



2005|2006

# Annual Report



Indian Claims Commission

INDIAN CLAIMS COMMISSION  
ANNUAL REPORT 2005-2006

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**COVER PAGE ARTWORK**

*The Story Teller - The Artist and His Grandfather*, Norval Morriseau, 1978.

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# To Her Excellency The Governor General in Council

## MAY IT PLEASE YOUR EXCELLENCY

In 2005-2006, the Indian Specific Claims Commission completed 3 inquiries and released 10 reports. This report summarizes our major achievements and activities in relation to specific claims last year.

Yours truly,

A handwritten signature in black ink, reading "Renée Dupuis". The signature is written in a cursive, flowing style.

Renée Dupuis, C.M.  
Chief Commissioner

June 2006



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# INTRODUCTION

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## MESSAGE FROM THE CHIEF COMMISSIONER

It gives me great pleasure to present the annual report of the Indian Claims Commission (ICC) for the 2005-2006 fiscal year.

Next fiscal year will mark ICC's 15th year of operation since its inception in July 1991. This approaching milestone provides us with an occasion to look back over the years and consider our accomplishments as well as the many lessons we have learned along the way.

First of all, I must say that I am very proud of all that we have achieved. The Commission was established in response to the political unrest of the Oka crisis and it has, I believe, made an important contribution to an improved relationship between First Nations and the government by helping to build trust and respect between the parties.

We recognize the value of oral history, which is collected from Elders and members of First Nations during the community session. Bringing both parties together, face to face – often for the first time – is at the heart of ICC's inquiry process and is one of the ways the Commission has helped to create a better understanding of the relationship between First Nations and Canada. Our acceptance of oral history not only created a legal precedent, but also helped ensure that First Nations' unique oral traditions become part of their community's written history.

We also recognize that our work and reports contribute to an accurate historical recounting of specific claims issues. This year we have continued preparation of summaries of our reports including a Key Word Index, which will facilitate research into specific claims issues. This new search tool will help First Nations and others involved in specific claims, as well as historians, academics and the legal community, locate specific information in all our reports and documents.

We have always believed that the resolution of specific claims is both a justice and a human rights issue. Over the years, the Commission's inquiry process has provided an effective alternative to lengthy and costly court cases, for both First Nations and the government. Our mediation and facilitation services have been instrumental in bringing about settlements agreeable to all the parties by promoting dialogue and better understanding. Since 1991 we have completed 68 inquiries and 11 mediations. Our workload is growing – over the past year alone, we have been engaged in 37 inquiries and have provided mediation/facilitation services for 26 negotiation tables. Work was completed on three inquiries on claims from the Blueberry River First Nation and Doig River First Nation, the Taku River Tlingit First Nation, and the Williams Lake Indian Band. We also published five mediation reports on the Blood Tribe/Kainaiwa, Akers surrender; the Chippewas of the Thames First Nation, Clench defalcation; the Keeseekoowenin First Nation, 1906 land claim; the Qu'Appelle Valley Indian Development Authority, flooding claim; and the Touchwood Agency mismanagement (1920-24) claim. These mediation files were completed in the 2004-2005 fiscal year.

I am also pleased to report that on November 15, 2005, the House of Commons Standing Committee on Aboriginal Affairs and Northern Development invited me to appear before it to discuss various aspects of specific claims and address the members of the Committee about our work.

Since our inception in 1991, we have been guided in all our work by the principles of independence, neutrality and impartiality. As a commission of inquiry we are committed to promoting fairness and

natural justice in all our work. The principles of openness and transparency are important to us and we continue to issue reports after each inquiry or mediation is completed.

We have gained a great deal of experience over the past 15 years, and we hope that our expertise may be helpful to the government as it considers the future direction of the Commission and its options regarding the establishment of a permanent institution for the resolution of specific claims. Despite the current uncertainty, the Commission is committed to fulfilling its mandate, continuing its work on specific claim inquiries and continuing to offer First Nations and Canada impartial and supportive mediation/facilitation services. We will also continue to accept new claims.

In conclusion, we believe that the ICC has had significant success since 1991. Despite all our best efforts, different perspectives will likely continue to characterize the specific claims process for some time. The ICC remains committed to playing a unique role in the process, working between parties with opposing viewpoints or different perspectives.

Renée Dupuis, C.M.  
Chief Commissioner  
Indian Claims Commission

## WHAT'S IN THE REPORT

This report of the Indian Claims Commission describes the work of the Commission from April 1, 2005, to March 31, 2006. It focuses on the Commission's achievements and its contribution to the settlement of specific land claims that have been rejected by Canada and then submitted by First Nations to the Commission for inquiry. It also makes recommendations to government on how to improve the process.

The report is divided into four sections. The **Introduction** includes a message from Chief Commissioner Renée Dupuis. This is followed by the Commission's **Recommendations**. The section entitled **Who We Are** outlines the mandate and organizational structure of the Commission; provides a brief history of the Commission and specific land claims; and includes biographical sketches of the Commissioners. It is followed by **What We Do**, the section that constitutes the core of the report, setting out the status of all claims on which the Commission has worked since its inception.

The focus of the report is the summary of claims, which provides information on claims currently before the Commission either in inquiry or in mediation/facilitation. It is followed by a table of claims that have been concluded.

The inquiries or mediations completed in 2005-2006 are listed first so that the reader can quickly find the results of work conducted by the Commission over the reporting year. They are followed by summaries of current inquiries and mediations. The concluded claims table tracks the progress of each claim through the specific claims process, once the Commission has completed its inquiry or provided mediation/facilitation services.

Two indexes follow the concluded inquiries and mediations table. The first is an index of all ICC's concluded inquiries and mediations, presented by province. The second index lists concluded inquiries by theme.



# COMMISSION'S RECOMMENDATIONS TO GOVERNMENT, 2005-2006

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Recommendations to the government regarding specific claims



## COMMISSION'S RECOMMENDATIONS TO GOVERNMENT, 2005-2006

For nearly 60 years, the establishment of a permanent adjudication tribunal for First Nations land claims has been a topic of discussion and debate in Canada. Between 1927 and 1951, Indians were in fact prohibited by law from pursuing any legal action against Canada regarding land claims.

A succession of parliamentary committees have recommended the creation of a commission to settle treaty disputes – in 1947, 1961, 1983, and 1990. The United States established such a commission in 1946. Two bills were introduced in the House of Commons – in 1963 and 1965 – but did not pass. In response to the 1991 Oka crisis, the federal government put a series of measures in place that included the creation of the Indian Specific Claims Commission, as a temporary body, and the establishment of the first joint working group (Department of Indian Affairs and Assembly of First Nations) responsible for reviewing federal policy on specific claims. In its *1994-1995 Annual Report*, the Indian Claims Commission recommended that a permanent and independent tribunal be created, a recommendation it has repeated on a number of occasions since then. The joint Assembly of First Nations/Indian Affairs working group reached a consensus on the need for legislation to create an independent body to settle claims, and in 1996, a second joint working group was created to develop the structure of such a body. The 1998 *Report of the Joint First Nations-Canada Task Force on Specific Claims Policy Reform* recommended the creation of a mediation commission and a tribunal. In November 2003, legislation was passed which, if implemented, would create the Centre for the Resolution of First Nations Specific Claims. This Centre would be composed of a tribunal and a commission that would provide mediation. This legislation has not been proclaimed.

**Recommendation #1: The Commission recommends that the federal government give priority to the creation of an independent tribunal for specific claim resolution, in consultation with First Nations. The federal government should take whatever legislative action is required to do so.**

The Indian Claims Commission's mandate includes the ability to provide, at the request and with the consent of the parties, such mediation services as may in their opinion assist the Government of Canada and a First Nation to reach an agreement in respect of any matter relating to an Indian specific claim. These mediation services may be provided at any stage of the claims process. In a number of cases, the Commission has provided mediation/facilitation services to the specific claims process prior to the acceptance or rejection of the claim. The experience of the Commission has been that the use of mediation/facilitation services in those instances has proven to be a useful tool to support the resolution of specific claims. In our view, mediation services should be provided as soon as a claim is submitted and as it progresses through the specific claims review process.

**Recommendation # 2: The Commission recommends that the Minister encourage the Department of Indian and Northern Affairs to utilize the ICC's mediation and facilitation services at any stage of the specific claims process.**





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## AUTHORITY, MANDATE AND OPERATIONS

The Indian Claims Commission is a Commission of Inquiry established by Order in Council under Part I of the *Inquiries Act* in 1991. The Commission has a double mandate: to inquire, at the request of a First Nation, into its specific land claim; and to provide mediation services, with the consent of both parties, for specific claims at any stage of the process. An inquiry may take place when the Minister of Indian and Northern Affairs Canada has rejected a First Nation's claim, or when the Minister has accepted the claim for negotiation but a dispute has arisen over the compensation criteria being applied to settle the claim.

As part of its mandate to find more effective ways to resolve specific claims, the Commission has established a process to inquire into and review government decisions regarding the merits of a claim and the applicable compensation principles when negotiations have reached an impasse. Since the Commission is not a court, it is not bound by strict rules of evidence, limitation periods and other technical defences that might present obstacles in litigation of grievances against the Crown. This flexibility removes those barriers and gives the Commission the freedom to conduct fair and objective inquiries in as expeditious a way as possible. In turn, these inquiries offer the parties innovative solutions in their efforts to resolve a host of complex and contentious issues of policy and law. Moreover, the process emphasizes principles of fairness, equity and justice to promote reconciliation and healing between Aboriginal and non-Aboriginal Canadians.

The Commission provides broad mediation and facilitation services at the request of both the First Nation and the Government of Canada. Together with the mediator, the parties decide how the mediation process will be conducted. This method ensures that the process fits the unique circumstances of each particular negotiation.

The process used by the Commission for handling claims is aimed at increasing efficiency and effectiveness in resolving specific claims. There are five stages to the inquiry process (see page 32) and five stages in the mediation process (see page 49), which begin when a request is received from a First Nation.

## HISTORY OF THE ICC AND OF SPECIFIC CLAIMS IN CANADA

From colonial times through the first half century of Confederation, the federal government and First Nations entered into treaties that created mutual obligations. Many claims derive from the assertion by First Nations that certain treaty provisions have not been honoured by the government. Claims can also derive from breaches of obligation arising out of the *Indian Act* and other statutes, legal duties of the Crown, improper administration of Indian funds or other assets, or illegal disposition of Indian land.

Government policy divides claims into two categories: specific and comprehensive. **Specific claims** arise from the breach or non-fulfillment of government obligations found in treaties, agreements, or statutes. **Comprehensive claims** are based on unextinguished Aboriginal title.

In the fall of 1990, in the aftermath of the Oka/Kanesatake crisis, the federal government asked First Nation Chiefs to recommend ways to improve the claims process. Following consultations with their communities, the Chiefs Committee on Claims produced the First Nations Submission on Claims. It received the support of a special assembly of the Assembly of First Nations in December of that year. Among their 27 recommendations, the Chiefs proposed that an “independent and impartial body ... with authority to ensure expeditious resolution of claims” be established. This body would assist the negotiation process by bringing the parties together and recommending solutions to contentious issues.

In July 1991, the federal government responded to the Chiefs’ submission by creating the Indian Specific Claims Commission as a Commission of Inquiry. Harry S. LaForme served as the first Chief Commissioner until February 1994, when he was appointed a Justice of the Ontario Court (General Division). He was replaced in April 1994 by Commissioners Daniel J. Bellegarde and P.E. James Prentice, who acted as Co-Chairs until Phil Fontaine’s appointment as Chief Commissioner in August 2001. In June 2003, Renée Dupuis was appointed Chief Commissioner following Mr Fontaine’s resignation.

The mandate of the Indian Claims Commission is to address disputes arising out of the specific claims process. This process is based on Canada’s Specific Claims Policy called *Outstanding Business*, which was published in 1982.

Under the government’s current policy, First Nations must research and submit specific claims to the government. The government then decides whether to accept a claim for compensation negotiations.

Negotiation of validated claims may result in an offer of compensation to First Nations. However, concerns have been raised that restitution is currently restricted by government criteria that First Nations often believe to be unfair or applied in ways that are unfair.

For many years, First Nation and government negotiators have attempted to put an end to deadlocked land claims, but there has been little progress. Negotiations have been slow and difficult, and relatively few settlements have been reached. This backlog of unresolved claims is not acceptable.

Before the creation of the Indian Claims Commission, First Nations were unable to challenge government decisions without going to court. As an alternative to court action, the ICC has offered a fresh and positive approach for First Nations that desire an independent review of government decisions.

For many years, the Commission urged the federal government to create a permanent, independent claims body. On November 4, 2003, Parliament passed the *Specific Claims Resolution Act*, legislation to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims, which has not been proclaimed. In the meantime, the Commission continues to exercise its mandate.

## AN EARLY LAND CLAIMS CHRONOLOGY

### Early 1700s



1

The first formal treaties are made with eastern First Nations as the English and French compete for control of the fur trade.

### 1763

In response to Chief Pontiac's<sup>1</sup> war, an uprising by First Nations around forts in the Great Lakes region, King George III issues the *Royal Proclamation of 1763*, which confirms Aboriginal rights and affirms that treaty making must precede European settlement. Over the next few decades, 41 treaties will be signed covering southern Ontario and parts of British Columbia.

### 1812

After the War of 1812, treaties between First Nations and the British open up much of Ontario for settlement.

### 1867

At Canadian Confederation<sup>2</sup>, the responsibilities of the British Crown are transferred to the federal Government of Canada.



2

### 1871-77

The first wave of treaty signing between the Government of Canada and First Nations covers northwestern Ontario and the southeastern Prairies. The treaties signed at this time, Treaty 1 to Treaty 7, are known as the Numbered Treaties.

### 1899-1921

The second wave of Numbered Treaties, covering parts of northern Alberta, British Columbia, and Saskatchewan and southern parts of the Northwest Territories, starts with Treaty 8 and ends with Treaty 11.

**1927**

An amendment is added to the *Indian Act* which discourages land claims. Fines are levied against lawyers who raise funds for a claim or represent a First Nation in a claim against Canada.

## EVENTS LEADING TO THE CREATION OF THE COMMISSION

**1948**

A joint parliamentary committee recommends that a claims commission be set up to assess and settle all claims.

**1951**

The *Indian Act* is revised to remove the provision that made it an offence to raise funds or hire a lawyer to advance a land claim without the government's permission.

**1961-65**

A joint parliamentary committee again recommends the creation of a claims body. The bill dies on the order paper.

**1969**

The White Paper introduces the term “specific claim” based on “lawful obligation.” The paper recommends the creation of an independent claims body. Dr Lloyd Barber is appointed to explore the creation of an impartial claims body.



**1973**

The Supreme Court of Canada's decision in the *Calder*<sup>3</sup> case recognizes the existence of Aboriginal title.

The federal government announces its claims policy, designating specific and comprehensive claims.

**1981**

Gérard La Forest, in a report commissioned by the government, recommends the creation of “an independent administrative tribunal” to resolve claims.

**1982**

Canada publishes *Outstanding Business: A Native Claims Policy – Specific Claims*, which focuses on the processes and guidelines for submitting specific claims.

The *Constitution Act, 1982* is proclaimed. Section 35 deals with Aboriginal peoples and recognizes and affirms existing Aboriginal and treaty rights.

## 1984

In the *Guerin* case, the Supreme Court finds that, under the provisions of the *Indian Act*, Parliament has conferred on the Crown a fiduciary or trust-like obligation to protect First Nations' interests in transactions with third parties.

## 1987

The Canadian Bar Association recommends the creation of a “specific claims tribunal.”

## 1990

The Supreme Court, in its comments on the *Sparrow* case, recognized an existing Aboriginal right to fish based on the facts of that case, and interpreted section 35 of the *Constitution Act, 1982*, for the first time.

Elijah Harper<sup>4</sup> helps to block the Meech Lake accord over lack of Aboriginal participation.

Violence erupts in Oka, Quebec, over a rejected land claim.<sup>5</sup>

The federal government announces its Native Agenda, committing it to the acceleration of specific claims settlement.

The Indian Commission of Ontario, in a discussion paper commissioned by the federal government and the Assembly of First Nations, recommends the creation of an independent claims body.

The Chiefs Committee on Claims (Assembly of First Nations) also recommends the creation of an independent claims body and of a Joint Working Group on Claims to continue exploring reform of the claims policy with the federal government.



## 1991

The Indian Specific Claims Commission, known as the Indian Claims Commission, is created by Order in Council PC 1991-1329, and Harry S. LaForme<sup>6</sup> is appointed Chief Commissioner.

**1992**

The Commission's mandate is amended by Order in Council PC 1992-1730 following objections from the Assembly of First Nations, and revisions recommended by a Joint First Nations / Government Working Group are incorporated. Six additional Commissioners are appointed: Roger Augustine, Daniel J. Bellegarde, Carole Corcoran, Carol Dutchshen, Charles Hamelin and P.E. James Prentice.<sup>7</sup>



## RECENT DEVELOPMENTS ...

**1995**

The Supreme Court hands down its decision in the *Apsassin* case. In its decision, the Court contemplates a number of scenarios in which a pre-surrender fiduciary duty would come into effect: when a band's understanding of the terms of surrender is inadequate; where the conduct of the Crown has tainted dealings in a manner that makes it unsafe to rely on the band's understanding and intention; where the band has abnegated its decision-making authority in favour of the Crown in relation to the surrender; and where the surrender is so foolish or improvident as to be considered exploitive.

**1997**

In the *Delgamuukw* case, the Supreme Court finds that to disallow First Nations' oral history and tradition as evidence would put an impossible burden of proof on Aboriginal peoples, since that is the way First Nations kept records. The Court also addresses directly the definition of Aboriginal title; it finds that a First Nation has a right to claim "Aboriginal title" to lands that it has used in order to maintain its traditional way of life. Aboriginal title comes from a nation's use and occupancy of the land for generations; it is therefore a communal right that cannot be held by an individual.



**1999**

The Supreme Court hands down the *Marshall* decision. Given the language contained in a treaty between the Crown and the Mi'kmaq and Maliseet communities in New Brunswick, the Court finds that Donald Marshall Jr.<sup>8</sup> did have a right to earn a "moderate livelihood" from selling his catch of eels.

**2001**

The First Nations Governance Initiative is introduced by the Minister of Indian and Northern Affairs Canada (INAC), at the Siksika First Nation in Alberta. The package of legislation contains the *Specific Claims Resolution Act*, which would create the Canadian Centre for the Independent Resolution of First Nations Specific Claims. This Centre would replace the Indian Claims Commission.

In August, Phil Fontaine is appointed Chief Commissioner of the ICC.

## 2003

In June, Mr Fontaine resigns as Chief Commissioner and is replaced by Renée Dupuis.

In November, the *Specific Claims Resolution Act* is adopted and receives Royal Assent, but the legislation is not proclaimed.

## 2004

In July, Order in Council amendment PC 2004-858 designated the Minister of Indian and Northern Affairs Canada as the appropriate minister for the ICC for purposes of the *Financial Administration Act*.

