That policy should be, and is — and I know there was some debate about whether we have one or don't have one. It may not be called a cold weather policy, but certainly under our financial accounting policies, we don't turn people's power off when it's 40 below.

But that's an operational policy that is inherent in the Yukon Utilities Board process. We have a series of energy service regulations that are approved by the Utilities Board. Disconnecting and connecting customers is part of that process. And I'm not telling you that you're not correct, but I think part of the governance process has to be very clear about who is responsible for managing the business. Ministers telling the corporation either to turn somebody's power off or not turn somebody's power off is way beyond the ken of the minister and their purview. Whether or not we build a major transmission project or a major generation project, if there is no system to approve that, such as a utility board, that is not certainly beyond — I mean, there are systems where the minister would sign off on that in other jurisdictions. But is that something the minister really wants to be doing — trying to decide whether there is a technical requirement and an economic requirement to provide new transmission? I agree with your argument that governance has to establish these accountabilities. As I said before, accountabilities and governance is a process. There are certain things that the utilities should do and the board of that utility should be accountable for what it does, but operational things like that, I think, are going too far. It's why it's not a department. It's why we don't want to run the utility as a government department. I'm just using your example.

Ms. Duncan: Right. But the difficulty we have, Mr. Morrison, as representatives of the public, is where is the public in that equation? Where does the public get to ask someone, the board of directors, other than this annual public meeting — in that case, why do we have a minister responsible in the House? That's the problem for the public. Where do they fit in this?

Mr. Morrison: I don't disagree with you that there's a problem as exists now in the current system. In trying to come up with new structures to deal with those issues, the public — as I've said to you, part of the dilemma is, if you don't go before the Yukon Utilities Board in seven years, you don't get to ask some of those questions. But one of the things that is out there that we don't use is that the Yukon Utilities Board has a process for asking those kinds of questions. We answer the questions that the Yukon Utilities Board puts to us. We are accountable to them. I don't think we are using that process very well at the moment, either.

I feel very strongly that operating decisions at the pure operating level are left within the management of the utility. If that is an issue that's causing somebody harm, we have to find a way to deal with it, but hopefully the organization is more publicly accountable in the future for those kinds of things. It's part of wrestling with a new system. I don't disagree with you: the public has to be able to hold the organizations accountable, which is why I think some of the other provincial systems are better.

Ms. Duncan: That also includes financial accountability. The public wants to know why YDC, YEC or the Energy Solutions Centre spent X amount of dollars in this fashion. So if it's not the minister and this Legislature where those questions are going to be asked on behalf of the public, what solution are you proposing?

Mr. Morrison: No, I think that part of that solution is the minister in the House and, as I've said to you before, I think this process or appearances before Committee of the Whole have been intermittent. I don't think you can have a governance system that's hit-and-miss. You either have to have one or not have one.

If you want public accountability, you have to lay out a well-defined process, and it has to be implemented. You have to do it.

Like I said, I think B.C., in developing this new Crown corporations governance structure, established a standing committee on Crown corporations just to do that, to look at the annual reports, to ask questions about accountability plans or business plans — whatever you want to call them — and provide the opportunity for legislators to represent their constituents. That's the way B.C. chose to do it.

Ms. Duncan: Can I just ask again: what is the accountability and responsibility measure then? If it is the Crown corporations that come before a committee of the Legislature and they say, "Here's the money we spent. Here are the performance measures. This is where the taxpayer got value for money.", then the legislators have a role to ask the questions.

Mr. Morrison: Sure.

Ms. Duncan: What happens if there isn't the performance — if the performance measures aren't set, then what is the role?

Mr. Morrison: Well, I think, then, that the government has to act, as the elected government of the day — either through changing boards or issuing orders-in-council. In B.C., they issued a new energy policy. That covered some of the operation of their utility Crown, their hydro Crown. There are all kinds of mechanisms that government has at its disposal.

Ms. Duncan: So, really then, it's the deputy or president and it's the board that is being held to account in the Legislature rather than the minister responsible for it?

The minister has to take the action based on what the accountability is —

Mr. Morrison: I think that the minister is the legislative representative of the Crown. Right? I mean, that's why you assign a minister: to account to the Legislature. Who are you going to account through? The minister has certain roles in terms of approvals of things in the YDC act, or there are Commissioner in Council requirements — you can't get to Commissioner in Council unless you go through a minister. So I think there is a more in-depth role there.

I think a big part, from the organizational point of view, is making that board understand that it's accountable to a minister who is accountable to this House, and you have to find a system of providing information both ways: up to the minister and back down to the board.

Mr. Hardy: I just want to make sure other people have an opportunity to ask any questions. Mr. Hassard?

Mr. Hassard: Thanks, Mr. Chair.

You mentioned earlier in one of your answers green power and wind power. The house I'm staying in right now has a pretty good view of Haeckel Hill and the windmills when they turn. My two-year old watches them, so they provide entertainment for him, but I'm curious: could you share with us some of the capital costs and perhaps the O&M and the power produced?

Mr. Morrison: You're taxing my memory a little bit, but let me give you some rough, ballpark numbers as best I remember.

I believe there's about $3 million invested in the two wind turbines on Haeckel Hill. The $3 million — most of which, because I think there's some Yukon Energy money in there, but I can't honestly tell you at the moment how much. So a majority of the money was provided by the Yukon government. There was $2 million put into a wind research fund I think in the late 1990s — maybe earlier in the 1990s — to provide an experimental wind turbine on Haeckel Hill.

As I said, there are two there. I can't tell you the operating cost and cents per kilowatt hour off the top of my head, but I think the utilization factor is less than 20 percent.

Mr. Hardy: Mr. Morrison, when questions like this are asked and you do not have the figures in front of you, it's all right to try to give an approximation.

Mr. Morrison: I'd be happy to provide them.

Mr. Hardy: You can promise to get them to us ASAP. And that's also with some of the other questions that have been asked. You can review *Hansard* and look at that and make sure that you do supply that information.

Mr. Morrison: Thank you.

Mr. Hardy: Are there any more questions? Mr. Rouble?

Mr. Rouble: Thank you for your answers today, Mr. Morrison, and for your frankness and your candour with us. One of the roles of the Public Accounts Committee is for us, the elected officials, to review departments and Crown corporations to ensure that they are effectively and efficiently accomplishing the objectives and the expectations set out for them. So in your opinion, I'd like to hear how you think your organizations are doing with respect to the mandate that you have, the objectives that are set, how you budget your allocations, the outcomes that you've received from that, how you've compared that to other benchmarks or other standards, how effectively and efficiently do you think your organizations are operating?

Mr. Morrison: That's a big question. Let me give you the brief version of the answer, and I'm certainly happy to provide additional information if the Committee would require it. I think the mandate of the Development Corporation, as somebody said earlier, is fairly broad. I think one of the difficulties that the Development Corporation has encountered is that I think it has even by, I don't know, osmosis or by just virtue of being there has even broadened its mandate on its own. I think it has just grown into projects and programs that may or may not be projects assigned or part of the mandate.

I would suggest to you that if you look at some of the projects, I think they're really on the border of what I would call the mandate. Maybe you could argue that they are part of the mandate, but I think you'd have a difficult time in some respects. So I think it has such a broad mandate and has taken on such a broad role that one of the projects we have as a board is trying to determine the full range of all these different programs, thereby really examining whether or not we're meeting our specific mandate, whether we've taken on some other mandates because you just happen to be working in that area and you tend to take things on, and how we can best focus the resources that we have.

I'm being very honest with you. We haven't done that yet. We haven't accomplished that task, but it's certainly a task that's on our agenda.

On the Energy Corporation side, we're pretty focused. We know what we're doing. We're in the utility business. We tend to carry out our business on a day-to-day basis and I think we've put the resources to it. I'm sure somebody could always find a way to do it better, but I think we do a pretty good job.

The Development Corporation and the Energy Solutions Centre — and, in fairness, the Energy Solutions Centre is pretty new and trying to find its level point, I think. We tend to try to be all things to all people in those corporations, and I think that sometimes it's at the cost of maybe trying to do too much and trying to get involved in too many things. I think we really have to focus our mandates in those areas.

Mr. Hardy: I have a very simple program question that I know some people are interested in. It's about the power sales incentive program. Are you familiar with that, Mr. Morrison?

Mr. Morrison: You mean the secondary sales?

Mr. Hardy: Yes.

Mr. Morrison: Okay, yes, sure.

Mr. Hardy: Now, a number of commercial and institutional consumers have invested in capital equipment in this regard and are taking advantage of the low energy costs, of course. What savings do you know of that have been passed along to consumers since it was introduced?

Mr. Morrison: Yikes. I don't know if I can even — I was going to say that I could try to get you that information. I am not certain that I can, but let me just explain to you why.

In the Whitehorse-Aishihik-Faro system, there are 17 customers on that who are buying secondary power from us, all of whom would have had a cost-benefit study prior to going on the system. Everybody who is on the system has to have a second source of heat. In other words, the Whitehorse Hospital is on this system and they had to install an electric boiler, because it is only provided for heat. The power cost is at 3.3 cents, so the end user pays 3.3 cents versus, say, 14 cents for power in the Whitehorse region.

The reason that I may not be able to give you — and we will certainly have a look if we can — the information is because it is individual users who have saved money. It is not information that they provide to us. It's their heating bill. They were either buying oil or propane beforehand. So, we certainly will have a look and see if we could get you some information. But it would be a significant amount of money.

Mr. Hardy: Okay.

This would be a little bit of a crystal ball question: the status of the program itself — what value do you feel it is contributing? Should it continue? Should it be expanded? Or, possibly, if there were a lot more consumers coming on, will there be restrictions put on?

Mr. Morrison: I'll answer the last part first. There are going to be some restrictions, and those restrictions are that there won't be many more consumers that we're going to put on. And we actually turned off all of the secondary sales customers last week when it was cold, when the temperature really dropped. Our peak — I think you may have heard a news item that we reached the highest peak we've had in years in terms of peak energy on the system. We turned all of the secondary sales customers off, which is part of why they have to have the backup system. We just turned them on again yesterday.

We are getting to a point — it's not that we don't have enough excess power in the summer, but we are at a point where we don't have enough in the winter, because we have only 40 percent of the availability in the winter. So we will put on — there are a couple more customers who are already in the system, that are partway down the road. We'll put them on, but we are about to turn that program off in terms of new customers because we're going to get to a point where we're going to have to be turning it off all the time. And then the economics for everybody are just going to go out the door. We don't want that.

