
RESPONSES

Re: Lucky Man Cree Nation Treaty Land Entitlement Inquiry
Ronald A. Irwin, Minister of Indian Affairs and Northern
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Jane Stewart, Minister of Indian Affairs and Northern
Development, to James Prentice and Roger J. Augustine,
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Re: Moosomin 1909 Reserve Land Surrender Inquiry
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Development, to James Prentice, Carole T. Corcoran, Aurélien Gill,
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Re: Homalco Indian Band Inquiry
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RESPONSE TO LUCKY MAN CREE NATION TLE INQUIRY

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

MAY 25 1997

MAY 22 1997

P. E. James Prentice, Q.C.
Commission Co-Chair
Ms. Carole T. Corcoran
Commissioner
Indian Claims Commission
P.O. Box 1750, Station B
OTTAWA ON K1P 1A2

Dear Mr. Prentice and Ms. Corcoran:

This is in response to your letter of March 27, 1997 enclosing a copy of the Report of Inquiry into the treaty land entitlement (TLE) claim of the Lucky Man Cree First Nation.

I have been advised of the details of the Indian Claims Commission's findings in this inquiry and note that the Commission has made the finding that the Lucky Man Cree Nation's TLE should be based on the First Nation's population as of its 1887 date of first survey. I accept this finding along with the Commission's recommendation to undertake further research and payroll analysis with a view to determining the First Nation's proper TLE population as of 1887.

I want to take this opportunity to thank the Commission for its work in the conduct of this inquiry, which has culminated in this helpful Report of Inquiry. The Commission has provided a cogent and comprehensive analysis of the relevant facts surrounding this issue, and with this report, adds to the Commission's existing body of work on TLE issues. All these reports will be of tremendous assistance to Canada in the conduct of the TLE review.

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RESPONSE TO LUCKY MAN CREE NATION TLE INQUIRY

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Once Canada has completed its further research and payroll analysis based on the 1887 date of first survey, this research will be shared with the First Nation and hopefully a final resolution of this claim will be achieved.

Yours truly,



Ronald A. Irwin, P.C., M.P.

c.c.: The Honourable Allan Rock, P.C., M.P.
Chief Roderick King
Mr. Ron S. Maurice

RESPONSE TO KAHKEWISTAHAW 1907 RESERVE LAND SURRENDER INQUIRY

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

DEC 18 1997

Mr. James Prentice,
Mr. Roger J. Augustine
Commissioners of the Indian Claims Commission
P. O. Box 1750, Station B
OTTAWA ON K1P 1A2

Dear Commissioners:

I would like to inform you that Canada has now finalized its position with respect to the Indian Claims Commission (ICC) Inquiry and Report into the 1907 surrender by the Kahkewistahaw First Nation.

As a result of our review, Canada has adopted the ICC's recommendation that Canada accept the Kahkewistahaw First Nation claim for negotiation, under the Specific Claims Policy.

I would like to thank you very much for all of the Commission's fine work during the ICC inquiry process and for your detailed and thoughtful report and recommendations concerning the Kahkewistahaw First Nation 1907 surrender, all of which have permitted Canada to fully reconsider its position and to accept the Kahkewistahaw claim for negotiation under the Specific Claims Policy.

Yours sincerely,

A handwritten signature in cursive script that reads "Jane Stewart".

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

Canada

RESPONSE TO MOOSOMIN 1909 RESERVE LAND SURRENDER INQUIRY

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

DEC 18 1997

Mr. James Prentice
Ms. Carole T. Corcoran
Mr. Aurélien Gill
Commissioners of the Indian Claims Commission
P.O. Box 1750, Station B
OTTAWA ON K1P 1A2

Dear Commissioners:

I would like to inform you that Canada has now finalized its position with respect to the Indian Claims Commission (ICC) Inquiry and Report into the 1909 surrender by the Moosomin First Nation.

As you know, Canada has been considering its position on the Moosomin claim since August 1996. I am grateful that Canada has had the benefit of the ICC inquiry process and the thorough analysis and recommendations contained in the ICC Report released May 2, 1997, in arriving at its decision.