- 1 *No authentic images of Pontiac are known to exist. This portrait by John Mix Stanley (1814-1872) was painted nearly 100 years after Pontiac's death.*
- 2 *Fathers of Confederation, John David Kelly, early 20th Century, M993.154.60, McCord Museum, Montreal.*
- 3 *The Calder decision had immediate and far-reaching effects on Canadian policy with respect to Aboriginal title, and led to the Nisga'a Treaty and the BC Treaty Process.  
Frank Calder, Prime Minister P.E. Trudeau and Indian Affairs Minister Jean Chrétien, circa 1974.*
- 4 *NDP MLA Elijah Harper sits in the Manitoba legislature holding an eagle feather for spiritual strength as he continues to delay the house debate on the Meech Lake accord in Winnipeg, June 19, 1990.  
(CP PICTURE ARCHIVE/Winnipeg Free Press/Wayne Glowacki)*
- 5 *Quebec provincial police man their barricade at the bottom of the hill while Mohawks maintain their position at the top as the standoff on the Kanesatake Reserve near Oka enters its fourteenth day on July 24, 1990.  
(CP Photo Ryan Remiorz)*
- 6 *Harry S. LaForme was Chief Commissioner of the ICC until his appointment as judge of the Ontario Court of Justice in February 1994.*
- 7 *The ICC's logo was designed by Kirk Brant.*
- 8 *Donald Marshall (left), Assembly of First Nations National Chief Phil Fontaine and Chief Misel Joe of the Miawpukek First Nation discuss their position at the conclusion of a three-day National Treaty Conference, Feb. 3, 2000, in St.John's, Nfld.  
(CP PHOTO/St.John's Telegram/Gary Hebbard)*





## THE COMMISSIONERS

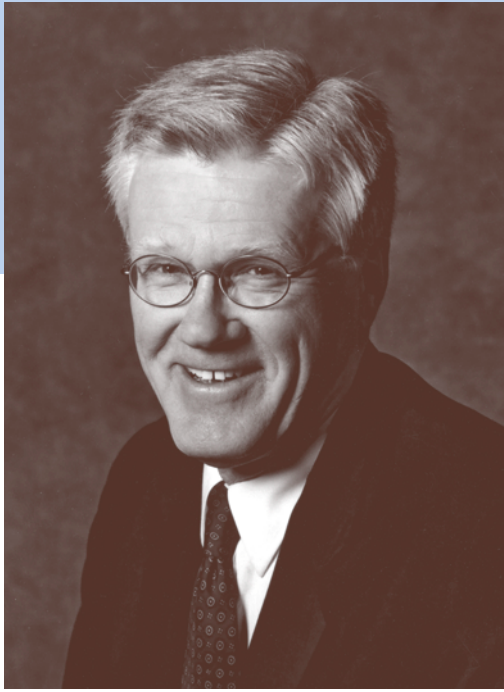
Chief Commissioner **Renée Dupuis** has had a private law practice in Quebec City since 1973 where she specializes in the areas of Aboriginal peoples, human rights, and administrative law. Since 1972, she has served as legal advisor to a number of First Nations and Aboriginal groups in her home province, including the Indians of Quebec Association, the Assembly of First Nations for Quebec and Labrador, and the Attikamek and the Innu-Montagnais First Nations, representing them in their land claims negotiations with the federal, Quebec, and Newfoundland governments and in constitutional negotiations. From 1989 to 1995, Madame Dupuis served two terms as commissioner of the Canadian Human Rights Commission and she is chair of the Barreau du Québec's committee on law relating to Aboriginal peoples. She has served as consultant to various federal and provincial government agencies, authored numerous books and articles, and lectured extensively on administrative law, human rights, and Aboriginal rights. She is the recipient of the 2001 Award of the Fondation du Barreau du Québec for her book *Le statut juridique des peuples autochtones en droit canadien* (Carswell), the 2001 Governor General's Literary Award for Non-fiction for her book *Quel Canada pour les Autochtones?* (published in English by James Lorimer & Company Publishers under the title *Justice for Canada's Aboriginal Peoples*), and the YWCA's Women of Excellence Award 2002 for her contribution to the advancement of women's issues. In June 2004, the Barreau du Québec bestowed on her the Christine Tourigny Merit Award for her contribution to the promotion of legal knowledge, particularly in the field of Aboriginal rights. She was appointed a Member of the Order of Canada in 2005. Madame Dupuis is a graduate in law from the Université Laval and holds a master's degree in public administration from the École nationale d'administration publique. She was appointed Commissioner of the Indian Claims Commission on March 28, 2001, and Chief Commissioner on June 10, 2003.



**Daniel J. Bellegarde** is an Assiniboine/Cree from the Little Black Bear First Nation in southern Saskatchewan. From 1981 to 1984, Mr Bellegarde worked with the Meadow Lake District Chiefs Joint Venture as a socio-economic planner. He was president of the Saskatchewan Indian Institute of Technologies from 1984 to 1987. In 1988, he was elected first Vice-Chief of the Federation of Saskatchewan Indian Nations, a position he held until 1997. He is currently president of Dan Bellegarde & Associates, a consulting firm specializing in strategic planning, management and leadership development, self-governance, and human resource development in general. Mr Bellegarde was appointed Commissioner, then Co-Chair, of the Indian Claims Commission on July 27, 1992, and April 19, 1994, respectively. He held the position of Co-Chair until August 2001.



**Jane Dickson-Gilmore** is an associate professor in the Law Department at Carleton University, where she teaches such subjects as Aboriginal community and restorative justice, as well as conflict resolution. Active in First Nations communities, she serves as an advisor for the Oujé-Bougoumou Cree First Nation Community Justice Project and makes presentations to schools on Aboriginal culture, history, and politics. In the past, she provided expert advice to the Smithsonian Institution – National Museum of the American Indian on Kahnawake Mohawks. Ms Dickson-Gilmore has also been called upon to present before the Standing Committee of Justice and Human Rights and has been an expert witness in proceedings before the Federal Court and the Canadian Human Rights Commission. A published author and winner of numerous academic awards, she graduated from the London School of Economics with a PhD in law and holds a BA and MA in criminology from Simon Fraser University. Ms Dickson-Gilmore was appointed Commissioner of the Indian Claims Commission on October 31, 2002.

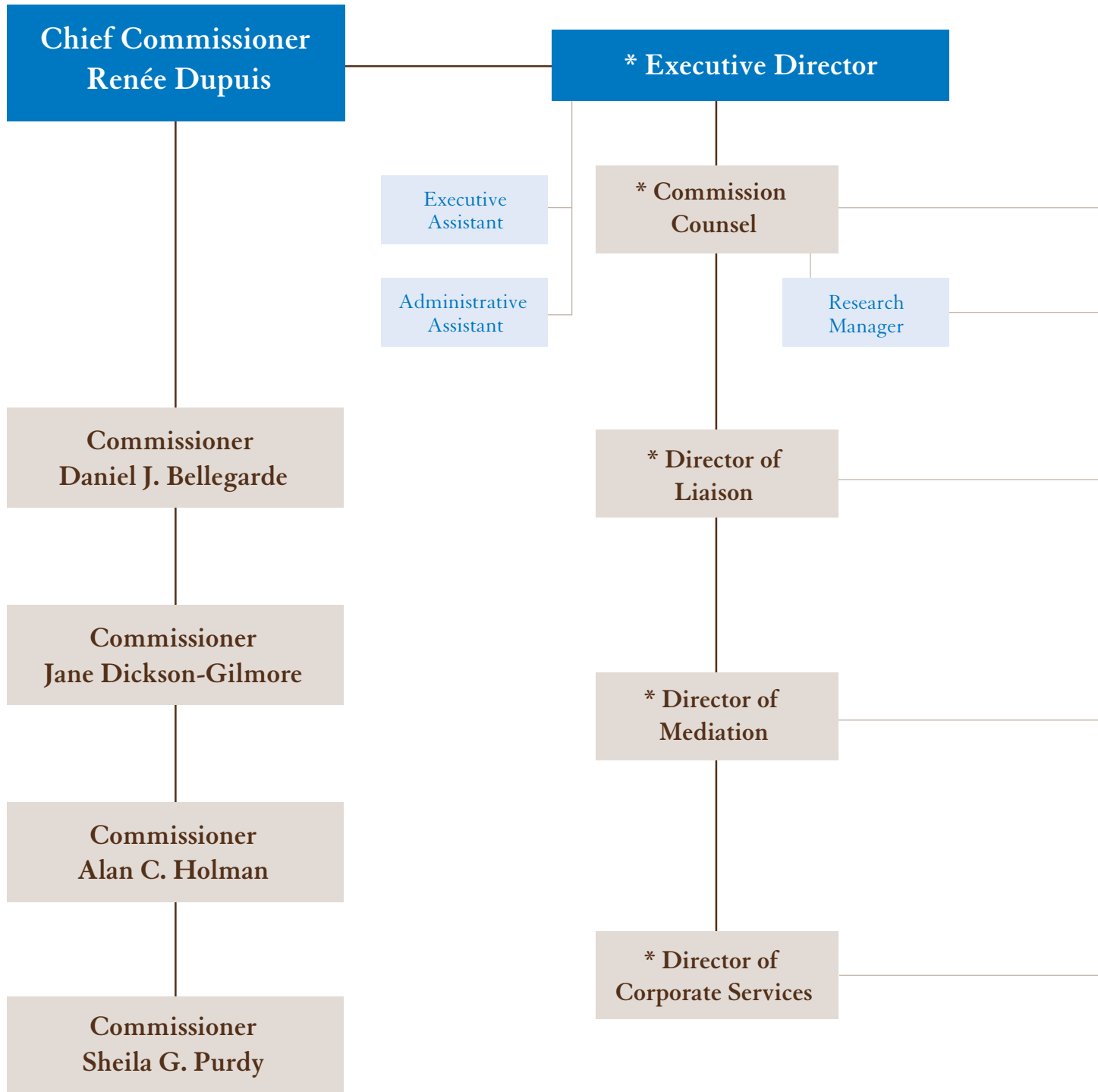


**Alan C. Holman** is a writer and broadcaster who grew up on Prince Edward Island. In his long journalistic career, he has been an instructor at Holland College in Charlottetown, PEI; editor-publisher of a weekly newspaper in rural PEI; a radio reporter with CBC in Inuvik, NWT; and a reporter for the Charlottetown *Guardian*, *Windsor Star*, and *Ottawa Citizen*. From 1980 to 1986, he was Atlantic parliamentary correspondent for CBC-TV news in Ottawa. In 1987, he was appointed parliamentary bureau chief for CBC radio news, a position he held until 1994. That same year, he left national news reporting to become principal secretary to then-PEI Premier Catherine Callbeck. He left the premier's office in 1995 to head public sector development for the PEI Department of Development. Since the fall of 2000, Mr Holman has worked as a freelance writer and broadcaster. He was educated at King's College School in Windsor, NS, and Prince of Wales College in Charlottetown, where he makes his home. He was appointed Commissioner of the Indian Claims Commission on March 28, 2001.

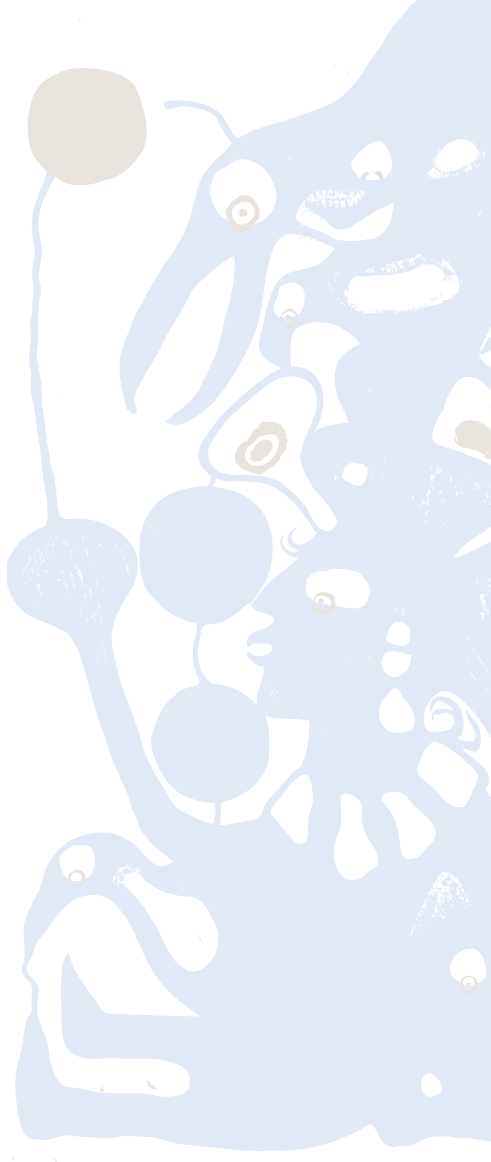
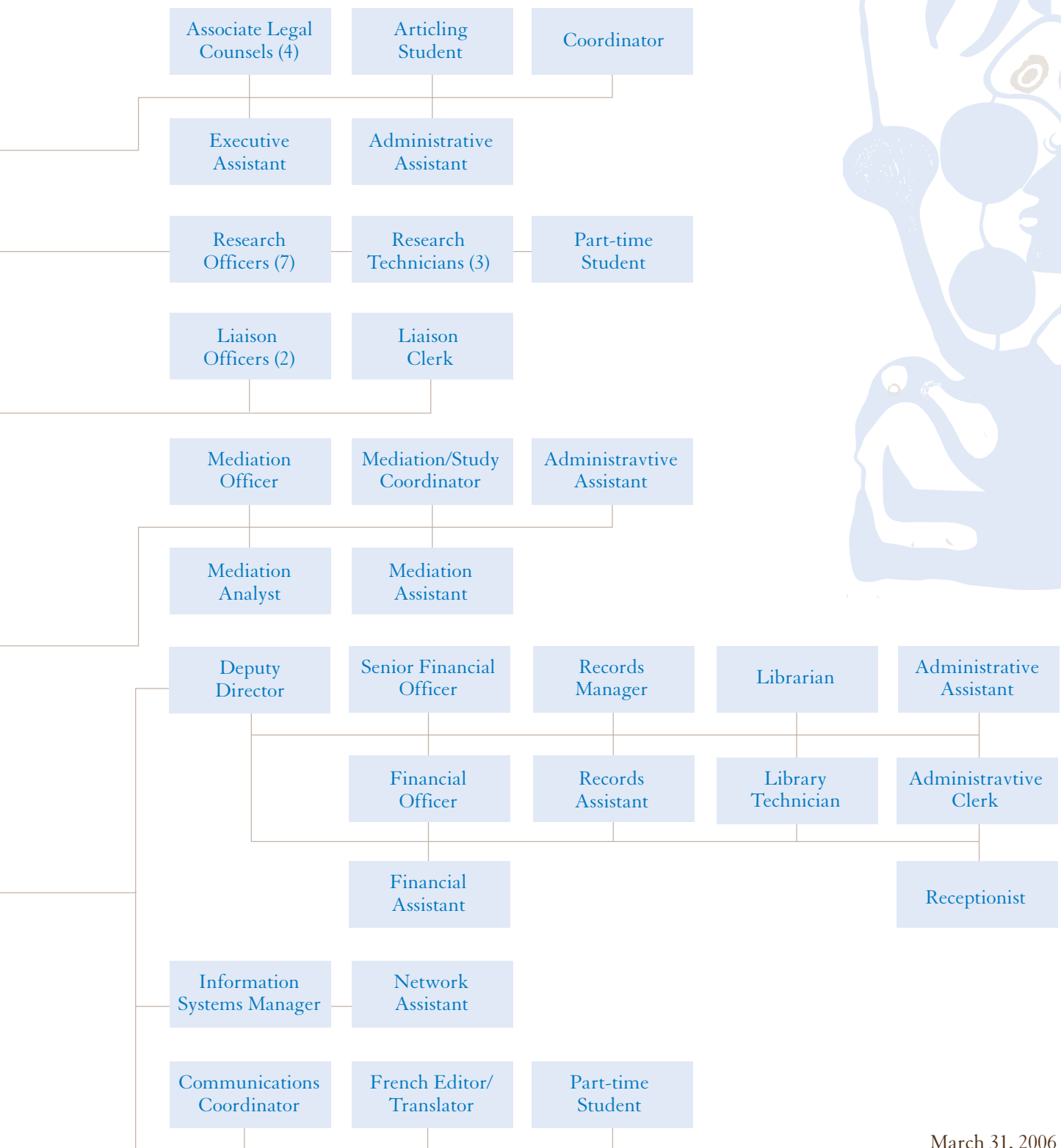


**Sheila G. Purdy** was born and raised in Ottawa. Between 1996 and 1999, she worked as an advisor to the government of the Northwest Territories on the creation of the Nunavut territory. Between 1993 and 1996, she was senior policy advisor to the Minister of Justice and the Attorney General of Canada on matters related to the Criminal Code and Aboriginal affairs. In the early 1990s, Ms Purdy was also special advisor on Aboriginal affairs to the Leader of the Opposition. Previously, she provided legal services on environmental matters and worked as a legal aid lawyer representing victims of elder abuse. After graduating with a law degree from the University of Ottawa in 1980, Ms Purdy worked as a litigation lawyer in private practice until 1985. Her undergraduate degree is from Carleton University, Ottawa. Ms Purdy is on the executive of the Canadian Biodiversity Institute, the Advisory Council of Canadian Arctic Resources Committee, and the Women's Legal, Education and Action Fund (LEAF). She was appointed Commissioner of the Indian Claims Commission on May 4, 1999.

# ORGANIZATIONAL STRUCTURE



*\* denotes member of Management Committee*



March 31, 2006



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- 62 ICC Concluded Inquiries and Mediations as of March 31, 2006  
*Table providing information on the status of each inquiry and mediation the ICC has completed*
- 72 ICC Concluded Inquiries and Mediations Index: Provincial  
*Index of all completed inquiries and mediations, grouped by province*
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### 82 Financial Information

*Budget, expenditures of the ICC*

### 83 In Fact ...

*Facts on specific claims at the ICC*

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# Overview of the ICC's Activities from 1991 to 2006

What you'll find in this section...

**28 Overview of the ICC's Activities from 1991 to 2006**

Quick facts on ICC's inquiries, 1991-2006

Quick facts on claims in mediation/facilitation

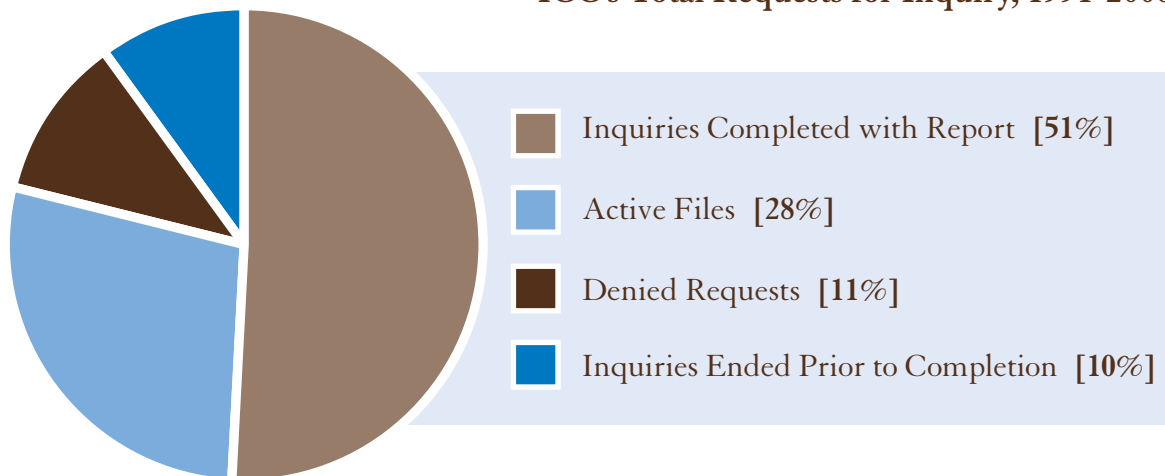
## OVERVIEW OF THE ICC'S ACTIVITIES FROM 1991 TO 2006

The following section represents an overview of the various specific claims submitted to the ICC. Since its inception in 1991, the Commission has issued reports on 68 inquiries and 11 mediations.