It's a beneficial program for everybody at the moment. We just have to make sure that it continues to benefit everybody.

And just so everybody is clear, we have customers on the secondary sales program in the Mayo system, as well, the Mayo school being one of them.

Mr. Hardy: And Dawson would be —

Mr. Morrison: We don't have any yet, but I believe there is one potential customer in Dawson, one or two that we're talking to.

Mr. Hardy: Because there is a substantial surplus there.

Mr. Morrison: It's all part of the Mayo system, so it's all the same surplus, yes.

Mr. Hardy: Okay. Any more questions?

We have approximately four more minutes. So if I don't see any more questions, then I would like to thank you, Mr. Morrison, for coming before the Committee and being forthright with your questions. I definitely heard a certain degree of frustration with what you're dealing with, and you have indicated that changes need to be made, from your perspective. The scope of changes sounds quite large. The recommendations will be coming forward fairly soon, and we will be looking forward to reviewing those sometime down the road, hopefully.

So thank you very much, and I'll be closing these hearings.

Recess

Mr. Hardy: I will now call the hearing to order. The Committee would like to thank the witnesses from the Yukon Workers' Compensation Health and Safety Board for appearing before us and for submitting a written submission to our request.

Today I would like to thank the following witnesses for appearing: Mr. Tony Armstrong, President and Chief Executive Officer, and Jim Stephens, Acting Vice-President and Chief Financial Officer. I will introduce the members of the Committee and its advisors. The Committee members are: me, Todd Hardy — I'm the Chair; Patrick Rouble is the Vice-Chair; Peter Jenkins, Pat Duncan, Eric Fairclough and Dean Hassard are all members of the Committee. The advisors from the Auditor General of Canada are Ron Thompson, Roger Simpson and Eric Hellsten.

The Clerk to the Public Accounts Committee is Floyd McCormick.

The Public Accounts Committee is established by order of the Legislative Assembly and we are a non-partisan committee with a mandate to ensure economy, efficiency and effectiveness in public spending — in other words, accountability for the use of public funds. Our task is not to challenge government policy but to examine its implementation. The results of our deliberation will be reported back to the Legislative Assembly.

The Public Accounts Committee was formed in 1980 and reported annually to the Legislative Assembly until 1991. However, this Committee has issued only one report since then. This current Committee intends to hold hearings and conduct investigations into the operations of government departments and entities in pursuit of improving accountability.

Because of the Committee's inactivity, there is not much corporate knowledge and experience in how the Committee operates, so I'll set a few ground rules on how this Committee will operate.

The Committee sent out three questions to selected government entities regarding the entity's mandate and how that mandate is being fulfilled. The entities have already responded in writing. The questions and responses form the basis of these hearings that will take place over the next three days.

Mr. Armstrong will be invited to make a brief opening statement. We've had a lot of discussion about this, Mr. Armstrong. Then members will ask questions. I ask that questions and answers be kept brief and to the point so that we may deal with as many issues as possible in the two hours allocated for this hearing.

At the end of the hearings, Committee will prepare a report of its proceedings and any recommendations it makes. This will be tabled in the Legislative Assembly, along with a verbatim text of the hearings. It is our intention to hold regular meetings in the future that will deal with both new issues and follow up on previous hearings.

We will now proceed with the opening statement.

Mr. Armstrong: Thank you very much, Mr. Chair. Hopefully, it's not an issue of my reputation for opening comments preceding me. As I think everybody here knows, I'm Tony Armstrong, President and CEO of the Workers' Compensation Health and Safety Board. Sitting to my left is Mr. Jim Stephens, who is the Acting Vice-President of Operations and Acting Chief Financial Officer.

I wish to thank the Public Accounts Committee for this opportunity to speak to the issues of the Workers' Compensation Health and Safety Board. As members will be aware, at the Committee's request, we submitted opening comments in writing prior to today. Rather than taking our time up in reading those into the record, I ask that the opening comments simply be accepted as presented in writing. No doubt, this will save the Committee time and allow for us to proceed to questions sooner.

In my letter of response to the Committee, I have provided the Association of Workers' Compensation Boards of Canada key statistical measures. We may have made an error of omission in your packages by not attaching the appropriate footnotes, and I have provided those to the Clerk of the Committee so that we can have those handed out. As I say, I'm not sure whether your packages had the footnotes for the key statistical measures or not. But the intention was that you would have those.

So with that, Mr. Chair, if we can accept the opening comments as they were provided in writing, rather than taking the time, I will be happy to take questions.

Mr. Hardy: Thank you, Mr. Armstrong. If you feel that there are questions that you do not have the accurate information for at your fingertips, you can assure the members that you will supply written responses ASAP.

As well, we do have two hours. If there are areas that you feel you need to discuss in-depth, either you or Mr. Stephens, please do so. If it gets too long, I will interrupt; that's all.

The first line of questioning will be from Ms. Duncan.

Ms. Duncan: Thank you very much, Mr. Chair. I would like to welcome Mr. Armstrong and Mr. Stephens to the Public Accounts Committee. We, as a committee, have pooled our questions and I will be asking you questions with respect to governance and mandate this afternoon, leading off in that particular area.

Publicly, it has been indicated that the board of directors' remuneration has been increased recently. Would you tell the Committee by how much?

Mr. Armstrong: Yes, I am certainly aware that there is a public perception that that has occurred, but, in fact, it hasn't occurred. The honoraria for members of the Workers' Compensation Health and Safety Board — that will be the last time I say that; I will just use "board" from here on in. But the honoraria for the board members actually are governed by the Government of Yukon policy on boards and committees, and they are established within that policy as a category D board. So, I believe, in looking at that policy, the honorarium for the chair is $300 a day. The honorarium for other members is $200 a day. That is what the honorarium is. The board does not have the authority nor the jurisdiction to increase their honoraria.

Ms. Duncan: To your knowledge, the Government of Yukon has not increased that honorarium?

Mr. Armstrong: To my knowledge, they have not.

Ms. Duncan: Has the workload for the members of the board of directors increased recently? If so, by how much?

Mr. Armstrong: Certainly it has increased. We have seen a growing level of participation and involvement by the board over a number of years. Clearly, the legislation spells out what the board's roles and responsibilities are and their level of involvement, but the —

Ms. Duncan: Mr. Armstrong, your microphone isn't working. I wonder if you could switch places with Mr. Stephens or to another chair, please.

Mr. Armstrong: Sure.

I will have to watch that, or I will be on a compensation claim. There is a bar across the bottom of my desk, and I don't mean one that provides liquids.

As I was responding to the question — has the workload for the members of the board increased — yes, it has. Historically, the workload over the last number of years has increased, but we have reached, I believe, a point of critical mass in 2003 and certainly going on into 2004 and 2005, where through the stakeholder advisory committees and the stakeholders in general, the expectations of the members of the board are to deal with a wide array of policy issues as well as financial issues. I won't chew up a lot of time going into detail on those. I suspect we'll have questions specific to that, but the short answer is yes, the workload has increased historically. And certainly for 2003-04, we can anticipate much more.

Ms. Duncan: It's also my understanding that the number of board members — actual board members — has decreased. How has that reduction impacted upon the operations of the board — briefly?

Mr. Armstrong: The legislation provides for, first, in non-voting members, the chair and alternate chair, the president/CEO, and the chair of the appeal tribunal. So then members representative of the stakeholders — there are two groups, employer and worker stakeholders. The legislation provides for three board members from each side. We had functioned with three up until awhile ago, and the appointments on two sides have not been made, so we're currently functioning with two representatives from labour, two representative members from the employer group, and then a full complement of the non-voting people. As far as how that has impacted — it certainly hasn't decreased or taken away from the board's ability to deal with issues.

Ms. Duncan: Could you just review, for the public record, how the appointment of members to the Workers' Compensation Board takes place?

Mr. Armstrong: Certainly. The minister responsible for the board is required to consult with stakeholder groups on the appointment. So, on the behalf of the labour representatives, the expectation would be that there would be consultation with labour organizations; for the employer side, there would be the expectation that there would be consultation with employer representative groups; for the chair and alternate chair, the expectation is that there would be consultation on both sides respecting the intent of neutrality for the position of the chair and alternate chair. At the end of the day, however, we need to be reminded that the decision is the decision of the minister. It's not a decision that the stakeholder groups make as to who comes on to the board and how long they're there for, but the elected government and the minister responsible actually make that decision at the end.

Ms. Duncan: To be clear then, consultation is as it's defined in law, if you will, by such agreements as the *Umbrella Final Agreement*. It's consultation in that format; it is not a veto — correct?

Mr. Armstrong: I wouldn't want to draw an analogy with the *Umbrella Final Agreement* and how it defines consultation in that I'm not familiar enough with that to accurately say whether it does or not.

I think that it's very fair to say that the expectation, however, is that it's meaningful consultation.

Ms. Duncan: Thank you.

The directors and the members of the board — board and directors' liability is a changing environment in Canada and elsewhere. What steps are currently taken to apprise members of the Workers' Compensation Board of what their role is as directors and any liability associated with it? What training do they get with respect to directors' liability?

Mr. Armstrong: I am going to answer in a broader way and then get specific on the training issue. But as far as the directors' liability, one liability is spoken to within the legislation and how they are protected from liability. Also, the governance document, in a general way — our board has a governance handbook that they follow that covers many aspects of the relationship and responsibility of board members. It speaks to the relationship with administration, but it also talks about their responsibilities in the sense of liability.

We, then, from a training perspective, have in-house counsel that provide legal training on what their liabilities are as members of the board and what their responsibilities are as members of the board. We are also undertaking, if you like, a plain-language approach to the Sarbanes-Oxley document from the United States, so that we can utilize the appropriate pieces of that in raising awareness for our members of the board on their liability.

In looking at it now, specifically from — there is the governance document and its overview. There is the training that is done in-house that is specific to liabilities. Then, looking at the financial perspective and ensuring that they are making informed decisions — am I going too far in answering the question?

Ms. Duncan: No.

Mr. Armstrong: No? Okay.

As far as ensuring they are exercising appropriate governance over the fund, we actually have several parties that are involved in looking at the fund. First and foremost, from an audit perspective, of course, the Auditor General of Canada, but also from a money-management perspective, we have put in place over the compensation fund first a fund custodian, which is CIBC Mellon that tracks all the transactions of the compensation fund. We have two investment managers — Jarislowsky Fraser, and TAL — that actually do the day-to-day investments of the compensation fund. We have J.P. Marshall as an oversight watchdog, as it were, on the two investment managers, that report to us independently on what the investment managers are doing.

