

Ops 6hr

August 29, 1996

Mr. Dale MacAuley
Minister of Lands and Resource Management
Métis Nation of Saskatchewan
219 Robin Crescent
SASKATOON SK S7L 6M8

Dear Mr. MacAuley:

As you are aware, a recent Court of Queen's Bench decision *R v. John Grumbo* held that Métis must now be considered Indians for the purposes of paragraph 12 of the *Natural Resources Transfer Agreement* (NRTA). This gives Métis the same subsistence rights to hunt and fish as Treaty Indians.

You should also be aware that Saskatchewan Justice will be appealing the Court of Queen's Bench decision. This decision will be appealed to the Saskatchewan Court of Appeal because of conflicting court cases in Saskatchewan, and most recently in Manitoba, concerning Métis hunting and fishing rights. It is important that these rights be clarified both from the department's point view as well as those of Métis people. However, until the appeal is heard and decided, Saskatchewan Environment and Resource Management (SERM) has no choice but to follow the Court of Queen's Bench ruling that Métis have the same rights to subsistence hunting and fishing as Treaty Indians.

The major issue is who is a Métis and how is this determined. As you are aware, there is no legal or official registration system for Métis people at this time. Procedures are needed to assist enforcement officers and Métis in determining, in field situations, who is eligible to hunt.

The fall hunting period is about to begin and I am sure you have had many calls from Métis people wishing to hunt. Both Métis and enforcement officers need an interim mechanism to deal with this issue.

... 2

Mr. Dale MacAuley
Page 2
August 29, 1996

It is our objective to recognize the legitimate rights of all aboriginal people and to get through this transitional period with a minimum of problems and conflict. We want to work cooperatively with the Métis Nation of Saskatchewan and Métis people to ensure that the rights now confirmed by the courts are understood and respected. Therefore, the department is recommending a similar approach to Métis and non-status Indian hunting as has been used in the past for Treaty Indian hunting situations. In the case of Treaty Indian hunters, a Treaty card has been required as identification. If a card was not produced evidence was seized but the person was given time to prove their status. A similar approach will be employed for Métis hunting. Because many Métis and non-status Indian hunters will not have any recognized proof of their status, a more flexible approach is needed.

In the case of Métis or non-status Indians, since no government issued or registered card is available a combination of other evidence and judgement will be used by enforcement officers.

For example, identification could be such things as a Métis Nation membership card, a letter from a mayor or other recognized leader of a northern or Métis community or a church, priest or minister attesting to the person's status or other similar documents. If this type of identification is available or if the hunter clearly appears to the officer to be of aboriginal decent then discretion will be used and no evidence seized or charges laid.

If in other circumstances where no identification is produced or the officer has doubts that the hunter is in fact an aboriginal person then sufficient evidence will be seized and the hunter be clearly informed that he or she will have a reasonable period of time to produce documentation to convince the officer that they in fact do qualify for rights under paragraph 12.

It is suggested that a liberal time period be allowed for the hunter to acquire some documentation because he or she may have to approach Métis or non-status Indian leaders for it. In addition the officer on his own will be attempting to ascertain exactly who the individual is and any facts which might clarify the situation.

... 3

Mr. Dale MacAuley
Page 3
August 29, 1996

If, prior to the 30 day period after seizures have been made, the officer still has doubts that the person qualifies for hunting rights under paragraph 12, charges may be laid and the courts will have to decide the final resolution.

You need to know, as should Métis hunters, that the rights for hunting under paragraph 12 have limits to them. In this regards the pamphlets provided to you on Treaty Indian hunting rights will be helpful in explaining where and when hunting can take place. I want to assure you that the department wants to work cooperatively with you in regards to Métis hunting and fishing, and I want to encourage you to contact me if you have any questions related to this issue.

Yours sincerely,

~~Original Signed by~~
ROSS R. MacLENNAN

Ross MacLennan
Assistant Deputy Minister, SERM

bcc: Glen Rolles
Murdoch Carriere
Seonaid MacPherson/Jack Kinnear