



## SECHELT INDIAN BAND

July 9, 2003

Our file: 03132

Mr. Gregory Gebka, Planner  
Sunshine Coast Regional District  
5477 Wharf Road  
Sechelt, B.C. V0N 3A0

Dear Mr. Gebka:

**Re: Development Variance Permit for Irvine's Landing Marina (SCRD file 337.96)**

We are writing in response to a referral letter from your office, dated May 28, 2003, and requesting a reply by June 25. Before proceeding to the substance of the application, we wish to reiterate our concern at the short time line provided for examining and responding to matters such as this.

We have raised this with the Regional District before, noting that we are inundated with referrals from Land and Water B.C., the Ministry of Forests, the Department of Fisheries and Oceans, and a number of other government agencies in addition to the Regional District. We are expected to devote scarce staff resources, time and money to an issue that is designed to add to someone else's convenience or make a substantial profit.

We note further from the list of recipients of the SCR D referral letters that seven departments or agencies beside ourselves were approached. All seven are taxpayer-supported government departments or subsidiary agencies, which do not have the staffing or funding problems that we do. The imbalance in resources is striking, and needs to be rectified.

With respect to the application: We are writing in response to your request for information pertaining to the nature of our aboriginal interest in relation to the above proposal. We have the following comments:

- 1) We have a longstanding aboriginal interest in that particular locality, which is known in our language as *skwkwtsa*. In addition to intensive gathering of marine and terrestrial resources, we had dwellings there and collected water around the site in question prior to its original alienation to a third party.

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After the nearby Indian Island and Sekaleton Islands were designated as reserves (now Sechelt Band Lands Nos. 21 and 21A), we continued to collect water and firewood from the adjacent mainland. As one of our chiefs informed the Royal Commission on Indian Affairs in 1915:

Our island in Pender Harbour is only a heap of stones, no water is there and no wood to be had. Now there is a spring on the mainland, about 300 yards away from our Island. Now we have used this spring-water for time immemorial, we even had formerly our houses nearby. The white man, that owns the land and the spring now chases our women away, when they want to take water there. Is that right, is that Christian? We cannot use saltwater for cooking and drinking. Please, let us have the use of this water, as our forefathers have had. [Indian Affairs Record Group 10; vol 11020, file 520B]

That request was not granted, as the land had been alienated to a white settler. Band elders do recall, however, taking water from a creek at the locality during the 1930's and '40's to serve the Sechelt village on the island.

- 2) There is an archaeological site (DjSa 19) located on the Irvines Landing peninsula a short distance to the west of the application site. It is described as a disturbed midden. A second midden site (DjSa 18) is located a short distance to the west. The presence of these middens confirms the information provided by Chief Johnson in 1915 regarding our ancient residence at the site; moreover, the presence of shells signifies the resource gathering activities in and around the site, including the areas under application.
- 3) In addition to the exercise of harvest rights, the Sechelt Nation asserts aboriginal title rights to the whole of Pender Harbour, including the site in question, as part of our general claim to our traditional territory. Evidence for the claim to Pender Harbour is to be found in:
  - a. the presence of some 60 recorded archaeological sites throughout the harbour, with an additional number of as-yet unrecorded sites;
  - b. the presence of a large village complex characterized by numerous settlements located throughout the harbour area, confirmed by archaeological, anthropological and historical evidence and by oral tradition;
  - c. regular and long-term use of areas such as the beach in question for the purpose of harvesting foods;
  - d. evidence of continuity of occupation by the Sechelt, preceding 1846 and extending to the present day

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Considering the nature of our aboriginal interest, we believe it necessary to have an archaeological examination carried out in this area to determine whether the cultural remains extend to the location under application, given the presence of the recorded archaeological sites nearby and the historical record of our occupation of the immediate and general vicinity.

We are further concerned about the potential effect of a 20-slip marina at the site. For uncounted centuries our people have been harvesting resources along the shoreline of Pender Harbour. The current flood of private docks, boathouses and marinas has severely encroached on our ability to access those areas. The proposed marina would further block our access to our fishing and gathering grounds, in our view representing an infringement of our aboriginal rights and title. This type of infringement is in addition to the pollution and habitat degradation that has attended the increased settlement of the harbour. We maintain that the responsible levels of government are legally obligated to consult with us in detail on these matters as well as upon the particular issue of the application.

Further, given the nature of aboriginal title as a constitutionally-protected property interest in its own right, we believe it imperative to meet at the earliest opportunity with all concerned parties, to discuss ways in which our aboriginal title rights may be accommodated.

As you undoubtedly know, the Supreme Court of Canada in the *Delgamuukw* case discussed the nature of aboriginal title at some length, and noted that such title has been legally inextinguishable by the province since 1871, and by the federal government since the passage of the *Constitution Act* in 1982. Consequently, our aboriginal title rights to the Pender Harbour area in general and the area under application in particular remain unextinguished, and need to be addressed and accommodated.

In writing this letter, we are not seeking to overturn the fee simple interest of the applicant. Instead, we are asserting the existence of our underlying, unextinguished aboriginal title to the same land, and we are calling on the other levels of government to meet to discuss ways in which that right may be reconciled with the other rights issued by those governments.

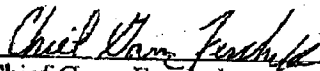
We look forward to meeting at your earliest convenience.

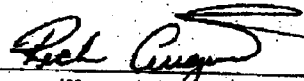
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Yours truly,

**SECHLT BAND COUNCIL**

  
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Chief Garry Feschuk

  
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Councillor Rick August

  
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Councillor Ben Pierre Jr.

  
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Councillor Marita Paul

Dr. and Mrs. Randolph Roxborough  
3661 Brahms Avenue  
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Phone: (604) 437-6203

July 21, 2003

Sechelt Indian Band  
PO Box 740  
Sechelt, BC V0N 3A0

Dear Sir or Madam:

After reviewing your correspondence to the Sunshine Coast Regional District, dated July 9, 2003, your file #03132, you may find the following of interest.

In the spring of approximately 1970/71 Lot #18 in Irvine's Landing was excavated for a building site. At the time I was a carpenter's helper on the building crew. The owner of this lot and building site was a man by the name of Rusty Abercrombie. During the course of the excavation a skull was found that was clearly not animal, nor did it appear to be human. Rusty took this skull to the Anthropology Department at the University of British Columbia. It was identified to be a skull of a Flathead Indian. At that time the skull was left with the department. I have no recollection of any other skeletal remains being found.

In 1972 Neil McCulloch purchased the property from Mr. Abercrombie. I am presently the owner of Lot #17, 13231 Dames Road, which is adjacent to Mr. McCulloch's lot in Pender Harbour. If you have any questions please feel free to contact me in Vancouver at 604-437-6203 or in Pender Harbour at 604-883-9157.

Yours truly,

COPY ONLY

Dr. Randolph P. Roxborough, DC

RPR/war  
Cc: Sunshine Coast Regional District