



2008|2009

Annual Report



Indian Claims Commission

INDIAN CLAIMS COMMISSION
ANNUAL REPORT 2008-2009

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TO HER EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL



MAY IT PLEASE YOUR EXCELLENCY

In 2008-2009, the Indian Claims Commission completed 7 inquiries and released 9 inquiry reports. The Commission worked on 12 mediation files and issued 5 mediation reports. This report is the last Annual Report of the Commission and marks the end of its 18 years of work on March 31, 2009. This report summarizes our major achievements and activities in relation to specific claims last year.

Yours truly,

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

Renée Dupuis, C.M., *Ad.E.*
Chief Commissioner

March 2009



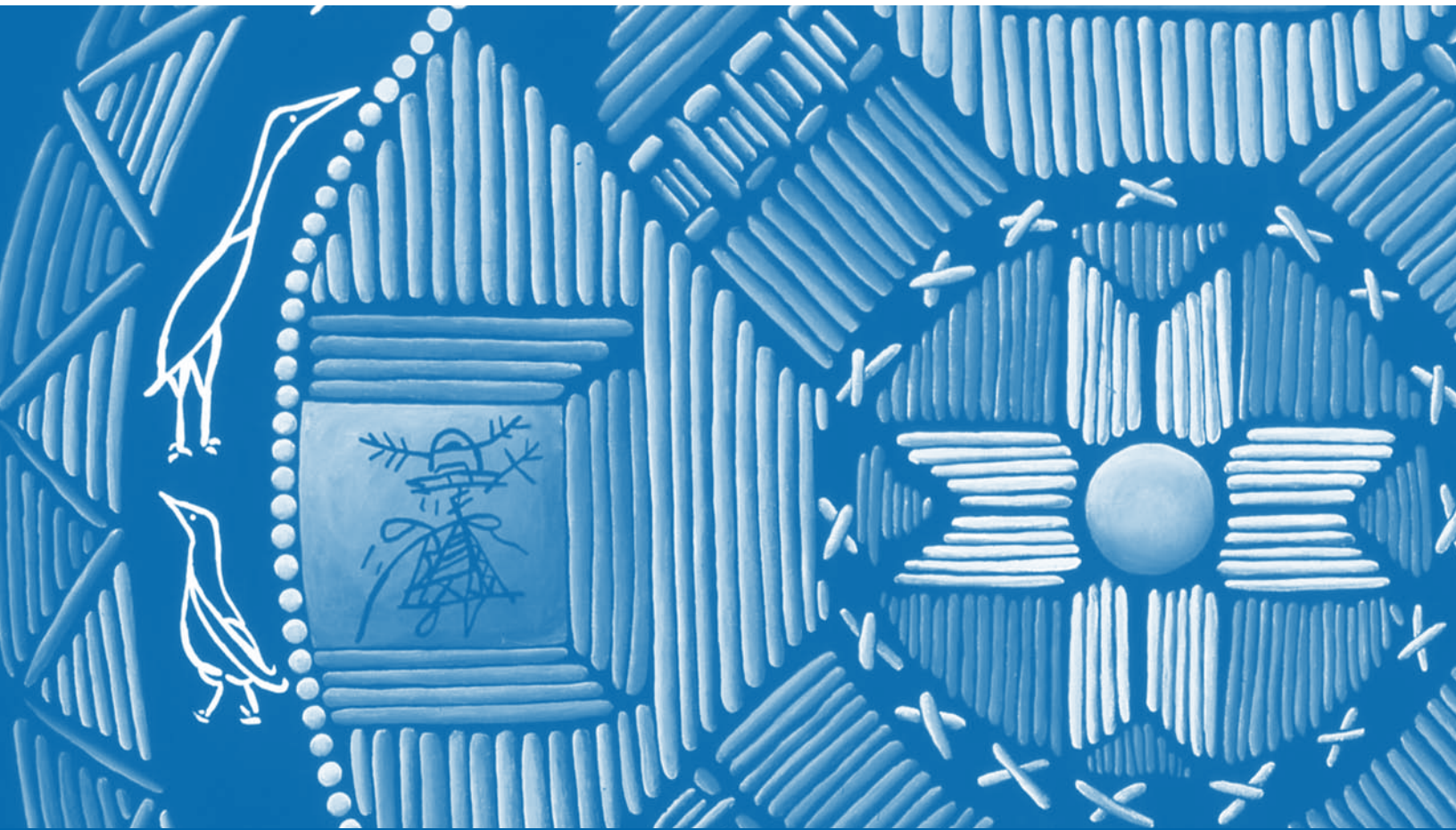
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INTRODUCTION

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- 1 Message from the Chief Commissioner**
Opening remarks from the Chief Commissioner
- 3 Order in Council November 22, 2007 (P.C. 2007-1789)**
Mandate change regarding closure
- 4 What's in the Report**
Describes what you'll find in this report



Message from the Chief Commissioner

By Order in Council, the Indian Claims Commission formally closed its doors on March 31, 2009, after 18 years of operation, a unique phenomenon in the history of inquiry commissions in Canada. The ICC faced particular management challenges; although it was officially an interim process, the ICC increasingly had to operate as a permanent program. All Commissioners welcome the new Specific Claims Tribunal, a response to several Commission recommendations over the years. We wish them success, in the interest of all Canadians.

This last year, the Commission finished 7 inquiries and published 9 inquiry reports; in the area of mediation, the ICC worked on 12 files and released 5 reports, for a grand total, over the 18 years of its existence, of 88 inquiries with reports and 17 mediation reports.

We are proud of our achievements.

Some important principles guided our work from the beginning, and these principles were integral to our operations until the end. The first principles were independence and impartiality, respected throughout the years of the ICC's existence in each step of the inquiry process for every file.

With regard to mediation, there were no more important qualities than impartiality and independence as we attempted to bring parties together to reach a satisfactory agreement. Without these qualities, our attempts would have been fruitless.

The second group of principles cover fairness and natural justice. In some cases, our inquiry process presented the first opportunity for the parties to meet. Moreover, our inquiries were a quasi-judicial process and fairness was paramount.

Respect was a key factor here, respect of tradition and history and of different ways of relating to past events and records. Our process was community based. We engaged the parties in planning the inquiries, following which staff visited the communities to explain our process and to interview Elders. Panels of Commissioners then held public hearings in the communities. Finally, the Elders' evidence and documentary evidence were the subject of written submissions by counsel for the parties, followed by oral presentations grounded in evidence and in law. Panels subsequently deliberated to produce their reports and recommendations.

Throughout its existence, the Commission stressed the importance of oral history. We meticulously collected oral history relevant to our inquiries, according particular importance to the testimony of First Nation Elders. This was a unique contribution of the ICC and it benefitted both First Nations and Canadians in general. The Supreme Court of Canada has recognized the importance of according equal weight to oral testimony with any other form of evidence.



Openness and transparency were key. We communicated through a variety of means including our Web site, newsletters, participation in conferences and meetings as well as through inquiry, mediation and annual reports along with our Indian Claims Commission Proceeding (ICCP). We marked the Commission's 15th anniversary in 2006 by issuing a Special Report that compiled summaries of all the Commission's inquiry and mediation reports as well as an index of key words used in the reports. There is an update with each new ICC report; this is a reference tool that will be useful for researchers, the new Tribunal and new mediation services, as well as the general public. We travelled to the communities to ensure that distance was not a barrier to hearing or to being heard.

We see our role as having bridged different perspectives. Different perspectives will continue to characterize the specific claims process in Canada for some time to come and this concept of bridging will remain critical for the new Tribunal.

We close our doors believing that a strong contribution has been made and that our experience will influence in a positive way the course that will be steered for specific claims in the future. As Chief Commissioner of the ICC since June 2003, I continued the work carried out by those who came before me, and it was an honour to serve in this capacity.

I would like to thank the Commissioners for their cooperation and continued support. I would also like to thank the employees for supporting us in our work.

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



The Order in Council

P.C. 2007-1789



PRIVY COUNCIL

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by Her Excellency the Governor General on the 22nd day of November, 2007

The Committee of the Privy Council, on the recommendation of the Prime Minister, advises that a Commission do issue under Part I of the *Inquiries Act* and the Great Seal of Canada to amend the Commission issued pursuant to Order in Council P.C. 1991-1329 of July 15, 1991, as amended, by adding the following paragraphs at the end of the Commission:

(iii) to not accept or undertake new inquiries into specific claims as of the day on which the Bill entitled the *Specific Claims Tribunal Act* is tabled in the House of Commons,

(iv) as of the day on which the Bill entitled the *Specific Claims Tribunal Act* is tabled in the House of Commons, to cease all activities on inquiries that are currently before the Commission, except for those inquiries for which dates for the community sessions have already been scheduled or the community sessions have been completed or final legal submissions, either written or oral, have been completed, to notify in writing the affected First Nations of the cessation of their inquiries and to return all documents filed for the inquiries by the affected First Nations,

(v) subject to paragraph (vi), to complete, by December 31, 2008, all inquiries, including the reports related to such inquiries, that are currently before the Commission, and in respect of which dates for the community sessions have already been scheduled or community sessions have been completed or final legal submissions, either written or oral, have been completed,

(vi) to immediately cease an inquiry and not issue a report, on written request to the Commission by the claimant First Nation,

(vii) to cease, by March 31, 2009, all their activities and all activities of the Commission, including those related to mediation, and

(viii) to submit a final annual report to the Governor in Council by March 31, 2009.

CERTIFIED TO BE A TRUE COPY-COPIÉ CERTIFIÉ CONFORME

CLERK OF THE PRIVY COUNCIL-LE GREFFIER DU CONSEIL PRIVÉ



What's in the Report

This report of the Indian Claims Commission describes the work of the Commission from April 1, 2008, to March 31, 2009. It focuses on the Commission's achievements and its contribution to the settlement of specific claims that have been rejected by Canada and then submitted by First Nations to the Commission for inquiry.

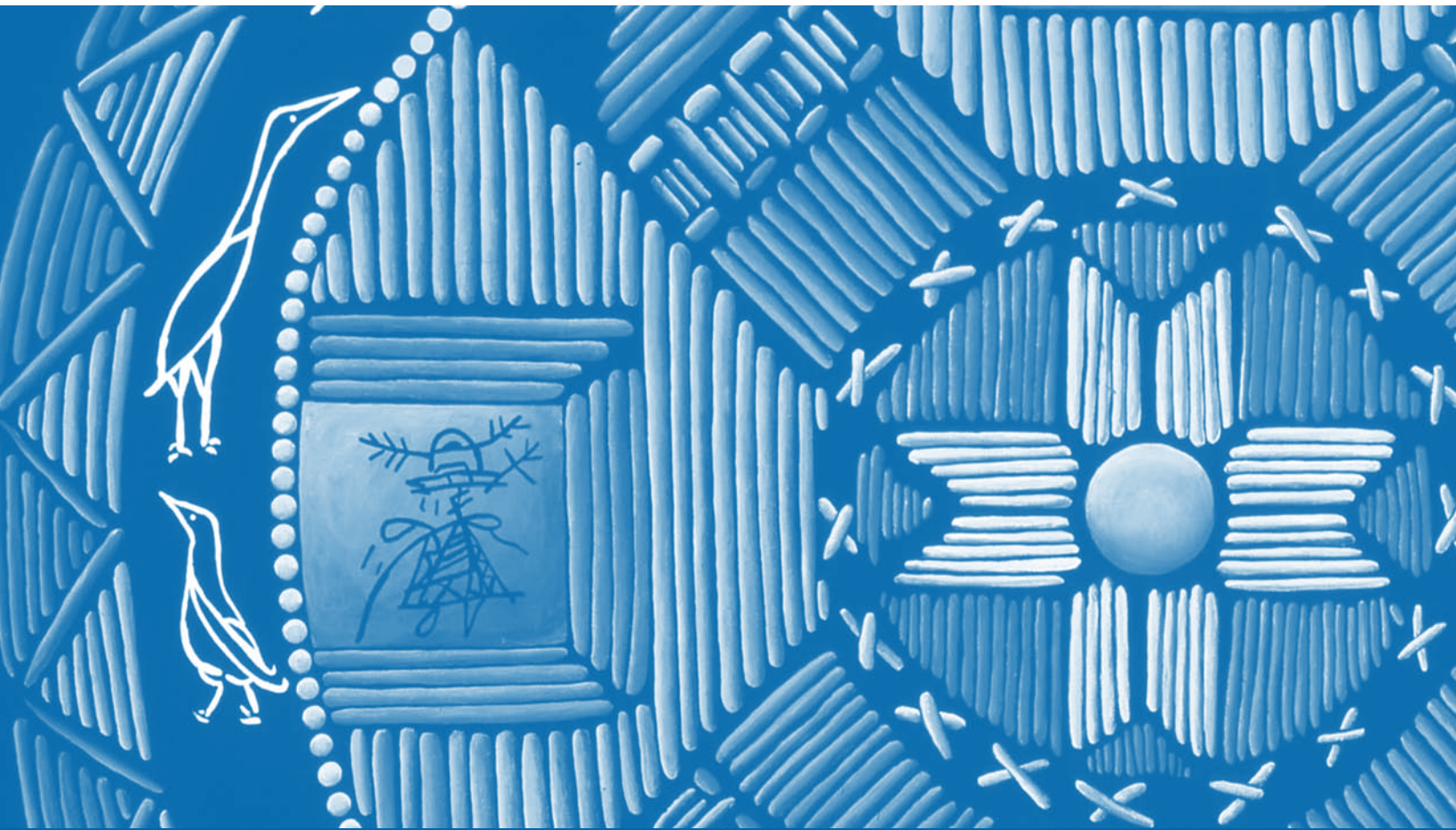
The **Introduction** includes a message from Chief Commissioner Renée Dupuis. This is followed by an overview. The next section outlines the mandate and organizational structure of the Commission; provides a brief history of the Commission and specific claims; and includes biographical sketches of the Commissioners. It is followed by **What We Did**, the section that constitutes the core of the report, setting out the status of all claims on which the Commission worked since its inception.

The focus of the report is the summary of claims, either in inquiry or in mediation/facilitation. It is followed by a table of claims addressed by the ICC.

The inquiries or mediations completed in 2008-2009 are listed first so that the reader can quickly focus on work done by the Commission over the reporting year. They are followed by summaries of other inquiries and mediations. The Claims Addressed in Inquiries and Mediations Concluded with Reports table tracks the progress of each claim, once the Commission has completed its inquiry or provided mediation/facilitation services.

Three indexes follow this table. The first is an index of all the claims the ICC has addressed, presented by province. The second index lists claims addressed in inquiries, by theme. The third lists inquiries terminated prior to completion by Order in Council on November 22, 2007.





OVERVIEW

What you'll find in this section:

- 6 Overview**
Overview of the Commission

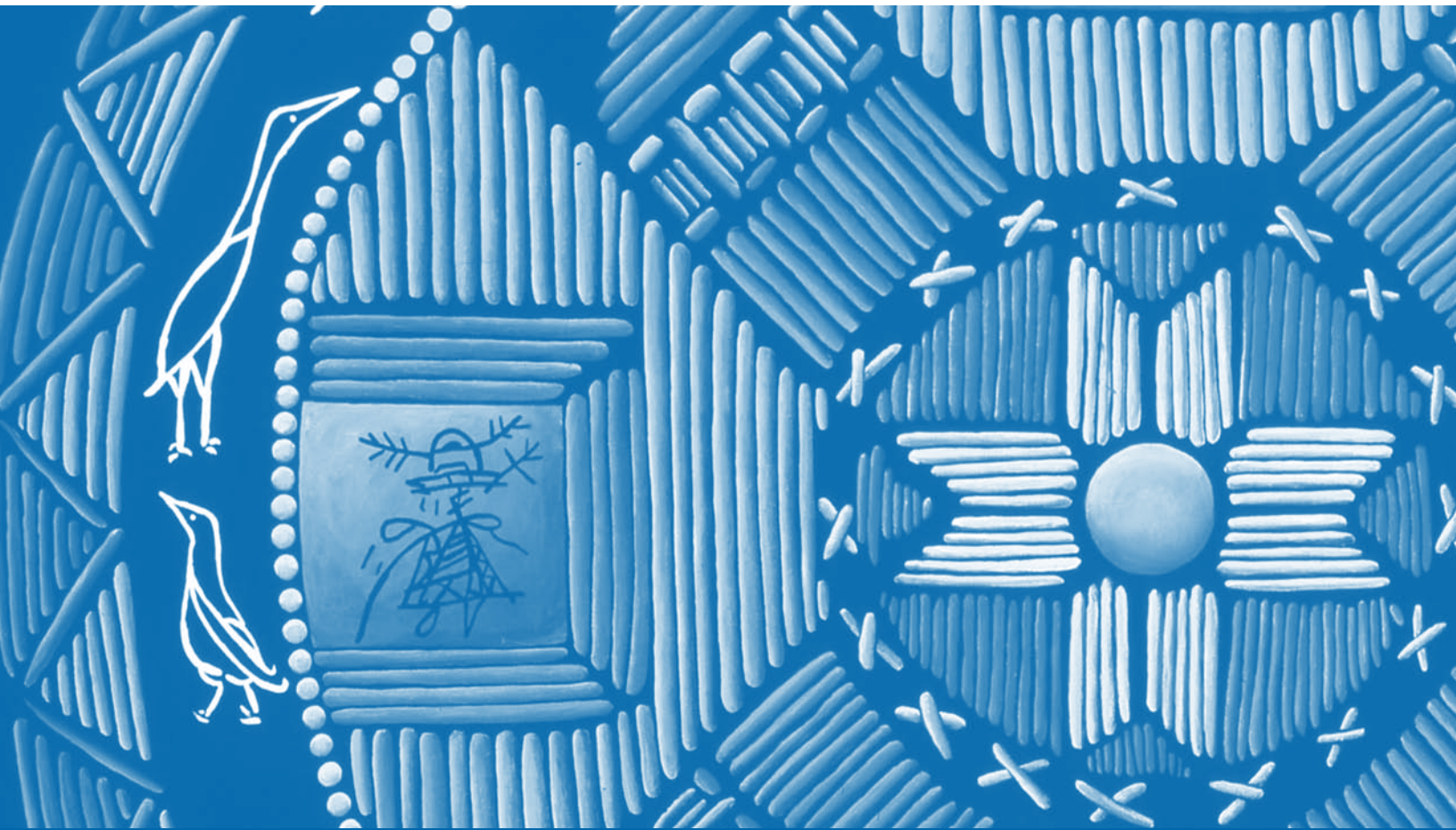
OVERVIEW

The long history of the claims process in Canada has been shaped by many events, some of which led directly to the creation of the Indian Claims Commission. Notably, the 1990 Kahnesatake/Oka crisis prompted the federal government to promise measures aimed at accelerating the settlement of specific claims. In 1991, the Indian Specific Claims Commission known as the Indian Claims Commission was created by Order in Council as a Commission of Inquiry under the *Inquiries Act*. The Order in Council noted that the Commission would be established as an interim process for the review of the government's application of the Specific Claims Policy. The creation of a permanent body has been the subject of joint government/First Nations working groups; and legislation creating such a body received Royal Assent in 2003 but was not proclaimed, leaving the ICC as the only alternative to litigation for First Nations who desired an independent review of the government's rejection of their specific claims. In November 2007, Bill C-30 was tabled, and adopted in June 2008 creating the Specific Claims Tribunal. The Commission completed all its inquiries by December 31, 2008, as per the Order mandating its closure at the latest by March 31, 2009.

Under its mandate, and until December 31, 2008, the Commission provided broad mediation/facilitation services, not just when a claim had been accepted for negotiation, but at any stage of the claims process. Since 1991, the Commission provided these services to Canada and First Nations. Our experience was that the use of mediation/facilitation services by the parties—be it before or after the acceptance of a claim by the Minister of Indian and Northern Affairs Canada—greatly increased the chance of a positive outcome in respect of any matter relating to a specific claim. Open discussion among the parties, in the presence of a neutral third party (the mediator) did a lot to promote a better understanding and relationship. In this atmosphere, settlements were easier to reach.

