

INDIAN CLAIMS COMMISSION

SAULTEAU FIRST NATION TREATY LAND ENTITLEMENT AND LANDS IN SEVERALTY INQUIRY

PANEL

**Chief Commissioner Renée Dupuis, C.M. (Chair)
Commissioner Daniel J. Bellegarde
Commissioner Jane Dickson-Gilmore**

COUNSEL

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To the Indian Claims Commission
John B. Edmond / Julie McGregor

April 2007

CONTENTS

<u>SUMMARY</u>	v
PART I	
<u>INTRODUCTION</u>	1
BACKGROUND TO THE INQUIRY	1
MANDATE OF THE COMMISSION	1
PART II	
<u>HISTORICAL BACKGROUND</u>	3
INTRODUCTION	3
TREATY 8	3
1914 ADHESION TO TREATY 8	3
SURVEY OF INDIAN RESERVE 169	4
JIM GAUTHIER'S CLAIM TO LANDS IN SEVERALTY	7
PART III	
<u>ISSUES</u>	11
PART IV	
<u>PROCEDURAL HISTORY</u>	13
PART V	
<u>CONCLUSION</u>	15
APPENDICES	17
A	
Indian Claims Commission Declaration, June 1, 2006	17

SUMMARY

SAULTEAU FIRST NATION TREATY LAND ENTITLEMENT AND LANDS IN SEVERALTY INQUIRY British Columbia

The report may be cited as Indian Claims Commission, *Saulteau First Nation: Treaty Land Entitlement and Lands in Severalty Inquiry* (Ottawa, April 2007).

*This summary is intended for research purposes only.
For greater detail, the reader should refer to the published report.*

Panel: Chief Commissioner R. Dupuis, C.M. (Chair), Commissioner D.J. Bellegarde,
Commissioner J. Dickson-Gilmore

**Treaties – Treaty 8 (1899); Fiduciary Duty; Treaty Land Entitlement (TLE); – Severalty; British
Columbia**

THE SPECIFIC CLAIM

In August 1997, the Treaty 8 Tribal Association submitted two specific claims to the Government of Canada on behalf of the Saulteau First Nation. The First Nation claimed that Canada breached its legal and fiduciary duties by failing to perform its obligations under the land entitlement provisions of Treaty 8 and claimed a shortfall of 4,898 acres. The First Nation also maintained that a claim to land known as Deadman Creek should be recognized as entitlement under the severalty provisions of Treaty 8.

In 2003, the Indian Claims Commission (ICC) accepted these claims as having been constructively rejected by the Minister of Indian Affairs and Northern Development. In February 2006, in anticipation of the claims' acceptance for negotiation by the Minister, the Saulteau First Nation requested the inquiry into their claims be concluded. As a result of the First Nation's request, the Commission panel declared the inquiry closed on June 1, 2006.

BACKGROUND

On June 21, 1899, the dominion government signed Treaty 8 with the Cree, Chipewyan, and Beaver Indians at Lesser Slave Lake. The land provisions of the treaty stated that signatory bands would receive reserves with areas equal to 640 acres for each family of five (i.e., 128 acres per capita), and families or individuals who wished to live apart from the reserves would receive 160 acres of lands in severalty.

Based on the land provisions of Treaty 8, the First Nation claimed a treaty land entitlement shortfall of 4,898 acres for a number of band members who were late adherents, absentees, or landless transfers at the date of first survey. In 1974, Saulteau band member Jim Gauthier applied for a disposition of 91.06 hectares of Crown land based on his great-grandfather Charles Gauthier's claim for lands in severalty.

OUTCOME

The First Nation requested the inquiry into their claims be concluded before the parties had agreed to a joint statement of issues.

REFERENCES

In addition to the various sources noted below, ICC inquiries depend on a base of oral and documentary research that is fully referenced in the report.

Treaties and Statutes Referred To

Treaty No. 8, Made June 21, 1899 and Adhesions, Reports, Etc. (1899; reprint, Ottawa: Queen's Printer, 1966).

Other Sources Referred To

Department of Indian Affairs and Northern Development (DIAND), *Outstanding Business: A Native Claims Policy – Specific Claims* (Ottawa: Minister of Supply and Services, 1982), 20; reprinted in (1994) 1 ICCP 171–85.

COUNSEL, PARTIES, INTERVENERS

C.G. Devlin for the Saulteau First Nation; P. Robinson for the Government of Canada; J.B. Edmond, J. McGregor to the Indian Claims Commission.

