

FIRST NATIONS STRATEGIC BULLETIN

BULLETIN OF THE FIRST NATIONS STRATEGIC POLICY COUNSEL

The “Oka Crisis” 15 Years Later: Has There Been Much Progress on Mohawk (or First Nation) Rights?



Canadian soldiers in retreat after being confronted by unarmed Mohawks, when the army trespassed in Kahnawake. A Chinook helicopter descends to pick them up. Sept. 18, 1990. (Photo by Linda Dawn Hammond)

By Russell Diabo

On September 26, 2005, it will be fifteen years since the armed conflict between Mohawk peoples and the governments of Quebec and Canada over the expansion of a golf course onto Mohawk lands unexpectedly ended when 34 people walked out of the Kanesatake “**Treatment Centre**”.

The 78 day stand-off began on July 11, 1990, when the **Sûreté du Québec (SQ)** riot squad stormed a Mohawk blockade, which had been set up to stop the expansion of a 9 hole golf course into an 18 hole golf course. The golf course expansion would have encroached on a Mohawk burial ground and led to the leveling of a grove of 100 year old white pine trees, planted by Mohawks.

For Indigenous peoples across Canada, the Americas and around the World, the conflict of 1990 was, and still is, considered a powerful symbol of resistance to colonialism, racism and oppression by settler states over Indigenous Nations.

The conflict also gained global and national attention and support from allies

of Indigenous peoples and the combined international and domestic opinion resulted in the Government of Canada admitting it had not done enough to address historic wrongs.

Locally, in Kanesatake, the golf course that started the conflict was never expanded, so the 1990 confrontation did succeed in that respect.

But what about the federal, provincial and municipal recognition of Indigenous self-determination and land rights? These were the issues at the core of the 1990 confrontation.

Has there been much progress on what is often called the ‘**rights agenda**’ in the last fifteen years?

Mulroney’s “Four Pillars” Policy

On September 25, 1990, the day before the people walked out of the **Kanesatake Treatment Centre**, the then **Prime Minister of Canada, Brian Mulroney**, announced in the House of Commons that his government was announcing a new Native policy.

Mulroney’s statement in the House of Commons on September 25, 1990, made it clear that Canada intended to deny the right of self determination of Indigenous peoples, by limiting the scope of self-government negotiations, when he said,

“Native self-government does not now and cannot ever mean sovereign independence. Mohawk lands are part of Canadian territory – and Canadian law must and does apply. Everyone in Canada, “warriors” included, is subject to the criminal code of Canada.”

Mulroney went on to say that his gov-

Special points of interest:

- **Oka Crisis 15 Years Later—Any Progress?**
- **Fontaine Pitches 10 Year Plan to Gov’ts**
- **Tahltans Arrested After Injunction Given to Mining Company**
- **Specific Claims Bill C-6 is Dead, but What Next?**
- **Quebec Crees Get New Leader**

Inside this issue:

Oka 15 Years Later	1
AFN Speaking Notes	7
Tahltan Arrests	9
Specific Claims	11
Quebec Crees’ Leader	14
Crees and Quebec	15
IBA Conference	16



Brian Mulroney, Prime Minister of Canada 1984—1993. (Photo by the Government of Canada)

“in 1991, the federal government announced the creation of a **Royal Commission on Aboriginal Peoples**. The Royal Commission had a broad mandate to study and provide recommendations on virtually all aspects of Aboriginal peoples’ lives.”



Jean Chrétien, Prime Minister of Canada, 1993—2003. (Photo by the Government of Canada)

‘15 Years Later’ continued from page 1

ernment’s **1990 Native Agenda** would consist of four central pillars, or basic commitments:

- to accelerate the pace of land claim settlements;
- to improve social and economic conditions;
- to improve the basic relationship between aboriginal peoples and governments; and
- to address the larger concerns of aboriginal peoples.

Following these four commitments, the Conservative government of Brian Mulroney took the following actions from 1990 to 1993:

- To accelerate the settlement of land claims, the federal government 1) for the first time, agreed to negotiate pre-Confederation (before 1867) claims; 2) created an **Indian Claims Commission** to review claims that had been previously rejected by the federal **Departments of Indian Affairs and Justice**; 3) removed the cap on negotiation tables for Comprehensive (Aboriginal title) Claims, or what are called modern treaties like the **James Bay Agreement**.
- To improve social and economic conditions, the federal government began to negotiate with band councils improvements to on-reserve programs and services, including infrastructure, like water and sewer systems.
- To improve the basic relationship between aboriginal peoples and governments, the federal government included representatives of the National Aboriginal Organizations, such as, the **Assembly of First Nations**, in constitutional talks, which led to the proposed **Charlottetown Constitutional Accord of 1992**. The Charlottetown Accord included the explicit recognition of the “**inherent right of self-government**” in the proposed constitutional amendment package. A national referendum was held on the Charlottetown Accord and the majority of the Canadian public voted against it.
- To address the larger concerns of aboriginal peoples, in 1991, the federal government announced the creation of a **Royal Commission on Aboriginal Peoples**. The Royal Commission had a broad mandate to study and provide recommendations on virtually all aspects of Aboriginal peoples’ lives.

Chrétien’s Red Book

In June 1990, **Elijah Harper** refused to give unanimous consent in the Manitoba Legislature to the **Meech Lake Constitutional Accord**, which would have given Quebec “**distinct society**” status within the Canadian Federation.

Elijah’s refusal effectively killed the constitutional accord, which of course angered many Quebecers at the time, including then **Premier Robert Bourassa** and members of his Cabinet.

During the same week of June 1990, the **Liberal Party of Canada** was holding a Leadership convention in Calgary, Alberta. Two things happened at that convention that would help shape political events in Canada for the next few years.

