



Landmark

40069105

A PUBLICATION OF THE INDIAN CLAIMS COMMISSION / Vol.9, No. 3, FALL 2003

"I have heard the elders say that when the terms of the treaties were deliberated the smoke from the pipe carried that agreement to the Creator binding it forever. An agreement can be written in stone, stone can be chipped away, but the smoke from the sacred pipe signified to the First Nation peoples that the treaties could not be undone."

Ernest Benedict, Mohawk Elder
Akwasasne, Ontario
June 1992

CONTENTS

Parliament Passes Bill C-6	1
Turtle Mountain Inquiry Finds 1909 Surrender Was Valid	3
Commissioner Roger Augustine Resigns	6
ICC Issues Annual Report for 2002-2003	8
Looking Back: Government Policies On Land Claims	10
What's New	12

Landmark is published by the Indian Claims Commission to inform readers of Commission activities and developments in specific claims. Landmark and other ICC publications are also available on our Web site at: www.indianclaims.ca

Please circulate or distribute the material in this newsletter. If you have questions, comments, or suggestions, contact:

Lucian Blair,
Director of Communications
Tel: (613) 943-1607
Fax: (613) 943-0157
E-mail: lblair@indianclaims.ca

Please address all correspondence to:
Indian Claims Commission
P.O. Box 1750, Station B
Ottawa, ON K1P 1A2

Parliament Passes Bill C-6



Bill C-6, the Specific Claims Resolution Act, was first tabled in the House of Commons in June 2002, as Bill C-60.

On November 4, 2003, the House of Commons voted to accept the Senate's amendments to Bill C-6, the *Specific Claims Resolution Act*. The bill and its amendments were accepted with a vote of 121 to 104. The legislation received Royal Assent on November 7 2003, and now must be officially proclaimed before it becomes law.

ICC ISSUES
ANNUAL REPORT
FOR 2002-2003

(SEE PAGE 8)





Chief Commissioner Renée Dupuis (centre), presents the Commission's comments on Bill C-6 to the Senate Standing Committee on Aboriginal Peoples in June 2003. Commissioner Daniel J. Bellegarde and Commission Counsel Kathleen Lickers assisted the Chief Commissioner in answering the questions of the Senate committee.

The *Specific Claims Resolution Act* will create the Canadian Centre for the Independent Resolution of First Nations Specific Claims (known as the Centre). It will replace the Indian Claims Commission, which was created in as an interim measure in 1991. The new Centre will provide for the filing, negotiation, and resolution of specific claims. The bill was tabled in the House of Commons by the Minister of Indian Affairs and Northern Development as Bill C-60 on June 13, 2002. The legislation died on the Order Paper in September 2002, when Parliament prorogued, but was reinstated as Bill C-6 in October 2002.

The new Centre will have two separate components, a commission and a tribunal, and will be in charge of funding First Nation participation in the specific claims process. The commission will facilitate negotiated settlements using mediation, negotiation, and other means of dispute resolution. The commission will provide these services for all claims, regardless of the potential amount of the claim. The second body, the tribunal, will be a quasi-judicial body able to make final decisions on the validity of claims that did not reach a negotiated settlement, as well as compensation. The legislation imposes a \$10-million cap on settlements.

On November 26, 2002, then-Chief Commissioner, Phil Fontaine, presented the Commission's views on Bill C-6 to the House of Commons Standing Committee on Aboriginal Affairs, Northern Development and Natural Resources. Bill C-6 passed second reading in the House on March 18, 2003 and was sent to the Senate for review by the Senate Standing Committee on Aboriginal Peoples.

Chief Commissioner Renée Dupuis and Commissioner Daniel J. Bellegarde appeared before the Senate Standing Committee on Aboriginal Peoples on June 11, 2003.

At that time, the Chief Commissioner said: "The bill has some positive qualities, including the creation of a completely independent tribunal; the emphasis on alternative dispute resolution; the inclusion in the legislation of fiduciary obligation, the inclusion of oral history in the claims process; and a mandatory review process. However, the bill is flawed by some problematic elements. These include portions of the bill where the principles of independence, the authority to make binding decisions, access to justice, the primacy of fiduciary obligation and a review process which is not, on its face, inclusive of all parties, are found wanting."

The Senate sent the bill back to the House of Commons with five amendments. The government invoked time limitation on debate of C-6 and the legislation, including the amendments, was passed.

The Indian Claims Commission will continue to exercise its mandate to inquire – at the request of a First Nation – into specific land claims that have been rejected by the federal government. The details of the transition from the ICC to the new Centre will have to be worked out once the bill has been proclaimed into law. In the meantime, the ICC will continue to conduct business as usual, addressing claims currently before it.