This last Annual Report does not include recommendations as they will be included in the ICC's final report to the Government.





THE ICC

What you'll find in this section:

8 Authority, Mandate and Operations

Information on ICC's mandate

9 History of the ICC and of Specific Claims in Canada

Chronology of specific claims in Canada from the 1700s to December 2008
Events leading to the creation of the ICC

15 The Commissioners

Biographical sketches of the Commissioner

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Organization chart of the ICC

Authority, Mandate and Operations

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

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

The Commission provided broad mediation and facilitation services at the request of both the First Nation and the Government of Canada. Together with the mediator, the parties decided how the mediation process was to be conducted. This method ensured that the process fit the unique circumstances of each particular negotiation.

The process used by the Commission for handling claims was aimed at increasing efficiency and effectiveness in resolving specific claims. There were five stages to the inquiry process (see page 35) and four stages in the mediation process (see page 47), which began when a request was received from a First Nation.

In November 2007, the Indian Claims Commission's mandate was amended by Order in Council (see page 3) to conclude the Commission's work on March 31, 2009. The changes were as follows:

- the Commission could not accept new claims for inquiry;
- it was directed to cease all activities on inquiries that had not yet reached the community session phase, or if requested to do so by the First Nation;
- it must complete all the inquiries, including the related reports, that have reached the community session phase by December 31, 2008;
- and cease all its activities, including those related to mediation, by March 31, 2009.



History of the ICC and of Specific Claims in Canada

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

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

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

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

The mandate of the Indian Claims Commission was to address disputes arising out of the specific claims process. This process was based on Canada’s 1973 Specific Claims Policy, outlined in a booklet called *Outstanding Business*, published in 1982.

During the Commission’s operation, under the government’s policy, First Nations researched and submitted specific claims to the government. The government then decided whether to accept a claim for compensation negotiations.

Negotiation of validated claims may have resulted in an offer of compensation to First Nations. However, concerns had been raised that restitution was restricted by government criteria that First Nations often believed to be unfair or applied in ways that were unfair.



For many years, First Nation and government negotiators attempted to put an end to deadlocked land claims, but there had been little progress. Negotiations were slow and difficult, and, until recently, relatively few settlements had been reached.

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 offered a fresh and positive approach for First Nations that desired an independent review of government decisions.

For many years, the Commission urged the federal government to create a permanent, independent claims body. On November 4, 2003, Parliament passed the *Specific Claims Resolution Act*, legislation to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims, but it was not proclaimed.

On June 12, 2007, Prime Minister Stephen Harper, accompanied by AFN National Chief Phil Fontaine and Jim Prentice, then Minister of INAC, held a press conference announcing Canada's Specific Claims Action Plan. The plan included the creation of a new tribunal staffed with impartial judges who would make final decisions on claims when negotiations fail, speed up the processing of small claims and improve flexibility in the handling of large claims.

In November 2007, by Order in Council, the Commissions' work was slated to end on March 31, 2009.

The *Specific Claims Tribunal Act* received Royal Assent on June 18, 2008, and on October 16, 2008, the Specific Claims Tribunal came into being.



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.

1850-1854

The Governor of Vancouver Island, James Douglas, makes a series of fourteen land purchases from Aboriginal peoples for colonial settlement and industry. The Douglas Treaties cover approximately 358 square miles of land around Victoria, Saanich, Sooke, Nanaimo and Port Hardy, all on Vancouver Island.

1850-1854

The three major Province of Canada Treaties are the two Robinson Treaties and the Manitoulin Island Treaty. The two Robinson Treaties are negotiated by ex-fur trader William Benjamin Robinson (1797 to 1873). Chief Peau de Chat and other Lake Superior chiefs sign the Robinson-Superior Treaty, September 7, 1850. Two days later, Chief Shinguaouse and other leaders from the Lake Huron region sign the Robinson-Huron Treaty, September 9, 1850.

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 eastern and southern Prairies. The treaties signed at this time, Treaty 1 to Treaty 7, are known as the Numbered Treaties.

1899-1921

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

1927

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



EVENTS LEADING TO THE CREATION OF THE COMMISSION

1948

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

1951

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

1961-65

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

1969

The White Paper states that "lawful obligations" should be recognized. The paper recommends the appointment of a Commissioner to recommend procedures for claims adjudication. Dr Lloyd Barber is appointed to consult and inquire into claims arising from treaties, formal agreements and legislation.

1973

The Supreme Court of Canada's decision in the *Calder* case leads to recognition of 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.



1990

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

The Supreme Court, in the *Sparrow* case, recognizes an existing Aboriginal right to fish based on the facts of that case, and interprets 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 PC 1991-1329, and Harry S. LaForme is appointed Chief Commissioner.

1992

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

1995

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



1997

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

1999

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

2001

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

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

2003

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

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

2004

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

2007

On November 27, Bill C-30, the Specific Claims Tribunal Act, was tabled in the House of Commons. Concurrently, Order in Council PC 2007-1789 directed Commissioners to complete all inquiries including reports by December 31, 2008, and cease all activities by March 31, 2009.

2008

The *Specific Claims Tribunal Act* received Royal Assent on June 18, 2008, and on October 16, 2008, the Specific Claims Tribunal came into being.

2009

After 18 years of operation, the Commission closed its doors on March 31, 2009.



THE COMMISSIONERS



Chief Commissioner **Renée Dupuis** is a member of the Barreau du Québec. She has had a private law practice in Quebec City since 1973 where she specializes in the areas of Aboriginal peoples, human rights, and administrative law. Since 1972, she has served as legal advisor to a number of First Nations and Aboriginal groups in her home province, including the Indians of Quebec Association, the Assembly of First Nations for Quebec and Labrador, and the Attikamek and the Innu-Montagnais First Nations, representing them in their land claims negotiations with the federal, Quebec, and Newfoundland governments and in constitutional negotiations. From 1989 to 1995, Madame Dupuis served two terms as commissioner of the Canadian Human Rights Commission and she is chair of the Barreau du Québec's committee on law relating to

Aboriginal peoples. She has served as consultant to various federal and provincial government agencies, authored numerous books and articles, and lectured extensively on administrative law, human rights, and Aboriginal rights. She is the recipient of the 2001 Award of the Fondation du Barreau du Québec for her book *Le statut juridique des peuples autochtones en droit canadien* (Carswell), the 2001 Governor General's Literary Award for Non-fiction for her book *Quel Canada pour les Autochtones?* (published in English by James Lorimer & Company Publishers under the title *Justice for Canada's Aboriginal Peoples*), and the YWCA's Women of Excellence Award 2002 for her contribution to the advancement of women's issues. In June 2004, the Barreau du Québec bestowed on her the Christine Tourigny Merit Award for her contribution to the promotion of legal knowledge, particularly in the field of Aboriginal rights. She was appointed as a Member of the Order of Canada in 2005. She was one of the first recipients of the *Advocatus emeritus* award, created by the Quebec Bar in 2007. Madame Dupuis has received her accreditation in civil and commercial mediation from the Barreau du Québec in 2003. She 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 a citizen of Little Black Bear's Band of the Assiniboine-Cree in Treaty 4 Territory, southern Saskatchewan. He attended the Qu'Appelle Indian Residential School and the University of Regina in the Faculty of Administration and has had specialty training at various universities and professional development institutions. He has held senior positions with First Nations organizations, including Socio-Economic Planner with the Meadow Lake Tribal Council, President of the Saskatchewan Indian Institute of Technologies, and First Vice-Chief of the Federation of Saskatchewan Indian Nations. As Vice-Chief, he held the portfolios of Treaty Land Entitlement and Specific Claims, Gaming, Justice, International Affairs and Self-Government. He is currently the Senior Governance Coordinator at the Treaty 4 Governance Institute in Fort Qu'Appelle. He has served on a number of community boards and committees, as well as the national Board of CESO. He has been a Commissioner of the Indian Specific Claims Commission since 1992 and has served as Co-Chair of the Commission from 1994 to 2000. He is President of Dan Bellegarde and Associates, specializing in training, organizational development and self-government.



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 has served 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.



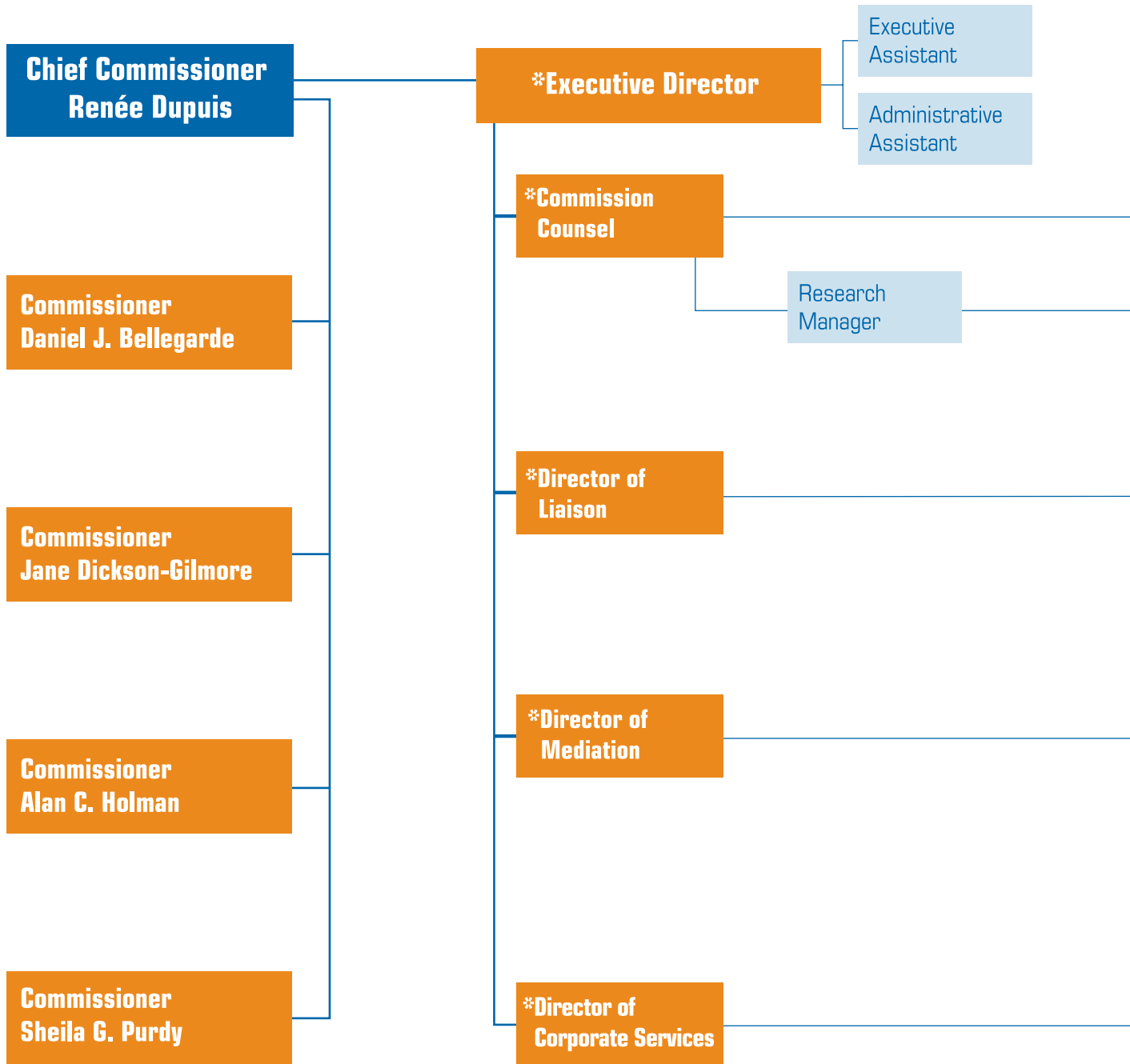
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Sheila G. Purdy was born and raised in Ottawa. Between 1996 and 1999, she worked as an advisor to the government of the Northwest Territories on the creation of the Nunavut territory. Between 1993 and 1996, she was senior policy advisor to the Minister 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 has been a board member of various community and national organizations, including the Canadian Biodiversity Institute. She was appointed Commissioner of the Indian Claims Commission on May 4, 1999.



Organizational Structure

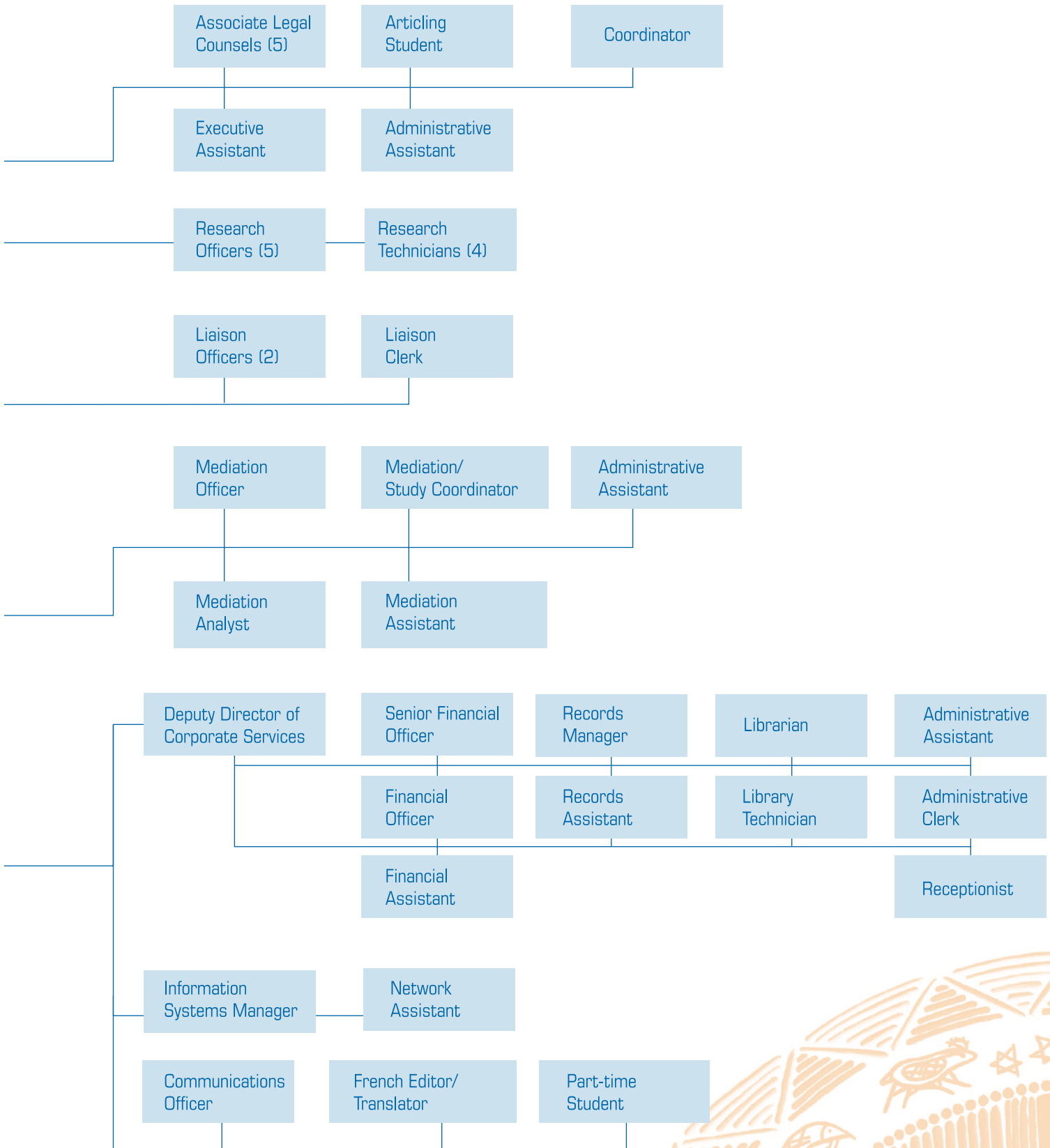
INDIAN CLAIMS COMMISSION



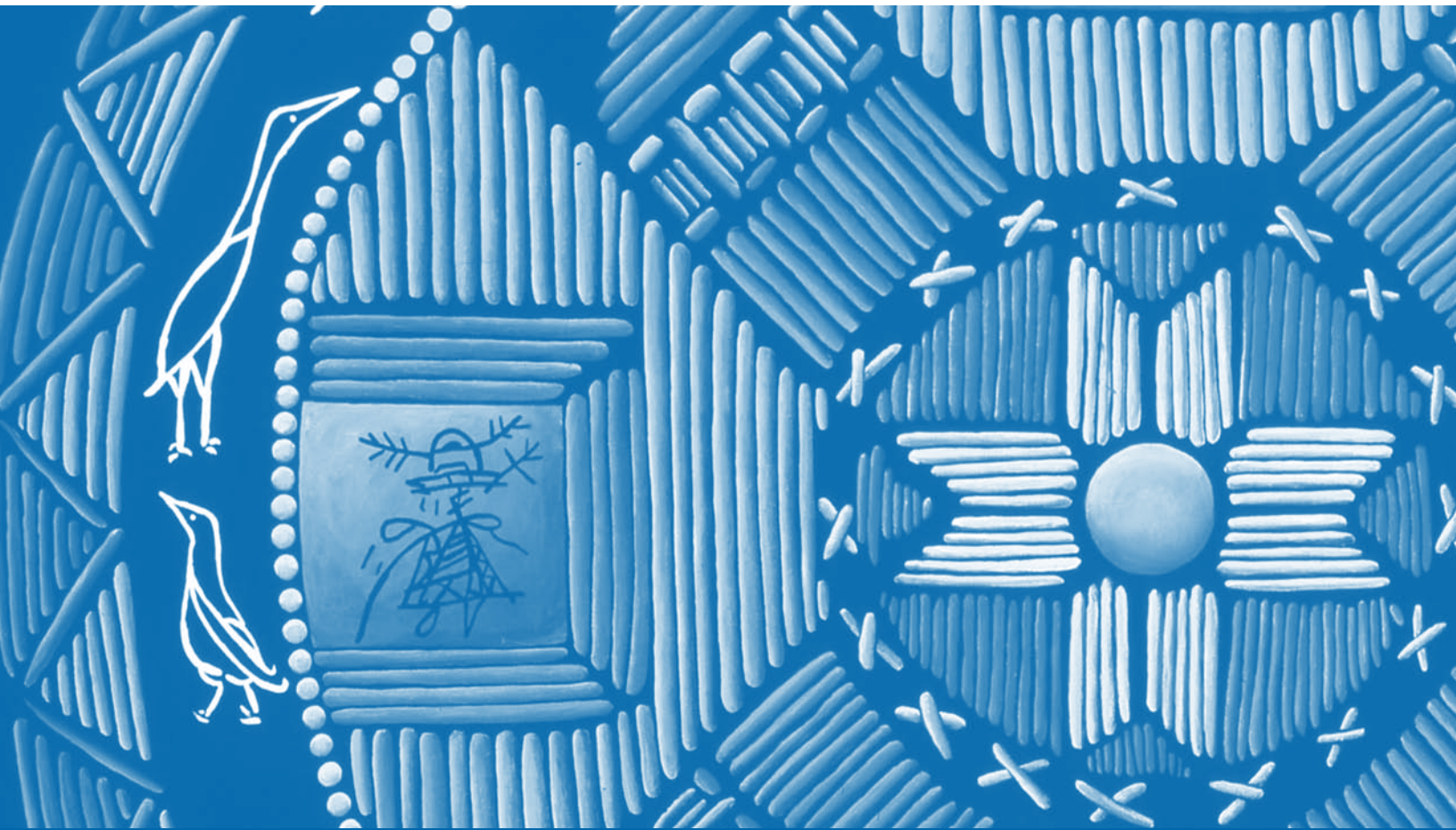
*This chart reflects the situation as of April 1, 2008.
As employees left, functions were discontinued,
delegated to remaining staff or contracted out.*

