

2004 | 2005

# Annual Report



Indian Claims Commission

**INDIAN CLAIMS COMMISSION  
ANNUAL REPORT 2004-2005**

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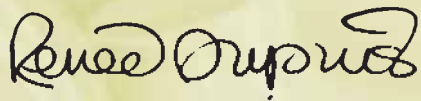
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To Her Excellency  
The Governor General in Council

MAY IT PLEASE YOUR EXCELLENCY

In 2004-2005, the Indian Specific Claims Commission completed 3 inquiries, 5 mediations and released 4 reports. This report summarizes our major achievements and activities in relation to specific claims last year.

Yours truly,



Renée Dupuis  
Chief Commissioner

September 2005





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## INTRODUCTION

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## MESSAGE FROM THE CHIEF COMMISSIONER

It is a pleasure to present the report of the Indian Claims Commission (ICC) for the year 2004–2005, a year of significant change for the Commission.

Since 1991, we have advanced more than 65 inquiries and mediation efforts. In addition we are taking measures to ensure excellence of operations and to make sure the ICC promotes a culture of learning and effective management of our resources, including our body of knowledge about specific claims.

The Commission's work in 2004-2005 includes the completion of three inquiries and five mediations.

The completion of the three inquiries—two dealing with specific claims by the James Smith Cree Nation and one by the Cumberland House Cree Nation—marks an event unique in the history of the Commission. A fourth report was issued on a portion of a claim by James Smith Cree Nation which is ongoing. The claims form part of a group of separate-but-related claims submitted to the Commission that essentially constitute two claims by two separate First Nations to the same reserve. Over a five-year period, in a process unprecedented in the ICC's history, the inquiry panel proceeded concurrently through all the claims.

The Commission completed five mediation/facilitation files this year, and will be publishing reports on each of these files in the next fiscal year. These included the Blood Tribe/Kainaiwa Akers surrender negotiations, the Chippewas of the Thames First Nation Clench Defalcation negotiations, the Keeseekoowenin First Nation 1906 surrender negotiations, the Qu'Appelle Valley Indian Development Authority flooding negotiations, and the Touchwood Agency mismanagement (1920-1924) claim negotiations.

One of the principal changes affecting the Commission over the past year was the federal government's decision to alter the reporting relationship of the Commission. From the Commission's inception in 1991, the Prime Minister had been designated as the appropriate minister for the Commission for purposes of the *Financial Administration Act*. On July 20, 2004, Order-in-Council P.C. 2004-858 designated the Minister of Indian Affairs as the appropriate minister for the Commission, replacing the Prime Minister.

Once we were informed of this amendment, its implementation resulted in a considerable amount of additional work for the Commission in terms of administrative and management issues. In order to preserve our autonomy as an independent commission of inquiry, we entered into an agreement with the Canadian Human Rights Commission for the delivery of the corporate services we currently receive from the Privy Council Office. That agreement comes into effect on April 1, 2005.

In the meantime, while we await the federal government's decision on proclamation of the *Specific Claims Resolution Act*, the legislation that creates the new Canadian Centre for the Independent Resolution of First Nations Specific Claims (the *Act* received royal assent on November 7, 2003), we will continue to play an important role, carrying out our mandate in an exemplary manner, providing a fair, neutral and impartial alternative to the courts and finding ways to improve our operations. It is well recognized both by the federal government and First Nations that ICC has a vital role to play in resolving claims. Transition to the new Centre will not occur overnight. It will take a significant amount of time, which is why we are working on an operational plan for the ICC that covers the next three years.

The creation of a new portfolio for the Minister of Indian and Northern Affairs that contains the ICC dictates that, by law, the Commission has a relationship with the Minister. During the course of my discussions with Minister Scott and the leadership of the Assembly of First Nations, I have reinforced both the need to ensure a smooth transition once plans are in place for the creation of the new Centre and the fact that ICC is a solid foundation for the Centre.

In addition to reporting on the Commission's work over the past 12 months, I would like to highlight some of the practices we have instituted since the Commission was established.

In fulfilling its mandate, the Commission has adopted methods that enable it to bridge the gap between two different and often opposing perspectives. It serves to gather oral history from community members on important aspects of their community's life; it recognizes the value of testimony from elders and other community witnesses; it ensures that the transcripts of this oral evidence become part of the community's written history thus making it more accessible to community members and facilitating its dissemination outside the community; it allows the community to express its position orally to federal government representatives;

it gives federal government representatives exposure to the socio-political and geographic realities of the community, as well as an opportunity to hear the community's witnesses; and it allows the community, for the first time, to make itself heard and defend its position before an independent and impartial authority.

At all stages of its inquiry process, the ICC takes care to identify and propose opportunities for mediation, not only in the interests of expediency but also to facilitate reconciliation, if not agreement, between the parties. The parties are encouraged to collaborate on much of the background work—research and loss of use studies, for example—throughout the inquiry and mediation process. Through such cooperation, the parties get to know each other better and gain mutual respect, not to mention the resulting saving of time and costs.

The ICC, then, is an example of the type of institution that can serve as a bridge between the federal government and First Nations. There are few such institutions in Canada. The lessons learned over the Commission's 14 years of operation can serve as a guide for a broader debate on this subject, a debate in which the ICC will be pleased to take part.

Renée Dupuis  
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, 2004, to March 31, 2005. 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, process, 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 completed claims or mediations 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.

New to this report are two indexes that follow the concluded claims 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, 2004–2005

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*Recommendations to the government regarding specific claims*



## COMMISSION'S RECOMMENDATIONS TO GOVERNMENT, 2004–2005

The Commission believes that adequate resources must be available for settling specific land claims and that, in the absence of such resources, the claims resolution process is significantly delayed. Based on our experience with specific claims since the creation of the Commission in 1991, the Commission believes that it is largely the lack of adequate human resources assigned to deal with the review of specific claims that results in unacceptable delays in the process, from the submission of a claim to its validation or rejection by the Minister of Indian and Northern Affairs Canada. For its inquiry process, the Commission sometimes has waited a year or more for the necessary documents from Canada that the Commission needs to proceed. The Commission also continues to have serious concerns about the substantial amount of time it takes for Indian and Northern Affairs Canada and the Department of Justice to respond to some of the Commission's recommendations. All of this has a domino effect in that it leads to an overall delay in settlement of claims that can be as much as six to eight years, and in some cases more. The Supreme Court, in its *Haida Nation* decision, reminded us of the objective of reconciliation and that "the honour of the Crown is always at stake in its dealings with Aboriginal peoples." This surely applies to the settlement of specific claims as much as it does elsewhere, and we suggest that a duty to respond to claims submissions in a timely fashion flows from the honour of the Crown.

In its *1995-1996 Annual Report* and in several successive reports, the Commission recommended the establishment of an independent claims body with the legislative authority to make binding decisions with respect to the Crown's lawful obligations towards First Nations and with respect to fair compensation when those obligations have been breached. The Commission was gratified by the government's response to these recommendations, which was to introduce legislation in 2002, the *Specific Claims Resolution Act*, to create a new body to replace the ICC. In November 2003, the *Act* received royal assent. It has not, however, been proclaimed since the Minister has undertaken to work with First Nation leaders to address a number of concerns regarding the legislation that have been raised by First Nations. The Commission earnestly hopes that these discussions will succeed so that decisions can be made in a timely manner regarding proclamation of the legislation and

the creation of the Centre. Until such a time, it would be helpful for the Commission to have a full complement of Commissioners (6 Commissioners and 1 Chief Commissioner) in order for it to efficiently do its work.

**The Commission therefore recommends that Canada ensure that sufficient human resources be assigned to the Specific Claims Branch of Indian and Northern Affairs Canada and to the Department of Justice to eliminate the backlog of specific claims and permit future inquiries to proceed in a timely and effective manner.**

**The Commission also recommends that, in the interest of lessening uncertainty among First Nations claimants and potential claimants and creating an environment of stability for the resolution of specific claims, the ongoing discussions be given priority by all parties involved in order that a decision can be made in a timely manner regarding proclamation of the *Specific Claims Resolution Act*, and to ensure a smooth transition from the Indian Claims Commission to the new Centre.**





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## AUTHORITY, MANDATE AND OPERATIONS

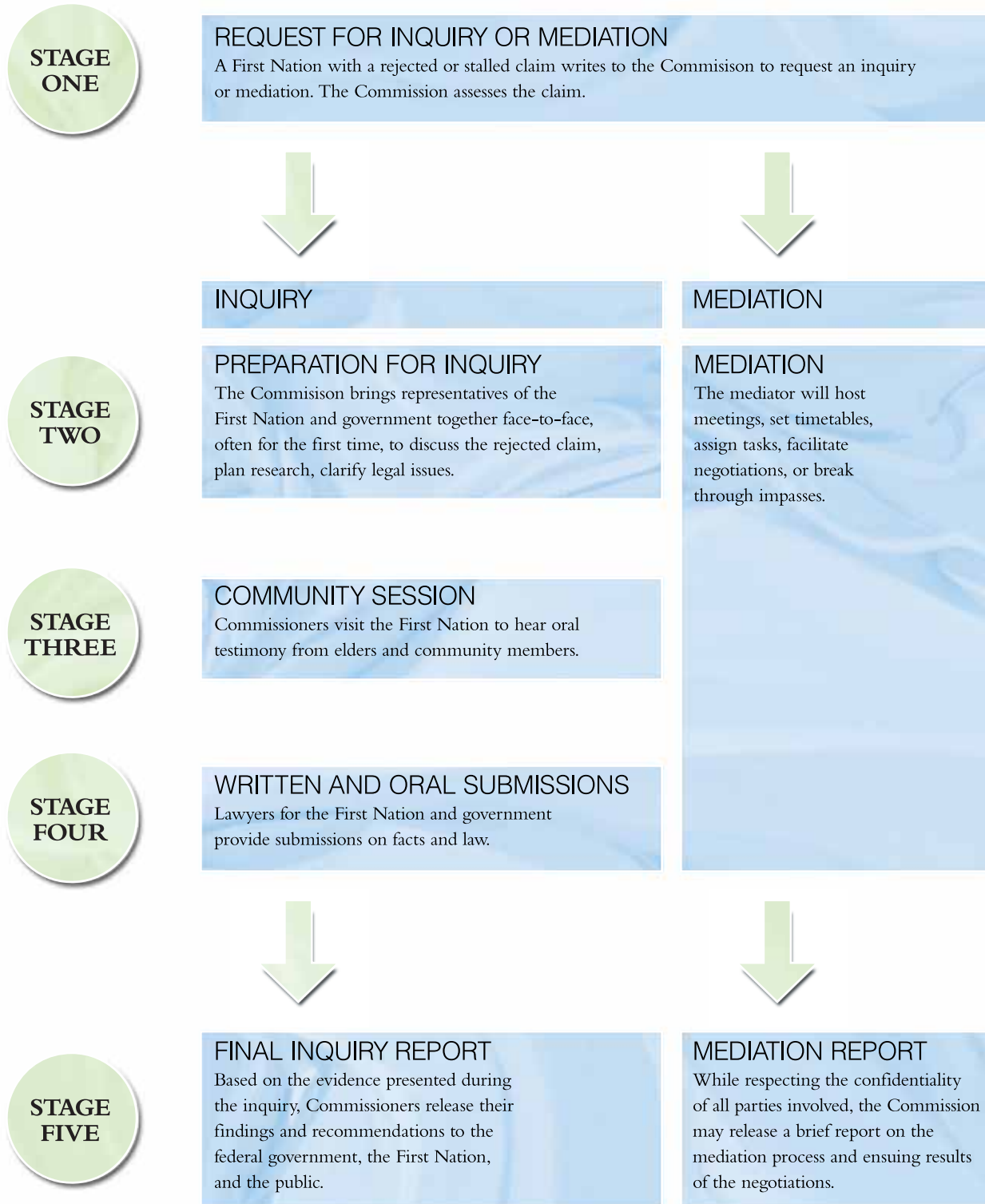
The Indian Claims Commission is a Commission of Inquiry established by Order-in-Council under Part I of the *Inquiries Act* in 1991. The Commission has a double mandate: to inquire, at the request of First Nations, into First Nations' specific land claims that have been rejected by the Minister of Indian and Northern Affairs Canada; and to provide mediation services for claims in negotiation.

