IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Cowichan Tribes v. Canada (Attorney General),* 2026 BCSC 324

Date: 20260227
Docket: 14-1027
Registry: Victoria

Between:

Cowichan Tribes,
Squtxulenuhw, also known as William C. Seymour Sr.,
Stz'uminus First Nation, Thỏlmen, also known as John Elliott,
Penelakut Tribe, Kwaliimtunaat, also known as Joan Brown,
Halalt First Nation, and Sulsimutstun, also known as James Thomas,
on their own behalf, and on behalf of all other descendants
of the Cowichan Nation

Plaintiffs

And:

The Attorney General of Canada,
His Majesty the King in right of the Province of British Columbia,
the City of Richmond, the Vancouver Fraser Port Authority,
the Musqueam Indian Band and the Tsawwassen First Nation

Defendants

Before: The Honourable Madam Justice Young

Ruling on Application for Production of Documents

Counsel for the Plaintiffs:	D. M. Rosenberg, K.C. and A. C. Giannelia
Counsel for the Defendant Attorney General of Canada:	L.M.G. Nevens, K.C.
Counsel for the Defendant His Majesty the King in right of the Province of British Columbia:	K. B. Bergner, K.C. and M.-S. Poulin
Counsel for the Defendant City of Richmond	B. Risk
Counsel for the Defendant Vancouver Fraser Port Authority:	E.A.B. Gilbride
Counsel for Montrose Industries Ltd., Montrose Property Holdings Ltd., and Ecowaste Industries Ltd.	J. M. Young and D. G. Burchart
Place and Date of Hearing:	Victoria, B.C. February 13, 2026
Place and Date of Judgment:	Victoria, B.C. February 27, 2026

Overview

[1] The plaintiffs apply for production of documents from British Columbia and Montrose Industries Ltd., Montrose Property Holdings Ltd. and Ecowaste Industries Ltd. (collectively "Montrose"). This application is brought two years after the trial of this action concluded and approximately six months after the final reasons for judgment were issued (indexed at 2025 BCSC 1490). The final order has not yet been entered and all parties have filed notices of appeal.

[2] The plaintiffs' application for production of documents relates to an application that Montrose filed on January 23, 2026 seeking to be added as a party and to reopen the trial (the "Montrose Application"). The plaintiffs seek documents related to the timing of the Montrose Application, asserting that delay is a factor for the court to consider on that application.

[3] The plaintiffs have not yet responded to the Montrose Application and do not concede that Montrose has standing to bring it.

[4] The Montrose Application has been adjourned pending the outcome of this application.

The Plaintiffs' position

[5] The plaintiffs seek production of seven categories of documents from BC and Montrose which they submit are likely to illuminate the extent of the notice Montrose had about these proceedings and why Montrose did not seek to participate at an earlier stage:

i. documents that pertain to an application made by Ecowaste Industries Ltd. ("Ecowaste") under the *Water Sustainability Act* (Water Approval file 2005087) to construct a bridge over the No. 7 Road Canal, and which reference any of the plaintiffs, and/or the Lyackson First Nation, the Cowichan Nation Alliance, the Hulq'umi'num Treaty Group, or their representatives (the plaintiffs and "Related Entities");

ii. documents that pertain to an application made by Ecowaste under the *Water Sustainability Act* (Water Approval file 2005775) to undertake remediation work at or around 15111 Williams Road, Richmond, BC and refer to any of the plaintiffs and Related Entities;

iii. documents that pertain to an application made by Montrose Property Ltd. and/or Wood PLC under the *Heritage Conservation Act* for storm sewer construction at or around 15111 Williams Road (Heritage Inspection Permit Application 20A0604; Site Alteration Permit 20A0605) and refer to any of the plaintiffs and Related Entities;

iv. documents that pertain to an application made by Ecowaste to remove lands in Richmond, BC from the Agricultural Land Reserve and that refer to any of the plaintiffs and Related Entities;

v. any Archaeological Overview Assessments commissioned by Montrose or any of them and conducted by any of Arrowstone Archaeological Research and Consulting Limited, Wood PLC and/or Erin Hannon and that concern in whole or in part the property located at 15111 Williams Road (the "AOAs");

vi. any documents that refer to the AOAs and refer to any of the plaintiffs and Related Entities; and

vii. any other documents that the Province sent to Montrose or any of them regarding the Cowichan legal proceedings between 2014 and 2025.

