December 20, 1995

Citizens Organized for Responsible Process
242 Savoy Crescent
Oakville, ON L6L 1Y3

RE: Canatom Radioactive Waste Services low level waste storage and transfer facility at 1182 South Service Road West, Oakville, Ontario

Dear CORP:

Further to my previous preliminary opinion dated Dec. 20, 1995, I now provide my further opinion as to the options available to you to challenge or resist the installation of Canatom's low level waste storage and transfer facility at the above-noted address.

CHALLENGE TO AECB LICENSING DECISION

A challenge to the AECB licensing decision of last summer would have to be commenced in Federal Court, Trial Division, by Originating Motion supported by Affidavit evidence under Section 18.1 of the Federal Court Act. It would most probably be heard in Ottawa.

The first procedural challenge under this approach would be to obtain an extension of time to commence the judicial review application. There is a thirty day time limit, from the date of the decision appealed from. The Court has discretion to extend the time, and if you were to proceed, your first requirement would be to obtain the Federal Court's Order extending the time so that you can begin the judicial review application. (Fed. Ct. Rule 1614)

In such a proceeding, it is well advised to include a copy of the proposed Originating Motion and the supporting Affidavit, because the Court will look at whether there is a reasonable chance of success on the merits, and in doing so, the Court will look at the factual and legal basis for your claim for judicial review. The Court will want it to be evident on the face of the Affidavit and other material, that the alleged errors of the tribunal show that the factual findings were perverse, capricious, or without regard to the evidence before the tribunal; or alternatively that the alleged factual errors were the basis of the tribunal's decision. There must be a reasonable chance of success, with an arguable case. (Leblanc [1994] 1 F.C. 81 (T.D.).

Furthermore, the Court will want sufficient grounds to grant the extension. This is a recent set of rules, but one of the cases dealing with the power to extend this time limit showed that, for example, inadvertence is insufficient grounds. There must be good substantive grounds for the Court to extend the time.

As I mentioned in my earlier opinion, since the new rules expanded the time limit (from 10 to 30 days), there has been academic speculation that the Court will be more stringent on time extensions. My opinion is that the Court would have to be convinced that there was no other proceeding available, that the case was a good one, that an injustice would be done without the extension, and that your reasons for not commencing action by August, 1995 are sufficient. It is

also quite likely that prejudice to the Respondents would be considered a relevant factor by the Court.

Assuming you overcame this procedural hurdle, i.e. of the time extension, then you would be claiming that the AECB erred in law or jurisdiction, or made a factual finding that was patently unreasonable. This claim would focus on the AECB's finding that there was not sufficient public concern over the proposal as to make a public review desirable.

The AECB made this finding, of course, in the context of their assessment under the Federal Environmental Assessment and Review Process. (It may be that you would also want to challenge the first part of the finding, that there were not potential significant adverse effects. This would entail expert evidence on your part to challenge the material that they considered.) I have focussed on the second part, since it seems patent in the face of 3500 signatures on a petition as well as all of the other expressions of public concern, that there was "sufficient public concern over the proposal" so as to make a public review desirable.

One of the difficulties will be that there has been insufficient judicial determination of the meaning of that part of the EARP guideline. Who makes the determination? In whose opinion is sufficiency of public concern assessed? Does "sufficient" refer to numbers, intensity, activity of the concerned public? Or does it refer to the decision maker's opinion about the merits of the public's concern?

The section itself reads,

> "Notwithstanding the determination concerning a proposal made pursuant to section 12, if public concern about the proposal is such that public review is desirable, the initiating department shall refer the proposal to the Minister for public review by a Panel." (EARP S. 13)

The problems of interpretation and ambiguity in that section have been commented upon in the case law.

One justification for a decision maker to find that public review was not desirable was stated in a case in which 650 members of the public attended public information sessions, and where many of them gave written submissions. The Court upheld the panel's decision because, "it must be noted that public concerns were considered carefully and addressed directly by the authors of the report". (*Alliance to Save Our Greenbelt* (F.C.T.D., unreported) (p. 171, Northey). This finding might not be made in the instant circumstances, where the AECB made a bald statement of their conclusion in the words of section 13, but did not specifically, directly and carefully consider and address the actual, particular public concerns.