* denotes member of Management Committee

March 31, 2008







THE ICC – WHAT WE DID

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

67 Claims Addressed in Inquiries and Mediations Concluded with Reports

Claims Addressed in Inquiries and Mediations Concluded with Reports as of December 31, 2008

Table providing information on the status of each claim addressed in inquiries and each mediation the ICC has completed

Claims Addressed in Inquiries and Mediations Concluded with Reports Indexed by Province

Index of all claims addressed in inquiries and mediations concluded with reports, grouped by province

Issues Addressed in Inquiries Indexed by Theme

Index of all claims addressed in inquiries, grouped by theme



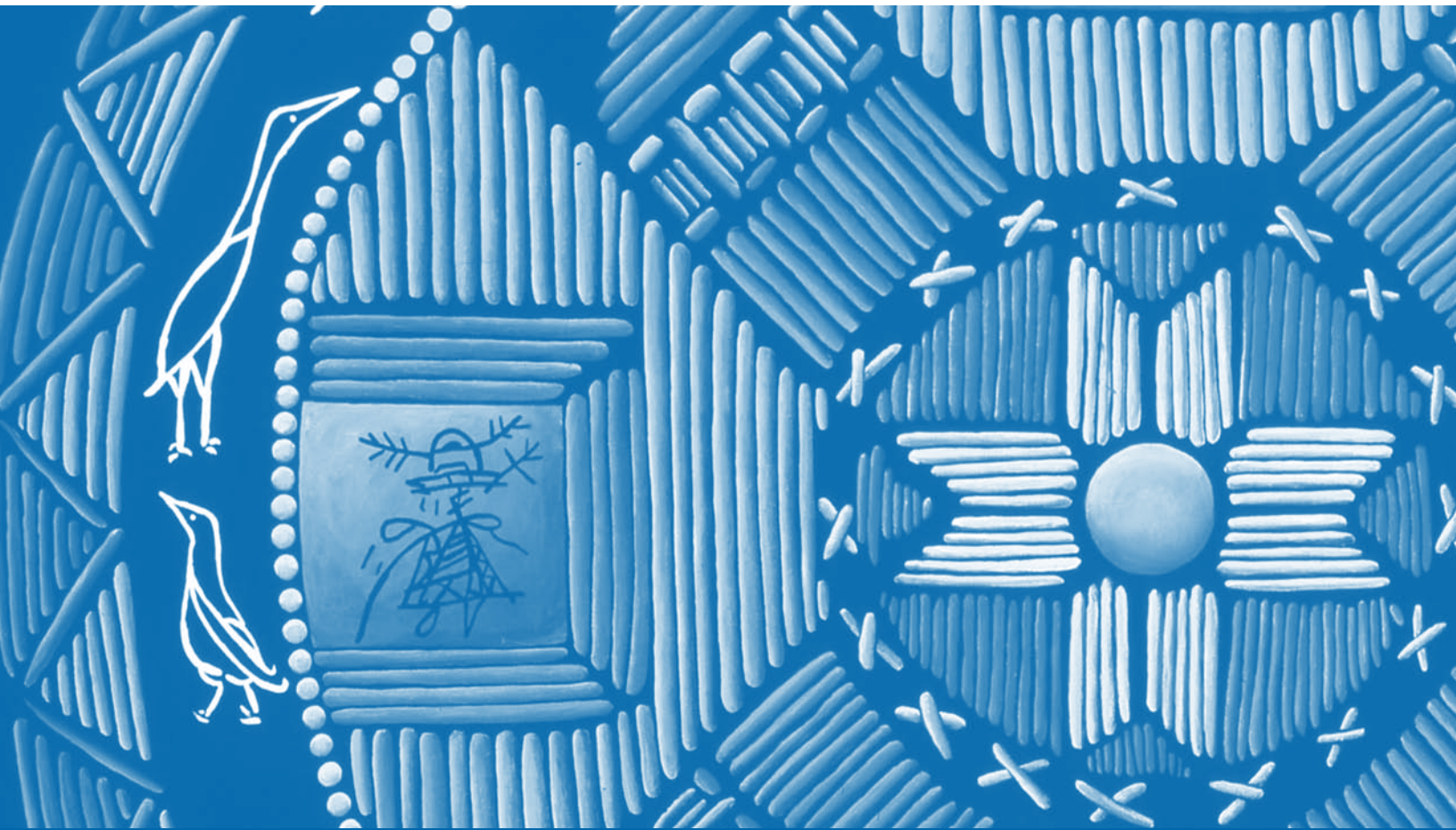
101 **Specific Claims in Inquiry Ceased Prior to Completion November 2007**
List of all inquiries ceased by change in ICC Mandate

104 **Financial Information**
Budget, forecasted expenditures of the ICC

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OVERVIEW OF THE ICC'S ACTIVITIES FROM 1991 TO 2009

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Overview of the ICC's Activities from 1991 to March 31, 2009

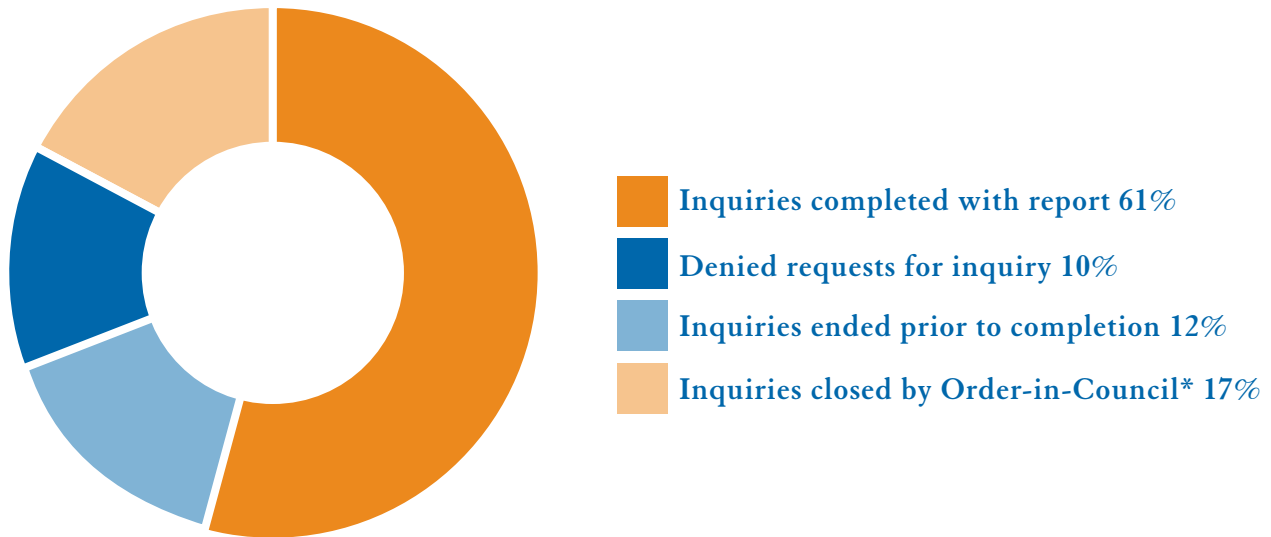
The following section represents an overview of the various specific claims submitted to the ICC. Since its inception in 1991, the Commission addressed 105 claims, and issued 80 inquiry reports. It also provided mediation/facilitation services to 54 specific claims negotiation tables and issued 17 mediation reports.

QUICK FACTS ON ICC INQUIRIES AS OF MARCH 31, 2009

Total requests for inquiry	143
Total accepted requests for inquiry	129
Total denied requests for inquiry	14
Total accepted requests for inquiry	129
Active files (see summaries of each file provided in following section)	0
Reports in progress	0
Within inquiry process	
In abeyance at the request of First Nation	N/A
Inquiries ended prior to completion	41
Ended at request of the First Nation	6
Ended by the ICC owing to lack of file activity	11
Closed by Order in Council PC 2007-1789	24
Inquiries completed with report (for more information, see page 67)	88



ICC's TOTAL REQUESTS FOR INQUIRY, 1991– DECEMBER 2008



*In November 2007, the Indian Claims Commission's mandate was amended by Order in Council to conclude the Commission's work. It was directed that the ICC cease immediately all its activities on inquiries that had not yet reached the community session phase, and all other inquiries by December 31, 2008.

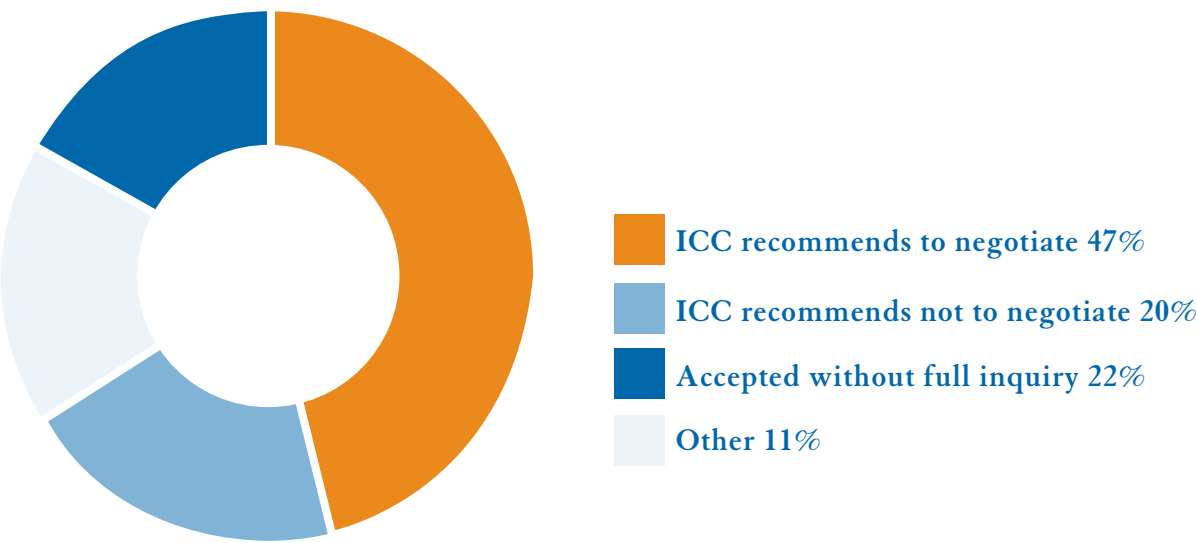
The pie chart above contains a breakdown of the 143 requests for inquiry received by the ICC since its inception in 1991.



OUTCOMES OF CLAIMS ADDRESSED BY THE ICC IN INQUIRIES

ICC recommends to negotiate,	41
ICC recommends not to negotiate	18
Accepted without full inquiry.	19
Other	10

OUTCOMES OF CLAIMS ADDRESSED BY THE ICC IN INQUIRIES, 1991-2008



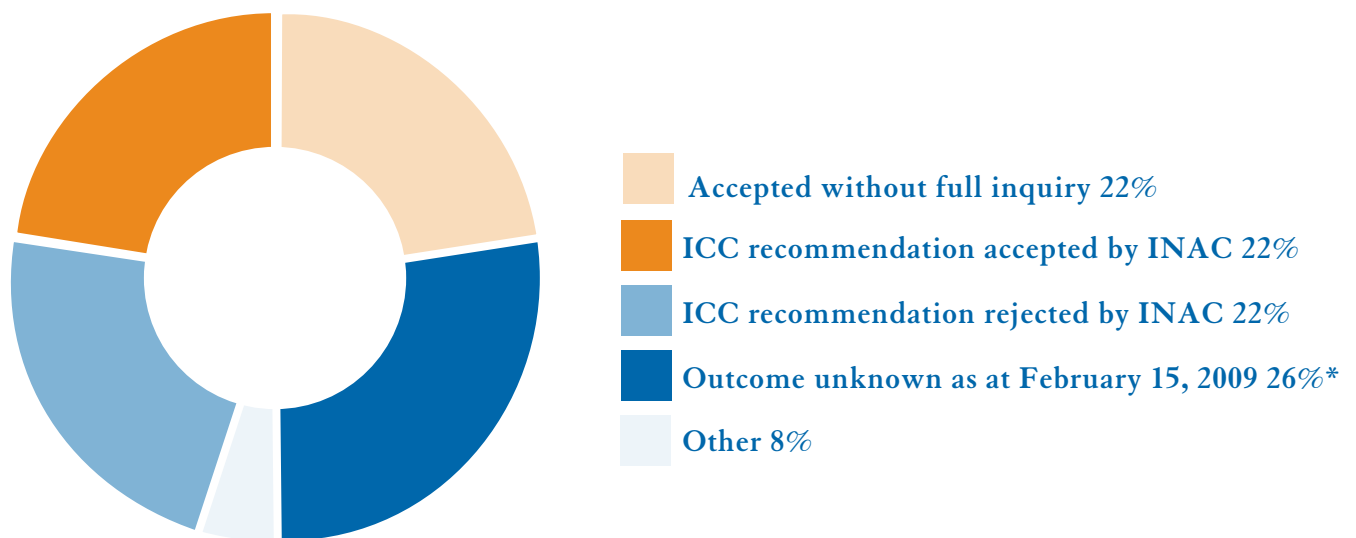
The pie chart above provides information regarding the outcome of claims addressed by the ICC in inquiries, from 1991 to March 31, 2008. For more information regarding the status of these claims, see page 67.



FOLLOW UP ACTION BY GOVERNMENT

ICC recommendation accepted by INAC	19
ICC recommendation rejected by INAC	19
Outcome unknown as at February 15, 2009	24
Accepted without full inquiry	19
Other	7

FOLLOW UP ACTION BY GOVERNMENT



The pie chart above provides information on the follow up by government to the 66 claims ICC has recommended either be accepted for negotiation or not be accepted for negotiation. For more information on the status of claims addressed by the ICC in inquiries, see page 67.

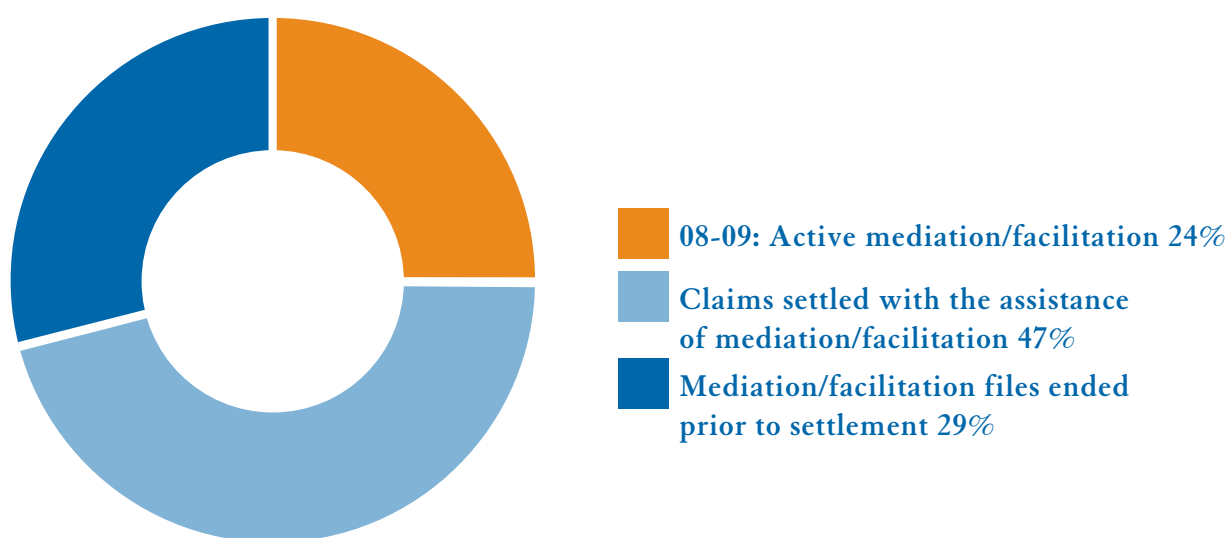
*Note: This number is proportionately higher than in previous annual reports due to the larger than usual number of reports completed in December 2008.



QUICK FACTS ON ICC MEDIATION/FACILITATION

Total requests for mediation/facilitation	54
2008-2009: Active mediation/facilitation files	12
Claims settled with the assistance of mediation/facilitation	24
Mediation/facilitation files ended prior to settlement at the request of one of the parties or because of the Order in Council directing the ICC to close	15

TOTAL REQUESTS FOR MEDIATION/FACILITATION, 1991-2008



The pie chart above provides a breakdown of the 54 requests for ICC's mediation/facilitation services received since 1991.

*Note: Mediation/Facilitation files ended prior to settlement by Order in Council or at the request of one of the parties.



Concluding the ICC's Mandate

The Government's intentions regarding specific claims were made clear in June 2007 with the announcement of *Justice at Last*, the road map for the future. In November of that year, draft legislation was tabled in the House of Commons (Bill C-30) and Order in Council P.C. 2007-1789 was issued, calling for the Indian Claims Commission to cease accepting new inquiries and to complete, by December 31, 2008, all inquiries that had reached the community planning phase; there were nine of them. One, U'Mista, was withdrawn later at the request of the First Nation. All other activities, including mediation activities, were to cease by March 31, 2009. On January 2, 2008, there were still 17 active tables. One last annual report and a global final report were still required.

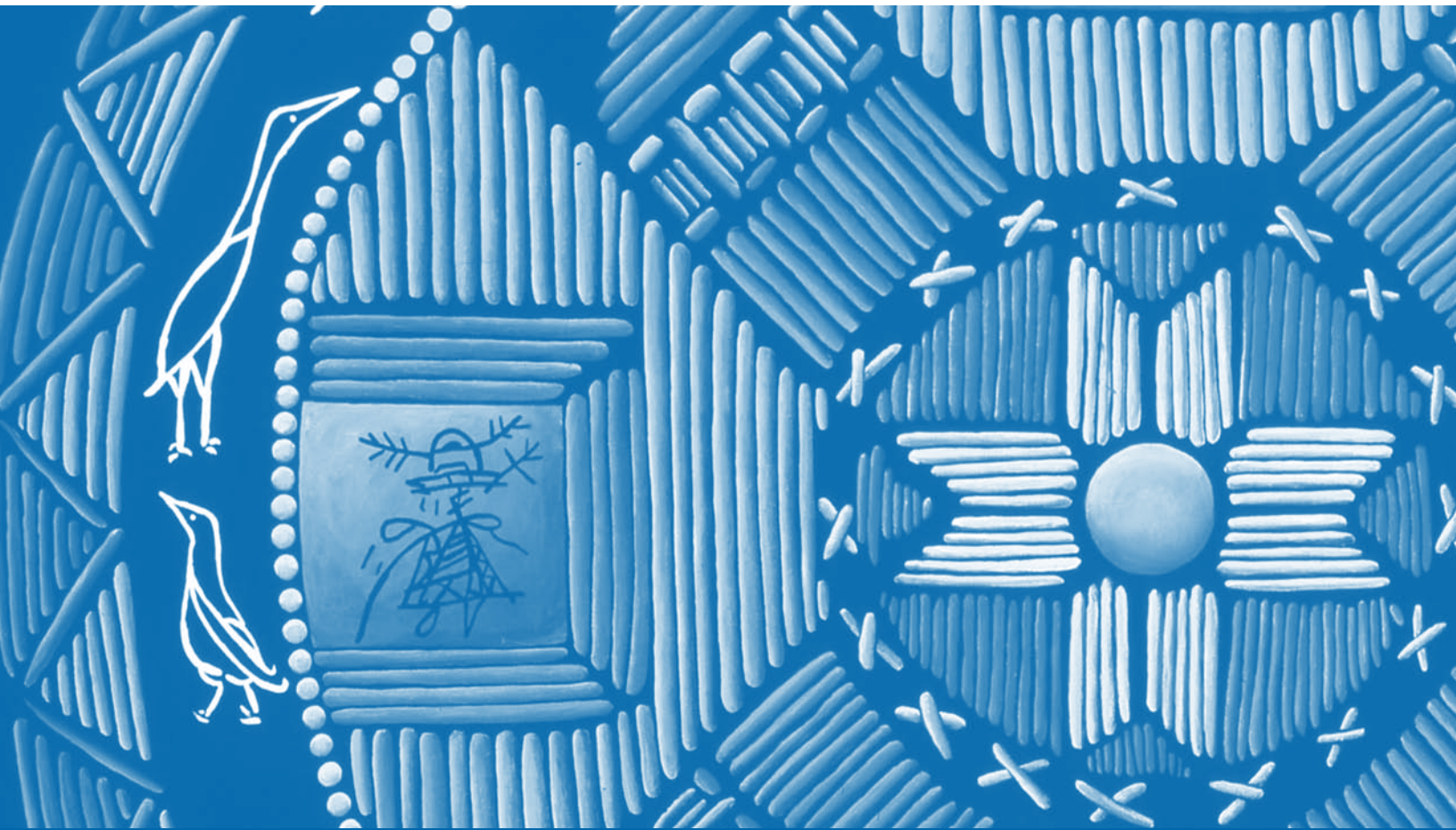
The Mediation Division of the Commission ceased active operations as of December 1, 2008. First Nations were formally notified by way of letter dated October 31, 2008.

