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STÓ:LO TRIBAL COUNCIL

Head Office: PO Box 440, 8 Chowat Road, Agassiz, BC V0M 1A0 Tel: 604-796-6642 Fax: 604-796-3728
 Area Office: PO Box 3012, 4746 Steeply Hollow Rd, Cultus Lake, BC V0R 4H8 Tel: 604-354-3481 Fax: 604-847-3537
 Program Office: PO Box 440, 8A Chowat Road, Agassiz, BC V0M 1A0 Tel: 604-796-0527 Fax: 604-796-0643

April 21, 2008

Hon. Gordon Campbell
 Premier of the Province of British Columbia
 Room 156
 Parliament Buildings
 Victoria, BC
 V8V 1X4

CORRESPONDENCE

APR 22 2008

OFFICE OF THE PREMIER

Dear Premier Campbell:

Re: Cultus Lake Park & Expansion of the City of Chilliwack

The undersigned are elected leaders of the Stó:lō Tribal Council and Soowahlie Indian Band. We understand from local media reports that the future of Cultus goes to a referendum in August 2008. It seems that the question before Cultus Park residents and Soowahlie members is whether the Province should extend the City of Chilliwack borders to include Cultus Lake.

The Stó:lō Tribal Council and Soowahlie Indian Band hereby formally register our opposition to these meetings and our continuing unequivocal opposition to dealing with Soowahlie and Stó:lō aboriginal title and rights in such a cavalier and unconstitutional manner, for the following reasons:

First of all, the Soowahlie and the Stó:lō Tribal Council continues to maintain that Stó:lō aboriginal title and rights exist on and within the Cultus Lake Provincial Park. The Stó:lō Tribal Council and/or the Soowahlie First Nation are the proper aboriginal title and rights holder as we are the historic community of people sharing language, customs, traditions, historical experience, territory and resources at the time of first contact and sovereignty assertions. The *R. v. Powley* [2003] 4 C.N.L.R. 321 (S.C.C.) case and test was held by the BC Supreme Court in its recent judgment in *Tsilhqot'in Nation v. British Columbia* [2008] 1 C.N.L.R. 112, to apply in BC. This decision applies to the historic community that exercised aboriginal title and rights within the Cultus Lake Park are the Soowahlie and/or the Stó:lō Tribal Council.

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Xeyn' sqe'qo'qetset fwies xyofimot te wayeras
 Let's work together to make a better tomorrow

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Secondly, the Soowahlie and the Stó:lō Tribal Council continues to maintain that it can easily meet the proof of aboriginal title by proving the three critical elements including: occupation of the Park area at time of sovereignty assertion (1846); exclusiveness, and continuity between present and pre-sovereignty occupation, as outlined by the Supreme Court of Canada in *Delgamuukw*.

Thirdly, the enabling provincial legislation with respect to the Park does not apply to Stó:lō aboriginal title lands, including all of the Park lands. This rationale is consistent with finding that BC *Forest Act* does not apply to lands that would meet the test for Stó:lō aboriginal title, as per, the findings of the BC Supreme Court in *Tsilgot'in v. BC*.

Fourthly, even if a future court were to find that the provision of the Park Act applies to Stó:lō aboriginal title then any such provincial legislation would infringe upon our aboriginal title. Under the common law we have the right to use the resources of the Park, the right to choose land use, and the right to direct and benefit from the economic potential of the Park lands, as these are all aspects of Stó:lō aboriginal title. This *prima facie* infringement may occur when the Park legislation is engaged, such as being proposed, concerning our Stó:lō aboriginal title.

Fifthly, we do not believe that BC, the City of Chilliwack and the Parks Board can now establish a compelling and substantial legislative objective for the options under contemplation by the governmental officials. There is no economically compelling reason to contemplate the changing the status quo and nor is there any compelling evidence to change the existing status of the Park's use and governance. Therefore there is no justification for infringement of our aboriginal title.

Moreover, the Crown, including the City of Chilliwack, has to fulfil the "honour of the Crown" and we believe that such consultation and accommodation is at the high end of the scale as described in *Haida Nation v BC* [2005] 1 C.N.L.R. 72 (S.C.C.). The deep consultation and accommodation required by the Crown has not been met in this case and therefore the Crown has failed to justify any infringement of Stó:lō aboriginal title. In the past, the Stó:lō Tribal Council has provided BC with its Consultation and Accommodation policy to guide the parties in successful implementation of the common law.

Sixthly, the Soowahlie has filed a specific claim that covers a large portion if not the entirety of the Park area. The Indian Claims Commission rejected the submission not on its merits but because that Commission did not review colonial reserve claims. We plan to submit a Specific Claim when Canada establishes its new Specific Claims process.

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Finally, the Stó:lō Tribal Council and the Soowahlie First Nation have been actively engaged in treaty negotiations over Stó:lō Temexw, the Stó:lō traditional territory, since 1995, and the Crown have constructive knowledge of our aboriginal rights and title to the area.


For all of the foregoing reasons we are asking that you as Premier, ensure that our rights are protected and maintained, as constitutionally guaranteed by the rule of law and that our aboriginal title lands and rights be preserved until effectively dealt with in processes consistent with the law or in mutually acceptable treaty process. Respectfully this means that the status quo for the Park lands in question be maintain until the Stó:lō consent and agree to the proposed changes.

Yours truly,

For the Stó:lō Tribal Council


Grand Chief Clarence Pennier
President

For Soowahlie Indian Band


Francis Mussel
Councillor


Grand Chief Doug Kelly
Treasurer


Tanya MacDonald
Councillor

c.c. Michael de Jong, Minister of Aboriginal Relations & Reconciliation
Hon. Chuck Strahl, Minister of Indian and Northern Affairs Canada
Anita Neville, Liberal Critic, Indian and Northern Affairs
Jean Crowder, NDP Critic, Indian and Northern Affairs
Scott Fraser, NDP Critic of Ministry of Aboriginal Relations
Clint Harnes, Mayor, City of Chilliwack
Chief Joanne Armstrong, Soowahlie Indian Band



April 24, 2008

Grand Chief Clarence Pennier
Grand Chief Doug Kelly
Councillor Francis Mussell
Councillor Tanya MacDonald
Sto:lo Tribal Council and Soowahlie Indian Band
Box 440, 8 Chowat Road
Agassiz, BC V0M 1A0

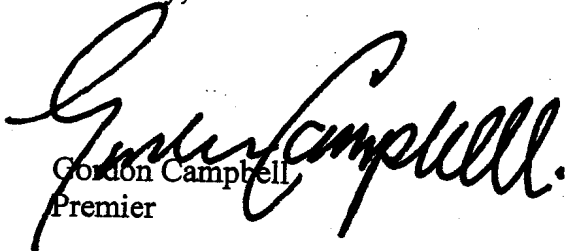
Dear Grand Chief Pennier, Grand Chief Kelly, Mr. Mussell and Ms. MacDonald:

Thank you for your letter regarding the Cultus Lake Park and Expansion of the City of Chilliwack.

I have noted your comments. In light of the subject matter and your specific concerns around aboriginal title and rights, I have asked the Minister of Aboriginal Relations and Reconciliation, the Honourable Michael de Jong, to review your letter and to be in touch with you directly with regard to the points you have raised.

Again, thank you for writing. You should be hearing from the Minister at his earliest convenience.

Sincerely,



Gordon Campbell
Premier

pc: Honourable Michael de Jong