

AMENDED MINUTES OF NAC MEETING – JUNE 22, 2010

GILLES GAGNÉ – CHAIR

PARTICIPANTS

Dan Carroll, Alex Pettingill, Randy Bennett, Brian O'Reilly, Peter Grant (via conference call), Kathleen Mahoney, Jane Ann Summers, Mike Thibault, Rod Donlevy and Catherine Coughlan

GUESTS (VIA CONFERENCE CALL)

Justice Murray Sinclair (Chair, Truth and Reconciliation Committee), Tom McMahon (Executive Director Adjudication Secretariat) and Marie Wilson (TRC Commissioner)

INTRODUCTIONS

- Gilles welcomed the guests, introduced all participants and referenced the agenda he circulated on June 15th

ISSUES RELATING TO INDEPENDENCE FROM CANADA / TRANSLATION OF “*TRUTH*” BY “*TÉMOIGNAGE*” / NAC ASSISTANCE OF AND COORDINATION WITH TRC

- Gilles referred to a letter he received regarding the TRC's independence from Canada and stated that he knows that the Commission has a firm grasp on this issue completely however he does not know if the TRC website demonstrates this independence as much as it perhaps should
- Justice Sinclair thought it would be beneficial from the outset to have a discussion regarding the roles of the NAC and the TRC
- Gilles advised that the NAC is responsible for overseeing and implementing the Approval Orders and is in essence guardian of the Settlement Agreement
- Gilles referenced the good relationships that the NAC have made with Crawford Class Actions and the Oversight Committee and IAP Secretariat and would like to forge the same relationship with the TRC
- Justice Sinclair advised that we are all guardians of the Settlement Agreement and not to misunderstand him, a relationship is important however there is a strong need to understand the roles of each group
- Justice Sinclair stated that the NAC is called upon during disputes and that it concerns him to receive letters from the NAC indicating the TRC is doing something wrong
- Justice Sinclair understands the validity of the view points however he questioned the appropriateness of NAC members writing letters to the TRC
- Alex advised that the NAC has a unique role, not exactly an appellate role, and is charged with the responsibility of initiating and taking matters forward
- Justice Sinclair advised that the NAC has a limited role and an appellate role with respect to the TRC
- Justice Sinclair is a little concerned that the NAC members are advocating a view on something when in fact it is an appellate body
- Justice Sinclair asked the NAC members in what capacity are they bringing the translation issue forward; in a personal capacity not as committee members?

- Dan advised that he was the author of one of the letters sent to Justice Sinclair and further advised that he was writing in a personal capacity and that he was very careful in doing so
- Dan explained his role as the representative from the National Consortium and his obligations to his constituents
- Going forward, Dan advised that he will be mindful to clarify the capacity in which he is writing
- Peter advised that he authored one of the letters and that he is in a similar situation as Dan in his role as the representative for Independent Counsel
- Peter advised that he referenced his participation on the NAC as a way of introducing himself to Justice Sinclair and that he was writing on behalf of Independent Counsel and not the NAC
- Peter advised that he concurs with Dan and understands the confusion the letter may have caused
- Kathleen agreed with her colleagues and advised that she is representative for the AFN
- The NAC members wear a number of hats, it oversees the implementation of the Settlement Agreement while each individual is responsible to his or her constituents
- Kathleen advised that more than any other party, the AFN is closer in touch with survivors and survivor groups
- Kathleen advised that she takes instructions from the AFN but is also responsible for raising concerns or questions of survivors and bringing those concerns or questions to the table
- The members deal with their NAC hat versus their constituents hat on a daily basis
- Gilles advised that he realized quickly this was not a NAC issue but individual concerns made by three separate groups
- Justice Sinclair advised that he has no problem discussing this issue directly with the individual parties and advised that there is no need to have item 3 or for that matter item 2 on today's agenda
- Gilles advised that under Article 18.09 of the Settlement Agreement, he was selected by the parties to verify and correct the French translation prepared by Justice Canada
- Gilles advised that he made over 2500 changes and all but a few were accepted
- Justice Sinclair advised that item 3 is not a matter for this table
- Alex advised that the French translation does not equal the English translation
- Justice Sinclair respectfully disagreed and advised that he is more than willing to discuss with individuals this issue
- Justice Sinclair advised that he is willing to speak to anyone about anything and asked the NAC if, as a committee, it is saying what should or should not be on the website, if so he would like to hear about this
- Gilles advised that is a matter of consistency of the Settlement Agreement
- The use of "témoignage" is a departure from the translation and thought to add this item to the agenda for a discussion
- Justice Sinclair reiterated his statement regarding the need to understand the relationship between the NAC and the TRC
- Justice Sinclair advised that he accepts the individual views and the validity of the points and is willing to discuss this however if the NAC is going to raise an issue it needs to specify it in the context of the relationship to ensure it is dealt with properly
- In an effort to ensure his understanding, Rod asked if an issue came outside from the NAC to the NAC, then the NAC should communicate with the TRC that an issue was raised