The first was that the Liberal Party amended its constitution to create an **Aboriginal Peoples’ Commission** to encourage Aboriginal peoples to get involved in the national political process, and the second was, **Jean Chrétien** was elected as Leader of the Liberal Party of Canada.

In November 1993, the Liberals swept to power virtually wiping out all but two of the Conservative Party’s seats. Jean Chrétien, was back, as Leader of the Liberal Party and Prime

'15 Years Later' continued from page 2

Minister of Canada.

Largely as a result of pressure by the members of the Aboriginal Peoples' Commission within the Liberal Party of Canada, the Liberal party adopted an Aboriginal Electoral Platform with promises contained both in the **Liberals' 1993 Red Book**, but also in an **October 1993 News Release**.

Unfortunately, after coming into power, **Prime Minister Jean Chrétien**, appointed a loyal supporter and Member of Parliament from Northern Ontario, **Ron Irwin**, as his **Minister of Indian Affairs**.

Ron Irwin's job was to work around the **1993 Aboriginal Liberal promises** and implement Jean Chrétien's ideas of what should be done in the area of Aboriginal policy. In other words, to bring back the assimilation-termination principles of the "**1969 White Paper on Indian Policy**", when Jean Chrétien was Minister of Indian Affairs.

In 1995, The Chrétien government announced an "**Aboriginal Self-Government**" policy, which the government cynically called its "**inherent right**" policy. Like Mulroney, Chrétien's self-government policy made it clear that:

"The inherent right of self-government does not include a right of sovereignty in the international law sense, and will not result in sovereign independent Aboriginal nation states."

The 1995 federal "**self-government**" policy made it clear that the federal and provincial governments would decide what could and couldn't be included in a "**self-government**" agreement.

This policy became the basis for negotiations with First Nations (bands & Tribal Councils) across Canada, including the **Mohawk Council of Kahnawake**, in what became the proposed **Canada-Kahnawake Relations (CKR) Act**, which was intended to go along with the **Quebec-Kahnawake Relations (QKR) Agreements**.

On top of the "**self-government**" policy, in 1996, over the objections of a majority of Indian bands in Canada, the Chrétien government tried to introduce massive amendments to the **Indian Act**, which were designed to further the goals of assimilation and gradually ending the rights of First Nations. The proposed law died in Parliament when the **1997 federal election** was called.

Royal Commission on Aboriginal Peoples

In November 1996, five years after it was announced, the **Royal Commission on Aboriginal Peoples' (RCAP)** finally released its final report and recommendations. The report was in five volumes and contained 440 recommendations.

The response by the federal Liberal government at the time was that the report recommendations were too costly in a period of fiscal restraint, and the Liberal government was already doing what RCAP recommended anyway. The Chrétien government essentially put the RCAP report on the shelf and tried to forget about it.

Going into the federal election of 1997, the relations between First Nations and the federal government were at a low point, so after the election, Jean Chrétien tried to put a kinder gentler face to his Aboriginal policies and appointed **Jane Stewart** as his new **Minister of Indian Affairs**.

Federal Response to RCAP

In January 1998, the Chrétien government finally responded to the RCAP report and recommendations by having Jane Stewart announce a "**statement of reconciliation**" on the



L to R: Charles Hubbard, Liberal M.P., Joe Augustine, Ron Irwin, Minister of Indian Affairs, Chief Michael Ward, at Land Claims Ceremony. (Photo courtesy of Charles Hubbard)

"The Chrétien government essentially put the RCAP report on the shelf and tried to forget about it."



L to R: Judge Rene Dussault and Georges Erasmus, Co-Chairs, Royal Commission on Aboriginal Peoples.

'15 Years Later' continued from page 3



L to R: Phil Fontaine, AFN National Chief & Jane Stewart, Minister of Indian Affairs, circa 1997.

“The plan was to use **First Nation collaborators**, or “**champions**” as the federal government called them, to help promote and support three proposed federal laws”

abuse that happened at residential schools to students who attended those institutions. In addition, two new 1998 policy initiatives were announced “**Gathering Strength**” and an “**Agenda for Action**” with First Nations.

While the “**statement of reconciliation**” was the start of a federal response to the RCAP recommendations and demands for an apology and compensation by victims of the residential schools, the “**Gathering Strength**” and “**Agenda for Action**” policies were more or less restatements of existing policies and process for self-government and land claims negotiations.

Chrétien’s Legacy Legislation

In the fall of 1999, Prime Minister Jean Chrétien decided to replace his Indian affairs Minister Jane Stewart, with a tougher **Robert Nault**, another Northern Ontario M.P. with the intention to prepare once again to try and push through Chrétien’s “**1969 White Paper**” assimilation-termination ideas that Ron Irwin couldn’t get implemented in 1997.

It was after the federal election of November 2000, that **Robert Nault, Minister of Indian Affairs** began to make his moves and push Chrétien’s “**Aboriginal Legacy Agenda**”, which was embodied in a “**suite of legislation**”. The plan was to use **First Nation collaborators**, or “**champions**” as the federal government called them, to help promote and support three proposed federal laws:

- The First Nations Governance Act;
- The Specific Claims Resolution Act; and
- The First Nations Fiscal Institutions Act.

The “**First Nations Governance Act**” (FNGA) was designed to force Indian Bands into essentially into municipalities. Something Jean Chrétien had thought should have been done in 1969, when he was the Minister of Indian Affairs.

The proposed FNGA was widely opposed by First Nations people, and thanks to the delaying tactics of the **New Democratic Party (NDP)** and the **Bloc Québécois (BQ)**, the proposed law died when Parliament was dissolved for a new session in November 2003.

The “**Specific Claims Resolution Act**” was also widely opposed by First Nations but passed into law in November 2003, despite the opposition to it. This law limits “**specific claims**” to \$10 million even though many claims are assessed at much more than that amount. Moreover, it is not an “**independent**” process because the federal government controls many aspects of the process, including appointments of officials to preside over the process, the budget for the process and whether or not the process will be renewed or not.