### Quick Facts on ICC Inquiries

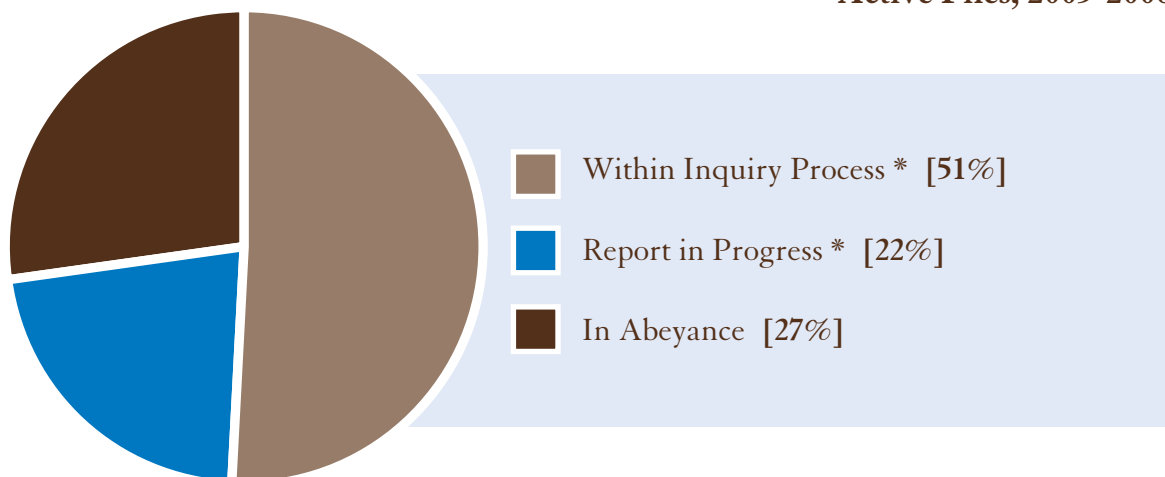
<b>Total requests for inquiry</b>	<b>132</b>
Total accepted requests for inquiry	118
Total denied requests for inquiry	14
<b>Total accepted requests for inquiry</b>	<b>118</b>
Active files ( <i>see summaries of each file provided in following section</i> )	37
Reports in progress	8
Within inquiry process	19
In abeyance	10
Inquiries ended prior to completion	13
Ended at request of the First Nation	2
Ended by the ICC owing to lack of file activity	11
Inquiries completed with report ( <i>see concluded claims table on page 62</i> )	68
<b>ICC recommendations</b>	<b>68</b>
Claims the ICC has recommended be accepted for negotiation	28
Claims the ICC has not recommended for negotiation	7
Claims the ICC partially recommended be accepted for negotiation	4
Claims in which the ICC recommended additional research	3
Claims settled or accepted for negotiation mid-inquiry	22
Other recommendations	4
<b>Responses to recommendations</b>	<b>68</b>
Recommendations accepted by Indian and Northern Affairs Canada (INAC)	36
Recommendations rejected by INAC	17
No response received from INAC to the ICC report	8
No substantive response from INAC required	6
Other responses	1

### ICC's Total Requests for Inquiry, 1991-2006



The pie chart above contains a breakdown of the 132 requests for inquiry received by the ICC since its inception in 1991.

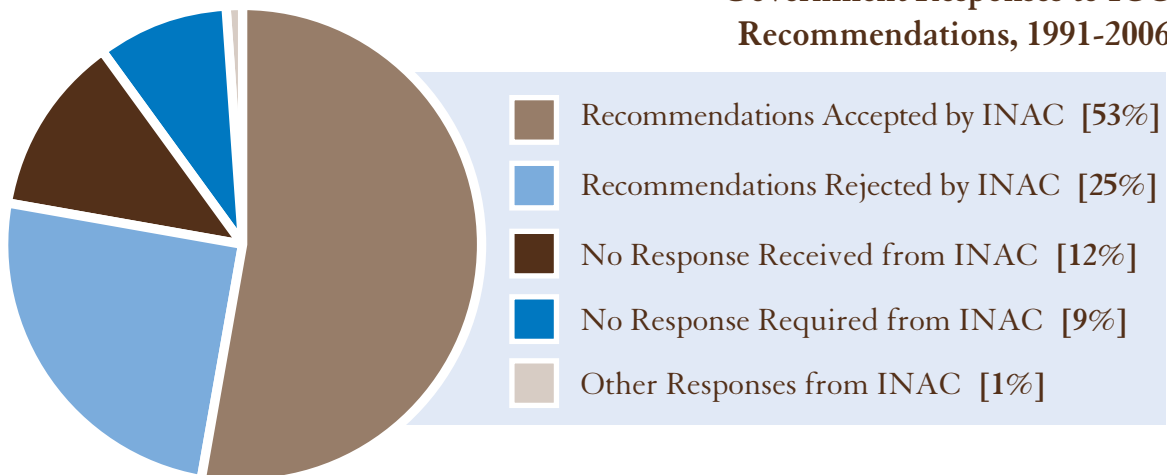
### Active Files, 2005-2006



\* "Within Inquiry Process" refers to stages 1 through 4 and "Report in Progress" to stage 5 of the ICC's inquiry process. For more information on these stages, please see chart on page 32.

The pie chart above provides a breakdown of the status of the 37 claims that were under review by the ICC from April 1, 2005, to March 31, 2006.

### Government Responses to ICC Recommendations, 1991-2006

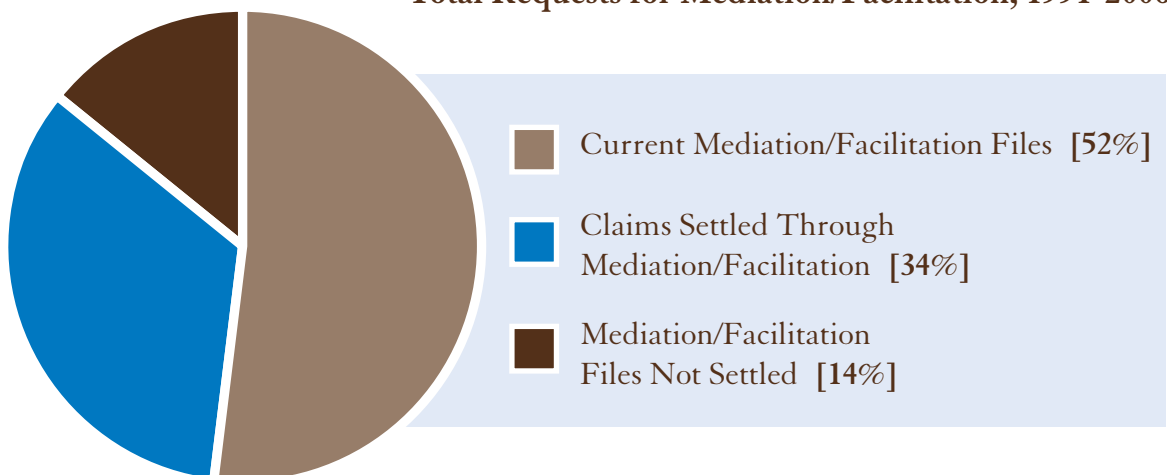


The pie chart above provides information regarding the response of the Minister of Indian and Northern Affairs Canada (INAC) to the Commission’s recommendations in each concluded inquiry. For more information regarding the status of concluded inquiries, see page 62.

### Quick Facts on ICC Mediation/Facilitation

<b>Total requests for mediation/facilitation</b>	<b>50</b>
Current mediation/facilitation files	26
Claims settled through mediation/facilitation	17
Mediation/facilitation files not settled	7

### Total Requests for Mediation/Facilitation, 1991-2006



The pie chart above provides a breakdown of the 50 requests for ICC’s mediation/facilitation services received since 1991.

# The ICC's Achievements in 2005-2006

## INQUIRIES

What you'll find in this section...

**32 What Are Inquiries?**

Introduction and definitions

**32 The Inquiry Process**

Chart of ICC's inquiry process

**33 Inquiries Completed in 2005-2006**

Summarizes each inquiry completed by the ICC in 2005-2006

**35 Summary of Specific Claims in Inquiry Between April 1, 2005, and March 31, 2006**

Describes each claim in inquiry at the ICC and lists the ICC's activities over the past year within each file

## WHAT ARE INQUIRIES?

Inquiries may take place at the request of a First Nation when:

- 1) the Minister of Indian and Northern Affairs Canada (INAC) has rejected the First Nation's claim; or
- 2) the Minister has accepted the claim for negotiation, but a dispute has arisen over the compensation criteria being applied to settle the claim.

Inquiries can be initiated at the sole request of the First Nation, provided the request relates to a rejected claim or a dispute over compensation criteria. After receiving a First Nation's request for an inquiry, an initial planning conference is held between the parties to plan the process. This first conference is followed by a series of stages. One such stage, the community session, is an important part of the inquiry process whereby, upon consent of the community, the Commission will visit the First Nation to hear directly from Elders and other community members in regard to the claim. The community session is followed by an oral hearing at which legal arguments surrounding the claim are made by the First Nation and Canada. Following this, the record will be closed and the Commissioners will deliberate; their deliberations will lead to a formal report containing the Commissioners' findings and recommendations. The report is intended to offer Canada an opportunity, where appropriate, to reconsider its initial position on the claim.

These five stages, which make up the Commission's inquiry process, are illustrated in the chart which follows.

## THE INQUIRY PROCESS

<b>Stage 1</b>	<b>Request for Inquiry</b> A First Nation with a rejected claim or an accepted claim where a dispute has arisen over compensation criteria, writes to the Commission to request an inquiry. The Commission assesses the claim.
<b>Stage 2</b>	<b>Preparation for Inquiry</b> The Commission brings representatives of the First Nation and government together face-to-face, often for the first time, to discuss the rejected claim, plan research, clarify legal issues.
<b>Stage 3</b>	<b>Community Session</b> Commissioners visit the First Nation to hear oral testimony from Elders and other community members.
<b>Stage 4</b>	<b>Written and Oral Submissions</b> Lawyers for the First Nation and government provide submissions on facts and law.
<b>Stage 5</b>	<b>Final Inquiry Report</b> Based on the evidence presented during the inquiry, Commissioners release their findings and recommendations to the federal government, the First Nation and the public.

## INQUIRIES COMPLETED IN 2005-2006

Under its mandate, the Indian Claims Commission inquires, upon request, into First Nations' specific land claims. From April 1, 2005, to March 31, 2006, the Commission completed inquiries on the Blueberry River First Nation and Doig River First Nation: Highway right of way IR 172 claim; the Taku River Tlingit First Nation, Wenah specific claim; and the Williams Lake Indian Band, Village site claim. Summaries of these three inquiries, completed within the 2005-2006 reporting period, can be found below. Reports on each inquiry will be issued in the next fiscal year.

In addition, the Commission released reports on five inquiries completed in previous reporting periods. These are the Betsiamites Band, Highway 138 and Rivière Betsiamites Bridge; Cumberland House Cree Nation, Indian Reserve 100A; James Smith Cree Nation, Chakastaypasin Indian Reserve 98; James Smith Cree Nation, Indian Reserve 100A; and James Smith Cree Nation, Treaty land entitlement - Issue 9: amalgamation, inquiry reports. These and all of the Commission's reports, can be found on our website at [www.indianclaims.ca](http://www.indianclaims.ca).

### 1 **Blueberry River First Nation and Doig River First Nation**

#### **Highway right of way IR 172, British Columbia<sup>1</sup>**

In February 1995, the Treaty 8 Tribal Association submitted a specific claim to Canada on behalf of the Blueberry River and Doig River First Nations, on the “fast track” process, alleging that the federal government had expropriated land from the Fort St John Indian Reserve (IR 172) for a provincial highway, but had not notified the Fort St John Band or compensated it for the loss of the land. In 1977, the Fort St John Band split and became the Doig River and Blueberry River bands. By September 2003, Canada had not informed the First Nations whether it had accepted or rejected the claim. The Tribal Association asked the Commission to conduct an inquiry and the Commission accepted the claim as having been constructively rejected.

Following the Commission's decision to conduct an inquiry, Commission staff began the process of assembling the documentary record. In September 2004, Canada accepted the claim for negotiation. The Commission declared its inquiry closed in May 2005.

### 2 **Taku River Tlingit First Nation**

#### **Wenah specific claim, British Columbia**

In August 2002, the Commission accepted the Taku River Tlingit First Nation's request for an inquiry into its rejected claim involving the failure of the federal Crown to carry out its legal obligations with respect to the First Nation and the Wenah village site. In November 2002, Canada took the position that the claim fell outside of the Specific Claims Policy and refused to participate. The inquiry proceeded without funding for the First Nation from Canada. A community session was held in May 2004, and oral arguments were heard in August 2004.

The inquiry focussed on the Indian Agent's actions prior to, during, and following the McKenna-McBride Commission hearings. The First Nation argued that pre-reserve-creation fiduciary duties

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<sup>1</sup> *This inquiry was reported on in previous ICC annual reports under the title Treaty 8 Tribal Association: Highway right of way – IR 172 claim.*

were breached by the Indian Agent during the McKenna-McBride Commission hearings when the Indian Agent failed to have the Wenah village site set aside for the Taku. The Wenah village site, on the shore of Atlin Lake, had been continuously used and occupied by the Taku.

In its findings, the Commission concluded that the Taku River Tlingit claim is a specific claim, and that Canada's participation in this inquiry would have been warranted. As well, the Commission found that the Taku had a specific interest in the Wenah village site. Because Canada undertook to act on behalf of the Taku people in the reserve-creation process, Canada owed the First Nation a fiduciary duty to act, in the words of *Wewayakum*, with "loyalty, good faith in the discharge of its mandate, providing full disclosure appropriate to the subject matter, and acting with ordinary prudence with a view to the best interest of the aboriginal beneficiaries."

More specifically, the Commission found that Indian Agent W. Scott Simpson failed to fulfill his mandate to protect the Indians and advise them properly by failing to properly prepare the Taku River Tlingit First Nation to meet the Commission, and failing to represent its interests at the hearings in Atlin and in Victoria. Implicit in these failures is a breach of fiduciary duty. Indian Commissioner W.E. Ditchburn and Indian Agent Harper Reed, in 1928, could have pursued remedies for the First Nation through provincial legislation, but failed to do so. Instead, the issue was placed in abeyance. This failure constituted a continuance of the initial breach of not setting aside the Wenah village site in Atlin for the Taku River Tlingit.

By 1962, the First Nation was given only one option to acquire part of its village lands: to trade part of its reserve at McDonald Lake for the lots in the village in Atlin. The Commission found that the surrender of land at McDonald Lake was valid; however, this surrender was found to be a direct result of the initial breach of the Crown's duty. The basis for the surrender was part of the Crown's original breach of its basic fiduciary duties.

### **3 Williams Lake Indian Band**

#### **Village site, British Columbia**

In June 2002, the Williams Lake Indian Band requested that the Commission conduct an inquiry into its claim. At issue in this inquiry is the pre-emption of two village sites, one located at Missioner Creek or Glendale, and the other located at the foot of Williams Lake. The Band alleged that, by permitting third parties to pre-empt settlements that were occupied by the Band and reserved from pre-emption, the colonial government of British Columbia breached its statutory and fiduciary obligations to the Band, a breach the federal government is now liable for.

During a conference call in February 2003, the parties agreed on a joint statement of issues. A community session was held in the summer of 2003, and written submissions were presented by the end of 2003. Oral arguments were scheduled for March 2004. However, just before this session, new evidence was uncovered which required the parties to conduct a joint research project. Following delivery of this new research report in August 2004, oral submissions were made in October 2004.

The Commission found that the Williams Lake Indian Band occupied the village sites at Missioner Creek and the foot of Williams Lake at the time of pre-emption, and that these village sites were "Indian settlements" within the meaning of the legislation in operation at the time. In addition, the pre-emption of the Indian settlements around 1861 were not valid pursuant to the pre-emption



legislation. The Commission found that the Williams Lake Indian Band had an interest in the use and occupation of the village sites at Missioner Creek and the foot of Williams Lake prior to and after the pre-emptions.

The Commission examined the Band's interest in its village sites in the context of a fiduciary analysis. In concluding that Canada had a fiduciary obligation to the Williams Lake Indian Band, the Commission found that the basic duties of loyalty, good faith, full disclosure, and ordinary prudence or diligence owed by the Crown were breached by its failure to act when the Band needed land to be set aside for it. The breach of fiduciary duty can be said to have occurred in 1861; Gold Commissioner Philip Nind was instructed to set aside land when the Band was starving but did not do so; instead, the pre-emptions continued. The Commission also stated that the breach of fiduciary duty can also be said either to have continued or to have arisen in 1871, when British Columbia joined Confederation. At this time, the Crown again failed to set aside land for the Band. When Peter O'Reilly arrived to set aside land for reserves in 1881, Crown grants had not yet been issued for the pre-empted lands. The Commission concluded that O'Reilly ought to have taken measures to restore pre-empted lands on village sites to the Band. There is no evidence that O'Reilly advised the Band of the legislative regime that would have enabled the Band to challenge the pre-emptions. The Commission found that these village sites should have also been set aside and recommended as possible reserves. This breach was not rectified by the allotment of more reserve lands than originally intended in 1861.

## **SUMMARY OF SPECIFIC CLAIMS IN INQUIRY BETWEEN APRIL 1, 2005, AND MARCH 31, 2006**

This section provides a summary of the Commission's activities in each of the 37 claims in inquiry during the 2005-2006 fiscal year. The First Nation, the title of the claim and the province in which the claim is geographically situated are followed by a description of the issues and the Commission's progress in each of the files during the year.

### **Athabasca Chipewyan First Nation**

#### **Compensation criteria for agricultural benefits, Alberta**

The First Nation's request for an inquiry into the compensation criteria applicable to its claim was accepted by the Commission in September 2003. The First Nation had submitted the claim in February 1994 and Canada accepted it for negotiation in May 1998, but later suspended the negotiations. A planning conference was held in March 2004. Canada subsequently decided not to participate in the inquiry. In April 2004, the First Nation commenced court action to compel Canada to negotiate. The court action was discontinued when Canada agreed to resume negotiations. The inquiry has been placed in abeyance pending the outcome of these negotiations, at the request of the First Nation.

### **Blood Tribe/Kainaiwa**

#### **Big Claim, Alberta**

In February 2003, the Commission accepted the request of the Blood Tribe to conduct an inquiry into its rejected claim to over 260 kilometres adjacent to its present reserve. A planning conference was held in August 2003. Community sessions were held in June and August 2004 on the Blood Reserve. Oral arguments were heard in Lethbridge in October 2005. The panel is now in deliberations.

## **Blueberry River First Nation and Doig River First Nation**

### **Compensation criteria – Highway right of way – IR 172 claim, British Columbia**

Canada accepted the claim of these First Nations for negotiation in September 2004, but the parties disagreed on the compensation criteria applicable to the claim. In March 2005, the Commission accepted the request of the First Nations to conduct an inquiry into which compensation criteria apply. At the request of the First Nations, the claim has been placed into abeyance pending negotiation with Canada about the applicable criteria.

This claim was the subject of a previous inquiry: see **Blueberry River First Nation and Doig River First Nation, Highway right of way IR 172** completed inquiry summary on page 33.

## **Carry the Kettle First Nation**

### **1905 surrender, Saskatchewan**

The First Nation claims that a surrender of 5,760 acres of the Assiniboine reserve taken in 1905 is invalid.

Its claim was rejected, and in 1994 the Commission began an inquiry into the claim. The community session was held in October 1995. In August 1998, the First Nation requested that the claim be put in abeyance until the Commission completed its inquiry into the Cypress Hills claim. The report on that inquiry was released by the Commission in July 2000. In October 2004, the First Nation requested that the Commission resume the inquiry into the surrender.

A joint research project by the parties is currently underway. A staff visit is scheduled for June 2006, and a community session for July 2006.

## **Cowessess First Nation**

### **1907 surrender – Phase II, Saskatchewan**

In March 2001, the Commission issued a report on phase I of this inquiry, recommending that the First Nation's claim be accepted for negotiation under the Specific Claims Policy on the basis of an invalid surrender vote. The Minister of Indian Affairs did not accept this recommendation. In October 2002, the First Nation requested that the Commission commence phase II of this inquiry, which deals with an alleged breach of pre-surrender fiduciary duties. A planning conference was held in 2003. The inquiry proceeded directly to oral hearing, held in September 2004. The panel is completing the report.

## **Esketemc First Nation**

### **Wright's Meadows pre-emption claim, British Columbia**

In September 2004, the Commission accepted the request of the First Nation to conduct an inquiry into its claim respecting the pre-emption by a settler, in 1893, of land it maintains was an "Indian settlement." The staff visit took place in January 2006 in preparation for the community session, scheduled to be held in April 2006.