So I think we have put in some of those checks and balances. There is more detail around it, but at the high level, that's it.

Ms. Duncan: You've mentioned governance a couple of times, and I would like to delve briefly into that. What changes are being planned or what discussions around governance are currently ongoing at the board? And with respect to that, I'm not talking about oversight of the workers' compensation fund, I'm speaking of governance in terms of accountability to the public, the relationship with the minister, the relationship with the workers and the employers. So what work is being undertaken now and any changes being contemplated — what are they?

Mr. Armstrong: I think that our organization is in a fairly good position as far as governance goes and documenting what governance means to our organization.

We, a couple of years ago, undertook a series of workshops with our board of directors to establish a governance document for the members of the board, as that flows out also over the chief executive officer, myself. So the governance document that we have speaks directly to the roles and responsibilities of members of the board, both the representative groups as well as the chair and alternate chair, what their functions are. It speaks to my roles and responsibilities and includes a section that deals with the evaluation, my performance evaluation.

I think it is safe to say that we regularly look at the governance document in the sense of: are there areas that we need to improve on; are there changes that we wish to make in actually having it as a functioning document? So that's an ongoing iterative process, but we're not in a situation of we don't have a governance document. We do have a governance document that really spells these things out.

I should add, because you had asked, that it also deals with the board's relationship with the minister, the board's relationship with government, the requirement as the *Workers' Compensation Act* spells out and, just as importantly, the Meredith principles spell out that arm's-length relationship between the system and government.

Ms. Duncan: You answered the question thoroughly with respect to the board governance and how that impacts on the role of the CEO and how that board is governed. You've said that the governance document speaks briefly to the relationship with the minister.

Is there any work being done to clarify that board relationship with the minister, and where in that governance document, or does that governance document speak to the board's relationship, through the minister, to the public or directly to the public and the Legislature?

Mr. Armstrong: I suspect what we're looking for — and if I'm mistaken, correct me — is a question of accountability.

Okay. I hadn't linked our governance document and the accountability aspect of the question. Certainly in the area of accountability, the governance document does speak to that in some of the requirements, but also the legislation and policies in place for the organization speak to accountability and the relationship both with government and with the minister. For example, in the governance document it speaks to the requirement for meetings between the chair and the minister and the information that is to be shared, the requirement for there at least to be, on an informal basis, twice a year reporting to the minister on the status and standing of the organization.

We're also required, as I think people were perhaps making reference to in regard to opening comments — we being the chair and the CEO — to appear before the Legislative Assembly on an annual basis and have done so. That's a provision that's unique in Canada, to my understanding.

We also report to the Legislative Assembly and to the stakeholders at large through our audited financial statements and our annual report on activities.

The timing on those two pieces is basically three months apart, but we provide those. We are also required and do hold an annual information meeting every year that is advertised publicly and held at various times during the day to facilitate different individuals being able to attend that public meeting. We also report, at least on a quarterly basis, to our stakeholder advisory committees, which again are representative of the two key groups, those being labour and the employers.

Right now, the stakeholder advisory committees have eight members on each side and a chair appointed by them. We meet with them and report on the issues of the board and look for suggestions from them and direction from them in a consultative way as to what issues the board should be dealing with next.

Those are a few of the ways we report back. Through our Web site — actually, I want to back up. As far as our annual meeting goes, we do provide summary notes and post those summary notes on our Web site. We make those available to anybody who attends. We also make those available through the public registrar at the front of the building, so if you have a desire to get those, they're freely available at the front counter.

The notes that are taken from the stakeholder advisory committee meetings are provided, of course, to all of the members of that. It's in its beginning stages, but we report out to the stakeholders through our balance score card approach and the quartiles there.

Ms. Duncan: You've outlined a great deal of opportunity and information that's put out publicly. Are there any changes being considered to this model of governance that you use or the governance that's currently being used and the accountability and public access you've outlined: tabling the annual report, the meetings with the minister, the appearance before the Legislature? Are there any changes to that type of governance/accountability being considered?

Mr. Armstrong: I'm not aware of any broad, sweeping changes that are being considered. I believe our members of the board are very interested and intent on having a very open dialogue with the stakeholder groups that they are both from and representative of. So they are always of a mind to be looking at benefits and ways of increasing that communication and accountability. But, as I say, I'm not aware that there is any major initiative underway to change that.

Ms. Duncan: Is there any impact on the board of the current act review?

Mr. Armstrong: I think that very much remains to be seen. You know, the act review certainly is underway, as is required. From an administrative perspective, we have undertaken putting together, as a number of other organizations and individuals have, a response or documents to the act review panel. Obviously that has an impact on time and resources in doing that. Members of the board have certainly been well apprised and participated in that exercise. But as to what the impacts of the act review are, we would have to wait and see what the recommendations are and what the Legislature does with that.

Ms. Duncan: Our work as the Public Accounts Committee is an opportunity for the public and us as representatives of the public to ask, in this instance, Crown corporations, organizations like the Workers' Compensation Board, the broad questions of looking at your mandate, are you meeting that mandate, how are you in turn communicating that to the public and measuring that performance?

So in terms of the Workers' Compensation Health and Safety Board mandate, what are the core programs or activities that the board carries out that allow it to meet its mandate? And I understand you've provided us — and I have lots of documentation in a written form that I'm essentially asking you to summarize. But if you had an opportunity, and you do, how would you in a very brief way tell the public —

Mr. Armstrong: How do we achieve the mandate?

Ms. Duncan: Exactly.

Mr. Armstrong: Yes.

Ms. Duncan: How are we doing that?

Mr. Armstrong: Yes, you are quite right. In the written documentation that we have provided, we have certainly attempted to spell out what that mandate is. I am understanding that you are not asking me to spend time reiterating that.

So given the basic understanding that the mandate is the Meredith Principles, the mandate is the objectives as spelled out in the legislation, what do we do to accomplish those?

Within the organization, the Workers' Compensation Health and Safety Board, we have a number of units, each of which are charged with delivering on our strategic plan which is based on that mandate. I won't go over the strategic plan in detail unless asked to. But we have to establish a clear line of sight between all of the activities within the organization, whether that is someone at the front desk or if it's the chief executive officer, in delivering on the strategic plan, which is built to support the mandate spelled out.

So from first an educational perspective for both workers and employers, we have a unit that is charged with responsibility to promote education around prevention, safety, and all those good things for both stakeholder groups. We have a compliance unit that is responsible to go out and see that we are facilitating employers and workers in meeting the regulations under the *Occupational Health and Safety Act*. In those unfortunate circumstances where we have an individual who is injured or experiences disability, we have an area responsible for adjudication or claimant management.

So the first area of that responsibility is the appropriate and speedy adjudication of claims, the rehabilitation of an injured worker if we are not able to get them back to work within a short period of time and they can't go back to that specific job. There are a number of units within the organization that have to line up, as I say, in a clear line of sight between what they are doing at their desk or when they are out at the work site, what the strategic plan is and the mandate of the organization.

Ms. Duncan: Given that outline of the mandate and strategic plan, are there any areas, or is there a specific area, that you feel needs to be worked on — where there's one or two areas that could be improved upon — and, if so, what is the board doing about it?

Mr. Armstrong: Our society in Yukon is in many ways unique but in many ways is no different from other jurisdictions. I think the overriding issue for me as, first, a Yukoner, secondly as a parent, and thirdly, I suppose, as the chief executive officer for the compensation system is to prevent workplace accidents in the first place.

It's all well and good that we can put things in place to adjudicate a claim, and it's all well and good that we can rehabilitate somebody after they've had a disability, but wouldn't it be a better world for us if we didn't have disabilities in the first place?

Whether or not — it's a value judgement — we're able to create a work environment where there are no disabilities — some believe that is possible, others challenge that's something — I think we owe it to ourselves, in whatever capacity we like to view ourselves in, to be striving as best we can toward prevention.

So if you're asking if there's one area that, as the CEO, I would say is critical for us to move forward in, it is in the area of prevention, both primary and secondary prevention. As far as what we are doing about that, we've developed a few partnerships with the community in advancing prevention strategies.

As a whole for the organization and for members of the board, they've charged the organization with coming up with a strategic prevention approach for the organization so we appropriately align our resources and move forward in a real meaningful way in prevention.

So prevention is it. The board is looking at what the prevention strategy for Yukon should look like. They're getting ready to look at some of the specific, new activities as well as keeping track of the ones that we're either legislatively responsible for currently or we have in place and although not a specific legislated requirement, something that we believe is being effective.

Ms. Duncan: Thank you very much.

Mr. Hardy: Thank you, Ms. Duncan. The next questioning will be done by Mr. Hassard.

Mr. Hassard: Thank you, Mr. Chair, and thank you, Mr. Armstrong and Mr. Stephens for appearing before us today. My questions are around the funding and financial matters of the corporation. We were wondering if you could give us a bit of a picture as to what the financial position of the board is at this time and what do you expect it to be a year from now.

Mr. Armstrong: We'd be happy to. Let me find the appropriate tab.

As the Public Accounts Committee will be aware — obviously, because we've provided you with the audited financial statements for 2002 — 2002 was a meaningful year financially for the organization in a way that one doesn't always like to draw attention to, but nonetheless it is a fact. In 2002, we experienced an operating deficit of approximately $24 million. Without making people look at the audited financial statements, unless, Mr. Hassard, we end up going there, that's fine. But as I said, we had an operating deficit of $24 million. The principal driving factor for the operating deficit was in two areas. One was a significant and substantial increase in claims costs. Claims costs for the organization went from approximately $17 million in 2001 to $29 million, approximately, in 2002.

That's one primary area. The second primary area was in investment revenue. If you look, the investment revenue in 2001 was approximately $7 million, and it was approximately $4.5 million in 2002.

We are in the fortunate circumstance of being a well-funded or healthily funded compensation board. In 2002, as well as in 2003, I think that we compare very favourably with the rest of the country as to our funded ratio in excess of 100 percent, but that's not to say that we can just sit back and be comfortable with the fact that we are one of the best funded boards.

We have had a very serious look at what the issues were around claims costs. I suspect that you have questions related to that further down your list. We have had a serious look at that and are able to report on some of those things. We have also had a review or a look at our investment policy and the approach we have taken with that. We are comfortable with that.

Where do we see ourselves in 2003? We see 2003 as being financially a better year than 2002 was. Projections for 2003 would put us at more of our historic claims costs levels rather than the $29 million that we experience.

We are anticipating by forecast, because we don't have the year-ends yet. But by forecasts, we are anticipating claims costs of around $15 million. We are anticipating an operating deficit of the sort of more historic levels of the $6 million or $7 million, not the $24 million.

