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**LEGAL SERVICES
DEPARTMENT OF INDIAN AFFAIRS
AND NORTHERN DEVELOPMENT**

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I. INTRODUCTION

I. Introduction

The team of lawyers and support staff in Legal Services is dedicated to providing officials from the Department of Indian Affairs and Northern Development (DIAND) with high quality, professional service.

During 1989, we have made many changes from a management perspective, all with a view to improving our performance and enhancing our level of service to DIAND. Recognizing that our people are our most important resource, we have recruited several talented, motivated and congenial individuals to work as members of our team. To ensure their proper integration into our office, we have conducted an internal orientation course, during which we discussed matters including the organization of our office, our roles and responsibilities, the structures and senior personnel of DIAND and the Department of Justice, consultation processes and time management. In addition, all counsel have participated in various training courses on a wide variety of substantive legal subjects with a view to developing their knowledge in areas of the law relevant to the operations of DIAND. We have also taken steps to create a more professional working environment and have completed the computerization of the office.

Throughout the past year, we have also implemented several measures to improve and co-ordinate our management of the law, particularly in relation to litigation, self-government and specific claims. We now prepare, for internal purposes, reports summarizing the status of our files in these areas. In relation to litigation, we assisted in the creation of the DIAND Litigation Committee which meets on an ad hoc basis to discuss significant litigation cases and to develop the positions to be recommended by DIAND to the Attorney General of Canada in such cases. Furthermore, we instituted a system for the preparation of briefing notes for the Deputy Minister and members of the Litigation Committee on any case which may have an impact on or otherwise be of interest to DIAND. We continue to work with officials from DIAND to develop an approach whereby the overall management by the government of specific claims files may be improved. In a more general sense, we have reinforced with counsel the need to co-operate and consult, where appropriate, with other sectors of the Department of Justice to ensure the proper and timely management of current issues.

We are proud of the strides which we have made in developing a cohesive, highly professional team and, in our first Annual Report, have chosen to highlight the accomplishments of our lawyers by providing an overview of the high quality legal services which they have worked hard to provide throughout 1989.

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II. SELF-GOVERNMENT

II. Self-Government

(a) Introduction

The negotiation of new self-government arrangements for status Indian communities is a high priority with DIAND and an important social initiative for the government as a whole. Since counsel from Legal Services are intimately involved in the provision of advice in all phases of this process, it is useful to review generally the procedures involved in order to appreciate fully the extent of the services provided by this office.

In relation to a specific self-government proposal, DIAND officials review the material submitted by a Band and, with assistance from Legal Services, develop a discussion paper which sets out the major elements of the proposal and the response of the federal government. In most cases, controversial items are identified for resolution at the negotiation table.

Following the preparation of the discussion paper, counsel from Legal Services assist DIAND in the negotiation of Framework Agreements with communities. The Framework Agreements provide the basis for substantive negotiations and establish matters such as the subjects, time frame, and funding for negotiations.

Once negotiations on self-government begin in earnest, Legal Services lawyers play a central role by attending sessions and advising DIAND negotiators on the legal and policy implications of negotiation positions, as well as providing technical assistance in the drafting of self-government agreements. Upon the successful termination of negotiations, and the ratification of the resulting agreements by the federal government and the Indian community, counsel from Legal Services are involved in preparing the Cabinet memoranda to seek the necessary approval for the proposal and in instructing legislative counsel to draft implementation legislation. Legal Services lawyers also provide ongoing assistance to DIAND on the implementation of current and proposed self-government arrangements which may involve matters such as the transfer of reserve lands or other assets from the Crown to the community, orders-in-council and the drafting or review of various agreements and community constitutions.

During 1989, Legal Services was involved in 23 specific community self-government proposals, 7 of which have not been active for 6 or more months (Mathias Colomb, Grassy Narrows, Lake Babine, Wewawawin, Sandy Bay and Dakota Indian Nation). The remaining 16 proposals are in various stages of development, including 5 which are in active negotiations (Alexander Band, Sawridge Band, Whitefish Bay Band, Nisga'a Tribal Council and the Council for Yukon Indians.)

There are also a number of sectoral negotiations (e.g. Nishnawbi Aski Nation, Six Nations Fishing), in which this office is providing support to DIAND. The sectoral negotiations are concerned with the development of institutions or mechanisms to enhance Indian control or participation in specific subject areas, such as policing, education, land and resources, often at a regional or provincial level.

A number of committees have also been established in self-government to develop and coordinate policy or to review specific community proposals. The Senior General Counsel of Legal Services is a member of the Interdepartmental Steering Committee on Self-Government and counsel are also members of the Interdepartmental Steering Committee Working Group and the Sub-Committee on the Administration of Justice. To assist in monitoring the progress in self-government files, Legal Services prepares on a regular basis a Self-Government Report, a copy of which is included as Annex B to this Annual Report.

(b) Self-Government Issues

During the course of the last year, Legal Services has been involved in a number of significant issues which have arisen in the context of community self-government. In particular, we have provided legal and policy advice on matters such as the administration of justice, fee simple transfers of reserve lands to self-governing bands, band constitutions and the relationship between comprehensive land claims and self-government. From a legal perspective, these issues may be briefly described as follows:

i) Administration of Justice

Many of the self-government proposals submitted by communities contain a section on administration of justice, a subject which Bands are entitled to negotiate on an optional basis. Although the large majority of proposals which contain references to administration of justice are general and undeveloped, many communities have shown an interest in tribal courts, community participation in sentencing and corrections, and community-controlled Indian police forces.

In order to ensure a coordinated and carefully developed response to these proposals, the Interdepartmental Steering Committee on Self-Government established a Sub-Committee on the Administration of Justice in October 1989 to recommend policy parameters and guidelines for the negotiation of administration of justice proposals. The Sub-Committee includes members from Legal Services, other sectors of the Department of Justice and the Ministry of the Solicitor General.

In addition, Cabinet policy requires that self-government arrangements fit within the existing constitutional framework. Furthermore, consideration must be accorded to the respective roles of the federal and provincial governments in this area of shared constitutional jurisdiction. Consequently, the Department of Justice in consultation with this office is preparing a legal opinion on this issue to provide guidance on the kinds of institutions and arrangements which are legally permissible in community self-government. Other specialized working groups of the Sub-Committee are preparing recommendations on the subjects of courts, policing and sentencing and corrections. The Sub-Committee is to submit its report and recommendations to the Steering Committee by April 1, 1990.

ii) Transfer of Reserve Lands

A number of communities seek ownership of reserve lands which are presently held for their benefit by the Crown. A legal transfer of these lands from the Crown to a self-

governing community raises a number of complex legal issues. For example, it is unclear whether lands so transferred remain lands reserved for Indians within the meaning of section 91(24) of the Constitution Act, 1867. The Department of Justice previously reviewed this issue in the context of the Sechelt Band proposal and concluded that, while there is a risk, reserve lands transferred by the Crown to the Band in fee simple title appear to remain "lands reserved for Indians". However, having regard to the experience in the implementation of this form of title in British Columbia, this position is currently being reviewed in the context of the proposal of the Sawridge Band in Alberta. A determination as to whether federal constitutional jurisdiction exists over reserve lands transferred in fee simple is critical since, in the absence of federal jurisdiction over the lands, most provisions of federal self-government legislation would not apply.

In addition, consideration is being given to the registration of fee simple "reserve" lands in the Alberta land titles registry. This examination involves a review of provincial legislation affecting lands and land registration and its application to fee simple lands held by a self-governing band. The transfer of a number of oil and gas leases also is being considered. This work is being carried out by the Department of Justice through Legal Services, the Edmonton Regional Office, the Real Property and Commercial Law Section and the Native Law Section. Discussions have also taken place on these matters with Alberta officials, including counsel for the Minister of Justice of Alberta.

iii) Band Constitutions

With a view to assisting DIAND in its policy development, work has been undertaken on the extent to which a Band Constitution, provided for in self-government legislation, may be amended unilaterally by the Band. In the Sechelt Band precedent, the Band Constitution was initially approved by both the band members and the Governor in Council, and all amendments require the same approvals. In the proposals submitted by the Council for Yukon Indians and the Sawridge Bands, amendments to the Band Constitution would be made unilaterally by the bands. In an effort to simplify this question, consideration is being given to the development of legislation which outlines specific contents and standards to be included in a Constitution. This approach would provide communities with greater independence and reduce the number of amendments requiring government review and approval. This issue is being examined by Legal Services, in consultation with the Advisory and Administrative Law Section, Privy Council Office (Justice) and the Native Law Section.

iv) Comprehensive Claims and Self-Government

Self-government negotiations are well under way with the Council for Yukon Indians and the Gitksan and Nisga'a Tribal Councils. These groups are also actively engaged in comprehensive claims through negotiation and, in the case of the Gitksan, litigation based on a claim to aboriginal title and inherent sovereignty. Although rights contained in comprehensive claims agreements are constitutionally entrenched as "existing treaty rights" within the meaning of section 35 of the Constitution Act, 1982, current federal policy does not permit self-government arrangements to be constitutionally entrenched. Legal Services must therefore provide the appropriate advice to negotiators and review any comprehensive

land claims agreements to ensure that constitutional protection is not accorded to self-government. This becomes a difficult matter, as institutions referred to in claims agreements may also carry out self-government functions. For example, a band which has a right to certain lands pursuant to the claims agreement may also exercise jurisdiction in relation to those lands in a self-government arrangement. In such circumstances, it would appear that the right to the lands is entrenched, but that the jurisdiction is not. Also, advice must be provided concerning the subjects which are to be discussed in the claims context as opposed to the self-government context. This may assist the negotiators in drawing a distinct division between the claims and the self-government policies.

The field of community self-government comprises a wide variety of difficult subjects. As maybe seen from a brief overview of the work done by Legal Services in this field in 1989, many of the emerging issues are novel and the development of a variety of innovative techniques to resolve such issues frequently requires consultation with counsel in other sectors of the Department of Justice. Since there are no two communities which are alike, it is anticipated that we will be required to deal with many new and different issues in the self-government area during the upcoming year.

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III. LANDS, REVENUES AND TRUSTS

III. Lands, Revenues and Trusts

A wide variety of legal issues are raised by the activities of the Lands, Revenues and Trusts Branch, particularly in relation to the environment, litigation, and specific land claims, all of which are discussed in this report. The work from the branch is characterized by its legal complexity and its sensitivity from a policy perspective.

(a) Environmental Issues

During the past year, Legal Services provided advice on a wide range of environmental issues of concern to DIAND, including emerging government and DIAND practices and policies on the environment and the impact of significant court cases on the operations of the department.

In this respect, Legal Services was closely involved with DIAND in reviewing the application of the EARP Guidelines Order, as a result of the decisions involving the Rafferty\Alameda dam project. The April 1989 decision of the Federal Court of Canada (Trial Division) (Canadian Wildlife Federation v. Minister of Environment) held that the Order had the force of statute, thereby obliging the government to conduct environmental reviews for all federal projects involving federal funding, lands or decisions. In June 1989, the Federal Court of Appeal upheld the decision of the lower court. In consultation with DIAND, we conducted a major review of the decision-making activities which fall within the scope of the EARP Guidelines Order, and recommended that the department implement certain policy changes to ensure that environmental factors are taken into consideration in its decision-making processes. This overall review also assisted the Department of Justice to assess the impact of the EARP Guidelines Order on the federal government as a whole.

Legal Services has also assisted DIAND in relation to environmental issues raised by other significant litigation involving efforts by native groups to challenge undertakings which are alleged to affect detrimentally their lands or activities. For example, the James Bay Crees have instituted an action seeking to oblige the federal government to review the environmental impact of a Hydro-Quebec development at Grande-Baleine on their traditional activities (Chief Coom-Come v. The Queen Right of Canada). A similar issue has arisen in Alberta where the Peigan Indian Band seeks to halt a provincially authorized dam by challenging the adequacy of the federal environmental review (Friends of Oldman River v. Minister of Transport). In addition, the issue of disposal of PCB contaminants has been raised in proposed litigation involving the operation of a Crown lessee of the Esquimalt Indian Reserve near Victoria, B.C. In the context of this litigation, DIAND officials and Legal Services counsel have examined the legal aspects of PCB storage and handling across the country.

Counsel have also worked with DIAND officials and colleagues in the Toronto Regional Office of the Department of Justice on a case involving the prosecution of the operator of a tire dump on the Six Nations Reserve in Ontario. The prosecution will be the first ever taken under the Indian Reserve Waste Regulations. In this context, Legal Services has also reviewed with DIAND the general policy for prosecutions of environmental offences

occurring on reserve land. In addition, counsel assisted officials of the Alberta Regional Office of DIAND to make a presentation before joint federal/provincial environmental impact hearings in respect of the proposed Alta Pacific pulp mill which is alleged to affect adversely the hunting and fishing activities of nearby Indians.

Furthermore, Legal Services has worked closely with DIAND to review the draft legislation proposed as a replacement for the EARP Guidelines Order. The proposed Act raises a variety of complex issues for DIAND, including the effect of the legislation on existing and proposed self-government arrangements and comprehensive claims negotiations, and the possible application of the legislation to off-reserve interests of Indians.

To ensure that counsel are equipped to meet the challenges posed by the rapid developments in the relatively new field of environmental law, Legal Services management has paid particular attention to providing counsel with training on environmental legal issues. In addition, the Senior General Counsel of Legal Services is a member of the Environmental Law Bar Steering Committee of the Department of Justice which meets regularly to assist in policy development on environmental law, to review the impact of recent cases and the positions taken by the Department of Justice on important environmental issues, and to develop training initiatives. It is also expected to play a role eventually in the development of environmental legislation. Another counsel from Legal Services participates as a member of the Environmental Issues Secretariat which was created by the Department of Justice during 1989 in an effort to coordinate the activities of Department of Justice legal officers on environmental issues, to ensure a proper flow of information and to provide a mechanism for alerting senior management in the Department of Justice to emerging environmental issues. The Secretariat also provides counsel with prompt access to resource persons, reference material on environmental law, and updates on the latest developments in environmental law.

(b) Litigation

Legal Services assists DIAND and litigation counsel of the Department of Justice in relation to over 200 active litigation files involving the Minister of Indian Affairs and Northern Development. In this context, counsel in Legal Services work closely with DIAND officials, in particular the Litigation Support Directorate, to explain the significance of each litigation case from a legal and policy perspective, to assist in the identification of documentation and witnesses necessary for the presentation of the case for the federal Crown and to formulate a position on each case to be recommended to our litigation counsel. In relation to cases which have a greater significance due to the importance of the legal or policy issues involved, Legal Services seeks the views of DIAND through the Litigation Committee which was created this past year. The members of this Committee are the Associate Deputy Minister, several of the Assistant Deputy Ministers, and the Senior General Counsel of Legal Services.

During the past year, Legal Services has also continued its practice of preparing briefing notes for the Deputy Minister of Indian Affairs and Northern Development and senior officials of DIAND on cases and judgments which have major implications for the department. Given the large volume of litigation cases handled by this office, a Litigation

Report, which will be updated on regular basis, has been prepared with a view to ensuring that files are monitored properly and dealt with in a timely fashion. A copy of this report is attached as Annex C.

Significant cases requiring input from Legal Services over the past year have involved matters such as the interpretation of the Constitution, including aboriginal and treaty rights and the Charter of Rights and Freedoms, the management of Indian lands and moneys, alleged breaches of contracts or tortious liability of the Crown and its servants, and a variety of other issues concerning the interpretation of the Indian Act.

i) Constitutional Issues

For a number of years, Indians have increasingly turned to the Courts to advance claims to aboriginal and treaty rights. In addition, aboriginal and treaty rights are increasingly raised as defences to charges under provincial and federal wildlife and resource management legislation. During 1989, this trend continued at all court levels, and several major cases involving aboriginal and treaty rights continued to proceed through the Courts. In Delgam Uukw et al v. The Queen in Right of Canada, a claim for a declaration of unextinguished aboriginal title over approximately 22,000 square miles of land in northwestern British Columbia, the plaintiffs completed their presentation of evidence. In August 1989, Legal Services reviewed with senior officials of DIAND the position to be advanced by the Attorney General of Canada before the Supreme Court of British Columbia. In addition, the agents retained to represent the Attorney General of Canada in the case attended in Ottawa to brief DIAND officials on the progress of the court action. The trial is expected to be completed in May of 1990. Legal Services also continued to support DIAND officials and litigation counsel in relation to other ongoing cases dealing with native land claims (Pasco v. Canadian National Railway, Chief Chingee (McLeod Lake) c. The Queen in Right of British Columbia).