Paul Martin Keeps Chrétien’s Aboriginal Legacy Agenda

In November 2003, Jean Chrétien retired from politics and Paul Martin replaced him as the Leader of the Liberal Party and in December 2003, as Prime Minister of Canada.

Since being Prime Minister of Canada, Paul Martin has largely continued with implementing Jean Chrétien’s “**Aboriginal Legacy Agenda**”, by taking the following actions:

- The Martin government has maintained the Chrétien government’s “**National First Nations Governance Centre**”, which was set up to implement the principles of the failed **First Nations Governance Act** and the federal “**Aboriginal Self-Government**” policy, to municipalize Indian bands. Paul Martin has also kept Robert Nault’s appointee, **Herb ‘Satsan’ George** as the head of this “**national institution**”;



L to R: Jean Chrétien and Paul Martin at a press conference, circa 2003.

'15 Years Later' continued from page 4

- The Martin government passed what was previously called the "**First Nations Fiscal Institutions Act**" into law. This amended **section 87** of the **Indian Act** so that municipal type property taxes on-reserve could be promoted by band councils in order to reduce and eventually eliminate federal financial support for maintaining on-reserve capital projects (roads, bridges, etc.) The law also elevated the "**Third Party Management**" system into law. Third Party Management allows the federal government to take over **band administrations in deficit over 8% of their overall revenues**;
- The Martin government set up a national Canada-Aboriginal consultation process with 5 National Aboriginal Organizations. The process is an assimilation approach where First Nations issues are watered down by being lumped together with Metis, Inuit and urban Aboriginals. Moreover, the issues of Aboriginal and treaty rights are separated from program and service issues in what are called "**roundtables**". There are six of these "**roundtables**": **1) Lifelong Learning (Education & Training), Health, Housing, Economic Development, An Aboriginal Report Card (Performance Measures), and Negotiations**. The "**negotiations**" roundtable is where self-government, Aboriginal title and historic treaties issues were compartmentalized. These '**rights**' issues have been further removed from the programs and services issues through a "**political accord**" that was signed on May 31, 2005, between the Assembly of First Nations and the Government of Canada. This political accord sets up a discussion process on these fundamental issues of rights.
- Finally, the Martin government is planning to hold a "**historic**" **First Ministers' Meeting (Prime Minister & Premiers) in Kelowna, B.C. on Number 25, 2005**. The publicly stated federal intention of this meeting is to "**reduce the gap**" in social and economic conditions between Aboriginal peoples and the rest of Canada. What is unstated is the federal intention to try and off-load their constitutional obligations for delivering programs and services to First Nations (and other "Aboriginals") onto the provincial and territorial governments. Not to mention that the issue of rights to lands, natural resources and self-determination are not even on the table thanks to the collaboration of the Assembly of First Nations to sideline the '**rights**' issues.

Has There Been Progress?

So, what does all of this recent history of national politics mean for the Mohawk situation (and other Indigenous Nations) fifteen years later?

I would argue that the apparent ongoing political turmoil in Kanesatake can most recently be traced back to limitations of federal policies, combined with the outside interference by non-Mohawk governments, courts and other institutions.

For example, the imposition of a **referendum in 1991**, by an outside Minister of Indian Affairs and court system to change the governance of that community from a customary band into an **Indian Act** elective system--Just like they did to **Kahnawake, Akwesasne and Six Nations** in the past.

This changed the pattern and method of the Kanesatake leadership selection process. Add to this the 2001, **Kanesatake Interim Land Governance Act**, which appears to be a combination of the **First Nations Land Management Act**, an intermediate step towards the provincial land tenure system, and the proposed **First Nations Governance Act**, a step towards municipalization. Then top it all off with a federal "**band indebtedness**" policy, that allows outside interference by the federal department of Indian Affairs into Kanesatake's financial affairs, in what the federal government calls "**co-management**", and you have a recipe for renewed colonialism, not freedom and prosperity.



L to R: Phil Fontaine, AFN National Chief with Paul Martin, Prime Minister of Canada, during the Cabinet Retreat on Aboriginal Affairs in Ottawa, May 31, 2005. (Photo courtesy of INAC)

"the issue of rights to lands, natural resources and self-determination are not even on the table thanks to the collaboration of the Assembly of First Nations to sideline the '**rights**' issues."



Grizzly Armoured Personnel Carrier, was one piece of equipment used by the Canadian Army during "Oka Crisis" of 1990.



Former Grand Chief of Kahnawake, Joe Norton, signing 10 Sectoral Agreements with Government of Quebec representatives.

“the Mohawk Nation, along with other Indigenous Nations, are in fact, under siege by a federal government that is trying to impose its sovereignty”

‘15 Years Later’ conclusion from page 5

Is it so different in Kahnawake? The proposed **Canada-Kahnawake Relations Act** and **Quebec-Kahnawake Relations 10 Sectoral Agreements**, appear to be hanging around as the only framework for ongoing negotiations between the Mohawk Council of Kahnawake and the federal and Quebec governments. Not to mention the federal land claims policies, which affect the outcome of the status of the tract of land known as the “**Seigneurie of Sault St. Louis**”, that Kahnawake asserts a claims over. The **Department of Indian Affairs** classifies this as a “**special claim**”, but still applies the existing federal land claims policies (Comprehensive and Specific Claims).

Even the current debate around the Kahnawake “**membership code**”, in my view, has more to do with eligibility requirements for land ownership and programs/services in Kahnawake, rather than family, community relations and Mohawk identity and nationhood.

So, fifteen years after the 1990 confrontation, has there been any real progress on the recognition of Mohawk land rights or self-determination?