Turtle Mountain Inquiry Finds 1909 Surrender Was Valid



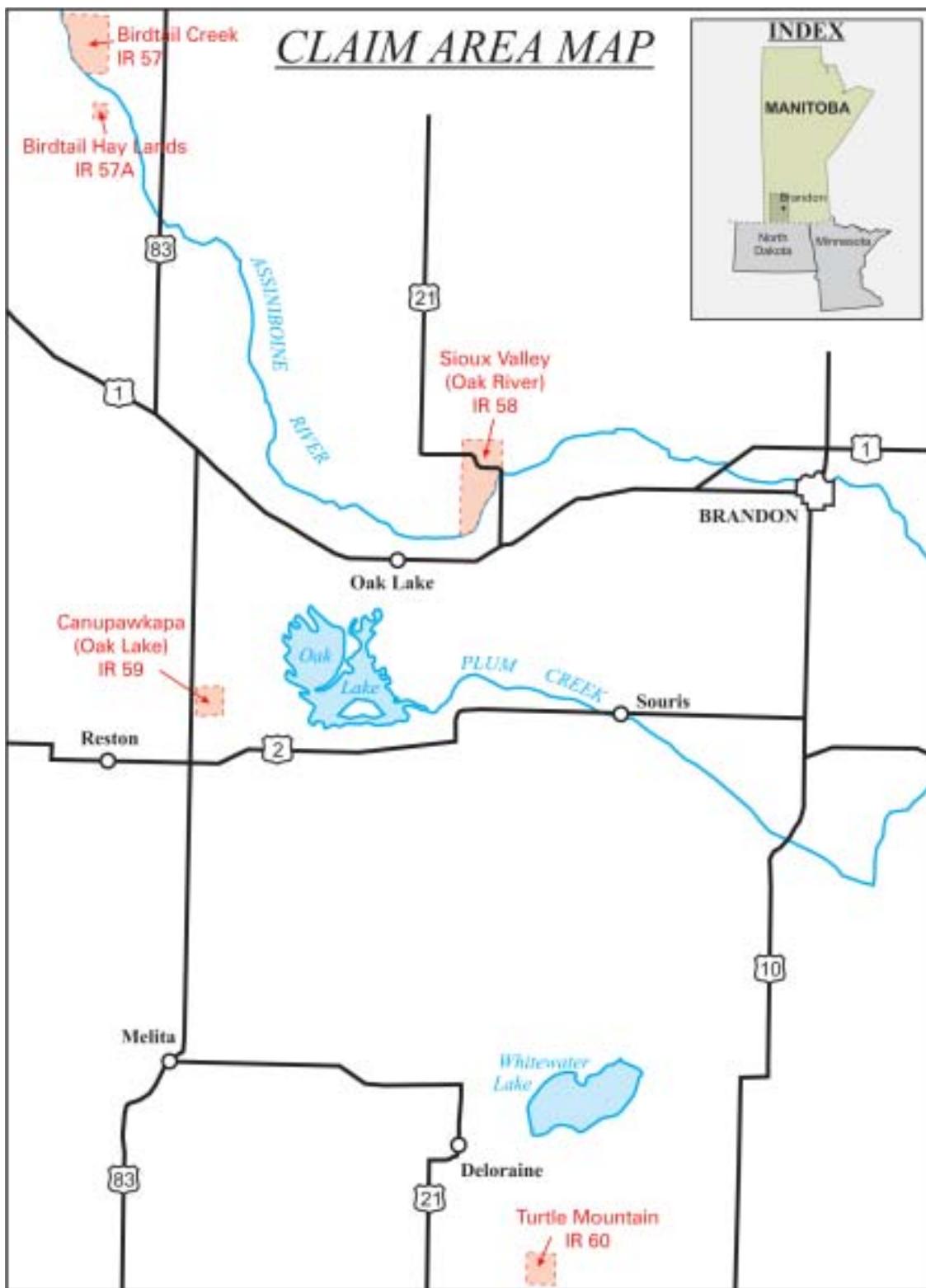
Dakota camp west of the Turtle Mountains, 1872. Photo courtesy of Provincial Archives of Manitoba, Boundary Commission 205.

On October 2, 2003, the Indian Claims Commission released its inquiry report on the Canupawakpa Dakota First Nation's 1909 Turtle Mountain Surrender Claim, which the First Nation made on behalf of descendants of the dissolved Turtle Mountain Indian Reserve (IR) 60. The Commission found that the reserve had in fact been validly surrendered and that Canada's conduct as a fiduciary had been reasonable and prudent.

In 1862, a Dakota band under Chief Hdamani moved north from Minnesota and occupied a site on the northwest slope of Turtle Mountain, 100 kilometres southwest of Brandon, Manitoba. During this time, U.S. governmental policy led many Dakota First Nations to cross the border into Canada and settle in the northern extremes of their traditional territory.

A decade later, the Canadian government began to sign treaties with the First Nations who lived in the Canadian northwest. The Dakota were considered "American Indians" and, at first, they were not participants in the treaty process. However, in 1875 the Canadian government surveyed two reserves for Dakota bands at Oak River and Birdtail Creek. Chief Hdamani and his followers wished to remain at Turtle Mountain. In 1886, the government gave in to Hdamani's demands and surveyed a reserve at Turtle Mountain, although it was not confirmed by Order in Council until 1913, four years after the land had been surrendered. Officials at the Department of Indian Affairs felt that the reserve was located too close to the U.S. border and too far from the supervision of the Indian agent to ensure its stability.





