

NADLEH WHUT'EN INDIAN BAND

Chief Larry Nooski
Nadleh Whut'en First Nation
PO Box 36
Fort Fraser BC V0J 1N0
Fax: (250) 690-8010

Commissioner Wally Oppal
Missing Women Commission of Inquiry
#1402 - 808 Nelson Street
Vancouver, BC V6Z 2H2

VIA FAX: (604) 681-4458

Dear Commissioner Oppal:

RE: Study Commission hearings in Northern British Columbia

I am the elected Chief of the Nadleh Whut'en First Nation, located on the banks of the Nadleh Bun (Fraser Lake) near Fort Fraser. Our band has approximately 500 members. I am writing to you about our concerns with decisions made by you and your staff in conducting the Murdered and Missing Women Inquiry. I have read and reviewed Chief Jackie Thomas' letter on behalf of the Saik'uz First Nation, and agree entirely with her sentiments.

Holding race-based meetings undermines years of our anti-racism partnerships with local Mayors

I was completely caught off guard to hear that Commission staff have been meeting with local Mayors without First Nations representatives present. Aboriginal leaders and non-aboriginal leaders in the North have spent years attempting to close the "race gap" by working together. I have personally met and worked with local Mayors for years to achieve the goal of ending the divisive "Cowboys and Indians" approach. I do not believe a race-based future is going to build unity or reduce racism in the North. Only collaboration can give us assurance of success in our efforts.

Unfortunately, your Commission's approach is undermining my efforts, the efforts of many of our Chiefs in the North, as well as the efforts of many non-aboriginal leaders in the North. These mistakes are so easy to avoid – a simple phone call to the elected Chiefs in the area asking "How should we best organize these meetings?" would have avoided this outcome. For some reason, this simple solution has not been implemented by your Commission.

The already problematic "study commission" into the Highway of Tears is made worse by race-based consultations

As a First Nation leader I have always supported the need for a Highway of Tears Inquiry. Your terms of reference did not include such an Inquiry; you have stated that you cannot take submissions on an



active police investigation into the Highway of Tears; and yet you are holding “study commission” hearings in the North, apparently on this issue, although exactly how and to what end is not clear.

Whatever your intentions, you should be aware that on June 16, 2006, several First Nations and First Nations organizations in the North completed a report with very clear recommendations to improve safety for aboriginal women. It recommended Highway signs erected for missing and murdered women. It recommended a shuttle bus system to replace hitchhiking as a main mode of transportation on the Highway. However, whatever the reason, so far there are no signs on the Highway of Tears except for those signs on Indian reserves. No shuttle bus service has started.

Do municipal governments support such signs? Do they support shuttle busses? Do they not? Are they even aware of the recommendations? I do not know if the Mayors along the Highway of Tears even supported an Inquiry into the Highway of Tears. How can I know where these essential partners stand in their knowledge, and their actions, if we are all at separate meetings? Must I rely on your interpretation of their comments to know where they stand? Can I not hear these comments myself, at a shared meeting of all stakeholders?

Race-based meetings are contrary to Canadian equality laws

Holding separate meetings for Mayors and separate meetings for elected Chiefs opens the distinct possibility of different messages to different groups of people based on race, or based on on-reserve/off-reserve status, or all of the above. B.C.’s Human Rights Code (section 8) and Section 15 of the Canadian Charter of Rights and Freedoms prohibits delivering any service, including the services delivered by your Inquiry, from discriminating based on race. The Supreme Court of Canada was clear in the *Corbiere* decision that distinctions between “on reserve” and “off reserve” aboriginal peoples is baseless and discriminatory.¹ No matter your intent, it is clear that holding separate meetings draws artificial distinctions based on race that undermine the purpose of both the Charter and the Human Rights Code equality provisions. Such an approach is unconscionable and must immediately be halted.

This Commission is structured to protect a justice system that has failed First Nations people

I would like your assurance that elite lawyers have not been retained both inside and outside your Commission to protect the white justice system that has so totally failed us for over a hundred years; however, with respect, I cannot see that you would be able to give me that assurance. In fact, you yourself wrote a letter dated June 30, 2011 in which you recognized that your Inquiry staff could not represent the interests of our People. You said unequivocally:

Even counsel for the VPD [Vancouver Police Department] recognizes the need in this Inquiry for counsel for those people and organizations that are unrepresented... It would be the height of unfairness to require unrepresented individuals to cross examine police who are represented by highly qualified counsel.