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 defenses 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, which begins when a request is received from a First Nation. Each of these stages is explained in the chart that follows.

## THE ICC'S PROCESS





## HISTORY OF THE ICC AND 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, 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. Justice 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 new Canadian Centre for the Independent Resolution of First Nations Specific Claims. The Centre will replace the Indian Claims Commission, once the legislation is proclaimed. In the meantime, the Commission continues to exercise its mandate.

## An early land claims chronology

**Early 1700s** 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 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, the responsibilities of the British Crown are transferred to the federal Government of Canada.

**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 the 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* 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.”

## Events leading to the creation of the Commission (continued)

**1990** The Supreme Court, in its comments on the *Sparrow* case, recognized an existing aboriginal right to fish on the facts of that case, and interpreted section 35 of the *Constitution Act, 1982*, for the first time.

Elijah Harper helps to block the Meech Lake accord over lack of aboriginal participation.

Violence erupts in Oka, Quebec, over a rejected land claim.

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 P.C. 1991-1329, and Harry S. LaForme is appointed Chief Commissioner.

**1992** The Commission's mandate is amended by Order-in-Council P.C. 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, Dan Bellegarde, Carole Corcoran, Carol Dutchshen, Charles Hamelin and P.E. James Prentice.



## Recent developments ...

**1995** The Supreme Court hands down its decision in the *Apsassin* case. In its decision, the Court contemplates a number of scenarios when 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 directly addresses 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 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), Robert Nault, on 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. The new Centre would replace the Indian Claims Commission.

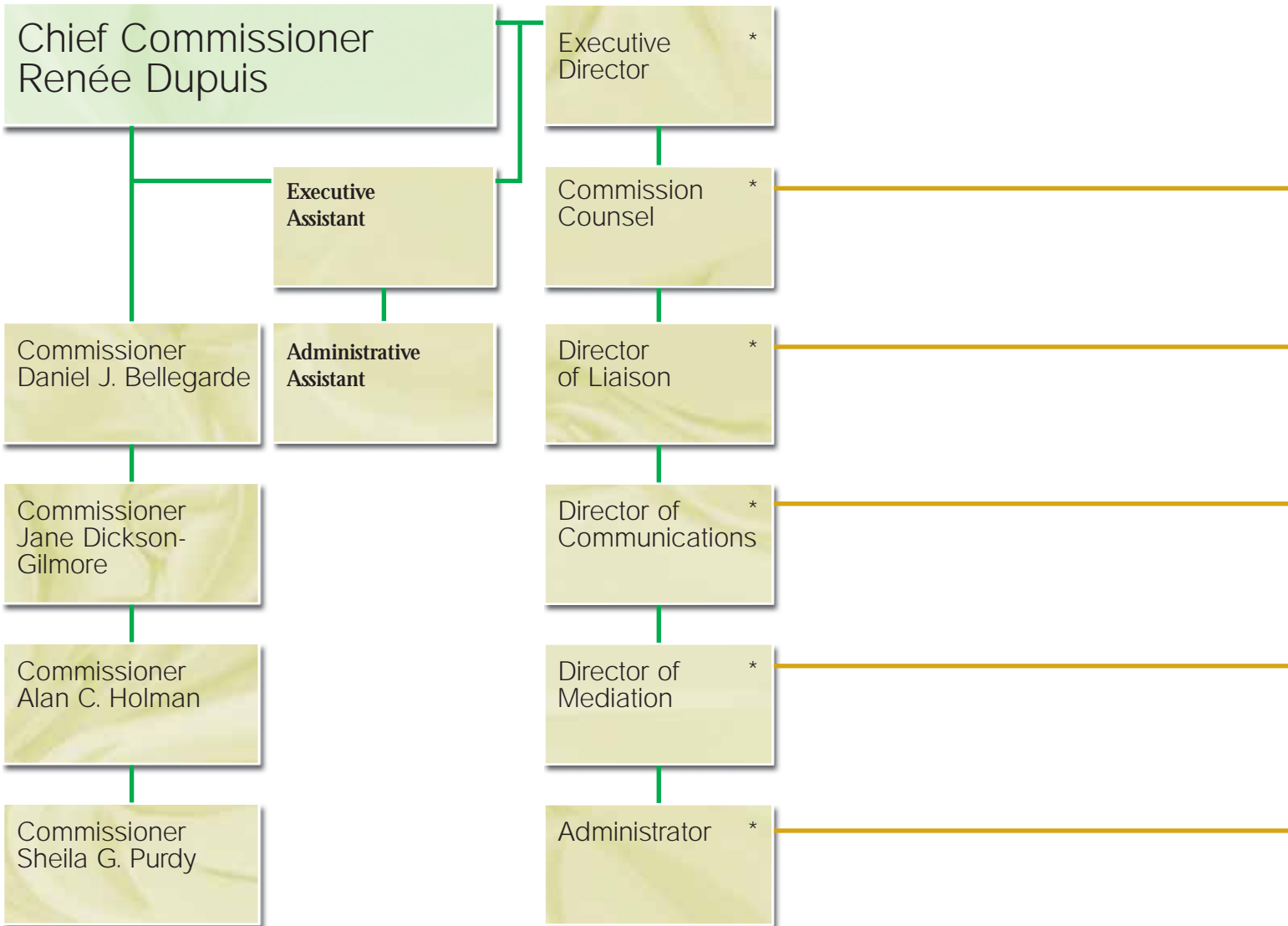
In August, Phil Fontaine is appointed Chief Commissioner of the ICC.

**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. Until the legislation is proclaimed and the new centre is created, the ICC continues to fulfill its mandate.

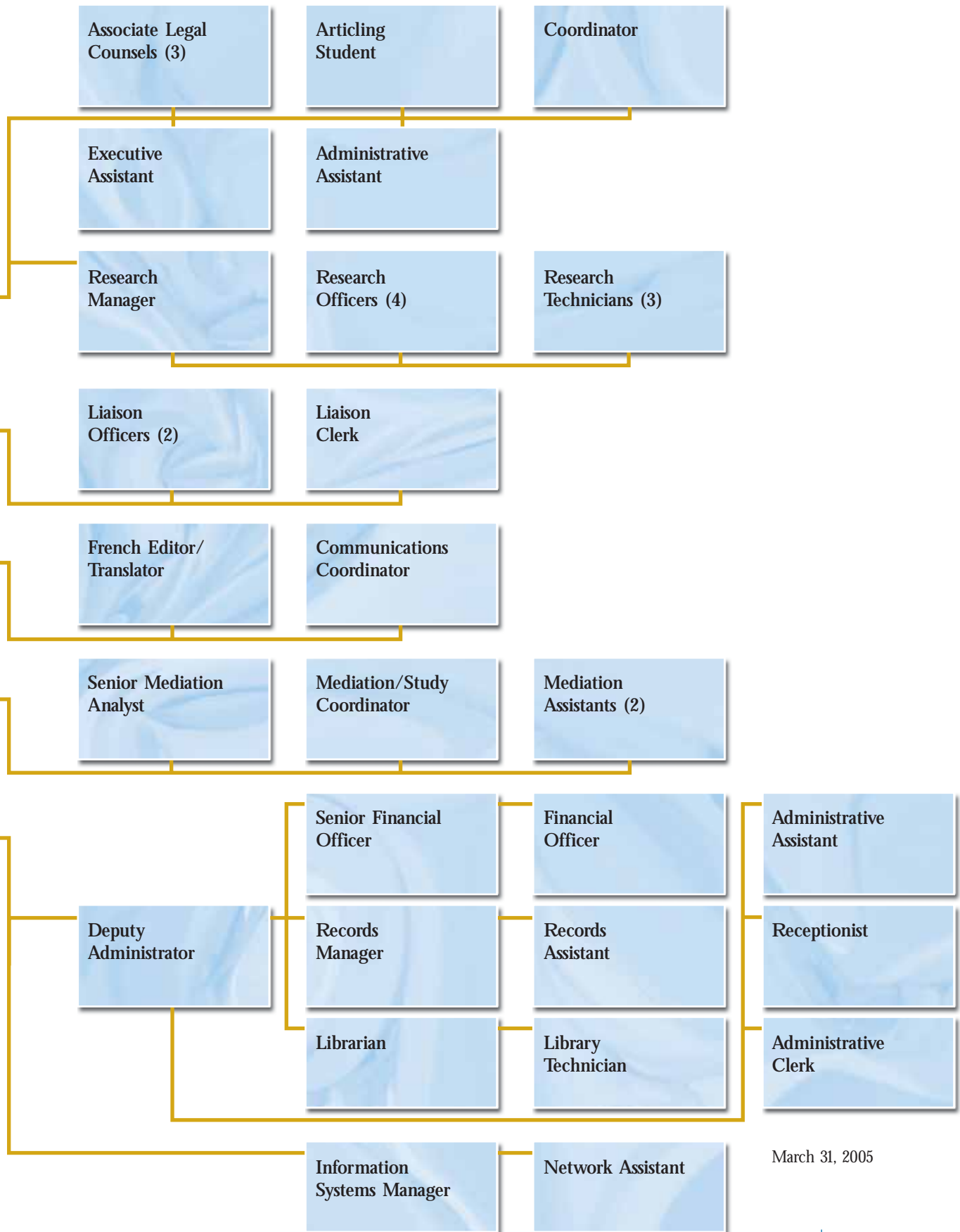
**2004** In July, Order-in-Council amendment P.C. 2004-858 designated the Minister of Indian and Northern Affairs Canada as the appropriate minister for the ICC for purposes of the *Financial Administration Act*.