PART I
INTRODUCTION

BACKGROUND TO THE INQUIRY

In August 1997, the Treaty 8 Tribal Association submitted two specific claims to the Government of Canada on behalf of the Saluteau First Nation. The First Nation claimed that Canada had breached its legal and fiduciary duties by failing to perform its obligations under the land entitlement provisions of Treaty 8, and it claimed a shortfall of 4,898 acres for a number of band members who were late adherents, absentees, or landless transfers at the date of first survey. The First Nation also maintained that a claim to land known as Deadman Creek should be recognized as entitlement under the severalty provisions of Treaty 8.

On August 21, 2003, the Treaty 8 Tribal Association on behalf of the Saaluteau First Nation requested that the Indian Claims Commission (ICC) conduct an inquiry into the First Nation's claims, which had been submitted in August 1997 and to which Canada had not responded. The Treaty 8 Tribal Association requested that the ICC consider the claims constructively rejected on the basis of excessive delay and unmet assurance by the Minister of Indian Affairs and Northern Development that the claims were a priority and a response would be given "within a relatively short time."¹ The ICC accepted the claims for inquiry on November 28, 2003.

MANDATE OF THE COMMISSION

The mandate of the Indian Claims Commission is set out in federal Orders in Council providing the Commissioners with the authority to conduct public inquiries into specific claims and to issue reports on "whether a claimant has a valid claim for negotiation under the [Specific Claims] Policy where the claim was already rejected by the Minister."² This Policy, outlined in the 1982 booklet put out by the Department of Indian Affairs and Northern Development (DIAND) and entitled *Outstanding Business: A Native Claims Policy – Specific Claims*, states that Canada will accept claims for

¹ Robert Nault, Minister of Indian Affairs and Northern Development, to Chief Stewart Cameron, Saaluteau First Nation, c/o Treaty 8 Tribal Association, February 10, 2000 (ICC file 2109-36-01, vol. 1).

² Commission issued September 1, 1992, pursuant to Order in Council PC 1992-1730, July 27, 1992, amending the Commission issued to Chief Commissioner Harry S. LaForme on August 12, 1991, pursuant to Order in Council PC 1991-1329, July 15, 1991.

negotiation where they disclose an outstanding “lawful obligation” on the part of the federal government.³ The term lawful obligation is defined in *Outstanding Business* as follows:

The government’s policy on specific claims is that it will recognize claims by Indian bands which disclose an outstanding “lawful obligation,” i.e., an obligation derived from the law on the part of the federal government.

A lawful obligation may arise in any of the following circumstances:

- i) The non-fulfillment of a treaty or agreement between Indians and the Crown.
- ii) A breach of an obligation arising out of the *Indian Act* or other statutes pertaining to Indians and the regulations thereunder.
- iii) A breach of an obligation arising out of government administration of Indian funds or other assets.
- iv) An illegal disposition of Indian land.⁴

The Commission was asked to inquire into whether the First Nation’s claims were valid for the purposes of negotiation under the Specific Claims Policy. The ICC accepted the claims for inquiry in November 2003 as having been constructively rejected by the department, under its mandate to “inquire into and report on ... whether a claimant has a valid claim for negotiation under the Policy where that claim has already been rejected by the Minister.”⁵

In January 2006, the Saulteau First Nation, in anticipation of acceptance of its claims for negotiation by the Minister, requested the inquiry into their claims be concluded.

³ DIAND, *Outstanding Business: A Native Claims Policy – Specific Claims* (Ottawa: Minister of Supply and Services, 1982), 20; reprinted in (1994) 1 Indian Claims Commission *Proceedings* (ICCP) 171–85 (hereafter *Outstanding Business*).

⁴ *Outstanding Business*, 20; reprinted in (1994) 1 ICCP 171 at 179–80.

⁵ Order in Council PC 1992-1730, Part “a)” of the mandate.

PART II

HISTORICAL BACKGROUND

INTRODUCTION

Indian Reserve (IR) 169, also known as the East Moberly Lake Reserve, is located in township 79, range 24, west of the 6th Meridian, approximately 25 kilometres from the town of Chetwynd, BC, and 1,212 kilometres northeast of Vancouver. It is within the area covered by Treaty 8.