I would submit that the Mohawk Nation, along with other Indigenous Nations, are in fact, under siege by a federal government that is trying to impose its sovereignty through national policies, laws and standards, in key areas of jurisdiction necessary for the survival of Mohawks (and other Indigenous communities) as a peoples and Nation, with a territory, language, culture and economy.

What can we collectively do about it, is the real question to answer.

[Reprinted from the Eastern Door, Vol. 13, No. 35, Sept. 23, 2005, with revisions by the author.]



Canadian Army uses teargas on Mohawk people as they trespass into Kahnawake, September 18, 1990. (Photo by Linda Dawn Hammond)



Foreground L to R: Andy Scott, Minister of Indian (and Aboriginal) Affairs, Phil Fontaine, AFN National Chief, Paul Martin, Prime Minister of Canada, during signing of Canada-AFN Political Accord in Ottawa May 31, 2005. (Photo by R. Diabo)

Speaking Notes for the AFN National Chief at the Federal-Provincial-Territorial Meeting of Ministers & Aboriginal Leaders



AFN Logo



L to R: Phil Fontaine, AFN National Chief and Paul Martin, Prime Minister of Canada, shake hands prior to the start of the Canada-Aboriginal Summit of April 19, 2004. (Photo by R. Diabo)

June 27, 2005

[opening salutation]

I want to begin by thanking the Federal, Provincial, Territorial and fellow First Nations, Métis and Inuit Leaders for taking on the challenge of the important work being presented to us today.

I also want to thank the tri-chairs and members of the Steering Committee for their hard work leading up to today, and for the interim report.

Preparing for a First Ministers Meeting is no small feat, and while we focus on the details of this important event, I also want to use this opportunity to present a challenge. This is a challenge not only to this group, but to all of us.

This is a challenge that does not detract from what we have done to this point, but rather, one that re-affirms the tremendous importance of what we have set out to achieve.

And my challenge is this:

To establish a 10-year goal to guide our work ahead.

We also need to be able to set achievable goals, realistic and early targets and measure improvements over this 10 year period. And for this we can look to the indicators

such as the **United Nation’s Human Development Index (HDI)**. Currently, Canada ranks 8th on the HDI index and First Nations 63rd. We need to close this gap completely within the next ten years if our people are to be truly equal to other Canadians.

I believe 10 years is a challenging but achievable time frame to make significant progress in addressing the poor socio-economic conditions affecting First Nation peoples. I also believe that with our collective will and wisdom we can make significant strides forward within a decade.

It is AFN’s goal, as supported by contemporary research, that self-determination is the key to addressing a number of critical determinants of health and well being.

Poverty is a straightjacket on First Nations governments and our peoples. In a recent **Globe and Mail** article, **Amartya Sen**, who won a noble prize in economics, suggests that poverty is directly related to **“capability deprivation – a set of factors that prevent people from doing what they want, and need, to make themselves and their communities more prosperous.”** If we are to focus on reaching tangible, measurable outcomes within 10 years, then we have to look at all the critical determinants of health keeping in mind that self-determination is the key to success.

For example, we need to have a strong emphasis on economic development.

In this regard, we also need to look to the private sector to build partnerships, to create new opportunities, to ensure First Nations are included – but not assimilated – into the fabric of Canadian society.

I am pleased that this **FMM** will include significant actions:

- to address poor health...
- to address poor housing...
- to address inadequate education

but would recommend adding economic development.

“Currently, Canada ranks 8th on the HDI index and First Nations 63rd. We need to close this gap completely within the next ten years if our people are to be truly equal to other Canadians.”



Phil Fontaine, AFN National Chief at Council of the Federation Meeting in Calgary, Alberta. (Photo by Jeff McIntosh-CP)

'Fontaine's Notes' conclusion from page 7



Downtown Eastside of Vancouver. (Photo by Faculty of Law, Univ. of BC)

“AFN is leading discussions to convene an economic summit prior to the FMM which will provide a focus on this important area. It is a matter that needs to be addressed within the context of the upcoming First Ministers Meeting”



Homeless in Toronto

However, we must get beyond a policy framework that is piecemeal and unstructured and applied through a patchwork of programs and policies in health, housing, education and other areas. We must challenge ourselves to pursue the improvement of the overall socio-economic status of First Nation peoples in Canada.

We will delve into the details of health, housing and education, but we must be guided by a holistic view and never lose sight of the big picture.

Enough time and money has been spent tinkering with the system and progress has been incremental at best; our emphasis **here** must be on **transformative** change.

We need change that will enable First Nations to enter into the Canadian workforce in large numbers; **real change** that will allow First Nations to benefit from the sustainable development of resources in their territories; **real change** that makes First Nations contributors to the nation's finance and drivers of the national economy; **real change** that will put First Nations in control of their own destinies.

If we can rise to this challenge – setting aside old thinking about how to move forward – then we can make improvements not only for ourselves, but for **all** Canadians.

Our future is Canada's future. I know many of the western Ministers know this – but your future labour force is our people. And we need to work together to address the many factors that continue to place First Nations at a disadvantage when it comes to socio-economic outcomes.

This means that we need to work together **with** the provinces and territories.

No longer is it appropriate to suggest that these are matters to be dealt with only by the federal government.

Many First Nation peoples live away from their reserves, and provincial and territorial governments have responsibilities for the provision of services to these people.

We **need to include them in our plans**. We need to remain aware of the relationship that many First Nation peoples have with provincial and territorial governments – and that the **rights** of First Nations citizens exist regardless of where they live.

We must recognize the opportunities that First Nations embody with respect to the future of Canada, the provinces and territories.

Not only will a reduction in the socio-economic gap between First Nations and other Canadians alleviate some of the burden on social services in many parts of Canada, but it will also help to stimulate the significant, and yet largely untapped, workforce that young First Nations men and women currently represent.