- Rod asked Justice Sinclair what his suggested protocol would be to deal with, for example, a concern raised by citizen Dan Carroll
- Justice Sinclair advised that he does not have a complete enough understanding of the NAC's mandate to understand beyond a personal interest; why on a committee level, Dan wrote to the TRC directly and the TRC responded
- Rod advised that he takes Justice Sinclair's point and that this clarifies this matter for him
- Alex referenced section 12 regarding national consistency and believed it was under this context that item 3 was added to the agenda
- Kathleen advised she was one of the authors of the letters and that the NAC is very enthusiastic about the TRC and wants the TRC to be successful and asked the TRC members to see this discussion in that light
- Kathleen advised that this item should not have been one line on the agenda but referenced in the spirit of those who are concerned about this matter
- Kathleen advised that the item was placed on the agenda to have a conversation about the importance of the wording
- Justice Sinclair thanked Kathleen and advised that time would probably run out to have such a discussion so instead advised that he will correspond with the NAC Chair and provide the rationale for using "témoignage"
- Justice Sinclair advised that more emphasis was focused on using "Canada" in the title and that he provide a letter to the NAC as a source of information and would discuss this matter later if the NAC wishes
- Justice Sinclair indicated that items 2 and 3 will be dealt with in writing
- Just for reference, Peter advised that he never received a letter and was provided with a copy from Dan Carroll
- Mr. McMahon apologized and stated he will ensure that Peter receives an original letter; Peter thanked Mr. McMahon
- With respect to independence from Canada, Dan advised that he recognizes the issues that could lie there with respect to resources for the TRC
- Justice Sinclair advised that the TRC have had a number of public discussions regarding the TRC's independence from Canada and that this matter is one of the most challenging questions faced by the TRC
- The TRC was declared a department under the *Financial Administration Act* and has to comply with Treasury Board policy
- This resulted in an attitude, from both the government and the public, that the money received by the TRC is government funds
- The TRC is spending public funds from the compensation fund created from the Settlement Agreement; these funds are not government funds
- The TRC still must follow Treasury Board policy with respect to staffing
- The TRC has two rules:
 - Comply with Treasury Board policy as specified in the Settlement Agreement
 - Act as a designated department under the *Financial Administration Act* and *Public Service Employees Act*
- Justice Sinclair advised that to the extent that government employees can facilitate matters for the TRC they have done so
- However the staffing process continues to be time consuming and distracting
- Justice Sinclair spoke of the former TRC administration and how his administration has been appointed to a five year term, to 2014, however the spending ceases in 2012
- What was spent during the first administration is lost to Justice Sinclair's administration