TREATY 8

On June 21, 1899, the dominion government signed Treaty 8 with the Cree, Chipewyan, and Beaver Indians at Lesser Slave Lake. The land provisions of the treaty stated that signatory bands would receive reserves with areas equal to 640 acres for each family of five (i.e., 128 acres per capita), and that families or individuals who wished to live apart from the reserves would receive “land in severalty to the extent of 160 acres to each Indian.”⁶

1914 ADHESION TO TREATY 8

In November 1913, Assistant Indian Agent Harold Laird of the Lesser Slave Lake Agency advised the Department of Indian Affairs that there was a group of Saulteau, “23 in all,” settled at the eastern end of Moberly Lake who had never adhered to treaty. He remarked on their “comfortable houses and ... fair gardens,” and noted that they were anxious to retain the land on which they resided. Laird also mentioned that several Beaver Indians from Fort St John and Hudson’s Hope were in residence at Moberly Lake and suggested setting aside reserves for all three groups, since it was anticipated that settlers would be entering the district soon.⁷ The Assistant Deputy and Secretary of the

⁶ *Treaty No. 8, Made June 21, 1899 and Adhesions, Reports, Etc.* (1899; reprint, Ottawa: Queen’s Printer, 1966). Subsequent adhesions were signed at Peace River Landing, Vermilion, Fond du Lac, Dunvegan, Fort Chipewyan, Smith’s Landing, Fort McMurray, and Wapiscow Lake between July 1 and August 14, 1899, see *Treaty No. 8*, 15–18.

⁷ Extract of letter from Harold Laird to the Secretary, Department of Indian Affairs, November 3, 1913, Library and Archives Canada (LAC), RG 10, vol. 7777, file 27131-1 (ICC file 2109-36-01).

department, J.D. McLean, informed Indian Agent W.B.L. Donald on December 18 that a surveyor would be sent to lay out the reserves on “as early a date as may be convenient.”⁸

Respecting the bands’ formal adhesion to treaty, the department’s accountant, F. Paget, advised Deputy Superintendent General D.C. Scott that he did not see the necessity of negotiating a new treaty. As the First Nation already resided within the treaty area, they would simply be paid their annuities at the next treaty payments. He emphasized that reserving land for them was “urgent,” citing the influx of settlers that Paget said would undoubtedly arrive when the next season opened.⁹

SURVEY OF INDIAN RESERVE 169

In a March 25, 1914, memorandum to the Deputy Superintendent General, Chief Surveyor Bray discussed the upcoming surveys within the Peace River Block. He stated:

[U]nder the treaty these Indians are entitled to choose their reserves in severalty if they so desire; the Agent, however, recommends that three reserves be laid out and Inspector Conroy recommends strongly that lands in severalty be not laid out if it can possibly be avoided.¹⁰

Two months later, a band member named Charles Gauthier claimed squatter’s rights over the northeast quarter of section 22, township 79, range 24, W6M. In his statutory declaration, he stated that he had built a cabin on the land in 1904 and had resided there during the summer months. Gauthier indicated that he was married with five children, that he had broken one and a half acres of land so far, and that he was raising horses.¹¹

⁸ J.D. McLean, Assistant Deputy and Secretary, to W.B.L. Donald, Indian Agent, December 18, 1913, LAC, RG 10, vol. 7779, file 27143-4, part 1 (ICC file 2109-36-01).

⁹ F. Paget, Accountant, to Mr Scott, February 21, 1914, LAC, RG 10, vol. 7777, file 27141-1 (ICC file 2109-36-01).

¹⁰ S. Bray, Chief Surveyor, to the Deputy Superintendent General, March 25, 1914, LAC, RG 10, vol. 7777, file 27131-1 (ICC file 2109-36-01).

¹¹ Statutory Declaration of Chas. Gauthier, May 23, 1914, British Columbia Archives and Records Service (BCARS), Government Record 436, Box 333 and 345, file 3194474 (ICC file 2109-36-01).

In May 1914, Dominion Land Surveyor Donald F. Robertson was instructed to undertake the survey of three reserves in the Peace River District, one located near Fort St John, another near Halfway River, and the third at Moberly Lake. Secretary McLean instructed Robertson to set aside an area “in the proportion of 640 acres to a family of five.”¹² He continued: “They are also entitled to take their lands in severalty but this is undesirable if it can possibly be avoided.”¹³

That June, 34 Saulteaux were paid annuities at Moberly Lake, including Charles Gauthier and his family, who were paid under ticket no. 7. The Gauthier family was shown on the Saulteau Band treaty annuity payroll as comprising one man, one woman, three boys, two girls, and one “other” female relative.¹⁴

DLS Robertson arrived at Moberly Lake on July 9, 1914. He met with “Indians at East end of Moberly Lake” on the 15th and began traversing the southern boundary of the reserve. Between July 21 and 28, Robertson surveyed the west, north, and east boundaries, stopping for another meeting with the Band on the 28th. He finished cutting the lines on August 5 and departed for Halfway River on August 6, 1914.¹⁵

Upon returning to Ottawa, Robertson reported on the 1914 survey season. Of the reserves set out around Moberly Lake, he said:

¹² J.D. McLean, Assistant Deputy and Secretary, to Donald F. Robertson, DLS, May 27 1914, LAC, RG 10, vol. 4065, file 412786-3 (ICC file 2109-36-01).