## ORGANIZATIONAL STRUCTURE



\* denotes member of Management Committee

# Indian Claims Commission



March 31, 2005

## 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 Barreau du Québec Foundation's 2001 Award 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. 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

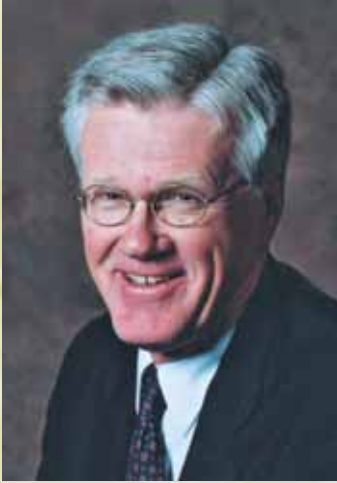
Vice-Chief of the Federation of Saskatchewan Indian Nations, a position he held until 1997. He is currently president of Dan Bellegarde & Associates, a consulting firm specializing in strategic planning, management and leadership development, self-governance, and human resource development in general. 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.

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- 74 **IN FACT ...**  
*Facts on specific claims at the ICC*
  
- 74 **HOW TO CONTACT US**

## OVERVIEW OF THE ICC'S ACTIVITIES FROM 1991 TO 2005

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 65 inquiries and 6 mediations (reports on the 5 mediations completed in the 2004-2005 fiscal year are in progress).

### Quick Facts on ICC Inquiries

<b>Total requests for inquiry</b>	<b>131</b>
Total accepted requests for inquiry	117
Total denied requests for inquiry	14

<b>Total accepted requests for inquiry</b>	<b>117</b>
Active files (see summaries of each file provided in following section)	38
<i>Reports in progress</i>	4
<i>Within inquiry process</i>	27
<i>In abeyance</i>	7
Inquiries ended prior to completion	14
<i>Ended at request of the First Nation</i>	5
<i>Ended by the ICC owing to lack of file activity</i>	9
Inquiry completed with report (see concluded claims table on page 54)	65

## ICC RECOMMENDATIONS

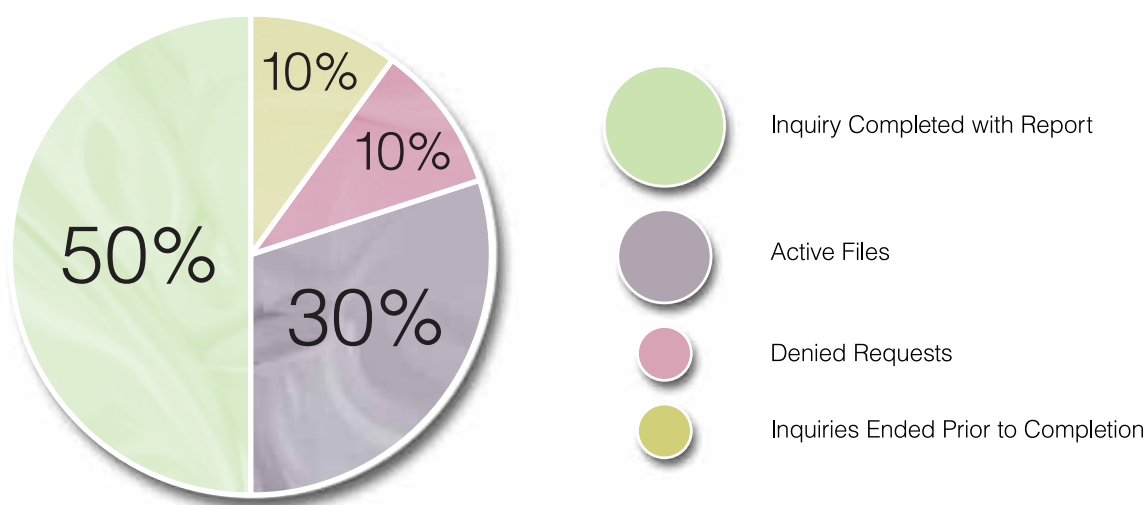
Claims the ICC has recommended be accepted for negotiation	26
Claims the ICC has not recommended for negotiation	7
Claims the ICC partially recommended be accepted for negotiation	4
Claims in which the ICC recommended additional research	3
Claims settled or accepted for negotiation mid-inquiry	21
Other recommendations	4

## RESPONSES TO RECOMMENDATIONS

Claims accepted for negotiation by INAC*	33
Claims rejected by INAC	17
No response received from INAC to the ICC report	8
No substantive response from INAC required	6
Other responses	1

\* Indian and Northern Affairs Canada

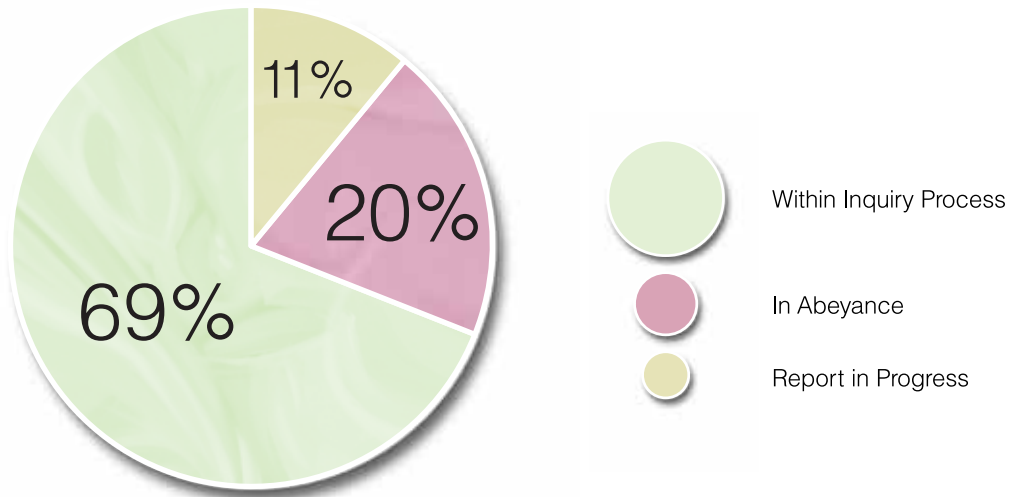
## ICC's Total Requests For Inquiry, 1991-2005



The pie chart above contains a breakdown of the 131 requests for inquiry received by the ICC since its inception in 1991.

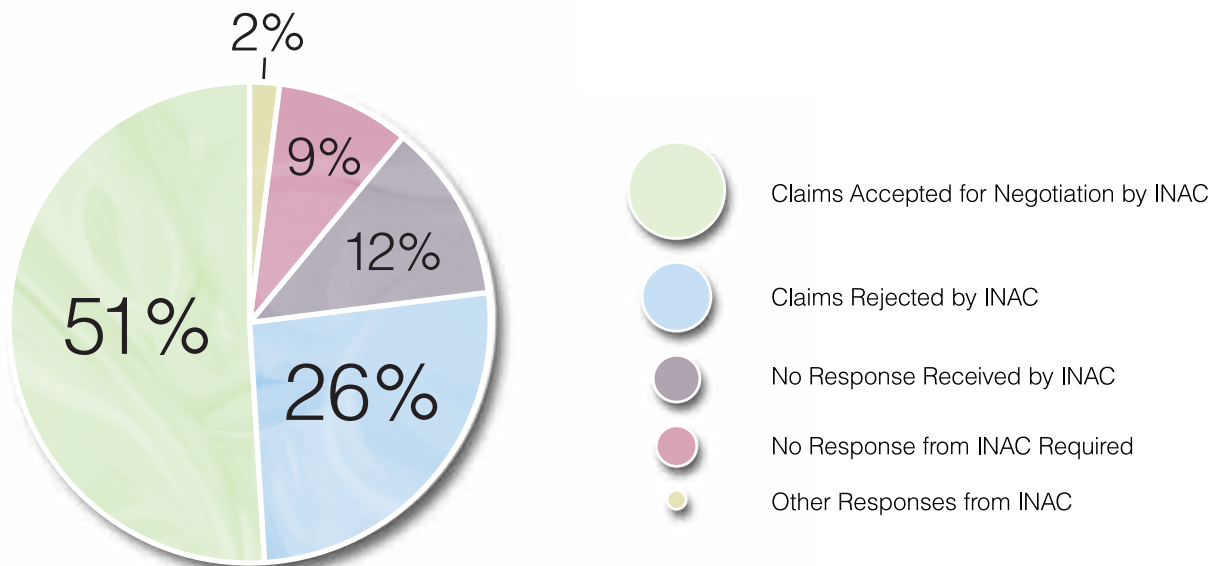


### Active Files, 2004-2005



The pie chart above provides a breakdown of the status of the claims that were under review by the ICC from April 1, 2004 to March 31, 2005.

