



# INTERIOR ALLIANCE

**Southern Carrier  
St'at'imc Secwepemc  
Nlaka'pamux Okanagan**

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c/o Shuswap Nation Tribal Council  
Suite 304 - 355 Yellowhead Highway  
Kamloops, British Columbia V2H 1H1  
Phone: (250) 828-9789 Fax: (250) 374-6331  
E-mail: [mail@interioralliance.org](mailto:mail@interioralliance.org)

## OPEN LETTER TO THE PRIME MINISTER

The Right Honourable Jean Chretien,  
Prime Minister of Canada  
Langevin Building  
80 Wellington Street  
Ottawa, Ontario, K1A 0A2  
Canada  
Fax: +1 (613) 941-6900

Neskonlith Indian Reserve, Secwepemc Territory, August 9<sup>th</sup>, 2001

Dear Mr. Prime Minister,

I am Chief Arthur Manuel, Neskonlith, Chairperson of the Shuswap Nation Tribal Council, Chairperson of the Interior Alliance, Co-Chair of the AFN Delgamuukw Implementation Strategic Committee.

I am also the son of late Grand Chief George Manuel who was president of the National Indian Brotherhood when you were Minister of Indian Affairs and Northern Development.

I am writing to you to express my peoples' concerns respecting the position taken by your Minister for Indian and Northern Affairs, the Honourable Robert D. Nault, during his recent visit to British Columbia.

During his brief stop in the Interior, the Honourable Robert D. Nault stated publicly that he would not become involved in the ongoing Aboriginal Title land dispute in Skwelkwew'welt / Sun Peaks "because this land is a provincial jurisdiction." This statement suggests the Minister is either ignorant of the underlying issues, or is willfully misrepresenting them.

This is unfortunate because I believe that developments in the jurisprudence involving Aboriginal Title and Rights have created a legal environment where the federal government, working together with the province and my peoples, can make fundamental changes that would benefit all of us, and begin to fulfil Canada's constitutional mandate towards aboriginal people. The legal development I refer to, is the Court's decision, that aboriginal title falls within the legislative capacity of the Parliament of Canada under s.91(24) of the Constitution Act, 1867. This was first articulated by the Supreme Court of Canada in Delgamuukw, and has been applied by the B.C. Court of Appeal in

Paul v. British Columbia (Forest Appeals Commission) [2001] B.C.J. No. 1227. The Paul case is especially helpful, because the Court points to the jurisdiction of Canada as the only jurisdiction which can be exercised to establish a tribunal whose function is to determine Aboriginal Title and Rights in the context of decisions involving resource management in the Province.

Rather than ignoring Canada's role, as The Honourable Robert Nault appeared to do in his recent statements, we urge you to assist in the resolution of outstanding issues involving Aboriginal Title by, as a first step, establishing a new and mutually respectful process: The Assembly of First Nations Delgamuukw Implementation Strategic Committee proposed to establish a joint panel of experts to review the 1986 Comprehensive Claims Policy in the light of recent Supreme Court of Canada decisions such as the 1997 Delgamuukw decision, this proposal was unilaterally rejected by Minister Nault in July 2000, but we remain committed to supporting a review. We also support the development of a newly structured independent claims authority that can take objective decisions on the full extent of specific claims of Indian communities whose reserves were illegally reduced.

This process could be used to address Sun Peaks where the issue clearly falls within federal jurisdiction: The Sun Peaks Ski Resort falls within the historic Neskonlith Douglas Reserve established in 1862, which the Neskonlith, Adams Lake and Little Shuswap Indian bands hold under Specific Claim. This is clearly a responsibility of the federal government under Section 91 (24) of the Canadian Constitution.

Specific Claims are also an aspect of Indian Claims under which you personally made a commitment to establish an Independent Claims authority in your Red Book, because you rightly understood that the federal government was in a serious conflict of interest as the fiduciary to Indian lands, and as the party liable for settling the claims in the interest of Canadian taxpayers. Unfortunately, the independent claims body has yet to be established and we feel this needs to be done in order for us to receive fair treatment on our Neskonlith Douglas Reserve specific claim.