(the "Contested Documents").

[6] The plaintiffs say they will object to the Montrose Application on the grounds that it is an abuse of process, because Montrose's delay in bringing its application until after the judgment was released was inordinate. With respect to the merits of the Montrose Application, the plaintiffs submit that the application to be joined as a

party under subrule 6-2(7)(b) or subrule 6-2(7)(c) of the *Supreme Court Civil Rules* must fail unless the court is satisfied that it is just and convenient to add them. The plaintiffs say that assessment includes consideration of various factors including "the extent of and reason for delay in bringing the application" and the "degree of prejudice caused by delay": *Malii v. British Columbia*, 2024 BCCA 406 at para. 63, leave to appeal to SCC granted, 41644 (24 April 2025).

[7] In support of the Montrose Application, Montrose provided some evidence about why it did not apply to be added as a party sooner. The President and CEO of Montrose Property Holdings Ltd., Ken Low, deposed that Montrose was aware of the case and had a general familiarity with it but at no point did Montrose consider that its interests as a private landowner could be affected by the final reasons for judgment. The plaintiffs submit that Mr. Low's affidavit does not sufficiently explain how familiar Montrose was with the action, when Montrose became familiar with the action or what he meant by "a general familiarity" with the action.

[8] The plaintiffs' application is supported by some evidence which suggests that Montrose may have had information about the action from the Province through regulatory processes and consultations related to Montrose's permitting applications and from AOAs prepared for Montrose concerning 15111 Williams Road. The plaintiffs say this suggests that Montrose had more than a general familiarity with the action.

[9] In reply to Montrose's assertion that the plaintiffs' application is an abuse of process, the plaintiffs say they have not advanced inconsistent positions in the litigation. They have maintained that the declaration of Aboriginal title sought included land that was privately held, and that they were not seeking a declaration that the private fee simple interests are defective and invalid. They say they acknowledged throughout the course of the proceedings that the declaration of Aboriginal title could have consequences for private property interests, that those were uncertain, and not at issue in these proceedings.

Montrose's position

[10] Montrose opposes the plaintiffs' application on several grounds.

[11] First, Montrose submits that the application is an abuse of process. Montrose says the plaintiffs have taken a diametrically opposed position on this application in contrast with the position the plaintiffs took throughout the litigation. Montrose says that throughout the course of the proceedings, the plaintiffs asserted that fee simple title owners would not be affected by their claim. Montrose says the plaintiffs' current application, which seeks to investigate Montrose's notice of the action and whether Montrose inordinately delayed applying to be joined as a party, is at odds with the plaintiffs' earlier position that there would be no impact on private landowners. Further, after the release of the judgment, Mr. Rosenberg, counsel for the plaintiffs, made a statement to the media suggesting private land sales in Cowichan Aboriginal title lands would be with the Cowichan's consent and some accommodation from the Crown to the Cowichan. Montrose submits these changes in position are an abuse of process.

[12] Further, Montrose asserts that even if it received regulatory communications from the Province referencing this litigation — which it does not concede — such communications are not formal notice of the litigation and would not require Montrose to apply to become a party. This is especially so in circumstances where the plaintiffs asserted that private landowners would not be impacted.

[13] Montrose submits that the only time period the court should consider is between the time the judgment was released in August 2025 and when the Montrose Application was served on December 4, 2025. The application could not be filed until I approved a hearing date, and it was filed on January 23, 2026. Montrose submits that this period cannot be characterized as delay. Additionally, Montrose says the Contested Documents are not relevant to this period and the issues raised in the Montrose Application.

[14] Montrose will rely primarily on subrule 6-2(7)(b) for its application to be added as a party. Montrose says delay is not a factor for the court to consider under this

subrule. Montrose agrees delay is a factor to consider under subrule 6-2(7)(c). However, consideration of delay under subrule 6-2(7)(c) derives from cases that involve expired limitation periods. As there is no limitation issue in respect of the Montrose Application, Montrose says delay considerations are inapplicable.

[15] Montrose says the Contested Documents have no relevance to its application to reopen a trial. The discretion to reopen a trial is properly exercised where the court is satisfied that it is in the interests of justice to do so and, particularly, whether declining to do so would result in a miscarriage of justice: *Mong v. Giang*, 2024 BCCA 136 at para. 28.

