

166/43726.

March 31, 1936.

Dear Sir:

I wish to acknowledge receipt of your letter of March 30th with reference to the agreement dated December 18, 1883, and in reply thereto wish to say that I am already aware of the contents of the agreement as we have a copy of it on file in this office. I would refer you to my letter of February 20th, ultimo, in which I referred to certain aspects of the agreement. In addition to that I would now point out that we have no record of the agreement ever having been approved by the Superintendent General of Indian Affairs and the agreement of 1883 would be null and void on the following grounds, viz., Section 34 of the Indian Act reads as follows:-

"No person, or Indian other than an Indian of the band, shall without the authority of the Superintendent General, reside or hunt upon, occupy or use any land or marsh, or reside upon or occupy any road, or allowance for road, running through any reserve belonging to or occupied by such band.

"All deeds, leases, contracts, agreements or instruments of whatsoever kind made, entered into or consented to by any Indian, purporting to permit persons or Indians other than Indians of the band to reside or hunt upon such reserve, or to occupy or use any portion thereof, shall be void."

In view of the above I am still of the opinion and have so recommended to the Department that your Corporation should be requested to execute a new lease in regard to concessions held or desired in the No. 1 Town Reserve. This area not being included in the lease which was recently submitted for your Corporation's signature with a view to final execution for renewal by the Department.

I should point out, as I did in our conversation, that there has for many years been decided unrest among the Indians of the Nanaimo Band owing to the unsatisfactory nature of existing conditions as representing the application of your holdings in the No. 1 Reserve under allegedly trespass condition and both Mr. Agent Graham and I are exceedingly anxious with your cooperation to remove all cause for complaint, if possible, in this connection.

Your obedient servant,

P. S. Fagan, Esq.,
Secretary-Treasurer,
Western Fuel Corporation
of Canada, Limited,
Nanaimo, B.C.

C. C. Perry.
Asst. Indian Commissioner for B.C.

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