So, 2003 will be a better year.

Mr. Hassard: Can you tell us: what is the balance of the compensation fund?

Mr. Armstrong: As of 2002?

Mr. Hassard: For now, I guess, that will work, yes.

Mr. Armstrong: I would draw people's attention, actually, to the balance sheet as of December 31, 2002. If we look at the column for 2002 — the one on the right hand side is 2001 and the next one beside it is 2002. So it's $133.5 million.

Mr. Hassard: What financial challenges are facing the board in the near future?

Mr. Armstrong: Again, what were the two significant issues for us in 2002? Those remain as what are the two significant financial issues for us: investments and investment revenue, and then our claims costs.

If I could just step a little bit aside to that question and sort of make it clear why those things are critical, when we're looking at revenues into the organization, there are a few different revenue streams coming into the organization but there are primarily two that are important to keep in mind. One is the revenue generated through our investments; the second is the revenue generated through our assessments and the premiums that are established.

The driving side, or the expenditure side, of the organization really boils down to primarily two areas. There are the administrative costs, which are outlined in the audited financial statements; there are also the claims costs that are outlined in the audited financial statements.

So if we're looking at how we deal with the financial future for the compensation fund, it's important for us to have in consideration those three components: claims cost, investment revenue and assessment revenue.

All of the expenditures are important to the organization but the most critical one, from a financial future perspective, is what we can do to mitigate the impact on our claims costs — how do we bring those costs down in a meaningful way. It speaks to an earlier question of what would be the biggest priority — prevention.

Again, in controlling claims costs, first and foremost we need to focus on preventing injury or disability in the first place. Having accepted those things may still occur, then what processes do we put in place to be effective and efficient in handling those claims? How do we get a worker back to work quickly?

In looking at the investment side, we want to maximize, in a safe fashion for the organization, the investment revenue coming into the organization because, by reducing the claims costs, by enhancing the investment revenue coming into the organization, we have a direct impact on that third area I was talking about, and that's the assessment premiums.

That's the money that the employers paid directly to the compensation fund to provide for the whole of the system and to provide them protection. The better we can take and influence positive outcomes for injured workers and reduce claims costs, the less money we require. The more we can maximize on investment revenue, the less money we take and have to look to the employer community to provide through assessment revenue.

Mr. Hassard: Thank you. What is your projected operating profit or loss for the next three years? Will this result in rate increases? And if so, by how much?

Mr. Armstrong: Well, actually, I'm not in a position to give you a projection on operating deficits for the next three years. The operating deficit that we're forecasting for 2003, I believe, is in the $6-million range, which would be the historic deficits that we would see as an organization — and, I should point out, intentional deficits at that level. $24 million in 2002 is not an intentional deficit. But the operating deficit historically is what lets us draw down on the compensation fund in general and provide the subsidies to employers. So, as I say, 2003 — around the $6-million mark. In 2004-05, I would hope that we see ourselves in that kind of a curve as far as the deficit goes. But I want to again emphasize that the board has made a conscious decision in operating that way on its financial side. Back in 1997 and 1998, we looked at the total value of the compensation fund and in particular looked at the level of funding we had in our benefit liability reserve. At the end of that exercise, it was determined that, one, the benefit liability reserve was more funded than would be required at that time and, hence, we were holding money in the benefit liability that we really, by rights, shouldn't be holding in the benefit liability.

We structured then, moving the surplus funds as they were identified into two different areas. One was identifying an area for prevention and benefit enhancement; the other was, as it were, a rate transition fund, which we would use to offset assessment revenues coming in from employers.

So over the years since then — actually for the four years starting in 1999 — we held the assessment premium constant for the employer community, with the intention of drawing down on that rate transition reserve. We've since — and certainly talked about it in 1998 and 1999 when we were doing the consultations, and again in 2001 when we went out and did consultations — we made it clear that we were reducing the level of subsidization on each of the employer groups and have been drawing that down.

So, in a forward-looking way, I would expect that the level of subsidy will continue to decrease in 2004 and 2005. How quickly that has to happen will really be dependent on where we are once we've had our year-end done for 2003 and, probably by the time we have the first projection for 2004, which would be after the second quarter, or after the first six months.

Did I speak in too much detail?

Mr. Hassard: Well, too much for me, but somebody will sort it all out.

You mentioned the prevention and benefit enhancement reserve. How does that money get spent?

Mr. Armstrong: To date, there haven't been any expenditures against that particular component of the compensation fund. When it was established, the board of the day made a commitment to the stakeholder groups that they would consult with the stakeholder groups for the establishment of criteria to access that.

The board has made the commitment to consult with the stakeholders on how they would access funding from that.

Even though it is not this way, the simple way of picturing it is, think of it as a separate chequing account within your overall financial picture. We run that particular area of money in that particular fashion; we credit funds into that based on the returns that we experience through our own investments, and put money into that area.

We've not drawn any money down from that. We are in the process, in working with our actuary, of going through our funding policy, and part of that process will be setting out the clear parameters around not just the compensation fund in general but the reserve that is established within that and how we would access those funds. So the board will be working on that over the next two months. They've spent two months at it already. But they will be working at that over the next couple of months. They will be talking to the stakeholders about that one particular reserve and about the structure of the reserves in general.

Mr. Hassard: We know the board has expensive contract functions, such as employers' and workers' representatives. What do these cost, and how much work is referred to these people?

Mr. Armstrong: I'm sorry, Mr. Hassard. I didn't hear the last part of the question. Sorry.

Mr. Hassard: How much do these contracts cost us, and how much work is referred to those people?

Mr. Armstrong: Costs for the worker — advocate office and costs for the employer consultant? Is that right? The actuals for the worker advocate office in 2002 were $343,358, and for the employer consultant, it was — I'll round it off. It was $79,750 — $80,000.

The employer consultant position is a two-year contribution agreement. So in fact — that $80,000 only reflects a partial year. I think the program started in September — pardon me, that probably represents nine months or nine-twelfths of the contract. It's a two-year contract that does expire here in 2004. There have been no decisions made at the board level as to what will happen with that contribution agreement. There is a requirement within the contribution agreement for an audit of the program, both financial and program delivery. That audit is underway by an independent auditor — not the Auditor General of Canada because I don't think we could bind them to do that. But we would have liked that.

Anyway, the audit is underway, and there will be a complete program evaluation done prior to the ending of that contribution agreement. I would suspect that the board will make its decision around that contribution agreement, based on the audit results, based on what the evaluation is.

As far as the worker advocate position is concerned, I am sure that members are aware that that, in fact, is established in legislation, and so it is not subject to that same sort of renewal process that a contribution agreement would be.

The setting of the budget for the worker advocate office is done a little bit differently from the rest of the budget for the organization in that the Minister of Justice is responsible for establishing the budget of the worker advocate in consultation with the board. Having done that, the board is then responsible for approving that budget.

Mr. Hassard: Thank you. Could you elaborate a little bit on how much work is referred to those particular groups?

Mr. Armstrong: Sure. I don't have either of their reports before me, so I'm going to be using general terms rather than specific terms. The report of the worker advocate, I believe, is tabled. I am not sure. It is certainly provided, though.

I believe the worker advocate office has actually quite an extensive workload. We don't necessarily refer injured workers to the worker advocate office. I want to be clear on what I am meaning by that. All the business that walks into the worker advocate office is not necessarily as a result of a referral from us. It may most definitely be as a result of experience with us, but not necessarily as a referral from us. We do refer injured workers to the worker advocate office and suggest that they may have assistance there to facilitate their dealings with the compensation system.

I believe that they have probably in excess of 200 active files. It seems to me, in November, I recall seeing figures something like that. But they are a busy office and we can undertake to get back and provide to you, on their behalf, their report on figures. We don't log or keep track of which individual workers we may refer to the worker advocate office.

But the worker advocate office certainly tracks that and has put mechanisms in place to keep track of it. From the employer consultant perspective, we certainly advertise the fact that the employer consultant is there and available to employers to access for whatever activities they would like to engage in with the employer consultant. The employer consultant contribution agreement, which is actually between the board and the Yukon Chamber of Commerce, spells out specific areas that the employer consultant can engage in and spells out areas that the employer consultant cannot engage in.

For example, the employer consultant, while being paid through the contribution agreement that we have with them, cannot engage in a claims appeal. So if the employer consultant is representing an employer in a claims appeal, that employer must be paying for that; it's not provided for under the compensation fund.

The employer consultant can represent an employer in an occupational health and safety appeal or in an assessment appeal. The employer consultant is asked to participate in a very active and meaningful way in communicating with the employer community, educating the employer community and bringing their concerns and issues forward to the board.

There's more detail on that and, again, if the Committee would be interested, we can provide you a copy of the contribution agreement.

Mr. Hassard: Does the board have any other contract services of significant dollar value?

Mr. Armstrong: We've entered into a contribution agreement with the Yukon Contractors Association. That contribution agreement is really to facilitate, first, establishing a Yukon construction safety association but, in the contribution agreement that we've established with them, we've made it quite clear that many things need to happen, but two that I wish to point out to the Committee.

One, that the Construction Safety Association open its doors for participation by any employer, not just the construction industry — but any employer that wishes to participate can participate in that association. So that's first. Secondly, that the programs that are put in place by the Construction Safety Association be programs that are applicable for use in the broader context. It's the board's desire that within a three-year time frame we see that Construction Safety Association grow or mature to be a Yukon safety association not specific to the construction industry.

If I can just spend a moment on that, though, we had the opportunity to partner, in this case, with the construction association because they had come to us, pointing out through information that we had provided to them that they have some significant issues that they wish to deal with in the areas of prevention and safety. We're looking for support from the organization in accomplishing those objectives. So we saw the opportunity for a meaningful partnership with the private sector through the construction association and something that would be good first for them and in the future, near future, good for all employers.

Mr. Hassard: The board recently increased employer assessments. What impact will that have on the board's bottom line?

Mr. Armstrong: The reduction in subsidy is a small amount. The actual dollar value is what you're looking for, Mr. Hassard? The increase in assessment revenue for 2004? I'm just going to ask, actually, if Mr. Stephens has his finger on that while we're —

Mr. Stephens: I don't have the exact figure, but we could get an estimate for you. We will know, obviously, at the end of 2003.

Mr. Hassard: And, finally, I believe this is my last question. What is the impact on the board's financial position from the contribution agreements with the Yukon Chamber of Commerce, the Yukon Contractors Association, and the Yukon Federation of Labour?