It is in our power to work towards this. For instance, AFN is leading discussions to convene an economic summit prior to the FMM which will provide a focus on this important area. It is a matter that needs to be addressed within the context of the upcoming First Ministers Meeting, but is also a matter that needs to continue to be addressed beyond a single FMM.

In addition, and particularly evident to this First Peoples who have a close relationship to the land, to our Mother Earth, that we must deal with issues and problems arising from the land such as pollution and contaminants. These issues affect all of the creatures on land and water and those who take sustenance from these creatures.

Further issues such as global warming have a direct impact on First Nations people. I therefore wish to signal my interest in having this as a future area within a FMM.

As a part of my challenge, I am also calling for a **series** of First Minister's Meetings.

A series of meetings that will allow us to track our progress on a range of issues as we move through a 10 year timeframe.

This is the challenge I put before us. I ask for your support in getting us there.

Tahltan Arrests Mark a Rocky Start to the Government of British Columbia-First Nations 'New Relationship'



Arrested: Lillian Moyer, Tahltan Band Councilor, Director, Tahltan Elders Society and leader of the 8-month long elders sit-in. (Photo by Taylor Bachrach)

September 21, 2005

By Will Horter

BC government still pressing development without First Nations approval.

What new relationship with First Nations

It's ironic that last Friday, one day after the BC government announced \$100 million to support First Nations capacity on resource issues, the RCMP moved in to arrest Tahltan elders and youth who are blockading coal and coal bed methane projects that have been given government go-ahead without their input.

The so-called '**new relationship**' between the BC government and First Nations doesn't look so promising from the perspective of the Tahltan.

While the new relationship creates potential for reconciliation, its record will be judged by change on the ground, not by the government's rhetoric. Unfortunately for the Tahltan concerned about the future of the air, land and water, not to mention the dozen or so mega-projects being rammed down their throat, it looks like the **BC Liberals'** almost orgasmic support for mining and coal bed methane is overriding any interest in reconciliation.

Business as usual

Since the so-called new relationship talks

have begun, the BC government has ignored the concerns of the Tahltan and proceeded with business as usual. The BC government has:

Allowed the RCMP to arrest Tahltan who have concerns about **Fortune Mineral's** and **Shell's** coal and coal bed methane projects, despite the fact that the protestors have not had an opportunity to defend their position in court or challenge the many misleading and erroneous statements submitted to the court to get the injunction;

Allowed the unauthorized construction (which still has not been investigated) of a new road turn off from Hwy 37 through a tradition camp to Ealue Lake Road, where the protestors are blockading;

Approved a **Special Use Permit (SUP)** for Fortune Minerals to use Ealue Lake Road without consulting with the Iskut band, the elders or the families with camps and trap lines affected by Fortune Minerals' proposed open-pit coal mine; and approved the environmental assessment of **BC Metal's Red Kris mine** over the objection of the Iskut band, the families and other Tahltan groups. The mine is located just south of Iskut. (Incidentally, the government separated the tailings pond from the assessment and assessed the mine-not the cumulative impacts).

It is unfortunate that while the Tahltan work to resolve internal governance issues and unite all Tahltan under one nation, the BC government and companies like Fortune Minerals, Shell and BC Metals continue to try to divide and conquer the Tahltan by picking and choosing whichever Tahltan representatives suit their ephemeral interests.

Stonewalled

The Tahltan Elders and youth who are standing up to the dozen or so government and industry proposals to carve up their territory are concerned about their economic, cultural and environmental well being.

They think **Fortune, Shell, BC Metals, Nova Gold** and other project proponents



"Since the so-called new relationship talks have begun, the BC government has ignored the concerns of the Tahltan and proceeded with business as usual."





Garry Merkel, appointed President of Tahltan Nation Development Corporation, filed an affidavit in support of an injunction by Fortune Minerals against the Tahltan Elders and their supporters in blocking the developments. (Photo by Aboriginal Housing Committee of BC)

“The Tahltan have been stonewalled in their attempts to create dialogue and bring some sanity to the development process. And government and industry are doing everything possible to move forward quickly.”



Curtis Rattray, Chair, Tahltan Central Council also signed an affidavit to support Fortune Minerals getting an injunction against the Tahltan Elders.

‘Tahltan Arrests’ conclusion from page 9

all need to engage in a cumulative process which assesses each project on its merits, but allows the Tahltan to evaluate the benefits and impacts of each project in relation to the other.

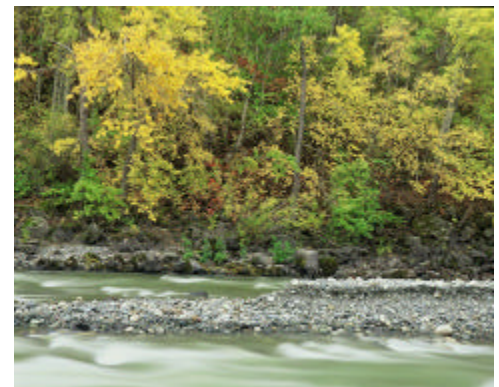
The Tahltan have been stonewalled in their attempts to create dialogue and bring some sanity to the development process. And government and industry are doing everything possible to move forward quickly. But from those facing arrest today, the current mining, fossil fuel, hydro and road/rail free-for-all is too much, too fast.

As the arrests occur this afternoon in Tahltan country, the much touted new relationship probably seems like empty rhetoric.

Smart sounding words are easy, changing things on the ground takes courage. The jury is still out for on Campbell's government commitment to breaking new ground, but this is an extremely bad start.

Will Horter is Executive Director of Dogwood Initiative, a Victorian-based NGO which helps people change the balance of power to create healthy prosperous communities. See www.dogwoodinitiative.org for more news and views on First Nations, communities and democracy.

