

NORTH SLAVE MÉTIS ALLIANCE

PO Box 2301 Yellowknife, NT X1A 2P7



March 3rd, 2010

Jody Snortland Pellissey
Executive Director
Wek'eezhii Renewable Resources Board
Phone: (867) 873-5740
Email: jsnortland@wrrb.ca

Re: Intervention of the North Slave Métis Alliance (NSMA) – Additional Information.

The North Slave Métis Alliance (NSMA) has requested that some additional reference materials be placed on the public registry. The essence of the documents and how they support our position are described below.

Attachment # 14. 2002 Paul vs. Canada. This document is the ruling from a court case between the NSMA and the Defendants, who were Canada, the Government of the Northwest Territories, and the Dogrib Nation. On page 5, paragraph 30, you will note that the eligibility criteria for the Dogrib claim **excluded Métis without Dogrib ancestry**, and in paragraph 31, there was **no separate representation for the Métis at the Dogrib (now Tlicho) negotiations table**. The majority of the document outlines the attempts of the NSMA to be included, in a meaningful way that does not lead to cultural genocide, in the Tlicho land claim. Starting on page 13 and continuing on page 14, paragraph 66 describes how the Defendants depended heavily on the non-derogation clauses of the draft Tlicho agreement to show that other Aboriginal Peoples having aboriginal rights in the North Slave Region would not suffer irreparable harm if the Tlicho Agreement went ahead without their participation. They then state that they don't recognize the existence of the Aboriginal Rights of the North Slave Métis. Although the court failed to grant the NSMA an injunction to prevent the continuation of negotiations on the AIP until NSMA was involved, the court did comment on page 19, paragraphs 109 through 111 and 117 that:

" [109] I cannot accept counsel for Canada's argument the plaintiffs have not shown there are serious issues to be tried in their action because of doubts as to the existence of the Indigenous North Slave Metis as an organized community or that the plaintiffs do not represent the Indigenous North Slave Metis who, Canada says, historically may not have settled in the NSR communities as was the case in the western provinces, in the Red River Settlement (Manitoba), Batoche (Saskatchewan), or St. Albert (Alberta).

[110] The plaintiffs' action is based on the premise that the Indigenous North Slave Metis constitute a distinct people with aboriginal rights and title in the NSR. **The plaintiffs' evidence (through the expert affidavits of Drs. Sprague and Stevenson and that of Mr. Thoms) provides a sufficient basis, at this stage, to establish there may well have been or be today such a community (then Old Fort Rae), (today the Flats in Yellowknife and French Point in Rae-Edzo). Counsel for the Dogrib Nation conceded the plaintiffs had raised sufficient evidence on this point.**

[111] In my view, it can be said **the issues raised by the plaintiffs are serious ones.** A brief consideration of recent decisions of the Supreme Court of Canada in matters of Aboriginal rights under section 35 of the Constitution Act, 1982 to which must be added the recent decision by the Ontario Court of Appeal in *R. v. Powley*, supra, **satisfies me the plaintiffs have met the low threshold of the serious issue test.**

.....

[117] I do not accept the technical argument that, as framed, the plaintiffs' action is not a representative action on behalf of a people said to be a community. As I read the statement of claim as a whole **the indicia of a representative action are sufficiently spelled out.** (See also rule 114 of the Federal Court Rules, 1998.) **Also, the facts relied on by counsel for Canada, in my view, are not sufficient to negate the proposition the NSMA represents the Indigenous Metis in the NSR. The NSMA may represent more than the Indigenous Metis or less than that entire group but this does not affect the essence of their action."**

Attachment # 15. RCAP Guidelines 1993. This 4 page document is provided to support the NSMA's claims that the distinct cultural perspective and traditional knowledge of the North Slave Métis should have been solicited, by the WRRB and by Government, from their representative group, the NSMA.

Attachment # 16. EthicsEnglishmarch2003. This is a 9 page document, published by the Association of Canadian Universities for Northern Studies, in 2003, which outlines 20 principles for the development of co-operative and respectful relationships between researchers and the people of the north. Of particular importance, with regards to the WRRB hearings, are the principles of:

- ∞ appropriate community consultation at all stages of research (principle #2),
- ∞ no research involving living people or extant environments should begin before obtaining informed consent of those who might be unreasonably affected, or their legal guardian. (principle #7)
- ∞ Greater consideration should be placed on the risks to physical, psychological, humane, proprietary, and cultural values than to potential contribution of the research to knowledge. (principle # 20)

Attachment # 17. CIHR Guidelines for Health Research Involving Aboriginal People (file name ethics aboriginal guidelines e.pdf) More support for the concept of community involvement in research.

Attachment # 18. 2005 ESA article shows eastern caribou as metapopulation including sedentary herds. This online article outlines a genetic research project that showed

no genetic distinction between sedentary and migratory caribou herds in eastern Canada. This supports NSMA's position that barrenland caribou, at least, need to be managed as a meta-population, and that all herds must be surveyed at once (during calving) in order to come up with a total population number.

Attachment # 19. Alaskan Caribou genetic metapopulation. This is another article reporting that Alaskan caribou are a genetic metapopulation.

In addition, the NSMA has heard from various land users, who may be able to attend the hearing as witnesses that there are large herds of caribou at Pointe Lake and Mackay Lake, as well as in northern Saskatchewan. The numbers appear to be greater than what ENR has counted.

We also intended to present a statistical analysis of the caribou collar data, but we have not received access to the raw data yet.

Sincerely,



Sheryl Grieve

Environment Manager

Phone: (867) 873-6762 extension # 22 (note corrected extension number)

Email: enviromgr@nsma.net or lands@nsma.net

With Attachments 14-19