Mr. Armstrong: I am just looking to see whether we have all the groups. Not all of these contribution agreements were in place in 2002. For example, the Construction Safety Association wasn't in place. Off the top of my head, in fairness, I don't recall the value of that, nor the specific value of the agreement that we have with the Yukon Federation of Labour. Again, subject to me coming back to you with the specific dollar value — the contribution agreement with the Yukon Federation of Labour, I believe, is in the neighbourhood of $65,000 for its purposes. The Construction Safety Association, I believe, is in the neighbourhood of $250,000 over the life of the contribution agreement. So I will get you an annual figure for that. For the employer consultant, as I said, the 2002 expenditure was $80,000.

Mr. Hassard: What accountability measurements are in place associated with those agreements?

Mr. Armstrong: As I was pointing out with the employer consultant contribution agreement, we have built in the requirement for an independent audit. So from a financial perspective, we are looking at someone going in and conducting a very similar type of audit exercise that the Auditor General does on our behalf for the organization.

So there is a requirement within the contribution agreement that appropriate financial records are kept, that all receipts are kept and made available to the person who is auditing.

In the contribution agreement, we also spell out that the Yukon Chamber of Commerce must provide reports to the board on a quarterly basis before payment is made, which outline the activities of the employer consultant. So, the number of employers that he has had interaction with, a breakdown of those by industry group, the major concerns that were raised in that by those contacts from those employers; also a listing in the report of the other activities that the employer consultant would have undertaken, so if he has conducted workshops or educational seminars, those sorts of things are all required to be reported to the board, and we receive those on a quarterly basis.

On the Yukon Construction Safety Association, we have very similar reporting requirements with them. The requirement for auditing and the keeping of records, the requirement for approval steps back or a feedback loop to the board on some of the preliminary or basic decisions as they're sort of setting their focus for the Construction Safety Association — for example, the adoption of programs, whether it would be an Alberta or Nova Scotia model, and them at least keeping the board informed and the board participating in that decision-making process; and again, similar sorts of reports provided by the Construction Safety Association to the board on the activities of the consultant or safety person they have hired.

On the one for the Yukon Federation of Labour, I would have to look again to be able to itemize the reporting back, but we've followed a very standard sort of approach on these types of agreements, keeping in mind there is a need and a prudence required on the part of the board in entering into these agreements, and we expect information back to ensure that the money is not only being spent appropriately through the contribution agreement but that there is real benefit being gained by both the organization and the intent of the program they've undertaken, and also real gain made for the workers' compensation health and safety system.

Mr. Hardy: Thank you, Mr. Hassard. We are coming up to 2:00. We have a little over an hour left. We have approximately 22 more questions. I'd also like to leave a small amount of time for any miscellaneous follow-up or questions that may arise. So everybody try to stay brief and to the point and try to address the question directly. I thank you for your candour. You're doing well, except for the brevity. That's all right, though. There's a lot of good information.

Mr. Armstrong: I'm attempting to be thorough in my response, as opposed to long.

Mr. Hardy: Which is exactly what we want. I appreciate it, and I think we all appreciate it. Anyway, the next questioner will be Mr. Fairclough.

Just before we start, you may at times feel the questions we're asking are a repeat of a previous question. These questions were compiled from the Committee with the assistance of the staff and then they were distributed. They're not specific to each person. At times it's coming from a different perspective, so you may have to try to elaborate a little bit on some areas.

Mr. Armstrong: I understand.

Mr. Hardy: I'm sorry if you feel you're repeating yourself a lot.

Mr. Armstrong: That's fine. I understand.

Mr. Hardy: Okay. Mr. Fairclough?

Mr. Fairclough: Thank you, Mr. Chair, and I thank the two of you for coming forward and being witnesses to the Public Accounts Committee. I only have a few questions.

All the corporations' boards face some major decisions, whether it is dealing with policy or investment or whatnot, and in turn, face a certain amount of risk.

I would like to know what the key risks are that the board is currently facing now? Perhaps you could just outline what steps have been taken to mitigate those risks?

Mr. Armstrong: All right. The key risks that we've identified for the organization are, for one, the economy. A decline in the economy means, of course, fewer employers, and it is much harder for the organization to find return-to-work opportunities for injured workers. Increases, of course, in the economy — a decrease or an increase in the economy is a risk that needs to be paid attention to by the organization. But an increase in economic activity certainly can mean more high-risk industries and an increase in serious injuries for Yukon workers. Demographic changes — impact on the duration of claims for the organization with the change in an ageing workforce. The Yukon, I think is — brevity, sorry.

There are labour market changes — changes from industries where injuries tend to be single-source to information bases where injuries may have multiple sources. There are investment market and impact on investment revenue, increased costs outside the board's control. These would be agencies such as the appeal tribunal, the worker advocate, the act review — those are all things that impact us that are outside our area of control.

Legislative amendments, past and future, can have significant impacts, both in costs and in service expectations. Potential large accidents or catastrophic events — we certainly recognize those as a risk. The new accounting guidelines — we see those as a potential risk for the organization, in that if we're forced to comply with them, it may result in our having to record our gains and losses in the year that they occur rather than as averaged. That can result in a tremendous amount of volatility for the fund. A lack of formal internal audit functions is something we don't have but we recognize as a risk for us. Staff retirements and turnover is a risk for the organization and low classification levels to recruit in our area of specialty. And by "classifications," I'm meaning the pay levels that are provided, not the industry classifications related to assessment. Increasing health care costs, including new technologies, outdated systems and reliance on the mainframe, outdated policy regulations and an increasing propensity for legal challenges. So that is the outline of the risks as we see them. I'll try to be brief in what are we doing about those.

Recognizing, first, that not all those are within our area of control — for example, we cannot control the economy in the Yukon, but we certainly need to keep track of what the economic environment is in the Yukon, be aware of where industry changes are occurring. As I pointed out in identifying that as a risk in the first place, the whole area of information, the changeover from resource production — where it's a broken arm — to information, types of industries or service industries, where it's less likely to have the broken arm and it's more likely to have a disability caused by a multitude of factors, so tracking what those changes are and what the current methodologies or approaches are across the country in dealing with those things.

Again, demographic changes, being aware that we've lost the cohort of workers — not completely, but we've certainly lost a significant number of those trades individuals from the Yukon economy. That tends to be the age group between 30 and 45, which has gone south, as the saying goes, to have employment. In a demographic sense, that means we have in Yukon a higher percentage of young workers, and we have a higher percentage of older workers. Young workers —

Brevity? Shall I cut it short there, or shall I finish that thought?

Mr. Hardy: Well you know, I'm so interested in this.

Mr. Armstrong: Okay, young workers have a higher propensity for injury — and actually, if you've been watching the media, we've been doing some pretty meaningful things around young workers, 15 to 24.

Older workers are less likely to become injured or experience a disability on the job but, once that happens, the duration of their claim is significantly longer than it would be for a young worker. As we get older, we take more time to heal.

So we keep track of what the demographics are, how we target our interventions for those specific demographic groups.

I've spoken on the labour market changes and how we monitor that. The investment market and impact on investment revenue: obviously, in looking at the difference between 2001 and 2002, rounding figures, $7 million in investment revenue in 2001 and $4.5 million in 2002.

Well, we cannot accept responsibility for being able to control the investment market, but we do have a responsibility to respond to the investment market in an appropriate fashion. The way we do that is to try to build into our investment policy — and we have done that — the flexibility for our managers to adjust the investments as is appropriate for the intentions of the fund.

The fund's intentions, of course, are to maximize returns but to maximize returns in a long-term sense. We're not looking to maximize our investment returns today or at the end of 2004 but looking out over the long term at what is the best position for the fund to be invested in. We believe, in generalizing here, that that prudent approach for the compensation fund is a 50/50 split between bond and equity, and our investment policy targets that 50/50 split, establishes a benchmark portfolio, but allows latitude for the investment managers to maximize that.

Mr. Hardy: If we can come back to the question, this is a big question. You gave us a lot of areas. If we have time at the end, we can come back and you can —

Mr. Armstrong: Okay. Just to finish off on that, should there not be time at the end, we have identified this list of risks. We see them as being real risks for the organization. We're mindful of them. In those areas that we can take and mitigate the impact of those risks, we're undertaking to do so. In those areas where we can't mitigate but we can monitor, we are doing that.

Mr. Fairclough: I thank you for that. If we don't have time, I would really appreciate it in writing to the Public Accounts Committee.

The list that you did give was interesting. One of them was an increase to health care. I'm wondering whether the board has looked at other possible risks that they could be facing — perhaps, dealing with claims arising from smoking in the workplace?

Mr. Armstrong: Yes. That wasn't on my list of key risks. It certainly is on the board's list within the strategic plan and things to undertake in 2004. That's not to diminish the significance of smoking in the workplace and second-hand smoke, but, yes, we have looked at that. We certainly are aware of what the current academic view is on smoking in the workplace and second-hand smoke — because it's important to remember the two aspects. It's not just whether you smoke, but it's whether there is smoke in the workplace. The board has undertaken to review that situation in 2004 and come up with either a recommendation or another approach around smoking in the workplace.

Understand that the board, if a regulatory approach was determined to be the correct way to go — i.e. the passing of a law — the board, in itself, does not have authority to do that. All we can do — if the board was to take a regulatory approach — is make a recommendation to government that a regulation be passed in that area. We would do that pursuant to the *Occupational Health and Safety Act*. That's the only tool that we would have to bind our workplaces to that approach. Anything else becomes either policy or direction or suggestions or education from the board, but it doesn't have a binding nature.

Mr. Fairclough: Thank you. I have a final question here.

The board is currently developing a new policy on lump sum payments. There are lump sum payments outstanding from the previous legislation. Has the board received a legal opinion about its responsibility under the old legislation, and what financial exposure does the board have in this matter?

Mr. Armstrong: I think that the board's responsibility for lump sum payments under previous legislation doesn't really require a legal opinion. The legislation in force prior to 1993 really deals with — and I'm not going to bore us with the direct quote, but I'll certainly give you the intent.

What the legislation prior to 1993 says is that if a worker suffers a disability less than 10 percent, the board may take and make a lump sum payment and does not require a request from an injured worker to do so. So, if the disability is less than 10 percent, the board can simply say that, administratively, it makes more sense for us to just give you this as a lump sum than to be giving you $49.95 a month.

If the disability is 10 percent or greater, the worker may request a lump sum payment in writing. The board then may make a lump sum payment and it would commute the various benefits that the worker would be getting into the future and make a lump sum payment based on that.