Turtle Mountain IR 60 occupied a site on the northwest slope of Turtle Mountain, 100 kilometres southwest of Brandon, Manitoba. Many of its members had already moved away when the surrender vote was taken. A number of the Dakota families moved back to the US, while others chose to settle on the Canupawakpa Dakota First Nation and the Sioux Valley Dakota First Nation.





Community members of the Sioux Valley Dakota First Nation listen to presentations given during a community session. The First Nation, which also included descendants of the Turtle Mountain Band, asked to be a part of the ICC inquiry and was accepted as a participant by Canada and the Canupawakpa Dakota First Nation in February 2001.

Over the next 20 years, the department encouraged Turtle Mountain band members to relocate to other reserves. By 1909, the department had determined that only three families remained at Turtle Mountain, and it persuaded these band members to have a surrender vote. The vote to surrender the entire reserve was put before five eligible voters in August 1909, and resulted in a 3 to 2 count in favour of the surrender.

In April 1993, the Oak Lake Sioux First Nation (now known as the Canupawakpa Dakota First Nation) alleged that Turtle Mountain IR 60 had been improperly surrendered in 1909. In January 1995, Canada rejected the claim, saying it had no outstanding obligation under the Specific Claims Policy. The ICC was asked, in May 2000, to undertake an inquiry into the 1909 Turtle Mountain surrender. The Sioux Valley Dakota First Nation (formerly known as the Oak River First Nation), which also included descendants of the Turtle Mountain Band, asked to be a part of the ICC inquiry and was accepted as a participant by Canada and the Canupawakpa Dakota First Nation in February 2001.

The claim alleged that the surrender of the Turtle Mountain reserve was invalid as one of the signatories of the surrender, Bogaga, was no longer a member of the reserve at the time of the surrender. Due to the small population of the reserve at the time – only five

members were eligible to vote in the surrender – the validity of Bogaga's vote was an important factor. The Commission found that there was sufficient evidence that Bogaga had lived and kept property on the reserve in the time leading up to the surrender vote and for a short time after the vote was taken, which made him a valid participant in the surrender vote. In a July 2002 written submission to the Commission, the First Nation also alleged that the federal government had purposely been negligent and ignored the members of the Turtle Mountain reserve so that the band members would relocate and the land could be surrendered. The Commission found that although the band had experienced hardship and troubles due to its distance from the Indian agent in charge of its welfare, these difficulties did not constitute a "systematic depopulation" program on the part of the federal government.

In reporting on the results of its inquiry, the Commission exercised its "supplementary mandate", which calls on the Commission to draw to the attention of the government any circumstances where it considers the outcome to be unfair, even if those circumstances do not give rise to an outstanding lawful obligation.

Commissioners Roger J. Augustine, Daniel J. Bellegarde and Sheila G. Purdy urge the Government of Canada to



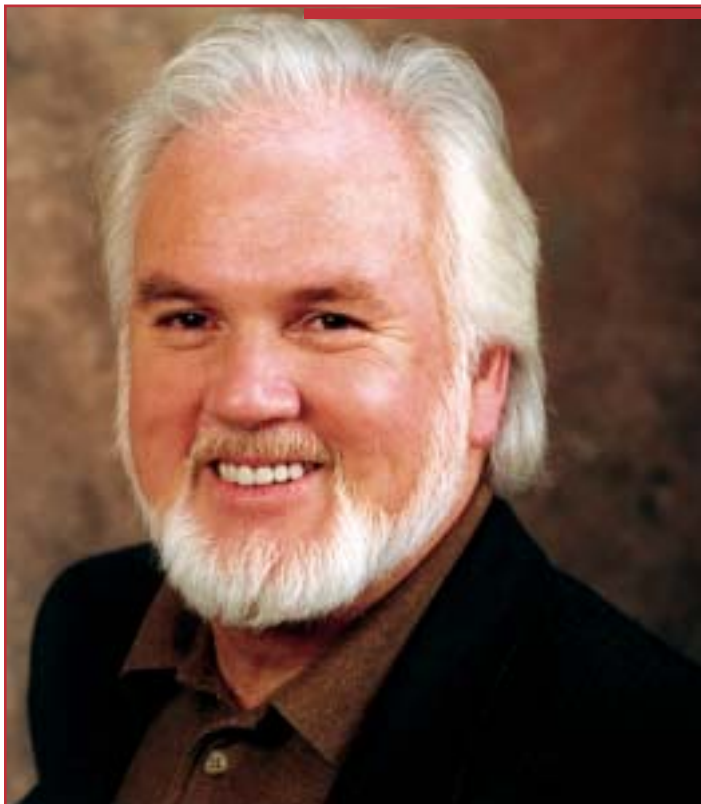
recognize the historical connection of the descendants of the Turtle Mountain Band to the lands once occupied by Turtle Mountain IR 60 and, in particular, the lands taken up by the burial of their ancestors.

They recommend "that, after consultation with the Canupawakpa Dakota First Nation and the Sioux Valley Dakota First Nation, the Government of Canada acquire an appropriate part of the lands once taken up by Turtle Mountain IR 60, to be suitably designated and recognized for the important ancestral burial ground that it is."



Commission Counsel Kathleen Lickers listens to Canupawakpa Dakota First Nation Elder Eva McKay as she testifies during a community session held in December 2001. Since its inception in 1991, the Commission has accepted verbal testimony from elders as well as the oral tradition of First Nations as important sources of evidence in specific claims.