In Attorney General of Ontario v. Bear Island Foundation, which is presently awaiting a hearing at the Supreme Court of Canada, the Attorney General of Canada intervened before the Ontario Court of Appeal on constitutional and related issues concerning aboriginal title in northern Ontario. In March 1989, Legal Services advised senior officials of DIAND on the judgment of the Ontario Court of Appeal, particularly in relation to its implications for claims of aboriginal title by Indians in areas covered by land cession treaties. Furthermore, we assisted DIAND to prepare a response to a proposal for settlement of the Bear Island claim from the province of Ontario.

In addition, Legal Services has dealt with a number of new court cases involving claims to aboriginal title in the Ottawa Valley (R. v. Wawatie), Vancouver Island (Chief Kwasistala v. The Queen in Right of Canada), north-western British Columbia (Chief Roberts v. The Queen in Right of Canada), and the lower mainland of British Columbia (Chief Wendy Grant v. The Queen in Right of British Columbia).

Aboriginal rights were also raised in the ongoing case of Chief Walter Twinn v. The Queen in Right of Canada, where members of six Alberta bands seek a declaration that the 1985 amendments to the Indian Act on membership are inconsistent with an alleged

aboriginal right of Indian bands to determine their own membership. The plaintiffs in the action also argue that the imposition of additional members on the bands pursuant to these sections without the band consent infringed the freedom of association of the bands and their members protected by section 2(d) of the Charter. In Andrews v. The Queen in Right of Canada, a member of Naskapi-Montagnais Indians (Innu) commenced a legal action in the Federal Court of Canada seeking to prevent low-level military flights by NATO countries over lands in Quebec and Labrador where the Innu claim aboriginal rights. The Innu argue that the effect of military flights on the people, wildlife and environment has disrupted their traditional activities and lifestyle in the area, and that their aboriginal rights have been violated. They also claim that their human rights under the Canadian Charter of Rights and Freedoms have been violated and international instruments have been infringed. Legal Services has assisted DIAND to review and prepare its views on the case.

Over the past year, a number of cases have concerned claims by Indians, particularly in Ontario and Quebec, to aboriginal or treaty rights to cross the border with the United States without paying duties or taxes on goods. These issues have most commonly arisen as defences to charges under the Customs Act (R. v. Chief Michael Mitchell, R. v. Delormier, R. v. McBride).

Aboriginal and treaty rights are increasingly being raised as defences to charges under the Fisheries Act. Over the past year, counsel in Legal Services have monitored and advised DIAND on a number of prosecutions under the Act and civil actions based on aboriginal and treaty rights to fish, particularly in British Columbia (Reid v. Minister of Fisheries and Oceans, Paul v. Pacific Salmon Foundation, R. v. Lewis, R. v. Nikal, R. v. Seymour, R. v. Sampson, R. v. Archie).

In terms of treaty rights, Legal Services sought the views of senior officials of DIAND concerning the position to be advanced by the Attorney General of Canada before the Supreme Court of Canada in the R. v. Horseman, a case involving the right to hunt under Treaty No. 5 and its regulation by provincial wildlife legislation. Treaty rights have also been raised in a number of cases as the basis for an alleged federal Crown obligation to fund the education of Indian children (Sebastien and Hawilget Band v. The Queen in Right of Canada, Sandy Bay Education Authority v. The Queen in Right of Canada, Beattie v. The Queen in Right of Canada).

As is also the situation in several of the cases noted above, Indian plaintiffs demonstrated during 1989 a growing willingness to rely on the provisions of the Canadian Charter of Rights and Freedoms to challenge federal government programs and policies. A notable example is the case of Federation of Newfoundland Indians v. The Queen in Right of Canada, in which non-status Indians in Newfoundland rely upon section 15 of the Charter to challenge the validity of federal social programs restricted to status Indians, as well as the decision to provide reserve lands only at Conne River.

ii) Management of Indian lands and moneys

Several major cases involving the management of Indian lands and moneys were instituted or continued over the past year. With respect to Indian moneys, the Samson Band of Alberta (Chief Victor Buffalo v. The Queen in Right of Canada) has challenged the manner in which the Minister of Indian Affairs and Northern Development manages their funds and has claimed damages in excess of \$500 million dollars. In addition, the authority of the Minister in respect of a per capita distribution of Band moneys has been challenged in Ward v. The Queen in Right of Canada, while in Roote and Jones v. The Queen in Right of Canada, the plaintiffs have sought an accounting for trust funds held by the Crown for a band.

Several actions have raised the issue of an alleged breach of fiduciary obligations in relation to the management of Indian lands by the Crown (Treaty 4 Band of Indians v. The Queen, Sandy Bay v. The Queen, Patrick Madahbee v. The Queen, Clifford Big Plume v. The Queen in Right of Canada, Roote et al v. The Queen in Right of Canada, Mustus and Alexis Indian Band v. The Queen in Right of Canada, Chief Joe Mathias v. The Queen in Right of Canada, Bunnie v. The Queen in Right of Canada, Green v. The Queen in Right of Canada). An interesting case in the same category is Chief Daniel Miskokoron v. The Queen in Right of Canada, in which the plaintiffs challenged a decision of the Minister of Transport to permit allegedly contaminated sediments dredged from the St. Clair River to be dumped on the Walpole Indian Reserve. In this case, the Band was unsuccessful in seeking an injunction against the dredging, on the basis that they had failed to prove that the materials were contaminated to a degree which threatened human health.

Also of significance in relation to the management of Indian lands is the case of Attorney General of Canada v. Canadian Pacific and Molson Breweries, in which the Attorney General of Canada has commenced an action to restrain Canadian Pacific Ltd. and Molson Breweries Ltd. from disposing of former railway lands. The basis for the action is that the lands, formerly part of the Kitsilano Indian reserve, should have reverted to the federal Crown when they were no longer needed for railway purposes. Within the context of the litigation and similar situations elsewhere in Canada, Legal Services and colleagues from other sectors of the Department of Justice are considering whether the lands would still be burdened with an Indian interest upon their return to the Crown.

Another category of land cases involves claims to treaty land entitlements in Western Canada. A notable example is Chief Venne v. The Queen in Right of Canada, in which the Lac La Ronge Indian Band alleges that the Crown failed to fulfil the terms of Treaty No. 6 in respect to land entitlement. A further example may be found in Federation of Saskatchewan Indian Nations v. The Queen in Right of Canada, in which Saskatchewan Indians argue that the 1976 formula for calculating treaty land entitlement is legally binding on the provincial and federal governments, as opposed to being a statement of political interest.

iii) Damages in Contracts and Torts

The Crown is also implicated in new and ongoing cases where parties seek damages for breaches of contracts entered into by Indian bands (Helmut Klug et al v. The Queen in Right of Canada, Dineen Construction Ltd. v. The Queen in Right of Canada) or claims for negligence or misfeasance for the actions of Crown employees (Aleck v. The Queen in Right of Canada).

Several claims have been made against the Crown for the actions of Indian agencies delivering social services, particularly in relation to child care. For example, in Jane Doe v. The Queen in Right of Canada, the Crown was sued for the alleged negligence of an Indian child welfare agency funded by the federal government. In Basque v. The Queen et al., the Crown was sued as the owner of lands where an Indian student was injured on school premises on a reserve.

iv) Issues arising from the Indian Act

Many cases arose or continued over the past year which involve the interpretation of provisions of the Indian Act, including decisions of the Registrar of Indian Membership (Omeasoo v. The Queen in Right of Canada, Twinn v. Minister of Indian Affairs and Northern Development), matters relating to the administration of Indian estates (Sampson v. Seymour, Morris Clillie v. The Queen in Right of Canada), the authority and power of Indian bands to manage lands on behalf of the Crown under sections 53 and 60 of the Indian Act (Robert Louie v. The Queen), claims pursuant to section 87 of the Indian Act for reimbursement of excise tax paid on goods purchased by Indians (Sarcee Indian Nation v. The Queen, Oneidas v. The Queen), and the power of Band councils and the Minister to control the right to reside on Indian reserves (Mary Deer v. The Queen in Right of Canada).

(c) **Specific Land Claims**

Specific claims are those native claims in which an Indian band asserts that Canada has a responsibility to fulfil an existing legal obligation arising, for example, from a failure to satisfy a treaty or other contractual obligation or from the unlawful disposition of Indian lands. Under the Specific Claims Policy, the Department of Justice is required to assess whether a lawful obligation is owed by the government to the claimant band. Following this determination, counsel make recommendations concerning acceptance or rejection of a claim and compensation, if any, to be paid. If a claim is accepted, counsel also attend and provide advice in negotiations.

Specific claims files are handled by lawyers in Legal Services and in Department of Justice Regional Offices. In 1989, a total of 87 specific claims matters received legal attention. As of December 1989, there were 28 active specific claims files in Legal Services and 32 in the Vancouver Regional Office, for a total of 60 files. The volume of specific claims files handled by the other regional offices is negligible in comparison.

During the past months, we have made concerted efforts to improve our management of specific claims files. Internally, we have had our more experienced lawyers act as mentors to more junior lawyers in order to increase the level of expertise in the office. A system of weekly conference calls involving all lawyers assigned to specific claims files has been instituted to ensure that relevant issues are fully discussed, to permit a sharing of information and to enable emerging issues to be readily identified, with a view to involving the Native Law Section where appropriate. We have also completed a draft Specific Claims Deskbook which will be an extremely valuable reference tool for lawyers in this field. Recently, we have had a lawyer from the Vancouver Regional Office, who has experience in native law, join the Native Claims and Northern Affairs Section of our office on a two year secondment. Furthermore, we decided to make use of agents on a limited basis in order to determine whether such work could be done effectively by agents. Between June and September 1989, we referred 4 files from this office and 7 files from the Vancouver Regional Office to agents of the Attorney General of Canada for assistance in preparing the preliminary opinions. Given the highly specialized nature of this work, the agents have been closely supervised by counsel from this office and the Vancouver Regional Office. Although the agents have not yet completed their work on several files, we are satisfied with the quality of advice and the assistance which has been provided to date. However, the task of supervising the agents has been very time consuming and it is not yet clear whether the benefits to the Department of Justice and the Department of Indian Affairs and Northern Development will outweigh the time which must be expended to supervise the agents. Although the materials in the Deskbook, once completed, may assist somewhat in reducing the level of supervision required, it is unlikely that this will result in a significant change. Our present assessment is that the use of agents will only be feasible on a limited and controlled basis.

During 1989, there were several specific claims files which were noteworthy from our perspective either because of the quality and degree of legal attention required or because of significant developments. A brief overview of these files follows.

i) Robinson-Superior Claim

Eight bands submitted a claim, framed in terms of obligations owed them under the Robinson-Superior Treaty, which they wished to have dealt with as either a comprehensive or specific claim. While this type of claim would not normally be accepted for review, an exception was made and a lengthy and comprehensive preliminary opinion, based on complex facts, was prepared by Legal Services. The eight bands have since decided to submit eight separate specific claims.

ii) Batchewana Claim

Legal Services completed a review of the long standing Batchewana Band specific claim to Whitefish Island. This review resulted in the Department of Environment agreeing to transfer the Island back to the Band as part of the settlement of the claim. The legal review also provided compensation advice which will allow the Specific Claims Branch to begin long overdue settlement negotiations in early 1990.

iii) Lubicon Lake Claim

Legal advice was provided on this matter concerning the interpretation of the term "land in severalty" as used in Treaty 8. We have recently commenced consultations with the Native Law Section with a view to preparing an overview of the legal ramifications raised by the concept of land in severalty.

iv) Lucky Man Claim

The specific claim filed by the Lucky Man Band was settled in 1989. The Band has agreed to give up, in return for a separate reserve, its interest in the reserve previously set aside for both the Lucky Man and Little Pine Bands.

v) Teslin Claim

The Teslin Specific Claim Settlement Agreement, prepared by the Vancouver Legal Services office, was initialled by the negotiators in November 1989. This claim involved current and past use of alleged reserve lands, the financial compensation for which eventually amounted to \$1.5 million dollars. Significant legal work, including five surrenders under the amended surrender provisions in the Indian Act, and a scheme for the intergovernmental management of land, was required before the claim could be settled.

vi) Ingenika Claim

An agreement drafted by the Vancouver Legal Services office culminated in the settlement of this claim which arose from the flooding of the original Ingenika band lands by the B.C. Hydro and Power Authority. As part of the settlement, the federal and provincial governments, together with B.C. Hydro, agreed to construct a new \$13 million dollar community for the Ingenika Band. The lands on which this community is to be built were supplied by the province of B.C.

vii) Treaty Land Entitlement Claims

The Sturgeon Lake Band and Whitefish Lake Band treaty land entitlement claims were finalized in 1989. The Strangetown Band claim is close to completion. A major hurdle to the completion of these claims was overcome in the negotiation of waiver clauses, prepared in consultation with the Edmonton Regional Office of the Department of Justice. A preliminary opinion on the Tall Cree Band Claim has been provided to DIAND.

(d) Other Issues

Examples of other issues referred to Legal Services by the Lands, Revenues, and Trusts Branch are as follows:

Akwesasne By-Law Review

Legal Services assisted officials of the Band Governance office in discussions with the Mohawk Council of Akwesasne on by-laws adopted under the Indian Act, many of which had been disallowed by the Minister of Indian Affairs and Northern Development. The discussions required counsel to develop innovative wording for by-laws which would permit the Mohawk Council to exercise the maximum degree of control over local affairs, while at the same time respecting the limits on band legislative powers imposed by the current Act.

Lands, Revenues and Trusts Review

Over the past year, Legal Services provided support to the ongoing Lands, Revenues and Trust Review by participating in the working groups established to study the current provisions of the Indian Act. We also assisted DIAND officials in reviewing the reports and proposed changes to the Act offered by consultants hired for the Review. Our work required an indepth comprehension of the current Act and DIAND policies, particularly in relation to matters such as administration of the membership in Indian bands, the management of Indian lands and moneys, and the powers of Band councils to pass by-laws.

Determination of Incompetency before Alberta Courts

Legal Services has assisted the Indian Moneys Directorate concerning the administration of the estates of mentally incompetent Indians in Alberta. The Minister of Indian Affairs and Northern Development administers such estates when persons are found to be incompetent for purposes of provincial laws. However, in Alberta the relevant statute requires the appointment of an individual as guardian if a finding of incompetency is made. Since the Minister derives his authority from Parliament, the Alberta courts have not been asked to make findings of incompetency, and Alberta estates are administered by DIAND without an adequate legal basis. Legal Services is considering means to remedy the problem.

Amended and Consolidated Band Authorities over Revenue Moneys

Legal Services has assisted officials from Indian Moneys in revising the Orders in Council which provide Indian bands the authority to manage their revenue moneys pursuant to section 69 of the Indian Act. It appears that many of the authorities granted to Indian bands during the 1970's were deficient for procedural reasons, due to the failure of the Governor in Council to grant Orders in Councils under section 69(1) of the Indian Act. As a consequence, many hundreds of millions of dollars have been released to bands under authorities which may be invalid. To remedy this problem, the orders in councils and regulations have been redesigned to ensure that current and future delegations of authority will avoid these potential problems. The past authorities are presently being reviewed to determine if a means can be found to remedy the procedural defects.

Agreement with Sarcee Indian Band on Artillery Range

Counsel in this office advised DIAND and the Department of National Defence on an agreement with the Sarcee Indian Band of Alberta on the use and occupation of a portion of their reserve as an artillery range. The lands were used by the Department of National Defence under the terms of an agreement ratified by an Indian Act surrender. Due to band concerns with the effectiveness of efforts by the Department of National Defence to restore the lands to agricultural use, a new agreement was entered into after band members blockaded the area. Our office advised the two departments on whether the agreement would have to be assented to by the Band membership through a referendum, and the potential risks for the Crown if such a vote were not held.

Establishment of Saskatchewan Treaty Commissioner

During the process that led to the creation by the Minister of Indian Affairs and Northern Development of the office of the Treaty Commissioner in Saskatchewan, Legal Services assisted in the drafting of the agreements between the Minister and the Federation of Saskatchewan Indians to ensure that the duties of the Commissioner were properly delineated.