### Government Responses To ICC Recommendations, 1991-2005

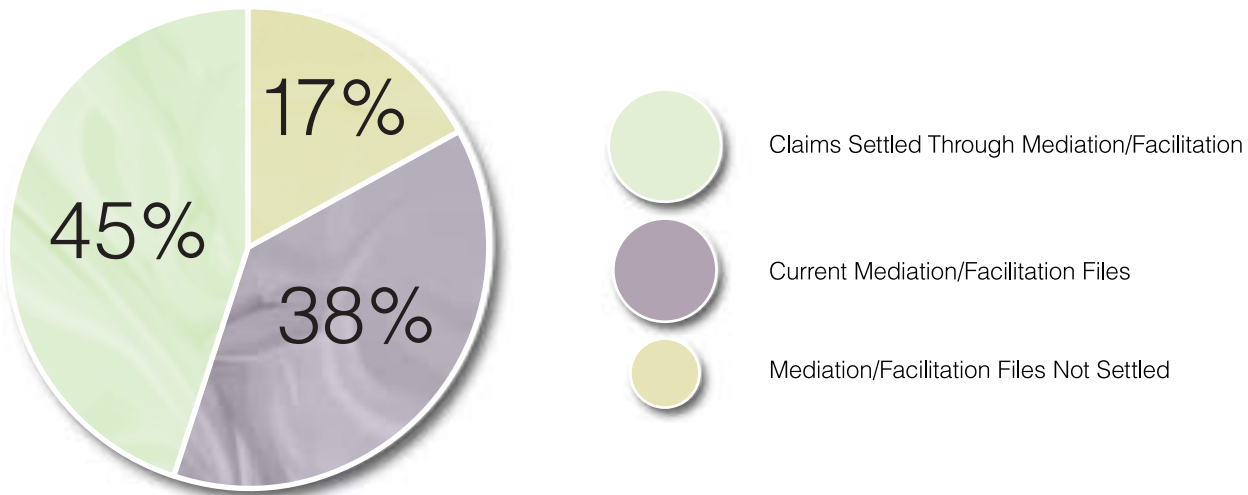


The pie chart above provides information regarding the response of the Minister of Indian and Northern Affairs Canada (INAC) to the Commission's recommendations in each concluded claim (i.e., an inquiry report has been published). For more information regarding the status of concluded claims, see page 54.

## Quick Facts on ICC Mediation/Facilitation

<b>Total requests for mediation/facilitation</b>	<b>42</b>
Current mediation/facilitation files	16
Claims settled through mediation/facilitation	19
Mediation/facilitation files not settled	7

## Total Requests for Mediation/Facilitation, 1998-2005



The pie chart above provides a breakdown of the 42 requests for ICC's mediation/facilitation services received since the ICC began to offer full mediation services to specific claims negotiation tables (1998).

## THE ICC'S ACHIEVEMENTS IN 2004-2005

### INQUIRIES

What you'll find in this section...

- 32**    **WHAT ARE INQUIRIES?**  
*Introduction and definitions*
  
- 32**    **INQUIRIES COMPLETED IN 2004-2005**  
*Summarizes each inquiry completed by the ICC in 2004-2005*
  
- 35**    **SUMMARY OF SPECIFIC CLAIMS IN INQUIRY BETWEEN APRIL 1, 2004, AND MARCH 31, 2005**  
*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, concluding with a formal report of the Commissioners' findings and recommendations on the issues. These recommendations are intended to assist the parties in resolving the dispute, but they are not binding on either Canada or the First Nation. If it is requested by the First Nation, one important stage of the process is a visit by Commissioners to the First Nation community to hear directly from elders and community members in regard to the claim.

## INQUIRIES COMPLETED IN 2004–2005

Under its mandate, the Indian Claims Commission inquires, upon request, into First Nations' specific land claims. From April 1, 2004, to March 31, 2005, the Commission completed three separate claims and released four reports. A summary of each of these inquiry reports is found below.

### 1 Cumberland House Cree Nation *IR 100A, Saskatchewan*

The Cumberland Band, now known as the Cumberland House Cree Nation, signed an adhesion to Treaty 5 in 1876 and within two years requested reserve land close to Fort à la Corne, some 250 kilometres to the southwest, where the land was well suited to agriculture. The government was reluctant to agree to this as Fort à la Corne is within Treaty 6.

In 1882, the government surveyed and set aside 2,172 acres—known as IR 20—for the Cumberland Band at Cumberland. In 1885, however, the government consented to the Band's request for land in the Fort à la Corne area and two townships

were set aside for the "Indians of Cumberland" Indian Reserve (IR) 100A was surveyed in 1887 and confirmed by an Order-in-Council in 1889, "for the Indians of the Cumberland District (of Treaty No. 5)." Using the Treaty 6 formula of 640 acres per family of five, 44,160 acres of IR 100A were allocated for the 345 members of the Cumberland Band.

Before and after the Northwest Rebellion (1885), members of the Chakastaypasin Band at IR 98 were migrating to IR 100A. Although these Band members were never properly transferred into the Cumberland House Band, two of them signed a surrender for the lower portion of IR 100A (20,080 acres) in 1902. Chakastaypasin members were also involved in an agreement to amalgamate the remainder of IR 100A and the people living there with the James Smith Band at IR 100. The consent of the entire Cumberland House Band, those at both IR 20 and IR 100A, was never sought nor obtained.

The Cumberland House Cree Nation submitted a specific claim in 1986 alleging the unlawful taking of IR 100A lands. In 1997, Canada rejected the First Nation's claim but did admit a lawful obligation for its failure to have ensured an equitable division of assets between what it believed to be the separate Cumberland Band that had evolved at IR 100A, and the original Cumberland Band at IR 20.

In February 2000, the First Nation requested that the Commission conduct an inquiry into its rejected claim regarding its interests in Cumberland IR 100A, knowing that the James Smith Cree Nation had also requested an inquiry into its claim for the same reserve. The Commission accepted both inquiries, and following discussions between both First Nations, decided to conduct a single, fact-finding process with respect to the history of IR 100A, while maintaining separate inquiries for each First Nation.

The Commission found that IR 100A was set aside for the Cumberland Band, and that a separate Band was not created at any point in time at IR 100A. The Cumberland Band that adhered to Treaty 5 resided at two locations: IR 20 and IR 100A. Canada was required, under treaty, to seek and obtain the consent of the whole of the Cumberland Band to dispose of its interest in its reserve lands. On the evidence, no such consent was sought or obtained. Furthermore, Canada is in breach of its fiduciary duty for its failure to have protected the Cumberland Band's interest in its reserve at IR 100A.

Based upon the findings of the panel, the Commission recommended that the Cumberland House Cree Nation's claim regarding Indian Reserve 100A be accepted for negotiation under Canada's Specific Claims Policy.



**2 James Smith Cree Nation**  
*Chakastaypasin IR 98, Saskatchewan*

In May 1889, in accordance with the terms of Treaty 6, the federal government confirmed Indian Reserve (IR) 98 for the Chakastaypasin Band. The reserve, located on the South Branch of the South Saskatchewan River, just south of Prince Albert, encompassed an area of 62 square kilometres.

Events surrounding the Northwest Rebellion in 1885 had an impact on the Chakastaypasin Band whose members were initially branded as ‘rebels’ although no information to suggest a basis for the charge exists. There were statements from elders that Chakastaypasin members left the reserve after threats were made by scouts involved in the uprising. Band members scattered to nearby reserves and to their traditional hunting grounds on the Carrot River near IR 100A.

By June 1885, the Department of Indian Affairs decided that the Band had violated the terms of the treaty made with the government and that it was advisable to break up the band and amalgamate it with others. The department came to rely upon the band members’ “transfer” to other bands as evidence of the abandonment of IR 98. (The majority of members moved to the Cumberland Band’s reserve, IR 100A, and were later allegedly amalgamated with the James Smith Band, along with the other residents of IR 100A.) When the government received contrary legal advice, it had Kahtapiskowat, a headman of the Chakastaypasin Band, and eight other “former” Chakastaypasin members living at IR 100A sign a surrender document. The government claimed these nine names constituted a majority of the Chakastaypasin members. It never consulted other members living on other reserves and as a result, IR 98 was surrendered in 1897. By 1889, the Chakastaypasin payroll had been discontinued, and all of the Chakastaypasin members “transferred” to the paylists of other bands.

The Chakastaypasin reserve was sold in 1901, and the sale proceeds were distributed among the various bands that had accepted Chakastaypasin members. These bands are sometimes referred to by the parties as “host bands”.

In May 1984, the James Smith Cree Nation submitted a specific claim challenging the validity of the surrender and sale of the Chakastaypasin reserve. In December 1998, Canada rejected the portion of the claim which challenged the validity of surrender, stating that, by 1888, all Chakastaypasin band members had moved off IR 98, their names had been added to other bands’ paylists, and, as a result, the Chakastaypasin

Band had ceased to exist. The government argued that, under these circumstances, no surrender under the *Indian Act* was required and the government had the authority to dispose of the abandoned reserve, without compensation to the former Chakastaypasin band members. Nevertheless, the Crown argued that the government did comply with the *Indian Act* surrender provisions and placed the sale proceeds to the credit of the bands to which Chakastaypasin band members had transferred.

In May 1999, the James Smith Cree Nation requested that the Commission conduct an inquiry into the surrender and sale of IR 98. In November 2002, the panel ruled that the other “host bands” would be allowed to submit evidence and legal arguments but would not be included as parties to the inquiry.

In March 2003, Canada communicated its partial acceptance of one aspect of the claim – the post-surrender obligations regarding Sugar Island, a part of Chakastaypasin reserve that was not sold until nearly 50 years after the surrender. The pre-surrender and surrender aspects of the claim regarding Sugar Island remained at issue in this inquiry.

The Commission found there were no valid transfers of Chakastaypasin members into IR 100A at any relevant point in time. At the time of the surrender of IR 98, the Department of Indian Affairs was aware of members residing at other locations, and had an obligation to seek the consent of all eligible voters to the surrender, not just those resident at IR 100A. As such, the Commission found the surrender of IR 98 invalid and that Canada breached its treaty, statutory and fiduciary obligations for its failure to consult the whole of the Chakastaypasin Band. The Commission found Canada also breached those same obligations in the sale of IR 98, when it permitted the sale of 86 of the 114 quarter sections of the reserve at below fair market value. Finally, Canada owes a treaty, statutory and fiduciary obligation to protect reserve land from exploitation. With respect to Sugar Island, the Commission found Canada in breach of these duties for permitting a continuous trespass to IR 98 lands and resources.

Based upon the findings of its panel, the Commission recommended that the James Smith Cree Nation’s Chakastaypasin Indian Reserve 98 claim be accepted for negotiation under Canada’s Specific Claims Policy.



### 3 James Smith Cree Nation

#### *IR 100A, Saskatchewan*

In the 1880s, the Cumberland Band (now known as the Cumberland House Cree Nation) was allotted two reserves under the terms of Treaty 5: Indian Reserve (IR) 20 and IR 100A. In the view of Canada and the James Smith Cree Nation, the Cumberland Band members living at IR 100A evolved into a new band under the leadership of Peter Chapman, separate from the original Cumberland Band living at IR 20.