## **James Smith Cree Nation**

### **Treaty land entitlement, Saskatchewan**

Indian Reserve (IR) 100 was surveyed for the James Smith Band in 1884, as promised by the terms of Treaty 6. In 1902, Canada amalgamated the James Smith Band with the “owners of Cumberland Reserve No. 100A.” In the early 1980s, the First Nation submitted a specific claim, alleging an outstanding treaty land entitlement under Treaty 6. Canada rejected the claim in 1984, stating that the First Nation’s shortfall of land was fulfilled as a result of the amalgamation of the James Smith Band at IR 100 and the Cumberland Band at IR 100A in 1902.

In June 1999, the Commission agreed to conduct an inquiry into the James Smith Cree Nation’s rejected claim. However, prior to the first planning conference, Canada objected to the scope of the inquiry and argued that the First Nation was advancing new issues that had not been previously considered by the Minister. The Commission ruled in May 2000 that it would proceed with an inquiry into all issues raised by the First Nation, but would provide adequate time for Canada to prepare and respond to all issues during the course of this inquiry.

In November 2003, by agreement of the parties, the Commission agreed to deliver its findings on the single issue of the alleged amalgamation, before proceeding to deal with the other issues raised in this inquiry. Concurrently, Canada was given until April 2005 to respond fully to the remaining issues. In June 2004, oral submissions were made on issue 9: amalgamation, and the Commission subsequently issued a report containing its finding on that single issue. In February 2005, Canada requested an extension to the deadline for filing its submissions on the remaining issues. Upon the receipt of Canada’s written submissions, a second oral session will be scheduled for legal arguments on the remaining issues in this inquiry.

## **Kluane First Nation**

### **Kluane Game Sanctuary and Kluane National Park Reserve creation, Yukon**

In October 1999, the First Nation requested that the Commission conduct an inquiry into loss of its traditional lands to a National Park Reserve and a Game Sanctuary. The government challenged the Commission’s authority to hold an inquiry, saying the claim fell under the Comprehensive Claims Policy and was not within the Commission’s jurisdiction. The Commission rejected the challenge and ruled that the inquiry should proceed. In 2001, negotiations with the First Nation began under the Comprehensive Claims Policy. The file was put into abeyance while the parties pursued this path.

In April 2002, the First Nation advised the Commission that its claim had been tentatively accepted by Canada within the Comprehensive Claims Policy. In the summer of 2003, the Kluane First Nation ratified a comprehensive claims settlement agreement with Canada, which effectively resolved the specific claim. This inquiry will be closed by a formal order and a report will be issued by the panel.

## **Lheidli T’enneh Band**

### **Surrender Fort George IR 1, British Columbia**

In December 2003, the Commission accepted the request of the First Nation to conduct an inquiry into its rejected claim respecting the surrender in 1911 of its reserve, in what is now downtown Prince George, for sale to the Grand Trunk Pacific Railway. A planning conference was held in

June 2004. Canada's documents were received in February 2005, and this material has been processed by the Commission's research staff.

The statement of issues for this inquiry has been drafted; the First Nation is reviewing it and may revisit the issues if necessary. The dates for a staff visit and a community session are to be determined once the parties agree on the legal issues.

### **Lower Similkameen Indian Band**

#### **Vancouver, Victoria and Eastern Railway right of way, British Columbia**

In April 2003, the Commission accepted the Band's request to conduct an inquiry into its rejected claim regarding the taking of a railway right of way through its reserves by the Vancouver, Victoria and Eastern Railway and Navigation Company in 1905. A planning conference was held in September 2003 and a community session in April 2004. Written legal submissions were completed by the end of 2004, and an oral session was held in January 2005. The panel is completing the report.

### **Lucky Man Cree Nation**

#### **Treaty land entitlement – Phase II, Saskatchewan**

In March 1997, the Commission issued a report on phase I of this inquiry, recommending that 1887 be used as the date of first survey (DOFS) of IR 116 for calculating the Lucky Man Band's treaty land entitlement population. The panel recommended that the parties undertake further research and payroll analysis to establish Lucky Man's correct DOFS population. Canada accepted the Commission's recommendations and submitted its further research in February 1998. The Band responded with its own research submission in June 2002, which Canada rejected in November 2003. In December 2003, at the First Nation's request, the Commission agreed to open a second phase of the inquiry into the issue of the DOFS population. A planning conference was held in April 2004 and a second planning conference in January 2005. The oral hearing in this inquiry was held in August 2005. A further evidentiary hearing is planned for June 2006.

### **Mississaugas of the New Credit First Nation**

#### **Crawford Purchase, Ontario**

The First Nation claims that compensation was never paid for lands that the government took improperly in 1783. It also alleges that the government breached its fiduciary duty and that the First Nation suffered damages from misrepresentation and equitable fraud in the government's failure to compensate the First Nation for its interest in the land.

A planning conference was held in July 1998. In September 1998, the First Nation requested that the claim be put in abeyance while its Toronto Purchase claim is under consideration. The Toronto Purchase claim remains in negotiation.

## **Mississaugas of the New Credit First Nation**

### **Gunshot Treaty, Ontario**

The First Nation claims damages for loss of certain lands and rights to fish, hunt and trap in the area east of Toronto. It argues that these damages are a result of the non-binding nature of the 1788 Gunshot Treaty, under which the land was surrendered, and that the government breached its fiduciary duty to protect the First Nation in its possession of these lands.

The Commission held a planning conference in July 1998. In September 1998, the First Nation requested that the claim be put in abeyance while its Toronto Purchase claim is under consideration. The Toronto Purchase claim remains in negotiation.

## **Muskowekwan First Nation**

### **1910 and 1920 surrenders, Saskatchewan**

This claim, respecting lands surrendered for the purpose of a townsite along the Grand Trunk Pacific Railway, was submitted in 1992 and rejected in 1997, following which the First Nation made additional submissions to the Minister of Indian Affairs. In December 2003, the Commission accepted the First Nation's request to conduct an inquiry. A planning conference was held in February 2005. The community session was held in September 2005. Additional research is underway.

## **Nadleh Whut'en Indian Band**

### **Lejac School, British Columbia**

In May 1992, the Nadleh Whut'en First Nation submitted a claim to Canada respecting the erection and operation of Lejac Residential School. The claim was rejected in September 1995. The First Nation made a supplementary submission in February 1997, but, with no response received by June 2002, the First Nation asked the Commission to conduct an inquiry. The request was accepted in December 2002.

At a planning conference in March 2003 it was agreed that both parties would undertake extensive research, and on the basis of it the First Nation would resubmit a revised claim for review by Canada. Canada also agreed to conduct further research on residential school policy in British Columbia. This research was undertaken and completed by December 2003, and the First Nation made a revised submission in March 2004, accompanied by its own additional research. In a subsequent conference call, Canada agreed to obtain further documentation required by the First Nation to finalize its claim submission and to begin reviewing the completed portion of the submission. On receipt of the additional documentation, the revised submission will be submitted to Canada for full review. The revised claim was submitted in September 2004, and in December, Canada completed its confirming research. The First Nation reviewed this research and provided further comments in May 2005.

Canada is currently reviewing the First Nation's submissions. A possible joint project to review the material is being contemplated.

## **Neskonlith, Adams Lake and Little Shuswap Bands**

### **Neskonlith Reserve, British Columbia**

In September 2003, the Commission accepted the request of these First Nations to conduct an inquiry into their rejected specific claim to a reserve they say was validly established under the authority of Governor James Douglas, of the Colony of British Columbia, in 1862 and later unlawfully reduced.

The First Nations' documents were received by the Commission in July 2004 and Canada's documents in September. A planning conference was held in November 2004. A community session was conducted in July 2005. There are outstanding evidentiary issues in this inquiry. An expert session has been tentatively scheduled for spring 2006.

## **Ocean Man First Nation**

### **Treaty land entitlement, Saskatchewan**

In July 1994, the Commission accepted the request of the First Nation to conduct an inquiry into its rejected claim that it was entitled to additional land under the terms of Treaty 4 (1874). As a result of changes in the federal treaty land entitlement (TLE) policy, resulting from the ICC's Fort McKay and Kawacatoose findings, new research was conducted in 1999 to determine if there was an outstanding TLE obligation. In October of that year, the government provided a payroll analysis indicating a shortfall of treaty land under the existing TLE policy. However, in May 2000, before Canada could complete its review process, the First Nation filed a claim in the courts against the federal government relating to issues beyond the scope of the inquiry, issues which may or may not have an impact on the current TLE claim. The inquiry has been placed in abeyance pending resolution of the litigation.

## **Opaskwayak Cree Nation**

### **Streets and lanes claim, Manitoba**

In October 2002, the Commission accepted the request of the First Nation to conduct an inquiry into its rejected claim, which alleged that band funds were misused to improve certain lands, and that land sale practices led to the wrongful alienation of streets and lanes. Planning conferences were held in 2002 and 2003, and the parties agreed that additional research was required. Canada's supplementary reports were submitted to the Commission in August 2003 and May 2004.

Following its review of these reports, the First Nation expressed its satisfaction that all outstanding issues respecting this claim have been addressed and informed the Commission in late 2004 that it no longer wished to proceed with the inquiry. This inquiry will be closed by a formal order and a report will be issued by the panel.

## **Pasqua First Nation**

### **1906 surrender, Saskatchewan**

This claim, alleging that the 1906 surrender of IR 79 was invalid and that the federal government had breached its fiduciary obligations to the First Nation in the taking of the surrender, was submitted in 1987 and rejected in July 1997. The First Nation conducted additional research, which led to a supplementary submission in March 2000.

The Commission accepted the request of the First Nation to hold an inquiry into its rejected claim in December 2002. On agreement, Canada continued its review of the First Nation's 2000 submission, commissioning further research and conducting interviews, which were completed in the fall of 2003. Canada has completed its legal review, and the First Nation is awaiting the Minister's letter informing it of rejection or acceptance of the claim.

## **Paul Indian Band**

### **Kapasawin townsite, Alberta**

In June 1996, the First Nation submitted a specific claim to Canada regarding the mismanagement of the sale of IR 133B. Canada accepted it for negotiation in July 1998, but the First Nation did not agree with the basis on which Canada was willing to negotiate compensation. In 2001, the First Nation requested that the Commission hold an inquiry into which criteria should be applied to determine compensation. The First Nation also submitted a second, related claim in 2000 regarding the wrongful surrender of Kapasawin townsite.

Following an April 2002 planning conference, the parties agreed to adjourn the inquiry into the compensation criteria claim and await Canada's findings on the Kapasawin surrender claim, which was eventually rejected in July 2003. The First Nation then requested that the ICC conduct an inquiry into the latter claim. The issues relating to this claim were finalized by the parties in January 2004. Further documents were submitted by both the First Nation and Canada, and a community session was held in October 2004. Oral submissions were heard in Edmonton in May 2005. The panel is in deliberations.

## **Red Earth and Shoal Lake Cree Nations**

### **Quality of reserve lands (agriculture), Saskatchewan**

In June 2004, the Commission accepted a request for an inquiry by the Red Earth and Shoal Lake Cree Nations into their claims that their right to farming lands under their treaty had not been fulfilled. Their claims at that time had not been expressly rejected, and were accepted by the Commission on a "deemed rejection" basis. Canada has refused to participate in the inquiry or fund the First Nations' participation, and has declined to produce documents. At the beginning of March 2005, the Commission informed Canada that it should either undertake to deliver its documents or submit a mandate challenge; otherwise it would face a subpoena. Canada responded that it intends to submit a mandate challenge.

In April 2005, Canada filed a mandate challenge. The panel denied a request from the British Columbia Treaty 8 First Nations for intervenor status. The oral hearing of the mandate challenge took place in February 2006, in Saskatoon. The transcript of the oral hearing has been distributed to the parties. The panel is continuing its deliberations.

## **Roseau River Anishinabe First Nation**

### **1903 surrender, Manitoba**

This claim, submitted to Canada in 1982 and rejected in 1986, questions the validity of the 1903 surrender of a portion of the Roseau River reserve and the management of the subsequent land sales. The Commission accepted the request of the First Nation to conduct an inquiry in November 1993. At a planning conference held in December 1993, the parties agreed that additional research was

required, and they jointly engaged an independent contractor under the management of the Commission. On the basis of this research, counsel for the First Nation submitted a legal analysis to Canada. In July 2001, the Minister of Indian and Northern Affairs rejected the claim. In September 2001, the Commission accepted a request by the First Nation for an inquiry into this second rejection.

A planning conference was held in April 2002 and, in May 2002, the parties agreed on the legal issues. In July and September 2002, community sessions were held on the Roseau River reserve. In January 2003, terms of reference were finalized for an additional joint research project, and the research report was completed early in 2005. The joint project was presented to the panel by the expert in June 2005, and oral arguments were heard in March 2006 in Winnipeg. The panel is in deliberations.

## **Sakimay First Nation**

### **Treaty land entitlement shortfall, Saskatchewan**

The Sakimay First Nation submitted a claim to Canada in 1997, in which it was argued that the treaty land entitlement owed to them had not been fulfilled. Having received no response to its claim by May 2000, the First Nation requested that the Commission hold an inquiry on the grounds that the delay should be deemed a rejection. When Canada informed the First Nation that its confirming research would likely be completed by December 2000, however, the First Nation did not pursue its request for an inquiry.

Canada's research was sent to the First Nation in January 2002, and the First Nation's claim was rejected. In July 2003, the First Nation renewed its request for an inquiry, which was accepted in September 2003. The Commission proposed a joint research project. This proposal was accepted by both parties, and a report was completed by August 2004. Based on this additional research, the First Nation made a submission to Canada in October 2004, currently under review by Canada. For the purpose of this review, further research was conducted which is being discussed by the parties.

## **Sandy Bay Ojibway First Nation**

### **Treaty land entitlement, Manitoba**

In April 1998, the First Nation requested an inquiry into its rejected claim that non-arable land was included in its treaty land entitlement (TLE) and that additions of land in 1930 and 1970 should not be counted in the TLE calculation. Shortly thereafter, it restated its legal arguments because the original claim had been filed in November 1982 without the benefit of legal counsel. In November 1998, the government challenged the Commission's mandate to inquire into this claim on the basis that the restatement essentially represented a new claim. In June 1999, the panel ruled that the inquiry would proceed.

Planning conferences were held in August and November 2002. During the winter of 2002-2003, a joint working group, made up of representatives of the First Nation, Canada, and the Commission, discussed a paylist analysis of the First Nation. In the spring of 2003, the inquiry was placed in abeyance for a period of time before being resumed in October. Planning conferences were held in February, June and September 2004.

In the fall of 2004, Canada proposed splitting the inquiry into two phases and inviting Long Plain First Nation's intervention in the inquiry as an affected party. The panel rejected the phased inquiry



request. In December 2004, Long Plain First Nation submitted a motion for intervener status, and Sandy Bay First Nation made submissions on the matter in January 2005. An oral hearing in this matter, as well as a site visit, was held in June 2005. Oral arguments are scheduled to be heard in June 2006.

### **Siksika First Nation**

#### **1910 surrender, Alberta**

This claim involves alleged irregularities in the surrender vote; the reservation of coal, oil and gas rights from the 1910 land surrender; and the reduction and subsequent discontinuance of perpetual rations from the proceeds of the sale of surrendered lands. The claim was first submitted to the Department of Indian Affairs and Northern Development in 1985. The First Nation and the government conducted a series of cooperative research studies, and the claim was submitted to the Department of Justice in 1995 for its review.

In January 2002, the Commission agreed to conduct an inquiry into the claim. In March 2002, a planning conference was held at which the parties agreed to begin the initial stages of the inquiry process (that is, document compilation) while Canada finalized its legal review. By agreement of the parties, the inquiry was placed into abeyance in May 2002 while the Commission facilitated Canada's review of the claim. Further legal submissions were made by the First Nation in 2003. A conference call was held in June 2004, and Canada submitted a further research report in February 2005. We understand that the review is continuing.

### **Stanjikoming First Nation**

#### **Treaty land entitlement, Ontario**

In July 1999, the First Nation requested that the Commission conduct an inquiry into a claim it had submitted in 1990, arguing that the federal government's lack of response amounted to a "constructive rejection." The claim involves an alleged shortfall of 1,408 acres of treaty land, and flooding of reserve land by hydro development. In April 2000, the First Nation requested that the Commission put the inquiry in abeyance, but that it continue to facilitate discussions. In February 2005, the First Nation requested that the flooding portion of this inquiry be put in abeyance once again, as the First Nation, Canada, and the Province of Ontario have agreed to meet to negotiate the matter. However, should no settlement agreement be reached between the parties, the First Nation would like the Commission's inquiry to resume.

### **Stó:lō Nation**

#### **Douglas reserves, British Columbia**

This claim is brought by 14 bands within the Stó:lō Nation, the Aitchelitz, Kwantlen, Kwaw-Kwaw-Apilt, Lakahahmen, Matsqui, Scowlitz, Skowkale, Skwah, Skway, Soowahlie, Squiala, Sumas, Tzeachten and Yakwekwioose Bands. The claim alleges that in 1864, James Douglas, Governor of the Colony of British Columbia, established reserves for the various bands of the Stó:lō Nation, reserves that were subsequently unlawfully reduced, and that when British Columbia entered Confederation in 1871, Canada inherited the duty to rectify this situation. The claim was submitted to Canada in 1988 and rejected in 1997 and again in 1999, after a supplementary submission had been made.

In July 2000, the Stó:lō Nation made an initial request for an inquiry, which was confirmed a year later. Scheduling of the first planning conference was postponed pending clarification of the conditions and nature of the parties' participation in the inquiry. Subsequent conference calls did not resolve these issues and, in September 2003, the Stó:lō Nation requested that the inquiry be placed in abeyance.

## **Sturgeon Lake First Nation**

### **1913 surrender, Saskatchewan**

In August 1996, the First Nation requested that the Commission conduct an inquiry into this claim respecting alleged irregularities in the surrender vote of 1913. The inquiry was placed in abeyance in December 1996 while both parties conducted supplementary research. In May 1998, the government advised the First Nation that its review of the claim had disclosed no lawful obligation and in June, the First Nation asked the Commission to resume the inquiry. The inquiry was placed in abeyance again in April 1999, at the First Nation's request. In November 2002, the First Nation asked the Commission to resume the inquiry. After a series of conference calls and a planning conference in 2003, issues for the inquiry were resolved and an agreed statement of facts was addressed. Canada expects to conduct further research over the coming months. The staff visit to prepare for the community session has been held.

## **Touchwood Agency Tribal Council**

### **Mismanagement claim – compensation criteria, Alberta**

Early in 1998, the Day Star, Fishing Lake, Gordon, Kawacatoose and Muskowekwan First Nations of the Touchwood Agency Tribal Council collectively submitted a claim to Canada alleging that their assets had been mismanaged by government agents from 1920 to 1924. This claim was accepted for negotiation in March 1998. Negotiations commenced, but eventually reached an impasse and came to a halt in March 2002.

In August 2003, the First Nations requested an inquiry into the application of compensation criteria. This request was accepted in September 2003. The Commission then attempted to obtain the necessary documentation and a list of issues from both parties, but disagreement regarding disclosure of documentation, the scope of the inquiry, and the Commission's mandate led to an impasse. The First Nations are not being funded and the inquiry is not proceeding at this time.

## **Treaty 8 Tribal Association**

### **Consolidated annuity claim, British Columbia**

The seven claimant First Nations of the Treaty 8 Tribal Association—Doig River, Blueberry River, Fort Nelson, Halfway River, West Moberly, Saulteau, Dene Tsa'a Tse K'Nai (Prophet River)—submitted a claim to Canada in February 1995 for treaty annuities from 1899, the date of Treaty 8, to the date each First Nation adhered to the Treaty. In August 2003, the claimants asked the Commission to conduct an inquiry, and the Commission, deeming the claim to be rejected, agreed to their request in November of that year. In December 2003, however, Canada advised the Commission that it would not participate in the inquiry because the claim had not been formally rejected.