Fiduciary Duties of Crown for Reserve Forests

Our office provided comments on an opinion prepared by Thomas Berger for the Indian Forest Council of British Columbia on the fiduciary duties of the Crown for the management of Indian reserve forests. In his opinion, Mr. Berger has advised the Council that the Crown bears responsibility to ensure that on-reserve forests are managed to ensure the highest possible wood yield. Following a review of the caselaw on fiduciary duties, Legal Services advised that there was considerable doubt as to whether the Crown would bear the very high duty proposed by Mr. Berger.

Unilateral Reversion of Indian Bands to Custom Elections

Counsel assisted in the formulation of a policy on unilateral reversion by bands without the authorization of the Minister from elections under the Indian Act to elections according to band custom. We also advised on the question as to whether bands could revert to custom even assuming that the authorization of the Minister had been obtained. This matter required an analysis of whether the provisions of the Indian Act served to extinguish band customary law on elections, thereby making a reversion to custom impossible, or whether custom for purposes of the Indian Act could be the practice of the band. We ultimately advised that the Minister could authorize bands to revert to custom elections.

Application of Administrative Law to Ministerial Powers over Indian Estates

The Indian Act grants considerable discretion to the Minister in the exercise of his powers to administer Indian estates. In providing guidance concerning the manner in which his discretion should be exercised, we concluded that principles of administrative law, including

the duty to exercise discretion in a fair and reasonable fashion based on all available information, would apply to the Minister in carrying out his statutory powers. In the context of a major review of current DIAND policy on the administration of Indian estates, we have also provided advice on a broad range of legal issues concerning the powers and duties of the Minister, including the application of provincial succession law in the determination of entitlement in Indian estates and the tax implications of the administration of Indian estates.

Ermineskin Trust Proposal

The Ermineskin Indian Band of Alberta proposed an innovative scheme whereby capital funds currently administered by the Minister in the Consolidated Revenue Fund would be administered by a commercial trust company under the terms of a trust deed with the Band. Our office reviewed the scope of the authority of the Minister under section 64(1)(k) of the Indian Act to administer capital funds and concluded that this provision of the Indian Act would not permit the Minister to delegate his duties as trustee or as fiduciary for the administration of the funds. Legal Services is presently working closely with DIAND officials to develop proposed legislation which would permit the transfer of capital funds to the Band.

Status of Reserve Lands Expropriated for Railway Purposes

In the past, portions of Indian reserves were expropriated by railway companies for the purposes of railways under the terms of the federal Railways Act. In many cases, the lands are no longer used for railways purposes, and an issue has arisen as to whether the lands would revert to Indian reserves. Central to this question is a determination as to whether the lands retained a residual Indian interest during the period of railway use, and whether such an Indian interest remains intact once the railway purpose terminates. Our office is working closely with colleagues in the Department of Justice to review the issue in the context of litigation involving the former Kitsilano Indian Reserve in Vancouver, and in light of its broader implications for past railway takings across Canada.

Powers and Duties of Indian Registrar and Minister on Membership and Status

The Indian Act empowers the Minister and the Indian Registrar to determine Indian status and membership in Indian Bands. Our office has provided advice on a broad range of matters relating to the statutory powers and duties, including whether the Minister may accept a Band membership list, without making further inquiries as to its accuracy, for purposes of oil and gas revenue distributions, whether membership registrars for Bands controlling their membership are subject to the same principles of administrative law as the Indian Registrar and Minister, and whether the Minister has the ability under the Act to correct past erroneous deletions from the Indian Register.

IV. COMPREHENSIVE CLAIMS

IV. Comprehensive Claims

a) Introduction

Pursuant to the Comprehensive Claims Policy, the government has sought to negotiate various land claims agreements to provide certainty with respect to the ownership and use of lands and resources in areas claimed by aboriginal peoples on the basis of aboriginal title. Under this policy, the Department of Justice is required to advise the Minister of Indian Affairs and Northern Development on the legal merits of all comprehensive land claims submissions to enable him, on behalf of the government, to accept or reject a claim. Given the role accorded to the Department of Justice, counsel in Legal Services provide advice during the following stages of the comprehensive claims process:

- 1) the initial review of a claim to determine its acceptability for negotiation;
- 2) as members of the federal negotiating team in the negotiation of a comprehensive claim; and,
- 3) the implementation, administration and amendment of comprehensive claims settlements.

During 1989, Legal Services provided extensive advice on comprehensive claims, the details of which are summarized below.

b) The Claims

i) Council for Yukon Indians

In May 1989, the federal government, Yukon territorial government and the Council for Yukon Indians concluded an Agreement in Principle in the comprehensive land claim in the Yukon. Cabinet has mandated the Chief Federal Negotiator to complete the Umbrella Final Agreement and up to three Yukon First Nation Final Agreements by March 31, 1990. The settlement will be comprised of an Umbrella Final Agreement, which will set out terms common to all First Nations in Yukon, as well as up to 13 separate and unique Final Agreements with each First Nation. In addition, the settlement will include several Transboundary Agreements for Yukon Indians with claims in the Northwest Territories or British Columbia and for natives in those jurisdictions with claims in the Yukon.

The principle mandate of the negotiators has been to obtain a clear, precise and complete Umbrella Final Agreement. Over the course of the year, it became evident that the Council for Yukon Indians did not agree with many provisions previously settled in the Agreement in Principle. As a result, only four of thirty chapters have been finalized after six months of negotiation.

During 1989, Legal Services provided support in the development of the federal government position and strategies, assisted in caucus and in negotiations and drafted texts for the Agreement in Principle. In the negotiations of the Agreement in Principle, Legal Services worked on complex legal issues pertaining to the general provisions, surrender and

land tenure. In particular, Legal Services, in conjunction with the Native Law Section, developed a model to give effect to the alternative to complete extinguishment of aboriginal rights to land as set out in the 1986 Comprehensive Claims Policy. The first part of the model provides that the settlement lands for the Yukon First Nations are to have the characteristics of the fee simple owner (i.e. rights, liabilities and obligations), while leaving open the possibility that the Yukon First Nations retain some aboriginal rights in the Settlement Lands. The second part of the model provides that surrenders shall be obtained in stages, as and when needed, so as to provide certainty to third parties who obtain interests in Settlement Lands. These staged surrenders will occur by operation of law, without an actual vote being required.

We are continuing to provide advice on all matters to be dealt with under the Umbrella Final Agreement. Current outstanding legal issues include whether non-Canadian citizens may be able to establish existing aboriginal rights to land in the Yukon, the effect of changes to the deemed surrender of aboriginal title where third parties obtain an interest in lands of a First Nation, and the consequences of Treaty 11 extending into the Yukon.

ii) Tungavik Federation of Nunavut Claim

Negotiators for the federal government and the Tungavik Federation of Nunavut (TFN) initialled an Agreement in Principle, which is expected to be placed before Cabinet by the spring of 1990 for ratification. The Agreement in Principle contains a number of general provisions that detail how the Inuit are to cede, release and surrender all their aboriginal claims, rights, titles and interests to all of Canada. In exchange, the Inuit will receive title to 136,000 square miles of land, including 14,000 square miles with subsurface mineral rights. The agreement provides \$580 million dollars in compensation and contains general provisions for the participation of Inuit on public government boards with responsibility for land use planning, environmental and socio-economic review of development proposals and water management.

Legal Services provided extensive advice on these general provisions, the successful negotiation of which is viewed as a major accomplishment for both parties, but particularly for the federal government. It was clear when TFN tabled its package of general provisions in February 1989 that a number of premises concerning the legal and constitutional status of the claim were not accepted. In an attempt to address the TFN arguments and to determine whether the government approach could be altered without damaging essential Crown interests in this claim, a series of consultations were held from April to August, 1989 with counsel from Legal Services, the TFN, and colleagues from various advisory sections of the Department of Justice. In October 1989, the TFN agreed to initial the general provisions in a form which adheres to principles established by the Department of Justice and follows the precedent established by the Dene-Metis claim, as well as the James Bay and COPE claims.

The Agreement in Principle is very detailed and it is expected that a Final Agreement will likely be concluded within the required 18 month period following ratification by Cabinet. Legal issues to be addressed by Legal Services before completion of the Final Agreement include matters such as the status to be granted to the Inuktitut translation of the Final

Agreement, a mechanism for assumption by shipowners and/or developers of liability as imposed by the wildlife compensation provisions of the agreement, transboundary harvesting of wildlife by Indians and Inuit in their respective treaty or land claims areas, and the protection to be accorded to the provisions of any agreement between TFN and other aboriginal groups on overlapping interests.

iii) Dene/Metis Claim

In September 1988, the Prime Minister signed an Agreement in Principle with the Dene/Metis native group to settle its comprehensive land claim in the MacKenzie Valley of the Northwest Territories. This Agreement in Principle, which comprises 36 chapters, outlines in considerable detail the parameters of the Final Agreement, while permitting negotiations to proceed on land selection and the final details of the agreement.

In return for fee simple title in the settlement lands, and certain rights in respect of wildlife, non-renewable resources and land and water management, the Dene/Metis will surrender aboriginal and treaty rights. If a Final Agreement is reached by the March 31, 1990 deadline, negotiations will continue toward finalization of an implementation plan.

Legal Services has been extensively involved in negotiations leading towards the Final Agreement, assisting in drafting changes to the Agreement in Principle agreed to by the negotiators and providing legal and policy advice to federal caucus members. In particular, Legal Services has engaged in a lengthy review of the definition of "mines and minerals" in the Agreement-in-Principle and provided advice to ensure that the Dene/Metis obtain only such rights to minerals as are intended. The issue has been an important one in that it is critical to define precisely what the fee simple interest includes and what impact the rights attaching to the fee simple or surface interest may have on mineral rights underlying such interest. In other notable areas, Legal Services has advised on the use of the phrase "Dene Metis Title", the provisions to be negotiated in respect of an amending formula, access and renewable resources, as well as the chapter on wildlife harvesting and management.

As a result of negotiations held in 1989, four chapters of the 36 contained in the Agreement in Principle have been initialled. Legal Service continues to provide advice on matters in the remaining chapters.

iv) Labrador Inuit Claim

In 1988, the Province of Newfoundland agreed to waive the precondition of a bilateral federal/provincial agreement prior to entering negotiations with the Inuit concerning this land claim. Formal tripartite negotiations began in January 1989 between Canada, Newfoundland and the Labrador Inuit Association. The principal matter required to be resolved between the two governments is the proportion of the cash compensation to be paid by each government in a land claims settlement.

Negotiations have been conducted towards the completion of a framework agreement setting out the subject matters, process and timeframe for substantive negotiations. Legal

Services has been involved in all negotiating sessions, providing advice on legal issues, reviewing drafts, preparing drafts and advising on negotiating strategy. In particular, legal advice was provided on the question of third party interests and overlapping claims by other aboriginal groups and on interim measures to protect the interests of the Labrador Inuit during negotiations. Furthermore, Legal Services assisted in developing a strategy for tabling a federal draft framework agreement as a response to the Labrador Inuit Association initial draft. This strategy was successful in that the second draft proposed by the Labrador Inuit Association substantially reflected the approach adopted in the federal draft submission.

Completion of the framework agreement is scheduled for March 1990. The next phase in the negotiations will be negotiation of an agreement in principle on the substantive issues.

v) Conseil d'Attikamik et Montagnais

On April 25, 1989, an Agreement on Interim Measures was concluded between Conseil d'Attikamik et Montagnais, the Government of Quebec and the Government of Canada. Throughout the year, Legal Services provided extensive advice on the drafting of these measures, focusing on issues such as the land to be encompassed by the Agreement, hunting, fishing and trapping rights, the interpretation clauses in the Agreement and the legislation and regulations to be affected by the Agreement. In addition, we participated in the negotiation of subagreements concerning the amendment of the agreement and the resolution of conflicts arising out of the Final Agreement.

With respect to the subagreement on amendments, legal advice was provided on the drafting of the subagreement and on the issue of renegotiation. While it was established that there would be no obligation to renegotiate the agreement, it was recognized that certain issues would be subject to and other issues exempt from renegotiation.

On the subagreement dealing with the resolution of conflicts, Legal Services assisted in the development of an arbitration process with the possibility of court review if the arbitrator acts in excess of jurisdiction or if the decision is erroneous in law.

The next chapters to be negotiated in this claim will include issues concerning the extent of the territory, self-government, hunting, fishing and gathering, all of which will require advice from Legal Services.

vi) Nisga'a Claim

In 1982, negotiations began between Canada and the Nisga'a. The government of British Columbia has declined to participate in this claim, other than as an observer, given that it does not recognize the existence of aboriginal title in the province. In late 1988, a Framework Agreement between Canada and the Nisga'a was initialled and was subsequently approved by Cabinet in June 1989 along with a new negotiation mandate. This agreement provides for the settlement of all topics under federal jurisdiction within three years and a commitment to seek the participation of British Columbia in the settlement within this timeframe. Legal Services in Vancouver has provided advice on a

broad range of issues in the Framework Agreement, including the issues of eligibility, interim protection, fishing rights, the taping of negotiating sessions, standard clauses and ratification.

Counsel also assisted in the preparation and review of the Memorandum to Cabinet seeking approval of the Framework Agreement and the negotiation mandate for an Agreement-in-Principle.

vii) British Columbia Land Claims Strategy

Counsel from Legal Services continue to work with DIAND officials to develop a strategy for the resolution of the many outstanding comprehensive claims by Indians in the Province of British Columbia. In this context, we are examining the nature of aboriginal rights in British Columbia and the respective obligations, if any, of the federal and provincial governments with respect to such rights.

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V. NORTHERN AFFAIRS

V. Northern Affairs

a) Introduction

Pursuant to the Department of Indian Affairs and Northern Development Act, the Minister of Indian Affairs and Northern Development has jurisdiction over all matters not assigned to any other department, board or agency of the Government of Canada relating to the Yukon and Northwest Territories, their resources and affairs. The responsibilities of the Minister are more specifically set out in section 5 of the Act and extend to:

- (a) coordinating the activities in the Yukon Territory and the Northwest Territories of the several departments, boards and agencies of the Government of Canada;
- (b) undertaking, promoting and recommending policies and programs for the further economic and political development of the Yukon Territory and the Northwest Territories; and
- (c) fostering, through scientific investigation and technology, knowledge of the Canadian north and of the means of dealing with conditions related to its further development.

In addition, the Minister has the management, charge and direction of all lands situated in the Yukon and Northwest Territories which belong to Her Majesty in right of Canada with the exception of those lands under the management, charge and direction of another minister, department, branch or agency of the Government of Canada.

During 1989, Legal Services provided support to the Northern Affairs Program on a broad range of legal matters. An overview of the work performed by Legal Services is summarized in the following sections.

b) Constitutional and General Northern Matters

During 1989, Legal Services provided advice to the Constitutional Development and Strategic Planning Branch of the Northern Affairs Program on a number of significant devolution issues, including the completion of the transfer of B and C category airports, the transfer of responsibility for reindeer and Inuit art to the Northwest Territories, the transfer of roads to the Yukon and Northwest Territories and the transfer of responsibility for land titles registration, as well as issues arising from the administration by both territorial governments of federal regulations governing archaeological sites. Legal Services also assisted in resolving a problem created by an objection made by the Yukon Territorial Government to the requirement that the Commissioner sign devolution agreements, by proposing a compromise involving the use of territorial legislation, federal instructions to the Commissioner and minor drafting changes to the devolution agreements. Consideration is now being given to employing the same approach in the Northwest Territories.

Legal Services also provided advice regarding a number of questions involving the interpretation and implementation of the comprehensive claims agreements. In relation to the Inuvialuit Final Agreement, assistance has been provided on the provisions relating to land use planning and responsibility for the payment of certain types of costs, as well as Canada's responsibility in arbitration proceedings commenced pursuant to the agreement. Although the arbitration, which related to three radar sites situated within the Inuvialuit Settlement Region, was settled prior to the hearing, Legal Services played a major role in the preparation of the matter for hearing and the negotiations which led to settlement. On a general matter concerning the implementation of various comprehensive claims agreements, Legal Services has undertaken a review, in consultation with various advisory sections of the Department of Justice, of the constitutional and legislative authority of the territorial governments to enact legislation which would establish various boards to regulate surface and subsurface rights, land and water management and environmental review. Assistance has also been provided by Legal Services in preparing the draft legislation for the Canadian Polar Commission.

c) Environmental and Resource Issues

Given the significance of environmental issues in the north, Legal Services was called upon to review policies regarding the implementation of the EARP Guidelines Order and the draft Environmental Assessment Act prepared by the Department of the Environment as a replacement for the EARP Guidelines Order. Legal Services also assisted counsel in the Whitehorse Regional Office of the Department of Justice in preparing the hearing in an application by Curragh Resources to review a water licence for mining operations in the Yukon, a matter of considerable importance given its potential impact on environmental aspects of mining operations across the north. In addition, Legal Services provided advice regarding litigation in the case of Cominco v. The Northwest Territories Water Board, in which Cominco challenged the authority of the Northwest Territories Water Board concerning mining operations.

