

Specific Claims Branch NCRW Update

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National Claims Research Directors Meeting

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Brief Overview

- Several questions were posed in Slido at the 2024 NCRW that the Specific Claims Branch (SCB) were unable to answer.
- NCRW planning committee committed to sharing the answers to the unasked questions
- We received the answers in February, however many did not fully address the questions being asked.

Brief Overview

- 1. Why wasn't input sought from First Nations in creating the guide? We feel like an after thought.** The guide was a tool that had been created for SCB's internal use in 2001. SCB commissioned a revamped version in 2023. The guide focusses on archival research as it relates to specific claims. Since the guide would also be a useful tool for external stakeholders, SCB wishes to share it with First Nations to support their archival research. SCB informed NCRD at its May 2024 NCRD meeting that that it would share the draft report. The report was shared in late May 2024 with NCRD and the AFN. The AFN had no comments on the guide and the NCRD provided their comments on October 7, 2024.
- 2. As you said, you've been meeting with us for years and appreciate our feedback. When will you explicitly address our feedback in a way that goes beyond the familiar generic rhetoric?** SCB has proposed to meet with the NCRD to discuss the comments they provided in October 2024.
- 3. 97 % offer to negotiate? Of those, how many are in active negotiations.** The 97% is the percentage of claims for which offers to negotiate were made in 2023-2024. There are currently 324 claims in active negotiations, as well as 55 claims where an offer to negotiate has been made to a First Nation and the First nation has not yet responded to indicate whether it wishes to proceed with negotiations.

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4. Do you have numbers for claims in research (pre submission) – As of January 2, 2024, we have 43 claims which have been received by SCB and are in the process of being filed with the Minister. We don't have data on the number of claims which are being prepared by First Nations.
5. Under which claims category do claims related to reduced or cut off reserve lands fit? What about pre confederation, village and gravesite claims? Land not set aside as reserve.
6. Re: new case law or new evidence, is there funding available to update claims? First Nations can access funding through : Funding Program Unit, Crown-Indigenous Relations and Northern Affairs Canada, 10 Wellington, Floor 8, Office G1, GATINEAU QC K1A 0H4, dsnprp-nsdscp@rcaanc-cirnac.gc.ca
7. I'm hearing that the "accelerated process" results in very rushed negotiations (or no negotiations at all) with ridiculous releases that are essentially "take it or leave it" offers. This process is also fueling predatory law firms pressuring Nations to take quick deals. The Agricultural Benefit Resolution Framework is a voluntary process. First Nations can negotiate their agricultural benefits claims through that process or through the regular process as they prefer.

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8. **Has anyone here received historical reports from SCB? What do you think of them? Are they useful?** This is not a question for SCB.
9. **Long and convoluted email addresses - the secure file link one is also way too long too.** We understand that it can be frustrating. But CIRNAC has to follow government-wide standards for email addresses. The correct email address for SCB is dgrpsergencesgeneraux-scbcorporateservices@rcaanc-cirnac.gc.ca and can be “cut and pasted” in email software and saved in “favourites” in email contacts.
10. **NDA's don't apply within government and across claims.** A negotiation protocol with confidentiality clauses is always signed by the parties at the outset of negotiations. Non-disclosure agreement can also be signed by the parties for pre-negotiation discussions to ensure confidentiality and the “without prejudice” nature of the discussions and information sharing. The Government is a party to all specific claims that are filed against it and has knowledge and information about all of those claims. NDAs prevent the Government from sharing confidential information to those who are not party to a claim but do not prevent the Government from using the information about claims internally (subject to any applicable laws or rules related to the management of information).

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11. Will there be an electronic version app creation, like the NATS portal (National Addition to Reserve tracking system) to submit claim files documents for submission as well as having the procedural timeline, workplan and correspondence shown to the applicant? Claims can be submitted through Titan file exchange by making a request todgrpservicesgeneraux-scbcorporateservices@rcaanc-cirnac.gc.ca.
12. The “consultant” (re: research guide) should have consulted with First Nations when updating the guide. The guide was initially created as an internal tool for SCB. We shared the draft document with the AFN and NCRD in May 2024 and welcome comments and feedback. We welcome comments and feedback from First Nations and First Nation representatives on an on-going basis as our aim is to have a guide available that is as informative as possible, and would be happy to make revisions on a regular basis as needed to address feedback.
13. Many of the critical comments and suggestions on the guide likely could have been addressed through early and fulsome engagement with rights holders. SCB must take steps to relinquish its control over the process, including development of research guides. The guide is not part of the specific claims resolution process, and it will not be mandatory to make use of it once it is made available on the CIRNAC website. It is an optional tool that can be used by First Nations and researchers when researching archives.

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14. **NCRD could have been the consultants...** Since this is an internal tool, we must issue contracts with firms who are on our standing offer. The firm who had created the first version of the guide in 2001 was used for the 2023 revamp. This is a firm that has 30 years of experience in the field of archival research in specific claims, working for First Nations and for CIRNAC.
15. **Correct me if I'm wrong but these claims continue to receive the kind of scrutiny that rejects them based on legal technicalities rather than accepting the strong argument put forth by the community. Or, is this changing?** CIRNAC currently offers to negotiate 97% of claims.
16. **How does something being a “tool” remove the need to consult with Nations?** It doesn't. We have shared the draft document with the AFN and NCRD. We recognize that this does not constitute consultation with First Nations. We welcome further and on-going feedback from First Nations and would be happy to make changes to the tool on a regular basis as needed to respond to feedback. The document is an optional guide for archival research. It does not have to be used and has no impact on claim submissions or the claims assessment or resolution process. We do hope that it will be helpful though to those researching claims for First Nations.

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17. **The director said “they’re open to it” in reference to oral histories yet have not done any leg work internally to ensure this capacity.** Oral history, visual evidence, archeological, ethnographic and anthropological reports can be included in claim submissions. CIRNAC has the capacity to consider this evidence as part of First Nations claims submissions. CIRNAC is also happy to meet with First Nations that wish to present their claims to us orally, including to explain or provide any relevant information.
18. **Is that consultant external? Internal? Who?** The consultant is on SCB’s standing offer for historical research services.
19. **Get rid of the consultant and consult with us.** We welcome feedback on the guide.

What this tells us...

- SCB continues to act unilaterally and without transparency.
- Consultation cannot take place on a fully-developed policy/guide.
- Consultation must happen early and frequently.
- Re Question 11 - Modernization of communication tools available in other CIRNAC/ISC portfolios are not considered for SCB.