

AMENDMENT TO RULES OF PRACTICE AND PROCEDURE

THE CORNWALL PUBLIC INQUIRY



L'ENQUÊTE PUBLIQUE SUR CORNWALL

The Honourable G. Normand Glaude, Commissioner

L'honorable G. Normand Glaude, commissaire

September 29, 2006

Notice to Parties with Standing

Amendment to Rules of Practice and Procedure

Rule 31 is amended as follows:

31. The Commission expects, with the exception of documents over which solicitor-client privilege is claimed (in which case Rule 31A applies), all relevant documents to be produced to the Commission by any party with standing where the documents are in the possession, control or power of the party. Where a party objects to the production of any document on the grounds of privilege (except on grounds of solicitor-client privilege, in which case Rule 31A applies), the document shall be produced in its original unedited form to Commission counsel who will review and determine the validity of the privilege claim. The party and/or that party's counsel may be present during the review process. In the event the party claiming privilege disagrees with Commission counsel's determination, the Commissioner, on application, may either inspect the impugned document(s) and make a ruling or may direct the issue to be resolved by a judge assigned by the Chief Justice of the Superior Court of Justice.

Rule 31A is enacted as follows:

31A. Where a party objects to production of any document on the grounds of solicitor-client privilege, the following procedures apply:

- a) The party shall deliver a list setting out pertinent details of the documents over which claims for privilege are being asserted. This shall include date, author, recipient, and a brief description. The "description" must be as brief as possible so as not to destroy the claim for privilege.
- b) Commission counsel shall review the list and decide if it accepts the claim for privilege. If it does not, then a party may file additional material, such as an affidavit, to support its claims.

- c) If the dispute still cannot be resolved, the list and any further material shall be submitted forthwith to a judge of the Ontario Superior Court of Justice. If the judge is unable to make a determination based on that record, the judge may require a copy of the disputed document(s) for inspection.
- d) If the claim of privilege is dismissed, the document(s) shall be produced to Commission counsel, subject to any subsequent appeal.