

From: Trudy Watts

Sent: Thursday, September 21, 2000

Letter re:URGENT SITUATION FACING Esgenoopeitij FIRST NATION

TO;

Prime Minister Jean Chretien

Mrs. Lucy Edwards, United Nations High Commission

Department of Fisheries Minister Herb Dhaliwal

RCMP Commissioner Giuliano Zaccardelli

Inspector District Commander Kevin Vickers

Assembly of First Nations

Esgenoopeitij Burnt Church Mi'kmaq First Nation

John Herity, Biodiversity Convention Office, Environment Canada

Human Rights Violations Against First Nations people in Burnt Church, (Esgenoopeitij), New Brunswick, Canada

The Esgenoopeitij Burnt Church Mi'kmaq First Nation is experiencing an impending human rights emergency that deserves immediate attention from the UN and from the Canadian government.

Human rights abuses have been witnessed by 2 teams of human rights observers who have been in the Esgenoopeitij community since April-May of this year. I am writing to urge the UN and the Canadian government to act immediately to act, to avert the potential violence and loss of life which threatens to escalate dramatically today.

The Esgenoopeitij Burnt Church Mi'kmaq are exercising their treaty right to fish and their right to manage the fishery. It is my understanding that The International Secretariat of the Convention on Biological Diversity Convention, which is legally binding, specifically provides for what it calls "Indigenous and traditional communities" to share in the benefits from and to play a role in the management of the biological resources that they have historically stewarded.

Surrounding non-Native communities are poised today to remove the First Nation lobster traps from the

water and have publicly stated that they will do anything that is necessary to accomplish this goal.

Last October, non-Native fishermen rammed First Nation fishing boats, brandished firearms

and cut hundreds of traps loose during a publicly announced raid on the waters off the shore of Esgenoopetitj. They are promising to do the same thing today or in the near future.

We are gravely concerned for the safety of the people of Esgenoopetitj First Nation at this time,

as mediation has broken down and Federal authorities have re-stated their commitment to take action today to end, what they term "an illegal fishery".

There is some concern also that the Canadian Army is also poised to intervene.

My concern is with the way in which the government seeks to enforce what it terms its jurisdiction over the fishery. Observer organizations and community members have witnessed inherently dangerous confrontations and arrests on the water. Serious concerns about the actions of DFO enforcement personnel have arisen in recent days and weeks. Some of these observations are documented later in this letter.

Therefore,

I urge the UN and the Canadian government to take action immediately to avert violence and potential loss of life.

The Liberal government must insist that Federal Fisheries Minister Dhaliwal return to the mediation table to participate in finding solutions. It is UNACCEPTABLE that NO CONCESSIONS have been made by the Federal Government during this process. The Liberal government is clearly violating the terms set out in the Marshall "clarification" with regard to justification for intervention.

The Liberal government must ENSURE THE SAFETY OF THE BURNT CHURCH FIRST NATION and direct law enforcement officers, including the military to prevent non-Natives from attacking the traps, boats or members of the Burnt Church First Nation.

The Liberal Government must respect the stated goal of the Burnt Church First Nation to remove traps by October 7th

or earlier, and therefore refrain from seizing traps.

In addition, I am urging the Liberal government to take steps to ensure that human rights standards guide the actions of all law enforcement and military personnel in Burnt Church.

In particular, I want to draw your attention to the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). According to these standards, law enforcement officials should resort to force only when "strictly unavoidable." These standards state that any use of force must be "in proportion to the seriousness of the offense." It is our understanding that, even where the use of force is warranted, the standards make it clear that law enforcement officers are still under a strict obligation to "minimize damage and injury" and must at all times strive to "respect and preserve human life" as their first priority.

Observations include:

Recently, one of the Observers was a passenger on an Esgenoopetitj monitoring boat, along with 3 community members. An RCMP (Royal Canadian Mounted Police) boat rammed the community monitoring boat twice. Between the first and second ramming, tear gas was thrown by Federal authorities into the community boat. The second ramming caused the boat to flip over, throwing all of the occupants into the water. One of the Native men, not wearing a lifejacket, yelled that he could not swim. The Observer swam towards him and assisted him to stay afloat until they were pulled out of the water and handcuffed by the RCMP.

Observers have witnessed physical injuries sustained by a Native fisher who was arrested by the Department of Fisheries and Oceans. He reports that he was "roughed up" by 5 Fisheries officers before being handcuffed and taken into custody to a nearby RCMP detachment. The fisherman reports that he requested medical attention numerous times while in RCMP custody. When he was permitted to use the telephone to call his lawyer, the fisherman instead dialed the ambulance. The Observer witnessed the arrival of the ambulance to the detachment and accompanied community members to the hospital. Requests from the community members to the RCMP to photograph the fisher's injuries were denied and the Observer and the community members were threatened with charges if they themselves took photographs. The Observer noted extensive bruising on the exposed parts of his body and specific marks on his throat that corresponded to the fisher's report that a chokehold, strong enough to cause loss of consciousness, had been applied during the arrest.

Numerous others in the community have been injured during Department of Fisheries raids. There is unequivocal video footage of DFO boats ramming Native boats, running over and sinking a Native boat occupied by 2 fishers and subsequently beating one of those fishers. The footage clearly documents this beating, during which the officer who

was wielding the baton is seen being restrained by another officer after he had dealt out several blows. This footage has been seen on national and US news.

All of the above gives me grave concern for the physical safety of members of the Esgenoopetitj First Nation at this time.

Yours sincerely,

Trudy Watts