Commissioner Roger Augustine Resigns



On September 18, 2003, Roger J. Augustine resigned as a Commissioner of the ICC. Mr Augustine, a Mi'kmaq from Eel Ground, New Brunswick, was appointed in July 1992.

During more than a decade in which he sat as a panellist on more 36 inquiries, 18 of which have been completed, Mr Augustine made significant contributions to the resolution of specific land claims across Canada and was involved in several landmark inquiries. Most recently, he served on the inquiry into the Kahkewistahaw First Nation's 1907 surrender claim, the second largest land claim in Canadian history. An agreement giving the First Nation \$94.6 million was signed this past June.

Mr Augustine served as Chief of the Eel Ground First Nation from 1980 to 1996. He was elected president of the Union of New Brunswick–Prince Edward Island First Nations in 1988 and completed his term in

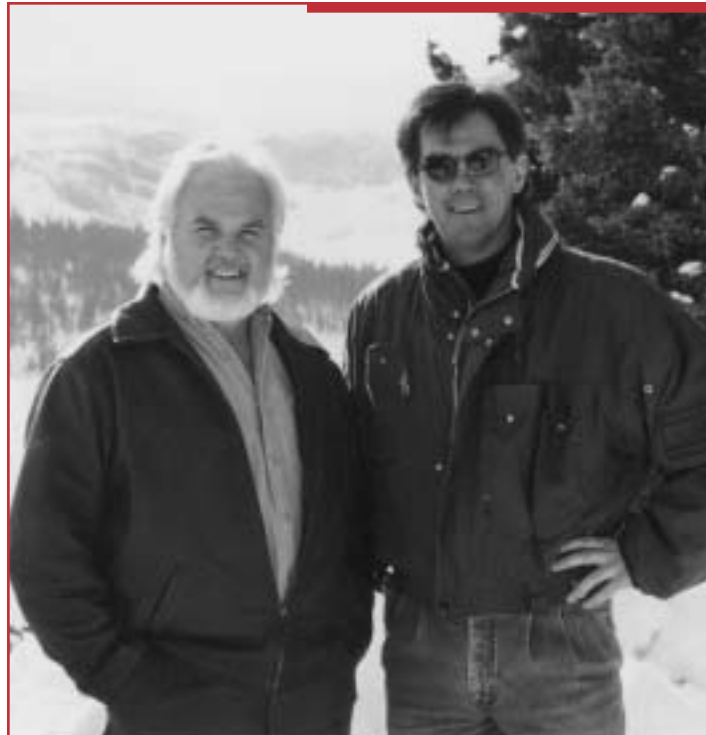
Mr Augustine worked with First Nations across Canada and brought a lot of care, attention, and dedication to the claims he worked on.



January 1994. He received the prestigious Medal of Distinction from the Canadian Centre on Substance Abuse for 1993 and 1994 in recognition of his efforts in founding and fostering both the Eel Ground Drug and Alcohol Education Centre and the Native Alcohol and Drug Abuse Rehabilitation Centre.

Mr. Augustine said it had been a privilege to work with both Canada and First Nations in the specific claims process. "I am very proud to have been involved in the work of the Indian Claims Commission and would like to commend my colleagues, past and present, for their tremendously valuable efforts and hard work in achieving justice in specific land claims."

He added that the community sessions in which he participated mark the highlight of his years with the Commission: "Listening to the testimony of the elders from communities across Canada was a privilege and an education for me. The ICC was a pioneer in this area; the fact that, with its decision in the *Delgamuukw* case, the Supreme Court of Canada made oral history acceptable in the courts as evidence, was particularly gratifying to me."



Commissioner Augustine and Commissioner P. E. James Prentice during a 1997 Commission conference held in Banff, Alberta. Mr Prentice was a Commissioner with the ICC from 1992-2001.

THE DELGAMUUKW CASE

The claim, known as the *Delgamuukw* case, began in 1984 when 51 Wet'suwet'en and Gitksan hereditary chiefs took Canada and British Columbia to court in order to secure their peoples' ownership of 58, 000 square kilometres of northwest BC.

Although the actual land claim was not settled through the court proceedings, the case came to have a great deal of significance as the Supreme Court of Canada, in their 1997 ruling, issued a number of statements about aboriginal rights, aboriginal title and the use of oral history as evidence, that would have an impact on all future aboriginal land claims.

In their claim, the Wet'suwet'en and Gitksan used their many years of oral history as evidence that they had used the land in question for many generations. The lower courts did not view this oral history as acceptable evidence. However, the Supreme Court of Canada found that to disallow a First Nation's oral history and tradition as evidence would put an impossible burden of proof on aboriginal peoples, since that is the way First Nation cultures kept records. For the first time, oral history was placed on an equal footing with written history. Oral history is now examined and weighed as vigorously as written history before being accepted as proof.

Until the *Delgamuukw* decision, no Canadian court had directly addressed the definition of aboriginal title. The Supreme Court found 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, which makes it a communal right that cannot be held by an individual.