As a result of our review, Canada has adopted the ICC's recommendation that Canada accept the Moosomin First Nation claim for negotiation, under the Specific Claims Policy.

I would like to thank you for all of the Commission's fine work during the ICC inquiry process and for your detailed and thoughtful report and recommendations concerning the Moosomin First Nation 1909 surrender, all of which have permitted Canada to fully reconsider its position and to accept the Moosomin claim for negotiation under the Specific Claims Policy.

- Yours sincerely,

Jane Stewart

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

c.c.: Chief Thomas Mooswa

Canada

RESPONSE TO HOMALCO INDIAN BAND INQUIRY

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

DEC 18 1997

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

Dear Commissioners:

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

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

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

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RESPONSE TO HOMALCO INDIAN BAND INQUIRY

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

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

Yours sincerely,



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

c.c.: Chief Richard Harry

RESPONSE TO SUMAS INDIAN BAND 1919 SURRENDER OF IR 7 INQUIRY

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

JAN 21 1998

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

Dear Mr. Bellegarde and Ms. Corcoran:

Thank you for your co-signed letter of August 29, 1997 to my colleague, the Honourable Anne McLellan, Minister of Justice and Attorney General of Canada, Chief Lester Vernon Ned, Sumas Indian Band, and me enclosing a copy of the Indian Claims Commission's (ICC) final report on its inquiry into the Specific Claim of the Sumas Indian Band - 1919 Surrender of Sumas Indian Reserve No. 7. I regret the delay in responding to your correspondence.

This report deals with the Sumas Indian Band's claim, originally rejected by Canada, alleging that the surrender of 153.46 acres of land for sale to the Soldier Settlement Board in 1919 was invalid, and that Canada failed to fulfill various fiduciary obligations to the Band relative to the surrender.

I appreciate the work which you undertook relative to this inquiry. I note that, in your conclusions, you have affirmed that Canada does not owe an outstanding lawful obligation to the Sumas Indian Band. Moreover, with respect to your recommendation that:

"the Sumas Indian Band and Canada conduct joint research to determine whether fair market value was paid for IR 7 in 1919 having regard to the various considerations we have identified in this report,"

I believe that this recommendation must be assessed within the context of the Commission's own finding that the purchase price of \$80 per acre was not manifestly unreasonable given the evidence presented. In fact, both the arms-length valuation of the reserve by Agent Byme in 1916 and the subsequent sales of subdivided lots of the reserve land up to 1930 appear to confirm that \$80 per acre was a reasonable estimate of fair market value for the reserve land at the time of surrender.

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RESPONSE TO SUMAS INDIAN BAND 1919 SURRENDER OF IR 7 INQUIRY

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That being said, the Department of Indian Affairs and Northern Development (DIAND) is prepared to explore the possibility of conducting additional joint research with the Sumas Indian Band on this matter, provided the Band signals its intention to proceed with such exploratory discussions to Mr. John Hall, Senior Advisor, Specific Claims, at the following address:

Department of Indian Affairs
and Northern Development
P.O. Box 11602
2700 - 650 West Georgia Street
VANCOUVER BC V6B 4N9

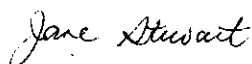
Telephone: (604) 666-5290

Moreover, both the Commission and the Band must clearly understand that a commitment on our part to undertake such discussions or research cannot be interpreted as a conclusion that any claim exists or is thought to exist at this point. Indeed, the reason for undertaking such exploratory discussions would be to determine if evidence for such a claim might, in fact, exist and, if so, how best to assess such evidence in light of the ICC's own findings.

I would also like to note that DIAND remains committed to entering into negotiations with the Sumas Indian Band for compensation for the 9.865 acres of surrendered land taken up by the Sumas River, as indicated in the letter dated December 13, 1990 from Mr. Al Gross to the Chief and Council of the Band.

Again, I wish to thank both of you for your report and for the considerations and recommendations that you have provided.

Yours sincerely,



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

c.c.: The Honourable A. Anne McLellan, P.C., M.P.
Chief Lester Vernon Ned