



*NEW IN THE LIBRARY*

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A+ for rigor. States are learning that students not only do better when they are challenged in school, but also stay to graduate.

## ***WEBSITES OF INTEREST***

[http://www.collectionscanada.ca/archivianet/020157\\_e.html](http://www.collectionscanada.ca/archivianet/020157_e.html)

Library and Archives Canada, in partnership with the Department of Justice Canada, has produced the latest update to the Orders-in-Council online research tool. The database now contains records for orders-in-council from 1867 through 1910. Many of these records include digital images of the original orders-in-council, and work is ongoing to link additional images to the full range of records. The database is part of a continuing effort to make historical records of the Privy Council Office available online. Orders-in-council address a wide range of administrative and legislative matters, from civil service staffing to capital punishment, and from the disposition of Aboriginal lands to the maintenance of the Parliamentary Library.

<http://cas-ncr-nter03.cas-satj.gc.ca/fct-cf/docs/T-867-05.pdf>

Dene Tha' First Nation v. Canada (Minister of Environment), 2006 FC 1354, Federal Court (Phelan J.), 10 November 2006

The Dene Tha' First Nation brought a judicial review application in regards to the consultation process surrounding the construction of the Mackenzie Gas Pipeline. They argued that they had been excluded from the process begun in 2000 to design the regulatory and environmental review processes related to the Pipeline. Other Aboriginal groups had been involved in the process since the beginning, whereas the Dene Tha' were not notified of the process until 2004.

Canada took the position that any duty to consult the Dene Tha' was not triggered at that early stage or, in the alternative, any such duty was satisfied. The Court's Reasons for Judgment indicate that Canada relied upon media releases posted on the Internet, as well as a brief meeting with the Dene Tha' in July 2004, as discharging the duty to consult and accommodate, although this point is not clear. Canada also submitted that the Dene Tha' were excluded from this process because they were not an agency with regulatory or environmental assessment jurisdiction.

The Federal Court granted the application and made a declaration that various federal Ministers are under a duty to consult the Dene Tha' in respect of the Pipeline, including the construction of "connecting facilities" in Alberta. The Court further declared that the respondent Ministers had breached this duty. The duty to consult arose at the "strategic planning" stage of designing the regulatory and environmental review processes. The Dene Tha' were not involved in this process and the actions of the Crown could not even satisfy the "low end" of the *Haida* spectrum for consultation. The Court directed that there be a further hearing on the issue of what further remedies are appropriate. In the meantime, the regulatory agencies involved in the Pipeline project were enjoined from considering any aspect of the project that could affect the treaty lands or aboriginal rights of the Dene Tha' First Nation.