So the legislation says the board can do it if it's less than 10 percent; the board may do it if it's greater than 10 and based on a written request from the worker. It can't undertake to make the lump sum payment without that written request. "May" is the operative word.

The board needs to exercise a fair bit of, shall I say, responsibility and due diligence and caution in making a lump sum payment. The issue that I think the board and an injured worker in these circumstances have to wrestle with is what levels of protection an injured worker wants to have in place before they accept the lump sum payment. I'm sure members are aware that compensation payments — so, the loss of earnings an injured worker receives — are tax free.

It's important, in my mind, that an injured worker, if taking a lump sum payment, take that lump sum payment in such a fashion that, to the best of their ability, protects that tax-free status. It's easy to compromise that, I believe. So they need independent financial advice about that. They also need independent legal advice as to the implications of taking that.

As far as what is the future liability of those lump sum payments, well, we don't have a figure for you. Potentially, we have out there between 26 and 28 workers who, under the previous legislation could, at some point, come forward and ask for a lump sum payment. So those are individuals who are receiving benefits now and could ask that those benefits be commuted.

We have historically made some lump sum payments. We have recently made two and we have had a request for a number since the passing of Bill No. 73. As you pointed out, the board is in the process of putting a policy in place to ensure fairness, clarity and consistency in making the lump sum payments, ensuring that the injured worker, in receiving that lump sum payment, understands what the implications of those lump sum payments are. On a one-by-one basis, those lump sum payments — because these are long-term claims. But it is not unreasonable to think that one of those lump sum payments can come to an amount of $600,000 or $650,000. It may also be much less than that. It may be $300,000. But those are the types of dollar figures, because of the length of these claims, that we could be looking at.

For a direct answer, the reason that I don't have a bottom-line figure is that there is no certainty that all 26 or 28 individuals who might have the ability to apply for this would in fact come forward.

Mr. Fairclough: Thank you very much for those answers.

Mr. Hardy: I'll ask a few questions now, and some of them are very brief. And you've pretty well answered some of them, but I'm just going to let you just buzz right through some of them. The board does have a business plan, doesn't it?

Mr. Armstrong: Yes. Yes, we do.

Mr. Hardy: And how does the board prioritize its objectives in relation to the plan?

Mr. Armstrong: First, I'm just going to walk through the, in a very brief fashion — the board establishes a strategic plan. Within the strategic plan is a three-year business plan, and in dialogue with the stakeholder advisory committees, it takes and prioritizes what activities within that three-year business plan, what we're going to deal with. They then take that three-year business plan and make a one-year operational plan. Those are the specific things that they're going to deal with in the next calendar fiscal year, and then budgets accordingly. So the prioritization is done by what are the issues that have been brought forward by the stakeholder groups, and what is the level of importance that the stakeholders attach to those.

The major focus from that area has been in the area of policy development, where the stakeholder advisory committee spelled out a very clear policy agenda and specific policies that they wished to have dealt with, and the board has held very true to that over the years. So the prioritization happens that way. It also happens, though, in that the board, as a board of governors responsible for the system, also will recognize that there are particular issues that may or may not be common knowledge to the stakeholders that require attention from the board and that they must move forward on. Lastly, administration will bring issues forward for inclusion in the operational plan, areas where administratively we've come up against a difficulty and we wish to deal with that. It's almost needless to say that the list is greater than what is accomplishable, and the board then goes through an exercise of picking what is reasonable for the board and the organization to take on.

Mr. Hardy: Thank you. That clarifies that. In that last part where you mentioned administration, I was wondering if there was a role there.

Do the budgetary allocations of the board match its priorities?

Mr. Armstrong: Yes.

Mr. Hardy: What is the current status of achieving better customer service — the ABCS project? Will it be completed as planned, has it been scaled back or is it just right off the table now with the board?

Mr. Armstrong: I guess it's important to look at what slice of time we're talking about. I don't mean that facetiously, because there have been a lot of different types of information out at one time or another.

The Public Accounts Committee will recall that, initially, there was an intent to go forward with the achieving better customer service as one large package. There was a proposed budget somewhere in the neighbourhood of $4 million or $4.5 million. Expenditures in 2002 amounted to approximately $1.1 million and the board, in reviewing the go-forward proposals that were related to that, has reconsidered how it wishes to proceed with the achieving better customer service project.

In 2003, the board approved expenditures in the neighbourhood of $250,000 for further work on the case management system and direct dialogue with off-the-shelf technology providers. We have done that work; we have reported back to the board on that. A decision is pending by the board on whether or not to proceed with that aspect of the project.

Also in 2003, there was approval of $650,000 for the upgrading of the financial system, and that work is underway. We've upgraded our ACCPAC financial system to the latest version, so that piece of the work is completed. That's going to help us greatly with year-end.

We're in the process of doing the upgrades we require between our current ACCPAC financial system and the assessment system that we put in place, so that's being done and the integration between those two systems is being done.

That's the status of where we are at today. A report has been provided to the board around the case management system. The board is giving that consideration but has yet to make a decision on how and if they will proceed with that. On the financial side, the ACCPAC system has been upgraded and the integration with the assessment system is underway.

Mr. Hardy: Was the ACCPAC system and integration part of the main package that was originally considered by the board?

Mr. Armstrong: The upgrading of the financial system was certainly part of the original project as considered by the board. In the work that was done in the initial stages of ABCS, the suggestion was made that the organization should go to Oracle Financials. Our information systems are Oracle-based and, as I said, the suggestion was made that we go to Oracle Financials. We stepped back from that, though, as an organization and did a little bit further due diligence on that and determined that, although Oracle Financials appears to be a very robust system and a very reliable system, it was certainly more of a system than what we required. We already had in place the ACCPAC system and we believed that upgrading ACCPAC — our financial system — to the current ACCPAC edition, as it were, was a more prudent step. So we took that rather than going to Oracle Financials.

So, yes, it's in keeping with the financial upgrade aspect but it was a different approach.

Mr. Hardy: Okay. I missed it, but you mentioned in your initial comments that there was a report or a cost of one part coming before the board for them to make a decision on.

Mr. Armstrong: Yes, a report was provided to the board on the case management component.

Mr. Hardy: Was there a cost attached to that?

Mr. Armstrong: No. There was a range of expected costs. The actual costing of the project, as I think people will be aware, is somewhat difficult to arrive at. We have been working with a particular — had narrowed it down from a group of five potential providers to one potential provider, and I believe there's a range they were suggesting. Based on them doing further work, they would be able to narrow that range down.

I'm not sure that the board or anyone else is comfortable with the approach, so we're having a look at whether or not there are other approaches that may be more appropriate for us.

Mr. Hardy: I'm just looking and adding the figures up, and we're already over $2 million on some of the costs you've outlined, without including this one. The original cost was $4 million-something, which seemed to raise the ire of a lot of people out there.

There's a good chance that in a few years we may find ourselves at that cost anyway. Is that correct?

Mr. Armstrong: I think that's very dependent on what decisions the board makes as we go along. I don't think I would go any further with that. I think that's very much dependent on what decisions the board makes. It is possible to reach that dollar value and, then again, it is just as possible to stay well below that.

Mr. Hardy: Okay. I was just looking at it and we're already over half. Sometimes — what do they say? Pound foolish, penny wise. I don't know.

Shifting a little bit more on to the performance side, does the board set any specific targets at the beginning of the year? At the end of the year, does the board report whether these performance expectations have been met?

Mr. Armstrong: In our governance document, there are performance expectations established for the CEO and, hence, for the organization, and those are discussed periodically with the board. But I know what you're asking for.

As far as a detailed performance reporting out to the stakeholders and to the community at large, we're not where we wish to be and we're not where we need to be in our minds on being able to do that reporting.

We have, as I said earlier in response to another question, established the balanced scorecard approach. We've provided an example of that to the Committee and the first report on our balanced scorecard, which is also on our Web site. We recognize that the balanced scorecard does not go as far as we would like it to go, but we felt it was important to at least get off the mark and get started on this. So there is further work yet to be done and is being done on both enhancing the balanced scorecard approach and putting in place performance measurement and performance indicators.

Mr. Hardy: Is there an evaluation of specific benchmarks to evaluate the board's performance?

Mr. Armstrong: The members of the board?

Mr. Hardy: Yes.

Mr. Armstrong: In the governance document, it does speak to a periodic evaluation of the members of the board and some of the areas that will be looked at that way. But it is not a tick-mark-in-the-box kind of an evaluation — more of an iterative process.

Mr. Hardy: On average, how long does it take a case, from the time of accident to the resolution of the case itself? What is the average time?

Mr. Armstrong: Just give me a second, and we'll have a look. The average number of calendar days from an injury to the first payment issued, which I recognize isn't quite what you're looking for — from injury to the first payment is, on average, 35 days for our jurisdiction. Average calendar days from registration to the first payment issued is 23 days. So that tells us that there is a difference of 12 days between an injury occurring and actual registration of that injury with us. We register the injuries the day the report arrives.

The average composite duration, we don't have the figures for Yukon, but we would be in keeping, probably, with the rest of the country in that, so it would give us an average then of probably around 80 days.

But I want to spend a brief minute on that in that it's important to understand that the average in looking at the duration of a claim really doesn't tell you very much other than that simply happens to be the average.

When you're looking at claims duration for our jurisdiction, as in any other jurisdiction, the first 30 days of the claim are the critical ones. Between 75 and 80 percent of the claims in the Yukon resolve within the first 30 to 45 days. So that majority is gone within 45 days.

That other smaller minority, between 20 and 25 percent, tail out and some of those can tail out for tremendous periods of time. Our oldest claim is a 1955 claim that we still make payments on, so you can imagine the impact that a claim from 1955 has on our duration figures. It's 30 years.

Nonetheless, the impacts on that, the costs for the organization or the system are driven by those long-duration claims. So when you balance, 80 percent are off and back at work within that first 45 days, compared to somebody who has been on a claim for 30 years, it pushes that average figure around, but you want to be careful in assuming that average doesn't mean median and that half are less and half are more.

Mr. Hardy: How many cases are currently backlogged right now?

Mr. Armstrong: I'm not aware of us having any backlog in claims.

Mr. Hardy: How many appeals would there be?

Mr. Armstrong: We're probably booked in appeals at the hearing officer level through until May at this point.

Mr. Hardy: Is it possible for you to supply some information on how many?

Mr. Armstrong: Sure.

Mr. Hardy: Maybe you meet once a week, so maybe it's 10 appeals. I have no idea.

