

THE QUEEN'S BENCH

WINNIPEG CENTRE

APPLICATION UNDER Queens' Bench Rule 14.05(2)(c)(iv)

BETWEEN:

WESTERN CANADA WILDERNESS COMMITTEE,

Applicant,

- and -

THE GOVERNMENT OF MANITOBA,

Respondent.

**AFFIDAVIT OF CHARLES HUGHES ARKLIE
SWORN THE 14th DAY OF JUNE, 2011**

JUN 16 2011

PITBLADO LLP
Barristers & Solicitors
2500 - 360 Main Street
Winnipeg, Manitoba
R3C 4H6

DAVID G. NEWMAN, Q.C.

Telephone No. 956-0560
Facsimile No. 957-0227

(File No. 45961/1)

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I, CHARLES HUGHES ARKLIE of the Town of Dugald, in the Province of Manitoba,

MAKE OATH AND SAY THAT:

1. I am an environmental activist who is associated with the Applicant herein and as such have personal knowledge of the facts and matters hereinafter deposed to by me, except where same are stated to be based on information and belief, in which case I verily believe same to be true.
2. I am 62 years old have been active in the environmental movement for approximately 40 years.
3. I prefer to work independently, therefore, I have had few memberships in environmental non-profit organizations. Those few affiliations include the Manitoba Naturalists Society, currently known as Nature Manitoba (hereinafter "MNS"), Time to Respect Earth's Ecosystems (hereinafter "TREE") and Hogwatch Manitoba (hereinafter "Hogwatch").

4. I served on the Parks Committee of the MNS where 30 years ago we advocated for the removal of logging from provincial parks. I was a founding member of both TREE and Hogwatch. TREE was created to address what was then one of the largest forest management licenses ever awarded in Canada. Hogwatch was formed to help prevent the mistakes made by other jurisdictions which had welcomed the factory hog industry. We played a significant role in Manitoba's partial moratorium on the factory hog industry.

5. The balance of my environmental work has been done independently. Examples follow:

(a) Presentations made on the development of "Management Plans" for the following Provincial Parks:

- Hecla;
- Grass River;
- Grindstone;
- Birds Hill;
- Little Limestone Lake;
- Atikaki;
- Whiteshell; and
- Turtle Mountain.

(b) The following is an incomplete list of proposals and requests for licences made pursuant to *The Environment Act* in which I have participated as intervenor:

- Hecla North Shore Cottage Subdivision;
- Bear Point Peat Moss Development;
- Pembina Valley Water Cooperative;

- Portage la Prairie Water & Sewer;
- Hog Industry Review; and
- Tim Horton Foundation Camp (Whiteshell).

Banning of Logging in Provincial Parks

6. On or about June 11, 2009, the Province of Manitoba approved Bill 3 - *The Forest Amendment Act* (hereinafter "Bill 3") which had the effect of banning logging in all of Manitoba's Provincial Parks with the exception of Duck Mountain Provincial Park.

7. I had lobbied for this ban for several years via my membership in the MNS and as a private correspondent.

Issuing of Environment Act Licence No. 2896 (Dickstone Road)

8. On or about August 12, 2009, the Respondent granted Environment Act Licence No. 2896 (hereinafter the "Licence") to Tolko Industries Ltd. (hereinafter "Tolko") for the "construction, operation and maintenance of an all-season road" (hereinafter "Dickstone Road") to be constructed through Grass River Provincial Park (hereinafter the "Park"). Attached as Exhibit "A" is a copy of the said Licence along with covering letter from the Environmental Assessment and Licencing Branch of Manitoba Conservation.

9. The use and access of Dickstone Road is limited to logging trucks and service vehicles between April 1 and October 31 annually. (Exhibit "A", page 4 of 6)

10. The use and access of Dickstone Road is limited to logging trucks and other vehicles related to forest harvesting operations between November 1 and March 31 annually. (Exhibit "A", page 4 of 6)

11. I learned that *The Forest Act* which prohibited logging in provincial parks was silent on the definition of "logging." As such, I set out to obtain a legal definition of the term "logging" as it appears

in section 15.1 of *The Forest Act* in order to determine whether it is broad enough to include the construction of a "logging road".

12. The following is a list of my attempts to procure an interpretation of the term "logging" as it appears in *The Forest Act*:

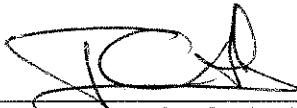
- October 26, 2009...my letter to the Public Interest Law Centre (PILC) asking for an opinion; (Exhibit "B")
- November 10, 2009...PILC accepts engagement; (Exhibit "C")
- December 7, 2009...PILC offers that the Dickstone South Road is an act of "logging" prohibited by law; (Exhibit "D")
- March 16, 2010...my letter to the Minister of Conservation enclosing the PILC legal opinion; (Exhibit "E")
- May 19, 2010...response letter from the Director of Forestry; (Exhibit "F")
- May 31, 2010...my letter to the Director of Forestry requesting more information; (Exhibit "G")
- July 16, 2010...my second letter to the Director of Forestry reminding him of my letter of May 31, 2010; (Exhibit "H")
- August 4, 2010...response from the Director of Forestry; (Exhibit "I")
- August 23, 2010...my letter to PILC including the explanatory comments of the Director of Forestry (Exhibit "J")

13. Subsequent to August 23, 2010, PILC was unable to respond to my request for interpretation of the comments of the Director of Forestry. I, therefore, retained Pitblado LLP to review the entire issue, including all previous correspondence and to advise about how to have the Respondent respect the statutes in question.

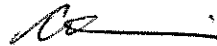
14. After further consideration, I determined that my goals were the same as those of the Applicant herein, and as such decided to assist the Applicant in its attempt to obtain an interpretation of the term "logging" as it appears in section 15.1 of *The Forest Act*.

15. I make this Affidavit *bona fide*.

SWORN before me in the City of Winnipeg,)
in the Province of Manitoba, this 14 day of)
June, 2011.)
)
)



~~A Commissioner for Oaths in and for the~~
~~Province of Manitoba.~~ *A Notary Public in*
~~My Commission Expires:~~ *and for the Province*
of Manitoba



CHARLES HUGHES ARKLIE