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DAVID HUGHES
FOR YOUR INFO

DEC 18 1992

TERMS OF REFERENCE

W. Alley DEC 21/92
An Independent Assessment of the Allegations
Made by the Innu of Labrador

OBJECTIVE

To act as a Special Investigator for the CHRC to examine the grievances of the Innu of Labrador against the governments of Canada and Newfoundland and to recommend such corrective measures as may be warranted.

BACKGROUND

In June 1992, the Innu Nation and the Mushuau Band Council completed a report entitled "Gathering Voices: Finding Strength to Help Our Children". The report analyses the social and cultural malaise which characterises the community of Utshimasits, and presents a number of recommendations to ameliorate conditions there. Paramount among these recommendations is a proposal for self-government.

On June 16, 1992 the Chief Commissioner met with Peter Penashue, President of the Innu Nation, representatives of the Innu people and Grand Chief O. Mercredi. The Innu requested that the Commission carry out an investigation into their allegations. The Chief Commissioner agreed to appoint a Special Investigator.

On July 16, 1992 Mr. Yalden received a letter from Mr. Penashue further outlining the issues the Innu Nation wished the inquiry to examine (copy attached).

ISSUES TO BE INVESTIGATED

The Innu Nation's main concerns are outlined in Mr. Penashue's letter of July 17. The specific issues to be investigated are as follows:

1. Federal Recognition of the Innu

The Innu allege that due to circumstances relating to the nature of Newfoundland's entry into Confederation they do not receive the same level and quality of services as other aboriginal peoples in Canada.

The Innu believe the federal government has abrogated its responsibilities to them by entering into a series of agreements that gives primary responsibility for the delivery of the of programs and services to the

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provincial government. In their view this is tantamount to a refusal by both governments to fully recognize their constitutionally protected status as aboriginal peoples.

The Innu are seeking funding and programs directly from the federal government on a basis comparable to other Inuit and Indian communities.

2. Self-Government

The Innu maintain the current arrangement denies them the opportunity to take control of their own affairs. For example, their attempts to gain control over their local school and policing have been rebuffed.

The Innu are seeking a self-government agreement that would give them control over the management of health, housing, welfare, education, policing, infrastructure and other essential programs. An essential element of such an agreement must be recognition of their inherent right to self-government.

3. Relocation

The Innu allege that the three "forced" relocation of the Mushuau Innu since 1947 have disastrous consequences.

The terrain of their present community at Utshimasits is ill suited for modern housing. Consequently service levels are minimal. Their location on an island prevents them from pursuing their traditional pursuits for much of the year.

The community is isolated and does not have the resources necessary to help the Innu cope with modern life. On the other hand, they can no longer pursue their traditional ways. This has resulted in high levels of social dysfunction.

The Innu believe that relocation to a new community would enable them to rebuild both socially and physically. A planned community, in a less isolated locale, would facilitate resolving the social problems they face.

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4. Compensation

In a July 20, 1992 letter to the Commission the Innu indicate that they are "seeking compensation from government for breach of its fiduciary duty and responsibilities since 1949" and asked the CHRC to consider this matter in the investigation.

REQUIREMENTS

The Contractor shall undertake:

- to submit to the client a proposed workplan and schedule within 10 days of signature of this contract;
- to undertake a review of the reports and other documentation collected by the CHRC;
- to obtain and examine other documents if necessary;
- to interview individuals with direct knowledge of the matters under study including representatives of the governments of Canada and Newfoundland, the Innu Nations and residents of the communities concerned;
- to visit the Innu communities and such other locations as may be relevant to carrying out a full investigation;
- to analyze all available data and incorporate the findings in a final typewritten report;
- to make recommendations for the resolution of the issues identified above.

ASSISTANCE TO BE PROVIDED BY THE CHRC

The Commission will make available all research material and analysis collected to date. Policy and Planning Branch officers will be available to assist the contractor in carrying historic and legal research and analysis.



INTERGOVERNMENTAL AFFAIRS SECRETARIAT
EXECUTIVE COUNCIL
NEWFOUNDLAND AND LABRADOR

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Newfoundland
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January 11, 1993

Mr. Ray Hawco
Assistant Secretary to Cabinet
(Native Policy)
Intergovernmental Affairs Secretariat

Subject: Agenda for Meeting with Mr. Don McCrae

I am writing in response to your memorandum of January 6, 1993 respecting Mr. McCrae's investigation for the Canadian Human Rights Commission (CHRC).

I will be meeting with Debbie Paquette at 10:00 a.m. tomorrow (Tuesday) to go over what the Department of Justice has discovered about the CHRC and its governing legislation.

Additionally, I spoke with Mr. McCrae and enquired about some July 20, 1992 correspondence referred to in his Terms of reference. He said he could not recall there being such a letter but would review his files and consult with the CHRC. In any event, he will fax the letter to me in the next couple of days.

I asked Mr. McCrae to outline what he wished to discuss with Newfoundland officials during his visit:

- He would like to have any historical material we or the archives may have relating to the 1949 period and subsequent events that would throw some light on why the Innu have had these f/p agreements rather than being dealt with directly by Ottawa. He said that the CHRC has given him the Tompkins and Moss papers, but he would like anything else we may have or may have produced.
- He would like to review any materials regarding the 1947 re-location of the Davis Inlet Innu to Okak.

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- He wishes to discuss the Innu Agreement and how it operates from our perspective. He has spoken with DIAND people in Ottawa and Amherst about this.
- He would also like to discuss the Innu contention that they have been impeded by governments in their ability to proceed to self-government.
- Finally, while acknowledging that it may be premature, he would like to get a feel for the province's reaction to the recent Terpstra Report on Davis Inlet's relocation.

He also indicated that he would like to spend some time discussing some of these matters with Albert, as Fred had indicated (according to Mr. McCrae) that Albert has done considerable research into the above matters. I suggest that Albert be invited to the 2:00 p.m. meeting with Fred on Tuesday to discuss this.

Because of their interest in these matters, I have taken the liberty of copying the present correspondence to Albert, David, Mike and Bob Pelley.



DAVE KENNEDY
Director, Policy Development

cc. Albert Jones
✓ David Hughes
Mike Samson
Bob Pelley