## **Treaty 8 Tribal Association**

### **Treaty land entitlement and land in severalty claims, British Columbia**

In August 2003, the claimant First Nation of the Treaty 8 Tribal Association–Saulteau First Nation–requested that the Commission conduct an inquiry into its claim, submitted in February 1995 and to which Canada had not responded. The First Nation alleges that Canada breached its legal and fiduciary duty by failing to perform its obligations under the land entitlement provision of Treaty 8, and claims a shortfall of 4,898 acres. The First Nation also maintains that a claim to land known as Deadman Creek should be recognized as entitlement under the severalty provision of Treaty 8.

It is anticipated that the Saulteau First Nation’s claims for treaty land entitlement and severalty will be accepted for negotiation. Therefore, the Saulteau First Nation has requested that the inquiry into its claims be closed.

## **Tsawwassen First Nation**

### **English Bluffs surrender claim, British Columbia**

On May 19, 2005, the Tsawwassen First Nation asked the Commission to conduct an inquiry into this claim. The Commission agreed to conduct an inquiry in June 2005. The facts upon which this claim is based relate to the surrenders and sales, in 1957, of lands at the Tsawwassen Reserve No. 0. The lands in question were surrendered and sold as two separate parcels, one of 87.9 acres and another of approximately seven acres. The First Nation alleges undue or improper influence, conflict of interest, and breaches of fiduciary duty by Canada in failing to maximize benefits to the First Nation. The claim does not question the validity of the surrenders.

A statement of issues was agreed to at a conference call in January 2006. A planning conference was held in March 2006, to discuss scheduling and other items, including a joint research project by the parties. A completion date for this research project is to be established, as well as dates for a staff visit and a community session. A conference call is scheduled for April 2006.

## **U’mista Cultural Centre**

### **Prohibition of the potlatch, British Columbia**

In April 2002, the ‘Namgis First Nation, representing themselves, the U’mista Cultural Centre, the Nuyumbalees Cultural Centre and 13 other Kwakwaka’wakw First Nations, requested an ICC inquiry, which the Commission accepted in May 2002. The claimants alleged a breach of Canada’s fiduciary obligation through *Indian Act* amendments in 1884, 1895, and 1918 that prohibited the potlatch and also through measures taken by the government and its officials in enforcing such legislation, particularly in the case of a potlatch held at Village Island in December 1921. After a planning conference in October 2002 and several subsequent conference calls, the parties came to an agreement on the issues before the ICC in February 2003. At the end of that month, a community session was held at the ‘Namgis First Nation and, in March 2003, the Commission initiated discussions with Canada regarding the possibility of considering the claim as a special claim.<sup>2</sup> By July

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<sup>2</sup> *Special claims, formerly known as “Claims of a Third Kind,” are those claims from First Nations that fall outside of the Specific Claims Policy and the Comprehensive Claims Policy.*

2003, the parties agreed on this manner of proceeding. By February 2005, after a delay on account of funding, the First Nation submitted a revised claim as a special claim. The inquiry has been placed in abeyance at the request of the First Nation.

### **Whitefish Lake First Nation**

#### **Agricultural benefits pursuant to Treaty 8: compensation criteria, Alberta**

A specific claim by the Whitefish Lake First Nation to agricultural benefits under Treaty 8 was accepted by Canada as a claim to contemporary benefits. The First Nation requested the Commission to conduct an inquiry regarding compensation criteria. This request was accepted in September of 2003.

Negotiations were subsequently suspended by Canada in February of 2004 to permit additional research to be conducted on the subject of agricultural benefits. In March 2004, the Commission accepted an inquiry into a claim of the First Nation for benefits from the time of its adhesion to Treaty 8. The inquiry into compensation criteria for the contemporary claim was deferred.

In March 2005, Canada resumed negotiations with the First Nation on the contemporary claim. The inquiry remains deferred.

### **Whitefish Lake First Nation**

#### **Agricultural benefits pursuant to Treaty 8: historic claim, Alberta**

In March 2004, the Commission accepted the Whitefish Lake First Nation's request to hold an inquiry into its claim for agricultural benefits from the time of its adhesion to Treaty 8. In March 2005, Canada resumed negotiation with the First Nation on the contemporary claim. The inquiry into the claim for historic benefits was put into abeyance.

### **Wolf Lake First Nation**

#### **Reserve lands, Quebec**

One of the few landless First Nations in Canada, Wolf Lake alleges that the federal government has not fulfilled its fiduciary duty or commitment to provide reserve lands. In January 2002, the First Nation requested that the ICC conduct an inquiry and the Commission accepted this request. In March 2002, however, the inquiry was placed in abeyance on the understanding that the Commission would facilitate Canada's review of a revised claim submission.

A series of research meetings, planning conferences and conference calls, chaired by the Commission, were held through 2002, 2003 and into 2004. During this time the parties refined the scope of the evidence required and the issues in question, and established a joint statement of fact, all of which facilitated the writing of a new legal submission by the First Nation. This submission, presented in May 2004, is now under review by Canada.

# The ICC's Achievements in 2005-2006

## MEDIATION AND FACILITATION

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Introduction and definitions

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Summarizes each mediation/facilitation completed by the ICC in 2005-2006

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Describes each claim in mediation/facilitation at the ICC and lists the ICC's activities over the past year within each file

## WHAT IS MEDIATION AND FACILITATION?

Mediation is a consensual way of resolving disputes. In this process, a neutral third party, the mediator, assists the parties to reach a settlement that each of them can accept.

Mediation can advance negotiations by:

- narrowing the issues in dispute;
- helping the parties reach an agreed-upon settlement; or
- providing independent advice on a particular issue.

The mediator facilitates discussions by bringing the two sides together to examine the issues in dispute and the particular interests, needs, and concerns of each side. Out of the discussions emerge options for a binding settlement.

The Indian Claims Commission provides broad mediation services at any stage of the claims process, and at the request of both the First Nation and the Government of Canada. Together with the mediator, the parties decide how the mediation process will be conducted. This method ensures that the process fits the unique circumstances of each particular negotiation.

The Commission's mediation services can include:

- arranging for and chairing negotiation meetings;
- coordinating joint studies (e.g., loss-of-use studies);
- monitoring the parties' decisions and following up on their undertakings; and
- providing or arranging for mediation on specific issues when the parties have reached an impasse.

The Indian Claims Commission provides facilitative mediation services that are culturally sensitive, informal, non-threatening and flexible.

Open discussion among equal parties conducted under these four conditions can promote a healthy dialogue and a better understanding and relationship between the parties. In this atmosphere, settlements are easier to reach and can successfully reflect the needs and interests of each of the parties.

The Commission has provided mediation/facilitation services on 50 files since its creation in 1991.

The five stages which make up the Commission's mediation process are illustrated in the chart which follows.

## THE MEDIATION PROCESS

<b>Stage 1</b>	<b>Request for Mediation</b> A First Nation or Canada requests mediation services.
<b>Stage 2</b>	<b>Agreement by the Parties</b> The parties agree to use ICC mediation services.
<b>Stage 3</b>	<b>Mediation</b> The mediator will host meetings, set timetables, assign tasks, facilitate negotiations, or assist in breaking through impasses.
<b>Stage 4</b>	<b>Coordination of Studies</b> When requested, the ICC coordinates loss-of-use studies.
<b>Stage 5</b>	<b>Mediation Report</b> While respecting the confidentiality of all the parties involved, the Commission releases a brief report on the mediation process and ensuing results of the negotiations.

## MEDIATIONS AND FACILITATIONS COMPLETED IN 2005-2006

Under its mediation mandate, the Indian Claims Commission works to help parties in negotiations arrive at a settlement that is agreeable to both.

From April 1, 2005, to March 31, 2006, the Commission issued reports on five mediations that were completed in the 2004-2005 fiscal year. These, and all of the Commission's reports, can be found on our website at [www.indianclaims.ca](http://www.indianclaims.ca).

## SUMMARY OF SPECIFIC CLAIMS IN MEDIATION AND FACILITATION BETWEEN APRIL 1, 2005, AND MARCH 31, 2006

This section reports on the Commission's mediation activities in 2005-2006. The First Nation, the title of the claim, and the province in which it is situated are followed by a brief background of the claim, a description of the issues, and an update on progress made in each of the 26 files during the year.

### **Blood Tribe/Kainaiwa**

#### **Cattle claim, Alberta**

In November 2002, the Indian Claims Commission was asked by the Blood Tribe to facilitate further research on its cattle claim. Following a review of the existing research and reports in 2003, the ICC recommended an independent historical review and analysis based on a renegotiated terms of reference. Over the next several months, the Blood Tribe undertook a further review of the existing research and in early 2004, asked the ICC to place this matter in abeyance so that the Blood Tribe could focus its efforts and resources on other claims.

## **Chippewa Tri-Council**

### **Coldwater-Narrows reservation claim, Ontario**

The Coldwater-Narrows reservation consisted of a strip of land, 14 miles long, averaging one and one-half miles wide, running from the narrows at Lakes Couchiching and Simcoe, westward to Matchedash Bay, comprising approximately 10,000 acres. The Chippewa Tri-Council, composed of three First Nations (Beausoleil First Nation, Chippewas of Georgina Island First Nation, and Chippewas of Mnjikaning [Rama] First Nation), claimed that the surrender in 1836 was not consistent with the instructions set out in the *Royal Proclamation of 1763*.

Originally submitted to Canada in November 1991, the claim was not officially accepted for negotiation until July 2002 – and only then following an inquiry conducted by the Commission into Canada's 1996 rejection of the claim. The ICC provided facilitation for the planning conferences from the outset. In July 2002, as a result of its involvement in that process, each of the three First Nations provided a band council resolution requesting the Commission's mediation/facilitation services for the negotiation of the claim.

Negotiations are ongoing with the parties focussing on determining an appropriate settlement.

## **Cote First Nation**

### **Pilot project, Saskatchewan**

This project relates to 13 transactions involving the Cote First Nation's lands, beginning with taking land for the railway in 1903 and ending in the reconstitution of reserve lands in 1963. Originally brought to the Commission as an inquiry, the project changed in approach to allow the negotiating parties to work together on the many interrelated transactions and issues. The Commission's mediation unit has facilitated the workings of the pilot project since its inception in 1997.

Considerable joint research has taken place, with the result that 13 potential claims have been identified. The complexity and interrelatedness of the claims led the negotiation table to group them into bundles. Canada's review of the first bundle of claims (the surrenders of 1905, 1907, 1913 and 1914) determined that these surrenders were null and void. The First Nation awaits confirmation by letter from the Minister of Indian Affairs, after which negotiations may proceed. The remaining claims have yet to be submitted by the First Nation.

## **Cowessess First Nation**

### **Flooding claim, Saskatchewan**

Originally part of the Qu'Appelle Valley Indian Development Authority (QVIDA), the Cowessess First Nation was one of a number of First Nations whose lands were lost to recurrent and, in some areas, continuous flooding caused by the construction in the 1940s of a series of water-control structures under the *Prairie Farm Rehabilitation Act*. When negotiations between Canada and QVIDA broke down in August 2003, the Cowessess First Nation chose to commence negotiations with Canada individually. The Commission is at the negotiation table as mediator/facilitator.



During the past fiscal year, the negotiating parties have initiated discussions on a boundary study which will form a basis for assessing past damages. At the same time, the parties, along with the Province of Saskatchewan, are negotiating an interim agreement to allow for the operation of the Crooked Lake water-control structure.

### **Fort Pelly Agency (Cote, Keeseekoose and Key First Nations)**

#### **Pelly Haylands, Saskatchewan**

This claim involves 12,800 acres northeast of Regina, known as the Pelly Haylands, which were set aside as a reserve in 1893 for the Cote, Keeseekoose and Key First Nations. Canada accepted the claim for negotiation, acknowledging that it breached a lawful obligation by disposing of part of the Pelly Haylands in 1898 and 1905 without a surrender.

With the initial part of the 2004-2005 fiscal year spent on completing land appraisals and loss-of-use studies, the parties began discussing a compensation package in late summer. By November, a settlement amount had been agreed to at the table. The terms of the settlement agreement were successfully ratified in two of the three First Nations, with the third First Nation going to a second vote.

### **Fort William First Nation**

#### **Boundary claim, Ontario**

Fort William Indian Reserve No. 52 contains 5815 hectares of land along the north shore of Lake Superior, on the southern edge of the city of Thunder Bay in northwestern Ontario. The registered membership of the band is 1726, of whom 839 live on the reserve.

Fort William First Nation is a signatory to the Robinson Superior Treaty negotiated between the Crown and the Ojibwa along the northern shores of Lake Superior in 1850. In 1852, the First Nation petitioned the Crown, saying that the reserve as described in the Treaty was not as agreed to at the Treaty negotiations and it protested again in 1853 when the reserve was surveyed.

In 1985, the First Nation submitted a claim to Canada and Ontario, alleging that the boundary of the reserve does not reflect the First Nation's understanding of the location and size of the reserve. Canada accepted the claim for negotiation in 1994 but negotiations were suspended in 1996 pending Ontario's decision to join the table. In 2001, Ontario offered to participate in the negotiations but only with regard to specifically limited aspects. In 2002, Canada and Fort William First Nation began bilateral negotiations, including loss-of-use studies, and in 2005 Canada agreed to Ontario's offer of limited participation. The parties began tripartite meetings to develop an approach for completing the negotiations.

The ICC's role during these negotiations is as study coordinator, acting as the liaison between the negotiating parties and independent consultants hired to complete research and loss-of-use studies, including forestry loss of use, agriculture loss of use, mines and minerals loss of use and a historical research study looking at other land developments. At the conclusion of this past fiscal year, the loss of use and historical research studies had been completed and land appraisals were about to begin.

## **Fort William First Nation**

### **Pilot project, Ontario**

Since 1998, the Commission has been participating in a pilot project to facilitate the resolution of a number of specific claims identified through independent research. The claims involve surrenders and expropriations of reserve land for settlement, railway, mining, and military purposes.

The Rifle Range claim, which involves a parcel of land surrendered in 1907 for a rifle range, was the first of the Fort William First Nation's eight claims to be jointly submitted to Canada. Accepted by Canada for negotiation in July 2000, an agreement on compensation was reached in January 2002. The Rifle Range claim was successfully ratified in December.

At the end of the fiscal year, the status of the remaining claims was as follows: the mining locations claim and the Chippewa Park claim had been submitted and were awaiting review by Canada; the additions to reserve process on the hydro claim was ongoing; a claim is unlikely to be submitted respecting the timber; the First Nation was pursuing the Grand Trunk Pacific Railway claim in the courts; and Canada is working on opinions on both the Neebing and Loch Lomond (water) claims.

## **Gordon First Nation**

### **Treaty land entitlement, Saskatchewan**

Gordon IR 86, contains 14,438 hectares of land and is located 61 kilometres northwest of Fort Qu'Appelle, Saskatchewan. The total band population is 2,906, of whom 1,000 live on reserve. This Cree/Saulteaux First Nation adhered to Treaty 4 in 1874.

Research has determined that these people did not receive the reserve land to which they were entitled according to the formula set out in the treaty. This claim alleges that the First Nation received a shortfall of reserve land pursuant to the terms of Treaty 4. In March 2004, for the purposes of negotiation – and under the 1998 Historic Treaty Land Entitlement Shortfall Policy – Canada accepted that the Gordon First Nation had sufficiently established a breach of obligation and a shortfall of 5,376 acres of land.

The ICC has acted as facilitator of the negotiations from their beginning, including at the Treaty Land Entitlement Common Table of Sturgeon Lake, Gordon, Muskoday and Pasqua First Nations, which wound up in December 2004. By the end of this fiscal year, the parties had come to agreement on most of the issues and plans were being made for a community vote on the settlement.

## **Lac Seul First Nation**

### **Flooding claim, Ontario**

Lac Seul First Nation is located approximately 40 kilometres northwest of Sioux Lookout, in northwestern Ontario. The reserve is composed of three communities – Kejick Bay, Whitefish Bay and Frenchman's Head – and is bounded to the north and east by the lake called Lac Seul. It has a total membership of approximately 2,500, of whom about 800 live on reserve.

In 1922, Canada, along with the provinces of Manitoba and Ontario, agreed to construct a dam at Ear Falls, the outlet of Lac Seul, to store the waters of the lake for hydroelectric generation. By the mid-

1930s, the average level of Lac Seul was raised approximately three metres, resulting in widespread flooding of the surrounding lands. In 1943, following extensive negotiations between Canada, Manitoba and Ontario to try to determine the acreage of the flooded land and the damages owing to the various landholders in the areas, Canada collected some financial compensation for the Lac Seul First Nation from the provinces for the loss of flooded land and the loss of the use of those lands.

Subsequent calculations demonstrated that the amount of reserve land that was flooded had been underestimated at that time by about 3,000 acres. The First Nation submitted its claim to Canada in 1985, and it was accepted for negotiation in 1995.

Negotiations between Canada and the First Nation, which had started in 1995, were put on hold in the fall of 2001 so that Canada could complete a thorough re-evaluation of its legal position with respect to the claim. The ICC was asked by the parties to act as facilitator in the spring of 2005. Negotiations to date are progressing slowly and are focussed on determining the number of acres affected by the flooding.

## **Metepenagiag Mi'kmaq Nation**

### **Hosford Lot and Indian Reserve 7 claim, New Brunswick**

The Red Bank First Nation is also known as the Metepenagiag Mi'kmaq Nation. They have four parcels of land totaling 3,907 hectares, about 22 kilometres west of Newcastle and 160 kilometres northwest of Moncton, New Brunswick. 373 of the 521 members live on reserve. Micmac is the native language.

There are two claims involved in these negotiations: (a) Indian Reserve (IR) 7 consisting of 64 acres purported to have been surrendered in 1904; (b) the Hosford Lot consisting of 100 acres taken in 1906. The IR 7 claim was negotiated and a settlement amount agreed upon in August 2000; three ratification votes were held and each one was unsuccessful. The Hosford Lot claim was accepted in 2001 and a decision was made by the parties to negotiate the settlement of both claims together; negotiations continued sporadically from 2002 to 2005.

In April 2005 the parties met and jointly agreed to ICC facilitation. In January 2006, an agreement was reached between the two parties.

## **Michipicoten First Nation**

### **Pilot project, Ontario**

Most of the land claims by the Michipicoten First Nation and the Michipicoten Pilot Project for Specific Claims stem from the 1850 Robinson-Superior Treaty and the rights of Michipicoten members to make a living that were granted by the treaty (such as hunting and fishing), and the reserve that was promised under the treaty, as well as numerous takings of land from the reserve.

Of the original 13 potential claims put forward under the pilot project process, four resulted in no claim being filed, three have been negotiated and settled, and three have been resolved through administrative referral. The last remaining claim is the boundary claim. Accepted for negotiation by Canada in 2003, the negotiating parties are undertaking joint land appraisals and loss-of-use studies.

## **Missanabie Cree First Nation**

### **Treaty land entitlement, Ontario**

The Missanabie Cree First Nation is a distinct group of Mushkegowuk Cree whose traditional territory is centred on Missanabie Lake, Dog Lake and Wabatongushi Lake, about 120 kilometres north of Wawa, Ontario, and within the Chapleau Crown land preserve. The First Nation has no land base and the roughly 300 members are scattered throughout Ontario and the rest of Canada.

In 1993, the Missanabie Cree First Nation submitted a claim to Canada alleging that, under the terms of Treaty 9, a reserve should have been set aside for its members. Following Canada's initial review, the First Nation and Canada jointly undertook research in support of the claim, and in 1999, Canada accepted the claim for negotiation. A year after submitting its claim to the Province of Ontario, the First Nation was issued a land-use permit for lands within the Chapleau Game Preserve. This permit allowed the First Nation to set up trailers to accommodate a band office, housing for temporary workers and facilities for band gatherings. An application to purchase these lands remains outstanding. Tripartite negotiation meetings are ongoing.

