

KASKA TRIBAL COUNCIL

P.O. Box 530, Watson Lake, YK Y0A 1C0

Phone: 867-536-2805

MEDIA STATEMENT: June 20, 2002

STATEMENT BY THE KASKA NATION REGARDING TODAY'S SUPREME COURT OF CANADA DECISION

The Supreme Court of Canada has dismissed our appeal. The Court found that even though officials in the federal government took steps to set aside lands at Ross River for the use of the Ross River Band, no reserve was created in law.

The Court said that in order for a reserve to have been created at Ross River, there did not need to be an Order in Council from the Crown stating that the Ross River lands are a reserve.

But for the lands to be a reserve, we had to show that:

- The lands at Ross River were set apart for the Band; and
- When the lands were set apart, the Crown had an intention to create a reserve.

We were able to prove that the lands at Ross River had been set apart for the Band. But, we were not able to convince the Court that the Crown had intended to create a reserve. The Court said that those Crown officials who supported the creation of a reserve in 1965 never actually had the authority to set apart lands to create a reserve.

The Court said that we did not provide any evidence which suggested that officials who actually had the authority to create reserves came to members of the Ross River band in 1965 and said: "The Crown is now creating a reserve for you, a reserve of the type contemplated by the *Indian Act* and which will be subject to all the terms of that Act."

From our point of view, what is more important, is that the Court said that regardless of whether or not a reserve was created – the action of the Crown in setting the lands apart for the Band has meaning.

The Supreme Court confirmed that the federal government has fiduciary obligations to the Ross River Band in relation to our village lands and "...that the actions of the Crown with respect to land occupied by the Band will be governed by the fiduciary relationship that exists between the Crown and the Band." Just because the lands at Ross River are not legally a reserve, this does not mean the federal government is off the hook.

In its decision, the Court told the federal government "That it would certainly be in the interests and fairness for the Crown to take into consideration in any future negotiations the fact that the Ross River Band has occupied these lands for almost a half century."

(MORE)

What the Court is really saying is that – reserve or no reserve – the federal government has a duty to act in good faith, in a manner that is consistent with the Crown’s fiduciary obligations to the Band, about issues related to the lands at Ross River.

The decision of the Supreme Court of Canada is only a first step. Additional dialogue and negotiation with the Crown and perhaps additional consideration by the courts will be necessary so that the extent of this fiduciary obligation can be more fully understood.

The Ross River Band will continue to work to this end – to help define the relationship between Aboriginal peoples, government and Canadians.