In 1902, Canada took a surrender of 20,080 acres from IR 100A, signed by two men who had allegedly transferred to the reserve in 1896 from the Chakastaypasin Band and, in 1903, Canada subdivided the surrendered land for sale. Most of this land was purchased by government officials who were investigated in 1913 and found to be in breach of their duties. All of the land was sold for less than its appraised value. The residents of IR 100A were amalgamated with the James Smith Cree Nation.

In 1991, the James Smith Cree Nation submitted a specific claim regarding the surrender and sale of the southern portion of IR 100A. The First Nation claimed that Canada breached its statutory, treaty, trust and fiduciary duties in taking the alleged surrender and in its unlawful disposition of IR 100A. In 1998, Canada rejected the First Nation's claim regarding the validity of the surrender, while accepting for negotiation an outstanding lawful obligation with respect to the sale of the surrendered lands.

In May 1999, the Commission accepted the request of the James Smith Cree Nation to conduct an inquiry into the surrender and subsequent sale of IR 100A. In February 2000, the Cumberland House Cree Nation requested that the Commission conduct an inquiry into its interests in Cumberland IR 100A. Following discussions between both First Nations, the Commission decided to conduct a single fact-finding process with respect to the history of IR 100A, while maintaining separate inquiries for each First Nation.

The Commission panel found that IR 100A was set aside for the Cumberland Band, and that a separate band was not created at any point in time at IR 100A. The Cumberland Band that adhered to Treaty 5 resided at two locations: IR 20 and IR 100A. Canada was required, under treaty, to seek and obtain the consent of the whole of the Cumberland Band to dispose of its interest in its reserve lands. On the evidence, no such consent was sought or obtained.

Canada's failure to have sought the informed consent of the whole of the Cumberland Band to the transfer of people into IR 100A, to the surrender of the southern portion of IR 100A, and to the agreement to amalgamate its interest in IR 100A with the James Smith Band at IR 100 is a breach of treaty, statute and fiduciary duties.

With respect to the issues dealing with the land sales, the Commission panel found that, upon the surrender of reserve land, Canada has treaty, statutory and fiduciary duties in disposing of this land by sale. Canada has admitted its breach of fiduciary duties in accepting prices below the appraised value and for failing to enforce the terms of sale. Canada has also admitted it breached its statutory duty for its failure to have immediately dismissed its employee for his conduct involving the sale of IR 100A, and for its failure to have cancelled the sales attributable to him. The First Nation argued that the purchasers of IR 100A lands engaged in fraudulent activities to obtain those lands. However, in the absence of clear and unequivocal evidence, the panel is unable to make a finding of fraud.

The panel found that there was a breach of Canada's obligations in these matters, but the obligations are owed to the Cumberland House Cree Nation (see completed inquiry summary on page 32). The Commission recommended that the lawful obligations that arise from Canada's dispositions of Indian Reserve 100A be accepted for negotiation with the Cumberland House Cree Nation.

### 4 James Smith Cree Nation

#### *Treaty land entitlement - Issue 9: amalgamation, Saskatchewan*

*Issue 9 of this claim deals with whether the James Smith Band and the "Peter Chapman Band" were amalgamated. It is the only completed part of ICC's inquiry into the James Smith Cree Nation's treaty land entitlement claim. The other issues of this claim remain in inquiry, see page 36 for the summary of these issues.*

Indian Reserve (IR) 100 was surveyed for the James Smith Band in 1884, as promised by the terms of Treaty 6. Under terms of the treaty, the Band was entitled to a reserve equivalent to one square mile for each family of five, or 128 acres per person. A reserve for the Band was surveyed in July 1884 and in May 1889, IR 100 was confirmed for the Band, consisting of 278 square miles, satisfying the treaty land entitlement for 139 people. Given the Band's population at time of survey (144 people), it was still entitled to at least one more square mile of land.

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 1902 amalgamation of the James Smith Band at IR 100 and the Cumberland Band at IR 100A.

In May 1999, the James Smith Cree Nation requested that the Commission conduct an inquiry into its rejected claim. The Commission accepted the request; 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 of land quality and lands occupied prior to treaty 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 10 issues raised in this inquiry. Concurrently, Canada was given until April 2005 to respond fully to the issues of payroll analysis, land quality, and lands occupied prior to treaty. In February 2005, Canada requested an extension to the deadline for filing its submissions on these issues. An oral hearing is scheduled for May 2005 to hear arguments from the parties regarding this request.

The Commission’s finding regarding the single issue of the alleged amalgamation is based on the findings of the panel in the *James Smith Cree Nation: IR 100A Inquiry* and the *Cumberland House Cree Nation: IR 100A Inquiry* reports. In those inquiries, the panel found that the “owners of the Cumberland Reserve No. 100A” were the whole of the Cumberland Band who had adhered to Treaty 5 in 1876 and resided at two locations: IR 20 and IR 100A.

With respect to the alleged amalgamation at issue in this inquiry, the Commission found that there is no evidence to indicate that the “owners” of IR 100A, living at both IR 20 and IR 100A, voted to amalgamate with the James Smith Band. Instead, Canada relied upon two signatories, who had allegedly transferred to IR 100A in 1896 from the Chakastaypasin Band, to demonstrate the consent of the “owners” of IR 100A to the amalgamation. Ultimately, the Commission found that the amalgamation agreement is invalid

because its two signatories could not have given a joint and undivided interest in IR 100A, since they were not the “owners of Cumberland 100A” and because the consent of the whole of the Cumberland House Band, residing at both IR 20 and IR 100A, was neither sought nor obtained.

The Commission will deliver its final report on all other issues upon the receipt of Canada’s submissions and upon hearing the arguments of counsel for the parties in an oral session.

## SUMMARY OF SPECIFIC CLAIMS IN INQUIRY BETWEEN APRIL 1, 2004, AND MARCH 31, 2005

This section provides a summary of the Commission’s activities in each of the 38 claims in inquiry during the 2004-2005 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 March 30, 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 First Nation has requested that the inquiry be placed in abeyance pending the outcome of these negotiations.

### **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 square 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.

## **Blueberry River and Doig River First Nations**

*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.

This claim was the subject of a previous inquiry: see **Treaty 8 Tribal Association**: *Highway right of way – IR 172 claim, British Columbia* on page 41.

## **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.

## **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 now in deliberations.

## **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." A series of conference calls took place during early 2005 in preparation for the planning conference, to be held in April.

## **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 these 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. The inquiry will be formally concluded and the file closed.

**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 is now being processed by the Commission research staff.

**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 in deliberations.

**Lucky Man Cree Nation**

*Treaty land entitlement (TLE) – 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 TLE 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.

**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.

**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.



## **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.

## **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, now under review by the First Nation.

## **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.

## **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 to 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 is reviewing its position, based on the new information.

**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 are scheduled for May 2005.

**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.

**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 parties are now moving towards the final steps of the inquiry, which may include an expert evidence session.

**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.

## **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, 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. The Commission informed the parties that an oral hearing would be held in this matter. It was also proposed that a site visit be held at the same time.

## **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 facilitates 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.

## **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 Yákwewkwioose 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.

**Taku River Tlingit First Nation**

*Wenah specific claim, British Columbia*

In June 2002, the First Nation requested that the Commission conduct an inquiry into this rejected claim involving the creation of a townsite on traditional Wenah lands. A planning conference was scheduled for December 2002, but was cancelled owing to Canada's decision not to participate in the inquiry because, it stated, the claim did not fit the criteria of the Specific Claims Policy.

The Commission convened a series of conference calls with the First Nation, Canada, and representatives from the Federal Treaty Negotiation Office. Once it was determined that the issues were not before the comprehensive claims negotiations table, the parties were informed in June 2003 that the inquiry would be continued. However, in September, Canada advised both the First Nation and the Commission that it would not participate because of its position that the claim was not within the Specific Claims Policy. A planning conference was held with the First Nation in January 2004 to determine the scope of the inquiry. A community session was held in May 2004, and oral arguments were made in August. The panel is now in deliberations.

**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

to Canada a claim 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 stalled.

**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 Tsaa 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 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**

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

In August 2003, two claimant First Nations of the Treaty 8 Tribal Association—the Blueberry River and Doig River First Nations—asked the Commission to conduct an inquiry into their claim, which alleges that Canada breached its legal and fiduciary obligations by agreeing to transfer a highway right of way within Fort St John IR 172 to the Province of British Columbia in 1934 without either their consent or compensation to them. The claim had been submitted in 1995 but had been neither accepted nor rejected by Canada. In November 2003, the Commission agreed to deem the claim to have been rejected, and accepted the request.

In November 2004, this claim was accepted by Canada for negotiation and the Commission's inquiry will be concluded.

The parties, however, have not agreed on the applicable compensation criteria, and a further inquiry has been

commenced. See **Blueberry River and Doig River**

**First Nations:** *Compensation criteria – Highway right of way – IR 172 claim, British Columbia* on page 36.

## **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.

In November 2003, the Commission agreed to the request. Canada has declined to participate. The Commission's inquiry continues.

## **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>1</sup>. By July 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.

## **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.

## **Williams Lake First Nation**

*Village site, British Columbia*

In June 2002, the Williams Lake First Nation requested that the Commission conduct an inquiry into this claim. It alleged that, by permitting third parties to pre-empt settlements that were occupied by the First Nation 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

<sup>1</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.

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 panel is now in deliberations.

**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 2004-2005

### MEDIATION AND FACILITATION

What you'll find in this section...

- 46 WHAT IS MEDIATION AND FACILITATION?**  
*Introduction and definitions*
- 46 MEDIATIONS AND FACILITATIONS COMPLETED IN 2004-2005**  
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- 48 SUMMARY OF SPECIFIC CLAIMS IN MEDIATION AND FACILITATION  
BETWEEN APRIL 1, 2004, AND MARCH 31, 2005**  
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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 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 since its creation in 1991. Since 1998, when it began to offer full negotiation services to specific claims negotiation tables, it has provided services on 42 files.

## MEDIATIONS AND FACILITATIONS COMPLETED IN 2004–2005

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, 2004 to March 31, 2005, the Commission completed five mediations. Reports on the ICC's mediation activities in each completed mediation will be issued in the next fiscal year. A summary of each follows.