The ICC is at the negotiation table as study coordinator, acting as the liaison between the negotiating parties and independent consultants hired to complete research and loss-of-use studies. A natural resource study, which will include minerals, forestry and water, a traditional activities study, a mapping project, and loss-of-use studies covering tourism, recreation and agriculture are currently underway with draft final reports nearing completion.

## **Mississaugas of the New Credit First Nation**

### **Toronto Purchase claim, Ontario**

The Mississaugas of New Credit First Nation has approximately 1,548 members, about one-third of whom live on the 2,392 hectares of reserve land located adjacent to Hagersville, Ontario, about 32 kilometres southeast of Brantford.

This claim pertains to the Crown's purchase in 1805 of 250,880 acres of land from the River Credit Mississaugas. Through the purchase, the Mississaugas surrendered much of what is now Metropolitan Toronto, including the Toronto Islands.

Submitted in 1986, the claim was rejected by Canada in 1993. In February 1998, the ICC was asked to conduct an inquiry into Canada's decision to reject the claim. During the course of the inquiry, the First Nation revised its allegations and submitted additional research. In response to this development, Canada conducted a legal review of the revised submission and new evidence and determined that the claim disclosed an outstanding lawful obligation. In July 2002, Canada accepted the claim for negotiation.

A federal negotiator was appointed to lead Canada's negotiating team later that year, and in May 2003, the ICC began providing facilitation services to the parties at their request. As of March 2006, the Mississaugas of the New Credit First Nation and Canada agreed to postpone further negotiations pending the outcome of elections both federally and at the band level.

## **Mohawk Council of Akwesasne**

### **Dundee claim, Ontario**

The Mohawk territory called “Akwesasne” is located adjacent to the city of Cornwall, Ontario, and straddles the international boundary of Canada and the United States, the Ontario and Quebec provincial boundaries and the New York state line. On the Canadian side, the elected government is the Mohawk Council of Akwesasne, composed of 12 District Chiefs and a Grand Chief. The community has a registered population of 10,249 (at February 2006), of whom approximately 8,300 live on the 4,739 hectares (11,712 acres) of reserve land on Cornwall Island and other islands in the St Lawrence River.

The claim lands, known as the Tsikaristisere or “Dundee lands,” are on the south shore of the St Lawrence River roughly opposite Cornwall. They consist of approximately 20,000 acres in the most westerly portion of the Province of Quebec, in the area now known as the Township of Dundee. Historically, they were part of the land recognized as set apart for the Mohawks of Akwesasne. From the early 1800s, the Dundee lands had been leased out to non-Mohawk settlers. None of the leases were preceded by a surrender.

An alleged surrender was signed on February 16, 1888, but the Mohawks maintain that their intention was to reclaim the leased lands gradually rather than to surrender them.

The Mohawk Council of Akwesasne’s claim was partially accepted for negotiation in 1988 on the basis of inadequate compensation resulting from the 1888 surrender, but these negotiations broke down in the mid-1990s. The Council subsequently revised its allegations in the context of evolving case law and submitted additional research. In response to this development, Canada conducted a legal review of the revised submission and new evidence. The claim was accepted for negotiation in December 2002, on the basis that the Crown breached a pre-surrender fiduciary duty in relation to the 1888 surrender and that the Crown owes an outstanding lawful obligation to the Mohawks of Akwesasne in relation to certain leases not validated by the 1864 *Dundee Act*.

A negotiation protocol was signed by the parties before the ICC was asked to facilitate. Negotiations are in the early stages and issues are still being identified.

## **Mohawks of the Bay of Quinte**

### **Culbertson Tract, Ontario**

The Mohawks of the Bay of Quinte have a total membership of approximately 7,500, with about 2,000 of them resident on the Tyendinaga Reserve adjacent to the town of Deseronto and about 10 kilometres east of Belleville, Ontario. The Mohawks have been settled at this location since May 1784.

The claim of the Mohawks of the Bay of Quinte is based upon the illegal disposition of some 827 acres of land, known as the Culbertson Tract, in the years 1836 and 1837. The tract consists of land within the original Mohawk Tract granted to and reserved for the Six Nations by the Simcoe Deed, also known as Treaty No. 3½, in 1793. The basis of the claim is that no surrender of the Culbertson Tract was ever sought by the Crown nor given by the Six Nations, as required by the mandatory provisions of the Simcoe Deed. The claim was submitted in 1995 and accepted for negotiation in 2003.

In September 2004, the ICC began providing facilitation services to the parties at their request. Discussions to date have revolved around identifying the boundaries of the claim lands and discussing compensation.

## **Muscowpetung First Nation**

### **Flooding claim, Saskatchewan**

Muscowpetung IR 80, contains 8,849 hectares and is located 31 kilometres west of Fort Qu'Appelle, Saskatchewan. The total band population is 1,117, of whom 268 live on reserve.

Originally part of the Qu'Appelle Valley Indian Development Authority (QVIDA), the Muscowpetung First Nation was one of a number of First Nations whose lands were lost to recurrent and, in some areas, continuous flooding caused by the construction in the 1940s of a series of water-control structures under the *Prairie Farm Rehabilitation Act*. When negotiations between Canada and QVIDA broke down in August 2003, the Muscowpetung First Nation chose to resume negotiations with Canada on a one-on-one basis. The Commission is at the negotiation table as mediator/facilitator.

The First Nation has continued work on assessing past losses, including a river/lake boundary analysis, and has indicated that it would be prepared to discuss settlement options in the not-too-distant future.

## **Muskoday First Nation**

### **Treaty land entitlement, Saskatchewan**

Muskoday IR 99, contains 9,686 hectares and is located 19 kilometres southeast of Prince Albert, Saskatchewan. The total band population is 1,502, of whom 524 live on reserve.

This Cree/Saulteaux First Nation adhered to Treaty 6 in 1876 under Chief John Smith. Research has determined that these people did not receive the reserve land to which they were entitled according to the formula set out in the treaty. The claim was submitted to Canada alleging that the First Nation received a shortfall of reserve land pursuant to the terms of Treaty 4. In March 2004, for the purposes of negotiation – and under the 1998 Historic Treaty Land Entitlement Shortfall Policy – Canada accepted that the Muskoday First Nation had sufficiently established a breach of obligation and a shortfall of 5,376 acres of land. Negotiations began in May 2004.

The ICC has acted as facilitator of the negotiations from the start, including a Treaty Land Entitlement Common Table of Sturgeon Lake, Gordon, Muskoday and Pasqua First Nations working to reach a common approach with Canada respecting issues relating to the determination of an adjusted-date-of-first-survey (ADOFS) population. After an exchange of relevant documents and two meetings, held in October and December 2004, the parties were able to agree on eligibility criteria for ADOFS so that each First Nation could proceed with its individual negotiations.

By the end of the 2005-2006 fiscal year, negotiations at the Muskoday table were being finalized with only a few outstanding issues remaining, and plans were being made for ratification of the settlement in the First Nation community.

## **Nekaneet First Nation**

### **Treaty benefits, Saskatchewan**

Nekaneet First Nation is located in the Cypress Hills of southwest Saskatchewan, 40 kilometres southeast of Maple Creek. A signatory of Treaty 4, this Cree First Nation has a membership of 404, including 168 people who live on reserve. The land base consists of 14,568 hectares scattered in and around the Maple Creek area.

In 1913, the First Nation received reserve land and its members commenced farming. Through the years, Nekaneet farmers did not receive some of the agricultural assistance – stock, seed, implements – promised them under Treaty 4. In addition, the First Nation did not receive its share of the ammunition and twine benefit promised in Treaty 4.

In February 1987, the Nekaneet First Nation submitted a specific claim to the Minister of Indian Affairs and Northern Development seeking compensation under Treaty 4 for outstanding provisions of agricultural benefits, programs and services, annual payments to band members and damages for failure to provide a reserve at the time the treaty was signed in 1874. The claim was accepted by Canada in October 1998.

In July 2002, the Commission's mediation unit was asked to participate at the negotiation table as mediator/facilitator. Almost immediately, negotiations were interrupted to allow Canada time to undertake a policy review of the modern implementation of treaty benefits relating to the provision of agricultural implements. Negotiations commenced again in July 2004.

Over the past year, the parties have focussed their efforts on understanding and assessing various approaches to valuing the loss of the agricultural benefits and were working with the help of agricultural economists.

## **Pasqua First Nation**

### **Flooding claim, Saskatchewan**

Pasqua IR 79, contains 8,960 hectares and is located 16 kilometres west of Fort Qu'Appelle, Saskatchewan. The total band population is 1,678, of whom 524 live on reserve.

Originally part of the Qu'Appelle Valley Indian Development Authority (QVIDA), the Pasqua First Nation was one of a number of First Nations whose lands were lost to recurrent and, in some areas, continuous flooding caused by the construction in the 1940s of a series of water-control structures under the *Prairie Farm Rehabilitation Act*. When negotiations between Canada and QVIDA broke down in August 2003, the Pasqua First Nation chose to resume negotiations with Canada on an individual basis. The Commission is at the table as mediator/facilitator.

Within the context of negotiating past damages, the parties were also successful in negotiating interim operation agreements permitting Canada and the Province of Saskatchewan to enter onto First Nation lands to operate the water-control structures up to and including the 2006 season. Work is continuing with respect to identifying, assessing and valuing past damages, particularly completion of the river/lake boundary analysis. Additional loss-of-use studies have been delayed because they need acreage data to be determined by the river/lake boundary analysis.

## **Pasqua First Nation**

### **Treaty land entitlement claim, Saskatchewan**

Pasqua IR 79, contains 8,960 hectares and is located 16 kilometres west of Fort Qu'Appelle, Saskatchewan. The total band population is 1,678, of whom 524 live on reserve.

This First Nation adhered to Treaty 4 in 1874. Research has determined that these people did not receive the reserve land to which they were entitled, according to the formula set out in the treaty. Pasqua First Nation submitted its claim to Canada in 2001, and it was accepted for negotiation in May 2005.

While the claim was being reviewed by Canada, Pasqua First Nation participated as an observer in the Treaty Land Entitlement Common Table negotiations chaired by the Commission at which Canada and the Sturgeon Lake, Gordon, Muskoday and Pasqua First Nations agreed on a common approach on issues relating to the determination of an adjusted-date-of-first-survey population.

In its June 2005 Band Council Resolution agreeing to enter into negotiations, the Pasqua First Nation requested that the ICC be involved in the negotiations. Later that same month, Canada also requested that the ICC facilitate the negotiations. By the close of the 2005-2006 fiscal year, the parties had agreed on the population to be used to determine the treaty land entitlement shortfall, with further research to be done on four individuals.

## **Qu'Appelle Valley Indian Development Agency (QVIDA II)**

### **Flooding claim, Saskatchewan**

This file is a revival of a prior mediation in which the Commission was involved and reported on in this past fiscal year. The negotiation history is recapped here, followed by the current status of the newly constituted negotiations.

Between 1888 and 1961, the federal and provincial governments built or financed four major dams and 150 smaller ones on the Qu'Appelle River system in Saskatchewan, thereby flooding and degrading over 14,000 acres of land. The lands were lost through recurrent and, in some areas, continuous flooding attributed to water-storage projects constructed under the *Prairie Farm Rehabilitation Act*. At issue for the First Nation communities involved in this claim is damage caused by the construction, in the 1940s, of eight water-control structures along the Qu'Appelle River.

The current negotiations, which began late in December 2005, see the Qu'Appelle Valley Indian Development Authority (QVIDA), now representing a group of three Saskatchewan First Nations, pursuing claims against Canada for this flooding of their reserve lands. The QVIDA table now includes the Sakimay and Ochapowace First Nations with the Piapot First Nation at the table as an observer, though it not yet had its flooding claim accepted for negotiation.

Work is in the early stages and has focussed on information gathering, planning, consideration of various approaches to determining boundaries/lands lost to flooding, as well as ways to improve on the negotiation process and relationships between the parties.



## **Siksika Nation**

### **Castle Mountain claim, Alberta**

The Siksika First Nation (formerly known as the Blackfoot Band) has a reserve of 70,985 hectares located 80 kilometres east of Calgary, Alberta. It has a total registered population of 6,035, with about 3,400 of that number living on the reserve.

This claim relates to an area of about 68 square kilometres of land at Castle Mountain (located between Banff and Lake Louise) that was surveyed as a timber limit for the Blackfoot people in 1892. The Department of Indians Affairs later concluded that a timber limit in a different location would be preferable, and in November 1908, it returned the land to the Department of the Interior. No replacement timber limit was ever selected for Siksika.

In 1982, Siksika submitted the Castle Mountain specific claim to Canada, and it was partially accepted for negotiation in 1985. In 1993, Canada rescinded its 1985 acceptance of the claim and accepted it on the basis that Canada “has a lawful obligation within the meaning of the Specific Claims Policy to set aside a timber limit as a reserve for the use and benefit of the Siksika Nation.”

The ICC came to the negotiation table in mid-2005 as study coordinator, acting as liaison between the negotiating parties and independent consultants hired to complete research and loss-of-use studies. Terms of reference for the studies were developed, proposals solicited and consultants chosen to work on the various studies, including a consolidated land-use study, resource harvesting, mines and minerals, land appraisals, forestry and other land development including tourism and recreation. By year’s end, the consultants had begun their work and Elder interviews had been held.

## **Skway First Nation**

### **Schweyey Road claim, British Columbia**

Accepted for negotiation by Canada in April 2003, this claim concerns the dyke and road on Skway Indian Reserve (IR) 5. In its claim submission, the First Nation successfully established that Canada had breached its lawful obligation to the Skway First Nation, in that the lands for the dyke and road across IR 5 (4.52 acres) were not lawfully taken, and the First Nation had not been properly compensated for this taking.

Negotiations commenced in the fall of 2003, with the Commission at the table as mediator/facilitator. Parties to the negotiation include Canada, the Province of British Columbia, the City of Chilliwack and Skway First Nation. Issues being negotiated include current ownership of the dyke and road; options to surrender; land appraisals and damages studies; form of conveyance allowing for future use of the dyke and road; and the availability of Crown lands as a component of a settlement.

Over the course of the past fiscal year, a tentative settlement agreement was reached and outstanding issues being dealt with at various side tables were progressing well without the need for meetings. Just prior to year’s end, however, the ICC was asked to convene a full-table meeting to review the status of the unresolved issues.

## **Sturgeon Lake First Nation**

### **Treaty land entitlement, Saskatchewan**

The Sturgeon Lake First Nation is located near Shellbrook, Saskatchewan, about 50 kilometres northwest of Prince Albert. There are about 2,000 registered band members.

This Cree/Saulteaux First Nation adhered to Treaty 6 with Chief Ah-yah-tus-kum-ik-am near Fort Carlton, on August 23, 1876. Until 1963, it was known as William Twatt's Band. Research has determined that these people did not receive the reserve land to which they were entitled, according to the formula set out in the treaty. In March 2004, Canada accepted the Sturgeon Lake First Nation's claim that it had breached its lawful obligation in that there is an outstanding treaty land entitlement shortfall of 2,032 acres of land.

Negotiation of the claim began in September 2004. The ICC has acted as facilitator of the negotiations from the beginning, including a Treaty Land Entitlement Common Table in the fall of 2004 of Sturgeon Lake, Gordon, Muskoday and Pasqua First Nations to reach a common approach with Canada respecting issues relating to the determination of an adjusted-date-of-first-survey (ADOFS) populations. After an exchange of relevant documents and two meetings, the parties were able to agree on eligibility criteria for ADOFS so that each First Nation could proceed with its individual negotiation.

By the end of the 2005-2006 fiscal year, the parties had reached a tentative settlement and were finalizing a few remaining outstanding issues. Plans were beginning for ratification of the settlement in the First Nation community.

## **Treaty Land Entitlement Common Table**

### **Treaty land entitlement, Saskatchewan**

This table was set up to deal with issues that were common to the individual negotiations for the treaty land entitlement claims (TLE) of the Gordon First Nation (see page 52), Muskoday First Nation (see page 56) and Sturgeon Lake First Nation (see page 60). The Pasqua First Nation was allowed a seat at this table as an observer because although they had submitted a similar claim, it had not yet been accepted. The common issues were discussed and resolved in December 2004 and will be reported by the Commission when the individual treaty land entitlement negotiations (now including the Pasqua First Nation's TLE accepted claim) are concluded.

## **Wolf Lake First Nation**

### **Reserve lands, Quebec**

Although the Commission was asked to conduct an inquiry into the reserve lands claim of the Wolf Lake First Nation, the mediation/facilitation unit is involved in the discussions between the parties. For a description of the issues, please see the Summary of Specific Claims in Inquiry between April 1, 2005, and March 31, 2006, section on page 46.

# ICC Concluded Inquiries and Mediations

What you'll find in this section...

**62 ICC Concluded Inquiries and Mediations as of March 31, 2006**

Table providing information on the status of each inquiry and mediation the ICC has completed

**72 ICC Concluded Inquiries and Mediations Index: Provincial**

Index of all concluded inquiries and mediations, grouped by province

**75 ICC Concluded Inquiries Index: Thematic**

Index of all concluded inquiries, grouped by theme

## ICC CONCLUDED INQUIRIES AND MEDIATIONS

This table updates readers on the status of claims for which the Commission has completed its inquiry or mediation activities. In most of the claims listed below, an inquiry or mediation report has been published and is available from our website at [www.indianclaims.ca](http://www.indianclaims.ca).

The table tracks the progress of each claim through the specific claims process once the ICC has completed its inquiry or mediation/facilitation services.

The first column lists the name of the First Nation and the type or title of the specific claim it brought to the ICC for inquiry or mediation/facilitation. This information is followed by the outcome of the ICC's inquiry or its mediation activities. The next column contains the date of the ICC's report, which is followed by a column containing the date of Canada's response to ICC's recommendation(s). The nature of that response and any settlement information available are also found in the last column.