Employees had 16 months of lead time after the Order in Council to find other employment. Because the ICC was not under the *Public Service Employment Act*, they had access to the Public Service only through open competitions, a fact that did not make their search any easier.

Efforts to help employees began immediately after the June 2007 announcement. Additional training and assistance, such as CV writing and interview techniques, were offered in 2007-2008. In 2008-2009, ICC management circulated CVs to departments, agencies and commissions with related mandates and needs; presentations were made to several heads of Human Resources; and employees were helped to the extent possible in their search for new employment. The subsequent departures became part of life at the ICC, but they showed that the experience employees had gained at the Commission was indeed valuable. These departures brought with them many challenges. Employees at all levels began to share files and take over colleagues' duties to assist each other in concluding the Commission's work. The dedication of the employees who remained became crucial for absorbing the additional workload.







THE ICC'S ACHIEVEMENTS IN 2008-2009

INQUIRIES

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- 35 The Inquiry Process**
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and December 31, 2008**
Describes each claim in inquiry at the ICC and lists the ICC's activities
over the past year within each file

What Are Inquiries?

As directed by Order in Council P.C. 2007-1789, the Commission was no longer accepting new claims for inquiry and had ceased all its activities on inquiries that had not reached the community session stage on November 27, 2007, when Bill C-30, the Specific Claims Tribunal Act, was tabled. First Nations were notified in December 2007.

Inquiries took place at the request of a First Nation when:

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

Inquiries could be initiated at the sole request of the First Nation, provided the request related to a rejected claim or a dispute over compensation criteria. After receiving a First Nation's request for an inquiry, an initial planning conference was held between the parties to plan the process. This first conference was followed by a series of stages. One such stage, the community session, was an important part of the inquiry process whereby, upon consent of the community, the Commission visited the First Nation to hear directly from Elders and other community members regarding the claim. The community session was followed by an oral hearing at which legal arguments surrounding the claim were made by the First Nation and Canada. Following this, the record was closed and the Commissioners deliberated, their deliberations leading to a formal report containing findings and recommendations. The report's intention was to provide the Minister with the Commission's views on whether the claim had been correctly rejected for negotiation.

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



THE INQUIRY PROCESS

The following is the process that was followed to conduct an inquiry, up to November 27, 2007.

Stage 1 Initial Request for Inquiry

The Commission reviewed the First Nation's request for an independent inquiry and, if it agreed to accept the specific claim for review and assessment, a panel of two or three Commissioners was formed to hear the inquiry.

Stage 2 Preparation for Inquiry

Briefing material was prepared and sent to all of the parties in advance to facilitate discussion. Counsel for both parties were asked to state the issues to be addressed by the inquiry, from which the Commission staff attempted, in consultation with counsel for the parties, to generate a single list of issues. A planning conference was held among the parties and their counsel. In many instances, the need for further research was identified. If there was no consensus by the parties on a single list of issues, this matter was placed before the panel for decision.

Stage 3 Staff Visit and Community Session(s)

Commissioners and staff attended a session or series of sessions in the First Nation's community to hear directly from Elders and other knowledgeable members of the First Nation. In some instances, expert witnesses were called upon to present evidence or testimony and were subject to cross examination by the other party.

Stage 4 Written and Oral Submissions

Both parties presented submissions to the panel.

Stage 5 Commissioners' Final Report

The panel of Commissioners considered the evidence, testimony and submissions presented and issued a final report that contained its findings and recommendation that the Minister of INAC accept the specific claim for negotiation, or that the Minister of INAC not reconsider the decision to deny the specific claim.



Summary Of Specific Claims In Inquiry Between April 1, 2008, And December 31, 2008

Under its original mandate, the Indian Claims Commission inquired, upon request, into First Nations' specific claims. From April 1, 2008, to December 31, 2008, the Commission completed seven inquiries. In 2008-2009, nine inquiry reports were released. Summaries of these inquiries can be found in the following pages.

All of the Commission's reports can be found on the INAC Web site at <http://www.ainc-inac.gc.ca/>

Carry the Kettle First Nation

1905 surrender, Saskatchewan

The First Nation claimed that its 1905 surrender of 5,760 acres along the southern portion of Assiniboine Indian Reserve IR 76 was invalid in that the Governor in Council exceeded its jurisdiction under the *Indian Act*, the surrender requirements of the Act were not met, and the Crown breached its fiduciary duty.

Its claim was rejected by the federal government, and in 1994 the Commission began an inquiry into the claim. A community session was held in October 1995. At the request of the First Nation, the inquiry was then placed in abeyance while the Commission completed its inquiry into Carry the Kettle's Cypress Hills claim. The surrender inquiry was resumed in 2004, followed by a second community session in July 2006, and an oral hearing on November 20, 2007.

The panel found that the Governor in Council did not exceed its jurisdiction under the *Indian Act* when it consented to the 1905 surrender and used the proceeds of sale in accordance with the conditions of surrender. These conditions included repayment of a debt to the Crown and the purchase of farming machinery. The Crown also complied with the surrender requirements of the *Indian Act*: a surrender meeting took place, it was called in accordance with the rules of the Band, there was a majority of eligible voters who attended the surrender meeting, and a majority of those voted in favour of the surrender. Finally, the Crown did not breach its fiduciary duty: it was the Band who requested the surrender and the conditions attached to it. They understood the terms of the surrender, and no pressure or undue influence was exerted on them. From the Band's perspective, it was reasonable to surrender a small portion of the reserve and use some of the proceeds to refurbish its farm machinery.

The report was issued in 2009.



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 that it maintained was an “Indian settlement.” The staff visit took place in January 2006, followed by the community session in April 2006. Additional oral evidence given by an Elder was recorded in July 2006, and a site visit was conducted at that time. An oral hearing was held in Williams Lake on May 9, 2007.

The inquiry focused on the interest in Wright's Meadow pre-empted in 1893, the issue of the Crown's fiduciary duty, and the question of possible breach of that duty.

The panel concluded that the Alkali Band (now Esketemc) had an interest in Wright's Meadow, based on demonstrated use. The panel agreed that a fiduciary duty existed in relation to the meadow, but disagreed on whether that duty had been breached, the majority finding a breach.

The majority of the panel found that, based on the documentary evidence before it and having examined the relevant law, the Governor in Council breached its fiduciary duty by not protecting the meadow, which was clearly Indian settlement land from pre-emption, and by not securing the land for the First Nation when it had the opportunity to do so.

The panel majority therefore recommended that the claim be accepted for negotiation under the Specific Claims Policy. The report was issued in November 2008.

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 in 1905 by the Vancouver, Victoria and Eastern Railway and Navigation Company. 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.

This claim involved lands in the Similkameen River valley which lie between the Cascade Mountains and the Okanagan River, in south-central British Columbia.

In 1905, the Vancouver, Victoria and Eastern Railway and Navigation Company, asked the Government of Canada for a right of way through the Lower Similkameen Band's lands. Its request was granted, and a railway was built linking mines in the upper valley to the Great Northern line in Washington State.

The inquiry focused on issues relating to adequacy of compensation and interest in the lands now that they were no longer needed for the railway (1985).



The panel concluded that compensation should have been based on fair market value, found that compensation was not even in the acceptable range and did not account for serious disruption to band life and culture, damage to livestock, and the impact on members of changes in wildlife behaviour.

The panel concluded that Canada now holds the lands in trust for the Lower Similkameen Band, and should make every effort to secure the land for the Band's use and benefit.

The panel recommended that the Band's claim for compensation be accepted for negotiation and that Canada take the necessary steps, by litigation or otherwise, to ensure that the legal status of the former right-of-way lands is in every respect that of Indian reserve land set apart for the use and benefit of the Lower Similkameen Band. The report was released April 3, 2008.

Lucky Man Cree Nation

Treaty Land Entitlement Phase II Inquiry, Saskatchewan

A Treaty Land Entitlement Settlement Agreement had been signed in 1989 between the First Nation and Canada, by which the First Nation obtained a reserve sufficient for 60 people, based on the Treaty 6 entitlement of 128 acres for each band member. The Lucky Man Cree Nation claimed that an outstanding treaty land entitlement continued after the settlement agreement.

In March 1997, the Commission issued a report on Phase I of this inquiry, finding that 1887 was the date of first survey of IR 116 and recommending that the parties undertake further research and payroll analysis to determine the First Nation's proper land entitlement population based on that date of first survey. Canada accepted the recommendation and concluded its further research in February 1998. The First Nation responded with its own research 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 date of first survey population, and the quantum of land involved. A planning conference was held in April 2004 and a second planning conference in January 2005. The oral hearing was held in August 2005 and a further evidentiary hearing in October 2006.

The panel determined that Canada has an outstanding obligation to provide land to the Lucky Man Cree Nation under the terms of Treaty 6. It also concluded that Canada is to be credited with having provided 7,680 acres of land under Treaty 6. It recommended that the claim be accepted for negotiation. The report was published April 10, 2008.



Muskowekwan First Nation

1910 and 1920 surrenders, Saskatchewan

This claim 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 respecting lands surrendered for the purpose of a townsite along the Grand Trunk Pacific (GTP) Railway. A planning conference was held in February 2005, and a community session was held in September 2005. Further research was conducted, and the oral hearing was held in May 2008.

The panel found that the Muskowekwan First Nation failed to establish that there were violations of the *Indian Act* concerning the 1910 surrender. The surrender document and supporting affidavit are *prima facie* proof of their contents and there was no evidence presented to contradict their presumed reliability.

However, the panel found that the Crown breached its pre-surrender fiduciary obligations for several reasons. It failed to advise the Band of the consequences of the right of way and the request for a townsite, or even that the GTP had requested lands for a townsite, until months after it had already granted the right of way. Furthermore, the Crown did not follow its own clear policies against permitting townsites on reserve lands. This was not a mere technicality, as it negatively impacted the core of the First Nation's land base, culture and way of life.

The Crown ignored a request that the township be located elsewhere so as not to cut the reserve up quite as badly. The implications of a townsite and a right of way were not fully discussed with the Indians prior to surrender. The First Nation was provided with only some of the information relevant to the exercise of its free and informed consent. Overall, the Crown favoured the Railway's and settlers' interests over those of the First Nation.

With respect to the 1920 surrender, the panel found that, while there were some violations of the 1914 federal *Guidelines*, they were technicalities that did not affect the majority vote. The Band had long intended to surrender its reserve lands. The true purpose of the *Indian Act* and the *1914 Guidelines* was fulfilled.

However, the panel found that the Crown failed to live up to its pre-surrender fiduciary obligations to prevent exploitative and improvident surrenders. The Crown failed to inform the Band, which needed money for farming equipment, of its options. It encouraged surrender of some of its best farming land, despite the fact that there were considerable funds in the Band's capital and interest accounts. Furthermore, some of the land included in the surrender was already generating income from grazing leases that could have been applied to this purpose. The Crown could also have pursued purchasers of previously surrendered lands who had defaulted in their payments. The First Nation was left with the erroneous impression by Crown representatives that it had only one option, a surrender, when a surrender was the most extreme of the alternatives available. A surrender of some of the First Nation's best farming lands in order to get monies for farming equipment made little sense.



In December 2008, the panel found that the Crown favoured settler interests over those of the Muskowekwan First Nation. It recommended that the Government of Canada accept the claim of breach of pre-surrender fiduciary obligations in both the 1910 and 1920 surrenders for negotiation. The report was issued in 2009.

Nadleh Whut'en Indian Band

Lejac School, British Columbia

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

At a planning conference in March 2003, both parties agreed to undertake additional research. This research was completed by December 2003, and the First Nation made a revised submission in March 2004. Further documentation was provided, and a revised submission was made in September 2004. In December, Canada completed its confirming research, and the First Nation provided comments in May 2005.

In 2006, the parties agreed to a joint project to facilitate Canada's legal review of the submissions. The community session was held November 22, 2007. The oral hearing was held in April 2008, and the report was completed by December 31, 2008.

The panel agreed that the crux of this claim was not about school or education, but rather the use of reserve land without compensation. The panel found that the Band had a cognizable interest in the lands at IR 4 at the time the school was created. It found that the federal Crown had a fiduciary duty between 1921, when the First Nation consented to the use of reserve lands for a residential school to serve all the Bands in the region, and 1938, when title to its reserve was transferred by British Columbia to Canada to exercise fiduciary obligations of loyalty, good faith and ordinary prudence with a view to ensuring the best interests of the First Nation. After 1938, once the *Indian Act* applied to the lands, the Crown's fiduciary duty expanded to include the protection and preservation of the Band's interest from exploitation. These duties were breached when the Crown allowed 260 acres to be set aside for school purposes without compensation to the Band. There was no evidence that the Band had been informed of the extent to which its lands would be used or that compensation would not be forthcoming.

The panel recommended in December 2008 that the First Nation's claim be accepted for negotiation regarding compensation for the use of its lands between 1922 and 1976. The report was released in 2009.



Neskonlith, Adams Lake and Little Shuswap Indian Bands

Neskonlith Douglas Reserve, British Columbia

In September 2003, the Commission accepted the request of these Bands to conduct an inquiry into their rejected specific claim to a reserve they say was legally created for their ancestors in pre-Confederation British Columbia in 1862, under the authority of Governor James Douglas.

A planning conference was held in November 2004, a community session and site visit in July 2005, and an expert session in July 2006. The parties presented their legal arguments on June 19, 2007.

In 1862, the Assistant Commissioner of Lands and Works, William Cox, travelled to the Kamloops region to investigate a complaint about settlers encroaching on an Indian's cultivated fields. Before leaving the region, Cox was asked by Douglas to mark out all the Indian reserves in the neighbourhood. Chiefs Neskonlith and Gregoire of the Shuswap tribe northeast of Kamloops also asked Cox to mark out a reserve for them in order to stop the encroachment of settlers on their land. Cox was unable to do so at the time, but "chalked out" a reserve and also gave the chiefs notices to post. Chief Neskonlith proceeded to place most of the boundary stakes himself. It was later alleged that Cox had given Chief Neskonlith the authority to mark out the reserve for his people, and that a reserve was created when the Chief placed the stakes.

The panel concluded that a reserve was not created by the colonial government. The land could not have been set apart without certainty by both parties regarding the boundaries. It was only in 1865 that Crown officials had any knowledge of the Chief's boundaries. Further, Governor Douglas had the power to confirm land as reserves, but he had no authority to delegate this power to subordinate officials, nor did he intend that the job of marking out land to protect it from pre-emption would constitute the only step in reserve creation. There was no meeting of the minds or common intention to create a reserve for the Shuswap tribe in 1862, nor did the Crown intend to create a reserve of the size claimed by Chief Neskonlith.

The panel recommended that the claim of the Neskonlith, Adams Lake and Little Shuswap Indian Bands not be accepted for negotiation. Having found that a reserve was not legally created in 1862, the panel was not required to address the additional claim that the reserve was unlawfully reduced by the colonial administration.

The report was released on November 20, 2008.



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 claim that their right to farming lands under Treaty 5 had not been fulfilled. Their claim at that time had not been expressly rejected by the Minister, but was accepted by the Commission on the basis of constructive rejection. In April 2005, Canada formally challenged the ICC's jurisdiction to conduct the inquiry. The Treaty 8 First Nations of British Columbia applied to intervene in this mandate challenge, but the application was denied. In September 2006, the panel ruled that the ICC has jurisdiction to conduct the inquiry. Canada applied for judicial review, but withdrew its application when the Minister formally rejected the claim in December 2006. In October 2007, the panel conducted a site visit and community session, and in May 2008 it heard the parties' legal arguments.

The panel found that the reserves set aside for Treaty 5 Bands were not intended to exist for the sole purpose of cultivating the land. The reserve clause in the Treaty contemplates that reserves would contain some "farming lands," indicating that some land on the reserve was intended to be cultivatable land; however, the remaining "farming lands" could be land suitable only for cattle-raising, growing hay or other farming uses. The Treaty also promised "other reserves," which the panel interpreted as land suitable for traditional activities or other non-farming uses. The proportion of cultivatable land to be set aside for Bands was intentionally not defined in the Treaty in order to enable Bands and the Crown to select reserves suitable to a band's individual needs, priorities and location within the vast territory of Treaty 5. Both Red Earth and Shoal Lake were provided with sufficient cultivatable land to grow crops for subsistence living, and their reserves were places where they successfully cultivated a range of crops and raised cattle for decades.

The panel concluded that the Crown had fulfilled its treaty obligation to provide "farming lands" and recommended in December 2008 that the claim regarding provision of "farming lands" in Treaty 5 not be accepted for negotiation. However, the panel also observed that the reserves are no longer viable places to grow crops and raise animals due to the gradual increase in water levels. The Elders' testimony suggests that the lands have been changed by forces that could not have been anticipated at the time of treaty or for several decades afterward. Thus, pursuant to the Commission's supplementary mandate, the panel made a second recommendation, that Canada initiate discussions with the Red Earth and Shoal Lake Cree Nations to find a long-term solution to the problems resulting from the condition of their reserve lands.

The report was issued in 2009.



Sturgeon Lake First Nation

1913 surrender, Saskatchewan

In August 1996, the First Nation requested an inquiry into its rejected 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 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.

When the inquiry resumed in December 2002, the First Nation brought forth an additional claim based on contract law principles. Canada ultimately agreed that the Elders could give evidence relevant to this question in order to preserve their knowledge, despite the fact that Canada had not formally responded to it. The community session and site tour took place in December 2006. Canada rejected the claim based on contract law in May 2007. Thereafter, the parties proceeded to file written submissions and, on May 13, 2008, presented their arguments at an oral hearing.

The panel found that the irregularities surrounding the 1913 surrender process do not call into question the validity of the surrender. They may have been the result of carelessness or human error, but they were not the result of deception, fraud or conduct designed to manipulate the results. The panel also found that there were 33 eligible voters, 17 of whom attended the surrender meeting. Thus, the requirement of the *Cardinal* case, that a majority of eligible voters must attend the surrender meeting, was met. Since 16 of the 17 in attendance voted in favour, with one abstention, the surrender vote was valid under the *Indian Act*.

The panel concluded that, in a small minority of claims where insufficient evidence exists to prove a breach of the Crown's fiduciary duty, reliance on contract law principles may be the preferred or only option available to a First Nation to prove its true intention when it surrendered reserve land. Here, the First Nation chose to advance its claim based on the law of mistake in contract. In such a case, the Crown may avail itself of defences based on contract law, unless prohibited by the Specific Claims Policy.