Assistance was also provided on a number of other matters, including the preparation of amendments for the Northern Inland Waters Act, and the extent of the authority of the Governor in Council to add to the legislative jurisdiction of the territorial governments under s. 17 of the Yukon Act and s. 16 of the Northwest Territories Act.

d) Northern Litigation

During the course of the last year, Legal Services provided advice and assistance on a number of cases in the north. In order to provide a ready reference to these cases, Legal Services has prepared and circulated a Northern Affairs Litigation Report which will be updated on a quarterly basis. The report, a copy of which appears as Annex D, includes a description of the subject matter of the litigation, the legal issues in question, the status of the matter, the anticipated impact of the litigation and the name of counsel assigned to the case.

VI. OTHER ISSUES

VI. Other Issues

Some examples of work referred to Legal Services by other branches of the department include the following:

Revision to Housing Loan Guarantees

The Minister of Indian Affairs and Northern Development guarantees loans for the construction of housing on Indian reserves. Our office has assisted Indian Services in a major review of the current policy on such guarantees, including the problem of whether the Minister should agree to new guarantees where Bands have defaulted on previous loans.

Charter Challenges to DIAND Social Programs

The Canadian Charter of Rights and Freedoms, and particularly the equality protection of section 15, may have serious implications for many government programs. Our office has reviewed with Indian Services the possible impact of section 15 on social programmes administered by DIAND for status Indians. In this respect, a major study is currently being conducted, in consultation with Legal Services, by our colleagues in the Human Rights Law Section of the Department of Justice into the application of section 15 to social services offered to status Indians in the Alberta region.

Access to Information Requests

DIAND receives numerous requests for the release of documents under the Access to Information Act. In consultation with our colleagues in the Access to Information and Privacy Law Section of the Department of Justice, our office provides legal advice to the ATIP Coordinator, Financial and Professional Services on the interpretation of the Access to Information Act and the Privacy Act. Significant requests over the past year have included whether briefing books prepared for the Minister of Indian Affairs and Northern Development had to be released to the public, whether documents obtained from third parties in the context of litigation cases could be released to individuals who are not parties to the cases, and whether information received from Indian Bands under contribution agreements was protected from release by the Privacy Act.

Oil and Gas Lease on Six Nations Reserve

Legal Services advised Indian Oil and Gas concerning a renewable oil and gas lease entered into by the Six Nations Reserve. The Band requested that the Minister refuse to renew the lease on the basis that the lessee had failed to respect safety standards as required by the lease. Although we have advised that there was insufficient proof of a breach of the lease, we are continuing to work closely with Indian Oil and Gas to determine whether there are other grounds to justify the Minister refusing to renew the lease.

Blood Band Irrigation Project

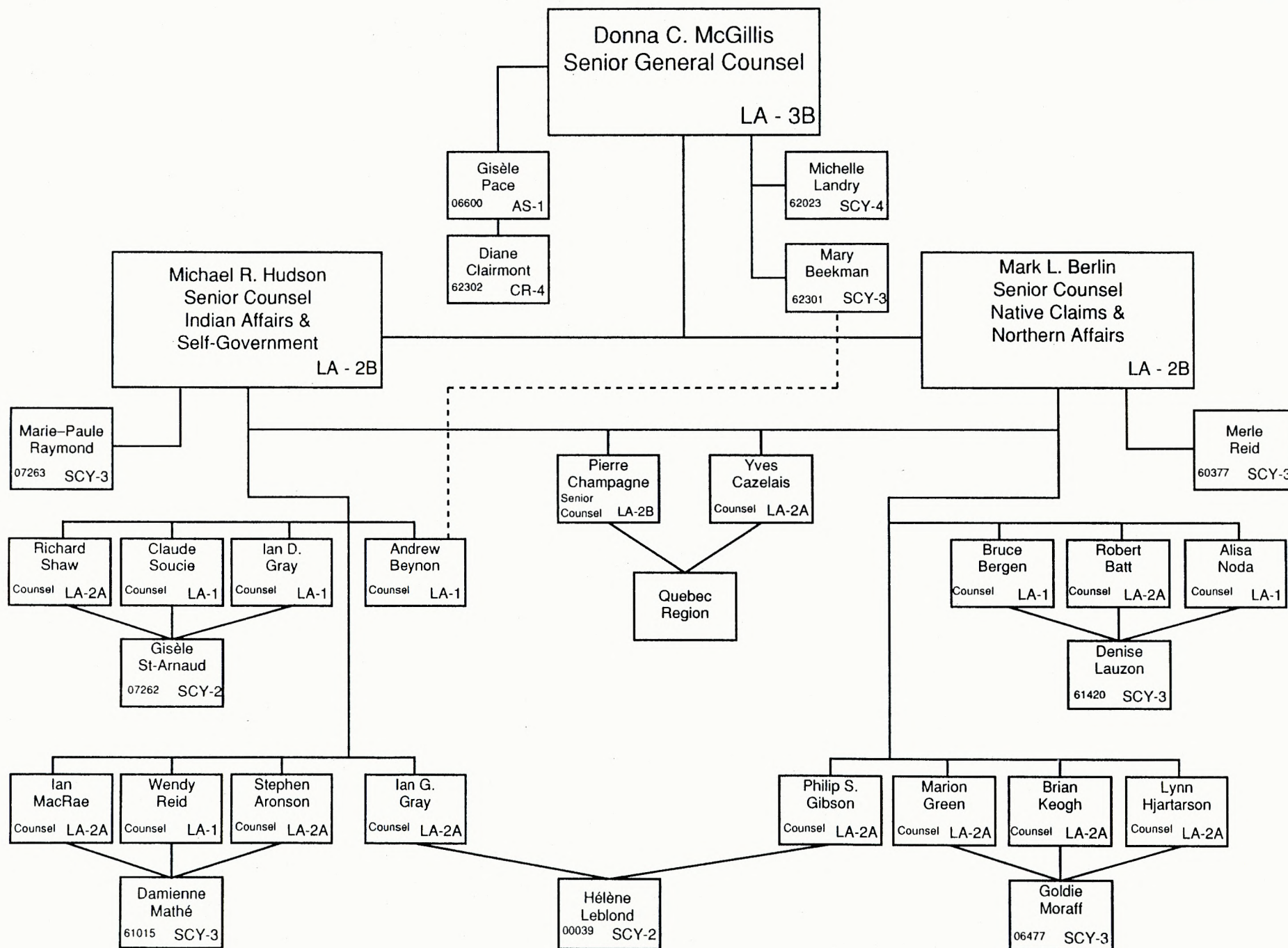
Legal Services previously assisted the Economic Development Branch in the negotiation and drafting of an agreement between Canada, Alberta and the Blood Indian Band on a major irrigation project on the Blood Indian Reserve and the transfer of certain reserve lands to the province required for the irrigation of surrounding lands. The agreement contains complex provisions governing the respective roles and obligations of the parties, especially in relation to the financing of the project. During the past year, Legal Services has continued to provide advice on the implementation of the agreement, including the preparation and coordination of several orders in council and Indian Act designation documents.

ANNEX "A"

Organization Chart - Legal Services - DIAND

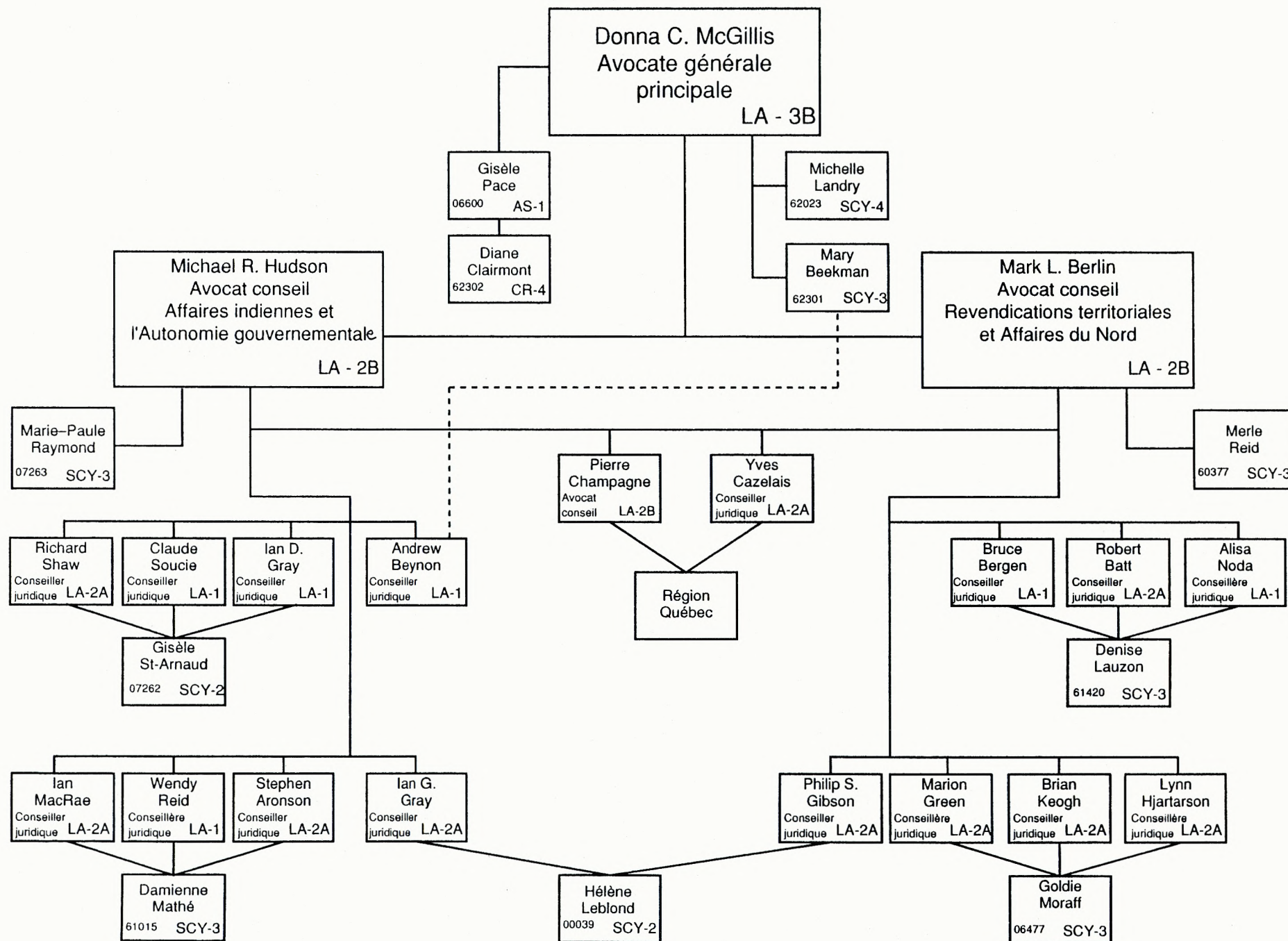
DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT LEGAL SERVICES ORGANIZATION CHART

ANNEX "A"



ORGANIGRAMME

SERVICES JURIDIQUES DU MINISTÈRE DES AFFAIRES INDIENNES ET DU NORD CANADA



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ANNEX "B"

Self-Government Report

MARCH 31, 1990

PROTECTED - ANNEX "B"

SELF-GOVERNMENT PROPOSALS/AGREEMENTS

<u>FILE NAME</u>	<u>#</u>	<u>DATE OPEN</u>	<u>LEGAL OFFICER(S)</u>	<u>SELF-GOVERNMENT STATUS</u> <u>OFFICER (DIAND)</u>	<u>COMMENTS OF DLSU OFFICER</u>	
Sechelt Indian Band (B.C.)	6800-2	1986	I. MacRae T. McClintock	Bill Clevette/ H. Ryan	Legislation Passed	Completed-some issues outstanding lands; See also 6800-2 and 6800-2-2
United Indian Council (9 bands) (Ont.)	6800-4	May/88	W. Reid/ S. Aronson	A. Mortimer L. Gauthier	Framework Agreement signed February 22, 1990	Negotiations started March, 1990
Mohawks Council of Akwesasne (Ont./Qué.)	6800-5 6800-32	May 2/88	S. Aronson	Y. Assiniwai Cathy Chalupa	Discussion Paper in drafting stage; 6800-32 concerns financing	Development Stage; framework agreement not anticipated until spring 1990
Mathias Colomb (Man.)	6800-6	May 30/88		A. Mortimer	Discussion Paper in drafting stage	- no activity since June 16/88 - cross reference with Chemawawin 6800-13 *
Grassy Narrows Band (Ont.)	6800-7	July 22/88		S. Taggart (Ont. Reg)	Discussion Paper June, 1988	no activity since June, 1988 *
Sawridge Band (Alta.)	6800-8	Aug 30/88	S. Aronson	Kerry Kipping Cathy Chalupa	Framework Agreement signed Sept. 1989	- waiting for opinion from T. Marsh - to seek ISC approval in April/May
Tobique Band (N.B.)	6800-9	Oct 11/88	S. Aronson	K. Haslett	Discussion paper in drafting stage	development stage
Whitefish Bay Band (Ont.)	6800-10	Oct 11/88	I.D. Gray	Bill Zaharoff	Framework Agreement signed March 7, 1990	negotiations commenced October/89 and continue monthly
Lake Babine Band (B.C.)	6800-11	Oct 11/88		S. Anderson (B.C. Reg)	Discussion paper Nov. 24/87	no activity since * Sept 30/88

SELF-GOVERNMENT PROPOSALS/AGREEMENTS

<u>FILE NAME</u>	<u>#</u>	<u>DATE OPEN</u>	<u>LEGAL OFFICER(S)</u>	<u>SELF-GOVERNMENT STATUS</u> <u>OFFICER (DIAND)</u>	<u>COMMENTS OF DLSU OFFICER</u>	
Chemawawin Band (Man.)	6800-13	Oct 28/88		A. Mortimer	Discussion paper Sept 28/88	no activity since Oct 26/88 * cross-reference with Mathias Colomb 6800-6
Alexander Band (Alta.)	6800-14	Nov /88	W. Reid S. Aronson	Kerry Kipping	Framework agreement signed May, 1989	negotiations underway; very slow progress
Sandy Bay Band (Man.)	6800-17	Nov 29/88	S. Aronson	R. Depew Oct 20/88	Discussion paper	no activity since Dec 8/88; *
Dakota Nations (Sask.) (9 bands)	6800-18	Nov 29/88	S. Aronson	B. Depew	Discussion paper in drafting stage	no activity since Dec 8/88 *
Lubicon Lake Band (Alta.)	6800-19	Dec 16/88	M. Hudson	G. DaPont	in abeyance pending settlement of land claim	tied to resolution of Lubicon Claim
Council of Yukon Indians (CYI)	6800-22 see also 3206-20-2	Feb 27/89	A. Beynon/agent	K. Haslett	sub-agreement signed negotiations in process with 4/12 bands	related to comprehensive land claim settlement; legal agent retained; significant progress has been made in negotiations; possible completion by Fall, 1990
Mohawks Council of Kahnawake (Que.)	6800-24	Mar 31/89	A. Beynon	F. Vieni/ L. Gilbert	Discussion paper in final stage	Framework Agreement in Spring' 90
The Pas Band (Man.)	6800-26	May 11/89	A. Beynon	B. Depew	Discussion paper in drafting stage.	no activity since June, 1989 *
Siksika (Blackfoot)	6800-30	June /89	S. Aronson	B. Zaharoff	Discussion paper in drafting stage.	Framework Agreement to be signed in Summer of 1990; negotiations to begin