¹³ J.D. McLean, Assistant Deputy and Secretary, to Donald F. Robertson, DLS, May 27 1914, LAC, RG 10, vol. 4065, file 412786-3 (ICC file 2109-36-01).

¹⁴ Saulteau Band treaty annuity payroll, June 11, 1914. There are 25 additions on the 1915 payroll with the notations: “From ... St. John” or “On Treaty 1st time”; see Saulteau Band treaty annuity payroll, June 15, 1915 (ICC file 2109-36-01).

¹⁵ Robertson’s field diary, season 1914, LAC, RG 10, vol. 4065, file 412786-3, pp. 9–12 (ICC file 2109-36-01).

In accordance with your instructions, ...

At the east end of Moberly Lake an area of 7656¹⁶ acres was chosen and surveyed for the Saulteaux Indians and a number of the Beaver Indians of St. John band who wished to have their land there.¹⁷

Robertson wrote that the reserve was suitable for grazing, gardens, and “mixed farming,” with a supply of whitefish and trout in the lake, plentiful game, as well as ample timber and hay. The survey plan was approved on July 25, 1916.¹⁸

In March 1915, Robertson reported that a number of squatters were claiming lands within the surveyed reserve, band member Charles Gauthier among them. Robertson noted that Gauthier had taken treaty, and recommended that the northeast quarter of section 22, claimed by Gauthier, be included in the reserve.¹⁹

In 1916, the Department of Indian Affairs applied to the Department of the Interior to set aside the East Moberly Lake reserve. Charles Gauthier’s claim upon the northeast corner of section 22 was mentioned, but the position of the Department of Indian Affairs, as stated in a memo

¹⁶ There appears to be a discrepancy in the reserve acreage originally reported by DLS Donaldson and the amount ultimately set aside in 1918. When Donaldson made his report on the survey of Indian Reserve (IR) 169, the reserve was said to be 7,656 acres (see Donald F. Robertson to Assistant Deputy and Secretary, Department of Indian Affairs, March 18, 1915, LAC, RG 10, vol. 4065, file 412-786-3, and Donald F. Robertson to the Assistant Deputy and Secretary, Department of Indian Affairs, March 30, 1915, Federal Records Centre, file 975/30-5-168A). The Department of the Interior also stated that the reserve was comprised of “7656 acres or approximately 11.96 square miles” (see N.O. Coté, Controller, Land Patents Branch, Department of the Interior, December 11, 1916, LAC, RG 15, vol. 1117, file 3188380). However, when the reserve was confirmed by Order in Council, the reserve acreage was changed to 7,646 acres (see Order in Council PC 2302, September 19, 1918, *Canada Gazette*, November 19, 1918, vol. 15, no. 16). No explanation for this change can be found in the documents provided.

¹⁷ Donald F. Robertson to Assistant Deputy and Secretary, Department of Indian Affairs, March 18, 1915, LAC, RG 10, vol. 4065, file 412-786-3 (ICC file 2109-36-01). Robertson mentions in a separate March 18 letter that 25 Beaver Indians from St John Band were given land at the Saulteau reserve; see Donald F. Robertson to Assistant Deputy and Secretary, Department of Indian Affairs, March 18, 1915, LAC, RG 10, vol. 7779, file 27143-4, part.1 (ICC file 2109-36-01).

¹⁸ See Order in Council PC 2302, September 19, 1918, *Canada Gazette*, November 19, 1918, vol. 15, no. 16 (ICC file 2109-36-01).

¹⁹ Donald F. Robertson to the Assistant Deputy and Secretary, Department of Indian Affairs, March 30, 1915, Federal Records Centre, file 975/30-5-168A (ICC file 2109-36-01).

by N.O. Coté of the Land Patents Branch of the Department of the Interior, was that, as Gauthier had accepted treaty after making the declaration, he did “not appear to have any claim to this land.”²⁰

Indian Reserve 169 was set aside by Order in Council PC 2302 on September 19, 1918. The reserve consisted of sections 13, 14, 15, 22, 23, 24, and 26, township 79, range 24, W6M, comprising an area of 7,646 acres.²¹

