



TREATY NEGOTIATIONS

OFFICE

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(Including this cover page)TO: Jack Ebbels
Deputy Minister
Ministry of Energy and MinesRECEIVED
BC Offshore Oil and Gas Team

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Comments:

Memo regarding Haida/Taku SCC findings and provincial policy on Consultation and Accommodation.

Thanks. --Jenny

ROSS - I HAVE BEEN INVITED TO THE

ADMIS COMMITTEE MEETING ON 26TH

NO HAVE ALREADY BRIEFED FURY ON THE

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"STATE OF PLAY" OVER HERE



MEMORANDUM
Treaty Negotiations Office

To: Deputy Ministers' Committee
on the Environment and Resource Development

January 19, 2005

Re: The Haida/Taku Supreme Court of Canada Findings
and Provincial Policy on Consultation and Accommodation

On November 18, 2004, the Supreme Court of Canada (SCC) rendered its judgments in the *Haida* and *Taku* court cases. The findings in these two cases have important implications for provincial policy on consultation and accommodation of First Nations concerning their Aboriginal interests. The Treaty Negotiations Office (TNO) and the Legal Services Branch (LSB) of the Ministry of Attorney General provided initial advice on these matters to the Lands and Resources Directors in Victoria on November 19, 2004, and to Crown agency representatives in Vancouver on December 8, 2004.

LSB and TNO have established a working group that is developing a discussion paper for presentation to the Deputy Ministers' Committee on the Environment and Resource Development (DMCERD) on February 10, 2005. The paper will provide specific and immediate direction to government decision makers arising from *Haida/Taku* concerning the need to assess Aboriginal *prima facie* claims seriously and to use these claims as the basis for consultation with First Nations.

The discussion paper will ask deputies to determine a short-term action plan to update the existing guidelines, as well as the best overall approach for the consultation and accommodation framework. The paper will also provide a preliminary examination of implications for resources within government, technical/database requirements to share information, First Nations funding and specific issues of consultation duties that relate to private lands and to the delegation of government functions and results-based approaches for natural resource management.

A meeting of Assistant Deputy Ministers is set for January 26th to solicit comments on the draft DMCERD policy discussion paper. This will be followed by a meeting of the Victoria Lands and Resources Directors, Ministry of Sustainable Resource Management Regional Directors and Interagency Management Committee (IAMC) Coordinators on January 28th, 2005.

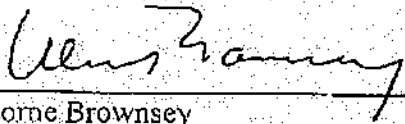
In the interim, any specific policy development or staff training regarding consultation and accommodation (by ministries or Crown agencies) should be postponed until the internal

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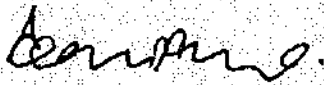
Deputy Ministers' Committee
on the Environment and Resource Development

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government review process has been completed. Ministries and Crown Corporations should continue to use the approved consultation guidelines and accommodation policies. Any specific questions can be referred to Geoff Moyse, Senior Solicitor, at LSB and to Lyle Viereck, Chief Negotiator, at TNO.



Lorne Brownsey
Deputy Minister
Treaty Negotiations Office



Allan Seckel
Deputy Attorney General

pc: Ray Parks
Chief Executive Officer
Provincial Capital Commission

Pauline Rafferty
Chief Executive Officer
Royal BC Museum

Don Johnston
Chief Executive Officer
Columbia Basin Trust

Lorne Sivertson
Chief Executive Officer
Columbia Power Corporation

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John Beales
Chief Executive Officer
British Columbia Buildings Corporation

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Deputy Minister's Committee
on the Environment and Resource Development

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pc: Geoff Moyse
Senior Solicitor
Legal Services Branch

Lyle Viereck
Chief Negotiator
Treaty Negotiations Office