SELF-GOVERNMENT PROPOSALS/AGREEMENTS

<u>FILE NAME</u>	<u>#</u>	<u>DATE OPEN</u>	<u>LEGAL OFFICER(S)</u>	<u>SELF-GOVERNMENT STATUS</u> <u>OFFICER (DIAND)</u>	<u>COMMENTS OF DLSU OFFICER</u>	
Gitskan and Wet'Sweet'en (B.C.)	6800-31	June /89	A. Beynon	B. Depew	Discussion paper in drafting stage.	Fall of 1990 Development stage; DLSU not present at as community has no legal counsel
Westbank Indian Band (B.C.)	6800-36	Nov /89	I.G. Gray	Y. Assiniwai	Discussion paper in drafting stage	Framework Agreement to be signed and negotiations to begin April/May 1990
Nation Huronne-Wendat (Que.)	6800-37	Nov /89	Y. Cazelais	Region	Proposal	- very preliminary discussions
Nisga'a (B.C.)	6800-38	Nov /89	I.D. Gray/ S. Aronson	C. Asselin/region	Negotiations	part of comprehensive claim negotiations; self-government negotiations started December, 1989
CAM (Que.)	6800-39	Dec/89	Y. Cazelais/ S. Aronson	C. Asselin/region	Negotiations	related to comprehensive claims negotiations; started November 1989
Kingsclear (N.B.)	6800-45	March/90	R. Shaw	K. Haslett	Discussion paper in initial draft	- very preliminary discussions
Dene/Metis (N.W.T.)	6800-44	March/90	S. Aronson/ B. Keogh	A. Stewart	Negotiation of Self-Government provisions in comprehensive claims AIP	negotiations began in March, 1990
Naskapi Band of Quebec	6800-43	March/90	P. Gibson/ P. Champagne			Cree-Naskapi of Quebec Act implementation

SELF-GOVERNMENT PROPOSALS/AGREEMENTS

<u>FILE NAME</u>	<u>#</u>	<u>DATE OPEN</u>	<u>LEGAL OFFICER(S)</u>	<u>SELF-GOVERNMENT STATUS OFFICER (DIAND)</u>	<u>COMMENTS OF DLSU OFFICER</u>
James Bay Local Government Legislation (Que.)	6800-42	March/90	P. Champagne/ M. Berlin	D. Cliché	Issues arising from James Bay and Northern Quebec Native Claims Settlement Act implementation

* These communities have not actively pursued their proposals

MARCH 31, 1990

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SELF-GOVERNMENT

POLICY AND OPINIONS

<u>FILE</u>	<u>#</u>	<u>DATE OPEN</u>	<u>SUMMARY OF CONTENTS</u>
Self-Government Policy	6800-0	Nov 23/88	<ol style="list-style-type: none">1. General material governing self-government policy in DIAND2. Pocket file is material from the 1987 first Minister's conference Aboriginal Constitutional Matters (FMC)
Self-Government General	6800-1	Aug 30/88	<ol style="list-style-type: none">1. Chart of May 89 on Self-Government proposals in Legal Services DIAND and Policy and Opinions2. Portion of a paper by Dr. Colin Scott "Custom, Tradition and Aboriginal Self-Government: pp. 65-115 May, 19883. Self-government Negotiations Branch Status Report, March, 89.
Review of Self-Government Policies and comprehensive land claims	6800-12		<ol style="list-style-type: none">1. Cabinet R.D. on Policy
Financial Administration and Accountability	6800-15	Nov 17/88	<ol style="list-style-type: none">1. Issue in developing Policy on Financial Administration and Accountability (Oct 1988)
Interdepartmental Committee (ISC)	6800-16	Nov 22/88	<ol style="list-style-type: none">1. An ISC has been established to approve framework agreements and co-ordinate interdepartmental participation in the negotiation process of self-government; D. McGillis is on this committee2. Minutes of ISC meeting of Oct 31/88; apparently no subsequent meetings - cross-reference with Alexander Band Proposal 6800-143. There is also a Departmental Steering Committee to co-ordinate departmental response and recommendations to proposals before ISC; M. Hudson is on this committee.
Property rules for Indians lands under self-government	6800-20	Jan 3/89	<ol style="list-style-type: none">1. Publication of discussion paper on file topic - a very useful background document covering <u>Indian Act</u>, Sechelt and Cree-Naskapi real property regimes not to be taken as policy and not a document to be relied on for providing legal advice or opinions - cross-reference with 6800-23

SELF-GOVERNMENT

POLICY AND OPINIONS

<u>FILE</u>	<u>#</u>	<u>DATE OPEN</u>	<u>SUMMARY OF CONTENTS</u>
Authority for funding for the development of community-based self-government	6800-21	Jan 19/89	1. T.B. Submission of April 1987; amount of funding criteria and conditions of funding for fiscal year 87-88; authority expires March 31, 1990
Potential risks in transferring land to communities as part of self-government arrangements	6800-23	Mar 20/89	1. Paper and related material on file topic - accurately reflects title Justice's position, if not complete reasoning, on this important topic
Status of Band council as a legal entity	2575-17 Vol 1 & 2	Apr 12/88	1. Background material and opinions on file topic 2. See also 2575-5 for opinions and material
Legal status and capacity of Indian bands and councils	2500-19	Apr 4/89	1. Copy of paper by M. LaForest on file topic; a good review of case of law on subject.
Aboriginal Criminal Justice	5200-2	Apr 13/88	1. Current policy development led by Department of Justice in administration of justice; broader than self-government.
Appointment of Justices of the Peace; <u>Indian Act</u> , Section 107	2500-4	May 3/88	1. Current policy development led by DIAND with major Department of Justice role.
Nishnabi-Aski Nation Communications	6800-25	May /89	1. Department of Indian Affairs responsibility with respect to Communications on reserve.
Policing	5100	-	1. Policies, Policy Reviews (5800-14), Opinions and Programs concerning policing on reserve; current policy review (March 15, 1989) in 5800-14, Vol.4.
Indian Lands and Resources	6800-27	June /89	1. Draft paper Indian Lands and Resources under Self-Government-Title and Tenure", Dec. 1987
Elections	6800-28	June /89	1. Draft paper "Leadership Elections/Selection Regimes under Self-Government", June 1989

SELF-GOVERNMENT

POLICY AND OPINIONS

<u>FILE</u>	<u>#</u>	<u>DATE OPEN</u>	<u>SUMMARY OF CONTENTS</u>
Mineral Rights on Indian Reserves	1.45.3.2006	1982	1. A variety of opinions concerning ownership of minerals on reserve lands; see esp. opinion of Martin Freeman, December 10, 1982.
Administration of Justice/Sub-Committee on Admin. Justice in Community Self-Government Negotiations	6800-33/ 6800-35		1. The sub-committee of the Interdepartmental Steering Committee on Indian Self-Government is to report by March 31, 1990 to the ISG. All material is on 6800-33.
Proposal by Dakota Ojibway Tribal Council for Aboriginal Justice	6800-33-1		1. A proposal from the D.O.T.C. to study/research various aspects of aboriginal justice.
University of British Columbia Proposal on Aboriginal Dispute Resolution Proposal	6800-33-2	Oct /89	1. A proposal from U.B.C. to develop options on dispute resolution mechanisms for Indian communities.
Indian Self-Government Act	3700-15	Sept /89	1. This file is in 4 volumes and contains a wide variety of material on Indian self-government in a constitutional and legislative context. In addition have there draft T.B. Submissions.
Nishnawbe-Aski Nation (NAN)	6800-34	Sept /89	1. Not of relevance to Indian community self-government, but concerned with funding of six new bands in NAN area of northern Ontario. There are no active self-government negotiations with any of these bands, although policing is being discussed through Indian Commission of Ontario.
Policy Tables concerning Essential & Optional Subjects in ISG negotiations	6800-29	July /89	1. Prepared by ISG Branch of DIAND; notes, precedents in existing federal legislation for the subjects negotiated.
Environment, Renewable Resources, Non-Renewable Resources	6800-40	Dec /89	1. Papers and Presentations from ISG Branch; an overview of some issues in the subjects of environment and resources
Aboriginal Self-Government Policy of the Province of Ontario	6800-41	Jan /90	1. Press Release, Statement of Policy and Guidelines issued by Province of Ontario on December 14, 1990.

PROTECTED

ANNEX "C"

Litigation Report

PROTECTED - ANNEX "C"

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Homestead Kitchen Ltd v. The Queen	1.25.1.392	Apr 24/81	Craig Henderson D. of J.	Ian G. Gray	Breach of contracts	Fed. Crt. Trial Div.	S
C.K. Shawkence v. The Queen	1.50.9.558	Apr/85	Marlene Thomas D. of J.	R.G. Shaw	Negligence/breach of fiduciary obligations	Inactive/discoveries still not held/Fed. Crt. Trial Division	S
Kanaka Cedar v. The Queen	20.19.4.233 (6)	Feb 4/85	John Haig, Q.C. D. of J.	R.G. Shaw	Rent review	Fed. Crt. Trial Division/Inactive	S
Cassidy et al v. The Queen	20.19.4.4022	July 11/89	Duff Friesen D. of J.	R.G. Shaw	Public Service Employment issue	Dormant	S
Western Forest Products v. Dempsey Collinson et al	1040-2	1985	N/A	R.G. Shaw	Interlocutory injunction Fisheries Act/logging licence/ watching file/5 Writs of Summons	Inactive/B.C. Supreme Court	S
The Queen v. Moses	1040-4	Feb 23/89	Prosecution	Andrew Beynon	Aboriginal hunting right	Active	S
R. v. Wawatie Provincial Crt Criminal Division	1040-6	Mar 14/89	I. Whitehall, Q.C. D. of J. Keith Ward	Wendy Reid	Charges under Public Works Nuisances Regulations, defence based on aboriginal	Case adjourned pending release of Sparrow	M

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
			Agent		title to Parliament Hill		
Chief Wendy Grant & Musqueam Band et al v. The Queen	1040-7	June 12/87	I. Whitehall, Q.C. D. of J.	Andrew Beynon	Land claim	Active	C
Chief Kwasistala et al v. A.G. of Canada	1040-10	Dec 15/89	Mitch Taylor D. of J.	Michael Hudson Andrew Beynon	Claim to aboriginal title/ aboriginal rights	Active	M
Federation of Newfoundland Indians v. The Queen	1700-3	Jan 12/89	Dogan Akman D. of J.	Steve Aronson	Constitutional - Charter 5-15	Inactive - no defense filed as yet	S
Marcel Yahaha v. Frank Eastman & The Queen	1750-1	May 3/85	Craig Henderson D. of J.	R.G. Shaw	Breach of fiduciary obligations in lease arrangement/accounting	Inactive	S
Westland Tractor Company Ltd. v. The Queen	1750-1(1)	Apr 18/83	Vancouver	R.G. Shaw	Lease	Dormant	S
Deleary v. The Queen	1750-1(1)	Feb 23/83	Greg Kinlin D. of J.	R.G. Shaw	Surrender/land issue	Active	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
West Building Supplies Ltd. v. The Queen	1750-1(2)	Oct 3/83	H. Wruck, Q.C. D. of J.	R.G. Shaw	Rent review	Dormant/Fed. Crt. Trial Division	S
Clarkson Co. Ltd et al v. The Queen	1750-1(2)	Mar 11/84	D. Frayer D. of J.	R.G. Shaw	Payment for construction	Active	S
Henry Linklater v. The Queen	1750-1(3)	Feb 22/85	C.J. Henderson D. of J.	R.G. Shaw	Enfranchisement	Active	S
Rainbow Community Estates v. The Queen	1750-1(4)	Nov 21/86	H. Wruck, Q.C. D. of J.	R.G. Shaw	Rent review	Active	S
R.M. Derrickson v. Jack Alexander and The Queen	1750-1(5)	Jan 24/87	H. Wruck, Q.C. D. of J.	R.G. Shaw	Rent review/land issue	Active	S
Irving v. The Queen	1750-1(5)	Feb 28/85	W. Funnell D. of J.	R.G. Shaw	Reinstatement of lease	Dormant	S
Walter Monias et al	1750-1(5)	Apr 28/87	D.G. Frayer	R.G. Shaw	Construction of Cross Lake	Active	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
v. The Queen			D. of J.		School		
Midnorth Development Corporation v. The Queen	1750-1(5)	Apr 29/87	D.G. Frayer	R.G. Shaw	Construction of Cross Lake School Manitoba	Active	S
William David Walkem v. The Queen et al	1750-1wa	Apr 9/85	H. Wruck, Q.C. D. of J.	R.G. Shaw	Capacity of Indian brotherhood aboriginal rights	Dormant	S
C.N. Larson Construction v. The Queen et al	1750-2	May 2/86	John Haig, Q.C. D. of J.	R.G. Shaw	Land issue	Fed. Crt. Trial Division/Inactive	S
CN Larson Construction v. The Queen	1750-2	May 13/86	John Haig, Q.C. D. of J.	R.G. Shaw	S.58 Indian Act	Active	S
Ray Anthony Roberts et al v. The Queen	1750-3	May 5/89	John Haig, Q.C. D. of J.	Ian D. Gray	Claim for title to land	Fed. Crt. Trial Division/Active	S
R. v. Gordon Thorne et al	1750-4	May 22/86	Pat MacLean D. of J.	R.G. Shaw	Land claim	Dormant	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Herbert Gordon v. The Queen	1750-4	May 13/86	Barry Collins D. of J.	R.G. Shaw	C.P. issue	Dormant	S
Jonas Stanley Bear et al v. The Queen et al.	1750-5	Apr 30/86	Pat McLean D. of J.	R.G. Shaw	Negligence: medical care resulting in death	Inactive Federal Court	S
Jean-Gilles Josue v. The Queen	1750-6	Sept 16/86	D.G. Frayer D. of J.	R.G. Shaw	Contracts - wrongful termination of teaching contract	Inactive Federal Court	S
Six Nations of the Grand River Indians v. The Queen	1750-7	Sept 22/86	Dogan Akman D. of J.	Richard Shaw	Taxation of goods on reserve	Inactive Federal Court	S
Treaty 4 Band of Indians v. The Queen	1750-8	Aug 9/87	Dogan Akman D. of J.	Richard Shaw	Breach of fiduciary obligations - land claim	Inactive Federal Court	S
Nancy Louis v. The Queen	1750-9	Sept 11/87	Barbara Ritzen D. of J.	R.G. Shaw	Elections under Indian Act	Watching/active Federal Court	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Robin Green v. Objibway Tribe	1750-10	May 6/86	Craig Henderson D. of J.	Ian G. Gray	Aboriginal and treaty rights Cultivate wild rice	Dormant	S
Red Band of Indians v. The Queen	1750-12	Aug 6/86	N/A	R.G. Shaw	S.4(4) Crown Liability Act/ Land and water claim	Dormant/Notice of Claim only	S
Houle and Jackson et al v. The Queen	1750-13	Oct 15/87	Barbara Ritzen D. of J.	Wendy Reid	Declaration and accounting re monies paid out contrary to b.c.r.	Statement of Defence filed/Inactive	S
Longboat and Jamieson v. The Queen	1750-14	Oct 29/87	Marlene Thomas D. of J.	Ian C. MacRae	Validity of surrender	Fed. Crt. Trial Div. Active	S
Sarcee Indian Nation v. The Queen	1750-16	Nov 19/87	Dogan Akman D. of J.	R.G. Shaw	Reimbursement for excise tax S. 87 Indian Act	Inactive/Fed Crt Trial Division	S
D.Lunnen Tax Refund (Canada) Ltd v. The Queen	1750-19	Mar 13/85	Dogan Akman D. of J.	Wendy Reid	Refund of sales tax	Active	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Cooks Ferry Indian Band v. The Queen	1750-19-4	Jan 8/86	Dogan Akman D. of J.	R.G. Shaw	Federal sales tax	Dormant	S
Oliver Lakeshore Golf v. The Queen	1750-20	July 3/85	H. Wruck, Q.C. D. of J.	R.G. Shaw	Rent Review (B.C.)	Fed. Crt. Trial Division/Inactive	S
Pictou Landing Band v. The Queen	1750-27-1	May 12/86	Robert Anderson D. of J.	Richard Shaw	Environmental issues/breach of fiduciary obligations riparian rights	Active/Fed. Crt. Trial Div. negotiations	M
McIvor v. The Queen	1750-30	July/89	John Haig, Q.C. D. of J.	Ian G. Gray	Membership appeal	B.C. County Crt. Active	M
Canada Mortgage and Housing v. The Queen et al	1750-33	Nov 2/87	Paul Bétournay D. of J.	Richard Shaw	Money due from mortgage	Ont. Dist. Court	S
National Indian Brotherhood v. The Queen	1750-40	July 11/80	Michael Klein	R.G. Shaw	Relocation expenses Noel Starblanket	Dormant	S
Leo Bruno v. The	1750-42	Apr 25/78	Bruce Logan	Richard Shaw	Loss of natural gas royalties	Fed. Crt. Trial Div./	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Queen			D. of J.			Active	
Ronald Bacon v. The Queen	1750-44	Aug 21/87	Mary Humphries D. of J.	Richard Shaw	Breach of trust Agency, damages for loss of gravel	Fed. Crt. Trial Division/Active	S
A.G. of Quebec v. A.G. of Canada et al	1750-46	Feb 13/84	J.C. Ruelland D. of J.	Yves Cazalais	Quebec Wildlife Act	Dormant	S
Clarence McHugh v. The Queen	1750-47-1	Mar 18/82	Eric Bowie	R.G. Shaw	Petition of right/ Timber limit/breach of trust	Active	S
Omeasoo v. The Queen	1750-48	Apr/88	Terrence Joyce D. of J.	Ian G. Gray	Band membership	Fed. Crt. of Appeal Active	S
Roy Fox and Blood Tribe v. The Queen	1750-49	Nov 5/87	Bruce Logan D. of J.	Wendy Reid	Claim for damages; failure to provide crop insurance in agricultural permit	Discoveries completed/ litigation counsel requested further info	S
Municipalité d'Oka c. Jean Roch Simon et Sa Majesté la Reine	1750-50	May 18/87	J.-P. Rousseau D. of J.	Richard Shaw	Applicability of municipal by-laws on reserve/ constitutional issue	Active/Court of Appeal	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Shackan Indian Band v. The Queen	1750-54	July 21/86	Dogan Akman D. of J.	R.G. Shaw	6 separate actions: refund of taxes/s.87 Indian Act	Dormant	S
Coldwater Indian Band et al v. The Queen	1750-54	July 21/86	Dogan Akman D. of J.	R.G. Shaw	Six separate actions - refund of taxes on ground of S. 87 of Indian Act	Inactive Federal Court	S
Nicola Valley Indian Administration v. The Queen	1750-54	July 21/86	Dogan Akman D. of J.	R.G. Shaw	Excise Tax Act/S.87 Indian Act	Dormant	S
R.M. Szelecz et al v. The Queen	1750-56	May 20/87	Ian Donahoe D. of J.	Ian D. Gray	Damages for wrongful enfranchisement	Inactive Federal Court	S
St. Mary's Indian Band v. New Brunswick Electric Power Commission	1750-59	Jan 15/88	Michael Donovan D. of J.	Richard Shaw	3 actions: Land claim/ Trespass/breach of trust	Fed. Crt. Trial Div./ Active/negotiation	S
Littlechild & Ermineskin Indian	1750-61	Apr 15/88	John Haig, Q.C. D. of J.	Ian C. MacRae	Are oil and gas revenues capital moneys or revenue	Fed. Crt. Trial Div. Active	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Band v. McKnight					monies?		
Donald Engineering and Construction Ltd v. The Queen	1750-67	Mar 29/88	Joseph de Pencier D. of J.	R.G. Shaw	Negligence/fraudulent surrender/damages	Inactive Federal Court	S
Clayton Abbotossaway et al v. The Queen	1750-68	Apr 22/85	Charlotte Bell D. of J.	Richard Shaw	Land claim, 1924 lands agreement, 1915 Order in Council	Fed. Crt. Trial Div./ Inactive v. Ontario/ Active, Ont. Sup. Crt. Trial Division	S
Glen Williams et al v. The Queen	1750-69	Apr 4/86	J.R. Pollard Agent	Richard Shaw	Title to land	B.C. Sup. Crt. Trial Division	S
Musqueam Band Claim Lease to Shaughnessy Golf and Country Club	1750-70	Jan 21/88	Mitchell Taylor D. of J.	Richard Shaw	Breach of fiduciary duty/ S. 35 Indian Act	Fed. Crt. Trial Div./ Active	S
Twinn v. The Queen	1750-73	Jan/86	Dogan Akman D. of J.	Ian G. Gray	Band membership	Fed. Crt of Appeal Active	M