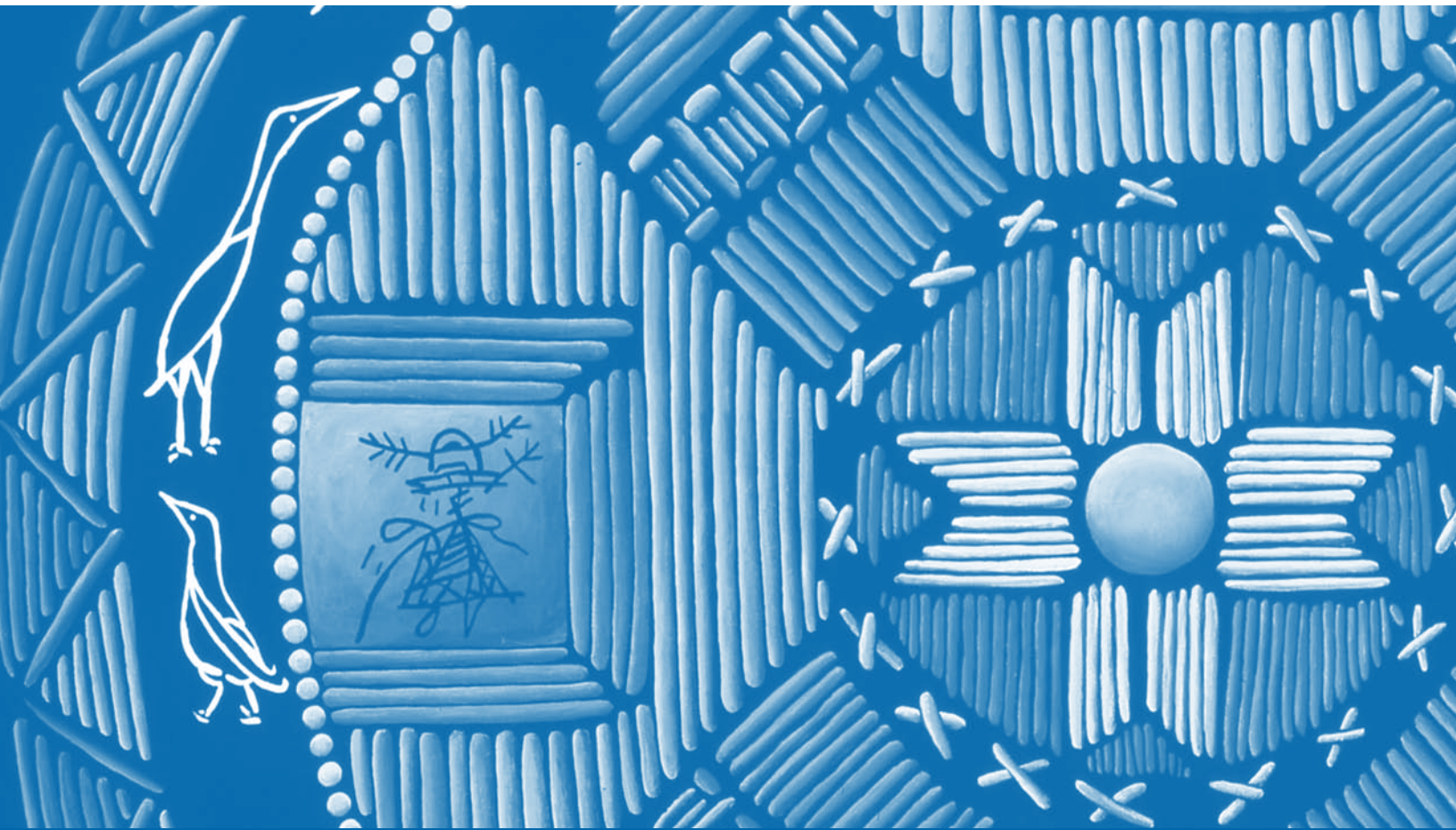
The panel found that the Sturgeon Lake voters in 1913 were not confused with a previous timber surrender and did not misunderstand the nature and consequences of the surrender when they cast their votes. The voters themselves fully intended to exchange land for land, not timber for land.

The panel recommended in December 2008 that the 1913 surrender of a portion of Indian Reserve 101 not be accepted for negotiation under Canada's Specific Claims Policy.

The report was issued in 2009.







MEDIATION AND FACILITATION

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

What is Mediation and Facilitation?

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

Mediation can advance negotiations by:

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

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

Under its mediation mandate, the Indian Claims Commission (ICC) provided broad mediation and facilitation services, not just when a claim had been accepted for negotiation, but at any stage of the claims process. Eighteen years of history and experience demonstrate that the use of the Commission's mediation, facilitation and research/study coordination services by the parties – before or after the acceptance of a claim by the Minister of Indian and Northern Affairs Canada – greatly increased the chance of a positive outcome. Open discussion amongst the parties, in the presence of a neutral third party, promotes a better understanding and relationship. In this atmosphere, settlements were easier to reach.

The Commission's mediation services could 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 Commission provided mediation/facilitation services on 54 files since its creation in 1991.

Commission mediation reports can be found on INAC's Web site at <http://www.ainc-inac.gc.ca/>

The four stages which made up the Commission's mediation process are illustrated in the following chart.



The Mediation Process

Stage 1	Preparation for Mediation
	The Commission reviewed the claim being negotiated and brought representatives of the negotiating parties together face-to-face to discuss the issues and terms of the negotiation and mediation protocol agreements.
Stage 2	Negotiation Process
	The Commission facilitated discussions on compensation, assisted the parties by coordinating the gathering of information, including land appraisals and joint loss-of-use studies, and monitored the parties' decisions and undertakings.
Stage 3	Settlement
	After the negotiating parties reached an agreement in principle, lawyers for the First Nation and Canada worked together to draft a final settlement agreement, which was initialled by the negotiators and ratified by both parties.
Stage 4	Final Mediation Report
	The Commission reported to the federal government, the First Nation and the public on the outcome of the negotiation.

MEDIATIONS COMPLETED IN 2008-2009

From April 1, 2008, to December 1, 2008, the Commission provided mediation services on 12 files, services which were not completed due to the Commission closing.

Summary of Specific Claims in Mediation and Facilitation Between April 1, 2008, and December 1, 2008

This section reports on the Commission's mediation activities in 2008-2009. The First Nation, the title of the claim, and the province in which it is situated, are followed by a brief background, a description of the issues, and an update on progress made in each of the files from a mediation/facilitation perspective.

From April 1, 2008, to December 1, 2008, the Commission issued 5 reports. As part of an orderly closure directed by the Order in Council PC 2007-1789, Mediation closed all remaining files on December 1, 2008.

The Commission's reports can be found on INAC's Web site at <http://www.ainc-inac.gc.ca>

Blood Tribe/Kainaiwa

Cattle claim, Alberta

The Blood Tribe/Kainaiwa Nation is located 195 km south of Calgary. The land base consists of two parcels of land encompassing 136,264 hectares. The Blood Tribe currently has a population of 10311, of whom 7454 members live on-reserve.

In November 2002, the Indian Claims Commission was asked by the Blood Tribe to facilitate further research on its cattle claim. Following a review of the existing research and reports in 2003, the ICC recommended an independent historical review and analysis based on a renegotiated terms of reference. Over the next several months, the Blood Tribe undertook a review of the research. In early 2004, the ICC was asked to place this matter in abeyance so that the Blood Tribe could focus its efforts and resources on other claims; it remained in abeyance in 2008-2009.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.

Chippewa Tri-Council

Coldwater-Narrows reservation claim, Ontario

The Coldwater-Narrows reservation claim related to the alleged 1836 surrender 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 accepted for negotiation in July 2002, following an inquiry conducted by the Commission into Canada's 1996 rejection of the claim. The ICC provided facilitation and study coordination services to the table beginning in September 2002.

Negotiations to date have focused on land appraisals and studies. Additionally, Canada took the position in December 2007 that there are additional beneficiaries to the claim—the Chippewas of Nawash—and is of the view that it cannot make a final settlement without their inclusion. With the signing of an Adherence Agreement to the original Negotiation Protocol in October 2008, the Chippewas of Nawash officially joined the negotiations at the October 30, 2008, session in Toronto. Background material was provided to them by the ICC.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nations and Canada were formally notified by way of letter dated October 31, 2008.

Cote First Nation

Pilot project, Saskatchewan

Saulteaux Chief, Gabriel Cote, was a signatory to Treaty 4 on behalf of his followers, in 1874. The Cote First Nation has a registered population of 3043, of whom 750 live on IR 64, the 8088 hectare area of land adjoining Kamsack, Saskatchewan, which is 16 km west of the Manitoba/Saskatchewan border.

The Cote pilot project relates to a number of transactions involving the First Nation's lands, beginning with the taking of land for a railway in 1903 and ending in a reconstitution of reserve lands in 1963. Brought to the Commission as an inquiry in the mid-1990s, the parties later agreed to work together, with the Commission's facilitation, to discuss and research the many interrelated transactions and issues.

Since 1997, considerable joint research has taken place, with the result that 12 potential claims have been identified. The complexity and interrelatedness of the claims led Cote First Nation and Canada to group the claims into bundles. The first bundle of four surrender claims was submitted, accepted and is currently in negotiation.

The remaining claims have yet to be submitted to Canada by the First Nation.

Cote First Nation

1905, 1907, 1913 and 1914 surrender claims, Saskatchewan

The 1905, 1907, 1913 and 1914 surrender transactions constitute the first group of claims coming out of the Cote First Nation Pilot Project. The four claims were jointly discussed and researched and then submitted by the First Nation to Canada. In April 2006, Canada accepted the 1905, 1907, 1913 and 1914 specific claims for negotiation.



In May 2006, the Indian Claims Commission was asked by Cote First Nation and Canada to act as a facilitator for the negotiations. During the course of the fiscal year, the ICC's mandate at the table was expanded to include coordination of the loss of use studies. In this role, the Commission acted as the liaison between the negotiating parties and independent consultants retained to complete research and loss-of-use studies, which included forestry loss of use, agriculture loss of use, mines and minerals loss of use, and a current unimproved fair market value land appraisal.

On November 20, 2008, the forestry and minerals studies were presented to the negotiation table.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.

Cowessess First Nation

Flooding claim, Saskatchewan

Cowessess IR 73, contains 30,781.7 hectares and is located 13 km northwest of Broadview, Saskatchewan. The First Nation population is 3,508,740 of whom live on reserve.

Originally part of the Qu'Appelle Valley Indian Development Authority (QVIDA), the Cowessess First Nation was one of a number of First Nations whose lands were lost to recurrent and, in some areas, continuous flooding resulting from the construction in the 1940s of a series of water-control structures under the *Prairie Farm Rehabilitation Act*. When negotiations between Canada and QVIDA broke down in August 2003, the Cowessess First Nation chose to continue negotiations directly with Canada, with the Commission facilitating the negotiations. The Province of Saskatchewan (Saskatchewan Watershed Authority) is also at the table. In January 2007, Cowessess First Nation tabled a settlement proposal to Canada.

Canada received its financial mandate and made a formal offer for settlement on May 29, 2008. The First Nation, by way of BCR, accepted Canada's offer "in principle" on August 29, 2008. As of November 2008, final touches were being put on the Settlement Agreement, Trust Agreement and Co-Management Agreement with an anticipated ratification by fall 2009.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.



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. Cote, Keeseekoose and the Key are Treaty Four First Nations with three reserves bordering on the Assiniboine River in the Kamsack area of central Saskatchewan. As of November 2007, the combined population of the three First Nations was 6251, of whom 1693 live on reserve.

The three First Nations joined together as the “Fort Pelly Agency” in 1997 to collectively present their individual claims to a block of land which they alleged had been set apart for them in the early 1890’s as a reserve. Submitted to Canada in 1997, the claim was accepted for negotiation in July 2000, with Canada acknowledging that it had breached a lawful obligation by disposing of parts of the Pelly Haylands in 1898 and 1905 without a surrender.

The Commission’s facilitation and study coordination services date back to October 2000, and since that time, the First Nations and Canada have completed land appraisals and a number of loss of use studies. The parties began discussing a compensation package in late summer 2004 and by November that same year, a settlement amount had been agreed to at the table. The terms of the agreement were successfully ratified by two of the First Nations in 2005-2006 with the third First Nation successful on its second vote in early 2006-2007.

The ICC released a final report on the Pelly Haylands claim on April 3, 2008.

Fort William First Nation

Pilot project, Ontario

Fort William Indian Reserve No. 52 contains 5815 hectares of land along the north shore of Lake Superior, on the southern edge of the city of Thunder Bay in northwestern Ontario. The registered membership of the band is 1803, of whom 835 live on reserve.

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

The Rifle Range claim, which involves a parcel of land surrendered in 1907 for a rifle range, was the first of the Fort William First Nation’s eight claims to be jointly submitted to Canada. Accepted by Canada for negotiation in mid-2000, an agreement on compensation was reached in 2002 and subsequently ratified in 2006.



At the end of 2007-2008, the status of the remaining claims was as follows: the boundary claim is in negotiation; the Neebing claim was accepted for negotiation in August 2007. Canada is working on legal opinions for Loch Lomond (water) claims, Chippewa Park and mining claims; the additions-to-reserve process on the hydro claim were ongoing; a claim is unlikely to be submitted respecting the timber; and the First Nation was pursuing the Grand Trunk Pacific Railway claim in the courts. ICC involvement ended at this point.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.

George Gordon First Nation (formerly Gordon First Nation)

Treaty land entitlement, Saskatchewan

George Gordon IR 86, contains 14,438.3 hectares of land and is located 61 km northwest of Fort Qu'Appelle, Saskatchewan. The total band population is 3044, of whom 991, live on reserve. This Cree/Saulteaux First Nation adhered to Treaty 4 in 1874.

Research has determined that George Gordon First Nation did not receive the reserve land to which it was entitled. The claim alleges that the First Nation received a shortfall of reserve land pursuant to the terms of Treaty 4. In March 2004, for the purposes of negotiation – and under the 1998 Historic Treaty Land Entitlement Shortfall Policy – Canada accepted that the George Gordon First Nation had sufficiently established a breach of obligation and a shortfall of 5,376 acres of land.

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

By the end of March 2007, the George Gordon First Nation TLE negotiating parties, including the Province of Saskatchewan, had come to agreement on most of the settlement issues. Canada made its formal offer to settle on June 14, 2007 and the First Nation accepted the offer by Band Council Resolution on June 18, 2007. The agreement was successfully ratified on February 15, 2008.

The ICC's report on the George Gordon claim was released June 12, 2008.



Lac Seul First Nation

Flooding claim, Ontario

Lac Seul First Nation is located approximately 40 km northwest of Sioux Lookout, in northwestern Ontario. The reserve is composed of three communities – Kejick Bay, Whitefish Bay and Frenchman's Head and is bounded to the north and east by Lac Seul. Lac Seul First Nation has a total membership of approximately 2829, of whom about 772 live on reserve.

In 1922, Canada, along with the provinces of Manitoba and Ontario, constructed a dam at Ear Falls, the outlet of Lac Seul, to store the waters for hydroelectric generation. As a result, by the mid-1930s, the average level of Lac Seul had risen approximately three meters, resulting in widespread flooding of the surrounding lands.

Negotiations in 1943 resulted in Lac Seul First Nation receiving some financial compensation from Ontario and Manitoba. However, subsequent research demonstrated that the amount of reserve land that was flooded had been underestimated by approximately 3,000 acres. The First Nation submitted its specific claim to Canada in 1985, and it was accepted for negotiation in 1995. After six years of talks, negotiations were put on hold in 2001 so that Canada could complete a thorough re-evaluation of its legal position.

In the spring of 2005, the ICC was asked by the parties to facilitate their talks. Negotiations continued to move ahead and focused on determining the number of acres affected by the flooding and on a land valuation model.

A new Chief Federal Negotiator was appointed in the summer of 2007 and formal negotiation sessions resumed.

The Indian Claims Commission closed the file on April 10, 2008, on receipt of a notice from Canada that the file no longer required the Commission's mediation and facilitation services.

Metepenagiag Mi'kmaq Nation

Hosford Lot and Indian Reserve 7 claim, New Brunswick

The Red Bank First Nation is also known as the Metepenagiag Mi'kmaq Nation. They have four parcels of land totalling 3,907 hectares, about 22 km west of Newcastle and 160 km northwest of Moncton, New Brunswick. The First Nation has a population of 553 with 387 members resident on reserve.

There were two claims involved in these negotiations: Indian Reserve (IR) 7 consisting of 64 acres purported to have been surrendered in 1904 and the Hosford Lot consisting of 100 acres taken in 1906. The IR 7 claim was negotiated and a settlement amount agreed upon in August 2000. Three ratification votes were held, none of which was successful. The Hosford Lot claim was accepted in 2001 and a decision was made by the parties to negotiate a settlement to both claims together. Negotiations continued sporadically from 2002 to 2005.



In April 2005, the parties jointly requested ICC facilitation of the Hosford Lot negotiations. The ICC's involvement began at that time and concluded in January 2006 when an unofficial offer was made by Canada and accepted by the First Nation. By April 2007, the settlement agreement was finalized. At a referendum held on June 14, 2007, the ratification vote was successful.

The Metepenagiag Mi'kmaq Nation report was released June 12, 2008.

Michipicoten First Nation

Pilot project, Ontario

The main reserve of the Michipicoten First Nation is Gros Cap IR 49, with an area of 3492 hectares on the north shore of Michipicoten Bay in Lake Superior, 4 km west of Wawa, Ontario. Their membership is 752, of whom 56 people reside on reserve. They are descendants of the Ojibway Chiefs who negotiated the Robinson Superior Treaty with the Crown in 1850.

Of the original bundle of potential claims researched and discussed under the pilot project process, six were negotiated and settled, three were resolved through administrative referral, and four resulted in no claim being filed.

The last remaining claim was the boundary claim. Accepted for negotiation by Canada in 2003, and with the ICC's continued help as facilitator and study coordinator, the negotiating parties concluded joint land appraisals and loss of use studies and reached an informal agreement on compensation. Canada made a formal offer to settle on June 14, 2007 which the First Nation accepted by Band Council Resolution dated June 28, 2007. The settlement agreement was ratified on January 12, 2008.

The ICC Michipicoten First Nation report was released in November 2008.

Missanabie Cree First Nation

Treaty land entitlement, Ontario

The Missanabie Cree First Nation is a distinct group of Mushkegowuk Cree whose traditional territory is centered on Missanabie Lake, Dog Lake and Wabatongushi Lake, about 120 km north of Wawa, Ontario, and within the Chapleau Crown land preserve. This past year, as a result of negotiations on another claim, the First Nation has acquired a land base of 87 hectares. Of the roughly 345 members, 187 currently live on the land.

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 into the claim, and in 1999, Canada accepted the claim for negotiation.



In late 2003, the ICC was asked by the parties to act as study coordinator for the loss of use studies including a natural resource study (minerals, forestry and water), a traditional activities study, a mapping project, and loss of use studies covering tourism, recreation and agriculture. With these studies nearing completion in mid-2006, the ICC was also asked to facilitate the negotiation process.

At the end of 2007-2008, the studies were finalized.

The Indian Claims Commission closed the file on April 10, 2008, on receipt of a notice from Canada that the file no longer required the Commission's mediation and facilitation services.

Mississaugas of the New Credit First Nation

Toronto Purchase claim, Ontario

The Mississaugas of the New Credit First Nation has approximately 1785 members, with 846 resident on the 2,392 hectare reserve. The First Nation is located adjacent to Hagersville, Ontario, approximately 32 km southeast of Brantford.

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

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

The Commission facilitated these negotiations from May 2003 on the parties' request. As of March 2008, the negotiating parties continued to search for a way to assess the value of the Toronto Purchase lands and the loss of use of those lands and to arrive at a fair and appropriate settlement.

The Indian Claims Commission closed the file on April 10, 2008, on receipt of a notice from Canada that the file no longer required the Commission's mediation and facilitation services.