However, in another Court review of this part of the EARP guidelines, the Judge held that the panel did not even have to expressly mention the EARP guidelines. Since the adverse environmental aspects were recognized and considered, and could be mitigated with known technology, that Judge held that there was no need to follow the requirements of section 13, "because there was no reason to refer the proposal for public review by a panel." (*Fraser River Coalition v. Canada (Minister of Fisheries and Oceans* 2 (F.C.T.D.) In my opinion, this decision was a legal error and should not govern your considerations. However, you should note the very real possibility that a Court review could still

reach a result inconsistent with the law, and unless there is the willingness and there are the resources to appeal such a decision, then you have not accomplished your objective.

Of more concern in terms of legal analysis is the critique of section 13 in *Canadian Wildlife Federation Inc. v. Canada (Minister of the Environment)* (1989) 4 C.E.L.R. (N.S.) 201 at 220-1 (F.C.T.D.): "What is obvious is that s. 13, written in the passive voice, does not identify precisely how it is to be invoked and is so subjective in any event that it was probably stillborn."

Another case of concern, as to the test of correctness of the panel's decision, is *Cantwell v. Canada* (1991) 6 C.E.L.R. (N.S.) 16 at 43-6 (F.C.T.D.), where the Court recognized that there was widespread public concern about the project and interest in a public review. The Judge agreed that the discretion under section 13 is to be exercised in good faith, taking into account relevant considerations, having regard to the purposes of the Guidelines Order. In this case, as in yours, the panel gave no reasons for its decision not to review the project for public review. The Court then stated that in the absence of reasons, it could only review considerations in the record before the decision maker at the time of his decision. Based on that, the Judge concluded that the Minister's decision "cannot be said to based entirely on irrelevant factors. Nor can it be said that he clearly relied on irrelevant factors. Whether his decision was wise or unwise, whether in the long run it generates support or opposition, it is not a decision which this Court can question." In my opinion, this test will be the one you will be obliged to meet if you bring a judicial review application of the AECB decision before the Federal Court. As you can see, it is a very difficult test to meet, and is not a question of whether the AECB made the "right" decision or not.

This statement of the restricted role of the Court on judicial review was expressed in *Vancouver Island Peace Society v. Canada (Minister of National Defence* at 5 April 14, 1992 (F.C.T.D.): "In relation to decisions taken under section 13 as to whether there is such public concern as to make a public review "desirable", I agree ... that the Court is entitled on judicial review to see if the Minister acted in good faith and took into account relevant considerations. Unless the Court is satisfied that the decision was made on completely irrelevant factors it cannot quash such a decision. It is not for the Court to substitute its own assessment of the weight and nature of public concern and determine that a public review is or is not "desirable". Within this restricted role of the Court, there is no place for the presentation of factual or expert opinion on the nature or degree of potential environmental effects as such."

Another report of the above case indicated that the determination as to whether "public concern is such... that a public review is desirable" is a matter entirely within the authority of the "initiating department" {the AECB in your case}. Accordingly, there would seem to be little likelihood of the Court ever finding itself able to disagree with the "initiating department's" determination of the question. (*Vancouver Island Peace Society v. Canada* 11 C.E.L.R. (N.S.) 1 at 27 (June 18, 1993) Later in that case, the "initiating department's" "infallibility" {my word} was stretched to include a situation where the department had not even determined whether such a public review was desirable. There the Court "inferred" that such a determination was made by the department, i.e. that such a public review was not desirable, since none was recommended or initiated."! In my opinion, this latter proposition is inconsistent with legal interpretation and is erroneous.

However, it is another demonstration that the Courts make such decisions, and is nevertheless a precedent against you.

While considering the chances of success in challenging the AECB's decision in Federal Court, I should also note that almost all of the Federal Court cases that I reviewed dealing with the EARP guidelines, where a decision of a department, Ministry, panel etc., was challenged, were dismissed. Among the few exceptions were Oldman River Society v. Canada (Minister of the Environment (1989), 4 C.E.L.R. (N.S.) 137; (1990) 5 C.E.L.R. (N.S.) 1, (1992) 7 C.E.L.R. (N.S.), 1 (S.C.C.) in which the Minister of Transport and the Minister of Fisheries and Oceans were required to comply with the Guidelines Order. This case was significant in establishing the Guidelines as being legally binding, and not just for "guidance". Another exception, in being a case which was won by the applicant public interest group on a challenge to the decision maker was Canadian Wildlife Federation Inc. v. Canada (Minister of Environment) (1989), 3 C.E.L.R. (N.s. 287; appeal dismissed (1989), 4 C.E.L.R. (N.S.) 1, (F.C.A.): regarding the Rafferty Alameda Dam in Saskatchewan. (This series of cases continued for several more years on several applications and appeals.) The end result was against that the federal government was obliged to follow the Guidelines. However, it should be noted that work continued on the dam for years despite various decisions upholding the position of the Canadian Wildlife Federation.

