

Major Native Land Claims in Canada

(Editor's Note: From time to time, this newspaper publishes stories about efforts toward settlement of aboriginal claims of Canadian Eskimos and Indians. It is sometimes difficult to understand Canadian Native Claims settlement issues because of differences of national policies, procedural approaches for handling of claims, and unique political climates faced by Canadian Natives. This is part two of a series of five articles on what the Canadian Government considers are the ten major Native claims and an explanation of how the government is handling them. The series, prepared by the Office of Native Claims in the Department of Indian Affairs and Northern Development first appeared in the Whitehorse STAR earlier this month.)

In some cases, the findings may reveal insufficient grounds for negotiation, but the claim may be capable of redress through existing programs of the department of the government.

In addition, the Government has reviewed claims that had previously been rejected, in cases where new evidence has been found which might support them.

The claims negotiation and settlement process is generally an extremely complex and lengthy one. A very wide range of matters can become the subject of claims. Specific claims cover every aspect of the Government's administration of band lands and other band assets in the past, and every aspect of the fulfillment of the terms of each of the treaties.

In the Prairie provinces, for example, an issue that has been of concern for many years is that of outstanding treaty land entitlements.

Some bands in these provinces did receive their full land entitlement under the Treaties that were signed there between 1871 and 1906, but many others did not. This situation was recognized in the terms of the Natural Resources Transfer Agreements of 1930 between Canada and the Prairie Provinces.

Under those Agreements, the Provinces assumed an obligation to set aside, out of unoccupied Crown lands which had been transferred by Canada to the Provinces such lands as would enable the Federal Government to fulfill its obligations under the Treaties.

This process has never been completed. In Saskatchewan, however, the Federation of Saskatchewan Indians and the Federal and Provincial Governments reached agreement, in August of last year, on the basic principles for settling outstanding Treaty land entitlements in that Province.

Similar agreements will be sought with Alberta and Manitoba.

In Manitoba, the signing of the Manitoba Northern Flood Agreement in December of 1977 brought to an end four years of negotiations between five northern Manitoba bands and the Provincial and Federal Governments. The Agreement provides rights and benefits to these bands as compensation for adverse effects on their communities of Manitoba's Lake Winnipeg Regulation and Churchill River Diversion Project.

Specific claims activities in British Columbia have concentrated on the issue of lands cut off from reserves as a result of a 1916 Royal Commission recommendation.

Agreement has now been reached between the Federal and Provincial Governments on the approach to resolving this long outstanding issue, and the two Governments will be meeting with the representatives of the 22 bands involved early in 1978 to put their proposal forward as the basis for ongoing discussions on the matter.

Many other specific claims across the country have been concerned with the question of alleged improper alienations of reserve land. The Enoch Band near Edmonton, for example, has claimed that 6,300 acres of reserve land were improperly surrendered and sold in 1909, and this claim is currently before the courts.

Progress is being made on the many and varied types of specific claims, but neither the Federal Government nor Indian people are fully satisfied with the present process for dealing with them.

As a result, a joint effort is now being made to resolve this matter under the auspices of a Cabinet/National Indian Brotherhood Committee, which was established in December of 1975.

As part of this approach, a Canadian Indian Rights Commission was set up in 1976 to recommend to Indian people and to the Government ways in which specific claims could be dealt with more effectively.

Comprehensive claims, on the other hand, go to the very heart of the historic relationship between Native people and the government. In dealing with such claims, the Government seeks to redefine that relationship in contemporary terms.

The settlement process for these claims is already underway as a result of the signing of the James Bay and Northern Quebec Agreement, which dealt with the traditional rights of

usage and occupancy of the Crees and Inuit of Northern Quebec.

In 1912, the Quebec Boundaries Extension Act transferred the area north of the Eastmain River from the Northwest Territories to the jurisdiction of Quebec, with the proviso that the Quebec government recognize the rights of Native people in this territory and "obtain surrenders of such rights in the same manner as the Government of Canada has heretofore recognized such rights and has obtained surrender thereof..."

When major resource development was launched in the James Bay area, Native people reacted with a determination to safeguard their rights and appealed to the Federal Government for support. But settlement did not come quickly or easily.

It took six long years to achieve a negotiated settlement satisfactory to all parties: from the announcement in April of 1971 of Quebec's proposals for developing the hydroelectric potential of the James Bay area, to the first tentative meetings to explore the impact this development would have on the Native people there, to the months of long and difficult negotiating that followed, to the signing of the James Bay and Northern Quebec Agreement, and finally to the proclamation, on October 31, 1977, of the parallel Federal and Provincial legislation putting that Agreement into effect.

As a comprehensive claim settlement, the Agreement acknowledged the trading use and occupancy of the land by the Indians and Inuit of Northern Quebec.

It translated these traditional but unspecified rights into well-defined cultural, social and economic rights and benefits such as hunting, fishing and trapping rights; increased local autonomy; environmental protection guarantees; land; cash; control over

education and health services; and a range of economic and social development measures.

In doing so, it provided the Native people of Northern Quebec with a substantial degree of control over their own future political, economic and social evolution.

An Agreement was also signed on January 31, 1978 with the Naskapis of Schefferville, a band of 400 Indians living within the Territory covered by the James Bay Agreement.

This Agreement, the result of two years of negotiations provides the Naskapis with rights and benefits similar to those gained by the James Bay Crees and Inuit of Quebec under the James Bay Agreement, but adapted to take into account the special circumstances of the Naskapis.

In neighboring Labrador, the Naskapi-Montagnais Innu Association, representing 800 Indian people living in Northwest River and Davis Inlet, presented a claim based on traditional use and occupancy to the Federal Government on November 22, 1977.

A statement of claim was received from the Labrador Inuit Association in March, 1977, and a supporting Land Use and Occupancy Study is expected in the near future.

In Nova Scotia, the Union of Nova Scotia Indians claims that aboriginal Micmac title in that province still exists. In British Columbia, tripartite (Federal-Provincial-Nishga) meetings are continuing in an effort to arrive at a settlement of the outstanding Nishga claim.

Other bands and organizations in the non-treaty areas of that Province have indicated that they, too, intend to submit comprehensive claims to the Government. The Gitskan-Carrier Band has already done so (in November, 1977) and others are expected

in the months ahead.

North of 60°, the area affected by the five comprehensive claims that have been put forward to the Government stretches from the Alaska-Yukon border in the west to Davis Strait in the east encompassing all of the Yukon and Northwest Territories.

Yukon Native people were the first northern Native group to submit a claim, in 1973, and intensive discussions and negotiations continued throughout 1977 between the Council for Yukon Indians and the Federal and Territorial Governments, in order to reach an Agreement-in-Principle early in 1978.

The Inuit Tapirisat of Canada submitted a claim on behalf of all the Inuit in the Northwest Territories in February 1976, which it subsequently withdrew in the fall of that year to allow for further consultations with Inuit communities. The committee for Original Peoples Entitlement (COPE) submitted a claim on behalf of the Inuit of the Western Arctic in May 1977, and significant progress towards an agreement has been made to date, particularly in the areas of wildlife and game management.

The Indian Brotherhood of the N.W.T. submitted a claim on behalf of the status Indian of the Mackenzie Valley in October of 1976.

The Metis Association of the N.W.T. submitted its claim, on behalf of the Metis and non-status Indians of the Mackenzie Valley in September 1977. Discussions are getting underway with both these groups, with the hope of reaching an agreement in principle later in 1978. The Inuit Tapirisat submitted a new claim on behalf of the Inuit of the Central and Eastern Arctic in December 1977, and a new round of discussions and negotiations on that claim was scheduled to begin in March of 1978.