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## MEMO

TO: Twitter Moot Participants and Judges

FROM: Andrew Gage, Twitter Moot Administrator

DATE: 24 January 2012

RE: Twitter Moot Problem and Assignments

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Hi all,

Thanks again for agreeing to participate in the world's first ever Twitter Moot. As you know, the Twitter Moot, scheduled for Tuesday, February 21<sup>st</sup> at 10am PST, will focus on an appeal to the Supreme Twitter Court of Canada (STCC) of the British Columbia Court of Appeal decision in *West Moberly First Nations v. British Columbia (Chief Inspector of Mines)*, 2011 BCCA 247, affirming 2010 BCSC 359.

The purpose of this memo is to assign each of the Teams with the parties that they will be representing, and to define the scope of the issues to be argued in the Moot.

### The Parties

The Teams in the Twitter Moot will represent the parties and interveners that appeared at the BC Court of Appeal. The Teams have been assigned their roles on a random basis. This is the order that the Teams will present in during the Twitter Moot.

- Team Victoria will represent the Province of British Columbia (Appellant).
- Team Dalhousie (Schulich Law) will represent First Coal Corporation (Appellant).
- Team UBC will represent the Province of Alberta (Intervenor).
- Team Osgoode will represent West Moberly First Nations (Respondent).
- Team Ottawa will represent the Treaty 8 First Nations of Alberta (Intervenor).

## **Scope of the Appeal**

Please refer to the Twitter Moot Rules for information on how the Twitter Moot will be conducted. The final version of the Twitter Moot Rules will be provided to you, and uploaded to the Twitter Moot web pages, at the same time as this memo.

For the purposes of the Twitter Moot, assume that the Province of British Columbia and First Coal Corporation have both filed an appeal of the BC Court of Appeal. Leave has been granted on the following issues:

Whether the majority of the Court of Appeal erred in finding that the right to hunt as formerly, guaranteed by Treaty 8, extends to a right to the protection of a particular herd of caribou.

Whether the Court of Appeal erred in holding that past events are relevant to determining the reasonableness of the Crown's consultation, contrary to the Supreme Court of Canada's decision in *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43.

Counsel should limit themselves to submissions related to these two issues, and not address issues falling outside the scope of these two questions.

The appeal raises broad public policy implications about the regulation of resource industries, the protection of species at risk, and the role of First Nations in land management. Counsel are encouraged to discuss the broader public policy issues in their submissions.

## **Closing comments**

If you have any questions about the above, please let me know as soon as possible. Please note that under the Twitter Moot Rules, the Appellants and the Province of Alberta should file their Factums by the end of day (5:00pm PST) on February 7<sup>th</sup>, and the Respondent and the Treaty 8 Nations of Alberta should file their Factums by the end of day February 14<sup>th</sup>.