### **1 Blood Tribe/Kainaiwa** *1889 Akers surrender, Alberta*

The subject of this claim was 440 acres given to David Akers in 1884 for homesteading. Officials of the day had determined that the lands were not part of the Blood Indian Reserve (IR) 48. When the land subsequently was proved to be part of the reserve, the Government of Canada took a surrender from the Blood Tribe in 1889.

In 1970, 219 of the 440 acres were returned to reserve status. In April 1995, the Blood Tribe filed claims alleging inappropriate compensation and invalid surrender. Later that year, Canada accepted the inadequate compensation claim but rejected the invalid surrender claim. Compensation negotiations for the lands were completed in 1996. In late 1996, the Blood Tribe requested that the Commission review the rejected portion of the claim—that is, the validity of the surrender. By April 1998, during the course of the inquiry, Canada reviewed its position on this issue and subsequently accepted it for negotiation on the basis that it was a legally invalid surrender.

The Commission provided facilitation and mediation services at the negotiation table and coordinated loss-of-use studies. A final agreement was reached between the parties in mid-2003. In September 2003, the settlement agreement which provided \$3,550,000 in compensation was initialled by two of the Tribe's councillors and the federal negotiator. The Minister signed the settlement agreement in September 2003 and a community vote ratified the agreement in November 2003.

## 2 Chippewas of the Thames

*Clench defalcation, Ontario*

This claim dates back some 150 years to the mid-1800s. The Chippewas of the Thames claim that moneys owed to the First Nation from the sale of surrender lands were wrongfully appropriated around 1854 by Joseph Brant Clench, an officer with the Indian Department who had been appointed agent for the sale of lands in southern Ontario in 1845. The claim is referred to as the Clench Defalcation (*defalcation* is a legal term referring to misappropriation of trust funds or money held in a fiduciary obligation).

The claim was accepted for negotiation in June 2001, with negotiations getting under way in November of that year. After a series of meetings and exchanges of opinions regarding particular elements of the claim, Canada made an all-inclusive, global settlement offer in November 2002 which was accepted by the Chippewas of the Thames the following month. The parties immediately began the lengthy process of drafting a settlement agreement which was initialled by the Chief and Canada's negotiator in April 2004 and ratified by the First Nation in June. The final agreement, which provided \$15 million in compensation to the Chippewas of the Thames, was signed by the Minister of Indian Affairs in November 2004.

## 3 Keeseekoowenin First Nation

*1906 land claim, Manitoba*

This claim concerns a portion of IR 61A known to the First Nation as the "1906 lands," acquired by the Department of Indian Affairs in exchange for land surrendered in Riding Mountain IR 61, which is the Keeseekoowenin Band's main reserve. In 1906, these lands were wrongly included in a description of the Riding Mountain Forest Reserve established by the Dominion Forest Reserves Act. In 1935, Canada forcibly removed the First Nation from the 1906 lands when Riding Mountain National Park was established.

Negotiations began in 1997, but it wasn't until the April 2002 assignment of Canada's newest negotiation team that the Commission's mediation unit became involved. At the request of the negotiation table, the ICC agreed to participate as mediator-facilitator. Using a "shuttle mediation" approach (the mediator-facilitator meets with the negotiating parties individually to ascertain their positions and to determine whether a negotiated settlement is possible), the Commission was able to help the parties get past their difficulties and by March 2003 the table had agreed on the general principles of a settlement agreement.

The parties spent the next ten months discussing issues relating to the settlement and in September 2004 there was a ceremony at the Keeseekoowenin Reserve to initial the agreement. The referendum vote was held in November 2004 and a large majority of the band members voted to accept the settlement. The Minister of Indian Affairs signed the agreement, providing \$6,999,900.00 in compensation to the Band in March 2005.

## 4 Qu'Appelle Valley Indian Development Authority (QVIDA)

*Flooding claim, Saskatchewan*

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 to 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 Qu'Appelle Valley Indian Development Authority is a group of Saskatchewan First Nations pursuing claims against Canada for this flooding of their reserve lands. The claim was accepted for negotiation in 1999, and the Commission became involved as mediator-facilitator for the table in early 2000. At that point, QVIDA member First Nations included the Muscowpetung, Pasqua, Cowessess, Sakimay and Ochapowace First Nations. The Piapot and Kahkewistahaw First Nations were also members, active to varying degrees in the negotiations between Canada and QVIDA, though they had not yet had their flooding claims accepted for negotiation.

From the beginning, negotiations were tumultuous. The complexity of the issues, the number of participants and the changes in negotiating team members presented many challenges to the negotiating process. As a result, negotiations stalled at various points on important issues. In an attempt to work through most of these difficulties, the parties continued to meet, but made little progress. In the summer of 2003, the ICC proposed shuttle mediation (where the mediator meets separately with each party so that direct communication is only with the mediator who relays information, defines issues and suggests possible solutions as the participants remain in separate rooms) to explore the position of the parties. At the end of that process, Canada declared that there were several areas of impasse and there did not appear to be any chance

of achieving success negotiating at the large table. In August 2003, Canada gave QVIDA the required 90-day notice to cease negotiations, adding that it was prepared to enter into negotiations with individual First Nations who have an accepted claim.

The Commission has closed its file on the QVIDA negotiations and is poised to issue a mediation report. The Commission remains involved, however, with two First Nations who chose to negotiate directly with Canada. The Commission is acting as mediator-facilitator at these negotiation tables. For more information on the progress of these claim negotiations, see the summaries of the Muscowpetung First Nation flooding claim and Pasqua First Nation flooding claim in the following section.

## **5 Touchwood Agency** *Mismanagement claim, Saskatchewan*

This is a claim for compensation by a number of First Nation communities that had moneys diverted from their accounts over the years by their Indian agents. In 1998, the claim was submitted collectively by the five Touchwood Agency First Nations: Day Star, Fishing Lake, Gordon, Kawacatoose and Muskowekwan. Accepted for negotiation in March 1998, the First Nations and Canada began a process of joint research to resolve the claim.

Negotiations progressed steadily from 1998, but in September 2002 the parties reached an impasse on the compensable losses, and the Commission was asked to facilitate the negotiations. Generally, discussion focussed on issues such as individual vs collective losses, non-financial losses and bringing forward historical losses to present day values. By far the biggest issue, however, was determining the amount of the losses. The expert report had identified three categories of losses: identified losses, probable losses and potential losses, and even though both parties wanted to deal with the losses in a global matter, they simply could not reach agreement on a compensation amount to settle the claim.

Despite the best efforts of both parties, the issues could not be resolved and in March 2002, Canada advised that the negotiations were concluded without a satisfactory resolution. In August 2003, the Touchwood Agency Tribal Council asked the Indian Claims Commission to conduct an inquiry into the unresolved issues.

## **SUMMARY OF SPECIFIC CLAIMS IN MEDIATION AND FACILITATION BETWEEN APRIL 1, 2004 AND MARCH 31, 2005**

This section reports on the Commission's mediation activities in 2004-2005. The First Nation, the title of the claim, and the province in which it is situated are followed by a description of the issues, and the Commission's progress in each of the 16 files during the year.

### **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.

Land appraisals are currently being conducted and the parties are engaged in discussions surrounding the approach to valuing economic losses.

### **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. The table is currently waiting for a review of the first bundle of claims (the surrenders of 1904, 1905, 1907, 1913 and 1914) by Canada.

### **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 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. Both parties will now seek internal approvals in order that a formal settlement can be reached.

### **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 the Department of Justice. Accepted by Canada for negotiation in July 2000, an agreement on compensation was reached in January 2002. To date, a number of outstanding issues are delaying the conclusion of this claim, most notably Canada's requirement for an environmental assessment and clean-up of the lands.

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 were ready for submission; 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; the Department of Justice is working on an opinion on the Neebing claim; and the First Nation will be working on the water issue in the next fiscal year.

The ICC is also assisting the First Nation and Canada as they negotiate Fort William's boundary claim. The Commission is participating as study coordinator, working as a liaison between the negotiation table and independent consultants hired to undertake a number of 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, these studies were nearing completion.

### **Gordon First Nation**

*Treaty land entitlement, Saskatchewan*

This 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 of 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. Negotiations began in July of 2004 with participation in the TLE Common Table and are continuing (see page 51).

### **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, three have been resolved through administrative referral and 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*

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 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.

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

*Toronto Purchase claim, Ontario*

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 of 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 2005, Canada and the Mississaugas of the New Credit First Nation are engaging in ongoing discussions regarding compensation.

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

*Culbertson Tract, Ontario*

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 now within the original Mohawk Tract granted to and reserved for the Six Nations by the Simcoe Deed, also known as Treaty No. 3<sup>1/2</sup>, 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.

## **Muscowpetung First Nation**

*Flooding claim, Saskatchewan*

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.

During the past fiscal year, the First Nation has begun to conduct loss-of-use studies in order to assess past damages. At the same time, the parties, along with the Province of Saskatchewan negotiated a one-year interim agreement allowing the continued operation of the water control structure. Discussions in the six-month period ending in March 2005 focussed on a two year interim operations agreement.

## **Muskoday First Nation**

*Treaty land entitlement, Saskatchewan*

This 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 of 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 of 2004 with participation in the TLE Common Table and are continuing (see next page).

**Nekaneet First Nation**

*Treaty benefits, Saskatchewan*

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. Since that time the table has come to agreement on a negotiation protocol, signed a mediation-facilitation agreement with the Commission, and started discussing an approach to valuing the loss of agricultural benefits.

**Pasqua First Nation**

*Flooding claim, Saskatchewan*

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 a one-on-one basis. The Commission is at the table as mediator-facilitator.

Negotiations at this table have two goals. The first goal is to settle the claim for damages from the time the dams were constructed to the present. The second is to reach an agreement permitting Canada and the Province of Saskatchewan to enter onto First Nation lands to operate the water-control structures. A one-year interim agreement was reached for 2004 and a second two-year agreement has been finalized permitting continued operations in 2005 and 2006. The Pasqua First Nation, Saskatchewan and Canada have been working towards extending the tripartite interim agreement to allow structure operations to continue.

**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.

**Sturgeon Lake First Nation**

*Treaty land entitlement, Saskatchewan*

In March of 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 of 2004.