- Justice Sinclair has not heard from Canada if the fund will be replenished, in whole or in part, and he is hesitant to ask for more money when not much has been done
- Justice Sinclair advised that while the Commissioners are here for five more years, the money is here for four more years
- Justice Sinclair advised that 60 million is not adequate to complete the mandate of the TRC as required under the Settlement Agreement
- A lengthy discussion ensued as to the funding of the TRC
- Justice Sinclair advised that the TRC needs to prove themselves and currently they have made significant strides in hiring and is in position to hire regional liaisons
- Ms. Wilson stressed the point that time is of the essence
- Ms. Wilson advised that given the magnitude of the mandate the question is: does the TRC have the resources to complete everything
- Kathleen reiterated that the attitude of the NAC is to offer assistance and that the AFN is also in a position to assist with funding as is the private sector
- The AFN is alive to the large mandate and the resource issue as well as being alive to the concerns of survivors not understanding the mandate
- The AFN is behind the TRC
- Justice Sinclair advised that he knows the private sector is behind the TRC; \$250,000 was raised from the private sector in relation to the first national event
- Justice Sinclair referred to a discussion held last September or October with Caroline Davis, former Assistant Deputy Minister
- Justice Sinclair asked Ms. Davis what the government's view of reconciliation is and referenced the day students who attended schools not listed in the Settlement Agreement
- There is a large body of people who were just as affected by the residential school system as the class members who are being left out of reconciliation
- Justice Sinclair questions why the TRC is not authorized to work with all students
- Justice Sinclair understand the claims fund issue is a different matter however the TRC is bombarded by day students and the TRC is unable to provide health support services etc as they are technically not covered by the TRC mandate
- While funding would be an issue, the TRC is in a unique position to assist day students
- Justice Sinclair advised that the average cost of taking one statement is approximately \$500; taking statements from those students not covered is extremely expensive
- Justice Sinclair does not want to view things from a financial standpoint
- Justice Sinclair stated he would not be surprised if another TRC is established for these people who are dealing with the same issues as the class members
- Catherine echoed Justice Sinclair's early comment regarding the roles of the NAC and the TRC
- The NAC has no mandate or jurisdiction with respect issues not included in the Settlement Agreement; the day school issue is one of these issues that is not covered
- Justice Sinclair referenced his conversation with Ms. Davis that took place last year
- Justice Sinclair referenced the Spirit Wind Class Action regarding day students and if this matter is certified the question will be what can the TRC do for these people
- The TRC has a broad mandate regarding reconciliation and as the day students are dealing with the same issues, it would make sense to involve everyone at the same time
- Ms. Wilson advised that the Commissioners are placed in difficult situations when day students, who are not covered by the Settlement Agreement, want to tell their stories
- If you take the statement you increase costs however if you decline to take the statement you hurt the credibility of the TRC
- Discussion ensued about the day students issue vis a vis the TRC and its mandate

- Justice Sinclair advised that the TRC is obligated to prove itself and show what has been done, what will be done and what can be done
- Gilles referenced the issue regarding document production
- Justice Sinclair advised that there is no need for discussion on this as the matter has been resolved

SPECIFIC ISSUES

- Kathleen advised that she was happy to hear that the regional liaisons positions are moving forward
- Kathleen advised that some survivors are confused as to the TRC's purpose and do not understand the TRC's function
- Kathleen asked if the TRC is using the survivor committee as this committee would very helpful in writing the story of residential schools in Canadian history
- Kathleen advised that the survivor committee feels underutilized and would like to help
- Justice Sinclair advised that depending on who you talk to, some believe the survivor committee is a full-time job versus those who do not believe it is a full-time job
- Justice Sinclair advised that the people on the survivor committee are ambassadors for the TRC
- The survivor committee attended events with the TRC and on behalf of the TRC
- Justice Sinclair advised that the survivor committee has a clear role and this role has kept the committee pretty busy
- Justice Sinclair stated that the survivor committee is not a full-time job as the TRC can not afford full-time salaries and to a large extent, no one on the committee has complained thus far
- Justice Sinclair stated that he did apologize for not including the survivor committee in the planning of the Manitoba national event
- Justice Sinclair advised that he has ensured to utilize the committee as much as possible and that he knows one or two people are not happy as they expected to have more work
- The survivor committee call their own meetings, which take place every three months, and that the TRC does not interfere in these meetings and attends same when requested
- The survivor committee has been playing a significant role
- Kathleen asked for an update regarding the commemoration fund
- Justice Sinclair advised that Mr. McMahon has been working on this
- Mr. McMahon advised that he received feedback at the end of March
- This matter has been an interesting challenge and Mr. McMahon advised how he as been working with INAC to ensure people to have to go through a double process
- Mr. McMahon advised that he is working on a document which is in the last approval stages which will be posted at the end of July
- This document will invite people to give ideas to access the funds
- With respect to the regional liaisons, Mr. McMahon advised that the job opportunities have been posted on both the TRC website and at www.jobs.gc.ca
- These positions will also be advertised in Aboriginal media as well
- Mr. McMahon advised the NAC to encourage people to apply and to broadcast the availability of these positions
- Mr. McMahon advised that there is a short time line to apply; two weeks from last Friday
- Gilles thanked Justice Sinclair, Ms. Wilson and Mr. McMahon for participating in today's meeting and they in turn thanked the NAC

POST-MEETING DISCUSSION – POSTING TIMELINES

- The grids will be posted to the Decisions for Comment folder by Wednesday, June 30, 2010
- The grids will be posted to the Final Decisions folder by Wednesday, July 7, 2010

NEXT MEETING

- The July NAC meeting will be held in Montreal on July 21st and 22nd; Gilles will host

Minutes Prepared By Corey L. McDonald