### ICC CONCLUDED INQUIRIES AND MEDIATIONS AS OF MARCH 31, 2006

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ICC Report	Canada's Response
1 <b>Alexis, AB</b> TransAlta Utilities rights of way <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2003	In July 2005, government rejected recommendations, stating that a lump sum payment was adequate compensation, that there was no duty to advise the First Nation respecting its taxation powers, and that informed consent to the expropriation was not required.
2 <b>Athabasca Chipewyan, AB</b> W.A.C. Bennett Dam and damage to IR 201 <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1998	In April 2001, government rejected recommendations made in March 1998: "Canada did not have a fiduciary duty to protect Reserve No. 201 against damage caused by construction and the operation of the Bennett Dam by a third party. Canada did not have the duty to invoke the provisions of the <i>Navigable Waters Protection Act</i> to stop the construction of the Bennett Dam or dispose of it once it was built. Furthermore, Canada did not have an obligation on the basis of Treaty No. 8 to ensure that the reserve would be protected from any damage resulting from the construction and operation of the Bennett Dam."
3 <b>Athabasca Denesuline, SK</b> Treaty harvesting rights <i>1993 report recommended negotiation outside specific claims process. 1995 supplementary report noted failure of negotiations; recommended government recognize treaty rights or provide litigation funding.</i>	Inquiry December 1993 Supplementary report November 1995	In August 1994, government accepted recommendations made in December 1993 report. November 1995 supplementary report acknowledged; no further response.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ICC Report	Canada's Response
4 <b>Betsiamites Band, QC</b> Highway 138 <i>Accepted with assistance of Commission</i>	Inquiry March 2005	In January 2004, government accepted claim for negotiation while inquiry underway.
5 <b>Betsiamites Band, QC</b> Rivière Betsiamites Bridge <i>Accepted with assistance of Commission</i>	Inquiry March 2005	In January 2004, government accepted claim for negotiation while inquiry underway.
6 <b>Bigstone Cree Nation, AB</b> Treaty land entitlement <i>Accepted with assistance of Commission</i>	Inquiry March 2000	In October 1998, government accepted claim for negotiation.
7 <b>Blood Tribe/Kainaiwa, AB</b> 1889 Akers surrender <i>Accepted with assistance of Commission</i>	Inquiry June 1999	In April 1998, government accepted claim for negotiation.
8 <b>Blood Tribe/Kainaiwa, AB</b> Akers surrender <i>Settled with assistance of Commission</i>	Mediation August 2005	In September 2003, claim settled for \$3.55 million in compensation.
9 <b>Blueberry River and Doig River, BC</b> Highway right of way IR 172 <i>Accepted while inquiry underway</i>	Inquiry March 2006	In September 2004, government accepted claim for negotiation while inquiry underway.
10 <b>Buffalo River, SK</b> Primrose Lake Air Weapons Range II – loss of commercial and treaty harvesting rights <i>Recommended part of claim be accepted for negotiations</i>	Inquiry September 1995	In March 2002, government rejected recommendations stating: “[C]ompensation for commercial harvesting rights was not based on either Indian status or membership in an Indian Band; rather, it was to be paid to anyone who held a licence on the land which became the Primrose Lake Air Weapons Range.”
11 <b>Canoe Lake, SK</b> Primrose Lake Air Weapons Range – breach of treaty and fiduciary obligations <i>Recommended claim be accepted for negotiation</i>	Inquiry August 1993	In June 1997, claim settled for \$13,412,333 in federal compensation and a requirement that the First Nation purchase between 2,786 hectares and 20,224 hectares of land.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ICC Report	Canada's Response
<b>12 Canupawakpa Dakota, MB</b> Turtle Mountain surrender <i>Recommended claim not be accepted, but recommended Canada and the First Nation work together to acquire and properly designate the burial sites</i>	Inquiry July 2003	Report acknowledged October 2003.
<b>13 Carry the Kettle, SK</b> Cypress Hills <i>Recommended claim not be accepted, but, pursuant to supplementary mandate, recommended government recognize the Carry the Kettle First Nation's historical connection to the Cypress Hills and restore to the Assiniboine people their connection to the territory</i>	Inquiry July 2000	Rejected in January 2001. Government agreed with the Commission's conclusion that the claim did not disclose a lawful obligation on the part of the government under the Specific Claims Policy. The government rejected the Commission's recommendation to restore to the Assiniboine people their connection to the territory.
<b>14 Chippewa Tri-Council, ON</b> Coldwater-Narrows reservation surrender <i>Accepted with assistance of Commission</i>	Inquiry March 2003	In July 2002, government accepted claim for negotiation while inquiry underway.
<b>15 Chippewa Tri-Council, ON</b> Collins Treaty <i>Accepted with assistance of Commission</i>	Inquiry March 1998	In December 1998, claim settled for \$565,000 in federal compensation.
<b>16 Chippewas of Kettle and Stony Point, ON</b> 1927 surrender <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1997	No response from government. In 1998, the Supreme Court of Canada rendered its decision in the First Nation's appeal of the Ontario Court of Appeal's finding that the surrender was valid. The Supreme Court of Canada upheld the reasons of the lower court to find the surrender valid.
<b>17 Chippewas of the Thames, ON</b> Clench defalcation <i>Accepted with assistance of Commission</i>	Inquiry March 2002	In June 2001, government accepted claim for negotiation while inquiry underway.
<b>18 Chippewas of the Thames, ON</b> Clench defalcation <i>Settled with assistance of Commission</i>	Mediation August 2005	In November 2004, claim settled for \$15 million in federal compensation.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ICC Report	Canada's Response
19 <b>Chippewas of the Thames, ON</b> Muncey land inquiry <i>Settled with assistance of Commission</i>	Inquiry December 1994	In January 1995, claim settled for \$5,406,905 in federal compensation.
20 <b>Cold Lake, AB</b> Primrose Lake Air Weapons Range – breach of treaty and fiduciary obligations <i>Recommended claim be accepted for negotiation</i>	Inquiry August 1993	In March 2002, claim settled for \$25.5 million in federal compensation.
21 <b>Cowessess, SK</b> 1907 surrender <i>Recommended the portion of IR 73 surrendered in 1907 be accepted for negotiation</i>	Inquiry March 2001	In March 2002, government rejected recommendation, disagreeing with finding of number of voters present and with interpretation of “majority,” but will proceed to phase II of this inquiry as previously agreed upon by the parties.
22 <b>Cowessess, SK</b> QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
23 <b>Cumberland House, SK</b> IR 100A <i>Recommended that the claim regarding IR 100A be accepted for negotiation</i>	Inquiry March 2005	No response from government.
24 <b>Duncan's, AB</b> 1928 surrender <i>Majority of claim not recommended for negotiation, however, recommended that the surrender of IR 151E be accepted for negotiation</i>	Inquiry September 1999	In June 2001, government rejected recommendation regarding IR 151E made in September 1999 report, stating: “[T]he Commission did not examine the terms of the proposed lease and, as a result, made no finding that the 1923 lease proposal was either more or less advantageous to the First Nation than a surrender.”
25 <b>Eel River Bar, NB</b> Eel River Dam <i>Recommended claim not be accepted for negotiation</i>	Inquiry December 1997	No substantive response from government required.
26 <b>Esketemc, BC</b> IR 15, 17, and 18 <i>Recommended that the disallowance or reduction of IR 15, 17, and 18 be accepted for negotiation</i>	Inquiry November 2001	In June 2005, government rejected recommendation, stating that Canada had no obligation or power to create reserves for the First Nation, and that the Commission's conclusions “are largely premised on findings ... that the First Nation had aboriginal rights and title to the land at issue.”

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ICC Report	Canada's Response
27 <b>Fishing Lake, SK</b> 1907 surrender <i>Accepted with assistance of Commission</i>	Inquiry March 1997	In August 1996, government accepted claim for negotiation while inquiry underway.
28 <b>Fishing Lake, SK</b> 1907 surrender <i>Settled with assistance of Commission</i>	Mediation March 2002	In August 2001, claim settled for \$34.5 million in federal compensation.
29 <b>Flying Dust, SK</b> Primrose Lake Air Weapons Range II – loss of commercial and treaty harvesting rights <i>Recommended part of claim be accepted for negotiations</i>	Inquiry September 1995	In March 2002, government rejected recommendations made in September 1995 report, stating: “[C]ompensation for commercial harvesting rights was not based on either Indian status or membership in an Indian Band; rather, it was to be paid to anyone who held a licence on the land which became the Primrose Lake Air Weapons Range.”
30 <b>Fort McKay, AB</b> Treaty land entitlement <i>Recommended that government owed outstanding entitlement of 3,815 acres to First Nation</i>	Inquiry December 1995	In April 1998, government accepted claim for negotiation.
31 <b>Friends of the Michel Society, AB</b> 1958 enfranchisement <i>No lawful obligation found, but recommended that government grant special standing to submit specific claims</i>	Inquiry March 1998	In October 2002, government rejected recommendation made in March 1998 report, stating: “Canada has declined to accept the ISCC’s recommendation to grant the Friends of the Michel Society special standing to advance specific claims.”
32 <b>Gamblers, MB</b> Treaty land entitlement <i>Accepted with assistance of Commission</i>	Inquiry October 1998	In November 1998, government accepted claim for negotiation.
33 <b>Homalco, BC</b> Aupe IR 6 and 6A – statutory or fiduciary obligation to obtain 80 acres of land from province of BC <i>Part of claim recommended for negotiation re: 10 acres</i>	Inquiry December 1995	In December 1997, government rejected recommendation, stating that, as the lands were not alleged to be reserve lands, the Policy does not apply, and that Canada does not “recognize a general duty to protect traditional Indian lands (as distinct from reserve lands) from the actions of others.”
34 <b>James Smith, SK</b> IR 100A <i>Recommended that the lawful obligations that arise from Canada’s dispositions of IR 100A be accepted for negotiation</i>	Inquiry March 2005	No response from government.



Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ICC Report	Canada's Response
35 <b>James Smith, SK</b> Chakastaypaysin IR 98 <i>Recommended that the claim be accepted for negotiation</i>	Inquiry March 2005	No response from government.
36 <b>Joseph Bighead, SK</b> Primrose Lake Air Weapons Range II – loss of commercial and treaty harvesting rights <i>Recommended claim not be accepted for negotiation</i>	Inquiry September 1995	No substantive response from government required.
37 <b>Kahkewistahaw, SK</b> Treaty land entitlement <i>Recommended claim not be accepted for negotiation</i>	Inquiry November 1996	No substantive response from government required.
38 <b>Kahkewistahaw, SK</b> 1907 reserve land surrender <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1997	In December 1997, government accepted claim for negotiation.
39 <b>Kahkewistahaw, SK</b> 1907 surrender <i>Settled with assistance of Commission</i>	Mediation February 2003	In November 2002, claim settled for \$94.65 million in federal compensation.
40 <b>Kawacatoose, SK</b> Treaty land entitlement <i>Recommended that government owed a shortfall of 8,576 acres to Band, subject to confirming research</i>	Inquiry March 1996	In October 2000, claim settled for \$23 million in federal compensation.
41 <b>The Key, SK</b> 1909 surrender <i>Recommended claim not be accepted for negotiation</i>	Inquiry March 2000	No substantive response from government required.
42 <b>Keeseekoowenin, MB</b> 1906 land claim <i>Settled with assistance of Commission</i>	Mediation August 2005	In March 2005, claim settled for \$6,999,900 in compensation.
43 <b>Lac La Ronge, SK</b> Treaty land entitlement <i>Recommended claim not be accepted for negotiation</i>	Inquiry March 1996	No substantive response from government required.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ICC Report	Canada's Response
<b>44 Lax Kw'alaams, BC</b> Demand for absolute surrender as precondition to settlement <i>Recommended that government exclude Aboriginal rights from the surrender that was to be a condition of the claim settlement</i>	Inquiry June 1994	In December 2001, government rejected recommendations stating "Aboriginal interests were never excluded from any of the appraisals considered during the negotiations ... they cannot be considered to have been excluded from the discussions ... It is legally impossible to exempt Aboriginal interests from the scope of a section 38 surrender without jeopardizing the legal effect of the surrender ..."
<b>45 Long Plain, MB</b> Loss of use of treaty entitlement land <i>Recommended claim be accepted for negotiation</i>	Inquiry February 2000	In November 2005, government accepted claim for negotiation.
<b>46 Lucky Man, SK</b> Treaty land entitlement <i>Recommended further research to establish the proper TLE population</i>	Inquiry March 1997	In May 1997, government accepted recommendation: government research indicated no TLE shortfall; First Nation is reviewing and conducting its own research.
<b>47 Mamaleleqala Qwe'Qwa'Sot'Enox, BC</b> McKenna-McBride applications <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1997	In December 1999, government rejected recommendations, disagreeing with the interpretation of "lawful obligation" in <i>Outstanding Business</i> , and asserting that no fiduciary obligation can exist "in relation to Aboriginal interests in non-reserve lands."
<b>48 Micmacs of Gesgapegiag, QC</b> Pre-Confederation claim to 500-acre island <i>No substantive recommendations made because government agreed to reconsider merits of claim</i>	Inquiry December 1994	In March 1995, government acknowledged receipt of report and advised claim was in abeyance pending outcome of related court case.
<b>49 Mikisew Cree, AB</b> Economic benefits under Treaty 8 <i>Accepted with assistance of Commission</i>	Inquiry March 1997	In December 1996, government accepted claim for negotiation while inquiry underway.
<b>50 Mississaugas of the New Credit, ON</b> Toronto Purchase <i>Accepted with assistance of Commission</i>	Inquiry June 2003	In July 2002, Government accepted claim for negotiation while inquiry underway.
<b>51 Mistawasis, SK</b> 1911, 1917, and 1919 surrenders <i>Accepted with assistance of Commission</i>	Inquiry March 2002	In September 2001, claim settled for \$16.3 million in federal compensation.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ICC Report	Canada's Response
52 <b>Moose Deer Point, ON</b> Pottawatomi rights <i>Recommended additional research</i>	Inquiry March 1999	In March 2001, government rejected recommendations, stating that the claim submission had already been “fully researched.”
53 <b>Moosomin, SK</b> 1909 reserve land surrender <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1999	In December 1997, government accepted claim for negotiation.
54 <b>Moosomin, SK</b> 1909 reserve land surrender <i>Settled with assistance of Commission</i>	Mediation March 2004	In September 2003, claim settled for \$41 million in federal compensation.
55 <b>Muscowpetung, SK</b> QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
56 <b>Nak'azdli, BC</b> Aht-Len-Jees IR 5 <i>Accepted with assistance of Commission</i>	Inquiry March 1996	In January 1996, government accepted claim for negotiation while inquiry underway.
57 <b>'Namgis, BC</b> Cormorant Island <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1996	In May 2001, government rejected recommendation, disagreeing that any fiduciary obligation arose on the facts of this claim.
58 <b>'Namgis, BC</b> McKenna-McBride applications <i>Recommended part of claim be accepted for negotiation</i>	Inquiry February 1997	In December 1999, government rejected recommendation, disagreeing with the interpretation of “lawful obligation” in <i>Outstanding Business</i> and disagreeing that any fiduciary obligation arose on the facts of this claim.
59 <b>Nekaneet, SK</b> Agricultural and other benefits under Treaty 4 <i>Accepted with assistance of Commission</i>	Inquiry March 1999	In October 1998, government accepted claim for negotiation while inquiry underway.
60 <b>Ochapowace, SK</b> QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ICC Report	Canada's Response
61 <b>Pasqua, SK</b> QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
62 <b>Peepeekisis, SK</b> File Hills Colony <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2004	No response from government.
63 <b>Peguis, MB</b> Treaty land entitlement <i>Accepted with assistance of Commission</i>	Inquiry March 2001	In June 1998, government accepted claim for negotiation while inquiry underway.
64 <b>Qu'Appelle Valley Indian Development Authority (Cowessess, Kahkewistahaw, Muscowpetung, Ochapowace, Pasqua, Piapot, Sakimay), SK</b> Flooding claim <i>Mediation unable to resolve issues; separate negotiations ongoing with Cowessess, Muscowpetung, Pasqua</i>	Mediation December 2005	No substantive response from government required.
65 <b>Roseau River Anishinabe, MB</b> Medical aid <i>Recommended claim be accepted for negotiation</i>	Inquiry February 2001	In September 2003, government rejected recommendations, stating that medical aid deductions from the trust fund account were permissible, that no treaty promise of medical aid was made or survived, and that no outstanding lawful obligation exists.
66 <b>Roseau River Anishinabe, MB</b> Treaty land entitlement <i>Settled with assistance of Commission</i>	Mediation March 1996	In March 1996, claim settled for \$14 million in federal compensation.
67 <b>Sakimay, SK</b> QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
68 <b>Standing Buffalo, SK</b> QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ICC Report	Canada's Response
69 <b>Standing Buffalo, SK</b> QVIDA flooding claim <i>Settled with assistance of Commission</i>	Mediation March 2004	In March 2003, claim settled for \$3.6 million in compensation and the ability to acquire up to 640 acres of agricultural land to be set apart as reserve land pursuant to Canada's Additions to Reserves Policy.
70 <b>Sturgeon Lake, SK</b> Red Deer Holdings agricultural lease <i>Accepted with assistance of Commission</i>	Inquiry March 1998	In October 1998, claim settled for \$190,000 in federal compensation.
71 <b>Sumas, BC</b> IR 6 railway right of way <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1995	In June 2005, government accepted claim for negotiation.
72 <b>Sumas, BC</b> 1919 surrender of IR 7 <i>Recommended joint research to assess fair market value of surrendered land</i>	Inquiry August 1997	In January 1998, government stated it was willing to explore possibility of joint research to determine if evidence exists for a claim.
73 <b>Taku River Tlingit, BC</b> Wenah Specific claim <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2006	No response from government.
74 <b>Thunderchild, SK</b> 1908 surrender <i>Settled with assistance of Commission</i>	Mediation March 2004	In September 2003, claim settled for \$53 million in compensation and ability to acquire up to 5,000 acres of land within 15 years to be set apart as a reserve.
75 <b>Touchwood Agency, SK</b> Mismanagement (1920-24) claim <i>Mediation unable to resolve issues, Agency requested ICC inquiry</i>	Mediation August 2005	No substantive response from government required.
76 <b>Walpole Island, ON</b> Boblo Island <i>Recommended First Nation resubmit its claim under the Comprehensive Claims Policy</i>	Inquiry May 2000	No substantive response from government required.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ICC Report	Canada's Response
77 <b>Waterhen Lake, SK</b> Primrose Lake Air Weapons Range II – loss of commercial and treaty harvesting rights <i>Recommended part of claim be accepted for negotiation</i>	Inquiry September 1995	In March 2002, government rejected recommendations made in September 1995 report, stating: “[C]ompensation for commercial harvesting rights was not based on either Indian status or membership in an Indian Band; rather, it was to be paid to anyone who held a licence on the land which became the Primrose Lake Air Weapons Range.”
78 <b>Williams Lake, BC</b> Village Site <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2006	No response from government.
79 <b>Young Chipeewayan, SK</b> Stoney Knoll IR 107 <i>Recommended that claim not be accepted for negotiation but that further research be undertaken regarding the surrender proceeds</i>	Inquiry December 1994	No substantive response from government required.

## ICC CONCLUDED INQUIRIES AND MEDIATIONS INDEX – PROVINCIAL

The concluded inquiries and mediations presented in the preceding section are displayed below. They are grouped by province and listed in alphabetical order. Each claim is listed as follows: name of the First Nation, title of the claim and date of publication of ICC's report.