ICC Issues Annual Report for 2002-2003

The Indian Claims Commission's *Annual Report 2002-2003* was tabled in the House of Commons on November 6, 2003. The Annual Report presents the highlights of ICC's work and outlines the basic principles the Commission believes essential to the creation of a new, independent claims body. Bill C-6, passed by Parliament on November 4, 2003, will create the Centre for the Independent Resolution of First Nations Specific Claims to replace the ICC. The Commission has long advocated for a process of responding to claims that is ethical, rational and fair to all parties.

The report recommends that the government of Canada apply eight principles to the creation of the proposed Canadian Centre for the Independent Resolution of First Nations Specific Claims:

- The new body must be independent. True independence resides in a body that is self-governing and not dependent on an outside body, such as the Department of Indian Affairs and Northern Development or the Minister, for its validity. This independence can be enhanced through consultation in making appointments to the new body.
- The new body must have the authority to make binding decisions. This is necessary to a fair and just claims process. It is imperative that this authority apply not only to the determination and execution of outcomes, but also to the process by which those outcomes are reached.
- The new body must constitute a viable alternative to litigation for the parties involved. It must be seen by all parties as cost-efficient, expeditious and final.
- The new body must recognize and uphold the right of First Nations to provide oral testimony of their history as a valid and important source of evidence and information about a claim.



A gathering prairie storm graces the cover of the Commission's Annual Report 2002-2003.

- The new body must provide mechanisms for alternative dispute resolution.
- The new body must ensure access to justice. A First Nation must have reasonable access to the claims process to ensure justice is both done and seen to be done. Resource limitations in the proposed legislation – the cap on settlements, for example – as well as the "prescribed limits" to research funding may impede access to justice.
- The new body must ensure access to information. Full and fair participation in the claims process presumes parties will have equal access to evidence, including that which may be found in government files.
- The new body must ensure the primacy of the fiduciary relationship between First Nations and the federal Crown.

The report cautions the federal government to keep in mind the importance of resources: "There must be both adequate dollars and sufficient human resources available for settling claims. Without such resources, the claims process will be undermined fundamentally, agreements will not be final and social justice will be compromised."

The report, published before the *Specific Claims Resolution Act* was passed, notes that since the tabling

of the legislation (as Bill C-60) in June 2002, the Commission has continued to exercise its mandate: "As the Commission waits for Bill C-6 to move through the parliamentary process, we assure First Nations with claims before us, and the federal government that we will continue to carry on the business of the Commission with a minimum of disruption."

The report points out that, over the 2002–2003 fiscal year, the Commission issued two reports on claims before it, and that, as of March 31, 2003, it had completed 57 inquiries, 26 of which had either been settled or accepted for negotiation.

In March 2003, the Commission issued its report on a claim by the Alexis First Nation involving the federal Crown's grants of three rights of way to Calgary Power (now known as TransAlta Utilities) during the 1950s and 1960s. The focus of the claim was Calgary Power's construction of a transmission line across the reserve in 1969, for which the band received a lump sum payment. The First Nation claimed that Canada failed to achieve fair and reasonable value for the use of its reserve land by the utility, resulting in continuing loss of revenue to the Band. The Commission supported the First Nation's claim, finding that the federal government had failed to prevent an improvident or exploitative arrangement between the parties, and recommended that the claim be accepted for negotiation.

In the same month, the Commission reported on a claim by the Chippewa Tri-Council, consisting of the Beausoleil First Nation, Chippewas of Georgina Island First Nation, and Chippewas of Mnjikaning (Rama) First Nation. The claim alleges the improper surrender of the Coldwater-Narrows reservation to the Crown in the early part of the 19th century. The Commission suspended its inquiry into the claim since both parties agreed to enter into negotiations. As a result of the Commission's involvement in the process, each of the three First Nations asked the Commission to provide mediation/facilitation services for the negotiation of the claim.

It was a busy year for the Commission's mediation unit, which issued one mediation report and provided mediation services in 15 ongoing claims. Of these, 12 are being carried out in formal negotiations between

the First Nations and the federal government, while three claims are being pursued as pilot projects. The unit participated in a total of 135 meetings on the 15 ongoing claims.

In January 2003, the Commission issued a mediation report on the settlement of the Kahkewistahaw First Nation's land claim, involving more than 33,248 acres of land surrendered under questionable circumstances in 1907. In November 2002, the Saskatchewan First Nation ratified a \$94.6 million settlement agreement with Canada. The report states that the Commission is proud of the role it played in helping to settle the claim. In addition to acting as facilitator and coordinating the loss-of-use studies, the Commission "helped the parties to maintain focus and momentum in their discussions and served as an objective and steady influence at the negotiations table."



Kahkewistahaw's Chief, Louis Taypotat and Indian and Northern Affairs Minister Robert Nault, at the beginning of the signing ceremony that brings to a close the First Nation's 1907 specific claim.



LOOKING BACK

Government Policies On Land Claims

Claims against the Crown began almost as soon as treaties were signed. Given the differences in language and culture, it is not surprising that there would be differences in how the Canadian government and First Nations interpreted treaties.