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Joyce Charleyboy et al v. The Queen	1750-77	Dec 12/84	H. Wruck, Q.C. D. of J.	R.G. Shaw	Damages for seizure of cattle and their return	Inactive Federal Court	S
Canada Granite Ltd v. The Queen	1750-78	Oct 7/87	Bob Anderson D. of J.	Richard Shaw	Damages and contracts	Inactive Federal Court	S
Kenneth Courchene v. The Queen	1750-79	Mar 30/87	D.G. Frayer D. of J.	Ian G. Gray	Damages in alleged breach of contract	Active Federal Court	S
Furge Kakeway et al v. The Queen	1750-81	Aug/85	Charlotte Bell D. of J.	Richard Shaw Philip Gibson	Land claim	Appeal/inactive Federal Court	S
Edward William Reynolds v. The Queen	1750-84	Mar 9/88	John Edmond D. of J.	Richard Shaw	Damages for breach of lease/ counter claim for rent	Active/Fed. Crt. Trial Division	M
Donald Alexander Leighton v. The Queen	1750-86	Nov 12/87	Paul Partridge D. of J.	Richard Shaw	Rent review	Fed. Crt. of Appeal/ Possibility of discontinuance	M
Andrea June Cornelius et al v. The Queen	1750-87	Oct 19/88	Brian McCall Agent	Ian C. MacRae	Personal injury; occupiers liability	Settled/have not yet received order but gave instructions to settle	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Johnny Alashua et al v. Northern Quebec Inuit and The Queen et al as third party	1750-88	May 9/88	J.M. Aubry, Q.C. D. of J.	R.G. Shaw	Aboriginal and Treaty rights	Active Federal Court	S
Six Nations v. Canadian Gypsum	1750-92	Aug 23/88	Marlene Thomas D. of J.	Richard Shaw	Action in damages	Active	M
Wilson v. The Queen	1750-93	June/88	Mitch Taylor D. of J.	Ian G. Gray	Allotment of possession of reserve land	Fed. Cr. Trial Div. Active	S
Hooker v. The Queen et al	1750-94	July 28/88	Donna Lee Kydd Agent	Richard Shaw	Action in contracts	Active Federal Court	S
Northland Bank v. Emil Korchinsky et al	1750-95	Sept 21/87	C.J. Henderson D. of J.	Richard Shaw	Action with contracts	Active Federal Court	S
Montana Band et al v. The Queen	1750-96	Mar 18/87	Duff Friesen D. of J.	Steve Aronson	Constitutional/Int'l/Breach of fiduciary obligation	Motion to dismiss action S heard Oct 10/89/awaiting decision	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
High Logging and Export Co. v. A.T.G. of Canada	1750-98	May 9/88	John Edmond D. of J.	Richard Shaw	Damages for illegal tenders	Active/Fed. Crt. Trial Division	S
Hal-Pac v. The Queen	1750-99	Apr/87	Terrence Joyce D. of J.	Ian G. Gray	Compensation for loss of treaty land for hunting	Fed. Crt. Trial Div. Inactive pending specific claim	S
Dianna Lee Denny v. The Crown	1750-100	July 21/88	Martin C. Ward D. of J.	Richard Shaw	Breach of contract	Active/Fed. Crt. Trial Division	S
Six Nations Traditional Hereditary Chiefs & Stanley Cree v. Frank Vieni et al	1750-101	July 8/88	Claude Joyal Agent	Richard Shaw	Custom election issues	Active/Fed. Crt. Trial Division	S
Clifford Big Plume et al v. The Queen et al	1750-102	May 26/89	Dogan Akman D. of J.	Ian C. MacRae	Validity of a surrender	Fed. Crt. Trial Div. Active	S
Wedmindji Claim	1750-103	Aug 11/88	R. Leblanc	Richard Shaw	Environmental dispute	Negotiation toward	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
regarding diesel fuel contamination			D. of J.			settlement/Statement of claim not filed	
Stoney Band v. The Queen	1750-104	Aug/88	Ingrid Hutton D. of J.	Ian G. Gray	Surrender of land	Fed. Crt. Trial Div. Inactive pending specific claim	S
Chief Ed Burnstick et al v. The Queen	1750-105	Sept 9/83	Terrence Joyce D. of J.	R.G. Shaw	S.81, S.82(2) Indian Act/ By-laws policy	Inactive	S
Chief Ed Burnstick et al v. The Queen	1750-106	May 31/84	Terrence Joyce D. of J.	R.G. Shaw	S.81, S.82 Indian Act Membership by-laws	Inactive	S
Ward v. The Queen	1750-108	Aug 23/89	Barbara Ritzen D. of J.	Ian D. Gray	Per capita distribution	Adjourned till fall 90	S
Katzie Indian Band v. The Queen	1750-112	Sept 24/88	Mitchell Taylor D. of J.	Richard Shaw	Breach of fiduciary obligations/leases	Fed. Crt. Trial Division	S
Marie Jeanne Raphaël & Louise Courtois	1750-113	Dec 15/88	Benoit Pelletier D. of J.	Richard Shaw	Chartre des droits	Tribunal des droits de la personne/Active	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Mary Ann Marshall v. The Queen	1750-114	Nov 25/88	Martin C. Ward D. of J.	Richard Shaw	Action for wrongful dismissal	Fed. Crt. Trial Div./ Active	S
Susan Jane Stevens v. The Queen	1750-115	Nov 25/88	Martin C. Ward D. of J.	Richard Shaw	Action for wrongful dismissal	Fed. Crt. Trial Div./ Active	S
Kaska Dena Council v. The Queen	1750-116	Dec 19/86	Bruce Russell D. of J.	Steve Aronson	Aboriginal Rights - Claims boundary - Yukon/B.C.	Inactive/Fed. Crt. Trial Division	M
Healy v. The Queen	1750-117	Nov 7/88	Bruce Logan D. of J.	Wendy Reid	Claim for damages; failure to demand rent and provide for insurance in agricultural permit	Statement of Defence filed	S
Patrick Madahbee v. The Queen	1750-119	Nov 10/88	Charlotte Bell D. of J.	Richard Shaw	Land issue - Breach of fiduciary obligation	Fed. Crt. Trial Division/Active	M
Harold & Fred Clement v. The Queen	1750-120	Nov 29/88	Barbara Shield D. of J.	Richard Shaw	Crown Liability Act/ Specific Performance/lease	Fed. Crt. Trial Div./ Inactive	S
Rogers v. The Queen	1750-125	1982	Brian Evernden D. of J.	Ian G. Gray	Surrender of land	Fed. Crt. Trial Div.	C

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Devil's Gap Cottages v. The Queen	1750-126	Dec 14/88	Craig Henderson D. of J.	Ian G. Gray	Lease rentals	Fed. Crt. Trial Div. Active	M
Terrence Wayne Nelson Aleck v. The Queen	1750-129	Dec 30/88	H. Wruck, Q.C. D. of J.	Richard Shaw	Negligence in hiring employees/supervising/ claim for damages for sexual abuse	Active/Fed. Crt. Trial Division	M
Sterrit v. The Queen	1750-130	Dec/87	John Haig, Q.C. D. of J.	Ian G. Gray	Surrender of land	Fed. Crt. of Appeal Inactive	M
Roote et al and Jones et al v. The Queen	1750-132	Jan 9/89	Debra McAllister Charlotte Bell D. of J.	Ian C. MacRae	Accounting for trust funds; title to roads	Statement of defence Discovery has not been held yet	M
Roote et al and Jones et al v. The Queen	1750-133	Jan 9/89	Debra McAllister Charlotte Bell D. of J.	Ian C. MacRae	Surrender; fiduciary obligation	Statement of defence filed/Discovery has not been held yet	M
Mustus and Alexis Indian Band v. The Queen	1750-139	Jan 27/89	Kirk Lambrecht D. of J.	Wendy Reid	Ownership of minerals; trans- fer of road allowance to Province; breach of fiduciary	Negotiations for settlement underway	C

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
					or statutory duty		
A.G. of Canada v. J. Martin Timber Ltd.	1750-140	Feb 15/89	Mitchell Taylor D. of J.	R.G. Shaw	Damages arising from timber agreement/S.57 Indian Act	Active	S
Chief Joe Mathias et al v. The Queen (Bouillon Claim)	1750-141	Sept/89	Karl Burdak D. of J.	Richard Shaw	Land claim/surrender/ Limitations	Active/Fed. Crt. Trial Division	M
Violet Stump v. The Queen	1750-142	Feb 13/89	Alan Louie D. of J.	Richard Shaw	Land claim	Active/Fed. Crt. Trial Division	S
The Queen v. Westar Timber	1750-143	1985	J.R. Pollard Agent	Michael Hudson Andrew Beynon	Action for rent arrears Timber leases	Active	S
Dene Tha v. The Queen	1750-144	June 16/81	I. Whitehall, Q.C. D. of J.	Richard Shaw	Breach of trust/equitable trust	Active/Fed. Crt. Trial Division	M
Dene Tha' Band et al v. The Queen	1750-144	July 29/82	I. Whitehall, Q.C. D. of J.	Richard Shaw	Claim for underfunding	Active/Fed. Crt. Trial Division	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
FSIN v. The Queen	1750-147	Apr 6/89	D. Friesen D. of J.	Andrew Beynon	Outstanding PLE	Active	M
Dennis Stokes et al v. The Queen	1750-149	Mar 30/89	John Leslie D. of J.	Ian D. Gray	Rent review	Fed. Ct. Trial Division/Active	S
Deborah Moses Brown v. Minister of Health and Welfare	1750-150	Apr 12/89	Susan VanDerHout D. of J.	Richard Shaw	Contributions to Pension Plan by Indians - S. 7, S. 15 Charter of Rights	Appeal to Canada Pension Plan Active	S
Sappier v. The Queen	1750-151	Feb 20/89	M. Donovan D. of J.	Andrew Beynon	Border crossing	Active	M
Jim Shot Both Sides v. The Queen	1750-152	Jan 10/80	J. De Pencier D. of J.	Andrew Beynon	Outstanding TLE	Active	S
Procureur Général du Canada c. Bande de la Rivière Désert	1750-153	Apr 17/89	J.M. Aubry, Q.C. D. of J.	R.G. Shaw	Revendications territoriales	Active	S
Matthew Coon Come	1750-157	May 10/89	J. M. Aubry, Q.C.	Richard Shaw	Environmental/Treaty	Active/Fed. Ct.	C

