
RESPONSES

Re: Long Plain First Nation Loss of Use Inquiry
Robert D. Nault, Minister of Indian Affairs and Northern Development, to
Daniel J. Bellegarde, James Prentice,
and Carole T. Corcoran, Indian Claims Commission,
August 21, 2000
329

RESPONSE TO LONG PLAIN FIRST NATION

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

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Mr. Daniel J. Bellegarde
Mr. James Prentice, QC
Co-Chairs
Ms. Carole T. Corcoran
Commissioner
Indian Specific Claims Commission
P.O.Box 1750, Station B
OTTAWA ON K1P 1A2

Dear Messrs. Bellegarde and Prentice and Ms. Corcoran:

Thank you for providing me with copies of the Indian Specific Claims Commission's (ISCC) March 2000 report on the Long Plain First Nation (LPFN) Inquiry - Loss of Use Claim.

Your report on the Long Plain First Nation Inquiry deals with the important issue of Treaty Land Entitlement (TLE) compensation. The Commission was asked to consider whether the Long Plain First Nation, a First Nation with an admitted TLE shortfall, is entitled to be compensated for its loss of use of treaty lands based upon the specific claims policy - *Outstanding Business*.

As you know, the ISCC concluded that compensation for loss of use is available in TLE shortfall situations in proper circumstances, and that payment for loss of use would be in keeping with the specific claims policy compensation criteria which provide that compensation "will be based on legal principles." The report provides direction to the Long Plain First Nation and Canada with respect to the proper approach to the quantification of a loss of use claim. The ISCC also recommends that Canada accepts and negotiates the Long Plain First Nation's claim to be compensated for loss of use of the shortfall acreage.

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RESPONSE TO LONG PLAIN FIRST NATION

- 2 -

The release of this report is timely, following only a few months after the Saskatchewan Queen's Bench (SQB) ruling in *Venne v. The Queen*, which also deals with TLE compensation for shortfall claims. In *Venne*, the Court held that Canada could fulfill its outstanding TLE obligations by providing a quantum of land based on a First Nation's current population, calculated at the time sufficient treaty land was actually provided. Canada has filed an appeal from the SQB's ruling with the Saskatchewan Court of Appeal, to seek additional clarification of its obligations in the area of TLE compensation.

As the *Venne* litigation deals with the same subject matter as the Long Plain First Nation report, and as the Commission did not address the implications of *Venne* - for the Long Plain First Nation claim, and/or for the area of TLE compensation more generally - in its report on this claim, Canada is not in a position to accept or reject the ISCC's recommendations at this time.

I would, nonetheless, like to thank the Commission for its thorough, helpful analysis of this complex issue, and I regret that at this juncture I am not able to give yourselves and the First Nation a more definitive response.

Yours sincerely,



Robert D. Nault, P.C., M.P.

c.c.: Chief Dennis Meeches and Council
Mr. Jeffrey F. Harris