¹ *Corbiere v. Canada (Minister of Indian and Northern Affairs)*, [1999] 2 S.C.R. 203, 173 DLR (4th) 1.

While you apparently recognize the inherent unfairness – the height of unfairness – of your own Inquiry, you refuse to go to court to compel the government to fund legal resources for the Carrier Sekani Tribal Counsel and the Union of B.C. Indian Chiefs to coordinate hearings in the North and protect the interests of our People during this adversarial process. You have refused to resign to protect your own integrity, even though your Inquiry has been interfered with directly by Government, stacking the deck in favour of the police who have teams of lawyers with unlimited resources lined up against unrepresented aboriginal people.

You have chosen to preside over an Inquiry that you believe to be the height of unfairness. You have done so knowing your own history in refusing to approve charges against Robert Pickton for the remaining women whose remains were found on his farm, many of them aboriginal women. You have done so knowing that you were in the media saying there would be little to learn from this very Inquiry. Given this Commission's track record to date, you were, unfortunately, quite right when you said that.

You have hired the police to investigate the police

We have learned that you have asked a team of "volunteer" police officers whose time is "donated" from the Peel Regional Police Force to review documents for this inquiry and narrow down which documents are important and which are not. While the Peel Police officers investigate the RCMP for your Inquiry in British Columbia, across the country the RCMP are investigating the Peel Police for drug dealing and corruption in Ontario.

I understand that you have been alerted to this direct conflict of interest and have refused to act by removing police from the document review process. Instead, you are relying to a great extent on the Peel Police's "findings" to direct your work. Two public inquiries in B.C. have now said that the police cannot be trusted to investigate themselves, and yet you have asked police to vet documents for you. How many aboriginal leaders have you asked to review documents for you, to tell you what is important and what is not?

We cannot participate in an inquiry whose outcome is pre-determined

If the Nadleh Whut'en were the police, we would have fully paid lawyers, with no limits on their compensation. We would be reviewing documents right now and would be telling you what is, and what is not, important. We would be consulted at every stage, and schedules would be altered to accommodate our needs and the needs of our lawyers. But we are not the police.

Because we are not the police, we have no documents. We have no lawyers. We have no notice; we are told that you are coming to our communities with four weeks' notice in the middle of hunting and fishing season. We are told that we should gather our communities together to cooperate and give you evidence. And yet, even if we could perform the impossible and call everyone back from hunting and fishing for their food for the year in order to testify in front of you without lawyers or documents, we still cannot cooperate, because you won't or can't tell us the specific dates or locations for your visit.

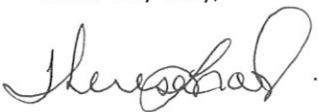
It is obvious that your Inquiry is not an impartial Inquiry, but rather a police court where police officers are judge, prosecutor and witness and the only defendants are the very people the Inquiry was intended to assist. And the defendants are denied the right to a lawyer. The results are in, even before the Inquiry has yet to begin.

While the police read and review your secret documents in the back room, and in the front room their teams of lawyers with unlimited resources wait to cross examine our People, the Nadleh Whut'en will not participate. While your Commission refuses to take basic steps like picking up the phone and asking for advice, and instead treads over years of work by our leaders with local mayors to lessen and eliminate racism, the Nadleh Whut'en will not participate. While your Commission treats the Highway of Tears as a side-show to the Robert Pickton Inquiry in Vancouver, the Nadleh Whut'en will not participate. While your Commission may wish to come to our territory to interview our People, while our People have no legal representation and the Police lawyers line the room, the Nadleh Whut'en will not participate.

We demand the following, before we will invite this Commission to our community:

1. An immediate end to race-based meetings;
2. Your resignation, and the appointment of an independent Commissioner with some understanding of aboriginal issues, or at least a willingness to call First Nations to consult on best practices;
3. The removal of police working inside the Commission;
4. Revision of the terms of reference to hold a full public inquiry into the Highway of Tears; and,
5. Legal support for First Nations people who wish to participate to protect them both mentally and legally from harassment and legal attacks by police lawyers.

Yours very truly,

A handwritten signature in black ink, appearing to read "Larry Nooski". The signature is fluid and cursive, with a large initial "L" and "N".

Chief Larry Nooski
Nadleh Whut'en First Nation