

**SPEAKING NOTES FOR ONTARIO REGIONAL CHIEF ANGUS TOULOUSE**  
**FOR THE**  
**2010 CONFERENCE: BUILDING ON SUCCESS**  
**“A NATIONAL CONVERSATION ON FIRST NATION SELF-GOVERNMENT”**  
**WHITEHORSE, YUKON**  
**SEPTEMBER 14, 2010**

**CHECK AGAINST DELIVERY**

- Traditional Greeting
- Good afternoon Chiefs, Elders, youth, delegates and invited guests --- I am so pleased to be here in this beautiful part of the country
- I want to thank Regional Chief Morris, Grand Chief Massie, Chief Mike Smith, and Chief Brenda Sam for inviting me to be here today in your traditional territory
- I also want to recognize the Elders that are here today --- we thank you for your willingness to share with us your knowledge of the past and your wisdom as we move toward the future
- I am honoured to be asked to share some of my thoughts and the experiences of the First Nations in Ontario with respect to the issue of self-government
- There are 133 First Nations within the boundaries of the province of Ontario --- we are diverse linguistically, culturally and geographically
- The First Nations in Ontario are first of all Treaty people --- the province was built on Treaties and they remain the foundation for our relations with both the provincial and federal governments
- I believe that First Nations, whether in Ontario or other parts of the country aspire to be free of the limitations and paternalism of the Indian Act and are pursuing various avenues as a result
- In Ontario, several First Nations and groups of First Nations have participated in some form of self government negotiations over the years including the United Anishinaabeg Council, the Nishnawbe Aski Nation, the Anishinabek Nation, Grand Council Treaty 3, the North Shore Tribal Council and the Algonquins of Pikwakanagan

- Despite this no self government agreement has been achieved in Ontario to date
- All negotiations except for the Anishinabek Nation, Nishnawbe-Aski Nation and the Algonquin processes have been terminated
- The Anishinabek Nation is a political advocate for 40 First Nations across Ontario. The 40 First Nations have a combined total population of 55,000 citizens – which represents one third of Ontario First Nations population
- The Anishinabek Nation has a secretariat – called the Union of Ontario Indians – which is the oldest First Nation political organization in Ontario
- The Anishinabek Nation (Union of Ontario Indians) is currently involved in Self Government negotiations with the federal government over Education and certain aspects of Governance --- this initiative is referred to as the Restoration of Jurisdiction project
- The stated purpose of the negotiations is to achieve Canada’s recognition of the inherent law-making authority of the Anishinabek Nation
- It is also believed that the Restoration of Jurisdiction over governance will empower the First Nations to take responsibility for themselves and to create their own governance systems
- As a prerequisite to inclusion of member First Nation in either of the Self Government Agreements , each participating First Nation is required to draft and ratify a First Nation Constitution, along with a Constitution established at the broader Anishinabek Nation government level
- A Framework Agreement on Governance was signed in November 1998, and the Agreement in Principle (AIP) was signed in February 2007

- The AIP on Governance, which is not legally binding but will guide the negotiation of a final agreement, focuses on *Indian Act* sections 8-14 and 74-80
- If the Anishinabek people eventually ratify an Anishinabek Nation Final Agreement on Governance, these sections of the *Indian Act* would no longer apply to the First Nations that are parties to an Anishinabek Nation Final Agreement on Governance
- In November 2002, the Anishinabek Nation and the Government of Canada signed an AIP with respect to Exercise of Education Jurisdiction and negotiations continue on the draft Final Agreement on Education
- The AIP on Education includes provisions for the following: it provides for the exercise of First Nations law-making authority over primary, elementary, and secondary education and the maintenance and promotion of Anishinaabe culture and language in the education system
- It is recognized that as the date to finalization draws nearer that the Anishinabek Nation will need to engage in more detailed discussion with the Ontario government to ensure continuity of arrangements, harmonization of laws and a smooth transfer to a possible Final Agreement
- The Nishnawbe-Aski Nation is also pursuing self governance sectoral negotiations with the Government of Canada under the federal Inherent Right Policy
- The Nishnawbe-Aski Nation, or NAN, as it is often referred to represents 49 First Nation communities within the territory of James Bay Treaty 9 and the Ontario portions of Treaty 5

- NAN was originally established in 1973 and was formerly known as Grand Council Treaty 9
- NAN is currently negotiating in the areas of Governance and Education jurisdiction
- The stated goal of the sectoral negotiation process is to achieve self-governance agreements in areas that affect the lives of the members of the First Nations of NAN
- The governance sectoral negotiation is focused on issues relating to leadership selection, citizenship and language and culture
- The education jurisdiction sectoral negotiation is focused on education standards and access to education programs and services
- Agreements in Principle for both the Governance negotiation and the Education jurisdiction negotiation were initialled in July 2009 by NAN and Indian and Northern Affairs Canada representatives thus enabling the parties to move forward toward the next phase of negotiations
- The third self government negotiation currently underway in Ontario involves the Algonquins of Pikwakanagan
- Formerly known as the Golden Lake First Nation, the Algonquins of Pikwakanagan are an Algonquin First Nation and their territory is located in the Ottawa Valley on Golden Lake, approximately 1 ½ hours west of Ottawa
- The registered population of the First Nation is presently 1,992 people