[16] Even if the court finds the Contested Documents are relevant, Montrose submits the request is overbroad. It would place a disproportionate burden on Montrose to search 11 years of regulatory communications with the Province, particularly in circumstances where Montrose's general knowledge of the litigation is not disputed.

BC's position

[17] BC takes no position on the granting of the orders but made brief submissions with respect to the scope of Rule 22-1(4)(c) and the law regarding abuse of process.

[18] BC has agreed to provide the plaintiffs non-privileged, non-confidential documents of the kind that would otherwise be accessible through a freedom of information request under the *Freedom of Information and Protection of Privacy Act*, R.S.B.C 1996, c. 165, as a matter of public governance. BC does not concede that those documents are necessary or relevant to the Montrose Application.

Richmond's position

[19] Richmond opposes the granting of the orders. Richmond submits that the requested documents are not necessary for the court to assess the Montrose Application on its merits. A document production order would unnecessarily delay hearing that application and the appeals. If the court does grant production of documents, it should only make an order pertaining to specific documents.

Other parties' positions

[20] Canada, the Vancouver Fraser Port Authority, Tsawwassen First Nation and Musqueam Indian Band take no position on the application.

Discussion

i. Abuse of Process

[21] I turn first to Montrose's objection that the application is an abuse of process.

[22] The doctrine of abuse of process is flexible and "exists to ensure that the administration of justice is not brought into disrepute.": *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26 at para. 41.

[23] Judges have an inherent power to prevent an abuse of the court's process: *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 [*CUPE*] at para. 35. The Supreme Court of Canada in *CUPE* described the concept of abuse of process:

> [35] …This concept of abuse of process was described at common law as proceedings "unfair to the point that they are contrary to the interest of justice" (*R. v. Power*, [1994] 1 S.C.R. 601, at p. 616), and as "oppressive treatment" (*R. v. Conway*, [1989] 1 S.C.R. 1659, at p. 1667). McLachlin J. (as she then was) expressed it this way in *R. v. Scott*, [1990] 3 S.C.R. 979, at p. 1007:
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> > ... abuse of process may be established where: (1) the proceedings are oppressive or vexatious; and, (2) violate the fundamental principles of justice underlying the community's sense of fair play and decency. The concepts of oppressiveness and vexatiousness underline the interest of the accused in a fair trial. But the doctrine evokes as well the public interest in a fair and just trial process and the proper administration of justice.

[24] In *Este v. Esteghamat-Ardakani*, 2018 BCCA 290, the Court of Appeal considered whether it is an abuse of process for a litigant to disavow beneficial ownership of assets in one action and then claim beneficial ownership of those assets in a subsequent action. At para. 83, the Court of Appeal observed that abuse of process is focused on the proper administration of justice and the court's power to prevent misuse of its process, citing Justice Fisher's summary of the doctrine in

Pan Afric Holdings Ltd. v. Athabasca Holdings Ltd., 2018 BCCA 113 as it relates to taking inconsistent factual and legal positions in proceedings:

> [36] The doctrine of abuse of process engages a court's inherent power to prevent the misuse of its procedures in a way that would bring the administration of justice into disrepute, and it arises in a variety of legal contexts. While many of the cases that deal with abuse of process do so in the context of relitigation, the doctrine itself does not have specific requirements such as those applicable to *res judicata* and issue estoppel: *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 at paras. 36–37; *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26 at paras. 40–41.
>
> [37] Abuse of process may be invoked where a party takes inconsistent factual and legal positions in different proceedings, but such assertions must be considered in the context and circumstances of the case: *First Majestic Silver Corp. v. Davila Santos*, 2013 BCCA 5 at paras. 22–28; *Vanmills Establishment v. Coles*, [1992] B.C.J. No. 881; *Peppers' Produce Ltd. v. Medallion Realty Ltd.*, 2012 BCCA 247 at paras. 24–27; *Glover v. Leakey*, 2018 BCCA 56 at paras. 22–23.
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> [Emphasis in original]

[25] The Court of Appeal in *Este* held that cases concerning inconsistent pleadings fall on a spectrum (at para. 93):

> Cases concerning inconsistent pleadings fall along a spectrum. At one end are cases in which the courts find that, properly interpreted, no inconsistency exists: *Stewart v. Clark*, 2013 BCCA 359 at para. 48, 49 B.C.L.R. (5th) 1; *First Majestic Silver Corp. v. Davila Santos*, 2012 BCCA 5 at para. 26, 29 B.C.L.R. (5th) 211. In the middle are cases in which an inconsistency is found, but the court declines to characterize it as an abuse of process because it was not advanced "deliberately or with full knowledge of the facts": *Walsh v. Mobil Oil Canada*, 2013 ABCA 238 at para. 94, 364 D.L.R. (4th) 508. At the other end are cases in which a party knowingly took inconsistent positions: *Pepper's Produce Ltd. v. Medallion Realty Ltd.*, 2012 BCCA 247 at para. 28, 34 B.C.L.R. (5th) 226.