First Nation claims covered a wide variety of issues, from delayed or improperly calculated land grants, to resource management conflicts with non-Aboriginal settlers. At first, claims were handled individually, on a case-by-case basis; however, this proved to be an inefficient and inconsistent process and the federal government eventually recognized it would have to create a national policy for handling First Nation claims. In 1927, an amendment to the *Indian Act* was passed in an effort to discourage native claims. In effect, the amendment prevented First Nations from hiring lawyers to pursue court action against the Crown:

Every person who, without the consent of the Superintendent General expressed in writing, receives, obtains, solicits or requests from any Indian any payment or contribution or promise of any payment or contribution for the purpose of raising a fund or providing money for the prosecution of any claim which the tribe or band of Indians to which such Indian belongs, or of which he is a member, has or is represented to have for the recovery of any claim or money for the benefit of the said tribe or band, shall be guilty of an offence and liable upon summary conviction for each such offence to a penalty not exceeding two hundred dollars and not less than fifty dollars or to imprisonment for any term not exceeding two months.

- *Indian Act*, RSC 1927, c. 98, s. 141

It had the desired effect of discouraging large numbers of new land claims, although a small number of claims, dealing with hunting and fishing rights or the federal government's handling of First Nation lands and assets, continued. The amendment was not removed from the *Indian Act* until 1951.

Canada made two attempts, one in 1945 and another in 1959, to create a system to deal with the growing backlog of claims. In both those years, joint House of Commons/Senate committees suggested the creation of an Indian Claims Commission similar to one set up in the United States; however, legislation to create such an organization died on the Order Paper.

In June 1969, the federal government unveiled the *Statement of the Government on Indian Policy 1969*, which was intended to lead to a repeal of the *Indian Act* and give First Nations more control over their finances, resources and lands. The *Statement*, which came to be known as the White Paper, received a strong negative reaction from First Nation communities and leadership, and by March 1971, it was shelved. Although it did not become law, the White Paper contained a statement of policy on the part of the Government of Canada, which recognized Canada's "lawful obligations" towards its aboriginal people and these included treaty entitlements. The White Paper also resulted in the appointment of Mr Lloyd Barber as Indian Claims Commissioner in December 1969. Mr Barber's mandate was to find systems and procedures for the settlement of grievances and claims – with no powers given to resolve existing claims. His work was challenging because many First Nations wanted nothing to do with anything created through the White Paper. The Commission's mandate ended in March 1977, with the means of resolving land claims little changed.

Statement of the Government of Canada on Indian Policy 1969, Indian Affairs and Northern Development. Reproduced with the permission of the Minister of Public Works and Government Services Canada, 2003



The courts have also had an influence on government policy in regards to land claims. In the late 1960s, the Nisga'a Tribal Council claimed their aboriginal title to the Nass Valley, near Prince Rupert, British Columbia, had never been extinguished. In 1973, the Supreme Court of Canada ruled against the Nisga'a. However, the *Calder* case, as it was called, became important because the court recognized that aboriginal title is rooted in the "long-time occupation, possession and use" of traditional territories. As such, title existed at the time of original contact with Europeans, regardless of whether or not Europeans recognized it.

In August 1973, shortly after the *Calder* decision, the government released the *Statement on Claims of Indian and Inuit People*, which recognized two classes of native claims: comprehensive and specific. Comprehensive claims usually occur in instances where a First Nation has never signed a treaty with Canada and still maintains aboriginal title over its lands. Specific claims occur in regard to an existing claim, where the claim has not been fulfilled or there has been a breach in Canada's obligations outlined within the treaty.

The 1973 Statement caused an increase in the number of native claims presented to the government, and Canada augmented the funding available to First Nations so that they could research and document their claims in a credible manner. In July 1974, the Office of Native Claims was created within the Department of Indian Affairs and Northern Development to review claims and represent Canada in native claims.

As a result of an increase in the number and size of land claims, the federal government issued a policy statement in 1981 called, *In All Fairness: A Native Claims Policy*. This was followed by a booklet in 1982 called, *Outstanding Business: A Native Claims Policy - Specific Claims*, which focused on providing a process and guidelines for submitting specific claims.

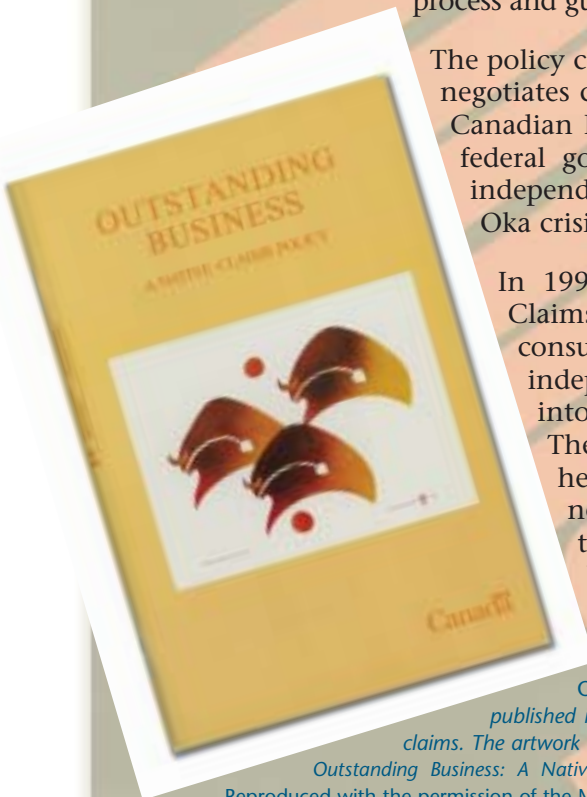
The policy created a system, however, in which government validates and negotiates claims made against itself. Many organizations, including the Canadian Bar Association and the Assembly of First Nations, urged the federal government to leave the adjudication of land claims to an independent third party. In 1990, the failed Meech Lake Accord and the Oka crisis raised a wider awareness of injustice in the claims system.

