

**LEGISLATIVE ASSEMBLY OF THE  
NORTHWEST TERRITORIES  
9<sup>TH</sup> ASSEMBLY, 4<sup>TH</sup> SESSION**

**TABLED DOCUMENT NO. 15-81 (1)**

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Tabled on Feb. 12, 1981 TD 15-81(1)

COMMITTEE for ORIGINAL PEOPLES ENTITLEMENT

Post Office Box 2000

Inuvik, N.W.T.

XOE 070

11 February 1981

Honourable John C. Munro, P.C., M.P.  
Minister, Indian Affairs and  
Northern Development  
House of Commons, Confederation Bldg.  
Ottawa, Ontario  
K1A 0A7

Dear Mr Minister:

I was extremely disappointed with the meeting of February 2. I regret that the two fundamental issues between us remain unresolved: the first issue is your failure to honour the Agreement in Principle as signed between Canada and COPE in 1978; the second issue is the failure of your officials to deal with us honestly and to negotiate in good faith (thereby breaching section 3(1) of the Agreement). The issues are related in that as a result of the failure of your officials to negotiate in good faith, you are going back on your commitment to honour the Agreement.

I would like you to reflect again upon our concerns and consider whether you wish to remedy the situation.

Honouring the Agreement in Principle

During our March 31, 1980 meeting in Inuvik you said you would honour the Agreement because a "deal is a deal." You confirmed this again in your letter of April 22 (attachment 1):

"First, and most important of all, I can assure you that this government will honour the Agreement in Principle and wants to move ahead as quickly as possible in order to achieve a final agreement."

However, in your letter of December 24, you said that compromises by the Inuvialuit are essential.

In our meeting of February 2, you said it was a matter of interpretation as to whether your December 24 letter was in fact going back on the Agreement. You refused to specify whether your letter should or should not be so interpreted.

We said then that we were not alone in this interpretation of your letter; both territorial governments, the press, and the other native associations were making the same interpretation.

For example, we showed you the News of the North (January 16, 1981) which said:

"John Munro has stated that some parts of the Agreement in Principle signed between the Committee for Original Peoples Entitlement (COPE) and the government are not acceptable to cabinet and must be changed before a final agreement can be reached." (see attachment 5)

A CBC newscast in Inuvik (January 13, 1981, 12:30 p.m.) says:

"The Yukon's Government Leader says he is pleased the Federal Government recognizes the COPE Agreement in Principle will have to be changed.... The Minister makes it clear that COPE are going to have to move off of their basic principle that they have put forward." (see attachment 4)

The Minister for Aboriginal Rights and Constitutional Development of the G.N.W.T. wrote to you (January 30, 1981) that:

"We interpret your letter of December 24 as directing the Chief Government Negotiator, Senator Steuart to break or significantly alter certain aspects of the Agreement which was signed in 1978 with Cabinet approval." (see attachment 3)

The Dene Nation and Metis Association of the N.W.T. are quoted in News of the North (January 23, 1981):

"...both the Dene Nation and the Metis Association are concerned about the value of an Agreement-in-Principle if in fact the Federal Government can back out at any time."

"Is it possible that a Native organization can enter an agreement-in-principle in good faith ... can continue to negotiate for two years on the understanding that the agreement is acceptable to the government and then be informed that the Minister's successor will not honour the agreement?' they asked.

They said the implications are very grave for other native groups negotiating with the government." (see attachment 5(a))

Neither you nor your officials would answer, at our meeting on February 2, whether your letter giving directions to your negotiator meant that you were breaking some of Canada's obligations in the Agreement. However, there are internal memoranda which indicate that some of your officials concur with our interpretation that it did (attachments 11 and 13).

Moreover, when in the same meeting we asked you to examine the effect of your direction regarding wildlife compensation (the fifth issue in your December 24 letter), as an illustration of the validity of our interpretation, no one from government denied that the effect of your direction was to delete Canada's commitment to compensate for loss of wildlife productivity.