[26] The principle that a litigant is not permitted to knowingly advance inconsistent positions is long-standing: *Este* at para. 94 citing *Manley v. O'Brien* (1901), 8 B.C.R. 280 (S.C., Full Ct.).

[27] Turning now to the facts of this case. I find that Montrose's submission that the plaintiffs said the declarations sought in this trial would not impact private property owners misstates the position the plaintiffs maintained throughout the proceedings.

[28] Some background is necessary. In 2017, Justice Power heard Canada's application for an order that the plaintiffs, or alternatively, BC, deliver formal notice to private registered owners of fee simple lands within and outside of the claim area lands. In reasons indexed at 2017 BCSC 1575, Justice Power declined to require the plaintiffs or BC to provide formal notice to private landowners, while noting that the court's ruling did not prevent any of the defendants from providing informal notice to the private landowners: at paras. 25–27.

[29] In the hearing before Justice Power, the plaintiffs asserted that they were not seeking a declaration of invalidity or defectiveness with respect to the fee simple interests of private landowners, nor claiming that they were entitled to possession of such land as against any private property owner: at para. 14. The plaintiffs said this approach, left for another day and only if necessary, the consequences of a declaration of Aboriginal title on land held by private landowners: at para. 15.

[30] Justice Power determined that the consequences of a declaration of Aboriginal title — which is *sui generis* in nature — over privately held lands remain unclear: at paras. 23–24. Uncertainty in the law with respect to the consequences of a declaration of Aboriginal title weighed against court ordered notice: at para. 24. As the plaintiffs did not seek to invalidate fee simple interests held by private landowners, Canada's application to require the plaintiffs or BC to give notice to the private landowners was dismissed: at para. 24. Justice Power observed that private landowners would have an opportunity to make all arguments, including that they were not given formal notice, in any subsequent proceedings against them if any such proceedings were brought: at para 24.

[31] The submissions the plaintiffs made throughout the trial were generally consistent with the submissions they made to Justice Power. I note that in the course of extensive final argument, the plaintiffs' submissions included a reference to the declarations sought not impacting private interests, but that submission was made in the context of declarations that the plaintiffs sought regarding a duty to negotiate on the part of BC, and Cowichan entitlement to its Aboriginal title land as

against BC. That example must be understood in context, and in light of the position that the plaintiffs advanced throughout trial, which was that a declaration of Aboriginal title could have consequences for the fee simple interests of private landowners, but that the plaintiffs did not seek to challenge the validity of those interests in these proceedings.

[32] With respect to Mr. Rosenberg's remarks to the media, abuse of process may be invoked where a party takes inconsistent factual and legal positions *in proceedings*: *Este* at para. 93. His expression of his opinion about the consequences of the declaration Aboriginal title to the media was not a position put forward by the plaintiffs in this proceeding nor any other. It does not constitute misuse of the court's process.

[33] The plaintiffs have not advanced inconsistent positions about the impact of the declarations on private landowners in these proceedings and abuse of process is not made out. It is not necessary to address Montrose's submissions about the plaintiffs' pleading amendments at this stage, which overlap significantly with its submissions in the Montrose Application.

ii. Document production under Rule 22-1(4)(c)

[34] I turn now to the merits of the plaintiffs' application.

[35] Rule 22-1(4) of the *Supreme Court Civil Rules* provides that evidence in a chambers proceeding must be given by affidavit, but provides that the court has the power to order or direct other evidentiary inquiries:

> (4) On a chambers proceeding, evidence must be given by affidavit, but the court may
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> (a) order the attendance for cross-examination of the person who swore or affirmed the affidavit, either before the court or before another person as the court directs,
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> (b) order the examination of a party or witness, either before the court or before another person as the court directs,
>
> (c) give directions required for the discovery, inspection or production of a document or copy of that document,

> (d) order an inquiry, assessment or accounting under Rule 18-1, and
>
> (e) receive other forms of evidence.

