

## ABORIGINAL LAND DISPUTES

# Ottawa 'acting in bad faith' by rushing land claims, chiefs say

MARK HUME VANCOUVER

Native organizations have accused the federal government of negotiating in bad faith by imposing deadlines and making "take-it-or-leave-it" offers to bands trying to settle specific land claims.

The allegations were made in a lengthy document released Tuesday by the Union of B.C. Indian Chiefs, the Nlaka'pamux Nation Tribal Council and the Alliance of Tribal Nations.

The Assembly of First Nations echoed the concerns, with National Chief Shawn A-in-chut Atleo calling on Ottawa to clarify the situation.

"First Nations are naturally concerned about any apparent attempt that may diminish or deny our lawful claims," said Mr. Atleo.

The organizations say that, in an effort to clear up a backlog of specific claims, the government is pressuring bands to settle by threatening to "arbitrarily cut off negotiations."

The government, however, contends it is just working expeditiously to clear up claims that otherwise might be left unsettled for years.

"First Nations raised concerns in the past about the slow pace of progress in resolving outstanding claims," Aboriginal Affairs Minister John Duncan said in a statement issued by his office. "To address their concerns, we have adopted a new approach to speed up claims resolution. This includes three-year time frames for negotiating settlements."

He said bands that can't negotiate a settlement within three years can still go before the Specific Claims Tribunal, where a panel of judges can make a decision.

The tribunal was set up recently to give bands a place to appeal



Chief Samson Beardy negotiates treaty payments in 1929. Ottawa has given native groups three years to settle land claims. LIBRARY AND ARCHIVES CANADA

if their claims were rejected by the Specific Claims Board. The board has 471 claims before it.

The analysis by native organizations states the government is now putting pressure on bands by "insisting that negotiations be substantially completed within three years, after which Canada will cease negotiating."

The report accused the government of adopting "a highly adversarial, technical and legalistic approach to specific claims rather than a collaborative one... It is, in short, negotiating in 'bad faith.'" The government is pursuing a strategy of "partial acceptance," in which it offers to open

negotiations only if large parts of the claim are abandoned, the analysis said.

"In some of these cases, Canada does not offer to negotiate, but sets out a pre-calculated figure or formula which is offered as part of an 'expedited settlement.' There is no offer to negotiate or even talk," it said.

A spokesman for the Union of B.C. Indian Chiefs who asked not to be named said bluntly worded "take-it-or-leave-it letters" are being received by bands across the country.

Specific claims are separate from broad-based land claims and generally deal with issues

such as the removal of land from reserves or other individualistic legal matters.

For example, one of the claims before the Specific Claims Tribunal deals with the alleged failure of the government to pay annual treaty annuities to members of the Beardy's and Okemasis bands, near Duck Lake, Sask. The bands claim their Treaty 6 payments were unfairly stopped for several years, to penalize them because the Northwest Rebellion of 1885 started near their reserve. No Beardy's or Okemasis band members were ever convicted of taking part in the rebellion.

In another case, the Huu-ay-aht

First Nation, on Vancouver Island, is seeking compensation for timber removed from reserve lands in 1918.

Jodi Wilson-Raybould, Regional Chief for B.C. for the Assembly of First Nations, said specific claims are often legally complex and reach back over many years.

Such cases, she said, might not be resolvable within the three-year window the government seeks to impose.

"We want to ensure there is no arbitrary cut-off of negotiations," she said. "Negotiations aren't negotiations if there is a game of take-it-or-leave-it being played by one side."