#### Negotiating Process

At our meeting of March 31, 1980 and in your letter of April 22, you agreed with us about how the negotiating process was to work. You stated:

"I can assure you that as a matter of principle, I do not believe in unilateral action and therefore if any changes to direction are to be made, they will obviously require a bilateral process with acceptance by both parties."

You again affirmed this commitment to us at our meeting of December 5. In essence, this approach means that our negotiations will deal openly and honestly with each other. When they agree upon a matter, it will go forward to you; similarly, if they cannot agree upon the resolution of an issue, then both sides will so advise each other and their principals. You, and ultimately the Cabinet, of course, have the power and duty to govern as you consider appropriate in the national interest. However, in the interest of fairness to us, and for the development of good public policy on issues that pertain to the settlement of Inuvialuit Land Rights claims, it is critical to ensure our effective involvement in the process before issues go to you and before you go to Cabinet for direction on matters affecting us. This process is clearly in the best interests of both Canada and COPE. It was the process that proved successful in leading to the Agreement in Principle in October 1978, and it is the only way in which a Final Agreement can be achieved. As I said to you in my letter of December 12, 1980:

"We appreciated your reconfirmation of your commitments expressed to us in your letter to us of April 22 with respect to honouring the

Agreement in Principle and the process of negotiation leading to the Final Agreement. The understanding we have is that our negotiators deal openly and honestly in an attempt to resolve issues. The Federal Negotiator's responsibility in leading to agreement includes the coordination of inputs by the various interested agencies and departments of government.

In the event our negotiators cannot reconcile their positions they can, by mutual agreement refer their respective positions to you, and we shall have the opportunity to meet with you and seek a solution together. We are pleased that you confirmed this process and your willingness to make yourself available for this purpose.

Recognizing that in the fair resolution of complex issues there will inevitably be changes to the present way of doing things which may result in certain individuals, groups or departments who are not altogether happy, the Federal Negotiator's responsibility will be to develop as great a level of support as possible within your department, other Federal departments, Cabinet Ministers and any other groups the government wishes to consult.

Our negotiators are, of course, willing to do whatever we can to assist your negotiator and yourself to develop the necessary understanding and acceptance for our agreements.

We regret that we have never had the opportunity to brief Mr Tellier on the Agreement in Principle and we think it important that he understands the background and thinking behind our Land Rights Settlement. In the interest of facilitating this process we suggested that your Deputy Minister should be working closely with us throughout the negotiations. There would be little point in our negotiating with Senator Steuart only to find out after the fact, that other arms of your department who are operating independently, are going behind our backs with a different position, seeking to defeat us."

In our February 2 meeting, Senator Steuart confirmed (as he had previously in our meeting of December 5 and at the negotiating meeting of December 2, 1980) that he had not advanced any positions to you or

to the Deputy Minister which were contrary to the commitments of Canada in the Canada/COPE Agreement (see minutes of December 2 meeting and December 5 meeting, attachments 8 and 9). Nor did he respond at all to our suspicions that something was going wrong with the negotiating process (see R.T. DeLury's letter of December 8 and Senator Steuart's reply of January 15, attachments 10 and 15).

Although we strongly suspected we were being deceived we attempted unsuccessfully to deal with our fears through the negotiating process and meeting with you. Still only after we were fortunate enough to obtain leaked documents were we able to clearly document the deceit in the dealings with us. Examples follow.

On November 17, 1980, Marc Lafrenière (the senior negotiator from ONC who together with Senator Steuart comprise the Federal Negotiators) sent a memorandum to Mr Clovis Demers, Executive Director, Office of Native Claims (attachment 11), which suggests that the government adopt the Yukon territorial government's position that the Agreement in Principle be changed and advanced as an alternative compromise to Part 12 of the Agreement. He did this several weeks before he and Senator Steuart gave us their express and unequivocal assurance that they were not and would not do so.

Lafrenière's November 17 memo states:

"This alternative model has the advantage of allowing for onshore development and transportation corridors while protecting the Inuvialuit harvesting rights and the Porcupine Caribou calving grounds. It also has the advantage of being very close to the Parks Canada proposal for a National Park in the northern Yukon. It should be pointed out, however, that it departs from the Agreement in Principle in the possible deletion of reference to the 1,000 square mile reversionary rights, in allowing for industrial development in the northern Yukon coastal area, and, finally, in not providing for protection of the entire northern Yukon coastline.