Mohawk Council of Akwesasne

Dundee claim, Ontario

The Mohawk territory called "Akwesasne" is located adjacent to the city of Cornwall, Ontario, and straddles the international boundary of Canada and the United States, the Ontario and Quebec provincial boundaries and the New York state line. On the Canadian side, the elected government is the Mohawk Council of Akwesasne, composed of 12 District Chiefs and a Grand Chief. The community has a registered population of 10,446, of whom approximately 8,433 live on the 4,739 hectares of reserve land on Cornwall Island and other islands in the St Lawrence River.



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

The Mohawk Council of Akwesasne’s claim to the Dundee lands was accepted for negotiation in December 2002 on the basis that the Crown breached a pre-surrender fiduciary duty in relation to the 1888 surrender and that the Crown owed an outstanding lawful obligation to the Mohawks of Akwesasne in relation to certain leases not validated by the 1864 *Dundee Act*.

The Indian Claims Commission’s involvement as facilitator to the negotiations began in late 2005 at the joint request of the parties. A negotiation protocol was signed and the negotiating parties began identifying and discussing the issues to be negotiated. From April 2008 to November 2008, negotiations continued with the ICC facilitating the study coordination process for a land appraisal.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.

Mohawk Council of Akwesasne

Kawehno:ke claim, Ontario

The Mohawk territory called “Akwesasne” is located adjacent to the city of Cornwall, Ontario, and straddles the international boundary of Canada and the United States, the Ontario and Quebec provincial boundaries and the New York state line. On the Canadian side, the elected government is the Mohawk Council of Akwesasne, composed of 12 District Chiefs and a Grand Chief. The community has a registered population of 10,446, of whom approximately 8,433 live on the 4,739 hectares of reserve land on Cornwall Island and other islands in the St Lawrence River.

The Kawehno:ke claim dates back to the early 1800s when Solomon Chesley became an Indian agent after the War of 1812. As agent, Chesley arranged a 999-year lease of 196 acres on Cornwall Island to himself. The Mohawk Chiefs objected that the lease contravened the Royal Proclamation of 1763. Chesley eventually became Deputy Superintendent General of Indian Affairs and sublet the land to a New Englander named Easterbrook. After the first century of the lease expired, the Government of Canada took Easterbrook to court seeking to terminate the lease. The Supreme Court of Canada concluded the lease was void from the beginning and Easterbrook had no rights to the land nor right to compensation for the improvements on the land. The Mohawk Council of Akwesasne presented a formal claim to Canada in 1995 and Canada agreed to negotiate in 2006. The land was returned to the Mohawk Council of Akwesasne and the negotiations focused on compensation.



The Grand Chief of the Mohawks of Akwesasne wrote to the Indian Claims Commission (ICC) requesting mediation/facilitation services in May 2007. In June 2007, Canada's negotiator consented. A protocol was signed and the negotiating parties began identifying the issues to be negotiated.

The ICC continued to facilitate negotiations up to September 2008, by which time negotiations had reached the stage for the Federal Negotiator to seek a financial mandate for settlement, which would take up to three months to secure. Meetings scheduled for October 2008 through December 2008 were postponed to make way for that process.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.

Mohawks of the Bay of Quinte

Culbertson Tract, Ontario

The Mohawks of the Bay of Quinte have a total membership of approximately 7724, with approximately 2093 residing on the Tyendinaga Reserve adjacent to the town of Deseronto and about 10 km east of Belleville, Ontario. The Mohawks have been settled at this location since May 1784.

This claim is based on the disposition in 1836-37 of some 827 acres of land, known as the Culbertson Tract. The tract consists of land within the original Mohawk Tract granted to and reserved for the Six Nations by the Simcoe Deed, also known as Treaty No. 3 ½, 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 to Canada in 1995 and accepted for negotiation in 2003.

In September 2004, the ICC began providing facilitation services to the parties at their joint request. Since that time, the parties have worked to identify the boundaries of the claim lands and discussed various approaches to compensation. As of July 2008, negotiations had broken down and negotiations scheduled for July, September and October were cancelled.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.



Muscowpetung First Nation

Flooding claim, Saskatchewan

Muscowpetung IR 80, contains 8,849 hectares and is located 31 km west of Fort Qu'Appelle, Saskatchewan. The First Nation's population is 1168, of whom 280 live on reserve.

Originally part of the Qu'Appelle Valley Indian Development Authority (QVIDA), the Muscowpetung First Nation was one of a number of First Nations whose lands were lost to recurrent and, in some areas, continuous flooding resulting from 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 directly. The Commission was at the negotiation table as mediator/facilitator. The Province of Saskatchewan (Saskatchewan Watershed Authority) was also at the table.

Muscowpetung First Nation completed a number of loss of use studies and other research in assessing past losses. In March 2007, the First Nation presented a settlement proposal to Canada.

Canada received its financial mandate and made a formal offer for settlement on May 29, 2008. The First Nation accepted the offer in August 2008. As of November 2008, final touches were being put on the Settlement Agreement, Trust Agreement and Co-Management Agreement with an anticipated ratification by fall 2009.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.

Muskoday First Nation

Treaty land entitlement, Saskatchewan

Muskoday IR 99, contains 9,686 hectares and is located 19 km southeast of Prince Albert, Saskatchewan. The total band population is 1564, of whom 561 live on reserve.

This Cree/Saulteaux First Nation adhered to Treaty 6 in 1876 under Chief John Smith. Research has determined that Muskoday First Nation did not receive the reserve land to which they were entitled according to the formula set out in the treaty. The claim was submitted to Canada alleging a shortfall of reserve land pursuant to the terms of Treaty 6. In April 2003, 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 February 2004 with the Province of Saskatchewan also at the table. The Indian Claims Commission facilitated the Muskoday TLE negotiations from that time, as well as the negotiations of a Treaty Land Entitlement Common Table comprised of Sturgeon Lake, George Gordon, Muskoday and Pasqua First Nations which wound up in late 2004.

Considerable progress was made by the Muskoday First Nation TLE table during 2006-2007, with a tentative settlement reached and negotiators on both sides recommending the agreement for ratification to their principals. The Muskoday First Nation was not successful in ratifying the agreement in March 2007. A second ratification vote on May 23, 2007 was successful.

On January 10, 2008, a signing ceremony took place, attended by the Muskoday First Nation, the federal Minister of Indian Affairs and the Minister of First Nations and Metis Relations for the Province of Saskatchewan.

The Indian Claims Commission report on the Muskoday First Nation claim was released on June 12, 2008.

Nekaneet First Nation

Treaty benefits, Saskatchewan

Nekaneet First Nation is located in the Cypress Hills of southwest Saskatchewan, 40 km southeast of Maple Creek. This Cree First Nation was a signatory of Treaty 4 and has a membership of 419, including 173 people who live on reserve. The land base consists of 11,669 hectares in and around the Maple Creek area.

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

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



The Indian Claims Commission facilitated talks between the negotiating parties from July 2002 on. Negotiations paused for approximately two years to allow Canada to complete a policy review regarding the modern implementation of treaty benefits relating to the provision of agricultural implements. Since the resumption of negotiations and by working with the help of agricultural economists, Nekaneet First Nation and Canada have been able to agree on a methodology to value the loss of the agricultural benefits.

The parties continued to work together on the terms of a fair and appropriate settlement and came to an agreement on July 5, 2007. As of March 2008, a tentative ratification vote was set for mid-summer.

The Indian Claims Commission closed the file on April 10, 2008, on receipt of a notice from Canada that the file no longer required the Commission's mediation and facilitation services.

Pasqua First Nation

Flooding claim, Saskatchewan

Pasqua IR 79 contains 8960 hectares and is located 16 km west of Fort Qu'Appelle, Saskatchewan. The total band population is 1770, of whom 557 live on reserve.

Originally part of the Qu'Appelle Valley Indian Development Authority (QVIDA), the Pasqua First Nation was one of a number of First Nations whose lands were lost to recurrent and, in some areas, continuous flooding resulting from 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 negotiate directly with Canada. The Commission was at the table as mediator/facilitator. The Province of Saskatchewan (Saskatchewan Watershed Authority) is also at the table.

Over the course of 2007-2008, the Commission facilitated a number of meetings between the parties. Canada received its financial mandate and made a formal offer for settlement on May 30, 2008. The First Nation accepted Canada's offer in August 2008. As of November 2008, final touches were being put on the Settlement Agreement, Trust Agreement and Co-Management Agreement with an anticipated ratification by fall 2009.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.



Pasqua First Nation

Treaty land entitlement claim, Saskatchewan

Pasqua IR 79, contains 8,960 hectares and is located 16 km west of Fort Qu'Appelle, Saskatchewan. The total band population is 1,770, of whom 557 live on reserve.

Pasqua First Nation adhered to Treaty 4 in 1874. Research determined that the First Nation did not receive the reserve land to which it was entitled, according to the formula set out in the treaty. Pasqua First Nation submitted its claim to Canada in 2001, and while the claim was being reviewed by Canada, Pasqua First Nation participated as an observer in the Treaty Land Entitlement Common Table. These discussions, also facilitated by the Commission, resulted in Canada and the Sturgeon Lake, Gordon, Muskoday and Pasqua First Nations agreeing on a common approach to various issues relating to the determination of an adjusted-date-of-first-survey population.

Pasqua's TLE claim was accepted for negotiation in May 2005 and the ICC agreed to facilitate these negotiations at the request of the parties. The Province of Saskatchewan is also at the table.

By the close of 2006-2007, the Pasqua First Nation and Canada had agreed on most of the terms of settlement. Canada made a formal offer of settlement and the First Nation accepted the offer in June 2007. The ratification vote on April 25, 2008, was successful. As of June 2008, the ICC was no longer involved at the negotiating table.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.

Sakimay First Nation

Flooding claim, Saskatchewan

Sakimay First Nation's main reserve, IR 74, contains 8,751 hectares and is located 16 km northwest of Broadview, Saskatchewan. The total band population is 1393, 225 of whom live on reserve.

Originally part of the Qu'Appelle Valley Indian Development Authority (QVIDA), Sakimay First Nation was one of a number of First Nations whose lands were lost to recurrent and, in some areas, continuous flooding resulting from the construction in the 1940s of a series of water-control structures under the *Prairie Farm Rehabilitation Act*. When negotiations between Canada and the larger QVIDA group of First Nations broke down in August 2003, Sakimay chose to continue negotiating its flooding claim together with Ochapowace First Nation and with Piapot First Nation also at the table (Piapot had observer status, having submitted a flooding claim which was still under review by Canada).

In late spring 2006, Sakimay, Ochapowace and Piapot First Nations participated in a program aimed at organizing the negotiating parties, their issues and negotiation time lines by means of a results-based



management approach. Despite the success of this approach, Ochapowace and Piapot First Nations subsequently chose to abandon negotiations to pursue their flooding claims by means of a court action against Canada. Sakimay First Nation decided to stay and continue negotiating with Canada directly, facilitated by the Commission. The Province of Saskatchewan (Saskatchewan Watershed Authority) is also at the table.

In early 2007, Sakimay First Nation presented a settlement proposal to Canada. Canada received its financial mandate and made a formal offer on May 30, 2008. The First Nation accepted the offer in August 2008. As of November 2008, final touches were being put on the Settlement Agreement, Trust Agreement and Co-Management Agreement with an anticipated ratification by fall 2009.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.

Sakimay First Nation

Treaty land entitlement, Saskatchewan

Sakimay First Nation's main reserve, IR 74, contains 8,751 hectares and is located 16 km northwest of Broadview, Saskatchewan. The total band population is 1393, 225 of whom live on reserve.

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

Canada's confirming research was shared with Sakimay First Nation in January 2002 and its TLE claim was rejected. In July 2003, the First Nation renewed its request for an inquiry, which was accepted in September 2003. The Commission's proposal for a joint research project was accepted by both parties and a report was completed by August 2004. Based on this additional research, the First Nation made a renewed submission to Canada in October 2004. Canada accepted the claim in 2006 and the ICC was asked by the negotiating parties to facilitate the negotiations.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.



Siksika Nation

Castle Mountain claim, Alberta

The Siksika Nation (formerly known as the Blackfoot Band) has a reserve of 70,985 hectares located 80 km east of Calgary, Alberta. It has a total registered population of 6327, with about 3514 residents on reserve.

This claim relates to an area of about 68 km² of land at Castle Mountain (located between Banff and Lake Louise) that was surveyed as a timber limit for the Blackfoot people in 1892. The Department of Indians Affairs later concluded that a timber limit in a different location would be preferable, and in November 1908, it returned the land to the Department of the Interior. No replacement timber limit was ever selected for Siksika.

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

The ICC came to the negotiation table in mid-2005 as study coordinator, acting as liaison between the negotiating parties and independent consultants hired to complete research and loss-of-use studies including a consolidated land-use study, resource harvesting, mines and minerals, land appraisals, forestry and other land development including tourism and recreation. By the end of March 2008, the consultants’ reports were still in progress.

There has been no activity on the file since that time.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.

Shxwha:y Village

Schweyey Road claim, British Columbia

Shxwha:y Village (formerly known as the Skway First Nation) IR 5, is located 2 km west of Chilliwack, British Columbia, between the Chilliwack and Fraser Rivers. Shxwha:y Village has 319 members, 59 of whom live on reserve and are part of the Sto:lo Nation.

Accepted for negotiation by Canada in April 2003, this claim concerns the dyke and road on Shxwha:y Village Indian Reserve (IR) 5. In its claim submission, the First Nation successfully established that Canada had breached its lawful obligation to the Shxwha:y Village 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.



Negotiations commenced in the fall of 2003, with the Commission at the table as facilitator. Parties to the negotiation include Shxw̓ha:y Village First Nation, Canada, the Province of British Columbia and the City of Chilliwack.

Despite having reached a tentative understanding regarding settlement some time ago, several unresolved issues prevented the parties from concluding the agreement. During 2007-2008, the ICC provided facilitative support to the negotiating parties in an effort to resolve these issues and conclude a fair settlement. In May 2008, the parties came to an agreement and the Commission's involvement ended.

The Mediation Services of the Commission closed as of December 1, 2008. The First Nation and Canada were formally notified by way of letter dated October 31, 2008.

Snuneymuxw First Nation

79 Acre Specific Claim

The Snuneymuxw First Nation (SFN), previously known as the Nanaimo Indian Band, entered into a Douglas Treaty with the Crown in 1854.

The claim research indicated that the 79-acre reserve was likely created at some point between 1854 and 1860 and that there was a village site within part of it at the time of treaty. In 1860, Assistant Surveyor Pearce was sent by Governor Douglas to the Nanaimo area to lay out the Snuneymuxw reserves. Pearce set out a proposed 79-acre reserve on a sketch plan for the Nanaimo Indians at a village site across from Newcastle Island.

It is not clear from the evidence that the Snuneymuxw were ever made aware that the 79-acre reserve had been set aside and due to other historical factors, they were off the land by 1862.

The 79-acre reserve was subsequently alienated through a complex series of events in British Columbia history involving the building of the E&N Railway, agreements between the federal and colonial/provincial governments, litigation, changing and retroactive settlement legislation, further litigation, and private deals to resolve the issues, none of which appears to have included the Snuneymuxw. The result was increasing encroachment and use of the reserve by non-Aboriginals.

The Snuneymuxw First Nation's 79-acre specific claim was submitted to the Department of Indian Affairs in 1993 and accepted for negotiation in November 2003 on the basis that Canada had breached its lawful obligation to the First Nation, in that the reserve was lost to the First Nation without compliance with the formal acts of surrender required under the Indian Act, without the consent of the Snuneymuxw and without any compensation.



Snuneymuxw contacted the ICC on March 18, 2008, to assist with negotiations. Commissioners accepted the claim for facilitation/mediation on June 25, 2008. A preliminary meeting was conducted on August 8, 2008, with a site tour on August 12, 2008. Three subsequent negotiation sessions were facilitated by the Commission: September 3, September 30 and December 1, 2008.

The Mediation Services of the Commission ended on December 1, 2008. The First Nation and Canada were formally advised by way of letter dated October 31, 2008.

Sturgeon Lake First Nation

Treaty land entitlement, Saskatchewan

The Sturgeon Lake First Nation is located near Shellbrook, Saskatchewan, about 50 km northwest of Prince Albert. There are approximately 2419 registered members with 1656 residing on the 9209 hectare reserve.

This Cree/Saulteaux First Nation adhered to Treaty 6 on August 23, 1876. Subsequent research determined that they did not receive the reserve land to which they were entitled, according to the formula set out in the treaty. In March 2004, Canada accepted the Sturgeon Lake First Nation's claim that it had breached its lawful obligation in that there is an outstanding treaty land entitlement shortfall of 2,032 acres.

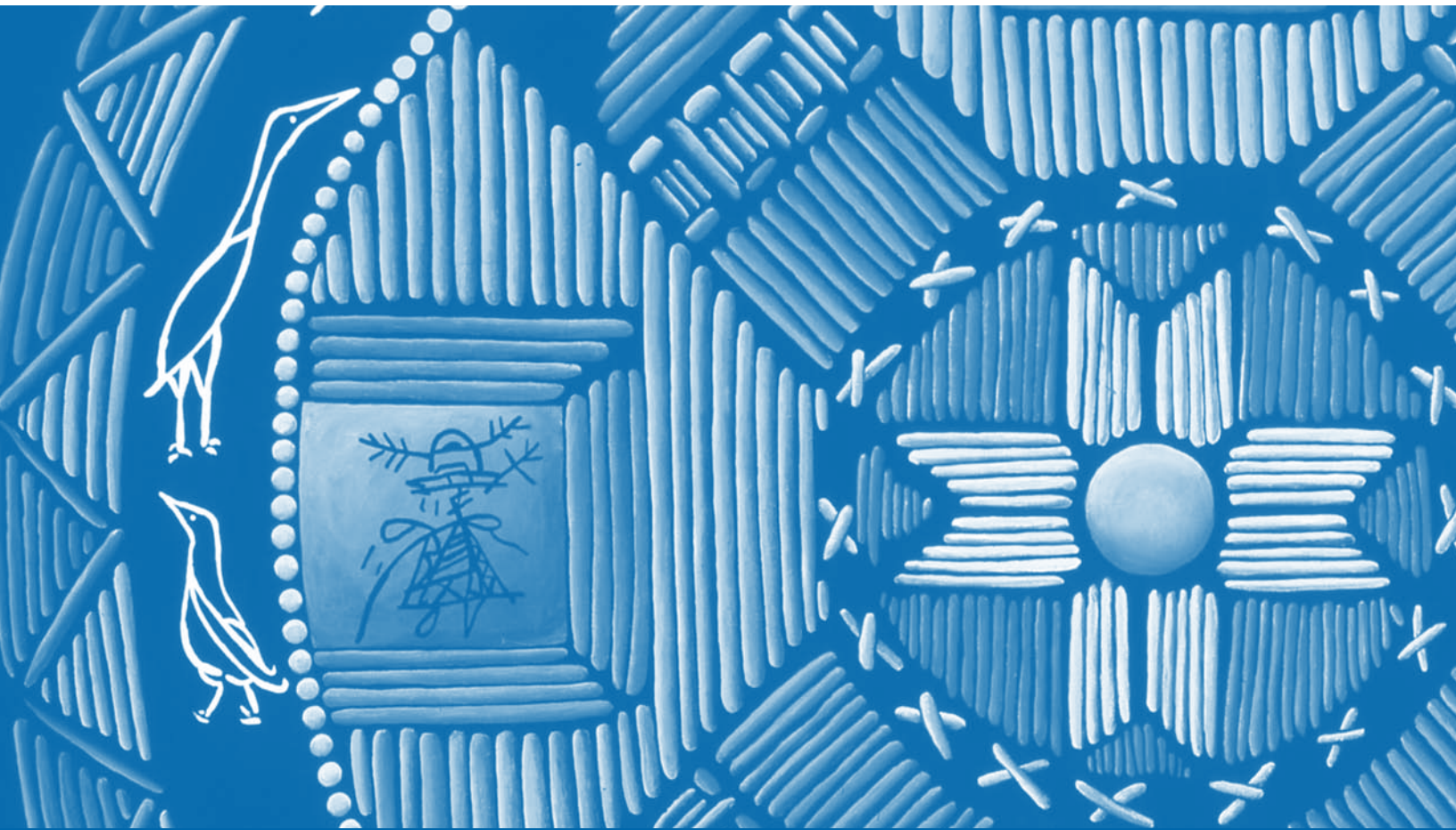
Negotiation of the claim began in September 2004 with the Province of Saskatchewan also at the table. The Indian Claims Commission acted as facilitator of these negotiations, as well as facilitating discussions aimed at reaching a common approach with Canada respecting issues relating to the determination of an adjusted-date-of-first-survey (ADOFS) population at a Treaty Land Entitlement Common Table involving the Sturgeon Lake, Gordon, Muskoday and Pasqua First Nations.