JIM GAUTHIER’S CLAIM TO LANDS IN SEVERALTY

In 1974, Saulteau band member Jim Gauthier, the great-grandson of Charles Gauthier, applied for a disposition of 91.06 hectares of Crown land on Deadman Creek, located between IR 169 and the town of Chetwynd. His application was denied by the Department of Lands, Forests and Water Resources the following year.²² After a second application was rejected in 1978,²³ the Saulteau First Nation requested the assistance of the Union of BC Chiefs on Jim Gauthier’s behalf.²⁴

In February 1983, the BC Ministry of Lands, Parks and Housing ordered Gauthier to vacate the property by June 1, 1983.²⁵ Asserting his right to 160 acres of severalty lands under Treaty 8 and citing overcrowding on the reserve, Gauthier persisted in his attempts to acquire title to the lands.

²⁰ N.O. Coté, Controller, Land Patents Branch, Department of the Interior, [recipient not identified], December 11, 1916, LAC, RG 15, vol. 1117, file 3188380 (ICC file 2109-36-01).

²¹ Order in Council PC 2302, September 19, 1918, *Canada Gazette*, November 19, 1918, vol. 15, no. 16 (ICC file 2109-36-01).

²² R.H. Goodchild, Director of Lands, to Jim J. Gauthier, March 7, 1975, no file reference available (ICC file 2109-36-01). The application was disallowed on the basis that the “subject area lies within a reserve against agricultural settlement.”

²³ Department of Lands, Forests, and Water Resources, British Columbia, Lands Branch, Land Classification Report, June 22, 1978, no file reference available (ICC file 2109-36-01); H.K. Boas, Regional Land Manager, Ministry of the Environment, to Jim J. Gauthier, June 26, 1978, no file reference available (ICC file 2109-36-01). The province required that the lands applied for be at least 50 per cent arable; Gauthier was informed that the area around Deadman Creek had “insufficient arable lands to establish the basis of a viable unit.”

²⁴ Councillor Amy Gauthier to Union of BC Indian Chiefs, c.1979, no file reference available; Affidavit by Jim John Gauthier, July 14, 1983, no file reference available (ICC file 2109-36-01).

²⁵ D.T. Ross, Regional Director, Peace Region, Ministry of Lands, Parks and Housing, to Jim Gauthier, February 23, 1983, no file reference available (ICC file 2109-36-01).

In the summer of 1983, DIAND apparently agreed to purchase the land for him.²⁶ In November 1985, with the matter still not concluded, the Lands and Trusts Branch of DIAND advised the First Nation that it could not add land to reserves for a single family. It was resolved that the department would contact the province to see if it was still willing to sell the lands.²⁷ On February 4, 1986, Lands and Trusts informed Jim Gauthier that there were no funds to purchase the land, and suggested approaching the Office of Native Claims.²⁸

Two years later, the matter remained unresolved. The BC Ministry of Crown Lands informed Gauthier that there were some other parcels that could be purchased if he wished, and that his personal property must be moved off the land at Deadman Creek by September 15, 1988.²⁹ In October 1988, a one-year extension of that deadline appears to have been granted,³⁰ but in December 1989, Gauthier's possessions on the property were seized.³¹ Soon thereafter, he approached the Treaty 8 Tribal Association for assistance.³²

²⁶ Jim Gauthier to unidentified recipient, April 24, 1983, no file reference available (ICC file 2109-36-01); Affidavit by Jim John Gauthier, July 14, 1983, no file reference available (ICC file 2109-36-01); Louise Mandell, Lawyer, Union of BC Indian Chiefs, to Chief and Council, Sauteau Indian Band, August 2, 1983, no file reference available (ICC file 2109-36-01); Louise Mandell, Lawyer, Union of BC Indian Chiefs, to John Evans, Director, Reserves and Trusts, Department of Indian Affairs, January 13, 1984, no file reference available (ICC file 2109-36-01).

²⁷ Juliet E. Balfour, Advisor, Reserves and Trusts, British Columbia Region, Indian and Northern Affairs Canada, to Brad Northstein, Sauteau Band Office, November 12, 1985, no file reference available (ICC file 2109-36-01).

²⁸ Juliet Balfour, Advisor, Lands, Revenue and Trusts, BC Region, to Louise Mandell, Mandell Ostrove Pinder, Barristers and Solicitors, February 4, 1986, no file reference available (ICC file 2109-36-01).

²⁹ Max Nock, Manager, Land Administration, Ministry of Crown Lands, to Mr and Mrs Gauthier, July 13, 1988, no file reference available (ICC file 2109-36-01).

³⁰ Unidentified note to file, October 1988, no file reference available (ICC file 2109-36-01).