It should also be noted that certain elements of this model go against the Berger and NEB Reports, both of which recommended that no pipeline and transportation corridor be allowed along the northern Yukon coastal area, because of the sensitivity of the migratory birds population and nesting areas. The Northern Affairs Program has some concern with the designation of a Wildlife Area in the eastern portion of the territory. It would also prefer that Herschel Island remain under Federal jurisdiction and be included within the boundaries of the proposed National Wilderness Park."

Mr Lafrenière's memorandum of November 17 was forwarded to the Deputy Minister with another draft which later was signed by Mr Demers on November 27 (attachment 12) and included the following:

"I refer to our telephone conversation of November 13, 1980 and your request for identification of the areas in the COPE Agreement in Principle which we may wish to consider reopening."

"We are of the opinion that most of the concerns raised vis-a-vis the Agreement in Principle can be met in developing the details of the Final Agreement without having to renegotiate the principles agreed upon in October 1978. There are, however, five areas which we feel require a departure, at least in spirit, from the Agreement in Principle:"

And the November 27 memorandum to the Deputy Minister from the Executive Director of ONC (attachment 13) reiterated these suggestions:

"The introduction of these proposed changes to the Agreement will be extremely delicate. We would suggest, however, that they not be presented on the basis of trade-offs. Given the richness of the agreement, such an approach would only serve to compound the problem. It is hoped that COPE will accept these necessary accommodations on their merits."

Your officials admitted in our meeting of February 2 that there have been no negotiations concerning these points and that the "merits" for these points have never been presented to COPE in the 28 months since the Agreement in Principle.

We have been frustrated for years by the seemingly endless stream of civil servants who we suspect have been misrepresenting not only our position, but also Cabinet's Agreement.

Item number four in the memorandum of November 27, which is the same item number in your letter of December 24, eloquently confirms our suspicions on both counts.

The similarity in wording between the memoranda of November 17 and November 27, and your eventual letter of December 24, is surely not coincidental. In essence your letter was drafted on November 17 and the intervening period was used by your negotiators to try to manoeuvre COPE into a compromise. Your negotiators did not seek to achieve compromise through negotiations or try to argue the merits. Rather they tried to set COPE up in our meeting with you on December 5, 1980. They recommended and expected you to impose compromise on us at that time. They failed. They did however draft the December 24 letter as if they had not failed and tried to pretend that events had unfolded as

they had hoped. Having gone so far in their deceit, they again had to rely upon you during our February 2 meeting to try to defend the imposition of unilateral compromise attempted through your December 24 letter.

In our meeting of February 2 we asked you to consider certain events with respect to the process which resulted in your letter of December 24. We ask you now again to consider the facts.

Since the Agreement in Principle, no one at any time in government has ever negotiated with us in respect of any of the five issues dealt with in Mr Demers' memo of November 27. This was admitted by your officials in our February 2 meeting. We have, most certainly, discussed the issue of the National Wilderness Park at length with Senator Steuart and other government officials, but Senator Steuart continually maintained the position that he personally had no problems with the National Wilderness Park as outlined in the Agreement in Principle, that he did not support the Yukon's objections, and that he simply wanted to find out from the Minister at the meeting of December 5 whether the Minister personally would support the National Wilderness Park.

In that same meeting, your chief negotiator acknowledged that discussion between us on the other four issues had been limited to preliminary clarification for his benefit.

In our meeting of February 2, you told us that no one had recommended to you that you go back on the Agreement in Principle. Your negotiator, Senator Steuart, insisted again that neither he nor Marc Lafrenière had advanced any such recommendations to you. This is contradicted by your briefing note for our December 5 meeting (attachment 14), prepared by Mr Lafrenière on December 2 only hours before he and Senator Steuart gave us their express assurance that they were not advancing such recommendations. The note contains much of the substance and language of the November 17 memoranda, including the five issues addressed in your and December 24 letter Lafrenière's his "compromise" solution proposed for the northern Yukon. The briefing notes concludes:

"Recommendations

We recommend that the Minister: reiterate to COPE his intention of negotiating a Final Agreement based on the Agreement in Principle: impress upon COPE the need to make certain concessions in relation to some areas of concern (see Appendix A)." (Appendix A being basically the memoranda of November 17 and 27).