In 1991, the federal government established the current Indian Claims Commission. It was based on a model proposed during consultations with First Nation organizations, and was created as an independent advisory body with authority to hold public inquiries into specific claims that have been rejected by the government. The Commission was also mandated to provide mediation to help First Nations and the federal government – at any stage in negotiations – to reach claim settlements. The ICC was meant to be an interim measure until a new, independent body could be set up.

Next Issue: Land Claims and the Courts.

Outstanding Business: A Native Claims Policy - Specific Claims was a booklet published in 1982 which focussed on providing a process and guidelines for submitting specific claims. The artwork on the cover is called Buffalo Dance To The Sun and was painted by Simon Brascoupé.

Outstanding Business: A Native Claims Policy - Specific Claims, 1982, Indian Affairs and Northern Development. Reproduced with the permission of the Minister of Public Works and Government Services Canada, 2003



What's New

COMMISSION COUNSEL RESIGNS



Kathleen Lickers served as Counsel for the Commission from 2000-2003. In her role as Commission Counsel, Ms Lickers worked on claims that spanned a wide range of issues and regions.

Kathleen Lickers, Commission Counsel for the ICC since November 2000, is leaving the Commission to return to private practice. Replacing Ms Lickers as Commission Counsel is John B. Edmond, a civil litigation lawyer with experience in aboriginal, constitutional and administrative law.

In her goodbye letter to ICC Commissioners, employees and her staff, Ms Lickers expressed her gratitude, as well as the pride she felt working for the ICC. "The Indian Claims Commission holds a special place in

Canadian history to which we have each contributed – yours is a singular responsibility and I wish each of you continued success in the pursuit of restoring justice to a landscape rife with unfulfilled obligations."

A Seneca lawyer from the Six Nations Reserve in Ontario, Ms Lickers has considerable legal experience in the area of land claims. After graduating from the University of Western Ontario in London, she received her degree in law from the University of Ottawa, and then worked in civil litigation for Ontario's Office of the Attorney General. From 1995 to 1997 she was associate legal counsel for the ICC, then moved to the Toronto firm of Blake, Cassels, and Graydon, to work in land claims. She returned to the ICC in the fall of 1998, managing a contract case-load, until she was hired full-time in 2000.

Mr Edmond received his degree in law from the University of Toronto in 1982. In 2000, Mr Edmond



The new Commission Counsel, John B. Edmond.

worked as the senior advisor on aboriginal issues for the Department of Justice in Ottawa, and from 1984-1998, he worked as counsel for the Department, preparing legal opinions on aboriginal law issues and representing the Minister of Justice at Indian Commission of Ontario meetings. From 1999 to 2000, Mr Edmond worked as legal counsel for British Columbia's Ministry of the Attorney General in the Aboriginal Litigation Unit.

He also held various operational and policy positions with Indian and Northern Affairs Canada, from 1971 to 1984.

MOOSOMIN SETTLEMENT SHOWS VALUE OF ICC PROCESS

The ICC congratulates the Moosomin First Nation and the government of Canada for their settlement of the First Nation's longstanding land claim, on October 2, 2003.

"We are pleased that this claim, which dates back to 1909, has been resolved," said ICC Chief Commissioner, Renée Dupuis. "We are particularly happy to have been of assistance to the parties in reaching a settlement without their having had to resort to the courts, something that would have been very costly for both the First Nation and the federal government."

The Moosomin First Nation is to receive \$41 million and costs to compensate for the relocation of its



members from its reserve near Battleford, Saskatchewan to a new reserve unsuited to agriculture near the community of Cochin.

The ICC conducted an inquiry into the First Nation's claim, which had been rejected by Canada in 1995. That inquiry concluded in 1997 and Canada accepted the claim, based on the ICC's recommendations. Negotiations commenced in 1997. In 2000, when the parties encountered some difficulties in their discussions, the First Nation asked the ICC to provide mediation facilitation services.

"The fact that the parties were able to arrive at a settlement by availing themselves of the ICC's mediation services is very gratifying," concluded Chief Commissioner Dupuis.



The Minister of Indian Affairs, Robert Nault, and Moosomin's Chief, Mike Kahpeaysewat, sign the settlement that brings to a close the Moosomin claim.

THUNDERCHILD SETTLEMENT HIGHLIGHTS BENEFITS OF ICC'S MEDIATION SERVICES

The Commission congratulates both the Thunderchild First Nation and the government of Canada for their settlement of a land claim dating back to 1908. The settlement agreement was signed by the parties on October 2, 2003.

