

LAND CLAIMS AGREEMENTS COALITION



Council of Yukon First Nations
Grand Council of the Crees (Eeyou Istchee)
Gwich'in Tribal Council
Inuvialuit Regional Corporation
Kwanlin Dun First Nation

Maa-nulth First Nations
Makivik Corporation
Naskapi Nation of Kawawachikamach
Nisga'a Nation
Nunatsiavut Government

Nunavut Tunngavik Incorporated
The Sahtu Secretariat Incorporated
Tlicho Government
Tsawwassen First Nation
Vuntut Gwitchin

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BRIEFING NOTE TO THE HONOURABLE BERNARD VALCOURT MINISTER OF ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT CANADA MARCH 1, 2013

On behalf of the Land Claims Agreement Coalition (LCAC), we welcome you Minister Valcourt and thank you for taking the time to meet with us this morning.

Formed in 2003, the Land Claims Agreements Coalition's members include all 24 modern treaty organizations in Canada. Our mandate is to press the Government of Canada to respect, honour and fully implement comprehensive land claims and associated self-government agreements in order to achieve their objectives. Collectively, modern treaties affect nearly half of the lands, waters and resources in Canada.

Each member of the LCAC has a government-to-government relationship with Canada and represents its own interests by virtue of its comprehensive land claims and self-government agreements. We welcome you to visit our respective territories so we can work with you to pursue opportunities and address our respective concerns.

As a Coalition, we work together on issues of common concern that affect the rights and interests of all members, and would like to present to you three key issues for your priority consideration.

1. ADOPT A NEW FEDERAL IMPLEMENTATION POLICY

The Coalition calls on the Government of Canada to adopt and promptly implement a new modern treaty implementation policy, consistent with the Coalition's Model Policy which was presented to Minister Chuck Strahl in 2008. Despite the promise of a well-considered response from the Government of

Canada, we have not, to date, received a formal response to this important document.

A new national modern treaty implementation policy is urgently required to address the eroding treaty relationship and ensure that all agencies of the Crown implement modern treaties fully, according to their letter, their spirit and intent, and the fundamental objectives they embody.

The Coalition also draws the Minister's attention to the 2008 report of the Senate Standing Committee on Aboriginal Affairs, *Honouring the Spirit of Modern Treaties: Closing the Loopholes*, for its recommendations, which the Coalition endorses.

2. ABANDON FISCAL HARMONIZATION POLICY APPROACH

Coalition members strenuously object to the "Fiscal Harmonization Policy" approach proposed by Canada which embraces a formula-based structure for modern treaty funding.

Any formula-based approach to modern treaty funding is a direct breach of our Constitutionally-protected agreements. Thus, it remains unclear how, despite AANDC assurances to the contrary, the formula-based approach that is being proposed could ever accommodate the requirements for negotiated financial arrangements which are vested in our agreements. Funding arrangements must be grounded in our treaties, the real costs of governing, and the social, economic and cultural needs of Aboriginal peoples.

3. REMOVE DEROGATION CLAUSE FROM BILL S-8

Members of the Coalition are deeply concerned with the current ill-named 'non-derogation' provisions of the Safe Drinking Water for First Nations Act. This is, in fact, a derogation clause. As worded, the Act would have the opposite effect and would actually derogate from our treaty rights. The "opting in" provisions in the proposed legislation, if enacted, could force modern treaty signatories to choose between clean water, and their Constitutionally-protected treaty rights.

There are no sufficiently rational explanations for the provisions that deal with modern treaties and self-government agreements that are contained in Bill S-8. These provisions should be deleted: they are unnecessary, unconstitutional and deeply objectionable. Coalition members have no desire to impede genuine measures aimed at the provision of safe drinking water, but we must oppose the derogation provisions outlined above. Bill S-8 is "good news" legislation for

First Nations living on reserves. Do not mar it by including unnecessary and detrimental provisions relating to modern treaty signatories who do not live on reserves.

CONCLUSION

We thank you for your time and look forward to a productive and respectful relationship with you as Minister and with the Government of Canada.