



SPECIAL CHIEFS ASSEMBLY

December 5,6,7, 2023, Ottawa, ON

Resolution no.80/2023

TITLE: Immediate Review of the Specific Claims Research Funding Shortfall

SUBJECT: Lands, Specific Claims

MOVED BY: Chief Dalton Silver, Sema:th First Nation, BC

SECONDED BY: Chief Lynn Acoose, Zagimē Anishinabēk, SK

DECISION Carried by Consensus

WHEREAS:

A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:

- i. Article 8 (2): States shall provide effective mechanisms for prevention of, and redress for (b): Any action which has the aim or effect of dispossessing them of their lands, territories or resources; (c): Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights.
- ii. Article 19: States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- iii. Article 27: States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

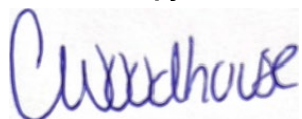
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- iv. Article 28 (1): Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
 - v. Article 28 (2): Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.
 - vi. Article 40: Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.
- B. The historical actions illegally undertaken by successive federal, provincial, and territorial governments in Canada have resulted in the illegal alienation of First Nations lands, the creation of and subsequent failure to protect Indian reserves, villages and fishing areas, the systematic denial of rights to fish and access to water, and the illegal disruption and removal of sacred sites and grave sites.
 - C. These historical and ongoing losses are the result of false, racist premises such as *terra nullius* and the doctrines of discovery and denial which provided colonial governments justification for alienating land through the Western notion of private land, and organized systems of pre-emption and land grants to accelerate non-Indigenous settlement on Indigenous territories. Alienation of First Nations lands and other assets has taken place through the *Indian Act* and often in clear violation of the minimal protections contained in colonial or federal law. These acts of land dispossession ignored Indigenous laws, protocols, and systems of governance.
 - D. Redress of these historical wrongs is the Government of Canada's lawful obligation, and the Honour of the Crown necessitates rightful action on the part of the Government of Canada, and the full, fair resolution of all claims.
 - E. Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC), through the Specific Claims Branch (SCB) and the Negotiation and Support Directorate (NSD), has taken active and deliberate steps in the last two years to encourage First Nations to seek specific claims research funding by unilaterally revising its research funding guidelines, publishing them on its public website, and actively encouraging some First Nations with multiple claims in progress to apply for funding individually, rather than through a Claims Research Unit (CRU), as a more expedient path to the resolution of their specific claims.
 - F. In response to its annual call for proposals in the 2023/2024 fiscal year, NSD received 160 applications for specific claims research funding from CRUs and individual First Nations, totaling \$30.5 million. This has resulted in an \$18.5 million shortfall.
 - G. The Government of Canada disclosed in its most recent Fall Economic Statement that this funding has not been increased for fiscal years 2024-25 or 2025-26, despite widespread calls for a substantial increase from the Assembly of First Nations (AFN) Interim National Chief, the National Claims Research Directors, and individual First Nations across the country.

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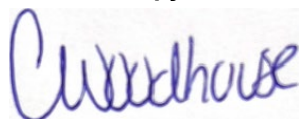
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- H. The Government of Canada's continuing failure to provide adequate resources to First Nations to research and develop their specific claims will exponentially increase the financial costs of resolving these claims and heighten the possibility that First Nations will take direct, on the ground action, seeing it as the only other viable means of seeking redress for their historical grievances.
- I. The Government of Canada's effort to jointly reform the Specific Claims Policy and process with the AFN is currently underway. This funding shortfall undermines the appearance of the Government of Canada's commitment to this work and is counterproductive to building trust with First Nations.

THEREFORE BE IT RESOLVED that the First Nations-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to call on the Government of Canada to immediately review its funding shortfall for specific claims research in anticipation of the coming 2024-25 fiscal year and subsequent years to ensure that adequate funding is provided to enable all First Nations with specific claims to meaningfully and sustainably pursue research to advance and resolve their specific claims.
2. Direct the AFN to call on the Government of Canada to take immediate action to ensure that First Nations and the designated Claims Research Units (CRUs) who submit proposals for specific claims research funding in the 2024-25 fiscal year and subsequent years receive the resources necessary to continue their critical work.
3. Direct the AFN to call on the Government of Canada to provide ongoing resources for the resolution of specific claims and support co-development, engagement, and joint implementation of efforts to reform the Specific Claims Policy and process.
4. Direct the AFN to request the Minister of Indigenous Services Canada share a copy of the supplementary estimates tabled in the House of Commons for the Treasury Board to determine items relevant to First Nations.
5. Direct the AFN to call on the Government of Canada to work with the AFN to remove all arbitrary limits on financial compensation through the Specific Claims Tribunal.

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