[36] Per subrule 22-1(4)(c), the court has discretion to order production of documents in respect of a chambers proceeding. Rule 22-1(4)(c), along with the other subsections under the rule, recognizes that production of documents relevant to an application may be necessary to resolve an application on the merits: *AGT Food and Ingredients Inc. v. Fibreco Export Inc.*, 2025 BCSC 1744 at para. 64 [*AGT*]. An order for production under R. 22-1(4)(c) is distinct from the provisions of R. 7-1.

[37] The discretion under subrule 22-1(4)(c) should be exercised weighing the degree of relevance of the documents to the issues arising on the application and factors of comparative prejudice: *Wilkie Garment Company Ltd. v. Interlock Holdings Ltd.*, 1993 CanLII 2163 (B.C.S.C.); *Galloway v. A.B.*, 2020 BCCA 106 at para. 51. The court will also have regard to whether the cost of producing the documents is disproportionate to the amount in issue and the potential benefit of further information: *AGT* at para. 65. The court may order document production where such relief is warranted in all the circumstances for the fair and just determination of the application: *AGT* at para. 64.

[38] In *AGT*, Justice Masuhara observed that it is not contested that document production under subrule 22-1(4)(c) can apply to privileged documents in the context of abuse of process cases: at para. 66.

[39] I first consider the degree of relevance of the Contested Documents to the issues arising on the Montrose Application.

[40] Montrose relies on subrules 6-2(7)(b) and (c) of the *Supreme Court Civil Rules* with respect to its application to be added as party. Rule 6-2(7) provides:

> (7) At any stage of a proceeding, the court, on application by any person, may, subject to subrules (9) and (10),

> (a) order that a person cease to be party if that person is not, or has ceased to be, a proper or necessary party,
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> (b) order that a person be added or substituted as a party if
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> (i) that person ought to have been joined as a party, or
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> (ii) that person's participation in the proceeding is necessary to ensure that all matters in the proceeding may be effectually adjudicated on, and
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> (c) order that a person be added as a party if there may exist, between the person and any party to the proceeding, a question or issue relating to or connected with
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> (i) any relief claimed in the proceeding, or
>
> (ii) the subject matter of the proceeding
>
> that, in the opinion of the court, it would be just and convenient to determine as between the person and that party.

[41] The Court of Appeal in *Malii* summarized the legal principles regarding joinder at para. 63:

> The legal principles that apply to joinder are not in dispute on this appeal, and have been stated in numerous cases, including *Kwikwetlem* at paras. 64, 114, 121. In summary:
>
> a) Rule 6-2(7)(b) is typically given a narrow interpretation. Rule 6-2(7)(b)(i) is intended to remedy defects in the proceeding, where a party that has a direct interest in the outcome ought to be added. Rule 6-2(7)(b)(ii) deals with the situation where the person's participation is required in order that the existing claim may be fully and properly adjudicated. Joinder must be just and convenient.
>
> b) Rule 6-2(7)(c) involves two stages. First, a court must determine if any question or issue related to the claimed relief or subject matter of the proceeding might exist between the existing party and the party bringing the joinder application. Second, the court must ask whether it is just and convenient to add the person. This involves an exercise of discretion and should be assessed with flexibility, but typically the factors considered include the extent of and reasons for delay in bringing the application, the degree of prejudice caused by the delay, the extent of the connection, and the prejudice to the existing parties by the increased complexity of the action.

[42] Under subrule 6-2(7)(c), in assessing whether joinder is just and convenient, the factors the court will consider typically include the extent and reasons for delay in bringing the application and the degree of prejudice caused by the delay: *Malii* at

para. 63; *Kwikwetlem First Nation v. British Columbia (Attorney General)*, 2021 BCCA 311 at para. 116. The case law does not support Montrose's submission that delay is only a consideration where a limitation period has expired. I find that Montrose's application to be added as a party may include an assessment of delay.

[43] Additionally, the plaintiffs' preliminary objection to the Montrose Application puts delay in issue. The plaintiffs submit that the Montrose Application is an abuse of process on the grounds that Montrose inordinately delayed bringing its application. As above, abuse of process is concerned with the administration of justice, fairness, and engages the inherent power of the court to prevent misuse of its process. This can include a consideration of delay. In *Behn*, the Supreme Court of Canada held that the defendant's litigation tactic was an abuse of process in circumstances where they had a fair opportunity to initiate proceedings and raise such claims earlier. Inordinate delay causing serious prejudice can also give rise to an abuse of process: *Saskatchewan (Environment) v. Metis Nation – Saskatchewan*, 2025 SCC 4 at para. 36 citing *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44 at para. 115.

