

# OUR LAND IS OUR FUTURE

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## Open Letter to Minister Carolyn Bennett

### Canada's Failure to Meet the Legislated Three-Year Deadline to Respond to Specific Claims

The Honourable Carolyn Bennett  
Minister of Crown-Indigenous Relations and Northern Affairs  
House of Commons  
Ottawa, Ontario  
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November 26, 2018

Dear Minister Bennett,

The Union of BC Indian Chiefs writes today to present the enclosed report prepared by the BC Specific Claims Working Group on your government's repeated failure to meet its legislated timelines to assess specific claims and notify Indigenous Nations, and to call on you to take immediate action on the report's recommendations.

The BC Specific Claims Working Group (BCSCWG) is a group of Indigenous leaders and specific claims technicians, created via resolution by the Union of BC Indian Chiefs (UBCIC) in 2013 and tasked with advocating for the fair and just resolution of BC specific claims. Throughout its work, the BCSCWG emphasizes the historical uniqueness of colonization in BC and the need for a process that addresses the distinctive challenges of claims resolution in this province.

The BCSCWG's report, "A New Claims Backlog: Canada's Failure to Meet the Legislated Three-Year Deadline to Respond to Specific Claims," documents the rapidly increasing backlog of specific claims waiting for final assessments at the Specific Claims Branch. Under the federal *Specific Claims Tribunal Act*, Canada has three years to inform an Indigenous Nation if its claim will be accepted for negotiation. The BCSCWG's report indicates Canada has missed the legislated deadline to respond to 65 percent of claims filed nationwide between January 2014 and November 2015. According to the report, the vast majority of these claims have already been reviewed by the Department of Justice and are stalled at the Specific Claims Branch. Even more startling is the report's finding that your government is failing to communicate with Indigenous Nations about the missed timelines and the resulting impacts on their claims.

In the fall of 2016 the Office of the Auditor General determined that the Department of Indigenous Affairs was grossly mismanaging the specific claims process by introducing multiple barriers that hindered Indigenous Nations' access to the process and impeded the resolution of claims. Significantly, the OAG cited poor and misleading communications as one of Canada's key failures. Neglecting to adequately inform Indigenous Nations about the missed timelines continues the pattern of poor communication your department promised to address in response to the OAG's report.

Indigenous people's right to redress for these and other land-based historical wrongs is articulated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and is a cornerstone of Crown-Indigenous reconciliation. When the *Specific Claims Tribunal Act* came into force in 2008, our expectation was that the federal government would adhere to the law; it was one significant instance of accountability in a process still characterized by an indefensible, systemic conflict of interest. In recent years your government has also proposed measures that would effectively circumvent your statutory obligations under section 35 of the *Constitution Act, 1982* (Rights and Recognition tables are a case in point).

Non-compliance with legislation enacted to protect the rights of Indigenous peoples in Canada and safeguard our access to justice, as well as failing to communicate openly with Indigenous Nations when this occurs contradicts every public commitment your government has made regarding reconciliation and repairing your relationship with Indigenous Nations. We urge you to take immediate steps to develop an action-oriented plan to implement the recommendations outlined in the BCSCWG's report.

Sincerely,

**On behalf of the UNION OF BC INDIAN CHIEFS**



Grand Chief Stewart Phillip  
President



Chief Robert Chamberlin  
Vice-President



Kukpi7 Judy Wilson  
Secretary-Treasurer

CC:

Jody Wilson-Raybould, Minister of Justice and Attorney General  
BC Specific Claims Working Group  
Union of BC Indian Chiefs Council  
National Chief Perry Bellegarde, Assembly of First Nations  
AFN Chiefs Committee on Lands, Territories and Resources  
Standing Committee on Public Accounts  
BC Assembly of First Nations  
First Nations Summit