The point I want to make is that statistics are against you in this type of challenge. In those cases where the applicants were successful, they engaged in several rounds of Court cases and appeals, brought by themselves and their opponents, spanning many years. By the way, it is due to these two series of cases that the Canadian Environmental Assessment Act was passed.

One case in which the matter was sent to a panel for review, and where the panel recommended that the project location was unacceptable is closer to the topic at hand - namely that of Eldorado Uranium Hexafluoride Refinery at Port Granby, Ontario, May 4, 1978. The panel found that the project location had unacceptable impacts on agricultural resources and had an unsuitable waste management system. The project did not proceed at that location; instead the uranium refinery was located at Blind River following another subsequent panel review.

While considering the EARP guidelines, and the AECB decision under those guidelines, I want to mention the issue as to whether this case would be governed by the EARP guidelines, which have now been replaced by the Canadian Environmental Assessment Act, most of which was proclaimed in force in January, 1995. Section 74 of that Act provides for its gradual phase-in, in that if a project was undergoing screening or other assessment under the EARP guidelines, then the Guidelines continue to apply. However, if after the initial assessment, under the Guidelines, it is determined that public review IS appropriate, then that public review will be subject to and take place under the Canadian Environmental Assessment Act's new provisions. The main significance of this is that the Minister in question would then have to decide whether to direct mediation, or whether to send the matter for assessment by a review panel.

The procedural requirements under the screening stage of the EARP guidelines are not very stringent. The decision maker may give public notice and obtain written public comment, but this stage does not require extensive public

involvement nor public access to independent expertise. (Northey, Rod, Canadian Environmental Assessment Act (1994 Carswell) p. 605.

In the event that you decided to proceed with a Judicial Review application to Federal Court, you should also consider the issue of costs. The relevant portion of the Rules of the Federal Court is Rule 1618, which provides that no costs shall be payable in respect of an application for Judicial Review unless the Court, for special reasons, so orders. The public policy rationale is that groups such as yourself, and concerned citizens generally, should not be unduly discouraged, at least for costs reasons, from bringing applications for Judicial Review and challenging decisions of administrative tribunals where they are concerned about the decisions made.

It is still possible that costs could be ordered against you, and although that possibility is low, under this particular type of application, you would still want to pursue incorporation in case of such a decision. This is because, in the event that such an award was made, and in the event that it was not "nominal" (e.g. $5,000.00), you could face a very large assessment of costs in a taxation. I want to emphasize that for this type of application (Federal Court judicial review), there is a low chance of having costs awarded against you, but that such a possibility still exists, and could be a large amount.

For future reference, in case you decide you do want to proceed, note the following citations:

Apotex Jan. 19, 1993, Fed. Ct. #T-1877-91, where the Court refused costs to the successful Crown.

Friends of Oak Hammond Marsh (1993) 67 F.T.R. 183, where costs were ordered against an applicant who joined a private party improperly (a "special reason" for ordering costs).

Ternette v. Canada (1991) 12 Admin. L.R. 235 (F.C.T.D.) where party and party costs were awarded to the unsuccessful applicant without objection by the Crown in a "landmark" case (another "special reason").

Pulp & Paper (1994) 174 (N.R. 37 (F.C.A.) where the Court reminded all that awarding solicitor and client costs on an appeal was the exception; not the rule, and that public interest groups must be prepared to accept some responsibility for {their own} costs. Here a successful union asked for costs and relied on some recent notable cost cases such as Finlay, where costs were awarded to successful public interest groups.

Page v. Veterans (1995) 90 F.T.R. 98, where a successful applicant on a Judicial Review received some costs because the case was a precedent case and their involvement benefitted many other people. This is another "special reason" for ordering costs.