References in your letter of December 24 and issues not dealt with at the December 5 meeting.

Your December 24 letter as written by Marc Lafrenière and other ONC and departmental officials states:

"As agreed during the December 5 meeting with Mr Raddi, I wish to outline my position with respect to certain specific issues raised during these discussions."

In our February 2 meeting this statement was recognized by you and your officials to be misleading. It is a misrepresentation and a personal insult.

First, there was no agreement in our December 5 meeting that you would outline any position on these issues; second, there was no previous discussion about four of the issues (the issues other than the National Wilderness Park). We had not asked for any discussion on these four issues when we requested the meeting, nor in fact were these issues even mentioned. These facts were acknowledged by you and your officials in our meeting of February 2.

This approach of writing a letter giving unilateral direction without our knowledge or input expressly contradicts your promise of April 22, 1980:

"I can assure you that as a matter of principle, I do not believe in unilateral action and therefore if any changes to direction are to be made, they will obviously require a bilateral process with the acceptance by both parties."

When we drew this contradiction to your attention, you defended your December 24 letter as "not being unilateral action because COPE had not yet agreed with the position in the letter." Your chief negotiator said "it is not breaking the Agreement until we sign something. We haven't signed anything yet." Mr Minister, you must see why we were frustrated.

To add further insult to the whole negotiating process, in that same February 2 meeting, your chief negotiator admitted that he didn't understand all of the Agreement in Principle.

In our February 2 meeting you would not tell us why your December 24 letter dealt with points not discussed at the December 5 meeting, while it did not deal with the points that were in fact discussed (see minutes of meeting and my letter of December 5, attachments 6 and 9).

The letter is in breach of the Agreement, both in terms of the process being followed (not negotiating in good faith as stipulated in section 3(1)) and in terms of the directions unilaterally imposed with respect to the five issues. When we asked you about this at the February 2 meeting, you and your officials responded by admitting there was no discussion on the four issues, but said it did not matter. You have the power and can do what you want to do. Furthermore, it was simply none of our business what the Minister wrote to his negotiator. While this is technically true, it is certainly not acceptable when there exists an explicit agreement between us that it shall not happen, and when it is used as a tactic by civil servants to defeat an Agreement by Canada.

We discussed in our February 2 meeting another clear-cut example of this tactic. Section 12(1) and Annex E of the Agreement in Principle states unequivocally that the National Wilderness Park will encompass, as a minimum, the entire 5,000 square miles of the North Slope of the Yukon and recommends consideration be given to a much larger area. The memorandum of November 17, your briefing note of December 2, and your letter of December 24 all seek to depart from the Agreement in this regard. You are still prepared to have a Park, but not one that dedicates the entire North Slope as the Agreement expressly stipulates.

We pressed you continually at the meeting of February 2 on this point. You kept responding by saying that your letter does not breach section 12(1) of the Agreement. We then asked you to confirm that you would honour section 12(1) of the Agreement (as you had always said you would until your letter of December 24), and you refused to say you would honour it. You further refused to say whether you intended to honour the other commitments in section 12 of the Agreement dealing with the northern Yukon as to the reversionary land interests, hunting, fishing and trapping rights, and economic and participation benefits that we are to receive under the Agreement. We asked you expressly about those aspects on December 5 (attachment 6) and we still do not have an answer.

Your December 24 letter seeks to set forth preconditions to negotiations as a "guide" your negotiator. Senator Steuart takes the position (as he stated at the February 2 meeting) that your guidelines create a framework which circumscribes his negotiations. Your letter of December 24 to Senator Steuart is intended to be his mandate. In fact, he and your officials drafted it for that purpose. It purports to change the express promise of Cabinet and the Agreement Canada made. It seeks to do this through a process of deceit in dealing with the Inuvialuit, the other party to the Agreement, who have relied upon and trusted the honour of this government.

