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Reply Attention of: Sean Hern
Direct Dial Number: (250) 405-1982
Email Address: shern@farris.com

Our File No.: 34575-0001

January 29, 2014

BY EMAIL

Cox, Taylor
26 Bastion Square
Victoria, BC V8W 19H

**Attention: John Alexander & Aurora
Faulkner-Killam**

Dear Sirs:

**Re: *Environmental Management Act* – Permit PR-105809 Cobble Hill
Holdings Ltd. – Consolidated Appeal 2013-EMA-015**

We write to request access to the site for Mr. Lowen.

Ideally, we would like Mr. Lowen to attend the site and do the following:

1. Walk the site.
2. Take some samples of water on the site.
3. Take some photographs of the site.
4. Conduct rising head and falling head tests on 3-4 of the existing peizometers. This will require 1 to 1.5 days of access to the wells. Mr. Lowen will bring all of the equipment required.

These will not be intrusive or disruptive activities. I would like to accompany Mr. Lowen to the site for at least part of the time so that I can have an understanding of the landforms about which I will be asking questions at the hearing. We are available to attend on Sunday, Monday or Tuesday of this coming week.

In addition, Mr. Lowen would like to conduct a pumping test of the on-site water well using the existing well pump. This would involve pumping the well continuously and measuring the water levels in the well and in the other piezometers. Mr. Lowen's contractor would install a data logger in the well and a discharge pipe that will convey water to the adjacent tributary of the creek. The well would be pumped for three days, during which time the water levels at the piezometers would be recorded. Admittedly this is somewhat more disruptive and requires greater access, but it could be done over the

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weekend, beginning on Friday afternoon so as to cause as little interference as possible with operations. We would compensate your client for the cost of the electricity to run the pump for the required days. Our understanding is that the on-site well is not used in the operation of the quarry, so it is really just a matter of access.

Please let me know if the above requests can be accommodated.

Yours truly,

FARRIS, VAUGHAN, WILLS & MURPHY LLP

Per: 
Sean Hern



Reply: **L. John Alexander***
alexander@coxtaylor.ca

File: C-1427-1*LJA

January 30, 2014

By Email

Robert Anderson QC and Sean Hern
Farris, Vaughan, Wills & Murphy LLP
1100-1175 Douglas Street
Victoria, B.C. V8W 2E1

Dear Sirs:

Re: File: 2013-EMA-G02

I write further to correspondence received from Mr. Hern for the Shawnigan Residents Association, requesting access to the site for Mr. Lowen so that he may take samples and perform certain tests.

The Permit Holder arranged for site visits to take place on January 7, 2014 and provided reasonable access to the parties' experts at that time, no counsel were allowed. SRA did not participate.

The Permit Holder will consider allowing Mr. Lowen to perform certain physical tests on the following terms:

- (1) Mr. Lowen will be permitted to walk the site, take photographs, and conduct tests that can be completed in one day, and do not involve discharge off-site in any way.
- (2) Mr. Lowen will provide a detailed workplan and associated rationale for any tests to be performed 72 hours prior and the Permit Holder will consider whether additional conditions are necessary;

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- (3) The Permit Holder shall reserve the right to refuse consent for any tests for which a suitable work plan and rationale have not been provided.
- (4) Mr. Lowen will be supervised while on site;
- (5) Mr. Lowen will provide a copy of any raw data logger output to a representative of the Permit Holder before leaving the site;
- (6) Mr. Lowen will reduce all findings, observations and all data collected to writing, all of which will be provided, together with all observations, within 48 hrs. of collection;
- (7) The Permit Holder will not permit the testing of water quality from on-site monitoring wells due to acts of vandalism in late 2013 that may prejudice the results; and
- (8) Mr. Hern will not be permitted to attend with Mr. Lowen.

Please advise if Mr. Lowen wishes to proceed subject to these conditions.

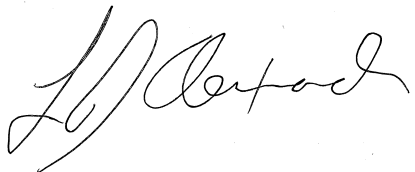
This is the same as has been provided to the other experts, and more. A site visit by counsel, or by counsel and the board, can be addressed at the next pre-hearing conference.

Thank you.

Yours very truly,

COX TAYLOR

Per:

A handwritten signature in black ink, appearing to read "L. John Alexander", written in a cursive style.

L. JOHN ALEXANDER*

*Law Corporation

cc: client

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Reply Attention of: Sean Hern
Direct Dial Number: (250) 405-1982
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Our File No.: 34575-0001

January 31, 2014

BY EMAIL

Cox, Taylor
26 Bastion Square
Victoria, BC V8W 19H

Attention: John Alexander & Aurora Faulkner-Killam

Dear Sirs:

Re: *Environmental Management Act* – Permit PR-105809 Cobble Hill Holdings Ltd. – Consolidated Appeal 2013-EMA-015

I have your letter from yesterday. The restrictions you propose prevent any testing being done and effectively allow for only walking the site and photographing it. If this is all that is going to be permitted, then Mr. Lowen is available on Monday, Tuesday or Wednesday of next week to attend the site.

As for the other requests, I ask that you reconsider your position. It does not make sense to me that your client would want to deprive the Environmental Appeal Board of the information from these simple tests, particularly when your client and its advisors are so confident that there is an impermeable confining layer of bedrock beneath the site.

The three day pumping test of the on-site well is one that Ms. Barroso and Dr. Lapcevic recommended. It is a relatively simple test to perform and will provide some useful empirical evidence about the suitability of the site with very little disruption to your client's operations.

The falling head and rising head tests cannot be conducted in one day; they require a day and a half. The work would entail the following:

Day One:

- (a) attending the site and observing the location and condition of the piezometers;
- (b) selecting which ones will be tested;
- (c) measuring the water levels of the selected piezometers;
- (d) cleaning the selected piezometers out by pumping them and then leaving them overnight;
- (e) letting them sit overnight undisturbed so that their water levels are restored.

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Day Two (morning):

- (f) conducting the falling head and rising head tests on the selected piezometers.

All of this work would be conducted by Mr. Lowen and all that is required from your client is site access.

My understanding is that the water sampling would be of on-site water and would be collected as part of walking the site. I cannot see any reasonable basis to refuse to allow Mr. Lowen to take a few samples of the water on-site. I don't understand the assertion that alleged vandalism in late 2013 would prejudice results from all of the monitoring wells, and it is an assertion that should be confirmed by the testing, not left to conjecture. Please ensure that all information about this alleged vandalism has been produced, including any reports to insurers or the police. I believe I have only seen one email on the subject from Mr. Pye.

If you are willing to reconsider the above requests, please let me know. Otherwise, please advise which day Mr. Lowen can attend to walk and photograph the site.

Please note that I expect I will be introducing our exchange of letters on this subject as evidence before the Board.

Yours truly,

FARRIS, VAUGHAN, WILLS & MURPHY LLP

Per:



Sean Hern