- The Algonquins of Pikwakanagan assert that they have never been party to, nor beneficiary of, any treaty of cession or surrender of any lands in Ontario
- They have been in negotiation discussions with Ontario since 1991 with Canada becoming a party in 1992
- The parties intend that an Algonquin Treaty will result from these negotiations and will provide certainty concerning the constitutionally protected rights of the Algonquins with respect to lands and resources
- The Algonquins entered into a Framework for Negotiations Agreement with Ontario and Canada in July 2009 which outlines elements that may be addressed in the negotiations leading up to an Agreement in Principle – including land, non-renewable and renewable natural resources relating to the nature of rights, title and interests among many other considerations
- The target date for an Agreement in Principle has been identified as March 31, 2011
- As I indicated earlier in my comments, there have been many self government negotiations in Ontario but no agreements have been achieved to date
- I believe there are a number of important reasons why this is the case
- When an analysis is done to review why these negotiations are so protracted or end without an agreement in place - it is clear that there at least three key reasons
- These include an unsatisfactory federal inherent right policy

- Secondly, that the negotiations often involve an aggregation or regional governance approach which involves much of the negotiation process taking place externally of communities
- and that the provincial Crown is only involved as an “observer” to these negotiations, because the province does not recognize the jurisdiction of First Nations even though it uses the “government to government” rhetoric
- These are three major barriers that stand in the way of successfully completing self government agreements for First Nations in Ontario
- The Inherent Right Policy is a policy of the government of Canada that provides a framework for negotiating self government agreements
- It was not developed in consultation with First Nations and does not meet the needs of First Nations, nor does it recognize the First Nations right to have our governments acknowledged as fully self-governing and sovereign nations
- It is familiar theme across the country that First Nations that enter into, or are prepared to entered into, self government negotiations find the Inherent Right Policy too constricting and not consistent with their section 35 rights
- For example, the policy identifies citizenship or membership as a matter that could be subject to negotiation yet First Nations run into opposition in their effort to secure the necessary authority to take ownership of this essential function of being truly self-governing

- Another major issue relating to the Inherent Right Policy relates to funding, specifically to INAC's insistence on an Indian Act approach to funding despite the fact that First Nation governments would not be operating under the *Indian Act* regime --- this needs to change to reflect the actual costs of being truly self-governing
- In Ontario, as I mentioned the First Nations very diverse – we have a three large groups --- the Cree, the Iroquois and the Ojibway
- All very strong with strong organizations - such as provincial-territorial organizations and tribal councils - that have been in existence for a very long time
- Our communities in the north, many of whom are isolated with no all season roads to communities just outside of Toronto and other major urban centres --- yet they are all expected to negotiate self-government in accordance with one restrictive federal policy
- As many of you aware, First Nations have been saying to government for many, many years that “one size fits all” approach does not work --- this approach cannot accommodate different views and the diverse governance structures that exist among the Nations
- As I also previously mentioned the First Nations in Ontario view the Treaties as the foundation of our relationship with governments
- This means that the First Nations in Ontario approach the self-government issue from the perspective of unfinished business but the federal Inherent Right Policy does have a foundational basis

- The federal government launched this policy as a protective mechanism, more or less saying “we need to define what the Inherent Right means from our perspective as narrowly as possible in order that we can control it”
- Now we are left stuck with a “one size fits all” federal policy, that has not kept pace with court decisions and is in desperate need of an overhaul
- To put it simply the Inherent Right Policy was developed by government to unilaterally define what the Inherent Right is by developing a policy that is restrictive and does not work for First Nations but is really the only game in town
- As we all know, the impetus for pursuing self government negotiations is the desire to get out from under the confines of the *Indian Act*
- And right now entering into negotiations under the auspices of the Inherent Right Policy is one possible avenue to accomplish this – either in whole or in part
- We see that getting out from under the Indian Act can be done by looking to the Yukon First Nations and at the *Yukon First Nations Self-Government Act* and I want to congratulate you on your 15 years of experience with Self-Government
- I understand that the transition that you have been through has been at times challenging and I’m very interested in hearing more about your experience as I am strong believer in First Nations sharing their experiences and learning from one another

- I am hopeful that this is a conversation that we can continue in the future and I am sure that the First Nations in Ontario would also very much like learn about the Yukon First Nations experience with Self-Government
- In closing, I again want to express my sincere appreciation to the organizers of this conference, Regional Chief Morris, Grand Chief Massie and the Yukon First Nations
- I hope to be back in your traditional territory in the near future – thank you for allowing me to share some of my thoughts with you about the experience of the First Nations in Ontario with Self Government and Self Government negotiations
- Thank you! Miigwetch!