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
et al v. The Queen			D. of J.		aboriginal rights/land claim/damages	Trial Division	
Nick Poznikoff v. The Queen	1750-159	Sept 16/88	Mitchell Taylor D. of J.	Richard Shaw	Rent review	Active/Fed. Crt. Trial Division	S
Gaston Cadrin v. Conseil de la Nation Huronne Wendat	1750-162	Jan 20/89	Richard Moreau D. of J.	Richard Shaw	Watching litigation, re deponent	Cour Supérieure du Québec	S
Chief Roy Little et al v. The Queen	1750-166	Apr 21/86	Terrence Joyce D. of J.	R.G. Shaw	Election appeal/breach of trust	Active/Fed. Crt.	S
Tony Tebbutt v. The Queen	1750-168	May 3/89	Marlene Thomas D. of J.	Richard Shaw	Land issue - loss of leasehold interest	Active/Ont. Sup. Crt. Trial Division	S
Fort Nelson Band v. Canada & B.C.	1750-169	No statement of claim filed	N/A	Ian C. MacRae	Mineral royalties	No action started yet	S
Chief Melvin Potts and Montana Band v. The Queen	1750-170	Feb 17/87	Stan Benda D. of J.	Steve Aronson	Land issue/surrender/ breach of fiduciary obligations	Active	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Cadieux Wholesale et al v. The Queen	1750-171	June 12/89	John Edmond D. of J.	Andrew Beynon	Taxation	Active	S
Reid et al v. The Queen et al	1750-172	June 19/89	John Haig, Q.C. D. of J.	Andrew Beynon	Aboriginal right to fish	Active	C
Attorney General of Canada v. C.P. Ltd. and Molsons	1750-173	June 29/89	Karl Burdak D. of J.	Richard Shaw	Land issue	Active B.C.S.C.	C
Robert Rock et al v. Wallace Canapé et al	1750-174	Sept 21/88	Richard Morreau D. of J.	R.G. Shaw	Land issue S. 417 Quebec Civil code	Cour Supérieure du Québec	S
Shady Beach v. The Queen	1750-176	Sept 26/88	J.R. Haig, Q.C. D. of J.	Ian D. Gray	Lease	Statement of claim filed	S
Fox Lake Band et al v. The Crown	1750-177	Mar 28/88	Harry Gliner D. of J.	Richard Shaw	Breach of contract (Construction)	Active/Fed. Cr. Trial Division	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Jack Sebastien et al & Hagwilget Band v. The Queen	1750-178	June 9/89	John Haig, Q.C. D. of J.	Richard Shaw	Treaty rights/education/ Breach of fiduciary obligations	Active/Fed. Cr. Trial Division	S
Mohawks of Kahnawake v. St. Lawrence Seaway Authority	1750-179	June/89	J.M. Aubry, Q.C. D. of J.	Andrew Beynon	Claim for funding	Active	M
Sunday Mitchell St. Lawrence Seaway Authority	1750-181	1976	John Edmond D. of J.	Richard Shaw	Land claim/damages	Active/Fed. Cr. Trial Division	M
Apsassin v. The Queen	1750-182	1978	Mitch Taylor D. of J.	Ian G. Gray	Surrender and sale of minerals	Fed. Cr. of Appeal	M
Lessard v. The Queen	1750-183	July/89	John Haig, Q.C. D. of J.	Ian G. Gray	Negligence	Fed. Cr. Trial Div. Inactive pending related action in B.C. Sup. Cr.	S
A.G. of Canada v. Gerald & Faddegon	1750-184	Litigation pending	Mr. Pollard Agent	Ian D. Gray	Recovery of rental arrears	Active/Statement of claim being drafted	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Spain v. The Queen	1750-185	Nov 19/85	J.R. Haig, Q.C. D. of J.	Ian D. Gray	Lease	Statement of claim filed	S
Bunnie v. The Queen	1750-186	July/89	Pat MacLean D. of J.	Ian G. Gray	Surrender of land	Fed. Crt. Trial Div. Inactive pending specific claim	S
A.G. of Canada v. Canadian Pacific Ltd.	1750-187	July 11/89	John Haig, Q.C. D. of J.	R.G. Shaw	Damages/S.367 Railway Act Negligence	Dormant	S
Johnson et al v. The Queen	1750-188	Oct 21/86	J.R. Pollard Agent	Ian D. Gray	Surrender	Discovery	S
The Queen v. Mitchell	1750-189	Oct/89 Prosecution	Dogan Akman D. of J.	Andrew Beynon	Border crossing	Active	S
Chief Victor Buffalo & Samson Band v. The Queen	1750-190	Sept/89	Duff Friesen, Q.C. D. of J.	Richard Shaw	S. 64 Indian Act/damages for mismanagement of Indian moneys	Active/Fed. Crt. Trial Division	C
Daniel Picard v. Conseil de Nation	1750-191	June 16/89	J.M. Aubry, Q.C. D. of J.	Richard Shaw	Action directe en nullité	Cour Supérieure du Québec/Active	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Huron Wendat et al							
Dineen Construction Ltd. v. The Queen	1750-192	May 2/89	Charlotte Bell D. of J.	Richard Shaw	Damages for breach of contract (school construction)	Active/Fed. Crt. Trial Division	S
Buchanan et al v. The Queen	1750-193	Sept 8/89	John Townsend Agent	Ian G. Gray	Bill C-31 Claim for settlement	N.B. Crt of Q.B. Division/Active	S
Jourdain et al v. The Queen	1750-194	Sept/89	Dogan Akman D. of J.	Ian G. Gray	Status of reserve land	Fed. Crt. Trial Div. Inactive pending specific claim	S
Bearspaw Band v. The Queen and Transalta Utilities Corp	1750-195	Dec 1/88	Terrence Joyce D. of J.	Wendy Reid	Claim for \$351 million re transfer of reserve land to Transalta	Action to be stayed as similar action previously commenced by the band	S
Arrow Lake Indians	1750-196	Sept 25/89		Andrew Beynon	Injunction	Active	S
Oneidas Band v. The Queen	1750-197	Aug 26/85	Dogan Akman D. of J.	R.G. Shaw	S. 87 Indian Act return of sales tax monies	Fed. Crt. Trial Division/Inactive	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Goodzeck Construction v. The Queen et al	1750-197	Dec 13/82	Pat Hodgkinson D. of J.	Ian G. Gray	Breach of contract	Active/Fed. Crt. Trial Division	S
Wilson v. The Queen	1750-197	Sept/89	Dogan Akman D. of J.	Ian G. Gray	Status of reserve land	Fed. Crt. Trial Div. Inactive pending specific claim	S
Comegan v. The Queen	1750-198	Sept/89	Dogan Akman D. of J.	Ian G. Gray	Status of reserve land	Fed. Crt. Trial Div. Inactive pending specific claim	S
Green v. The Queen	1750-199	Sept/89	Dogan Akman D. of J.	Ian G. Gray	Treaty 3 minerals	Fed. Crt. Trial Div. Inactive pending specific claim	S
Sinclair v. The Queen	1750-200	Sept/89	Dogan Akman D. of J.	Ian G. Gray	Status of reserve land	Fed. Crt. Trial Div. Inactive pending specific claim	S
Daniel Miskokomon & Walpole Island Band v. Minister of Environment	1750-201	Sept 29/89	Dogan Akman D. of J.	Richard Shaw	Environmental issues (dredging)	Active/Fed. Crt. Trial Div. (support role to D.T.)	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Joyce Wilma Beattie v. The Queen	1750-202	Oct 11/89	George Carruthers D. of J.	Steve Aronson	Treaty #11 - right to education	Statement of defense in	M
Deer v. The Queen	1750-203	Oct/89	J.M. Aubry, Q.C. D. of J.	Ian G. Gray	Residency on reserve	Fed. Crt. Trial Div. Active	M
Kaushik v. The Queen	1750-204	Sept 23/89	Pat MacLean D. of J.	Ian D. Gray	Wrongful dismissal	Statement of claim filed negotiations called	M
The Queen v. Delormier	1750-205	Oct/89	Dogan Akman D. of J.	Andrew Beynon	Border crossing	Active	S
The Queen v. McBride	1750-207	Oct 23/89 Prosecution	John Edmond D. of J.	Andrew Beynon	Border crossing	Active	S
Roberts v. The Queen	1750-209	Oct 25/89	John Haig, Q.C. D. of J.	Andrew Beynon	Fishing aboriginal rights	Active	M
Chief Bernard Ominayak et al v. Hon. Bill McKnight et al	1750-210	Mar 10/88	I. Whitehall, Q.C. D. of J.	R.G. Shaw	Environmental/Aboriginal rights	Active	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Ominayak et al v. McKnight et al	1750-210	Mar 10/88	I. Whitehall, Q.C. D. of J.	R.G. Shaw	Environmental issue Daishowa Mill	Fed. Crt. Trial Division/Inactive	S
Ontario Hydro v. The Queen	1750-211	Sept/88	Charlotte Bell D. of J.	Ian G. Gray	Lease rental	Fed. Crt. Trial Div. Inactive pending action in Ont. Sup. Crt.	S
Andrew v. The Queen	1750-212	Nov/89	Dogan Akman Meg Kinnear D. of J.	Ian G. Gray	Aboriginal rights	Fed. Crt. Trial Div. Active	C
Metropolitan Stores of Canada v. The Queen	1750-214	Oct 25/89 (Fed.Crt) Oct 23/89 (Man.Crt)	Barbara Shields D. of J.	Wendy Reid	Claim on sub-lease for monies paid to heat premises	Statement of Defence filed Dec 14/89/bringing motion to statement of claim Crt. of Queen's Bench	M
Otineka Development Corp Ltd. v. The Queen	1750-214	Jan 5/90	B. Shields D. of J.	Wendy Reid	Breach of fiduciary duty /preparation of sub-lease	Fed. Crt. Trial Division/Active	M
Sandy Bay v. The Queen	1750-216	Nov 3/89	C.J. Henderson D. of J.	Ian D. Gray	Treaty rights Fiduciary obligation	Fed. Crt. Trial Division/Active	M

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
The Crown v. Percy & Carol Barnaby	1750-220	June 27/89	Bruce Russell D. of J.	Richard Shaw	Action for moneys received as loans	District Court of Ontario/Active	S
Wesley Crowe v. The Queen	1750-221	Jan 26/89	Terrence Joyce D. of J.	Michael Hudson Ian D. Gray	Granting temporary absences from federal prison/S.15 Charter	Active	S
Roy Michano et al v. The Queen	1750-222	Apr 21/84	Dogan Akman D. of J.	R.G. Shaw	Land issue/surrender title to land	Active	S
Walkus v. The Queen	1750-224	Nov/89	Paul Partridge D. of J.	Ian G. Gray	Native fishing licence	Fed. Crt. Trial Div. Active	S
Stoney Indian Band v. Transalta Utilities et al	1750-227	Apr 29/85	I. Hutton D. of J.	R.G. Shaw	Land issue/surrender/ expropriation/compensation	Dormant	S
Kelly et al v. Michael et al	1750-229	Nov 28/89	Chris Parke D. of J.	Ian D. Gray	Damages for fatal injury occupier liability	Active	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Thomas Peetwaway et al v. The Queen	1750-233	Pending	N/A	R.G. Shaw	Damages for flooding	Inactive/Specific Claim filed Feb/86	S
Sidney Gamble & Lena Manon v. The Queen	1750-234	Jan 18/88	Ingrid Hutton D. of J.	R.G. Shaw	Treaty rights/S.87 Indian Act	Active/Fed. Crt. Trial Div./Demand for particulars served	S
Peter Henry Chum et al v. The Queen	1760-4	Jan 26/88	Bruce Russell D. of J.	Wendy Reid	Occupier's liability/ motorcycle accident on reserve	Inactive/possibility of action being discontinued	S
Guy Allan Laviolette v. The Queen	1760-7	June 27/85	G.O. Eggertson D. of J.	Richard Shaw	Occupiers liability/	Active/Fed. Crt. Trial Division	S
Morrisseau v. The Queen	1760-11	Apr 25/85	Dogan Akman D. of J.	Richard Shaw	2 actions: land claims/ aboriginal rights	Active/Fed. Crt. Trial Division	M
Comegan v. DIAND	1760-12	Jan 16/89	John Edmond D. of J.	Wendy Reid	Motor vehicle accident claim as against Minister as administrator of estate	Ont. Sup. Crt./action to be dropped as against Crown	S
Garnet Boyer et al	1845-2	Apr 26/84	Brian Evernden	R.G. Shaw	Land issue/surrender for	Active	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
v. The Queen			D. of J.		lease		
Michael Joe v. Marilyn John & The Queen (intervenor)	1845-25	May/89	John Edmond D. of J.	Richard Shaw	Band elections, validity	Active/Fed. Cr. Trial Division	M
Ronald Janvier v. The Queen	1845-29	Aug 24/87	Ingrid Hutton D. of J.	Richard Shaw	Extinguishment of Treaty and aboriginal rights	Active/Fed. Cr. Trial Division	M
The Queen v. Louis Charlie & Anderson Jack	1845-49	Dec. 22/83	R.N. Long	R.G. Shaw	Treaty rights/hunting	Dormant	S
The Queen v. Floyd Clause	2050-7	June 22/89	Federal prosecution	Richard Shaw	Infraction under Waste Disposal Regulations	Criminal Division Ont. Prov. Cr.	S
Chief Howard Wale A.G. of B.C. v. A.G. of Canada	2200-3	Nov/85	Karl Burdak D. of J.	R.G. Shaw	Ss.81 & 82 Indian Act Fishing by-law	Active/B.C. Supreme Court	S
Attorney General of B.C. v. Wale et al	2200-3	1987	Karl Burdak D. of J.	Ian G. Gray	S. 35 Constitution Act Land claim by province	Inactive S.C.B.C.	M

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Delgam Uukw et al v. The Queen	2200-5	Oct 23/84 amended Aug 19/86	M. Koenigsberg Agent I. Whitehall D. of J.	Andrew Beynon	Claim of unextinguished aboriginal title to approximately 22,000 square miles of land in B.C./claim that aboriginal title encompasses jurisdiction to govern the lands	Active/Supreme Court of B.C./ trial expected to complete in May/90	M
Saamichton Marina Ltd. v. Louis Claxton et al	2200-8	Nov/85	H. Wruck, Q.C. D. of J.	Ian G. Gray Andrew Beynon	Treaty rights	B.C.S.C./appeal inactive	S
David Paul et al v. The Queen et al	2200-16	May 25/89	John Haig, Q.C. D. of J.	Michael Hudson Andrew Beynon	Aboriginal rights Treaty rights	Active/Fed Court Trial Division	M
R. v. Machatis	2200-18	Oct 14/88	Dogan Akman D. of J.	Michael Hudson Andrew Beynon	Constitutional Act/S.35(1) Fishing rights	Active	M
R. v. Stephen Russell Thomas	2200-22	Feb/89 Prosecution	B. Purdy, Q.C. D. of J.	Steve Aronson	Reserve boundary for shore alteration	B.C. Provincial Court	S
The Queen v. Denny Paul and Sillyboy	2200-23	Prosecution	J. Bissell Michael Paré D. of J.	Michael Hudson Ian D. Gray	Aboriginal rights to fish	Active N.S.C.A.	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
The Queen v. Nikal	2200-24	May/89 Prosecution	B. Purdy Agent	Andrew Beynon	Fishing by-law	Active	M
The Queen v. Archie	2200-27	May 17/89	Jim Wallace D. of J.	Wendy Reid	Fishing prosecution	Appeal to be heard Feb 26/89	S
Ronald Edward Sparrow v. The Queen	2200-31	Mar 20/85	Braidwood Dorsey Agent	Michael Hudson Andrew Beynon	Aboriginal right/ constitutional Act	Active/Supreme Court of Canada	M
Pasco v. The Queen	2200-32	May/85	Dogan Akman I. Whitehall, Q.C. D. of J.	Andrew Beynon	Trespass	Active	C
The Queen v. Sampson & Elliot (Tsartlip Band)	2200-36	Nov/89 Prosecution	J. Wallace Agent	Andrew Beynon	Fisheries prosecution	Active	M
Klug v. The Queen	2300-3	Feb 18/88	Barbara Shields D. of J.	Richard Shaw	2 actions: contracts/ Bankruptcy Act	Active/Fed. Crt. Trial Division	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Chief Enoch Bird et al v. Canadian Transport Com	2500-7	Apr 4/86	Terrence Joyce D. of J.	R.G. Shaw	S. 133 Railway Act watching file	Dormant	S
The Queen v. Arcand	2500-9	Mar/88	Kirk Lambrecht D. of J.	Andrew Beynon	Migratory Birds Convention Act	Active	M
The Queen v. Henry Flett	2500-13			Ian G. Gray	Applicability of Migratory Birds Convention Act to Treaty #5/S.35 Constitution Act, 1982/aboriginal rights	Active	M
Lou Rocher v. The Queen	2500-27	May 12/83	I. Hutton D. of J.	R.G. Shaw	Inuit hunting and fishing rights	Dormant	S
Roy Whitney & Sarcee Band v. The Queen	2505-33	Jan 25/89	Ian Donahoe D. of J.	Ian C. MacRae	S.83 Indian Act/ Ministerial discretion	Fed. Court/Statement of Claim struck Sept 26/89	S
Estate of John Charlie	2515-9	Nov 29/84	Normand Lemyre	R.G. Shaw	Descent of property	Dormant	S
Georgina Doreen Sands v. DIAND & Attorney General of Canada	2515-30	July 24/85	Gregory Kinlin D. of J. Alan Whitely	Wendy Reid	Appeal from decision of Minister re distribution	Negotiating for settlement	M