[44] In terms of the Contested Documents, they generally relate to a period of time after the plaintiffs commenced their claim in 2014 until the final reasons for judgment were released in 2025. The documents sought are aimed at shedding light on the extent of the information that Montrose had about the proceedings through regulatory process and communications with the Province. Generally, I am satisfied that most documents of the type the plaintiffs seek are likely to be relevant to the Montrose Application and the issue of delay.

[45] With respect to factors of comparative prejudice, I find that the plaintiffs would be prejudiced in their ability to respond to the Montrose Application without some degree of document production. Delay is in issue, including the extent and reasons for delay. It would be unfair to deny the plaintiffs some production in this regard as it would impede the plaintiffs' ability to respond to the application. The kind of non-privileged, non-confidential documents that the plaintiffs may receive from BC,

in the nature of a response to a freedom of information request, with the usual attendant exemptions and redactions, are not a substitute.

[46] Montrose is a sophisticated entity. In their demand for production, the plaintiffs have provided some dates, file names and regulatory applications where communication with the Province may have occurred. This should help guide the inquiry. There is no basis to conclude that a limited production order would unfairly prejudice Montrose. There is a cost and burden associated with producing the documents sought, but there is a lack of evidence that some limited production would be unduly burdensome for Montrose or BC.

[47] Some production of documents should be ordered. The references to regulatory proceedings may be useful to focus the inquiry as to when and under what circumstances BC may have provided Montrose with information about the plaintiffs' claim and this litigation. However, general references to the plaintiffs and Related Entities, without more, in relation to those regulatory applications, will likely not be probative. Rather, I find that documents which reference the Aboriginal rights and title claim or these proceedings are likely to be relevant.

[48] I therefore order that Montrose and BC produce the following documents to the plaintiffs:

i. documents that pertain to an application made by Ecowaste under the *Water Sustainability Act* (Water Approval file 2005087) to construct a bridge over the No. 7 Road Canal which reference the plaintiffs' and/or the Related Entities' Aboriginal rights and title claim or these proceedings;

ii. documents that pertain to an application made by Ecowaste under the *Water Sustainability Act* (Water Approval File 2005775) to undertake remediation work at or around 15111 Williams Road, Richmond, BC which reference the plaintiffs' and/or the Related Entities' Aboriginal rights and title claim or these proceedings;

iii. documents that pertain to an application made by Montrose Property Ltd. and/or Wood PLC under the *Heritage Conservation Act* for storm sewer construction at or around 15111 Williams Road (Heritage Inspection Permit Application 20A0604; Site Alteration Permit 20A0605) which reference the plaintiffs' and/or the Related Entities' Aboriginal rights and title claim or these proceedings;

iv. documents that pertain to an application made by Ecowaste to remove lands in Richmond, BC from the Agricultural Land Reserve which reference the plaintiffs' and/or the Related Entities' Aboriginal rights and title claim or these proceedings;

v. any Archaeological Overview Assessments commissioned by Montrose or any of them and conducted by any of Arrowstone Archaeological Research and Consulting Limited, Wood PLC and/or Erin Hannon and that concern in whole or in part the property located at 15111 Williams Road (the "AOAs") which reference the plaintiffs' and/or the Related Entities' Aboriginal rights and title claim or these proceedings;

vi. any documents that refer to the AOAs which reference the plaintiffs' and/or the Related Entities' Aboriginal rights and title claim or these proceedings; and

vii. any other documents that the Province sent to Montrose or any of them regarding these proceedings between 2014 and 2025.

[49] Montrose and BC must produce these documents to the plaintiffs within 14 days after the release of this decision.

[50] The plaintiffs must file and serve their response to the Montrose Application within seven days after both Montrose and BC have produced the documents.

[51] A judicial management conference (JMC) will be held within seven days after the plaintiffs have filed and served their response to the Montrose Application. The parties shall have arranged proposed dates for the hearing of the Montrose Application and will speak to those dates at the JMC.

[52] Costs of this application may be spoken to at the conclusion of the Montrose Application.

"B. M. Young, J."
The Honourable Justice Young