"We are pleased that the First Nation and Canada were able to reach a settlement using the mediation and facilitation services of the Commission," said ICC Chief Commissioner, Renée Dupuis. "We are particularly happy that the parties avoided having to resort to the courts, something that would have been very costly for both the First Nation and the federal government. Our involvement was well received by the parties who availed themselves of our services."

The Thunderchild First Nation, located in Saskatchewan, will receive \$53 million and costs to compensate its members for the loss of its original reserve and the cost of acquiring new land.

The Thunderchild claim was accepted by Canada in 1993. Negotiations began shortly after but reached an impasse on the approach to quantifying damages for loss of use. In the fall of 1996, the parties asked the ICC to conduct an inquiry into the issues; however, when the parties approached the ICC, Commission Counsel suggested they try the mediation approach rather than going to an inquiry. Mediation began in December 1996 and, despite some delays, an agreement was reached on compensation and terms of settlement. It was ratified in early September 2003.

CLAIMS IN INQUIRY

- Athabasca Chipewyan First Nation (Alberta)
 - Compensation criteria agricultural benefits
- Blood Tribe/Kainaiwa (Alberta) – Big Claim
- *Conseil de bande de Betsiamites (Quebec)
 - Highway 138 and Betsiamites Reserve

- *Conseil de bande de Betsiamites (Quebec)
 - Bridge over the Betsiamites River
- Cowessess First Nation (Saskatchewan)
 - 1907 surrender – Phase II
- Cumberland House Cree Nation (Saskatchewan)
 - Claim to IR 100A



James Smith Cree Nation (Saskatchewan)
 – Chakastaypasin IR 98

James Smith Cree Nation (Saskatchewan)
 – Peter Chapman IR 100A

James Smith Cree Nation (Saskatchewan)
 – Treaty land entitlement

*Kluane First Nation (Yukon) – Kluane Park
 and Kluane Game Sanctuary

Little Shuswap Indian Band, Neskonlith First Nation and
 Adams Lake First Nation (British Columbia)
 – Neskonlith reserve

Lower Similkameen Indian Band (British Columbia)
 – Victoria, Vancouver and Eastern Railway right of way

*Mississaugas of the New Credit First Nation (Ontario)
 – Crawford Purchase

*Mississaugas of the New Credit First Nation (Ontario)
 – Gunshot Treaty

Nadleh Whut'en Indian Band (British Columbia)
 – Lejac School

*Ocean Man Band (Saskatchewan) – Treaty land entitlement

Opaskwayak Cree Nation (Manitoba) – Streets and lanes

Pasqua First Nation (Saskatchewan) – 1906 surrender

Paul First Nation (Alberta) – Kapasawin Townsite

Roseau River Anishinabe First Nation (Manitoba)
 – 1903 surrender

Sandy Bay Ojibway First Nation (Manitoba)
 – Treaty land entitlement

Siksika First Nation (Alberta) – 1910 surrender

Stanjikoming First Nation (Ontario) – Treaty land entitlement

*Stó:lo Nation (British Columbia) – Douglas reserve

Sturgeon Lake First Nation (Saskatchewan) – 1913 surrender

Taku River Tlingit First Nation (British Columbia)
 – Wenah specific claim

Touchwood Agency (Saskatchewan)
 – Mismanagement (1920-1924)

U'Mista Cultural Society (British Columbia)
 – The Prohibition of the Potlatch

Whitefish Lake First Nation (Alberta) – Compensation criteria
 - Agricultural benefits Treaty 8

Williams Lake Indian Band (British Columbia) – Village site

Wolf Lake First Nation (Quebec) – Reserve lands

CLAIMS IN FACILITATION OR MEDIATION

Blood Tribe/Kainaiwa (Alberta) – Akers surrender

Blood Tribe/Kainaiwa (Alberta) – Cattle claim

Chippewa Tri-Council (Ontario) – Coldwater-Narrows Reserve

Chippewas of the Thames First Nation (Ontario)
 – Clench defalcation

Cote First Nation No. 366 (Saskatchewan) – Pilot project

Fort Pelly Agency (Saskatchewan) – Pelly Haylands
 negotiation

Fort William First Nation (Ontario) – Pilot project

Keeseekoowenin First Nation (Manitoba) – 1906 lands claim

Michipicoten First Nation (Ontario) – Pilot project

Mississaugas of the New Credit First Nation (Ontario)
 – Toronto Purchase

Muscowpetung First Nation (Saskatchewan) – Flooding claim

*Nekaneet First Nation (Saskatchewan) – Treaty benefits

Pasqua First Nation (Saskatchewan) – Flooding claim

Qu'Appelle Valley Indian Development Authority
 (Saskatchewan) – Flooding

Skway First Nation (British Columbia) - Schweyey Road

CLAIMS WITH REPORTS PENDING (INQUIRY)

Peepeekisis First Nation (Saskatchewan) – File Hills colony

CLAIMS WITH REPORTS PENDING (MEDIATION)

Moosomin First Nation (Saskatchewan) – 1909 surrender

Standing Buffalo First Nation (Saskatchewan) – Flooding

Thunderchild First Nation (Saskatchewan) – 1908 surrender

**in abeyance*