**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 of the Gordon First Nation, Mukoday First Nation and Sturgeon Lake First Nation. The Pasqua First Nation was allowed a seat at this table as an observer because although they have submitted a similar claim, it has not yet been accepted. The common issues discussed and resolved at this table were: residency requirement, post-1951 late additions, and the determination of the number of individuals with scrip in their backgrounds. These issues were resolved in December of 2004.





## ICC CONCLUDED INQUIRIES AND MEDIATIONS

What you'll find in this section...

- 54 **ICC CONCLUDED INQUIRIES AND MEDIATIONS**  
*Table providing information on the status of each claim ICC has completed*
- 65 **ICC CONCLUDED INQUIRIES AND MEDIATIONS INDEX: PROVINCIAL**  
*Index of all concluded inquiries and mediations, grouped by province*
- 68 **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 recommendation to government made by the Commission once its inquiry process was completed or it had completed 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 found in the last column.

## ICC CONCLUDED INQUIRIES AND MEDIATIONS AS OF MARCH 31, 2005

Name of First Nation and Province Type or title of claim ICC's recommendation to Canada	Date and Type of ICC Report	Date of Canada's Response (Acceptance/Settlement/Other) Nature of Response from Canada to ICC's Recommendation
1 Alexis, AB TransAlta Utilities rights of way <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2003	No response from government.
2 Athabasca Chipewyan, AB 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 Athabasca Denesuliné, SK Aboriginal and treaty harvesting rights north of 60 <sup>th</sup> parallel <i>Recommended government acknowledge treaty rights</i>	Inquiry December 1993 Supplementary report November 1995	In August 1994, government rejected recommendations made in December 1993 report. No response to November 1995 supplementary report.
4 Bigstone Cree Nation, AB Treaty land entitlement <i>Accepted with assistance of Commission</i>	Inquiry March 2000	In October 1998, government accepted claim for negotiation.

Name of First Nation and Province Type or title of claim <i>ICC's recommendation to Canada</i>	Date and Type of ICC Report	Date of Canada's Response ( <i>Acceptance/Settlement/Other</i> ) Nature of Response from Canada to ICC's Recommendation
5 <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.
6 <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.
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 report in progress	Settled in September 2003 for \$3,550,00 in compensation.
9 <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 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”
10 <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	Settled in June 1997 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.
11 <b>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	No response from government.



<b>Name of First Nation and Province</b> <b>Type or title of claim</b> <i>ICC's recommendation to Canada</i>	<b>Date and Type of ICC Report</b>	<b>Date of Canada's Response (<i>Acceptance/Settlement/Other</i>)</b> <b>Nature of Response from Canada to ICC's Recommendation</b>
<b>12 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>13 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>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.
<b>15 Chippewa Tri-Council, ON</b> Collins Treaty <i>Accepted with assistance of Commission</i>	Inquiry March 1998	Settled December 1998 for \$565,000 in federal compensation.
<b>16 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.
<b>17 Chippewas of the Thames, ON</b> Clench defalcation <i>Settled with assistance of Commission</i>	Mediation report in progress	Settled November 2004 for \$15 million in federal compensation.
<b>18 Chippewas of the Thames, ON</b> Muncey land claim <i>Settled with assistance of Commission</i>	Inquiry December 1994	Settled January 1995 for \$5,406,905 in federal compensation.



<b>Name of First Nation and Province</b> <b>Type or title of claim</b> <i>ICC's recommendation to Canada</i>	<b>Date and Type of ICC Report</b>	<b>Date of Canada's Response (Acceptance/Settlement/Other)</b> <b>Nature of Response from Canada to ICC's Recommendation</b>
<b>19 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	Settled March 2002 for \$25.5 million in federal compensation.
<b>20 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 recommendations of March 2001 report, but will proceed to phase II of this inquiry as previously agreed upon by the parties.
<b>21 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.
<b>22 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.
<b>23 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".
<b>24 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.
<b>25 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	No response from government.

<b>Name of First Nation and Province</b> <b>Type or title of claim</b> <i>ICC's recommendation to Canada</i>	<b>Date and Type of ICC Report</b>	<b>Date of Canada's Response (Acceptance/Settlement/Other)</b> <b>Nature of Response from Canada to ICC's Recommendation</b>
<b>26 Fishing Lake, SK</b> 1907 surrender <i>Accepted with assistance of Commission</i>	Inquiry March 1997	In August 1996, government accepted claim for negotiation after considering evidence revealed during ICC community session.
<b>27 Fishing Lake, SK</b> 1907 surrender <i>Settled with assistance of Commission</i>	Mediation March 2002	Settled August 2001 for \$34.5 million in federal compensation.
<b>28 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”.
<b>29 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.
<b>30 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”.
<b>31 Gamblers, MB</b> Treaty land entitlement <i>Outstanding treaty land entitlement, if any, should be calculated based on an 1877 date of first survey</i>	Inquiry October 1998	In November 1998, government accepted claim for negotiation.
<b>32 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 recommendations made in December 1995 report.

Name of First Nation and Province Type or title of claim <i>ICC's recommendation to Canada</i>	Date and Type of ICC Report	Date of Canada's Response ( <i>Acceptance/Settlement/Other</i> ) Nature of Response from Canada to ICC's Recommendation
33 James Smith, SK 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.
34 James Smith, SK Chakastaypaysin IR 98 <i>Recommended that the claim be accepted for negotiation</i>	Inquiry March 2005	No response from government.
35 Joseph Bighead, SK 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.
36 Kahkewistahaw, SK Treaty land entitlement <i>Recommended claim not be accepted for negotiation</i>	Inquiry November 1996	No substantive response from government required.
37 Kahkewistahaw, SK 1907 reserve land surrender <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1997	In December 1997, government accepted claim for negotiation.
38 Kahkewistahaw, SK 1907 surrender <i>Settled with assistance of Commission</i>	Mediation February 2003	Settled November 2002 for \$94.65 million in federal compensation.
39 Kawacatoose, SK Treaty land entitlement <i>Recommended that government owed a shortfall of 8,576 acres to Band, subject to confirming research</i>	Inquiry March 1996	Settled October 2000 for \$23 million in federal compensation.
40 The Key, SK 1909 surrender <i>Recommended claim not be accepted for negotiation</i>	Inquiry March 2000	No substantive response from government required.

Name of First Nation and Province Type or title of claim <i>ICC's recommendation to Canada</i>	Date and Type of ICC Report	Date of Canada's Response ( <i>Acceptance/Settlement/Other</i> ) Nature of Response from Canada to ICC's Recommendation
41 Keeseekoowenin, MB 1906 land claim <i>Settled with assistance of Commission</i>	Mediation report in progress	Settled March 2005 for \$6,999,900 in compensation.
42 Lac La Ronge, SK Treaty land entitlement <i>Recommended claim not be accepted for negotiation</i>	Inquiry March 1996	No substantive response from government required.
43 Lax Kw'alaams, BC 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 made in June 1994 report: "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 ...".
44 Long Plain, MB Loss of use of treaty entitlement land <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2000	In August 2000, government stated that it was not in a position to accept or reject the Commission's recommendations on basis that the Commission did not address the implications of <i>Venne</i> .
45 Lucky Man, SK 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.
46 Mamaleqala Qwe'Qwa'Sot'Enox, BC McKenna-McBride applications <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1997	In December 1999, government rejected recommendations made in March 1997 report.
47 Micmacs of Gesgapegiag, QC Pre-Confederation claim to 500-acre island <i>No substantive recommendations made because government agreed to reconsider merits of claim</i>	Inquiry December 1994	No response required from government. In March 1995, government acknowledged receipt of report and advised claim was in abeyance pending outcome of related court case.



Name of First Nation and Province Type or title of claim <i>ICC's recommendation to Canada</i>	Date and Type of ICC Report	Date of Canada's Response ( <i>Acceptance/Settlement/Other</i> ) Nature of Response from Canada to ICC's Recommendation
48 Mikisew Cree, AB Economic benefits under Treaty 8 <i>Accepted with assistance of Commission</i>	Inquiry March 1997	In December 1996, government accepted claim for negotiation.
49 Mississaugas of the New Credit, ON Toronto Purchase <i>Accepted with assistance of Commission</i>	Inquiry June 2003	No response required from government. In July 2002, Government accepted claim for negotiation.
50 Mistawasis, SK 1911, 1917, and 1919 surrenders <i>Accepted with assistance of Commission</i>	Inquiry March 2002	Settled September 2001 for \$16.3 million in federal compensation.
51 Moose Deer Point, ON Pottawatomi rights <i>Recommended additional research</i>	Inquiry March 1999	In March 2001, government rejected recommendations made in March 1999 report.
52 Moosomin, SK 1909 reserve land surrender <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1997	In December 1997, government accepted claim for negotiation.
53 Moosomin, SK 1909 reserve land surrender <i>Settled with assistance of Commission</i>	Mediation March 2004	Settled September 2003 for \$41 million in federal compensation.
54 Muscowpetung, SK QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
55 Nak'azdli, BC Aht-Len-Jees IR 5 and Ditchburn-Clark Commission <i>Accepted with assistance of Commission</i>	Inquiry March 1996	In January 1996, government accepted claim for negotiation.

Name of First Nation and Province Type or title of claim <i>ICC's recommendation to Canada</i>	Date and Type of ICC Report	Date of Canada's Response ( <i>Acceptance/Settlement/Other</i> ) Nature of Response from Canada to ICC's Recommendation
56 <b>Namgis, BC</b> Cormorant Island <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1996	In May 2001, government rejected recommendations made in March 1996 report.
57 <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 recommendations made in February 1997 report.
58 <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.
59 <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.
60 <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.
61 <b>Peepeekisis, SK</b> File Hills Colony <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2004	No response from government.
62 <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.
63 <b>Qu'Appelle Valley Indian Development Authority</b> (Cowessess, Kahkewistahaw, Muscowpetung, Ochapowace, Pasqua, Piapot, Sakimay), SK Flooding claim <i>Mediation unable to resolve issues; separate negotiations ongoing with Cowessess, Muscowpetung, Pasqua</i>	Mediation report in progress	No substantive response from government required.

