

Hunter Litigation Chambers

HUNTER/VOITH / BERARDINO / HARRIS / McEWAN

March 4, 2009

File no: 1041.012

BY EMAIL

Sue Smolen, Trial Coordinator
Supreme Court Registry
Law Courts
800 Smithe Street
Vancouver, BC V6Z 2E1

Dear Ms. Smolen:

**Re: *Ahousaht Indian Band et al v. AGBC et al*
SCBC No. S033335, Vancouver Registry**

We are counsel for the defendant, Her Majesty the Queen in right of the Province of British Columbia, in the above-captioned matter. The trial of this matter is being heard by Madam Justice Garson. We ask that you bring this letter to her attention in regard to the legal submissions by the Province due last week.

The Province of British Columbia has been involved in a dialogue with First Nations' leadership for some time regarding the resolution of longstanding barriers to the reconciliation process. These discussions have now reached a sensitive stage and it is unfortunate that we find ourselves at the threshold of closing legal arguments in this action at this time. Our client feels that it cannot continue with its productive discussions with First Nations while it is at the same time taking a strictly legal position regarding the test for aboriginal title in this case. As such, we are instructed that the Province has determined it can take no position in upcoming closing arguments in the Ahousaht litigation. In that regard, we can advise that we will not be filing a legal argument, nor will counsel for the Province appear at the closing arguments except to advise this Court of this decision and to respond to any questions or concerns.

This has been a very difficult decision for the Province and one not lightly taken. The Province intends no disrespect to this Court or to the parties involved in this litigation. However, it is the judgment of the Province of British Columbia that this unusual step is the

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best way forward toward the resolution of these historic matters at this time. The Province reserves all rights to make submissions in any future proceeding should that become necessary.

Yours truly,

Hunter Litigation Chambers

Per:



John J.L. Hunter

Attorney General of British Columbia

Per:



Lisa Mrozinski

JJLH/smr

cc John Rich/Matt Kirchner
Michael Doherty/T. Timberg