Publication of December 24 Letter

Soon after you signed the letter of December 24, Mr Lafrenière released it to about 20 government officials. It was quickly published in the press. Why was this letter distributed before we had a chance to discuss it with you?

We can only conclude that this happened because your officials knew that we would vehemently protest that your letter of December 24 was an obvious breach of the process and the Agreement. They knew that if the letter was made public, you and the government would be bound by its contents and then it would be very difficult for you to reverse your position without losing face. In fact, only after Senator Steuart had in fact released the letter, were we contacted requesting that it be released. We objected and suggested that it not be made public in order that our dispute could be resolved with you first (see attachment 15).

It is common knowledge that since the Agreement of October 31, 1978 was signed, the Yukon Territorial Government has been lobbying intensively in an attempt to bring pressure on Canada to renege on its obligations to us. We have always been ready to discuss the merits of the National Wilderness Park and Part 12 of the Agreement with anyone. Not once in the twenty-eight months since the signing of the Agreement has the federal government put on paper and given to us any concerns it might have about the National Wilderness Park as set forth in the Agreement. The northern Yukon was withdrawn by Cabinet in the national interest. The National Wilderness Park as set forth in Part 12 was approved by Cabinet in the national interest. None of the civil servants have been able to say why it is not in the national interest. To be sure, vague concerns have been raised from time to time about the Park. But the federal government has not once been prepared to say that it disagrees with the National Wilderness Park as set forth in Part 12 of the Agreement and why. Never have your officials been prepared to argue their case on merits. Instead, civil servants whose concerns cannot meet the test of open debate seek to defeat us by going behind our backs and trying to create a framework for negotiations whereby the commitment made to the Inuvialuit by Canada is defeated.

There is simply no way meaningful negotiations can take place if issues are not resolved at the table with us. It is simply unacceptable. It fundamentally contradicts your promise of an open and honest bilateral process for issues to be determined by OHC and elsewhere in the department without our knowledge and then advanced to you seeking to entrench their position in the form of a mandate from you, without our knowledge and before we have been meaningfully involved. The ultimate perversion of the process occurs when your negotiators continuously deny what they are, in fact, doing.

Mr Minister, you must know that the most essential part of any meaningful negotiations is that they be conducted in good faith between the parties. This is particularly important in government - native negotiations given the history of broken government promises to native peoples in Canada. Yet your approach with COPE in your letter of December 24 seeks to make negotiations a sham and implies that I and the Inuvialuit are fools who can be manipulated easily by your officials. I will not, nor will I accede to their threats.

Mr Minister, your officials have compromised us both. The Inuvialuit Land Rights Settlement is the only comprehensive claim settled by the federal government under its August 8, 1973 policy. It was the result of lengthy, complex and difficult negotiations which involved compromises on both sides. From our standpoint we compromised a great deal to achieve the Agreement. The settlement was expressly approved on behalf of Canada by Cabinet in June of 1978. Commitments were made by both Canada and the Inuvialuit. We continue to keep our part of the Agreement. We expect the government to honour Canada's commitments.

COPE continues to honour its obligations under the Agreement and we consider the Agreement binding on both parties. We are prepared now, as we always have been, to honour our obligations to negotiate in good faith towards the Final Agreement. I would like you to reflect as I have, upon the process and the position of the federal government to see if there are ways to re-establish the government's honouring of the Agreement and its good faith in the land claims negotiations.

Sincerely,



Sam Raddi  
President  
COPE

Attachments.

cc: Right Honourable P.E. Trudeau, Prime Minister  
Honourable Jean Chrétien, Minister of Justice and  
Minister for State and Social Development

## ATTACHMENTS

1. April 22 letter from Minister to COPE.
2. December 24 letter from Minister to Steuart.
3. January 3, 1981 letter, Minister for Aboriginal Rights and Constitutional Development for the G.N.W.T. to Minister of DIAND.
4. January 13, 1981 - Chris Pearson's Press Statement.
5. News of the North, January 16.  
(a) News of the North, January 23.
6. Letter December 5. COPE to Minister.
7. December 12 letter, COPE to Minister.
8. Minutes of meeting, December 2 negotiations.
9. Minutes of meeting, December 5 with Minister.
10. December 8 letter from COPE negotiator to federal negotiator.
11. November 17 memo, federal negotiators to ONC.
12. November 17 draft memo, negotiators to ONC resulted in November 27 memo.
13. November 27 memo, Director ONC to Deputy Minister.
14. December 2 brief for the Minister prepared by federal negotiators.
15. January 14 telex, DeLury to Steuart.
16. January 15 telex, Steuart to DeLury.
17. Chronology of events.

