



Affaires indiennes
et du Nord Canada

Indian and Northern
Affairs Canada

Sous-ministre
adjoint principal

Senior Assistant
Deputy Minister

Ottawa, Canada
K1A 0H4

WITHOUT PREJUDICE

AUG 06 2009

Chief Clifford Poucette
Chief David Bearspaw
Chief Bruce Labelle
Stoney Tribal Administration
P.O. Box 40
MORLEY AB T0L 1N0

Dear Chiefs:

I wish to inform you that, based on the analysis of evidence documented by the Stoney Nakoda Nations and by the Specific Claims Branch, and pursuant to *The Specific Claims Policy and Process Guide*, it is the decision of the Minister of Indian Affairs and Northern Development not to accept the Alienation of Indian Reserve 142A specific claim for negotiation on the basis that there is no outstanding lawful obligation on the part of the Government of Canada.

In the Alienation of Indian Reserve 142A specific claim, it is alleged by the First Nations that:

1. the Lands "constituted a 'Reserve' within the meaning of the *Indian Act*, such that their alienation in the absence of a duly conducted surrender vote and an executed deed of surrender was unlawful."; and,
2. the Crown "breached the fiduciary duties it owed to the Stoney Indians by failing to secure the lands for the Bands."

It is the Government of Canada's position that there is no outstanding lawful obligation on the part of the Government of Canada for the following reasons:

With respect to the first allegation, it is Canada's position that no "reserve", within the meaning of the *Indian Act*, was created or existed on the Lands because the legal requirements for reserve creation were never met. The *Indian Act* surrender procedures

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did not apply as the Lands did not constitute a "reserve" within the meaning of the *Indian Act*. Therefore, it is Canada's conclusion that the alleged illegal alienation of the Lands cannot give rise to a "lawful obligation" within the meaning of the specific claims policy.

With respect to the second allegation, Canada's position is that reserve creation is discretionary and there was no legal obligation, fiduciary obligation or otherwise obligating Canada to set apart the Lands as additional reserve lands to the Stoney Reserve, or that obligated Canada legally to secure permanently the Lands for the First Nations in any other manner.

It is noted that additional reserve lands were granted to the First Nations in 1914 when a 20 square mile tract of land was set apart and added to the Stoney Reserve (I.R. 142B). As a result of this addition, it appears that the First Nations had a total of 129 square miles of reserve lands for their use.

Please be advised that this notice is written on a "without prejudice" basis and should not be considered as an admission of fact or liability by the Crown. In the event this claim becomes the subject of litigation, the government reserves the right to plead all defences available to it including technical defences such as limitation periods, strict rules of evidence or the doctrine of laches. Please be advised, as well, that Government of Canada files are subject to the *Access to Information Act* and the *Privacy Act*.

Sincerely,


fr Michel Roy
Senior Assistant Deputy Minister
Treaties and Aboriginal Government