



THIS AGREEMENT is dated for reference April 24, 2003 and is made under the *Park Act*.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the minister responsible for the *Park Act*

(the "Province")

AND:

WEST KOOTENAY PARK MANAGEMENT INC., (Inc. No. 0666950)

(the "Permittee")

The parties agree as follows:

ARTICLE 1 - DEFINITIONS

1.1 In this Agreement,

"Agreement" means this park use permit;

"Additional Fees" means the fees to be collected by the Permittee from Operating Area Users for Additional Services;

"Additional Services" means the services, other than Park Act Services, identified in the Annual Operating Plan;

"Annual Operating Plan" means

- (a) in the case of the first year of the Term, the operating plan which was approved by the Province as part of the proposal that led to the grant of this Agreement to the Permittee, and

- (b) for the remainder of the Term, the operating plan approved by the Province under Article 5,

and includes all amendments to and replacements of those plans;

"Commencement Date" means June 15, 2003;

"Disposition" includes a park use permit, resource use permit or other authorization made under the *Park Act*;

"Facilities" includes anything made, constructed, erected, built, altered, repaired or added to, in, on or under the Operating Area and attached to the Operating Area or intended to become a part of the Operating Area;

"Financial Security" means the security referred to in section 7.1 or 7.2, as replaced or supplemented in accordance with section 7.5;

"Gross Revenue" means the Park Act Fees and the Pass Fees collected by the Permittee under this Agreement, excluding GST;

"GST" means the goods and services tax imposed under the *Excise Tax Act* (Canada);

"Operating Area" means that part or those parts of the Parks identified in Schedule "A";

"Operating Area User" means a person in the Operating Area;

"Operating Year" means the period of time commencing on April 1st (except in the case of the first year of the Term when the period of time will commence on the Commencement Date) and terminating on March 31st in the following year;

"Operational Maintenance" means the maintenance of the Facilities that is described in Schedule "C" but does not include Preventative Maintenance;

"Park Act Fees" means the Park Act Fees (Basic) and the Park Act Fees (Increase);

"Park Act Fees (Basic)" means the fees, except for Pass Fees, imposed under the *Park Act* for Park Act Services which are in force on the Commencement Date;

"Park Act Fees (Increase)" means

- (a) any increase in the fees, except for Pass Fees, imposed under the *Park Act* during the Term which exceed the Park Act Fees (Basic);
- (b) the fees, except for Pass Fees, imposed under the *Park Act* during the Term, and
- (c) any increase in the fees referred to in paragraph (b) during the Term;

"Park Act Services" means the activities for which a fee is imposed under the *Park Act* for the use of the Facilities and services in a Park;

"Park Design Standards" means the document entitled "Park Design Guidelines & Data" which is dated 1996 and includes all amendments to and replacements of that document;

"Park Facility Standards" means the document entitled "Park Facility Standards" which is dated August 1991 and includes all amendments to and replacements of that document;

"Park Information Standards" means the document entitled "Standards for Park Information for Park Facility Operators" which is dated December 2002 and includes all amendments to and replacements of that document;

"Parking Fees" means

- (a) the fees imposed under the *Park Act* which are in force on the Commencement Date for vehicle parking where such vehicle does not display a current Recreation Stewardship Annual Pass or a valid receipt for overnight camping in the Park in which the vehicle is parked,
- (b) all fees imposed under the *Park Act* during the Term for vehicle parking where such vehicle does not display a current Recreation Stewardship Annual Pass or a valid receipt for overnight camping in the Park in which the vehicle is parked, and
- (c) any increase in the fees referred to in paragraphs (a) and (b) during the Term;

"Parks" means the parks, recreation areas and protected areas listed in Schedule "B";

"Pass Fees" means the Parking Fees and the Recreation Stewardship Fees collected by the Permittee under this Agreement;

"Policies" means the policies of the Province entitled

- (a) "BC Parks Conservation Program Policies" which is dated September 1997,
- (b) "BC Parks Impact Assessment Process, Part 1, Policy" which is dated April 1999,
- (c) "BC Parks Impact Assessment Process, Part 2, User Guide" which is dated April 1999, and
- (d) "Bear-People Conflict Prevention Plan" which is dated December 2002,

and includes all amendments to and replacements of those policies;

"Preventative Maintenance" means the maintenance of the Facilities described in the Three Year Business Plan but does not include Operational Maintenance;

"Preventative Maintenance Amount" means, subject to Article 5, s.17, s.21

"Recreation Services" means the Additional Services and the Park Act Services;

"Recreation Stewardship Annual Pass" means the annual pass referred to in the Regulations which permits vehicle parking in the Parks;

"Recreation Stewardship Fees" means

- (a) the fees imposed under the *Park Act* for a Recreation Stewardship Annual Pass which are in force on the Commencement Date, and
- (b) any increase in the fees referred to in paragraph (a) during the Term;

"Regulations" means the regulations made under the *Park Act*;

"Subcontractor" means the person or persons listed in section 11 of Schedule "C" and any other person approved, in writing, by the Province;

"Term" means the period of time set out in section 2.3;

"Three Year Business Plan" means

- (a) in the case of the first three years of the Term, the plan which was approved by the Province as part of the proposal that led to the grant of this Agreement to the Permittee, and
- (b) for the remainder of the Term, the plan approved by the Province under Article 5,

and includes all amendments to and replacements of those plans;

"User Guide" means the document entitled "User Guide for Condition Assessments and Instructions for the Use of Forms" which is dated November 20, 2002 and includes all amendments to and replacements of that document;

"we", "us" or "our" refers to the Province alone and never refers to the combination of the Province and the Permittee: that combination is referred to as **"the parties"**; and

"you" or "your" refers to the Permittee.

