

FRANKLIN GERTLER

AVOCATS • BARRISTERS & SOLICITORS

Aldred Building
507, Place d'Armes, suite 1200
Montréal, Québec, Canada H2Y 2W8TEL (514) 842-0748
FAX (514) 842-9983
admin@gertlerlex.ca

BY FAX ONLY

May 24, 2005

Jocelyne Beaudet
Chairperson
BAPE Panel**RE: Hearings on wind power projects – Murdochville**

Dear Mme Beaudet,

Unfortunately, the representatives of our Mi'gmaq clients of the Listuguj Mi'gmaq Government cannot be present at tonight's hearing. As discussed with Ms. Marie-Josée Méthot, we were very surprised to learn that Listuguj made the only request for a hearing with respect to this project and hope that the inability of our clients to be present tonight will not cause any inconvenience for the BAPE.

Our clients ask for your understanding and cooperation to make sure the Aboriginal population is heard. Therefore, you are authorized and requested to read for them their letter of May 6, 2005 to Minister Mulcair (attached) and to add the following:

“As the Mi'gmaq of Gespegewagi, we have Aboriginal rights and title and Treaty rights in and to our traditional territory, including the area of this proposed wind development. We have not been genuinely consulted and our rights and interests have been ignored, as the lands, forests, rivers, mineral rights and fisheries of our territory have been granted away by the governments representing the Crown, with great profits to others, while we are left without a viable economic future.

The new development of wind power resources offers an opportunity to reverse this sad record and now the *Haida* and *Taku* cases from the Supreme Court make it clear that Crown resource allocation and project approval can only proceed prior to successful negotiation of comprehensive agreement on the exercise of our rights, if we are appropriately consulted and accommodated in the decision-making. Part of addressing our rights and interests is also

compensation and measures to ensure that we share in the revenue, employment and business opportunities that accompany resource development.

In the *Taku* case, the Supreme Court of Canada recognized that existing regulatory regimes may be used to fulfill the Crown obligation to consult and accommodate. But in order to qualify, the process applied must meet certain requirements. We ask that immediate attention be given by the commissioners of the BAPE in order to address such issues as the mandate of the BAPE, information requirements, Mi'gmaq involvement in naming the commissioners, funding for Mi'gmaq involvement, the hearing, scheduling, provision for independent expertise and arrangements regarding the report and follow-up on the assessment process."

It is also unlikely that the representatives of our clients can attend in Murdochville for the afternoon session on May 25, 2005. Therefore, you are authorized and requested to pose for them the following questions to the government and proponent representatives with respect to the 3CI Énergie Éolienne Murdochville Inc. project:

1. What research or meetings have you conducted to verify the territory, Aboriginal rights and title and treaty rights of the Mi'gmaq in relation to these projects and the state of relevant negotiations on territory, rights and access to resources of the Mi'gmaq ?
2. What measures have you taken to consult the Mi'gmaq regarding the impact of these projects on the exercise of their Aboriginal rights and title and treaty rights and on their economic development ?
3. What measures have you taken to ensure the accommodation of the Mi'gmaq in the government decision-making regarding the development of wind power in this territory and to allocate public lands and resources for that purpose ? Are these measures reflected in the allocation of lands in the public domain, the government authorizations for the power purchase contract, the contracts with Hydro-Quebec and the financing, building and

operation of the project ? For example, have you considered compensation, sharing of rents and revenues, joint ventures with Mi'gmaq, set aside of wind power supply contracts or other contracting opportunities and employment for Mi'gmaqs ?

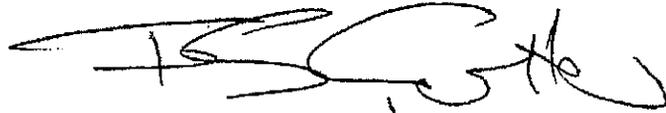
4. Please provide all documents which substantiate your answers.

Of course, our clients fully intend to submit a brief to the BAPE in the second phase of the hearings. We will be in touch with you in this regard.

We thank you for your kind assistance. If required, I can be reached on my cell phone at 514-942-9309 or at my office.

Yours sincerely,

FRANKLIN GERTLER, Attorneys



per: Me Franklin S. Gertler

FSG/jv
encl.