Sturgeon Lake First Nation and Canada agreed on the terms of a settlement agreement and on January 25, 2007, the First Nation successfully ratified the agreement. On June 19, 2007, a signing ceremony was held at Sturgeon Lake First Nation acknowledging the TLE settlement agreement. The Ceremony was attended by the Chief, Council, Elders and community members, the Minister of Indian Affairs and the provincial Minister of Regional Economic and Co-operative Development for Saskatchewan.

The Sturgeon Lake First Nation report was released June 12, 2008.







CLAIMS ADDRESSED BY THE ICC IN INQUIRIES AND MEDIATIONS CONCLUDED WITH REPORTS

What you'll find in this section:

- 69** **Claims Addressed in Inquiries and Mediations Concluded with Reports as of December 31, 2008**
Table providing information on the status of each claim addressed in inquiries and each mediation
- 88** **Claims Addressed in Inquiries and Mediations Concluded with Reports Indexed by Province**
Index of all claims addressed in inquiries and mediations concluded with reports, grouped by province

93 **Issues Addressed in Inquiries Indexed by Theme**

Index of all claims addressed in inquiries, grouped by theme

101 **Specific Claims in Inquiry Ceased Prior to Completion
November 2007**

List of all inquiries ceased by Order in Council



Claims Addressed By The ICC In Inquiries And Mediations Concluded With Reports

This table updates readers on the status of claims for which the Commission has completed its inquiry or mediation activities. In all of the claims listed below, an inquiry or mediation report has been published and is available at <http://www.ainc-inac.gc.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 and the recommendation. The next column contains the date of the ICC's report, followed by a column containing the date of Canada's response to ICC's recommendation(s) and any settlement information available.

Claims Addressed By The Icc In Inquiries And Mediations Concluded With Reports As Of December 31, 2008

Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
1 Alexis, AB TransAlta Utilities rights of way <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2003	In July 2005, government rejected the recommendation stating that a lump sum payment was adequate compensation, that there was no duty to advise the First Nation respecting its taxation powers, and that informed consent to the expropriation was not required.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
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 recommendation, disagreeing that it had a fiduciary duty or a duty under Treaty 8 to protect reserve from effects of Bennett Dam caused by BC Hydro, a third party, or to invoke <i>Navigable Waters Protection Act</i> respecting the dam.
3 Athabasca Denesuline, SK Treaty harvesting rights <i>Recommended claim be negotiated outside specific claims process.</i>	Inquiry December 1993	In August 1994, government rejected recommendations made in December 1993 report.
4 Athabasca Denesuline, SK Treaty harvesting rights <i>1995 special report noted failure of negotiations; recommended government recognize treaty rights or provide litigation funding</i>	Special report November 1995	November 1995 special report acknowledged; no further response.
5 Betsiamites Band, QC Highway 138 <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 2005	In January 2004, government accepted claim for negotiation while inquiry underway.
6 Betsiamites Band, QC Rivière Betsiamites Bridge <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 2005	In January 2004, government accepted claim for negotiation while inquiry underway.
7 Bigstone Cree Nation, AB Treaty land entitlement <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 2000	In October 1998, government accepted claim for negotiation while inquiry underway.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
8 Blood Tribe/Kainaiwa, AB 1889 Akers surrender <i>Claim accepted for negotiation without full inquiry</i>	Inquiry June 1999	In April 1998, government accepted claim for negotiation while inquiry underway.
9 Blood Tribe/Kainaiwa, AB Akers surrender <i>Claim settled with assistance of Commission</i>	Mediation August 2005	In September 2003, claim settled for \$3.55 million in compensation.
10 Blood Tribe/Kainaiwa, AB Big Claim <i>Recommended part of claim be accepted for negotiation</i>	Inquiry March 2007	No response received.
11 Blueberry River and Doig River, BC Highway right of way IR 172 <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 2006	In September 2004, government accepted claim for negotiation while inquiry underway.
12 Buffalo River, SK Primrose Lake Air Weapons Range Report II Inquiries— loss of commercial and treaty harvesting rights <i>Recommended that part of claim be accepted for negotiation</i>	Inquiries September 1995	In March 2002, government rejected recommendation, stating: "Compensation 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."



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
13 Canoe Lake, SK Primrose Lake Air Weapons Range Inquiries – breach of treaty and fiduciary obligations <i>Recommended claim be accepted for negotiation</i>	Inquiry August 1993	In June 1997, claim settled for \$13,412,333 in federal compensation and a requirement that the First Nation purchase between 2,786 hectares and 20,224 hectares of land.
14 Canupawakpa Dakota, MB Turtle Mountain surrender <i>Recommended claim not be accepted for negotiation. Pursuant to supplementary mandate, recommended that after consultation with Canupawaka Dakota, and Sioux Valley Dakota First Nations, Canada acquire and designate land at Turtle Mountain as a burial site</i>	Inquiry July 2003	Government agreed with the Commission's finding that the claim did not disclose an outstanding lawful obligation. The government rejected the recommendation to acquire and designate land at Turtle Mountain as a burial site, on the basis that Canada does not have the authority to accept claims based on reasons outside the specific claims policy.
15 Carry the Kettle, SK Cypress Hills <i>Recommended claim not be accepted for negotiation. 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.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
16 Carry the Kettle, SK 1905 surrender <i>Recommended claim not be accepted for negotiation</i>	Inquiry December 2008	Outcome unknown at date of closure of ICC..
17 Chippewa Tri-Council, ON Collins Treaty <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 1998	In December 1998, claim settled for \$565,000 in federal compensation.
18 Chippewa Tri-Council, ON Coldwater-Narrows reservation surrender <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 2003	In July 2002, government accepted claim for negotiation while inquiry underway.
19 Chippewas of Kettle and Stony Point, ON 1927 surrender <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1997	No response received.
20 Chippewas of the Thames, ON Muncey land inquiry <i>Claim accepted for negotiation without full inquiry</i>	Inquiry December 1994	In January 1995, claim settled for \$5,406,905 in federal compensation.
21 Chippewas of the Thames, ON Clench defalcation <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 2002	In June 2001, government accepted claim for negotiation while inquiry underway.
22 Chippewas of the Thames, ON Clench defalcation <i>Claim settled with assistance of Commission</i>	Mediation August 2005	In November 2004, claim settled for \$15 million in federal compensation.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
23 Cold Lake, AB Primrose Lake Air Weapons Range – breach of treaty and fiduciary obligations <i>Recommended claim be accepted for negotiation</i>	Inquiry August 1993	In March 2002, claim settled for \$25.5 million in federal compensation.
24 Cowessess, SK QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
25 Cowessess, SK 1907 surrender – Phase I <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2001	In March 2002, government rejected recommendation, disagreeing with finding of number of voters present and with interpretation of “majority,” but proceeded to phase II of this inquiry as previously agreed.
26 Cowessess, SK 1907 surrender – Phase II <i>Majority recommended claim not be accepted for negotiation</i>	Inquiry July 2006	In December 2007, government accepted majority recommendation that claim not be accepted for negotiation.
27 Cumberland House, SK IR 100A <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2005	No response received.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
28 Duncan's, AB 1928 surrender <i>Recommended part of claim 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."
29 Eel River Bar, NB Eel River Dam <i>Recommended claim not be accepted for negotiation</i>	Inquiry December 1997	No response received.
30 Esketemc, BC IR 15, 17, and 18 <i>Recommended claim be accepted for negotiation</i>	Inquiry November 2001	In June 2005, government rejected recommendation, stating that Canada had no obligation or power to create reserves for the First Nation, and that the Commission's conclusions "are largely premised on findings ... that the First Nation had aboriginal rights and title to the land at issue."
31 Esketemc, BC Wright's Meadows pre-emption claim <i>Majority recommended that the claim be accepted for negotiation</i>	Inquiry November 2008	Outcome unknown at date of closure of ICC.
32 Fishing Lake, SK 1907 surrender <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 1997	In August 1996, government accepted claim for negotiation while inquiry underway.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
33 Fishing Lake, SK 1907 surrender <i>Claim settled with assistance of Commission</i>	Mediation March 2002	In August 2001, claim settled for \$34.5 million in federal compensation.
34 Flying Dust, SK Primrose Lake Air Weapons Range Report II Inquiries – loss of commercial and treaty harvesting rights <i>Recommended part of claim be accepted for negotiation</i>	Inquiries September 1995	In March 2002, government rejected recommendation, stating: "Compensation 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."
35 Fort McKay, AB Treaty land entitlement <i>Recommended claim be accepted for negotiation</i>	Inquiry December 1995	In April 1998, government accepted claim for negotiation.
36 Fort Pelly Agency, SK (Pelly Haylands Claim) <i>Claim settled with assistance of the Commission</i>	Mediation March 2008	In November 2008, claim settled for \$78.3 million.
37 Friends of the Michel Society, AB 1958 enfranchisement <i>Recommended government grant special standing to submit specific claims</i>	Inquiry March 1998	In October 2002, government rejected recommendation.
38 Gamblers, MB Treaty land entitlement <i>Recommended claim not be accepted for negotiation</i>	Inquiry October 1998	In November 1998, government accepted recommendation.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
39 George Gordon, SK Treaty Land Entitlement Claim <i>settled with assistance of the Commission</i>	Mediation June 2008	The Claim was settled for \$26.6 million, plus negotiation and ratification costs, and authorization to purchase additional acres for ATR.
40 Homalco, BC Aupe IR 6 and 6A – statutory or fiduciary obligation to obtain 80 acres of land from the province of BC <i>Recommended part of claim be accepted for negotiation</i>	Inquiry December 1995	In December 1997, government rejected recommendation, stating that, as the lands were not alleged to be reserve lands, the Policy does not apply, and that Canada does not “recognize a general duty to protect traditional Indian lands (as distinct from reserve lands) from the actions of others.”
41 James Smith, SK Chakastaypasin IR 98 <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2005	No response received.
42 James Smith, SK IR 100A <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2005	No response received.
43 James Smith, SK Treaty land entitlement <i>Recommended claim not be accepted for negotiation</i>	Inquiry February 2007	No response received.
44 Joseph Bighead, SK Primrose Lake Air Weapons Report Range II Inquiries – loss of commercial and treaty harvesting rights <i>Recommended claim not be accepted for negotiation</i>	Inquiries September 1995	No response received.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
45 Kahkewistahaw, SK Treaty land entitlement <i>Recommended claim not be accepted for negotiation</i>	Inquiry November 1996	No response received.
46 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.
47 Kahkewistahaw, SK 1907 surrender <i>Claim settled with assistance of Commission</i>	Mediation February 2003	In November 2002, claim settled for \$94.65 million in federal compensation.
48 Kawacatoose, SK Treaty land entitlement <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1996	In October 2000, claim settled for \$23 million in federal compensation.
49 Keeseekoowenin, MB 1906 land claim <i>Claim settled with assistance of Commission</i>	Mediation August 2005	In March 2005, claim settled for \$6,999,900 in compensation.
50 The Key, SK 1909 surrender <i>Recommended claim not be accepted for negotiation</i>	Inquiry March 2000	No response received.
51 Kluane, YK Kluane Game Sanctuary and Kluane National Park Reserve creation <i>Claim accepted for negotiation without full inquiry</i>	Inquiry February 2007	Inquiry resolved by the Final and Self-Government Agreements effective February 2004.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
52 Lac La Ronge, SK Treaty land entitlement <i>Recommended claim not be accepted for negotiation</i>	Inquiry March 1996	No response received.
53 Lax Kw'alaams, BC Demand for absolute surrender as precondition to settlement <i>Recommended 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.
54 Long Plain, MB Loss of use of treaty entitlement land <i>Recommended claim be accepted for negotiation</i>	Inquiry February 2000	In November 2005, government accepted claim for negotiation.
55 Lower Similkameen, BC Railway right of way <i>Recommended claim be accepted for negotiation</i> <i>Recommended that Canada take the necessary steps to ensure that the right of way land has the legal status of reserve land</i>	Inquiry February 2008	Outcome as yet unknown at date of closure of ICC.
56 Lucky Man, SK Treaty land entitlement <i>Recommended further research to establish proper TLE population</i>	Inquiry March 1997	In May 1997, government accepted recommendation.
57 Lucky Man, SK Treaty Land Entitlement - Phase II <i>Recommended claim be accepted for negotiation</i>	Inquiry February 2008	Outcome unknown at date of closure of ICC.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
58 Mamaleleqala Qwe'Qwa'Sot'Enox, BC McKenna-McBride applications <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1997	In December 1999, government rejected the recommendation.
59 Metepenagiag Mi'kmaq, NB Hosford Lot & IR 7 <i>Claim settled with assistance of the Commission</i>	Mediation June 2008	The claim was settled for \$1.4 million in compensation.
60 Michipicoten Pilot Project <i>Claim settled with assistance of the Commission</i>	Mediation June 2008	The claim was settled for \$52.3 million in compensation.
61 Micmacs of Gesgapegiag, QC Pre-Confederation claim to 500-acre island <i>Recommended that DIAND write to all those whose claims were rejected because of the pre- Confederation bar informing them that, if they wish their claim reconsidered, to notify the department.</i>	Inquiry December 1994	In March 1995, government acknowledged receipt of report and advised claim was in abeyance pending outcome of related court case.
62 Mikisew Cree, AB Economic benefits under Treaty 8 <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 1997	In December 1996, government accepted claim for negotiation while inquiry underway.
63 Mississaugas of the New Credit, ON Toronto Purchase <i>Claim accepted for negotiation without full inquiry</i>	Inquiry June 2003	In July 2002, government accepted claim for negotiation while inquiry underway.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
64 Mistawasis, SK 1911, 1917, and 1919 surrenders <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 2002	In September 2001, claim settled for \$16.3 million in federal compensation.
65 Moose Deer Point, ON Pottawatomi rights <i>Recommended additional research</i>	Inquiry March 1999	In March 2001, government rejected recommendation.
66 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.
67 Moosomin SK 1909 reserve land surrender <i>Claim settled with assistance of Commission</i>	Mediation March 2004	In September 2003, claim settled for \$41 million in federal compensation.
68 Muskoday, SK Treaty Land Entitlement <i>Claim settled with assistance of the Commission</i>	Mediation May 2008	Claim was settled for \$10.25 million, plus negotiation and ratification costs.
69 Muskowekwan, SK 1910 and 1920 surrenders <i>Recommended claim be accepted for negotiation</i>	Inquiry December 2008	Outcome unknown at date of closure of ICC.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
70 Muscowpetung, SK QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
71 Nadleh Whut'en, BC Lejac School <i>Recommended claim be accepted for negotiation</i>	Inquiry December 2008	Outcome unknown at date of closure of ICC.
72 Nak'azdli, BC Aht-Len-Jees IR 5 <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 1996	In January 1996, government accepted claim for negotiation while inquiry underway.
73 'Namgis, BC Cormorant Island <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1996	In May 2001, government rejected recommendation.
74 'Namgis, BC McKenna-McBride applications <i>Recommended part of claim be accepted for negotiation</i>	Inquiry February 1997	In December 1999, government rejected recommendation.
75 Nekaneet, SK Agricultural and other benefits under Treaty 4 <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 1999	In October 1998, government accepted claim for negotiation while inquiry underway.
76 Neskonlith, Adams Lake and Little Shuswap, BC Neskonlith Reserve <i>Recommended claim not be accepted for negotiation</i>	Inquiry November 2008	Outcome unknown at date of closure of ICC.
77 Ochapowace, SK QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
78 Opaskwayak, MB Streets and lanes claim <i>First Nation withdrew claims during inquiry</i>	Inquiry February 2007	N/A
79 Pasqua, SK QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
80 Paul, AB Kapasiwin townsite <i>Recommended claim not be accepted for negotiation</i>	Inquiry February 2007	No response received.
81 Peepeekisis, SK File Hills Colony <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2004	In June 2006, government rejected recommendation.
82 Peguis, MB Treaty land entitlement <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 2001	In June 1998, government accepted claim for negotiation while inquiry underway.
83 Qu'Appelle Valley Indian Development Authority (Cowessess, Kahkewistahaw, Muscowpetung, Ochapowace, Pasqua, Piapot, Sakimay), SK Flooding claim <i>Parties unable to come to an agreement; separate negotiations ongoing with Cowessess, Muscowpetung, Pasqua, Sakimay</i>	Mediation December 2005	N/A



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
84 Red Earth and Shoal Lake, SK Quality of reserve lands <i>Recommended claim not be accepted for negotiation. Pursuant to supplementary mandate, recommended that Canada initiate discussions with the First Nations to find a long-term solution to problems resulting from the condition of their reserve lands</i>	Inquiry December 2008	Outcome unknown at date of closure of ICC
85 Roseau River Anishinabe, MB Treaty land entitlement <i>Claim settled with assistance of Commission</i>	Mediation March 1996	In March 1996, claim settled for \$14 million in federal compensation.
86 Roseau River Anishinabe, MB Medical aid <i>Recommended claim be accepted for negotiation</i>	Inquiry February 2001	In September 2003, government rejected recommendation.
87 Roseau River Anishinabe, MB 1903 Surrender <i>Recommended claim be accepted for negotiation</i>	Inquiry September 2007	In April 2008, government accepted claim for negotiation.
88 Sakimay, SK QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
89 Sakimay, SK Treaty land entitlement <i>Claim accepted for negotiation without full inquiry</i>	Inquiry April 2007	In September 2006, government accepted claim for negotiation while inquiry underway.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
90 Sandy Bay Ojibway, MB Treaty land entitlement <i>Recommended claim not be accepted for negotiation</i>	Inquiry June 2007	The ICC recommendation was accepted.
91 Saulteau, BC Treaty land entitlement <i>First Nation requested conclusion of inquiry in anticipation of acceptance of claim</i>	Inquiry April 2007	N/A
92 Standing Buffalo, SK QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
93 Standing Buffalo, SK QVIDA flooding claim <i>Settled with assistance of Commission</i>	Mediation March 2004	In March 2003, claim settled for \$3.6 million in compensation and the ability to acquire up to 640 acres of agricultural land to be set apart as reserve land pursuant to Canada's Additions to Reserves Policy.
94 Sturgeon Lake, SK Treaty Land Entitlement <i>Settled with assistance of Commission</i>	Mediation June 2008	Claim settled for \$10.4 million plus negotiation and ratification costs.
95 Sturgeon Lake, SK Red Deer Holdings agricultural lease <i>Claim accepted for negotiation without full inquiry</i>	Inquiry March 1998	In October 1998, claim settled for \$190,000 in federal compensation.
96 Sturgeon Lake, SK 1913 surrender <i>Recommended claim not be accepted for negotiation</i>	Inquiry December 2008	Outcome unknown at date of closure of ICC.



Name of First Nation, Province <i>Type or title of claim</i>	Date and Type of ICC Report	Canada's Response
97 Sumas, BC IR 6 railway right of way <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1995	In June 2005, government accepted claim for negotiation.
98 Sumas, BC 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.
99 Taku River Tlingit, BC Wenah specific claim <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2006	No response received.
100 Thunderchild, SK 1908 surrender <i>Claim settled with assistance of Commission</i>	Mediation March 2004	In September 2003, claim settled for \$53 million in compensation.
101 Touchwood Agency, SK Mismanagement (1920–24) claim <i>Parties unable to come to an agreement; Agency requested ICC inquiry</i>	Mediation August 2005	N/A
102 Walpole Island, ON Boblo Island <i>Recommended claim not be accepted for negotiation</i>	Inquiry May 2000	No response received.