³¹ Egon Weger, Regional Director, Ministry of Crown Lands, to J. Gauthier, December 20, 1989, no file reference available (ICC file 2109-36-01).

³² Jim Gauthier to Treaty 8 Tribal Association, January 22, 1990 [stamp date], no file reference available (ICC file 2109-36-01).

Through its solicitor, the Treaty 8 Tribal Association informed the province that it would be seeking damages.³³ In 1994, the Treaty 8 Tribal Association asserted that they claimed the lands as part of their rights to severalty lands under Treaty 8 and demanded that an order be issued to cease cutting hay on the parcel, which Gauthier had seeded.³⁴ The province agreed not to issue any hay permits for the time being.³⁵

Documentation dated October 1994 indicates the province agreed to establish the parcel as a Section 12 Land Act Reserve until September 30, 1996.³⁶

³³ Lawrence Roland Fast, Barrister and Solicitor, to Egon Weger, Regional Director, Ministry of Crown Lands, March 13, 1990, no file reference available (ICC file 2109-36-01).

³⁴ Chiefs, Treaty 8 Tribal Association, to Ken Collingwood, Regional Manager, Prince George Regional Office, British Columbia Ministry of Forests, April 6, 1994, no file reference available (ICC file 2109-36-01).

³⁵ W.R. Brash, District Manager, Ministry of Forests, to Treaty 8 Tribal Association, May 24, 1994, no file reference available (ICC file 2109-36-01).

³⁶ Egon Weger, Chair, Omineca/Peace IAMC, Ministry of Environment, Lands and Parks, to Jim Webb, Treaty 8 Tribal Association, October 20, 1994, no file reference available (ICC file 2109-36-01).

PART III
ISSUES

The Treaty 8 Tribal Association on behalf of the Saulteau First Nation requested an inquiry into the First Nation's claims for treaty land entitlement and lands in severalty. During the time between the request for inquiry and withdrawal from the process, the inquiry did not progress to the point of an agreed statement of issues.

PART IV
PROCEDURAL HISTORY

On August 12, 1997, the Treaty 8 Tribal Association submitted two specific claims to the Minister of Indian Affairs and Northern Development on behalf of the Saulteau First Nation, concerning land entitlement and lands in severalty in accordance with the terms of Treaty 8. The First Nation claimed that the Crown had breached its legal and fiduciary obligations to the First Nation by failing to provide sufficient lands consistent with the terms of Treaty 8, and by refusing to set aside lands under the severalty provisions of Treaty 8.

The claims were submitted to the Minister in August 1997, the First Nation requested an update on the file in April 1999. The Specific Claims Branch responded to the First Nation, stating it “may expect to receive some communication from Specific Claims with respect to the status of the TLE Claim shortly.”³⁷ The Specific Claims Branch further informed the First Nation that its lands in severalty claim was assigned to a policy analyst for review.³⁸ On February 10, 2000, Robert Nault, then Minister of Indian Affairs and Northern Development, acknowledged the First Nation’s frustration with the lengthy time frames for dealing with specific claims and advised that “BC Treaty 8 First Nations’ claims are presently near the top of the list of priorities of the lawyer assigned to handle these claims.”³⁹ He further stated that a response would be forthcoming “within a relatively short time.”⁴⁰ On March 20, 2002, the parties met to discuss Canada’s TLE and lands in severalty policies. In June 2003, three years after Minister Nault’s letter, the First Nation was informed by the Specific Claims Branch that it was continuing to develop its position regarding the two claims.⁴¹ By

³⁷ John Hall, Research Manager, Specific Claims West, (DIAND), to Peter Havlik, Director, Treaty 8 Tribal Association, April 21, 1999 (ICC file 2109-36-01, vol. 1).

³⁸ John Hall, Research Manager, Specific Claims West, (DIAND), to Peter Havlik, Director, Treaty 8 Tribal Association, April 21, 1999 (ICC file 2109-36-01, vol. 1).

³⁹ Robert Nault, Minister of Indian Affairs and Northern Development, to Chief Stewart Cameron, Saulteau First Nation, c/o Treaty 8 Tribal Association, February 10, 2000 (ICC file 2109-36-01, vol. 1).

⁴⁰ Robert Nault, Minister of Indian Affairs and Northern Development, to Chief Stewart Cameron, Saulteau First Nation, c/o Treaty 8 Tribal Association, February 10, 2000 (ICC file 2109-36-01, vol. 1).

⁴¹ John Hall, Research Manager, Specific Claims West, (DIAND), to the Treaty 8 Tribal Association, June 18, 2003 (ICC file 2109-36-01, vol. 1).