[Reprinted from The Tyee.ca. Link Address: <http://www.thetyee.ca/Views/2005/09/21/TahltanArrests>]



Top, Upper and Lower Right: Pictures of the Stikine Valley and River, Tahltan Territory. (Photos by Garth Lenz)

Specific Claims: *More Than C-6 is Dead*



Andy Scott, Minister of Indian Affairs, taking questions from the media at Aboriginal-Cabinet Retreat in Ottawa, May 31, 2005. (Photo by R. Diabo)

By Blanco y Negro.

On September 29th, the AFN sent out a letter announcing that the **Liberals** have decided to pull the plug on **C-6 (the "Specific Claims Resolution Act")** after years of concerted resistance by First Nations. Hooray. So far so good. No one in their right mind supported C-6, and the consensus was that it would have been far worse than the status quo. The only surprise here is that it took so long to extract this from **Minister of Indian Affairs, Andy Scott**. But it's not all roses, and there are some dangling items that should give anyone who cares cause for concern.

Specific Claims

"**Specific Claims**" involve breaches of the federal government's lawful obligation to manage First Nation Reserve lands and assets - for instance, improper surrenders, or mismanagement of trust funds. They also include unfulfilled treaty promises. The federal Specific Claims policy is supposed to provide an alternative to the expense and risk of going to court. First Nations have filed over **650 Specific Claims** that are now under assessment by the federal government, and **301 more** are being reviewed by the **Department of Justice**. This doesn't even include the claims currently under development by First Nations, which could amount to another 1,000 or so. Add to this the new claims that Indian Affairs is

creating every day by its ongoing mismanagement of First Nation lands and assets, and you start to get the picture. But Canada only manages to settle a handful of these claims every year, creating an ever-growing backlog of claims that may take another century to settle at the rate things are going.

One big problem with the Specific Claims policy is that the federal government, who is the defendant, is also the judge, jury and banker throughout the process, in addition to supposedly being in a fiduciary relationship with the claimant First Nations. This blatant conflict of interest has been roundly condemned for decades - not only by First Nations, but by the **Royal Commission on Aboriginal Peoples**, the **Canadian Bar Association**, and many others.

Claims Reform & Joint Task Force

After the "**Oka Crisis**" and the **summer of 1990**, the Conservative federal government acknowledged the conflict of interest and promised to work towards an independent claims process which would get rid of the conflict of interest and ensure some integrity. The Liberal government, when it was elected in the early 1990's, also made a strong commitment to an independent claims body in its now-infamous "**Red Book**". Through a series of cooperative initiatives, Canada and the First Nations came up with a new approach to policy and process in what is now known as the "**Joint Task Force Report**" of **1998**. The Joint Task Force Report provided a framework for a truly independent claims body, and a fresh approach to policy which would eliminate the federal conflict of interest in Specific Claims.

This was a milestone, since it came about through authentic cooperative work between First Nations and Canada, and there were high hopes that it signaled the beginning of a new and more equitable approach to First Nation policy development.

Liberal Betrayal

Of course, it was too good to be true. Almost immediately upon release of the report, the federal Liberals began to make



"One big problem with the Specific Claims policy is that the federal government, who is the defendant, is also the judge, jury and banker throughout the process"





Robert Nault, while Minister of Indian Affairs, ignored the AFN-DIA Joint Task Force Report and pushed Bill C-6 instead.

“Minister Scott has no intention of proceeding to develop new legislation or enter into another round of consultations related to policy revision at this time”



‘Specific Claims’ continued from page 11

excuses about why they could not move it forward. When **Bob Nault** became **Minister of Indian Affairs**, he trashed the Joint Task Force report and had his officials cook up an alternative which maintained the federal conflict of interest and ensured that the First Nations would continue to have the cards stacked against them in the claims process. The result was known as Bill C-6, the first in Nault’s widely condemned “**Suite**” of legislation.

First Nations fought Bill C-6 tooth and nail all the way through the **House of Commons** and the **Senate**, with full support from the opposition parties. But the Liberals rammed the legislation through anyways, using various falsehoods and misrepresentations to get their way. The Bill passed, and received Royal assent, but it did not get past the final hurdle - the Liberal Cabinet never got around to having it proclaimed by Order in Council, which would have been the final step to make it law. The legislation has been in limbo every since, sitting on a shelf through the last federal election and Nault’s exit from federal politics. But two successive Ministers, **Andy Mitchell** and **Andy Scott**, refused to disown Bill C-6, preferring instead to enter into “**discussions**” through the **Assembly of First Nations** to see if it could be salvaged. The message they received was that the only way to fix it would be by amending the legislation through a new Bill. The Liberals balked at that and spent more than a year dithering before finally pulling the plug and calling it a day.

Specific Claims Policy Reform Dead

Based on all this, it’s good to see Bill C-6 finally dead & buried. The status quo, bad as it is, is still better than what we would have been stuck with under C-6. But, along with Bill C-6, the Liberals have also ditched the federal government’s long-standing commitment to reform of the **Specific Claims policy and process**, and do away with the conflict of interest. And that is a huge loss.

Robert Eyaphaise, the federal official who had been tasked to manage Bill C-6, attended the **National Land Claims Research Workshop** in Winnipeg on September 28th to make the announcement about C-6, and he confirmed that Minister Scott has no intention of proceeding to develop new legislation or enter into another round of consultations related to policy revision at this time. There are other priorities, he said. What we are left with is the status quo, with perhaps some new monies maybe sometime later to address capacity & backlog issues. But there is no “**Plan B**”, and Mr. Eyaphaise was careful to make no promises about what steps might be taken. So don’t be holding your breath unless you like turning blue.

The AFN’s communique, issued on September 29th, suggests that Bill C-6 isn’t entirely dead, and may be kept in the wings to be resurrected in the future. Mr. Eyaphaise’s report to the National Claims Workshop contradicts the AFN. He stated that the federal government would take steps to annul the bill, because there is “**no political will**” to revive something that met so much resistance.

