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30 January 2026

**VIA EMAIL**

Court of Appeal for British Columbia  
The Law Courts  
400 – 800 Hornby Street Vancouver,  
British Columbia V6Z 2C5

Attention: Timothy Outerbridge, Registrar

Dear Registrar:

**Re: *His Majesty the King in right of the Province of British Columbia v. Cowichan Tribes et al.*, BCCA No. Richmond-CA50946, BC-CA50951, Cowichan-CA50955, Musqueam-CA50960, VFPA-CA50962, TFN-CA50963, AGC-CA50965 (together, the “Appeals”)**

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We write in response to your letter dated 19 December 2025 regarding the Appeals and to follow up on the case management conference that occurred on 22 October 2025.

We are counsel for His Majesty the King in right of the Province of British Columbia (the “**Province**”) in the Appeals. A copy of this letter was provided in draft to counsel for all parties to the Appeals (the “**Parties**”), and their comments have been incorporated in this letter.

The following reflects the Parties’ collective written update on one preliminary matter and the five subjects raised in your letter:

### **Update on Montrose Application to be added as a party and reopen trial**

On 4 December 2025, counsel for the Parties received a draft notice of application from counsel for Montrose Industries Ltd., Montrose Property Holdings Ltd. and Ecowaste Industries Ltd. (collectively, “Montrose”), a landowner in the Cowichan Title Lands, seeking an order to reopen the trial and add Montrose as a defendant.

Montrose seeks to adduce evidence and make limited submissions to address (a) the appropriateness of findings and/or declarations of Aboriginal title over Montrose Lands in circumstances where Montrose was not a party at trial; (b) what provincial laws would apply to the Montrose Lands if Aboriginal title exists over it; (c) whether Aboriginal title and fee simple interests can coexist, (d) whether any infringement of Aboriginal title that occurred

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through the issuance of fee simple titles in respect of the Montrose Lands is unjustified; and (e) whether Aboriginal title was extinguished through the issuance of fee simple title and related legislation. In the alternative, Montrose seeks leave to intervene prior to the entry of the order after trial, for the same reasons as stated above.

The Montrose application was proposed to be heard before Justice Young on 11-12 February 2026. A judicial management conference occurred on 27 January 2026 at 9:00, and another will occur on 3 February 2026 to schedule potential, corollary application(s), and determine if the Montrose application can be heard on 11-12 February 2026.

### **Registrar's letter dated 19 December 2025**

The remaining discussion provides an update on the five items identified in the letter dated 19 December 2025 although the order has been rearranged.

### **Settlement of the Order (hearing 13 February)**

The prior appointment before the Supreme Court Registrar (previously scheduled for 26 January 2026) was cancelled on 23 January 2026. All parties have agreed to postpone settling the terms of the trial order until the Montrose application is heard and decided.

The Parties remain in discussions to attempt to settle the form of order by consent.

### **Publication Bans and Sealing Orders**

The following list captures the sealing orders and publication bans made in the court below (with the bolded date being the date of entry). Copies of the orders are enclosed.

- 1. 6 July 2021:** Sealing Order and Publication Ban made 22 & 26 January 2021 regarding Vancouver Fraser Port Authority documents;
- 2. 2 November 2021:** Sealing Order made 26 July 2021, regarding Musqueam fisheries mandate information;
- 3. 24 June 2022:** Sealing Order and Publication Ban made 25 October 2021, regarding information contained in DARS recording, Clerk's Notes, and trial transcript for 25 October 2021;
- 4. 24 June 2022:** Sealing Order made 25 October 2021, regarding Exhibits 1490–1588, unsealed as of 10:46:25AM, and resealed as of 4:16:00PM;