Mr. Armstrong: I'll get back to you with the exact figure, but I would suspect it's about 10 appeals that we have.

Mr. Hardy: Okay. Do you foresee any impact on the backlog or any increase in delays with the recent reduction in staff? Is that going to have any impact on it? Can you foresee any impact in that area?

Mr. Armstrong: No. We have implemented the reductions in the organization, but the overriding principle in doing that was that, to the best of our ability, we would not impact front-line service to workers, injured workers or employers. I cannot foresee those reductions having an impact on the appeal process, at all. I don't foresee those reductions having an impact in the adjudication and the management of a claim. I don't foresee those having an impact on employers in the sense of the day-to-day relationship and working with the organization. Where we will see that impact is in the organization's ability to respond to not the day-to-day issues but more the requests for information, the research, following up with organizations or individuals. That's where we're going to have reduced capacity.

Mr. Hardy: Some information that was supplied by the Yukon Bureau of Statistics' report in November 2001 identified a few areas where improvements were needed, especially in the area of communications. What steps have been taken to address these concerns and has there been any measurable success in that?

Mr. Armstrong: We have undertaken, both with our stakeholders and with various sub-groups within the stakeholders, building on what the information needs are and the effective forms of communicating with them. For example, in moving forward, there was a reliance on, "Well, if we put information on the Internet, surely we have made it very available." That's not necessarily the case. We certainly recognize that we need to and continue to provide information and such through the public registrar's desk that we have at the organization.

So looking at what are the effective means of communicating and not making assumptions with our stakeholders as to what those effective ways may be — of course, literacy is an issue as well and we are looking at how we can communicate with those individuals in an effective way. So we are looking at what are the best approaches. Also, what are affordable approaches for the organization — and then trying to put those in place.

Mr. Hassard: I have several questions surrounding the new occupational health and safety regulations. Can you tell us what is the total cost of the board's investment so far, including board and staff time, in the development of the new OH&S regulations?

Mr. Armstrong: I don't have the figure in front of me. We will certainly undertake to go back and look at what the costs were where we're able to break those out and report them back to you. There has been involvement, as you point out, by staff, by stakeholder groups and by the board in bringing those forward. But, as I say, I don't have a dollar value in front of me.

Mr. Hassard: Okay, perhaps along those lines, as well, if you could let us know what it would cost to implement these new regulations and what you think the measurable benefits will be.

Mr. Armstrong: There I can come a little bit closer in the sense that — giving you no figure is not close at all, but here at least I can come up with a figure for you.

We had anticipated systemic costs for implementing the regulations at somewhere in the range of $100,000, and those costs were — again, I'm not referring to a document, so it would be subject to being checked; it may have been $120,000. But those implementation costs were broken out in a couple of different ways. We saw the need for being able to provide training programs and information sessions to the various industry groups in Yukon to bring them up, to increase their awareness about the particular regulations.

Now, there's a lot of awareness already about them because they've been involved in the development of them, but there's a different type of attention paid when it's participating in the development versus now one is being accountable to or measured by. So we saw a need to have training programs and information sessions for industry groups.

In the consultation process, it was also made clear to us that the current structure of the regulations was not user-friendly, that the various industries said, on the one hand, "Great, I love it if I can have all of them but, you know what? Sometimes I don't want to carry all of them around in my pocket; I would like these provided to me in a fashion that is sort of pick and choose and, if all I want to know is confined space entry, I can have that in my pocket; I don't have to have everything about falling a tree" — so putting a proper and useful format together and publishing that in a way that was meaningful for employers

We've also been asked about providing CD-ROM types of search capability for the occupational health and safety regulations. Also, though, on our side, in being able to implement, so there was the external, the training, the provision of the information. Internally, obviously, there is a need for us to ensure that our staff in general and our inspection staff in particular are aware of what the new expectations were. So we budgeted around the $100,000 to $120,000 for about a 12-month implementation.

Mr. Hassard: Mr. Chair, I don't know if you knew. In your absence, we added a couple of questions.

Mr. Hardy: I didn't know I was absent. Go ahead.

Mr. Hassard: The *Occupational Health and Safety Act* requires employers with 20 or more employees and who the board considers representing a higher risk have an occupational health and safety program. Paragraph 75 of the special examination notes that only 15 of 90 such employers have a program. Furthermore, no employers had been fined for non-compliance, and the board had no guidelines on how to establish a program and had no plans to audit any safety programs. Have any more employers established safety programs?

Mr. Armstrong: I think that we're in a better position than we were when the special examination was conducted. Certainly, for places of employment with 20 or more, it is quite clear in the legislation that there is that requirement for a safety program.

You're quite right that as of the time of the special examination, and even to this date, I don't believe that we have fined an employer for not having a safety program. We have certainly changed the emphasis or the importance in following up on that subsection of the legislation and encouraging and working with employers for the development of safety programs.

It was that very issue around safety programs that was one of the interesting pieces for our partnering with the Construction Safety Association, in that through the work that the Construction Safety Association is doing, they are putting in place a core program for the construction industry first. Then, as I said earlier, they will be branching that out as something that is applicable for all employers.

For the certificate of recognition, part of the core program is the requirement for a safety program that has been independently audited. So we are in the process of working with the Construction Safety Association to take and put those things in place and to have the independent audit capability so that, first, those in the construction industry can receive the certificate of recognition. I believe the construction association is going to be talking to the Government of Yukon about core recognition and the relationship and role that the Government of Yukon may be able to play in pushing this whole thing forward.

So, have we fined anybody since 2002 or in 2002? No, we haven't. We recognize that safety programs are an important component. We recognize that there is the legislative ability for us to fine, for us to administer administrative penalties in that area. We don't downplay the importance of safety programs. Certainly, in the prevention strategy, safety programs will be a key feature and something we will be moving forward with.

So there has been activity. Having said that, I'd like to make it really clear that we, either as a compensation system or as a group of employers or as a group of workers, cannot rest on the fact that the legislation makes a requirement for a safety program, and hence, if we have a safety program, it's a safe world. One does not necessarily equate to the other.

You are certainly in a safer environment if there is a safety program than if there is not a safety program, but there are many more components to a prevention strategy and safety in the workplace than a safety program.

Setting aside that there's legislative requirement — we're aware of that; we take that seriously — we're working more in a collaborative approach with the employer community in putting safety programs in place, and it would only be as a last resort that we would consider a punitive approach, because I think it's important. Whether it's the safety program aspect alone or whether it is prevention in general, it's important that we're able to do it in a collaborative fashion with our employer community rather than in a punitive way.

Mr. Hassard: All right. I guess, more specifically, I don't think I missed it in there — I didn't hear a specific number — can you tell us if any more employers have established safety programs since the special examination?

Mr. Armstrong: No, you didn't miss it in there, because I forgot to say it. Actually, off the top of my head, I'm not sure what the number is, so we'll get it back to you.

Mr. Hassard: I think you did answer some of it, but are there specific board guidelines for these programs?

Mr. Armstrong: Yes. We have available as an attachment to our Web site — and also on our Web site — guidelines for employers as to what the components of a safety program are. We also have material available at the board that we distribute to any employer or anyone else who is interested in setting up a safety program.

The major components are not overly difficult. It really requires a bit of commitment on the employers' side and a bit of time on the employers' side. They need to, as an employer, clearly articulate what their policies are for safety. So, first, that articulation in a written form — they need to ensure that their workers are advised of what those procedures are and are aware of those procedures. There needs to be an audit of them. As I say, it's not a terribly onerous exercise, but it does take some time. But we do have materials to support an employer going through that.

Mr. Hassard: All right. Thank you. I believe that's all the questions I had.

Mr. Hardy: There is time for other questions. I have a few. Ms. Duncan has a few. Mr. Rouble has two. So if we can, stay really brief so we don't have to go over. Because we will go over if we have to in order to answer the questions. We'll start with Ms. Duncan.

Ms. Duncan: Mr. Chair, I'll be very focused. I would just like to ask a couple of questions around the financial statements for 2002.

$24 million is a rather significant operating deficit. Most Yukoners would agree with that. So for the layperson walking in and looking at these financial statements — I see there is a decrease in the amount of revenue earned from investments. We have heard that pretty much everywhere, in terms of the marketplace. There is also a significant change in the claims expenses, and that's explained in note 6 of the financial statements. Is there anything other than that that accounts for a $24-million deficit?

Mr. Armstrong: The brief answer is no. You've captured the two significant components: the claims costs and the drop in the investment revenue.

There is probably more detail available today on the claims cost issue than is provided in note 6. We have that, but for brevity —

Ms. Duncan: Those are the key factors?

Mr. Armstrong: Those are the key factors, yes.

Ms. Duncan: Thank you.

I would just like to touch on the prevention and benefit enhancement reserve. Why wouldn't there have been a consultation with the stakeholders in accessing that reserve and the funds in that reserve in paying out the claims expenses?

Mr. Armstrong: Not having had the consultation with the stakeholders certainly has not prohibited the board from being able to provide the payments. We are mindful that the compensation fund, for all intents and purposes, is one fund, the use of which is designated through slicing it up in a real but academic fashion to the benefit liability and the other reserves. So, on the one hand, the board had no difficulty in making those payments. It is how do we allocate the cost of those payments to wherever the board would determine would be the appropriate way.

The only real issue for the board in being able to have the consultations with the stakeholders is certainly not a lack of willingness from the stakeholders and not a lack of willingness from the board. With the press of events and the other issues that the board has been dealing with, they simply have not had the time to take and do that. But they will be doing that in 2004.

Ms. Duncan: This is my understanding of the issue, so to speak. When the fund was doing very well and there was a surplus, there were two pots of money. One went to rate subsidies and one went into this prevention and benefit enhancement reserve. Really that money belonged to the workers and the employers at the time. There were the two pots of money. You explained to us earlier that that benefit enhancement reserve, before it is spent it requires consultation with the stakeholders.

So you have an issue where old claims, in fact, and the way that they are to be dealt with, have been changed.

The pot of money that was set aside for that and applied at that time — why wouldn't the board access that in paying those out rather than come with a $24-million deficit?

Mr. Armstrong: Actually, how you allocate the expense wouldn't change the fact that there's a $24-million deficit. It merely changes where you account those funds to. We're talking about Bill No. 73; we're talking about $5.4 million. $400,000 went out the door in actual payments shortly after the act. $5 million is future liability, or the money we have to set aside for that.

That setting aside, or putting money into the benefit liability, was done. It's there. Now, when we look at the reserves, where is the appropriate spot to pull that $5 million from? I agree with you. It seems to make good sense that you would access the prevention and benefit enhancement reserve. Was this not an enhancement to benefits? I think so. So it makes good sense to do that.