A bitter victory - because though it now seems clear that Bill C-6 is indeed dead, so is the federal commitment to Specific Claims policy reform. Maintenance of the status quo means maintenance of the government’s conflict of interest and further betrayal of First Nations for the foreseeable future.

The decision to kill Bill C-6 is said to be due, at least in part, to the fact that Scott “**canvassed**” his cabinet colleagues to see if there was support for seeking an amendment, and he came up empty. So this is not only his failure - it is a failure of the entire Liberal cabinet, because they are not prepared to support policy reform and get rid of the federal conflict of interest. After 15 years of effort, they have pulled the plug. Although Mr. Eyaphaise was at pains to say the Minister was not closing the door on policy reform “**forever**”, it sure is dead for the foreseeable future.

'Specific Claims' conclusion from page 12

Process Over Substance

So much for content. What about process?

First, the Parliamentary process. The minority government situation has been cited as a reason why the Liberals didn't want to proceed, but that argument only holds water if one assumes that blind dependence on the Liberal party is the only way to go. In fact, based on their earlier testimony before Standing Committee and in the House debates, all three opposition parties - the **Conservatives**, the **NDP** and the **Bloc Quebecois** - looked to be strong potential allies to put pressure on the Liberals to amend the Bill - or at the very least, to extract a Liberal commitment for continued effort at reform of the Specific Claims policy and process if Bill C-6 was to die. But this approach was not taken, and instead it seems that the AFN's efforts relied wholly on the good will of the Liberals themselves.

There was a time when minority governments were seen as the best case scenario for First Nation issues, since the different parties could be played off against each other in Parliament to leverage movement on key issues. But it appears that those days are now gone, with the Liberals being treated as masters of a one-party state even when the opposite is true. Based on the Liberals' established record of corruption, lies and betrayal, is it really such a good idea to rely on their good will?

Second, the AFN process. From before 1990 until not that long ago, the AFN's approach to addressing Specific Claims reform was based on consensus-building and strategy development from the bottom up. Working through an inclusive and broad-based **Chiefs Committee on Claims**, the regional organizations, First Nation Chiefs, and their technicians were able to participate directly in the development and implementation of strategies for claims reform. Members also participated directly in the dialogue with the **Government of Canada**. There were regular meetings, regular reports and briefings, and regular efforts to devise strategies and develop consensus together collectively, as a team. Information was shared, ideas were solicited, and strategy was developed cooperatively.

That was before. Now things are different. Over the past 24 months, the Chiefs Committee and the technical working group associated with it have been almost entirely frozen out of strategy development and dialogue with Canada on these issues. Instead, discussion between the AFN and Canada on Bill C-6 has been restricted to a small number of individuals tied to the AFN office. Reports, when they arrive, come after key events have already happened and decisions have already been made. No records of meetings between AFN and government officials are circulated. Meetings or conference calls of the Chiefs Committee and the technical working group are few and far between, and from reports, no serious effort is made to seek ideas and consensus from the larger group. Inclusion and transparency are not hallmarks of this approach.

Long Black Veil

In fairness, it is likely that AFN staff and leaders worked hard to kill Bill C-6. What is less clear is whether they held the line, took the high road, or retreated in their discussions with the feds. The fact that this was achieved through a closed-door and exclusionary process means that it's hard to really know for sure, and that leaves room for uncertainty and doubt. Is this really such a good way to do things?

Overall, it is quite probable that a more broad-based and non-partisan approach to strategy development and the Parliamentary process would have produced greater returns than simply just killing the Bill. But we will never know for sure, because of the way the AFN chose to play. Is it really a good idea to put First Nation's trust in a Liberal party that has shown so many times before that it is prepared to promise First Nations the sun and moon only to stab them in the back when it suits their interests?

So C-6 is dead. Good news so far as it goes. But this experience suggests that more than just C-6 is dead, and that is nothing to celebrate.



House of Commons

“Is it really a good idea to put First Nation's trust in a Liberal party that has shown so many times before that it is prepared to promise First Nations the sun and moon only to stab them in the back when it suits their interests?”



Prime Minister Paul Martin drumming up First Nations' support during the 2004 federal election. (Photo by Liberal Party of Canada.)

Northern Quebec Crees Elect New Leader: Incumbent's Fear Tactics Fail to Sway Voters



Matthew Mukash, newly elected Grand Chief

“He also promised that the Grand Council fat cats would move to the communities as opposed to being based in Montreal and Ottawa”



Mukash is promoting the use of wind turbines over further hydro electric projects on Cree territory.

By Steve Bonspiel

The northern Quebec Cree chose a new leader on September 15th, and to people familiar with Native politics in Canada, his name should ring a bell.

Matthew Mukash, (see photo) best known for his role in 1990, headlining the fight to save his community's precious Great Whale River, ousted Ted Moses after the first round of elections settled nothing. Mukash won that round, but didn't get the required 50% plus one vote to seal the win.

The final count in the run-off election for Grand Chief of the Grand Council of the Crees saw Mukash garner 3236 ballots for 55.9% of the vote, while Moses captured 2506 votes, or 43.3% of the 5789 total ballots cast.

“I'm looking forward to a new era in the Cree Nation,” Mukash said shortly after the win. “I really want to thank everyone who supported me in Eeyou Istchee.”

Three years ago Mukash went head-to-head with Moses only to be disappointed by the result. He fell short by 32 votes and many people wondered if something was not quite right.

There were rumours of workers not getting time off to vote and elders being driven out of the community on an outing and brought back too late to vote.

A lot of the talk could have been pure speculation, but one thing that was true and ended up working in Mukash's favour was the Mocreebec vote.

The people of Moose Factory, or Mocreebec as they're called, did not have a ballot box in their community in 2002. Mukash was the most outraged because he knew he had the support of the MoCreebec. As a result, Mukash lost the 2002 election without their support.