Friends of the Island v. Canada (1995) 89 F.T.R. 220, in which the Court pointed out that the fact that the applicant is an environmental advocacy group does not constitute special circumstances such that costs should not be awarded against it. This is an important case for its thorough and accurate review of the costs principles in this type of case. The Court reviewed the kinds of cases in which costs are awarded, against the general provision in the rule: either the action brought by the party being ordered to pay costs was unfounded, or the

conduct of the party warranted the sanction of costs (e.g. where an action was brought after two prior unsuccessful attempts, or where land minute attacks were made without giving the responding party time to respond, or where a party failed to file its memoranda on time.

Another procedural matter to note, if you decide to proceed for Federal Court Judicial Review, is that all of the time limits of the Federal Court rules must be strictly complied with, and failure to do so could result in a striking out of the action. Canada v. Hennelly (1995) 91 F.T.R. 317.

On the issue of standing, which I addressed in my earlier opinion, you should also note the case of Friends of the Island [1993] 2 F.C. 229 (T.D.), since it was decided under the relevant section of the Federal Court Act, section 18.1: The Court will grant standing when it is convinced that participation of the party in the circumstances of the case and the type of interest that the applicant holds justify status. The Court would also have to have been satisfied that there is a justiciable issue and that there is no other effective and practical means of getting the issue before the Courts.

Finally, in considering this approach, you should be reminded that an application to the Federal Court for judicial review will be limited to the matters over which it has jurisdiction. You would not be able to deal with claims against the province or the municipality, which I will address below.

Ironically, a successful application to Federal Court, which would result in a declaration that the EARP (and now CEAA) procedures must be followed, could conceivably result in a joint hearing by the federal panel and a provincial Environmental Assessment Act panel. This is due to a recent amendment to the Environmental Assessment Act, which provides that it may sit jointly with a tribunal appointed under the legislation of another jurisdiction. (New section 18.1 of the EAA).

The newly enacted CEAA also recognized this possibility in its section 41 which provides for cooperative public review, following the earlier sections 12 (4) and (5) which provide for cooperation with provincial bodies where a provincial law also requires an assessment of the environmental effects of the project or of a part thereof.

PROVINCIAL ACTION REQUIRED - ACTION FOR MANDAMUS AGAINST MINISTRY OF ENVIRONMENT AND ENERGY

Another approach that you may consider is whether to bring an action against the Ministry of Environment and Energy for Ontario, requiring it to follow its legislation under either or both of the Environmental Assessment Act and the Environmental Protection Act. Such an action would be by way of an Application for Judicial Review, to the Divisional Court of Ontario. You would seek Declaratory Relief and a Mandatory Order against the Minister.

There is no statutory time limit that applies to this Application, so you don't have the formal hurdle of obtaining an Order extending time as you do for the Federal Court application.

However, there are other practical difficulties to be alert to. There is no Rule like the one in Federal Court Judicial Review Applications regarding costs. In fact the general rule in Divisional Court will be that "costs will follow the event" -

in other words, if you initiate proceedings and lose, you will likely be required to pay the other parties each their costs, unless the Court orders otherwise. There are examples where the Court does not order costs in a public interest matter, but there are several recent cases in which the Court did order public interest groups to pay costs. These costs could range from fixed costs of $15,000.00 per adverse party, up to an almost unlimited amount. One possibility to keep costs down is to try to keep any interventions subject to a term that they never seek costs against you. Another important approach is to incorporate the group.

Another battle will be about standing. I have addressed that previously and above. I am of the opinion that you would succeed in any challenge to your standing.

You could also expect considerable resources to be mobilized against you by the other parties. Even if you avoid the adverse costs problem, this is still a problem in that you have to face and respond to the evidence they bring, in addition to preparing and presenting your own evidence.

Yet another practical concern is that there could be a request to convert your Application, which is a fairly "summary" proceeding to a trial. This would result in much greater time and expense being incurred to present your own case, together with much additional work, time and expense for all of the procedural requirements. The best way to try to avoid this is to keep your factual issues to a minimum and to keep your application to legal grounds so far as possible. It remains a possibility, and if you decide to proceed, you would want to reconsider if the matter was converted to a full trial.

Sometimes applications are made to have "security for costs" - the responding party might be able to obtain such an order. Although the chance of them succeeding is low, again, such an order could be a practical barrier to your ability to proceed with your application. However, this could be decided if it ever came to pass, especially since there is not a high probability of this.

