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Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

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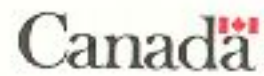
Mr. Daniel J. Bellegarde
Mr. James Prentice
Co-Chairs of the Indian
Claims Commission
P.O. Box 1750, Station B
OTTAWA ON K1P 1A2

Dear Commissioners:

Thank you for providing me with a copy of the Indian Claims Commission's December 1995 report on its inquiry into the Homalco First Nation's Aupe Indian Reserve No. 6 and No. 6A claim. I apologize for the lengthy delay in responding to the Commission's report, however the report raised a number of complex issues for Canada's consideration which required a thorough review.

As you will recall, there were three issues before the Commission in this claim: (1) whether Canada breached a lawful obligation by failing to resolve an acreage discrepancy which occurred during the course of the reserve allotment process; (2) whether Canada had an obligation to acquire additional reserve acreage for the Homalco Band when it was requested by the Band in 1907; and (3) whether Canada had an obligation to protect the Band's settlement lands from a 1910 pre-emption claim by the Band school teacher, William Thompson.

I note that, in effect, the Commission recommended that Canada accept only the third of these issues for negotiation pursuant to the Specific Claims Policy. After careful consideration of the Commission's report, however, I regret to advise that I am unable to accept this recommendation. In Canada's view, the fact that the lands at issue in this claim were alleged to be Indian settlement lands and not reserve land places the Commission's recommendation outside the scope of current Specific Claims Policy dealing with fraud perpetrated by federal employees or agents. Furthermore, with respect to the Commission's findings on the issue of Canada's alleged fiduciary duty to protect Indian



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settlement lands, Canada does not agree that on the facts of this case it had a fiduciary duty to the Homalco Band to protect its traditional lands from the actions of the Band teacher. Canada's position remains that there is no general undertaking to protect lands that may be subject to an Indian interest, nor does Canada recognize a general duty to protect traditional Indian lands (as distinct from reserve lands) from the actions of others.

I regret that my response could not be more positive, however, I wish to thank the Indian Claims Commission for its thoughtful consideration of this claim.

Yours sincerely,

A handwritten signature in blue ink that reads "Jane Stewart".

Jane Stewart, P.C., M.P.

c.c.: Chief Richard Harry