This time around however, they spoke loud and clear.

The MoCreebec vote ended decisively in favour of Mukash by a 129-10 count. By that tally, he would have been the incumbent this time around instead of the challenger.

Mud slinging was the word of the day this time around.

Ted Moses' website was ripe with anti-Mukash sentiments and a special part called 'what's at stake,' that talked about what the Crees would lose if they didn't vote for him.

His official website cautioned the people that they could lose the \$70 million they are currently receiving from Quebec if they did not retain his leadership. He also warned that many things, including expanded health care services, Cree police officers and even expanded funding for social services for 'issues such as suicide prevention,' would be a thing of the past under his tutelage.

Although Moses' tactics seemed to scare some people, it also backfired when the usually amicable and respectful Cree sent a clear message to Moses that threatening the people was not a way to win them over.

Part of Mukash's platform included finding a way to save the Rupert River from being dammed by Hydro-Québec by utilizing the vast wind power in Cree territory.

“My major platform is the Nation-building approach to economic and social development,” Mukash said in a previous interview.

“One of the most valuable industries in my mind is wind power. Because in Hudson's Bay we're sitting on the type of climate that the wind is the strongest,” said Mukash, who left his job as CEO of Whapmagoosui's development corporation to assume the leadership position.

He also promised that the Grand Council fat cats would move to the communities as opposed to being based in Montreal and Ottawa. “I hope we can work together to move forward as a Nation at this new stage,” said Mukash, whom some people feared would rip apart the Paix des Braves Agreement signed with Quebec in 2002 because he didn't support it.

“I'm not against the Agreement or development, I was against the way it was done,” he said. “The people needed more time to

‘New Leader’ conclusion from page 14

digest an agreement of that magnitude. “One of the things I want to do as the leader of the Crees is to bring the decisions back to the people and give them enough time to make the proper decision.”

Ted Moses was reached by phone but did not comment.

In the other race for Deputy Chief, Ashley Iserhoff edged little-known Losty Mamianskum by a 2960 to 2788 score.

Iserhoff was reached shortly after the election. “I’m happy, I’m just going to let it sink in right now,” he said. “I’m tired. It’s been a long road down the campaign trail but it was worth it.”

“I’m looking forward to working with the people as Deputy Chief.”

[Reprinted from the First Perspective.]

Press Release: Grand Chief Mukash and Minister Kelley reaffirm their commitment to working together

NEMASKA, EYYOU ISTCHEE, Sept. 28 /CNW Telbec/ - In a letter sent today to the Minister responsible for Aboriginal Affairs for Quebec, Mr. Geoffrey Kelley, the newly elected Grand Chief of the Cree Nation, Mr. Matthew Mukash, has confirmed that the Crees will continue working towards building a strong and fruitful relationship with the government of Quebec.

Both Grand Chief Mukash and Minister Kelley have agreed that good relations must be maintained between the government of Quebec and the Cree Nation, and that agreements reached between the Cree Nation and Quebec over the last few years need to be fully implemented.

Grand Chief Mukash intends to meet shortly with Minister Kelley to exchange views on a variety of matters and to discuss mutual objectives for the future.

Grand Chief Mukash has pointed out in his letter that the recent report from Radio-Canada implying that the Crees would be contemplating breaching their signature under the New Relationship Agreement with Quebec (commonly known as the Paix des braves) is erroneous. This report referred to comments made by Grand Chief Mukash without setting out the context in which these comments were made. “The Cree Nation has always respected its undertakings in the past and will continue to do so in the future” stated Grand Chief Mukash.

-30-

For further information: Bill Namagoose, (613) 761-1655 or (613) 725-7024; Romeo Saganash, (418) 564-1598



Logo of the
Grand Council
of the Crees of
Quebec

“The Cree Nation has always respected its undertakings in the past and will continue to do so in the future”



Advancing the Right of First Nations to Information

First Nations Strategic Policy Counsel
Ottawa, Ontario

Phone: (613) 296-0331
Email: rdiabo@rogers.com



The First Nations Strategic Policy Counsel is a collection of individuals who are practitioners in either First Nations policy or law. We are not a formal organization, just a network of concerned individuals.

This publication is a volunteer non-profit effort and is part of a series. Please don't take it for granted that everyone has the information in this newsletter, see that it is as widely distributed as you can, and encourage those that receive it to also distribute it. Feedback is welcome. Let us know what you think of the Bulletin.

Russell Diabo, Publisher and Editor, First Nations Strategic Bulletin.

**NOTE NEW ADDRESS—FOR BACK ISSUES OF THIS BULLETIN GO TO:
WWW.GATHERINGPLACEFIRSTNATIONCANNEWS.CA/GOVERNANCE.HTM**

“EXERCISING INDIGENOUS JURISDICTION OVER COLLECTIVE RIGHTS” October 21 & 22, 2005

17th Annual Fall Conference of the Indigenous Bar Association in Canada Casino Rama, Chippewas of Mnjikaning (Rama) First Nation, Ontario

The Indigenous Bar Association in Canada invites you to attend our 17th Annual IBA Fall Conference. This conference will bring together Indigenous and non-Indigenous, lawyers, scholars, academics, judges and leaders to discuss matters related to the assertion and exercise of jurisdiction over collective rights within Indigenous communities in Canada.

The conference will focus on how we are overcoming challenges to the exercise of Aboriginal jurisdiction in areas such as:

- **development of institutions**
- **economic development**
- **administration of justice**
- **natural resources and expanding Indigenous land bases,**
- **health and education**

For More information: visit www.indigenousbar.ca or contact: Germaine Langan, IBA Administrator, ph. (604) 951-8807, Fax (604) 951-8806 or by email at germaine.iba@shaw.ca/