<b>Name of First Nation and Province</b> <b>Type or title of claim</b> <i>ICC's recommendation to Canada</i>	<b>Date and Type of ICC Report</b>	<b>Date of Canada's Response (<i>Acceptance/Settlement/Other</i>)</b> <b>Nature of Response from Canada to ICC's Recommendation</b>
<b>64 Roseau River Anishinabe, MB</b> Medical aid <i>Recommended claim be accepted for negotiation</i>	Inquiry February 2001	In September 2003, government rejected recommendation made in February 2001 report.
<b>65 Roseau River Anishinabe, MB</b> Treaty land entitlement <i>Settled with assistance of Commission</i>	Mediation March 1996	Settled March 1996 for \$14 million in federal compensation.
<b>66 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
<b>67 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.
<b>68 Standing Buffalo, SK</b> QVIDA flooding claim <i>Settled with assistance of Commission</i>	Mediation March 2004	Settled March 2003 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.
<b>69 Sturgeon Lake, SK</b> Red Deer Holdings agricultural lease <i>Accepted with assistance of Commission</i>	Inquiry March 1998	Settled October 1998 for \$190,000 in federal compensation.
<b>70 Sumas, BC</b> IR 6 railway right of way <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1995	In December 1995, government rejected recommendations made in February 1995 report on grounds that claim involved issues before the courts in other cases.
<b>71 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.
<b>72 Thunderchild, SK</b> 1908 surrender <i>Settled with assistance of Commission</i>	Mediation March 2004	Settled September 2003 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.

<b>Name of First Nation and Province</b> <b>Type or title of claim</b> <i>ICC's recommendation to Canada</i>	<b>Date and Type of ICC Report</b>	<b>Date of Canada's Response (<i>Acceptance/Settlement/Other</i>)</b> <b>Nature of Response from Canada to ICC's Recommendation</b>
<b>73 Touchwood Agency, SK</b> Mismanagement (1920-24) claim <i>Mediation unable to resolve issues, Agency requested ICC inquiry</i>	Mediation report in progress	No substantive response from government required.
<b>74 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 required from government.
<b>75 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”.
<b>76 Young Chipeewayan, SK</b> Stoney Knoll IR No. 107 <i>Recommended that claim not be accepted for negotiation but that further research be undertaken regarding the surrender proceeds</i>	Inquiry December 1994	February 1995: funding proposal submitted by Band for research and consultation under consideration by Department of Indian Affairs and Northern Development.



## 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, WAC Bennett Dam and damage to IR 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 report in progress]

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, Economic benefits under Treaty 8, March 1997

### **British Columbia**

Esketemc First Nation, Indian Reserves 15, 17 & 18, November 2001

Homalco Indian Band, Aupe Indian Reserves No. 6 & 6A, December 1995

Lax Kw'alaams Indian Band, Demand for absolute surrender as precondition to settlement, June 1994

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

Nak'azdli First Nation, Aht-Len-Jees IR 5 and Ditchburn-Clark Commission, March 1996

'Namgis First Nation, Cormorant Island, March 1996

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

Sumas Indian Band, IR No. 6 railway right of way, February 1995

Sumas Indian Band, 1919 surrender of IR 7, August 1997

### **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 report in progress]

Long Plain First Nation, Loss of use, March 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 report], March 1996

### **New Brunswick**

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

### **Ontario**

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

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

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

Chippewas of the Thames First Nation, Clench defalcation, March 2002

Chippewas of the Thames First Nation, Clench defalcation, [Mediation report in progress]

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 Denesuliné, Aboriginal and treaty harvesting rights north of the 60<sup>th</sup> parallel, December 1993

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

Canoe Lake Cree Nation, Primrose Lake Air Weapons Range II, 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 claim, February 1998

Cumberland House Cree Nation, IR 100A, March 2005

Fishing Lake First Nation, 1907 surrender, March 1997

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

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

James Smith Cree Nation, Chakastaypasin IR 98, March 2005

James Smith Cree Nation, IR 100A, March 2005

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

Kahkewistahaw First Nation, Treaty land entitlement, November 1996

Kahkewistahaw First Nation, 1907 reserve land surrender, February 1997

Kahkewistahaw First Nation, 1907 surrender, [Mediation report], January 2003

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 report], March 2004

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

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

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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 claim, [Mediation report in progress]

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

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

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

Thunderchild First Nation, 1908 surrender, [Mediation report], 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 report in progress]

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

Young Chipeewayan First Nation, Stoney Knoll IR No. 107, December 1994

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

### Treaty Rights

Athabasca Chipewyan First Nation, AB, WAC Bennett Dam and damage to IR 201, March 1998

Athabasca Denesuliné, SK, Aboriginal and treaty harvesting rights north of the 60<sup>th</sup> parallel, 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

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

Mikisew Cree First Nation, AB, Economic benefits under Treaty 8, March 1997

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### Fiduciary Duty

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Athabasca Chipewyan First Nation, AB, WAC Bennett Dam and damage to IR 201, March 1998

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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 claim, 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 & 18, November 2001

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Sumas Indian Band, BC, IR No. 6 railway right of way, February 1995

Sumas Indian Band, BC, 1919 surrender of IR 7, August 1997

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

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

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#### **Rights of Way**

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

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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, Economic benefits under Treaty 8, March 1997

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

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

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

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

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Young Chippewyan First Nation, SK, Stoney Knoll IR No. 107, December 1994

#### **Surrender**

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

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

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

Chippewas of the Thames First Nation, ON, Clench defalcation, March 2002

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

Cowessess First Nation, SK, 1907 surrender, March 2001

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Walpole Island First Nation, ON, Boblo Island, May 2000

#### **Treaty Land Entitlement**

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Fort McKay First Nation, AB, Treaty land entitlement, December 1995

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

Long Plain First Nation, MB, Loss of use, March 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

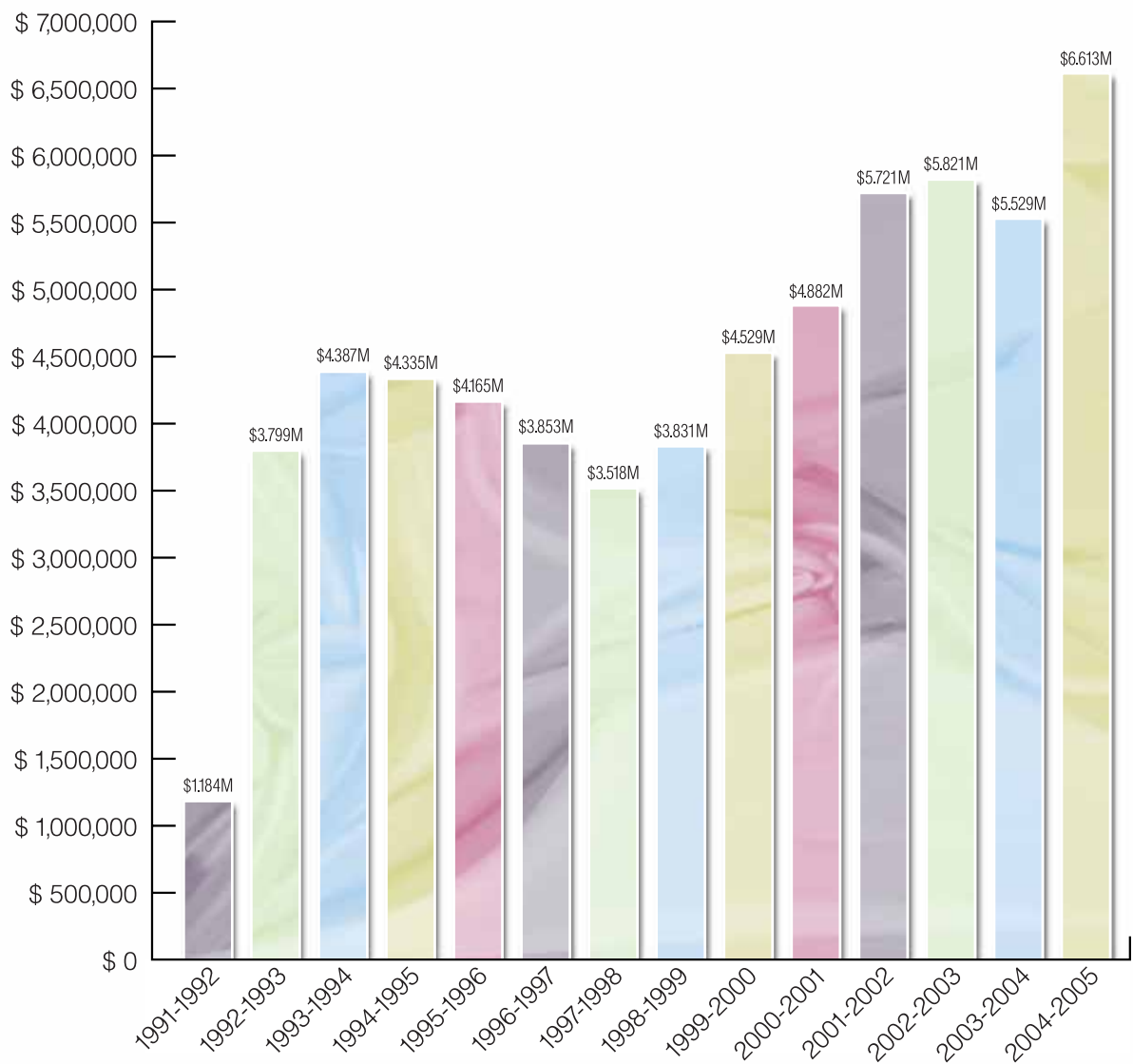


## FINANCIAL INFORMATION

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 2004-2005, the Commission's activities increased in both inquiries and mediation. These activities resulted in expenditures of \$6,613 million. Of this amount, \$3,384 million was for salaries and benefits and \$3,229 million was for other operating costs.

### Yearly Expenditures Synopsis - 1991-2005



## IN FACT ...

Some little known facts about the Indian Claims Commission from the 2004-2005 reporting period:

- 25 **First Nation communities were visited, with a total population of 39,134 members in 4 provinces**
- 5,333 **kilometres is the greatest distance travelled by the ICC to reach a First Nation community**
- 124 **days were spent in mediation/facilitation/negotiation meetings**
- 7 **new requests for inquiry were received**
- 6 **new requests for mediation were received**
- 82 **requests for information were received**
- 298 **requests for publications were received**
- 3 **inquiries were completed in 2004-2005, affecting a total of 3,700 First Nations people**
- 5 **mediations were completed in 2004-2005, affecting a total of 31,602 First Nations people**
- 91,710 **website hits were counted**
- 495 **information kits were distributed**
- 4,669 **copies of *Landmark*, the ICC's newsletter, were distributed**
- 155 **copies of the ICC's annual reports were distributed**

## HOW TO CONTACT US

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