

V6T 1W5

January 18, 1974

Mr. James Sewid
Chairman, Indian Advisory Committee
Department of Provincial Secretary
Victoria, B.C.

Dear Mr. Sewid:

As I reported at today's meeting of the Indian Advisory Committee, I have been authorized by the Kitwancool Tribe to deliver to the Provincial Government, through you, the attached documents, which are in the form of a petition that their aboriginal title to their tribal territories be recognized and that the future utilization of these lands be settled by negotiation with them. The people of Kitwancool have never been party to any agreement to surrender their rights to the land, and have asserted these rights on every possible occasion. For substantiation of that statement I attach a copy of the book Histories, Territories and Laws of the Kitwancool, published by the Provincial Museum, and I shall give some further details below.

The Kitwancool, therefore, provide a particularly clear test case of the position of the non-treaty Indian bands of the Province with regard to the long-delayed settlement of the B.C. Indian Land Question. They are the immediate neighbours of the Nishga Tribe, whose recent test case in the Supreme Court of Canada added legal strength to the concept of aboriginal title. As you know, it was on the strength of the Nishga decision that the Federal Government changed its policy and decided to begin negotiations with the Indian people for the extinguishment of the native title. These negotiations are now in progress in the Yukon and Northwest Territories, and will have to be extended to all non-treaty areas of Canada. In British Columbia they are not the sole responsibility of the Federal Government because they involve lands and resources, which are under Provincial jurisdiction. I suggest, therefore, that the Provincial Government should look seriously at the Kitwancool request as an example of the general problem which will have to be solved soon.

As a result of our discussion at today's meeting, we felt that it was our most important task to advise the Government that the unextinguished native title to the lands of British Columbia is the single most important

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and urgent Indian concern; and that the Indian people have not yet received a fair proportion of the land and resources which were once entirely their own. The settlement of this injustice and grievance is the main order of business of this generation. I have an impression that the new Government may have the courage and vision to help accomplish the task. However I am much disturbed that it seems to be embarking upon new programmes of resource development in the northern parts of the Province without apparent awareness of the still-existing native rights to the land. While the Provincial Government cannot settle this matter unilaterally, I do not think that it should knowingly impair the Indian rights even further, and I urge you to press most strongly the recommendation that negotiations be opened with the Indian people and the Federal Government to settle the problem.

The Kitwancool have taken a consistent stand on this question over a long period of time. Until recent decades they would not permit surveyors or timber cruisers into their territories. They refused to deal with the Indian reserve commissioners, and in 1927 six of them were sent to prison for obstructing reserve surveyors, which is the reason they call their reserve the Oakalla Prison reserve. They did not join with the Allied Indian Tribes in the 1920s, and have refused to accept any share of the B.C. Special grant which resulted from the Ottawa hearing of that organization. They have established the special office of President to safeguard their land rights, and the present holder of that office is Mr. Peter Williams. The Provincial Lands Department has for many years recognized the existence of their claim, and has turned down applications for lands within Kitwancool territories pending its settlement. In historical and anthropological terms the Kitwancool case is very strong. As a result of the Nishga case it is now legally stronger than ever before.

Our request is that you deliver this petition to the Minister in charge of Indian affairs, and that a meeting be arranged at which Mr. Williams and I may explain the Kitwancool claim. If more background information is required I shall be pleased to provide it.

Yours sincerely,

Wilson Duff
Professor of Anthropology
Member, Indian Advisory Committee

WD/hs
Enclosures