If you decide that you can accept the practical risks and barriers outlined, then your proceeding would basically claim that the provincial government has failed to enforce its laws; or has failed to follow its laws, and would seek relief requiring the province to do so.

Under the Environmental Assessment Act, your claim would be that all or a portion of the undertaking is subject to an environmental assessment. Even though the matter is predominantly under federal environmental assessment jurisdiction, both the federal and the provincial legislation expressly recognize the possibility of dual jurisdiction.

Under the Environmental Protection Act, your claim would be that the project requires a provincial (Ministry of Environment and Energy) Certificate of Approval, pursuant to section 27. That section provides that,

> "No person shall use, operate, establish, alter, enlarge or extend,
>
> "(a) a waste management system; or
>
> (b) a waste disposal site,
>
> unless a certificate of approval or provisional certificate of approval therefor has been issued by the Director and except in accordance with any conditions set out in such certificate."

The definition of a "waste disposal site" includes:

> "(a) any land upon, into, in or through which, or building or structure in which, waste is deposited, disposed of, handled, stored, transferred, treated or processed."

The definition of a "waste management system" includes:

> "any facilities or equipment used in and any operations carried out for, the management of waste, including collection, handling, transportation, storage, processing or disposal of waste, and may include one or more waste disposal sites."

The definition of "waste" includes reactive and radioactive waste (E.P.A. section 25 and Reg. 347 section 1); the only exclusion being "radioactive waste disposed of in a landfilling site in accordance with the written instructions of the Atomic Energy Control Board". In the instant case, of course, the radioactive waste is not being disposed of in a landfilling site.

It is apparent on the face of the legislation that the Environmental Protection Act requires a Certificate of Approval to be issued for this project. This was in fact the first understanding of the province and the applicant. They later alleged that the AECB had exclusive jurisdiction over the matter, but this is not supported by the above definitions, nor by the express recognition in both the federal and the provincial legislation that there can be a dual assessment or concurrent jurisdiction regarding environmental scrutiny.

If the Environmental Protection Act applies, (pursuant to section 27), then a hearing will be required under section 30 of that Act. Since it is hazardous waste as defined in Reg. 347, a hearing is mandatory.

The argument that the matter is exclusively of federal jurisdiction would not necessarily prevail; in fact in my opinion the law supports the argument that provincial legislation must be given its effect in so far as it can be done without "sterilizing" the federal project. There are many, many examples of projects which are subject to both federal and provincial laws, and environmental legislation is the classic example of a subject area where the province has jurisdiction and is entitled to exercise it. An example where an Atomic Energy Control Board regulated project was considered subject to the provincial legislation was the Darlington Nuclear Generating Station (which was exempted from the E.A. Act).

The next issue that you will raise is as to your cost of commencing such a proceeding (your own costs). I can give you an estimate based on a straight forward situation where we prepare our material, serve it, attend at Divisional Court, and argue the matter as an Application. In such a case, your own costs (at the rates I previously quoted) could be in the range of $15,000.00 to $20,000.00 plus expert's fees if we use any experts to prepare affidavit material. This is assuming that the matter would take between one and five days in Court. However, motions brought by the other parties and other additional procedural requirements would add to the cost. If the matter was converted to a trial, then I could only quote the rates and the basis for calculating fees but the total time spent could be quite considerable.

In my opinion, this option has the most chance of success (which is quite reasonable), is potentially the most expeditious and least expensive (assuming it

proceeds as an application), and has the added advantage of possibly attracting public attention to the issues if you wish to do that.
It is also an option which is most likely to be treated seriously by the Courts, on its legal merits.

ACTION AGAINST THE MUNICIPALITY

Municipalities are creatures of statute, who must act strictly in accordance with their enabling legislation. However, much of their activity is such that they may not have any discretion over their actions. For example, in the area of issuance of building permits and other types of permits, their activities are "strictly administrative". If an applicant meets the "letter" of the law, then they are obliged to issue the permit in question. If they do not, then the applicant may have a successful opportunity to have that decision reviewed and overturned by the Courts.

Such a question is not always so clear cut. For example, in the case of the building permit, there is room for a decision by a municipal officer as to whether the permit would result in a "hazard" as contemplated by the Ontario Building Code.

Similarly, under the Region's Official Plan, in the section dealing with "Healthy Communities", which I have reviewed in detail, there are many, many sections that could arguably give the municipality the authority to deny the application.