August 2003, the First Nation had not received confirmation from Canada of either the acceptance or rejection of its claims. On August 21, 2003, the First Nation requested that the Indian Claims Commission conduct an inquiry into its claims.⁴² On November 28, 2003, the Commission deemed the claims to have been constructively rejected and accepted the claims for inquiry.⁴³ The Commission requested that the parties provide their relevant documentation. On behalf of the First Nation, the Treaty 8 Tribal Association submitted part of its document collection and advised that more material would be forthcoming. Canada provided no documentation, and notified the Commission that the First Nation's participation in the inquiry would not be funded, since Canada did not consider the claims to be rejected. In November 2004, Canada and the First Nation agreed to engage the mediation and facilitation services offered by the ICC. In April 2005, the First Nation advised the ICC that it wished to proceed with the inquiry process.

On February 9, 2006, in anticipation of the acceptance for negotiation of the TLE claim by the Minister of Indian Affairs and Northern Development, the First Nation requested the inquiry into both claims be concluded.⁴⁴ Accordingly, the Commission issued a Declaration on June 1, 2006, concluding the inquiry.⁴⁵

⁴² Deborah Smithson, Director, Treaty and Aboriginal Rights Research, Treaty 8 Tribal Association, to Kathleen Lickers, Commission Counsel, ICC, August 21, 2003 (ICC file 2109-36-01, vol. 1).

⁴³ Renée Dupuis, Chief Commissioner, ICC, to Deborah Smithson, Director, Treaty and Aboriginal Rights Research, Treaty 8 Tribal Association, November 28, 2003; Renée Dupuis, Chief Commissioner, ICC, to Audrey Stewart, Director General, Specific Claims Branch, DIAND and Sylvia Duquette, General Counsel, Specific Claims Branch, November 28, 2003 (ICC file 2109-36-01, vol. 1).

⁴⁴ Christopher G. Devlin, Counsel, Saulteau First Nation, to Julie McGregor, Associate Counsel, ICC, February 19, 2006 (ICC file 2109-36-01, vol. 1).

⁴⁵ ICC, Declaration, dated June 1, 2006. This order is reproduced as Appendix A to this report.

PART V
CONCLUSION

For the reasons given in our Declaration of June 1, 2006, the inquiry was concluded.

FOR THE INDIAN CLAIMS COMMISSION

Three handwritten signatures in black ink. The first signature on the left is 'Renée Dupuis', the middle one is 'Daniel J. Bellegarde', and the one on the right is 'Jane Dickson-Gilmore'.

Renée Dupuis, C.M. (Chair)
Chief Commissioner

Daniel J. Bellegarde
Commissioner

Jane Dickson-Gilmore
Commissioner

Dated this 12th day of April, 2007.

APPENDIX A
DECLARATION

**Treaty 8 Tribal Association
Saulteau First Nation
Treaty Land Entitlement and Lands in Severalty Inquiry**

**Association tribale du Traité 8
Première Nation des Saulteux
Revendication relative à des droits fonciers issus de traité et
à l'attribution de terres individuelles**

DECLARATION

On August 12, 1997, the Treaty 8 Tribal Association, on behalf of the Saulteau First Nation, submitted a specific claim to the Minister of Indian Affairs and Northern Development ("the Minister") respecting treaty land entitlement and lands in severalty pursuant to the terms of Treaty 8.

By a Band Council Resolution from the Saulteau First Nation, dated August 6, 2003, the Treaty 8 Tribal Association requested that the Indian Claims Commission conduct an inquiry into its claim.

On November 28, 2003, this Commission deemed the claim to have been rejected and accepted the claim for inquiry.

By Band Council Resolution dated February 13, 2006 (attached as Appendix A), the Saulteau First Nation requested that this inquiry be closed.

SINCE the Saulteau First Nation has requested this inquiry be closed,

DÉCLARATION

Le 12 août 1997, l'Association tribale du Traité 8, au nom de la Première Nation des Saulteux, a présenté une revendication particulière au ministre des Affaires indiennes et du Nord canadien (« le ministre ») concernant des droits fonciers issus de traités et l'attribution de terres individuelles conformément aux dispositions du Traité 8.

Par voie d'une résolution du conseil de bande de la Première Nation des Saulteux datée du 6 août 2003, l'Association tribale du Traité 8 a demandé à la Commission des revendications des Indiens de mener une enquête au sujet de sa revendication.

Le 28 novembre 2003, la Commission a jugé que la revendication avait été rejetée et l'a acceptée aux fins d'enquête.

