

Minister John Duncan
Indian and Northern Affairs
House of Commons
Ottawa, Ontario K1A 0A6

September 22, 2010

Dear Minister Duncan:

RE: DEZE ENERGY TRANSMISSION LINE ROUTING

We are the elected leadership of the Lutsel K'e Dene who entered into Treaty with the British Crown in 1900 at Deninu Kue. In the *Paulette* decision, Mr. Justice Morrow called into the question the government's version of the Treaty regarding the 'cede and surrender' clauses of the written Treaty. We have our oral understanding of our Treaty. As a result of the *Paulette* decision in the 1970's, Canada has been engaged in discussion with the Dene regarding the issue of our lands. We continue those discussions under the present Akaitcho Process. While we are sitting at the table in good faith, agents of the government have been busy trying to access and use our lands without our consent. Lutsel K's Dene are daily users of our territory. The government of Canada knows the value of this pristine area of Canada and has entered into discussions to create a National Park within our territory. Our First Nation has been involved in these discussions. So, on one hand, Canada wants to have a footprint of green environmental protection for your international image and on the other hand wants to run a transmission line through this territory to provide energy to the mines that are destroying the land, the water, the animals and the fish. We are opposed to the transmission line going through our territory. We have been very clear in our presentation regarding our objections and the government of Canada has not been listening to our concerns. There has been no attempt to accommodate our interests nor the interests of the proposed park. How can you have a pristine park area with a transmission line running through the territory?

If the land was not surrendered, the question remains: how does the government of Canada get jurisdiction in the territory of the First Nation? They cannot assume jurisdiction. They have to find a way to get the First Nations to accept that Canada would have some rights within your territory. The Supreme Court in the *Haida Nation* case wrote that there is a pre-existing First

Nations sovereignty and an assumed sovereignty by the state of Canada. Canada is a treaty successor to the treaties negotiated and concluded with the Crown. There is no way for Canada to have jurisdiction unless the First Nations decide that Canada will have rights within our traditional territory. In the *Sundown* case, which originated out of Saskatchewan, the Supreme Court of Canada recognized the right of John Sundown to build and maintain a cabin in their traditional territory which was outside of the reserve lands set aside at the time of the treaty making. This was further confirmed by the *Mikisew Cree* case from Northern Alberta when the Cree argued that they needed to be consulted about a road construction in their traditional territory. Treaty rights carry rights and obligations that cannot be dismissed or overridden by federal legislation such as the *Mackenzie Valley Land and Water Act*. We have never accepted that the *MVLWA* has any jurisdiction over our territory. We went to court on this issue in the Patterson case. Canada made an agreement with us. Now, there is an attempt to push a decision onto us. This is not good faith. Where is the honour of the Crown?

We are writing to you with this request. Uphold the honour of the Crown and reject the recommendation of the Board to allow the construction of the power line in our traditional territory that we are using on a daily basis. If Canada wants to be honourable and uphold your legal obligations, your office will not accept the building of an unproven transmission line in our territory.

Yours truly,

Chief Antoine Michel

cc. Mackenzie Valley Environment Impact Review Board