5. **24 June 2022:** Sealing Order and Publication Ban made 26 October 2021, regarding information contained in DARS Recording, Clerk’s Notes, and trial transcript for 26 October 2021;
6. **24 June 2022:** Sealing Order made 26 October 2021, regarding Exhibits 1490–1588, unsealed as of 10:23:31AM, and resealed as of 12:23:29PM;
7. **24 June 2022:** Sealing Order and Publication Ban made 29 October 2021, regarding information contained in DARS Recording, Clerk’s Notes, and trial transcript for 29 October 2021;
8. **24 June 2022:** Sealing Order made 29 October 2021, regarding Exhibit 1556;
9. **29 November 2022:** Sealing Order and Publication Ban made 2 November 2022, varying the Sealing Order and Publication Ban made 22 & 26 January 2021 (noted above) concerning Vancouver Fraser Port Authority documents;
10. **29 March 2023:** Sealing Order made 28 February 2023, regarding Musqueam Indian Band’s privileged July 1996 recording;
11. **2 November 2023:** Sealing Order and Publication Ban made 20 October 2023; a publication ban was engaged at 11:17:57AM and continued until 2:01:24PM;
12. **2 November 2023:** Sealing Order and Publication Ban made 23 October 2023; a publication ban was engaged at 10:03:11AM and continued until 11:26:06AM.

All parties agree that the evidence subject to sealing orders in the court below ought to be the subject of fresh sealing order(s) on appeal, with the exception of the plaintiffs, who have advised that they take no position pending receipt of the proposed consent order and a brief written submission regarding the basis for the sealing orders in due course, consistent with *Publication Bans, Sealing Orders, and Anonymization Orders* (Civil and Criminal Practice Directive, 10 June 2024).

### **Case Compilation Software / The Record Below**

At trial, the Parties used the “REDI” electronic platform as a repository of evidence and trial-related documents. All of the voluminous transcripts, exhibits, pleadings, submissions, and authorities are already in REDI.<sup>1</sup>

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<sup>1</sup> The record in the BC Supreme Court is substantial: The certified transcripts total approximately 33,533 pages, of which approximately 31,983 pages represent days of trial other than Case Management Conferences or Judicial Management Conferences. The pages of sealed transcripts are not represented in the previous total. Witnesses testified over 278 days, and their oral testimony is captured in approximately 18,148 pages of transcript. There are 2850 exhibits, totaling at least 39,372 pages, 25 audio files, and 117 video files. The closing submissions took place from Day 449 (19 June 2023) to Day 513 (14 November 2023).

Following the 22 October 2025 Judicial Management Conference, a Case Management Working Group (“Group”) was formed with representatives from each of the Parties to the Appeals. The Group held a series of meetings and heard presentations from three platform providers, including: (1) Case Centre (2) Veritext; and (3) REDI. The Parties obtained pricing information from each platform provider.

In order to avoid the expense and delay associated with converting the voluminous collection of electronic materials to a new system, the Parties have collectively agreed to propose that REDI also be used as a case compilation software for the Appeals.

If this proposal is acceptable to the Court (and once commercial arrangements are reached regarding the continued use of REDI for the Appeals), the Court will automatically have access to the record below through REDI.

### **Transcripts**

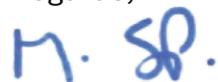
As discussed above, if the Parties’ proposal is acceptable to the Court, access to the existing transcripts can be made available through REDI. Consequently, the Parties do not anticipate having to order transcripts for the purposes of the Appeals although there may be a modest amount of work required to ensure that the collection of certified transcripts and entered orders in REDI is complete.

### **Stay Applications**

The Province and the City of Richmond confirm their intentions to bring a stay application and expect to be in a position to do so once the Order After Trial is finalized. The Vancouver Fraser Port Authority (“VFPA”) has sought the Plaintiffs’ agreement to an extension of the invalidity declaration pending disposition of the appeal. Absent an agreement, VFPA expects it will need to bring a stay application.

We are cognizant of the 22 October 2025 memorandum from the Registrar indicating that all stay applications must be brought and heard together. These three parties will provide a more detailed timeline once all have confirmed their intentions.

Regards,



**Marie-Sophie Poulin**

Barrister

Encl.

**cc:** David M. Robbins, Ava Murphy, Jessica Proudfoot, Franco De Luca, Julian Riddell, Joelle Karras, Andrew Mendelson, Breanne Martin, Alexis Giannelia, Josh Boutin, Candace Charlie and Lisa Harris, Woodward and Company LLP, counsel for the Plaintiffs,

David Rosenberg, K.C., and Ian Kennedy, Rosenberg Law, co-counsel for the Plaintiffs

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Rebecca Dickinson and Nicholas Healey, Ministry of Attorney General of British Columbia, counsel for  
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Industries Ltd.