Furthermore the Secwepemc Nation also holds Aboriginal Title over Skwelkwek'welt. The 1997 Delgamuukw Decision makes it clear that Section 91 (24) also encompasses jurisdiction over Aboriginal title lands. By taking the position that the federal government, which has jurisdiction over Aboriginal Title lands, should not become involved in resolving the Skwelkwek'welt / Sun Peaks dispute, Minister Nault is failing to fulfill his ministerial responsibilities. This is unfortunately part of a pattern. The Canadian government has repeatedly been ordered by the Courts to honour their fiduciary obligation to indigenous peoples and to put mechanisms in place to protect the interests of indigenous peoples.

The present land rights policy of the Canadian government subsidizes industries that use our land or extract natural resources from our traditional territories without taking our proprietary interest into account. We have raised and will continue to raise those matters before international trade tribunals. We will also inform the international public how unsustainable commercial and industrial use and mega-projects like the development and expansion of ski-resorts destroy our traditional territories. We will call upon tourists not to travel to our lands until co-management schemes that take our multi-faceted use of the land and our proprietary interests into account, are put in place. But we also ask that you work with us to find new solutions to these conflicts. For example, the Royal Commission on Aboriginal Peoples recommended the establishment of an independent body to protect Aboriginal interests, similar to the Office of the Trustee in the American Bureau of Indian Affairs.

In the case of Skwelkwek'welt - Sun Peaks, our elders and land users have evidence of the negative impacts of the ski-resort on water-quality, wild-life, plants and the entire watershed. Our people have established protection camps to defend their Aboriginal Title and are deeply concerned by the systemic bias displayed by the Department of Indian Affairs. The repeated refusal of Minister Nault to comply with his mandate and constitutional obligations is hindering the development of a relationship of trust.

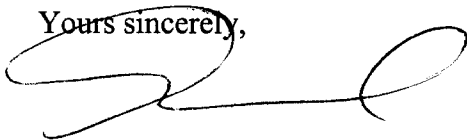
And we are not alone in our call for federal government involvement: It has been duly noted in the press (most recently in a *Kamloops This Week* editorial entitled "*It's Your Job, Nault*") that the Minister's refusal to address the issues surrounding Sun Peaks has meant that a solution is impossible to reach – even with all of the goodwill of our people and the provincial government. The *Kamloops This Week* editorial reflected local anger by comparing Mr. Nault to a "rattlesnake". I have not gone so far as that, but I believe you should be aware that the failings of your Minister of Indian Affairs are obvious not only to the Indian people of the B.C. Interior, but to all of the people of the region who once again find themselves abandoned and alienated by Ottawa.

The call for involvement of the federal government has also been echoed by local and provincial politicians. Janice Billy and myself met with Premier Gordon Campbell, the Attorney General, Geoff Plant and the Minister of Community, Aboriginal and Women's Services George Abbott on July 27<sup>th</sup>, 2001. As a consequence the Attorney General of British Columbia, who has been mandated to deal with Aboriginal Title and rights issues, raised the Sun Peaks matter in his discussions with Minister Nault during his recent visit to British Columbia. Although he could not reach an agreement with the minister he promised our people in his letter dated July 31<sup>st</sup>, 2001, to continue to talk with Canada to ensure that the federal government is appropriately committed.

In closing, I would like to point out that my peoples' determination to defend their Aboriginal title runs deep. There can be no normalcy in the British Columbia Interior until a process is set up that acknowledges their historic land rights and begins the process of reconciliation that was outlined by the Supreme Court of Canada in the Delgamuukw Decision. I am calling on you personally to join us in this honourable process.

If you refuse, you leave us with nothing but the struggle, which we will continue to carry out within our Aboriginal title territory, as well as nationally and internationally. As long as your government allows industries to continue business as usual, we will continue to protect our multi-faceted use of our territories as our people rely on the same resources you let companies exploit.

Yours sincerely,



**Chief Arthur Manuel**

Chief, Neskonlith Indian Band

Chairperson, Shuswap Nation Tribal Council

Chairperson, The Interior Alliance

Co-Chair, AFN Delgamuukw Implementation Strategic Committee