I think that the board will probably suggest to stakeholders that it makes good sense. I even suspect that the stakeholders will say, "You know what, it makes good sense," but the point we're at now is where the board had made a commitment that it would have the consultation with the stakeholders before it did anything with that, and they've not had the opportunity to have that consultation and they're holding true to the word they gave that they would not do so until they talked.

Now, they're working with their actuaries to be prepared for a larger discussion around the reserves, but they will be talking to the stakeholders on that specific aspect.

Ms. Duncan: What you're saying is, it may happen, depending on this consultation with stakeholders, and it may then be that the lump sum payments you referred to in your discussion with us earlier may come out of that enhancement reserve? Yes?

Mr. Armstrong: It would be dependent on what the criteria are that are established. I don't want to leave that piece hanging, though, on the lump sum payments, because the money that would be used to make lump sum payments is already set aside. It is already a part of that future benefit liability. When you look at the books, it's already there. If we were to make lump sum payments, if the board was do that, that's not new money. That's money that already exists in the benefit liability. There is an impact on the bottom line if we do that, in that we have then reduced money available for investments. We would see a drop in investment income because of having less money, but that money already exists in the benefit liability.

Ms. Duncan: Does it not also possibly exist, depending on consultation with stakeholders, in the benefit enhancement reserve fund?

Mr. Armstrong: I think you could determine it could be one or the other, but we would not be able to keep double books and say it's in both.

Ms. Duncan: Right. But it is in one or the other, and it could be in the benefit enhancement reserve?

Mr. Armstrong: It is currently in the benefit liability. There is no question; it is in the benefit liability reserve. If lump sum payments were made and it was determined that the benefit liability should be increased for whatever reason, it could be that you would access funds from the prevention and benefit enhancement reserve.

Ms. Duncan: Thank you very much.

Mr. Rouble: Good afternoon, gentlemen, and thank you very much for your participation in our hearing today. I've got one of those questions that could take two hours to answer, or probably two weeks. So if you would like to provide your notes afterwards or make a written submission, I'll settle for the short answer today.

We have discussed a bit about the increases in claims costs. What are the driving forces behind those increases in claims costs? Was it appeals? Was it the number of claims, the length of claims, compensation rates, types of disabilities? What is driving up the claims costs?

Mr. Armstrong: You're right, it could take two months or two weeks, but I'll tell you what: I'll try two minutes or less.

Just without detail behind it, just itemizing: Bill No. 73, the pre-1993 maximum wage rate, total estimated current and future liability result, $5.4 million; Bill No. 64, reinstatement of spousal pensions, total estimated current and future liabilities result, $700,000; Bill No. 83, Compensation Appeal Tribunal, WCAT, had an impact of $10.4 million on claims since the inception, impact in 2002 was $1.9 million; Bill No. 83, interest, $1,881.

Post-1992 maximum wage rate and indexing, the increase in the maximum wage rate — so this is not Bill No. 73, this is just current legislation — raising the maximum wage rate from 2001 to 2002, impact — actually, to make it short, the impact was $24,000; indexing of benefits, $202,000.

Those are some of the financial impacts. Claims frequency and complexity driving them up, the average growth — and again this is coming back to the question on average length. I had said around 80, but it's actually 92, so from 35 days to 92 days — the average duration on a claim.

Demographics — I spoke to that on the key risks — nature and severity of injuries and the effects of industry change and the effects of economic change.

That's the two-minute answer. There's detail behind every one of them, though.

Mr. Rouble: Great. I would appreciate receiving the detail behind them.

My second question — and this is a challenging issue to discuss. It's not that — we can often be very crass about workers' compensation just due to the nature of paying people for an injury that happens at a workplace. It's not that I want to put a value on safety, because I think we all have a responsibility to increase safety in our workplace and to reduce the number of workplace accidents and situations where a disability might be created, but we're talking about the OH&S costs. It was mentioned there was a $120,000 figure budgeted for Yukon Workers' Compensation Board to implement that.

Had you done any kind of assessment as to what the compliance cost to employers would be?

Mr. Armstrong: No. The short answer is no. Did we evaluate what the compliance costs are for an individual employer? No, we didn't. But recognize that employers already have costs of compliance for the occupational health and safety regulations.

The change in regulations certainly may have required some changes in various industries. I know that we're not interested in going through the detail on those — speaking of months — but there would be changes required there. There is a cost — absolutely — but I think that I'm with you in your opening comment that it's hard to apply the cost of safety and prevention and when is it a value and when isn't it.

We don't believe that the cost was onerous.

Mr. Hardy: I have just a couple of questions. How close do your inspectors work with the municipal and federal inspectors?

Mr. Armstrong: Actually, we have a very good working relationship at both the municipal and federal levels, as well as where required with the RCMP on fatalities. We have a protocol in place between the various levels of inspection that actually was done at our initiation. It spells out quite clearly who we involve and when we involve them and on what issues.

It does speak, in fairness, most specifically to the case of a fatality, but we — "we" meaning not only ourselves, but the municipal and the federal folks — have used it as a springboard to keep our working relationships good. We have regular communication, for example, with the federal folks — they are not always in great supply, as it were, in Yukon, and able to do inspections. So we certainly keep them informed of what we are up to and where we are at with things. We assist them where we are able to and, likewise, they assist us.

The same is true with the municipalities. We have a good working relationship with the inspectors there as well.

Mr. Hardy: I think it's very important. I think there are not enough inspectors, frankly, especially when the economy, say, in the construction sector — there is not enough out there. I listened to a couple of speakers a few days ago — Mr. Kells, I think his name was. Yes. And did he come and make a presentation to you, or did you have a chance to speak with the program that they're trying to run, Passport to Safety?

Mr. Armstrong: Thank you for the question. I have actually worked with Mr. Kells for the last year and a half to bring to fruition his coming to the Yukon to launch the Passport to Safety program. I personally, and also we as an organization, have been very firm backers of what Mr. Kells is attempting to do, and we believe that program has a great role to play for us in the Yukon. So I've had many conversations with Mr. Kells, and actually we have come to know each other quite well. But he did come and make a presentation to all of the staff. He did come and make a presentation to the board of directors, as well. We've had good interaction.

Mr. Hardy: Good. That's very good to hear, because when he was describing the death of his son on the job site and there was no workers' compensation coverage — there was no coverage whatsoever, actually — and the outcome and the challenges around that, and the fact that he said that a person can hit another person in a vehicle and be criminally charged and sentenced and sent to jail, and yet an employer can have an unsafe workplace and kill or seriously maim a person and all they get is a fine. That's quite a stark contrast to how our system is set up.

But it leads into the education. That's something we haven't addressed too much here today — the education part. How much work is the Workers' Compensation Health and Safety Board doing in the schools, for instance, with the young workers. You've already mentioned them as being very susceptible to accidents. Are there any programs in the schools, work being done by the board right now?

Mr. Armstrong: We have a number of workshops and presentations we do in the schools. We also recognize that there are young workers who may not be in the schools, so by participating through BYTE, Challenge and other areas, we try to capture as large a group as we can in bringing that message home.

As far as actual stats, I'd be happy to provide to the Committee all the stats on what education services we've done, what consultation services we've done, all that information. We have it readily available; I just didn't bring it today.

Mr. Hardy: I think it's important. I know that boot program that went around was very successful.

What is the most common injury claim that you receive? I'm sure you have these stats.

Mr. Armstrong: I was going to show you, but I have to tell you, because we're not being visually recorded, but if I stood up and held my back, it would tell you that one of the most common injuries we have are sprain and strain and back.

Mr. Hardy: So a lot of attention is on the maintenance of your back and how to look after it on the jobsite and what not.

Mr. Armstrong: That's right. That's the up-front or primary prevention, but the secondary prevention is important too in that there is an incredible amount of misinformation out there about what is proper and appropriate protocol for dealing with a back injury. A number of years ago people thought, with a back injury, it's hit the bed and stay there for the next three weeks and then off you go to work. Unfortunately, that urban myth still exists out there and that is not the appropriate way to deal with a back injury. There are new protocols. The challenge for us is getting those protocols understood and accepted, not just by general family practitioners — and we need to do that with them — but in the community at large and people we turn to informally for advice.

Mr. Hardy: Just another question in regard to injury: what is the biggest growth area in injuries that you are seeing now — other than the traditional ones, such as with the back — and that is causing more concern to the board itself? You were talking about risk and the growth of injuries, and you've already mentioned different types of injuries instead of a broken arm. What one area is one that you are really concerned about?

Mr. Armstrong: It's not necessarily a new one, but — I am going to take liberty and give you two. Really, it is the whole issue around chronic pain and around chronic stress. They are both extremely complicated issues, not just for the compensation system but for health care and society in general.

We are wrestling with those two issues, and I think that as a society we are going to end up wrestling with those issues as well.

Mr. Hardy: I have one last question. It is about something that you said earlier. I think you were talking in the area of risk and doing a list. You said "propensity to legal challenges", which immediately makes me think of the Meredith Principles. Is that under threat or is that eroding and are we seeing a shift to a different type of recourse for workers? Are we seeing more a direction toward legal challenges toward the Workers' Compensation Health and Safety Board for not fulfilling a role? Could you try to explain that in a very short period of time — like one or two minutes?

Mr. Armstrong: Two minutes.

Mr. Hardy: You got it.

Mr. Armstrong: All right.

I don't believe that anybody desires it to be so, but I think there has been a movement across jurisdictions in Canada toward a more confrontational workers' compensation system than we had in the past, and probably a more confrontational system than really serves any of us any good.

When we are dealing with somebody who has experienced a disability, we really need to be mindful of what has happened to that individual and deal with them in such a way that is, to the best of our ability, not confrontational. The more confrontational we get, the longer that person is going to be on claim, the more difficulties we're going to have, all those sorts of things.

The Meredith Principles, in my view, are not under attack or not being compromised. I think that there can be a move to resolve issues in court where, at times, that's the appropriate move. I think at times there could be a move to resolve issues in court that can be resolved without taking that kind of an approach. A less confrontational approach can, at times, serve us better. Meredith is safe.

Mr. Hardy: That's good to hear. I'm going to close the hearings now. I wish to thank both of you for attending. We really appreciate it. We appreciate the fact that you came forward and answered our questions as best you could. We do look forward to your written responses to the information that has been requested.

With that, I'm going to close the hearing for the day.

The Committee adjourned at 3:01 p.m.