Par voie d'une résolution du conseil de bande datée du 13 février 2006 (voir Appendice A), la Première Nation des Saulteux a demandé qu'on mette un terme à ladite enquête.

ÉTANT DONNÉ que la Première Nation des Saulteux a demandé qu'on mette un terme à ladite enquête,

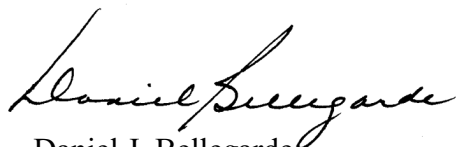
THIS COMMISSION THEREFORE
DECLARES AS FOLLOWS:

The inquiry into this specific claim is hereby
concluded.

At Ottawa, Ontario, this 1st day of June, 2006.



Renée Dupuis
Chief Commissioner (Chair)



Daniel J. Bellegarde
Commissioner



Jane Dickson-Gilmore
Commissioner

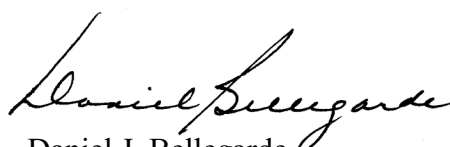
LA COMMISSION DÉCLARE CE QUI
SUIT :

L'enquête sur la revendication particulière
précitée est par la présente close.

Fait à Ottawa (Ontario), le 1^{er} jour de juin
2006.



Renée Dupuis
Présidente (présidente du comité)



Daniel J. Bellegarde
Commissaire



Jane Dickson-Gilmore
Commissaire

Appendix A to the Declaration



Indian and Northern Affairs Canada

BAND COUNCIL RESOLUTION

Financial No. 2006 - 009
File Reference No. 02-13-06 - TLC

NOTE: The words "from our Band Funds", "capital" or "revenue, whichever is the case, must appear in all resolutions requesting expenditures from Band Funds.

The Council of the	SAULTEAU FIRST NATIONS	Cash free balance
Date of duly convened meeting:	FEBRUARY 13, 2006	Province B.C.
		Capital account: \$
		Capital account: \$

DO HEREBY RESOLVE:

- WHEREAS:** Saulteau First Nations has submitted to Canada two specific claims,
Treaty No. 8 Land Entitlement Claim of the Saulteau First Nations, Vol. 1, Statement of Facts and Legal Argument, submitted in March 1997 (the "TLE Claim") and
Specific Claim of Jimmy Gauthier to Lands in Severalty Pursuant to Treaty No. 8, filed by Treaty 8 Tribal Association, dated uncertain but before 2002 ("Severalty Claim"); and
- WHEREAS:** Saulteau First Nations has subsequently requested an inquiry by the Indian Claims Commission ("ICC") respecting the "deemed" rejection of the TLE Claim and the Severalty Claim due to the inordinate delay by the Minister in accepting or rejecting either claim; and
- WHEREAS:** Saulteau First Nations and Canada have come to an understanding respecting how the TLE claim may obtain the Minister's acceptance for negotiation, which would involve the Saulteau First Nations withdrawing its specific claim with respect to the outstanding lawful obligation that Canada has to provide lands in severalty with respect to the land sought by Charles Gauthier's statutory declaration in 1914, but continuing to pursue its specific claim with respect to Canada's outstanding TLE obligation;
- THEREFORE:** Chief and Council of Saulteau First Nations hereby resolves as follows;
1. With respect to the Severalty Claim made on behalf of Jimmy Gauthier, Saulteau First Nations withdraws the claim in its entirety from the Specific Claims process;
 2. With respect to the TLE Claim, Saulteau First Nations withdraws those portions of the general TLE claim that assert an outstanding lawful obligation of Canada to provide land in severalty to those families who made statutory declarations for land in 1914;
 3. With respect to the ICC inquiry, Saulteau First Nations requests that the inquiry into their TLE Claim and Severalty Claim be concluded.

THREE (3)
Quorum Required

Brenda Courtois
(Councillor Brenda Courtois)

Meda Kinneth
(Councillor Meda Kinneth)

Jimmy Gauthier
(Councillor Jimmy Gauthier)

Mark Apwash
(Chief Mark Apwash)

FOR DEPARTMENTAL USE ONLY					
Expenditure:	Authority: (Indian Act Section)	Source of Funds:		Expenditure:	Authority: (Indian Act Section)
		Capital	Revenue		
Recommending Officer:		Date:		Recommending Officer:	
Signature:		Date:		Signature:	
Approving Officer:		Date:		Approving Officer:	
Signature:		Date:		Signature:	

