

Lubicon Lake Indian Nation

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The Hon. Chuck Strahl
Minister of Indian and Northern Affairs
Government of Canada
Ottawa, ON K1A 0H4
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BY FAX

Dear Mr. Strahl:

Thank you for your letter dated April 29, 2008 responding to my letter of February 06, 2008. I received your April 29th letter on May 07th.

Despite both of our efforts to clarify our respective positions, I am concerned that we may be miscommunicating.

On February 02, 2007, your predecessor Mr. Prentice agreed to appoint a federal negotiator to settle Lubicon land rights. On the question of whether that negotiator would have a mandate to negotiate all outstanding settlement issues including self-government and financial compensation, Mr. Prentice said he didn't believe in mandates. Instead he proposed to appoint a negotiator both parties could trust to see what kind of agreement could be reached and then, if agreement could be reached, Mr. Prentice said he would recommend it to Cabinet. We agreed to proceed as Mr. Prentice proposed.

On April 18, 2007 I received a letter from Mr. Prentice dated March 30th following up on our February 02nd agreement. Mr. Prentice proposed to give Mr. Boutillier a 45-day contract "to meet with representatives of the (unspecified) main parties to the negotiations to determine the chances of settlement". This seemed to be a different thing than appointing a negotiator to see what kind of agreement could be reached and I responded accordingly. However it occurs to me in retrospect that maybe Mr. Prentice was just using different words to express the proposal he'd made on February 02nd to appoint someone both parties could trust to see what kind of agreement could be reached and then, if agreement could be reached, that he'd recommend it to Cabinet. We could certainly agree to putting a time limit on reaching agreement since all of the required technical work has long since been done and we've said many times -- as have some members of the federal negotiating team -- that agreement could be achieved in six weeks if both levels of Canadian government would simply honor hard-won agreements already made.

I wrote back to Mr. Prentice on May 08, 2007 indicating that the Lubicon people are prepared to meet with whomever Mr. Prentice appointed to try and resolve all outstanding settlement issues. However, I said, the Lubicon people are not prepared to have some supposedly uninvolved independent expert determine whether or not settlement is possible, and certainly not someone who had long and contentious involvement in the Lubicon situation as a senior official of the provincial government. I said the Lubicon people therefore trust that the appointed federal representative will be prepared to explore how, not if, a mutually acceptable settlement of Lubicon land rights can be achieved.

You and I have continued this discussion in your letter of January 16, 2008 -- in which you proposed to appoint Mr. Coyle as someone who has not had previous involvement with the file -- and in my response of February 06th, in which I reiterated the Lubicon position that the Lubicon people are prepared to meet with whomever you send to the table to deal with all outstanding issues. That brings us to your letter of April 29th in which you conclude that the Lubicon people "are not interested in participating in the exercise to be led by Mr. Coyle to determine whether a settlement is possible."

Maybe we are. It depends on the nature of the exercise you're proposing. The key is whether you're proposing to have your representative meet with us charged with trying to achieve agreement within a prescribed period of time, or if you're proposing to have a supposedly uninvolved independent person characterize the positions of the parties and draw conclusions on whether, in that person's judgment, the positions of the parties are reconcilable. The Lubicons are prepared to participate in the former with whomever you appoint. The latter frankly looks more like a political exercise to try and politically justify and rationalize not even trying to achieve settlement. (In this last regard we have been told many times, including by departmental officials, that some departmental officials try to attribute lack of settlement to the situation being insoluble rather than to their own attitudes, ineptitude and intransigence. The last federal negotiator appointed by the previous government, for example -- as other members of the federal negotiating team can confirm -- caused negotiations to go on interminably by bitterly characterizing each negotiated compromise as a personal defeat and regularly seeking to go back and renegotiate issues previously agreed.)

That leads me to the issue of mandate where you say the issues of self-government and financial compensation have "always been...and continue to be part of the federal mandate", and that they "were discussed during the last round of negotiations, up to the point where it became clear that both the federal and provincial mandates were not able to meet the demands of the Lubicon people". I take at face value that's what you've been told, and your Ministerial predecessors Prentice, Scott and Mitchell before you, but, as can easily be documented, it's not factually accurate. Negotiations didn't end when it became clear that the federal and provincial mandates were not able to meet the demands of the Lubicon people. Negotiations ended when federal negotiators refused to discuss self-government as part of a settlement of Lubicon land rights saying it was beyond their mandate, and federal negotiators brought discussions on financial compensation to an end by first asking the Lubicons to table a bottom line figure rather than pursuing discussion of a substantive basis for financial compensation, and then insisting on using the requested bottom line as the starting point for negotiation of financial compensation and refusing to discuss anything else. That's not negotiation of the issues. That's dictating what will and won't be considered -- contrary to what had been agreed in advance -- and refusing to discuss anything else.

As I indicated in my letter of February 6th the Lubicon people are prepared to meet anytime with whomever the federal government sends to the table -- including Mr. Coyle -- to try and achieve settlement of Lubicon land rights. Neither Canada nor the Lubicons can responsibly refuse to pursue a settlement of Lubicon land rights, especially given growing tensions resulting from increasing resource company pressure to proceed in unceded Lubicon Territory.

Sincerely,



Bernard Ominayak
Chief Lubicon Lake Indian Nation