

**In the Case of an Application for Authorization to Disregard Requests from [a Respondent] under Section 43 of the *Freedom of Information and Protection of Privacy Act* (the Act) by Joan Hesketh, Assistant Deputy Minister, Ministry of Employment and Investment**

I have had the opportunity of reviewing the application under section 43 of the *Freedom of Information and Protection of Privacy Act* (the Act) for authorization to disregard section 5 requests made by [the respondent].

Section 43 gives me the power to authorize a public body to disregard requests under section 5 that, because of their repetitious or systematic nature, would unreasonably interfere with the operations of the public body, in this case the Ministry of Employment and Investment (the Ministry).

Since the purpose of the Act is to make government bodies more accountable to the public by giving the public a right of access to records, authorization to disregard must be given sparingly and only in obviously meritorious cases. Granting section 43 requests should be the exception to the rule and not a routine option for public bodies to avoid their obligations under the legislation.

Based on a detailed review of the submissions and the response of [the respondent], the following factors have led me to decide that [the respondent]'s access requests are repetitious, systematic, and unreasonably interfere with the operations of the Ministry:

1. The Reasons for Decision and Determination of the Chief Gold Commissioner in the dispute between [third parties] and [the respondent], dated November 25, 1994.
2. The Supreme Court of British Columbia's dismissal of [the respondent]'s petition to judicially review the order of the Chief Gold Commissioner, [date].
3. The evidence that [the respondent] is trying to use the Act to prove that the determination made against [the respondent] by the Chief Gold Commissioner was wrong and that the Chief Gold Commissioner, along with other Ministry staff, were biased and acted improperly and criminally.
4. [The respondent] has made 43 percent of the total number of requests for records to the Ministry over the last 2.5 years for a total of 145 up to July 25, 1996. This includes 40 requests between June 13, 1996 and July 25, 1996.
5. The Ministry conservatively estimates that it has spent 500 hours responding to [the respondent]'s requests and that to answer [the respondent]'s outstanding requests would require an additional 120 hours.
6. The evidence that [the respondent] is habitually, persistently, and in bad faith making excessive and irrational requests and demands on the Ministry.
7. The evidence that responding to [the respondent]'s requests has dramatically limited the time that the Ministry's staff can devote to requests from other applicants.
8. The evidence that [the respondent] is not using the Act for the purpose for which it was intended and that any further continuations of these actions could place the Act in great disrepute.
9. The evidence that the Ministry has exercised considerable restraint and has made every

effort to assist [the respondent] and to respond without delay to [the respondent] openly, accurately, and completely.

10. Finally, I reject the submission of [the respondent] that my Office is biased against [the respondent] in any way or in some kind of conflict of interest.

**Therefore, I authorize the Ministry to disregard the following:**

- 1. All outstanding requests for records by [the respondent].**
- 2. All future requests for records which relate to mineral claims of [the respondent], the dispute with [third parties], and the allegations of wrongdoing by the Ministry.**
- 3. All requests for any kind for a period of one year by [the respondent].**

**The above apply to requests for records made by [the respondent], [four named parties associated with the respondent], or any other request in which [the respondent] is the “directing mind.”**

August 23, 2996

David H. Flaherty Commissioner