CHRONOLOGY OF EVENTS

- Feb. 27, 1976 Sam Raddi presents ITC "Nunavut" proposal to the Prime Minister and Cabinet on behalf of all Inuit in the N.W.T. and Yukon.
- Sept. 21, 1976 ITC withdraws proposal for further review.
- Dec. 16, 1976 COPE and ITC agree that COPE should proceed with its own settlement because of the impending decision on the Mackenzie Valley Pipeline.
- Dec. 17, 1976 COPE/ITC get Minister's approval. COPE promises proposal by June.
- May 13, 1977 COPE presents its proposal "Inuvialuit Nunangat" to Minister Warren Allmand and Hon. Jean Chrétien.
- Dec. 8, 1977 First negotiated agreement of wildlife signed between government and COPE negotiators.
- July 6, 1978 Cabinet withdraws 16,000 square miles land in northern Yukon for national wildlife and conservation purposes.

July 14, 1978      Cabinet announces approval of Joint Position Paper negotiated through Canada/COPE joint working group and authorizes Minister to sign Agreement in Principle on behalf of Canada.

Oct. 31, 1978      Agreement in Principle signed between Canada and COPE.

Feb. 16, 1979      New federal negotiator appointed.

May 18, 1979      Part of land selections negotiated and approved.

May 22, 1979      Election - Liberals defeated.

Oct. 1979          New deputy minister appointed.

Dec. 13, 1979      Tory government defeated.

Feb. 20, 1980      Liberal government returned.

Mar. 31, 1980      John Munro first meets with COPE in Inuvik and confirms commitment of government to honour Agreement and negotiate in good faith.

Apr. 22, 1980      Letter from Hon. John Munro confirming meeting of March 31. (attachment 1)

- June 6, 1980 New federal negotiator, Senator David Steuart appointed.
- July,  
August, COPE briefs new negotiator on the Agreement.  
Sept., 1980
- July 1980 COPE requests meeting with Minister to review negotiating process (no meeting until December 5).
- Oct. 22, 1980 Letter from Yukon to Steuart outlining Yukon's proposal for alternatives for Agreement in Principle.
- Nov. 10, 1980 Federal negotiators deny to COPE that they knew Yukon position as of October 22 (COPE learned December 2 of existence of letter).
- Nov. 10-14, 1980 Reviewed two options for Wilderness area for Final Agreement
1. Prepared on basis of the Agreement as requested jointly by COPE and Steuart.
  2. Prepared by Yukon Territorial Government not based on Agreement as requested by Steuart.



- Nov. 17, 1980 Unknown to COPE, federal negotiators put 2 memoranda to Office of Native Claims and Deputy Minister advocating government renege on certain government commitments of Agreement. One was draft memo (see November 27). (attachments 11 and 12)
- Nov. 27, 1980 Memo signed November 27 from Executive Director ONC to Deputy Minister. (attachment 13)
- Dec. 2, 1980 Unknown to COPE federal negotiators prepare Ministerial briefing from November 17 and 27 memoranda, (attachment 14).  
COPE finds out about Yukon letter from the press.  
COPE presents some suggestions for modification for S12 (Wilderness Area) as a way of taking care of stated concerns of Yukon.  
Steuart expressly and unequivocally denies he is putting any recommendations to Minister (minutes attachment 8) for December 5 meeting.
- Dec. 5, 1980 Meeting with Minister (minutes, attachment 9). Letter from Sam Raddi to Minister confirming questions on Wilderness Area raised at meeting. (attachment 6)