### Alberta

Alexis First Nation, TransAlta Utilities rights of way, March 2003

Athabasca Chipewyan First Nation, W.A.C. Bennett Dam and damage to Indian Reserve 201, March 1998

Bigstone Cree Nation, Treaty land entitlement, March 2000

Blood Tribe / Kainaiwa, 1889 Akers surrender, June 1999

Blood Tribe / Kainaiwa, Akers surrender [Mediation], August 2005

Cold Lake First Nation, Primrose Lake Air Weapons Range, August 1993

Duncan's First Nation, 1928 surrender, September 1999

Fort McKay First Nation, Treaty land entitlement, December 1995

Friends of the Michel Society, 1958 enfranchisement, March 1998

Mikisew Cree First Nation, Treaty 8 economic benefits, March 1997

## **British Columbia**

Blueberry River First Nation and Doig River First Nation, Highway right of way IR 172, March 2006  
Esketemc First Nation, Indian Reserves 15, 17 and 18, November 2001  
Homalco Indian Band, Aupe Indian Reserves 6 and 6A, December 1995  
Lax Kw'alaams Indian Band, Tsimpsean Indian Reserve 2, June 1994  
Mamaleqala Qwe'Qwa'Sot'Enox Band, McKenna-McBride applications, March 1997  
Nak'azdli First Nation, Aht-Len-Jees Indian Reserve 5, March 1996  
'Namgis First Nation, Cormorant Island, March 1996  
'Namgis First Nation, McKenna-McBride applications, February 1997  
Sumas Band, Indian Reserve 6 railway right of way, February 1995  
Sumas Indian Band, 1919 Indian Reserve 7 surrender, August 1997  
Taku River Tlingit First Nation, Wenah specific claim, March 2006  
Williams Lake Indian Band, Village site, March 2006

## **Manitoba**

Canupawakpa Dakota First Nation, Turtle Mountain surrender, July 2003  
Gamblers First Nation, Treaty land entitlement, October 1998  
Keeseekoowenin First Nation, 1906 land claim [Mediation], August 2005  
Long Plain First Nation, Loss of use, February 2000  
Peguis First Nation, Treaty land entitlement, March 2001  
Roseau River Anishinabe First Nation, Medical aid, February 2001  
Roseau River Anishinabe First Nation, Treaty land entitlement [Mediation], March 1996

## **New Brunswick**

Eel River Bar First Nation, Eel River Dam, December 1997

## **Ontario**

Chippewa Tri-Council, Coldwater-Narrows reservation surrender, March 2003  
Chippewa Tri-Council, Collins Treaty, March 1998  
Chippewas of Kettle and Stony Point First Nation, 1927 surrender, March 1997  
Chippewas of the Thames First Nation, Clench defalcation, March 2002  
Chippewas of the Thames First Nation, Clench defalcation [Mediation], August 2005  
Chippewas of the Thames First Nation, Muncey land inquiry, December 1994  
Mississaugas of the New Credit First Nation, Toronto Purchase, June 2003  
Moose Deer Point First Nation, Pottawatomi rights, March 1999  
Walpole Island First Nation, Boblo Island, May 2000

## **Quebec**

Betsiamites Band, Highway 138, March 2005

Betsiamites Band, Rivière Betsiamites Bridge, March 2005

Micmacs of Gesgapegiag First Nation, Horse Island, December 1994

## **Saskatchewan**

Athabasca Denesuline, Treaty harvesting rights, December 1993

Buffalo River First Nation, Primrose Lake Air Weapons Range II, September 1995

Canoe Lake Cree Nation, Primrose Lake Air Weapons Range, August 1993

Carry the Kettle First Nation, Cypress Hills, July 2000

Cowessess First Nation, 1907 surrender, March 2001

Cowessess First Nation, Qu'Appelle Valley Indian Development Authority flooding, February 1998

Cumberland House Cree Nation, Indian Reserve 100A, March 2005

Fishing Lake First Nation, 1907 surrender, March 1997

Fishing Lake First Nation, 1907 surrender [Mediation], March 2002

Flying Dust First Nation, Primrose Lake Air Weapons Range II, September 1995

James Smith Cree Nation, Chakastaypasin Indian Reserve 98, March 2005

James Smith Cree Nation, Indian Reserve 100A, March 2005

Joseph Bighead First Nation, Primrose Lake Air Weapons Range II, September 1995

Kahkewistahaw First Nation, 1907 reserve land surrender, February 1997

Kahkewistahaw First Nation, 1907 reserve land surrender [Mediation], January 2003

Kahkewistahaw First Nation, Treaty land entitlement, November 1996

Kawacatoose First Nation, Treaty land entitlement, March 1996

The Key First Nation, 1909 surrender, March 2000

Lac La Ronge Indian Band, Treaty land entitlement, March 1996

Lucky Man Cree Nation, Treaty land entitlement, March 1997

Mistawasis First Nation, 1911, 1917 and 1919 surrenders, March 2002

Moosomin First Nation, 1909 reserve land surrender, March 1997

Moosomin First Nation, 1909 reserve land surrender [Mediation], March 2004

Muscowpetung First Nation, Qu'Appelle Valley Indian Development Authority flooding, February 1998

Nekaneet First Nation, Agricultural and other benefits under Treaty 4, March 1999

Ochapowace First Nation, Qu'Appelle Valley Indian Development Authority flooding, February 1998

Pasqua First Nation, Qu'Appelle Valley Indian Development Authority flooding, February 1998

Peepeekisis First Nation, File Hills Colony, March 2004

Qu'Appelle Valley Indian Development Authority (Cowessess First Nation, Kahkewistahaw First



Nation, Muscowpetung First Nation, Ochapowace First Nation, Pasqua First Nation, Piapot First Nation, Sakimay First Nation), Flooding [Mediation], December 2005

Sakimay First Nation, Qu'Appelle Valley Indian Development Authority flooding, February 1998

Standing Buffalo Dakota Nation, Flooding [Mediation], March 2004

Standing Buffalo First Nation, Qu'Appelle Valley Indian Development Authority flooding, February 1998

Sturgeon Lake First Nation, Red Deer Holdings agricultural lease, March 1998

Thunderchild First Nation, 1908 surrender [Mediation], March 2004

Touchwood Agency (Day Star First Nation, Fishing Lake First Nation, Gordon First Nation, Kawacatoose First Nation, Muskowekwan First Nation), Mismanagement (1920-24) claim [Mediation], August 2005

Waterhen Lake First Nation, Primrose Lake Air Weapons Range II, September 1995

Young Chipeewayan First Nation, Stoney Knoll Indian Reserve 107, December 1994

## ICC CONCLUDED INQUIRIES INDEX – THEMATIC

The concluded inquiries presented in the preceding section are displayed below. They are grouped thematically and listed in alphabetical order. Each inquiry is listed as follows: name of the First Nation, province, title of the claim and date of publication of ICC's report.

### **Treaty Rights**

Athabasca Chipewyan First Nation, AB, W.A.C. Bennett Dam and damage to Indian Reserve 201, March 1998

Athabasca Denesuline, SK, Treaty harvesting rights, December 1993

Buffalo River First Nation, SK, Primrose Lake Air Weapons Range II, September 1995

Canoe Lake Cree Nation, SK, Primrose Lake Air Weapons Range, August 1993

Cold Lake First Nation, AB, Primrose Lake Air Weapons Range, August 1993

Eel River Bar First Nation, NB, Eel River Dam, December 1997

Flying Dust First Nation, SK, Primrose Lake Air Weapons Range II, September 1995

Joseph Bighead First Nation, SK, Primrose Lake Air Weapons Range II, September 1995

Mikisew Cree First Nation, AB, Treaty 8 economic benefits, March 1997

Moose Deer Point First Nation, ON, Pottawatomi rights, March 1999

Nekaneet First Nation, SK, Agricultural and other benefits under Treaty 4, March 1999

Roseau River Anishinabe First Nation, MB, Medical aid, February 2001

Waterhen Lake First Nation, SK, Primrose Lake Air Weapons Range II, September 1995

### **Fiduciary Duty**

Alexis First Nation, AB, TransAlta Utilities rights of way, March 2003

Athabasca Chipewyan First Nation, AB, W.A.C. Bennett Dam and damage to Indian Reserve 201, March 1998

Buffalo River First Nation, SK, Primrose Lake Air Weapons Range II, September 1995  
 Canoe Lake Cree Nation, SK, Primrose Lake Air Weapons Range, August 1993  
 Canupawakpa Dakota First Nation, MB, Turtle Mountain surrender, July 2003  
 Chippewas of Kettle and Stony Point First Nation, ON, 1927 surrender, March 1997  
 Chippewa Tri-Council, ON, Coldwater-Narrows reservation surrender, March 2003  
 Cold Lake First Nation, AB, Primrose Lake Air Weapons Range, August 1993  
 Cowessess First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
 Duncan's First Nation, AB, 1928 surrender, September 1999  
 Eel River Bar First Nation, NB, Eel River Dam, December 1997  
 Esketemc First Nation, BC, Indian Reserves 15, 17 and 18, November 2001  
 Fishing Lake First Nation, SK, 1907 surrender, March 1997  
 Flying Dust First Nation, SK, Primrose Lake Air Weapons Range II, September 1995  
 Homalco Indian Band, BC, Aupe Indian Reserves 6 and 6A, December 1995  
 Joseph Bighead First Nation, SK, Primrose Lake Air Weapons Range II, September 1995  
 Kahkewistahaw First Nation, SK, 1907 reserve land surrender, February 1997  
 The Key First Nation, SK, 1909 surrender, March 2000  
 Lac La Ronge Indian Band, SK, Treaty land entitlement, March 1996  
 Long Plain First Nation, MB, loss of use, February 2000  
 Mamaleleqala Qwe'Qwa'Sot'Enox Band, BC, McKenna-McBride applications, March 1997  
 Mississaugas of the New Credit First Nation, ON, Toronto Purchase, June 2003  
 Mistawasis First Nation, SK, 1911, 1917 and 1919 surrenders, March 2002  
 Moosomin First Nation, SK, 1909 reserve land surrender, March 1997  
 Muscowpetung First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
 'Namgis First Nation, BC, McKenna-McBride applications, February 1997  
 Ochapowace First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
 Pasqua First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
 Peepeekisis First Nation, SK, File Hills Colony, March 2004  
 Sakimay First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
 Standing Buffalo First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
 Sumas Band, BC, Indian Reserve 6 railway right of way, February 1995  
 Sumas Indian Band, BC, 1919 Indian Reserve 7 surrender, August 1997  
 Taku River Tlingit First Nation, BC, Wenah specific claim, March 2006

Waterhen Lake First Nation, SK, Primrose Lake Air Weapons Range II, September 1995  
Williams Lake Indian Band, BC, Village site, March 2006

### **Flooding Claim**

Athabasca Chipewyan First Nation, AB, W.A.C. Bennett Dam and damage to Indian Reserve 201, March 1998

Cowessess First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998

Eel River Bar First Nation, NB, Eel River Dam, December 1997

Muscowpetung First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998

Ochapowace First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998

Pasqua First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998

Sakimay First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998

Standing Buffalo First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998

### **Mandate of the ICC**

Alexis First Nation, AB, TransAlta Utilities rights of way, March 2003

Athabasca Denesuline, SK, Treaty harvesting rights, December 1993

Buffalo River First Nation, SK, Primrose Lake Air Weapons Range II, September 1995

Canupawakpa Dakota First Nation, MB, Turtle Mountain surrender, July 2003

Carry the Kettle First Nation, SK, Cypress Hills, July 2000

Chippewas of the Thames First Nation, ON, Muncey land inquiry, December 1994

Cowessess First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998

Esketemc First Nation, BC, Indian Reserves 15, 17 and 18, November 2001

Flying Dust First Nation, SK, Primrose Lake Air Weapons Range II, September 1995

Friends of the Michel Society, AB, 1958 enfranchisement, March 1998

Joseph Bighead First Nation, SK, Primrose Lake Air Weapons Range II, September 1995

Lac La Ronge Indian Band, SK, Treaty land entitlement, March 1996

Lax Kw'alaams Indian Band, BC, Tsimpsean Indian Reserve 2, June 1994

Mamaleqala Qwe'Qwa'Sot'Enox Band, BC, McKenna-McBride applications, March 1997

Micmacs of Gesgapegiag First Nation, QC, Horse Island, December 1994

Mikisew Cree First Nation, AB, Treaty 8 economic benefits, March 1997

Muscowpetung First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998

'Namgis First Nation, BC, Cormorant Island, March 1996  
'Namgis First Nation, BC, McKenna-McBride applications, February 1997  
Nekaneet First Nation, SK, Agricultural and other benefits under Treaty 4, March 1999  
Ochapowace First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
Pasqua First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
Peepeekisis First Nation, SK, File Hills Colony, March 2004  
Sakimay First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
Standing Buffalo First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
Waterhen Lake First Nation, SK, Primrose Lake Air Weapons Range II, September 1995

### **McKenna-McBride Commission – British Columbia**

Esketemc First Nation, BC, Indian Reserves 15, 17 and 18, November 2001  
Homalco Indian Band, BC, Aupe Indian Reserves 6 and 6A, December 1995  
Mamaleleqala Qwe'Qwa'Sot'Enox Band, BC, McKenna-McBride applications, March 1997  
Nak'azdli First Nation, BC, Aht-Len-Jees Indian Reserve 5, March 1996  
'Namgis First Nation, BC, McKenna-McBride applications, February 1997

### **Rights of Way**

Alexis First Nation, AB, TransAlta Utilities rights of way, March 2003  
Betsiamites Band, QC, Highway 138, March 2005  
Betsiamites Band, QC, Rivière Betsiamites Bridge, March 2005  
Blueberry River First Nation and Doig River First Nation, BC, Highway right of way IR 172, March 2006  
Cowessess First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
Eel River Bar First Nation, NB, Eel River Dam, December 1997  
Mistawasis First Nation, SK, 1911, 1917 and 1919 surrenders, March 2002  
Muscowpetung First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
Ochapowace First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
Pasqua First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
Sakimay First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
Standing Buffalo First Nation, SK, Qu'Appelle Valley Indian Development Authority flooding, February 1998  
Sumas Band, BC, Indian Reserve 6 railway right of way, February 1995

## **Specific Claims Policy**

Alexis First Nation, AB, TransAlta Utilities rights of way, March 2003

Athabasca Denesuline, SK, Treaty harvesting rights, December 1993

Canupawakpa Dakota First Nation, MB, Turtle Mountain surrender, July 2003

Chippewas of the Thames First Nation, ON, Muncey land, December 1994

Duncan's First Nation, AB, 1928 surrender, September 1999

Esketemc First Nation, BC, Indian Reserves 15, 17 and 18, November 2001

Fishing Lake First Nation, SK, 1907 surrender, March 1997

Friends of the Michel Society, AB, 1958 enfranchisement, March 1998

Homalco Indian Band, BC, Aupe Indian Reserves 6 and 6A, December 1995

Kahkewistahaw First Nation, SK, 1907 reserve land surrender, February 1997

The Key First Nation, SK, 1909 surrender, March 2000

Lax Kw'alaams Indian Band, BC, Tsimpsean Indian Reserve 2, June 1994

Mamaleleqala Qwe'Qwa'Sot'Enox Band, BC, McKenna-McBride applications, March 1997

Micmacs of Gesgapegiag First Nation, QC, Horse Island, December 1994

Mikisew Cree First Nation, AB, Treaty 8 economic benefits, March 1997

Moose Deer Point First Nation, ON, Pottawatomi rights, March 1999

Moosomin First Nation, SK, 1909 reserve land surrender, March 1997

'Namgis First Nation, BC, Cormorant Island, March 1996

'Namgis First Nation, BC, McKenna-McBride applications, February 1997

Nekaneet First Nation, SK, Agricultural and other benefits under Treaty 4, March 1999

Peepeekisis First Nation, SK, File Hills Colony, March 2004

Roseau River Anishinabe First Nation, MB, Medical aid, February 2001

Sturgeon Lake First Nation, SK, Red Deer Holdings agricultural lease, March 1998

Young Chipeewayan First Nation, SK, Stoney Knoll Indian Reserve 107, December 1994

## **Surrender**

Blood Tribe/Kainaiwa, AB, 1889 Akers surrender, June 1999

Canupawakpa Dakota First Nation, MB, Turtle Mountain surrender, July 2003

Chippewa Tri-Council, ON, Coldwater-Narrows reservation surrender, March 2003

Chippewas of Kettle and Stony Point First Nation, ON, 1927 surrender, March 1997

Cowessess First Nation, SK, 1907 surrender, March 2001

Duncan's First Nation, AB, 1928 surrender, September 1999

Fishing Lake First Nation, SK, 1907 surrender, March 1997

Kahkewistahaw First Nation, SK, 1907 reserve land surrender, February 1997

The Key First Nation, SK, 1909 surrender, March 2000  
Mississaugas of the New Credit First Nation, ON, Toronto Purchase, June 2003  
Mistawasis First Nation, SK, 1911, 1917 and 1919 surrenders, March 2002  
Moosomin First Nation, SK, 1909 reserve land surrender, March 1997  
Nak'azdli First Nation, BC, Aht-Len-Jees Indian Reserve 5, March 1996  
Sumas Indian Band, BC, 1919 Indian Reserve 7 surrender, August 1997  
Walpole Island First Nation, ON, Boblo Island, May 2000

### **Treaty Land Entitlement**

Bigstone Cree Nation, AB, Treaty land entitlement, March 2000  
Fort McKay First Nation, AB, Treaty land entitlement, December 1995  
Gamblers First Nation, MB, Treaty land entitlement, October 1998  
Kahkewistahaw First Nation, SK, Treaty land entitlement, November 1996  
Kawacatoose First Nation, SK, Treaty land entitlement, March 1996  
Lac La Ronge Indian Band, SK, Treaty land entitlement, March 1996  
Long Plain First Nation, MB, Loss of use, February 2000  
Lucky Man Cree Nation, SK, Treaty land entitlement, March 1997  
Peguis First Nation, MB, Treaty land entitlement, March 2001

### **Other**

Chippewa Tri-Council, ON, Collins Treaty, March 1998  
Chippewas of the Thames First Nation, ON, Clench defalcation, March 2002

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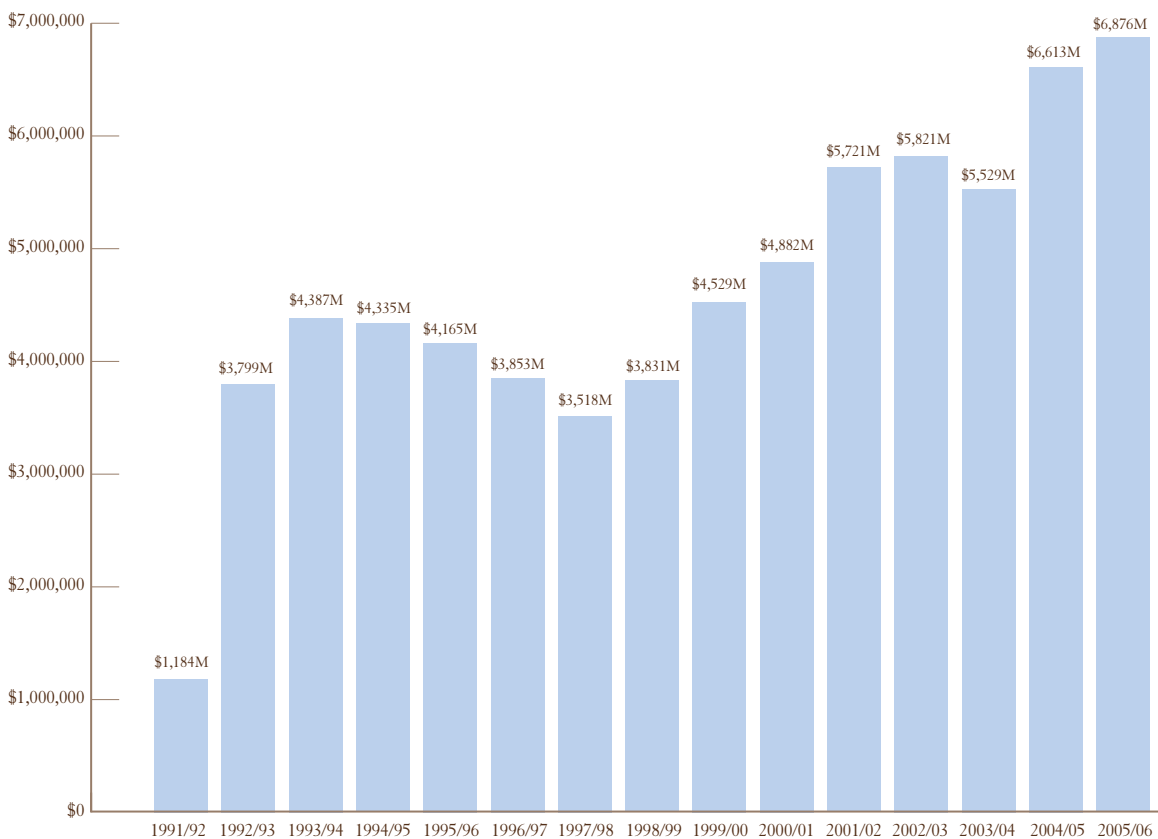
84 **How to Contact Us**

## FINANCIAL INFORMATION

The Commission strives to ensure that adequate mechanisms and processes are in place to enable it to maintain the high quality and impartiality of its services.

In 2005-2006, the Commission's activities in both inquiries and mediation resulted in expenditures of \$6.876 million. Of this amount, \$4.375 million was for salaries and benefits and \$2.501 million was for other operating costs.

### Yearly Expenditures Synopsis – 1991-2006





## IN FACT ...

Some little known facts about the Indian Claims Commission from the 2005-2006 reporting period:

**20** First Nation communities were visited, with a total population of 41,061 members in 4 provinces

**5,355** kilometres is the greatest distance travelled by the ICC to reach a First Nation community

**127** days were spent in mediation/facilitation/negotiation meetings

**1** new request for inquiry was received

**4** new requests for mediation were received

**64** requests for information were received

**231** requests for publications were received

**3** inquiries were completed in 2005-2006, affecting a total of 1536 First Nations people

**92,923** website hits were counted

**436** information kits were distributed

**1,173** copies of *Landmark*, the ICC's newsletter, were distributed

**1,444** copies of the ICC's annual reports were distributed



## HOW TO CONTACT US

### **For more information**

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**Website:** [www.indianclaims.ca](http://www.indianclaims.ca)

### **Collect calls will be accepted for all information or publication requests:**

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