However, it is not so clear that a decision by the municipality not to invoke those provisions to deny the application would be reviewable by the Court. This is because there are many sections which contradict other sections. There is judgment to be exercise. There is no priority given to one provision over another. Should an economic argument prevail over an environmental or social concern? Accordingly it would be difficult to meet the judicial review tests which I outlined in my December 20, 1995 opinion. It would be very difficult for us to show that the municipality made an actual error of law, acted without jurisdiction, or made a clearly unreasonable decision, not supported by the facts and its enabling legislation. As I mentioned in the context of Federal Court review above, it is not a question of whether the "right" decision was made (in the social, environmental or political sense), but merely whether the decision could conceivably have been made on the material available to the decision maker at the time of making the decision.

Furthermore, the municipalities are required to act only in accordance with their enabling legislation and in accordance with the laws that they themselves have passed. They cannot act retroactively to deal with an applicant whose plans they dislike. To the extent that the Town finds itself without sufficient controls in place, you may well want to lobby for improvements so that the community and the Town are better placed to oppose an unwanted project in the future. However this does not assist in the present situation.

A much more productive approach in this area would be political. In other words, political pressure to follow the Health Communities statements could be pressed as giving grounds for politicians to do what they can to oppose the project.

However, I would not recommend Judicial Review action against the municipalities (Town or Region) for the above reasons, and since I am of the view that the route with a better chance of success is that of requiring the Province to follow and enforce its legislation. This does not mean that there would not be action available in the future if something did go wrong, and the Town had failed to protect the community, especially since you have brought the hazards to the Town's attention at this time.

An approach that is open to the Town, should it wish to oppose this project, is to initiate, support or intervene in an Application requiring the Province to enforce and follow its laws (i.e. the E.P.A.). It is perfectly legitimate for the Town to insist on compliance with the E.P.A. for any waste disposal site located within its borders. Furthermore, recent amendments to the E.P.A. require the consent of a municipality to a new waste disposal site to be located within its boundaries in certain circumstances.

Since I have still not seen actual zoning maps, it may also be that the Town's zoning does not allow for a waste disposal site at the subject location, but that will be determined.

ENVIRONMENTAL BILL OF RIGHTS

I outlined some of the key provisions of the Bill of Rights to you in my prior opinion. It is my view that this is not a productive route to follow in the first instance, at least with respect to this particular project, so I have not devoted additional time to this option. The aspect of the Bill of Rights that may interest you to pursue is that of requesting new legislation or amendments to legislation. This could be a separate project for the group, but would involve some work, since it is recommended that any such request be well documented with evidence appropriate to the request.

In the event that the radioactive waste storage facility did cause a nuisance, cause environmental or health impacts etc., then the Bill of Rights could also avail, although the threshold is still very high. However, that is an action for the future, and your current aim is to avoid the project, rather than deal with its future impacts.

If a Certificate of Approval is sought, then in addition to any hearing rights, there will be posting on the Bill of Rights Registry. You would want to respond to any such notice, so that you have potential appeal rights against the ultimate decision about that particular application.

CHARTER OF RIGHTS AND FREEDOMS

I have reviewed the law regarding section 15 and section 7 of the Charter again. I am of the opinion that it would be very difficult to prove a breach of either of these sections in the way that the case law requires, in this case. A breach of Section 15 is generally exceptionally hard to prove, and I don't believe that the facts here would constitute the required elements. A proof of breach of section 7 is possible, but still very onerous, and has the disadvantage of requiring much more evidence, as well as of increasing the likelihood that the matter would be converted to a trial.

For these reasons, I would recommend that if you decide to proceed, that you do so on the basis of the Division of Powers arguments discussed above, rather than on the Charter.

CANADIAN BILL OF RIGHTS

This legislation is enjoying some renewed vigour since the Charter was enacted, because it provides better procedural protection than the Charter does in certain circumstances. Section 2(e), which I outlined in my earlier opinion, guarantees the right to a fair hearing in accordance with the principles of fundamental justice. However, its application would be against the AECB and not against the Provincial Ministry. Therefore, I would recommend adding it to your claim if you seek Judicial Review in Federal Court. If you proceed to Divisional Court on the provincial matters, then it will not apply.

I will be happy to answer any questions, and to take any further instructions that you may wish to give.

Yours very truly,

Theresa A. McClenaghan