



LETTER L-90-10

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VIA EMAIL

November 5, 2010

**BCTC ILM CPCN –
COURT OF APPEAL RECONSIDERATION EXHIBIT A-40**

TO: British Columbia Hydro and Power Authority/British Columbia Transmission Corporation
BCTC ILM CPCN Registered Interveners

Re: British Columbia Transmission Corporation (BCTC)
Project No. 3698506/Letter No. L-20-09
Interior to Lower Mainland (ILM) Transmission Project
Certificate of Public Convenience and Necessity (CPCN)
Court of Appeal Reconsideration

As the parties are likely aware, the Supreme Court of Canada released its decision in *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43 on Thursday, October 28, 2010 (*Carrier Sekani*). The decision appears to answer several of the issues raised in the Final Arguments of the parties in this proceeding. In particular, it requires claimants to show a causal relationship between the proposed government conduct or decision and a potential for adverse impacts on pending Aboriginal claims or rights. Past wrongs, including previous breaches of duty to consult, are not sufficient (para. 45).

Therefore, the Commission Panel invites the parties to file written submissions on the effect, if any, of *Carrier Sekani* on their Final Arguments in accordance with the following schedule:

1. BC Hydro/BCTC and Attorney General of BC by Monday, November 22, 2010;
2. Interveners by Monday, December 6, 2010; and
3. BC Hydro/BCTC and Attorney General of BC Reply by Monday, December 20, 2010.

Yours truly,

Erica M. Hamilton

AR/cms