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
(Fed.Crt.of Appeal)			Agent				
Sampson v. Seymour	2515-40	Oct 1/85	Mitch Taylor D. of J.	Andrew Beynon	Estate litigation	Active	M
Grand Chief Norton et al v. The Queen	2520-2	June 30/88	J. M. Aubry, Q.C. D. of J.	Richard Shaw	Aboriginal rights over /breach of fiduciary duty /Breach of constitution responsibility	Inactive/Fed. Crt. Trial Division	M
W.C. Thomas et al v. The Queen	2520-3	Sept 2/88	Barbara Shields D. of J.	R.G. Shaw	Wrongful dismissal	Dormant	S
W.C. Thomas & Pequis Band v. The Queen	2520-3	Sept 7/88	Barbara Shields D. of J.	Richard Shaw	Damages for wrongful dismissal	Active/Fed. Crt. Trial Division	S
Richard Brousseau- Kaube v. The Queen	2525-4	Sept 2/87	René Leblanc	R.G. Shaw	Band elections	Dormant	S
Everette Bear et al v. The Queen	2525-10	Feb 4/88	Pat MacLean D. of J.	R.G. Shaw	Election appeal S.79(b) Indian Act	Active	M

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
John Badger v. The Queen	2525-13	Nov 3/86	L.P. MacLean, Q.C. D. of J.	Richard Shaw	Custom election/S.74 Indian Act	Active/Fed. Cr. Trial Division	S
Jane Doe v. The Queen	2535-2	Nov 9/89	Barbara Shields D. of J.	Richard Shaw	Breach of Trust/negligence /damages	Fed. Cr. Trial Div./Active/negotiating settlement	M
Wesley v. The Queen	2545-6	Mar 17/88	Barbara Ritzen D. of J.	Ian D. Gray	Indian Monies	Discoveries Mid Jan 90	M
Louise Valerie Hearl et al v. The Queen et al	2545-7	Sept 21/87	Alan Louie D. of J.	Ian G. Gray	Indian moneys	Active	M
Minde et al v. Omeasoo	2545-13	Nov 24/88	Bruce Logan D. of J.	Wendy Reid	Claim against private party for damages; personal injury receivership of trust monies	Inactive	S
Louise Martel et al v. The Queen et al	2545-16	Nov 30/88	Terrence Joyce D. of J.	Ian G. Gray	Indian moneys per capita distribution/Ss.69,11(1) (c) Indian Act	Active	M

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Miawpukek Band v. Registrar of DIAND	2560-10	Nov 12/87	Dogan Akman D. of J.	Ian G. Gray	Aboriginal rights to determine band membership election appeal	Active/Sup. Crt of Newfoundland	M
Allan Johnson v. The Queen	2560-15	Feb 15/82	David Sgayias D. of J.	R.G. Shaw	S.109(1) Indian Act/ membership	Dormant	S
Curtis Daniel George	2560-21	June 30/83	Alan Louie D. of J.	R.G. Shaw	Adoption of indian by another band	Active	S
Morris Clillie v. The Queen	2565-6	Dec/88	Lorraine Minish-Cooper	Ian G. Gray	Administration of property of mental incompetent	N.W.T. Sup. Crt. Active	M
Yellowbird	2565-11	Nov 24/89	Barbara Ritzen D. of J.	Ian D. Gray	Mentally incompetent	Application to be heard in Jan 90	S
Golden Acres Ltd. v. The Queen	2605-2(2)	Oct 28/83	Paul Partridge D. of J.	Richard Shaw	Breach of contract/ cancellation of lease	Protective Notice of Appeal filed to Fed. Crt. Trial Division	S
Rivermount Construction Ltd. v.	2605-18(4)	1982	Gaspard Côté, Q.C. D. of J.	Richard Shaw	3 related actions: breach of contracts, land use	Active/Fed. Crt.	M

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
The Queen et al							
Skerrynore Ratepayers Asso. et al v. Shawanaga Indian Band	2605-20	May 21/81	N/A	R.G. Shaw	Watching file re status of roads on Indian reserve	Sup. Crt. of Ontario/ Active	S
Chief Chrishuk et al v. The Queen	2605-21	Apr 1/82	John Haig, Q.C. D. of J.	R.G. Shaw	Breach of trust in agreeing to lease arrangement	Fed. Crt. Trial Division/Active	S
The Queen v. Wasausink Lands Inc.	2605-28	Pending	Greg Kinlin D. of J.	Ian D. Gray	Action for rent arrears	Active/Statement of claim not issued	S
St. Regis Band v. Reynolds Metal et al	2605-58	Feb 6/80	Kenneth Guido Agent	R.G. Shaw	Claim for fluoride/damages environment legal test/ compensation (see 1750-104 1750-195)	Dormant/U.S. District Court	S
Montagnais of Pointe Bleue v. Guy Connelly et al	2605-60	Jan 18/88	J.M. Aubry, Q.C. D. of J.	Yves Cazalais	Action for non payment of rent	Active	S
Peter Yellowhorn v.	2605-69	June 19/88	Brian Saunders	Richard Shaw	Environmental concerns/	Appeal to be heard	M

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
The Queen (Oldman River)			D. of J.		Earp guidelines order (DOE has lead)	Jan 23/89 Fed. Ct. of Appeal	
John Knockwood v. The Queen	2605-70	Nov 25/88	Michael Donovan D. of J.	Richard Shaw	Land claim/breach of fiduciary obligation	Active/Fed. Ct. Trial Division	S
The Queen v. Kiewbauch Holdings	2605-75	June 8/83	Paul Partridge D. of J.	R.G. Shaw	Damages for trespass S.31 Indian Act	Active	S
Saddle Lake Band v. The Queen	2605-78	June 21/88	Mark Kindrachuk D. of J.	Wendy Reid	Claim that surrender of land for sale null and void	Inactive/plaintiffs have not provide list of documents	S
Jerome Morin et al v. The Queen	2605-79	Dec 5/84	Terrence Joyce D. of J.	R. G. Shaw	S.48 Indian Act Land transfer	Dormant	S
Eagle Lake v. The Queen	2605-121	Oct/82	Don Rennie D. of J.	Ian G. Gray	Headlands as reserve lands	Fed. Ct. Trial Div. and Ont. Sup. Ct.	M
Park Mobile Home Sales Ltd. v. The Queen	2605-158	Oct 28/83	Paul Partridge D. of J.	R.G. Shaw	S.34 Indian Act Land issue	Dormant	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Bouctouche v. The Queen	2615-21	July 13/87	Robert Anderson D. of J.	Richard Shaw	Treaty rights/surrenders/ land claims/squatter rights	Active/Fed. Crt. Trial Div./Negotiations towards settlement	C
Houle and Bull v. The Queen	2835-6	Apr 28/86	Terrence Joyce D. of J. Don McLeod Agent	Wendy Reid	Gas royalty payments; breach of fiduciary duty	Examination for discovery next step; plaintiff not not proceeding expeditiously	S
Mathias v. The Queen	3200-4	June 30/77	Karl Burdak D. of J.	Richard Shaw	Land claim/breach of obligations	Active/Fed. Crt. Trial Division	C
Pennyfarthing Development v. The Queen	3200-4-2	Nov/89	Karl Burdak D. of J.	Richard Shaw	Damages for negligent representation	Active/Fed. Crt. Trial Division	M
The Queen v. C.P. and Molson	3200-4-2	June/89	Karl Burdak D. of J.	Richard Shaw	Land claim/return of former former reserve land expropriated for railway purposes	Active/Fed. Crt. Trial Division	C
Kenneth Command	3300-2	Apr 13/87	Charlotte Bell	R.G. Shaw	Land claim/specific claim	Active/Fed.Crt.	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
v. The Queen			D. of J.			Trial Division	
Angeline Shawkence v. The Queen	3300-4	Feb 9/83	Charlotte Bell D. of J.	Richard Shaw	Severability of band interest/ land claim/effect of expropriation	Active/Fed. Crt. Trial Division	M
Alfred Snake & Ben Weenie et al v. The Queen	3300-8	Mar 15/85	Dogan Akman D. of J.	R.G. Shaw	Specific claim/land claim	Dormant/Fed. Crt. Trial Division	S
Sacobie et al v. Oromocto Indian Band and A.G. of Canada	3300-17-3	Aug 31/84	Robert Hynes D. of J.	Richard Shaw	Several interdated actions: disposition of settlement monies	Judgment rendered/find documents being excluded	S
Blackfoot Cattle Claim Youngman et al v. The Queen	3300-39	May 20/87	Ian Donahoe D. of J.	Richard Shaw	Claim arising from land surrender and minerals surrender	Fed. Crt. Trial Division	M
Leo Youngman et al v. The Queen	3300-39		Ian Donahoe D. of J.	Bruce Bergen R.G. Shaw	Specific claims/mineral rights/surrender	Inactive/action suspended/specific claims process	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
Chief Gary Moreau et al v. The Queen	3300-48	Feb 29/88	Charlie Benzall	R.G. Shaw	Land claims specific claim T-367-88	Inactive	S
Cardinal et al v. The Queen	3300-87	Feb 2/78	I. Whitehall, Q.C. D. of J.	Donna McGillis R.G. Shaw	Breach of fiduciary duty/ surrender did not comply with the Indian Act	Active/possibility of settlement	M
Noël Courteoreille v. The Queen	3325-36	Dec 18/87	Bruce Logan D. of J.	R.G. Shaw	Treaty land entitlement	Active	S
James Courteoreille v. The Queen	3325-36	Dec 18/87	Bruce Logan D. of J.	R.G. Shaw	Treaty land entitlement	Active	S
Billy Courteoreille v. The Queen	3325-36	Dec 18/87	Bruce Logan D. of J.	R.G. Shaw	Treaty land entitlement	Active	S
Venne v. The Queen	7300-10	Oct 8/88	Bruce Russell D. of J.	Andrew Beynon	Outstanding TLE	Active	C
Janvier v. The Queen	7300-12	Nov 29/88	Kirk Lambrecht D. of J.	Andrew Beynon	Treaty fishing right	Active	S

LITIGATION	FILE #	DATED S OF C	LITIGATION COUNSEL	DLSU COUNSEL	DESCRIPTION	UPDATE	RATING
The Queen v. Chief Bernard Ominayak	7300-13	Dec 23/88	Dogan Akman D. of J.	Michael Hudson Andrew Beynon	Hunting rights/treaty rights	Active	S
McLeod Lake Band v. The Queen	7300-16 1845-76	Feb 19/87	I. Whitehall, Q.C. D. of J.	Andrew Beynon Michael Hudson	Aboriginal rights, Treaty 8	Active	C
Bert Horseman v. The Queen (Alta)	7300-19	July 27/88 Intervention	I. Whitehall, Q.C. D. of J.	Michael Hudson Wendy Reid	Hunting rights Treaty rights	S.C.C. Active	M
R. v. Tony Benedict et al	7300-22	Sept 15/88	Nova Scotia A.G.	Michael Hudson Ian D. Gray	Treaty and aboriginal rights to hunting	Active	M
The Queen v. Benedict Tony et al	7300-22	Prosecution	Allison Scott Wayne Hutchison D. of J.	Ian D. Gray	Treaty and aboriginal rights	Active/Nova Scotia Provincial Court	M

PROTECTED

ANNEX "D"

Northern Litigation Report

NORTHERN AFFAIRS LITIGATION REPORT

Territorial Lands Act

1. John Mapes : T.L.A. section 20 Application (N.W.T.)

Subject Application by DIAND to remove Mr. Mapes from territorial lands which he is allegedly unlawfully occupying.

Issues Section 20 does not clearly set out a procedure to obtain a summons to remove "squatters" from territorial lands.

Status Notice of DIAND's intention to commence an application has been given to Mr. Mapes.

Impact Decision may establish a procedure to be followed in order to initiate future proceedings.

Client Contact J. Umpherson (Yellowknife)

Counsel L. Minish-Cooper (Yellowknife)

2. A.G. Canada v. Terra Mining & Exploration Ltd. (Federal Court-Trial Division)

Subject Application to dispute assessment of royalty paid by respondent company pursuant to the provisions of the Canada Mining Regulations (C.M.R.).

Issues The eligibility of certain expenses as deductions for the purpose of determining the calculation of royalty payable.

Status Discoveries have taken place. A.G. Canada is waiting for the production of undertakings.

Impact Decision may clarify the eligibility of certain expenses as deductions for the purposes of determining the calculation of royalty payable.

Client Contact J. Hodgkinson (Ottawa)

Counsel L. Huculak (Edmonton)

3. Hecla Mining Company of Canada v. Cominco Ltd. and Minister of Indian Affairs and Northern Development (Federal Court of Appeal)

Subject Application under section 28 of the Federal Court Act to set aside the decision of the Minister made pursuant to section 84 of the Canada Mining Regulations.

Issues Whether the disputed areas were staked in accordance with sections 12 to 16 of the CMR, and if not, whether the errors in the staking were of a character calculated or likely to mislead other persons staking claims.

Status DIAND's Case on Appeal has been filed in the Federal Court. The other parties to the appeal will be making written arguments.

Impact Decision will clarify staking requirements.

Client Contact J. Hodgkinson (Ottawa)

Counsel M.R. Taylor (Vancouver)

Yukon Quartz Mining Act (YOMA)

1. Halferdahl v. Fish (Mining Recorder) et al. (Federal Court-Trial Division)

Subject Prohibition of staking, prospecting and mining pursuant to section 13 of the YOMA.

Issues Whether the withdrawal of lands from disposal pursuant to section 19 of the Territorial Lands Act and the withdrawal of lands pursuant to section 98 of the Yukon Placer Mining Act constitute "like other reservations" within the meaning of section 13 of the YOMA.

Status Case was heard by the Court in July, 1988. The decision has not yet been given.

Impact The decision may result in lands which were previously considered to be withdrawn from disposition becoming available for mining activities under the YOMA.

Client Contact J. Hodgkinson (Ottawa)

Counsel J. Haig (Vancouver)

Northern Inland Waters Act

1. Cominco v. Northwest Territories Water Board

- Subject** Appeal by Cominco from a decision of the Water Board which denied Cominco's earlier application requesting an amendment to its water use licence.
- Issues** Cominco has challenged the authority of the Water Board to impose certain conditions in water use licences and in addition has alleged that it was denied a fair hearing.
- Impact** A decision in Cominco's favour would curtail the ability of the Water Board to fulfil its mandate. It would also affect a number of existing licences issued both by the Northwest Territories Water Board and the Yukon Water Board.

Client Contact Brian Gibson (Ottawa)

Counsel Paul Partridge (Vancouver)

2. Curragh Resources: Application for a Renewal of its Water Use Licence

- Subject** Curragh Resources has applied for a renewal of its water use licence, issued to it by the Yukon Territory Water Board.
- Issues** The application has raised questions regarding the financing of mine abandonment and in particular whether a condition can be imposed in Curragh Resources' water use licence which would require it to set aside funds to cover the cost of mine abandonment. At issue is also whether the Trusteed Environmental Fund submitted by Curragh Resources meets the requirements of the Water Board.
- Impact** Funding of mine abandonment is an issue of significance to all other mining operations regulated by Water Board. If it can be established that the Water Board is authorized to require Curragh Resources to establish a mine abandonment fund, this authority can be used to impose a similar requirement in other water use licences issued by the Board with respect to mines.

Client Contact Lois Craig (Whitehorse)

Counsel Stan Benda (Whitehorse)

Northwest Territories Act

1. Canadian Reindeer (1978) Ltd. v. Her Majesty the Queen in right of Canada

Subject This matter relates to a reindeer grazing reserve which was established by a federal Order in Council in 1955. In 1984 the lands forming the reserve were transferred by the federal government to the Inuvialuit pursuant to the Inuvialuit Final Agreement. The Inuvialuit commenced an action against Canadian Reindeer (1978) Ltd. and in addition to defending that action Canadian Reindeer (1978) commenced this action against Canada.

Issues The Plaintiff contends that it is entitled to compensation for the inclusion of the reindeer grazing reserve in Inuvialuit lands. It seeks a declaration to that effect as well as damages for the losses it has suffered.

Status This matter is currently inactive. The Plaintiff and the Inuvialuit have sought to negotiate an agreement with respect to their respective claims.

Impact This decision will determine whether the Crown is liable to compensate the plaintiff for losses it has suffered as a result of the reindeer grazing reserve being granted to the Inuvialuit.

Client Contact Fred McFarland (Ottawa)

Counsel Terrence Joyce (Edmonton) and Lorraine Minish-Cooper (Yellowknife)