Name of First Nation, Province	Date and Type of ICC Report	Canada's Response
<i>Type or title of claim</i>		
<p>103 Waterhen Lake, SK Primrose Lake Air Weapons Range Report II Inquiries – loss of commercial and treaty harvesting rights <i>Recommended part of the claim be accepted for negotiation</i></p>	<p>Inquiries September 1995</p>	<p>In March 2002, government rejected recommendation.</p>
<p>104 Williams Lake, BC Village site <i>Recommended claim be accepted for negotiation</i></p>	<p>Inquiry March 2006</p>	<p>In August 2007, government rejected recommendation.</p>
<p>105 Young Chipeewayan, SK Stoney Knoll IR 107 <i>Recommended claim not be accepted for negotiation</i></p>	<p>Inquiry December 1994</p>	<p>No response required.</p>



Claims Addressed In Inquiries And Mediations Concluded With Reports Indexed By Province

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 ICC's report.

ALBERTA

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

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

Bigstone Cree Nation, Treaty land entitlement, March 2000

Blood Tribe / Kainaiwa, 1889 Akers surrender, June 1999

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

Blood Tribe / Kainaiwa, Big Claim, March 2007

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

Duncan's First Nation, 1928 surrender, September 1999

Fort McKay First Nation, Treaty land entitlement, December 1995

Friends of the Michel Society, 1958 enfranchisement, March 1998

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

Paul Indian Band, Kapasiwin townsite, February 2007

BRITISH COLUMBIA

Blueberry River First Nation and Doig River First Nation, Highway right of way IR 172, March 2006

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

Esketemc First Nation, Wright's Meadows pre-emption claim, November 2008

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

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



Lower Similkameen Indian Band, Vancouver, Victoria, and Eastern Railway right of way, February 2008

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

Nadleh Whut'en Indian Band, Lejac School, December 2008

Nak'azdli First Nation, Aht-Len-Jees Indian Reserve 5, March 1996

'Namgis First Nation, Cormorant Island, March 1996

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

Neskonlith, Adams Lake and Little Shuswap Bands, Neskonlith Reserve, December 2008

Saulteau First Nation, Treaty land entitlement and lands in severalty, April 2007

Sumas Band, Indian Reserve 6 railway right of way, February 1995

Sumas Indian Band, 1919 Indian Reserve 7 surrender, August 1997

Taku River Tlingit First Nation, Wenah specific claim, March 2006

Williams Lake Indian Band, Village site, March 2006

MANITOBA

Canupawakpa Dakota First Nation, Turtle Mountain surrender, July 2003

Gamblers First Nation, Treaty land entitlement, October 1998

Keeseekoowenin First Nation, 1906 land claim [Mediation], August 2005

Long Plain First Nation, Loss of use, February 2000

Opaskwayak Cree Nation, Streets and lanes claim, February 2007

Peguis First Nation, Treaty land entitlement, March 2001

Roseau River Anishinabe First Nation, 1903 Surrender, September 2007

Roseau River Anishinabe First Nation, Medical aid, February 2001

Roseau River Anishinabe First Nation, Treaty land entitlement [Mediation], March 1996

Sandy Bay First Nation, Treaty land entitlement, June 2007

NEW BRUNSWICK

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

Metepenagiag Mi'kmaq Nation (Red Bank), Hosford Lot & IR 7 Claims [Mediation], June 2008



ONTARIO

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

Chippewa Tri-Council, Collins Treaty, March 1998

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

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

Chippewas of the Thames First Nation, Clench defalcation [Mediation], August 2005

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

Michipicoten First Nation, Pilot Project [Mediation], November 2008

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, RiviPre Betsiamites Bridge, March 2005

Micmacs of Gesgapegiag First Nation, Horse Island, December 1994

SASKATCHEWAN

Athabasca Denesuline, Treaty harvesting rights, December 1993

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

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

Carry the Kettle First Nation, 1905 surrender, December 2008

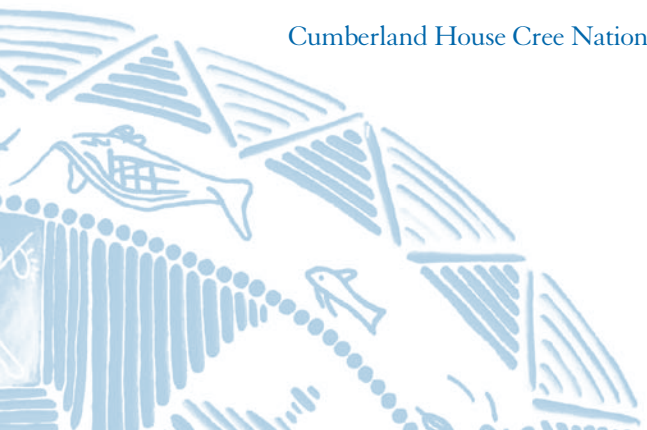
Carry the Kettle First Nation, Cypress Hills, July 2000

Cowessess First Nation, 1907 surrender, March 2001

Cowessess First Nation, 1907 surrender – Phase II, July 2006

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

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



Fishing Lake First Nation, 1907 surrender, March 1997

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

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

Fort Pelly Agency, Pelly Haylands claim [Mediation], March 2008

George Gordon First Nation, Treaty land entitlement [Mediation], June 2008

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

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

James Smith Cree Nation, Treaty land entitlement, February 2007

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

Kahkewistahaw First Nation, 1907 reserve land surrender, February 1997

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

Kahkewistahaw First Nation, Treaty land entitlement, November 1996

Kawacatoose First Nation, Treaty land entitlement, March 1996

The Key First Nation, 1909 surrender, March 2000

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

Lucky Man Cree Nation, Treaty land entitlement, Phase II Inquiry, February 2008

Lucky Man Cree Nation, Treaty land entitlement, March 1997

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

Moosomin First Nation, 1909 reserve land surrender, March 1997

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

Muskowekwan First Nation, 1910 and 1920 surrenders, December 2008

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

Muskoday First Nation, Treaty land entitlement [Mediation], May 2008

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

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

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

Peepeekisis First Nation, File Hills Colony, March 2004

Qu'Appelle Valley Indian Development Authority (Cowessess First Nation, Kahkewistahaw First Nation, Muscowpetung First Nation, Ochapowace First Nation, Pasqua First Nation, Piapot First Nation, Sakimay First Nation), Flooding [Mediation], December 2005



Red Earth and Shoal Lake Cree Nations, Quality of reserve lands (agriculture), December 2008

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

Sakimay First Nation, Treaty land entitlement, February 2007

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

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

Sturgeon Lake First Nation, 1913 surrender, December 2008

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

Sturgeon Lake First Nation, Treaty land entitlement [Mediation], June 2008

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

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

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

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

YUKON

Kluane First Nation, Kluane Game Sanctuary and Kluane National Park Reserve creation, February 2007



Issues Addressed In Inquires Indexed By Theme

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

A more complete index can be found in ICCP 24.

FIDUCIARY DUTY

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

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

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

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

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

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

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

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

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

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

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

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

Esketemc First Nation, BC, Wright's Meadows pre-emption claim, November 2008

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

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

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

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

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

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

Kluane First Nation, YK, Kluane Game Sanctuary and Kluane National Park Reserve creation, February 2007

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



Long Plain First Nation, MB, loss of use, February 2000

Lower Similkameen Indian Band, BC, Vancouver, Victoria and Eastern Railway right of way, February 2008

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

Mississaugas of the New Credit First Nation, ON, Toronto Purchase, June 2003

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

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

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

Nadleh Whut'en Indian Band, BC, Lejac School, December 2008

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

Neskonlith, Adams Lake and Little Shuswap Bands, BC, Neskonlith Reserve, December 2008

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

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

Paul Indian Band, AB, Kapasiwin townsite, February 2007

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

Roseau River Anishinabe First Nation, MB, 1903 surrender, September 2007

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

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

Saulteau First Nation, BC, Treaty land entitlement and lands in severalty, April 2007

Sumas Band, BC, Indian Reserve 6 railway right of way, February 1995

Sumas Indian Band, BC, 1919 Indian Reserve 7 surrender, August 1997

Taku River Tlingit First Nation, BC, Wenah specific claim, March 2006

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

Williams Lake Indian Band, BC, Village site, March 2006



FLOODING CLAIM

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

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

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

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

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

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

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

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

MANDATE OF THE ICC

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

Athabasca Denesuline, SK, Treaty harvesting rights, December 1993

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

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

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

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

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

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

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

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

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

Kluane First Nation, YK, Kluane Game Sanctuary and Kluane National Park Reserve creation, February 2007

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

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



Mamalelegala Qwe’Qwa’Sot’Enox Band, BC, McKenna-McBride applications, March 1997

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

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

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

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

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

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

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

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

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

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

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

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

MCKENNA-MCBRIDE COMMISSION – BRITISH COLUMBIA

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

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

Mamalelegala Qwe’Qwa’Sot’Enox Band, BC, McKenna-McBride applications, March 1997

Nak’azdli First Nation, BC, Aht-Len-Jees Indian Reserve 5, March 1996

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

RIGHTS OF WAY

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

Betsiamites Band, QC, Highway 138, March 2005

Betsiamites Band, QC, RiviPre Betsiamites Bridge, March 2005

Blueberry River First Nation and Doig River First Nation, BC, Highway right of way IR 172, March 2006



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

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

Lower Similkameen Indian Band, BC, Vancouver, Victoria and Eastern Railway right of way, February 2008

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

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

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

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

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

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

Sumas Band, BC, Indian Reserve 6 railway right of way, February 1995

SPECIFIC CLAIMS POLICY

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

Athabasca Denesuline, SK, Treaty harvesting rights, December 1993

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

Red Earth and Shoal Lake Cree Nations, SK, Quality of reserve lands (agriculture), December 2008

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

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

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

SURRENDER

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

Blood Tribe / Kainaiwa, AB, Big Claim, March 2007

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

Carry the Kettle First Nation, SK, 1905 surrender, December 2008

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

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

Cowessess First Nation, SK, 1907 surrender, March 2001

Cowessess First Nation, SK, 1907 surrender – Phase II, July 2006

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

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

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

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



Mississaugas of the New Credit First Nation, ON, Toronto Purchase, June 2003

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

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

Muskowekwan First Nation, SK, 1910 and 1920 surrenders, December 2008

Nak'azdli First Nation, BC, Aht-Len-Jees Indian Reserve 5, March 1996

Paul Indian Band, AB, Kapasiwin townsite, February 2007

Sturgeon Lake First Nation, SK, 1913 surrender, December 2008

Sumas Indian Band, BC, 1919 Indian Reserve 7 surrender, August 1997

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

TREATY LAND ENTITLEMENT

Bigstone Cree Nation, AB, Treaty land entitlement, March 2000

Blood Tribe / Kainaiwa, AB, Big Claim, March 2007

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

Gamblers First Nation, MB, Treaty land entitlement, October 1998

James Smith Cree Nation, SK, Treaty land entitlement, February 2007

Kahkewistahaw First Nation, SK, Treaty land entitlement, November 1996

Kawacatoose First Nation, SK, Treaty land entitlement, March 1996

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

Long Plain First Nation, MB, Loss of use, February 2000

Lucky Man Cree Nation Phase II, SK, Treaty land entitlement, February 2008

Lucky Man Cree Nation, SK, Treaty land entitlement, March 1997

Peguis First Nation, MB, Treaty land entitlement, March 2001

Sakimay First Nation, SK, Treaty land entitlement, February 2007

Sandy Bay First Nation, MB, Treaty land entitlement, June 2007

Saulteau First Nation, BC, Treaty land entitlement and lands in severalty, April 2007



TREATY RIGHTS

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

Athabasca Denesuline, SK, Treaty harvesting rights, December 1993

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

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

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

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

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

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

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

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

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

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

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

OTHER

Chippewa Tri-Council, ON, Collins Treaty, March 1998

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

Opaskwayak Cree Nation, MB, Streets and lanes claim, February 2007



Specific Claims In Inquiry Ceased Prior To Completion November 2007.

On November 27, 2007, Bill C-30, the *Specific Claims Tribunal Act*, was tabled in the House of Commons. By Order in Council P.C. 2007-1789, the Commission was directed to cease all activities on inquiries that had not by that date reached the Community Session stage or in which final legal submissions had not been completed, to notify the affected First Nations of the cessation of their inquiries and to return all documents filed for the inquiries by the affected First Nations. The list follows indicating the First Nation, the title of the claim and the province in which the claim was geographically situated.

Athabasca Chipewyan First Nation

Compensation criteria for agricultural benefits, Alberta

Blueberry River First Nation and Doig River First Nation

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

This claim was the subject of a previous inquiry: the **Blueberry River First Nation and Doig River First Nation, Highway right of way IR 172 inquiry**. See Claims Addressed in Inquiries and Mediations Concluded with Reports on page 67.

Chippewas of the Thames First Nation

Ontario Hydro right of way, Ontario

Conseil des Montagnais du Lac-Saint-Jean

Inondation d'une partie des terres de la réserve de Mashteuiatsh depuis 1928, Quebec

Fisher River Cree Nation

1896 Alienation, Manitoba

Kitselas First Nation

Railway specific claim, British Columbia

Lheidli T'enneh Band

Surrender Fort George IR 1, British Columbia

Little Black Bear First Nation

1928 Surrender, Saskatchewan

Madawaska Maliseet First Nation

Alienation of Reserve Lands, New Brunswick

Mississaugas of the New Credit First Nation

Crawford Purchase, Ontario

Mississaugas of the New Credit First Nation

Gunshot Treaty, Ontario



Ocean Man First Nation

Treaty land entitlement, Saskatchewan

Pasqua First Nation

1906 surrender, Saskatchewan

Shuswap Indian Band

1940-acre claim, British Columbia

Shuswap Indian Band

1914 Railway Right of Way, British Columbia

Siksika Nation

1910 surrender, Alberta

Stanjikoming First Nation

Treaty land entitlement, Ontario

Stó:lt Nation

Douglas reserves, British Columbia

Touchwood Agency Tribal Council

Mismanagement claim – compensation criteria, Alberta

Treaty 8 Tribal Association

Consolidated annuity claim, British Columbia

Tsawwassen First Nation

English Bluffs surrender claim, British Columbia

Whitefish Lake First Nation

Agricultural benefits pursuant to Treaty 8: compensation criteria, Alberta

Whitefish Lake First Nation

Agricultural benefits pursuant to Treaty 8: historic claim, Alberta

Wolf Lake First Nation

Reserve lands, Quebec

Financial Information





THE ICC -WHAT WE DID

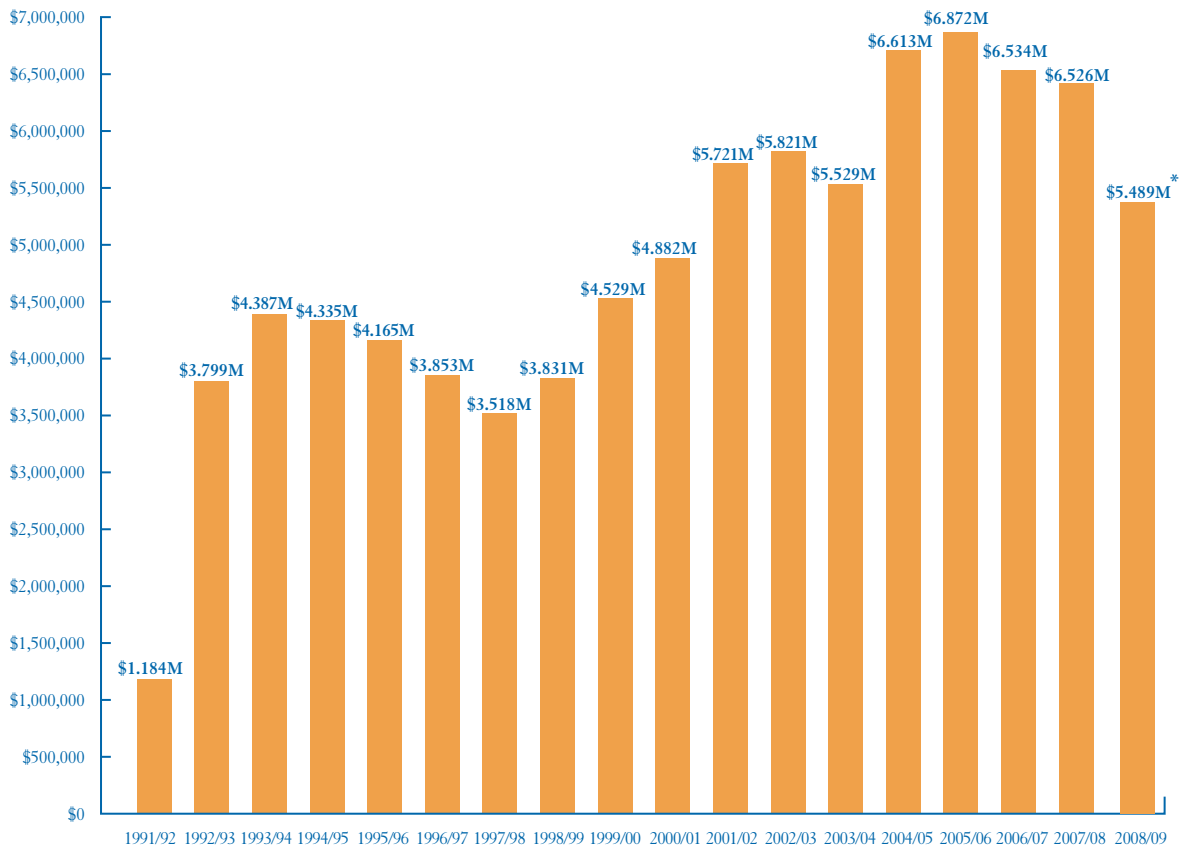
What you'll find in this section:

- 104 Financial information**
Budget, forecasted expenditures of the ICC
- 105 In fact ...**
Facts on specific claims at the ICC

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

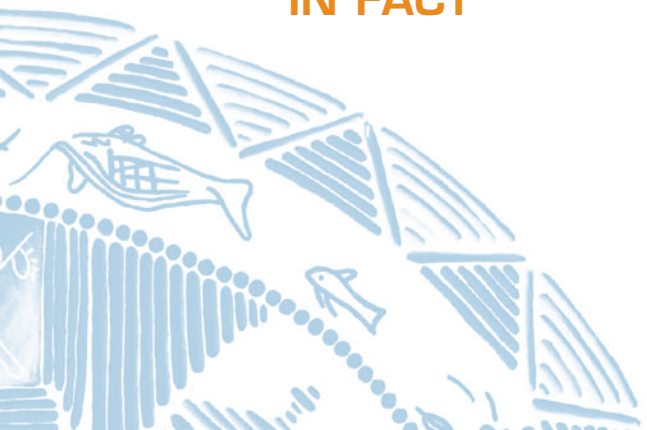
In 2008-2009, the Commission's activity was forecast for salaries and benefits, and \$2.458 million was forecast for other operating costs.

YEARLY EXPENDITURES SYNOPSIS – 1991-2009



IN FACT

*2008/2009 ESTIMATE



Some little known facts about the Indian Claims Commission from the 2008-2009 reporting period:

...**4** First Nation communities were visited, with a total population of 7,231 community members in 2 provinces (inquiries only)

...**4,790** kilometres is the greatest distance travelled by the ICC to reach a First Nation community

...**64** days were spent in mediation/facilitation/negotiation meetings

... ICC Mediation services were involved in **7** conference calls

...**5** Mediation reports were released

...**0** new requests for inquiry were received

...**1** new request for mediation was received

...**52** requests for information were received

...**50** requests for publications were received

...**7** inquiries were completed and 9 inquiry reports were released in 2008-2009, affecting a total of 10,074 First Nations people

...**128,200** Web site hits were counted