1.2 The schedules to this Agreement are as follows:

Schedule "A" – Operating Area;
Schedule "B" – Parks;
Schedule "C" – Service Standards;
Schedule "D" – Financial Matters; and
Schedule "E" – Annual Operating Plan Requirements.

ARTICLE 2 - GRANT OF RIGHTS AND TERM

2.1 On the terms and conditions of this Agreement, we grant you a park use permit to occupy the Operating Area only for the purposes of

- (a) offering the Recreation Services to Operating Area Users;
- (b) operating and maintaining the Facilities;
- (c) collecting and retaining the Additional Fees and the Park Act Fees (Basic);
- (d) collecting and remitting the Park Act Fees (Increase) and the Pass Fees to us in accordance with Schedule "D";
- (e) offering Recreation Stewardship Annual Passes for sale to Operating Area Users;
- (f) permitting Operating Area Users who are exempt from the payment of Park Act Fees and Pass Fees under the *Park Act* to use the Operating Area free of charge; and
- (g) controlling the Operating Area to ensure its safe and orderly use by Operating Area Users including the right to
 - (i) regulate and prohibit the entry, movement and activities of Operating Area Users,
 - (ii) evict Operating Area Users, and
 - (iii) make arrangements with the police force having jurisdiction over the Operating Area to regulate public safety and conduct.

2.2 In addition to the rights granted to you under section 2.1, you may advertise the Recreation Services offered by you under this Agreement provided such advertising complies with the Park Information Standards.

2.3 The term of this Agreement commences on the Commencement Date and terminates on October 31, 2013, or such earlier date provided for in this Agreement.

- 2.4 If we decide to permit the offering of services, other than Recreation Services, in the Operating Area we will offer you the first right to offer such services to Operating Area Users as Additional Services and, if you accept our offer, we will approve the offering of those Additional Services in the Annual Operating Plan for the next Operating Year.

ARTICLE 3 - FINANCIAL MATTERS

- 3.1 You will remit the Park Act Fees (Increase) and the Pass Fees to us in accordance with Schedule "D" and we will pay to you the amounts set out in Schedule "D" at the times set out in that schedule.
- 3.2 You must keep books and records with respect to your operations under this Agreement and enter in them, among other things, all transactions pertaining to Gross Revenue and we may inspect and take copies of and cause an audit to be taken by an independent auditor of such books and records.
- 3.3 In the event that an audit taken under section 3.2 reveals that the amount paid or credited to us under this Agreement was less than that required under this Agreement you must immediately pay to us the cost of that audit together with the outstanding amount.
- 3.4 You are registered for GST purposes (GST registration number s.17, s.21 and you will, in accordance with the *Excise Tax Act* (Canada), account to the Receiver General (Canada) for the GST collected by you under this Agreement.

ARTICLE 4 - COVENANTS

- 4.1 You must
- (a) pay, when due,
 - (i) all money payable by you to us under this Agreement to us at the address set out in Article 11,
 - (ii) all taxes, rates, levies, duties, charges and assessments levied or charged, at any time, by any competent governmental authority which relate to the Operating Area, the Facilities, or both of them, and your operations under this Agreement and which you are liable to pay, and
 - (iii) all charges for electricity, gas, water, sewer, fuel oil, telephone and other utilities supplied to the Operating Area;
 - (b) deliver to us immediately upon demand, receipts or other evidence of the payment of all money required to be paid by you under this Agreement;

- (c) observe, abide by and comply with
 - (i) all laws, bylaws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Parks and the Facilities, or their use and occupation, and your operations under this Agreement,
 - (ii) the provisions of this Agreement,
 - (iii) the provisions of the Park Design Standards, the Park Facility Standards, the Park Information Standards, the Policies, the User Guide and the documents entitled "Discover Camping™ Reservation Service, Guidelines for Park Facility Operators, 2002" and "Facility Management System User Manual" as they affect the Parks and the Facilities, or their use and occupation, and your operations under this Agreement, and
 - (iv) all of your obligations set out in the schedules to this Agreement;
- (d) at your expense, keep the Operating Area and the Facilities in a safe, clean and sanitary condition and, at our written request, make the Operating Area and the Facilities safe, clean and sanitary;
- (e) not commit any wilful or voluntary waste, spoil or destruction on the Operating Area or do anything on the Operating Area that may be or become a hazard, nuisance or annoyance to an owner or occupier of land in the vicinity of the Operating Area;
- (f) not remove, destroy, damage, disturb or exploit any natural resource (as that term is defined in the *Park Act*) in the Operating Area without our prior written consent and without providing to us the written undertaking referred to in the *Park Act*;
- (g) use and occupy the Operating Area only in accordance with and for the purposes set out in section 2.1;
- (h) permit us, or our authorized representatives, to enter on the Operating Area at any time to inspect the Operating Area and the Facilities;
- (i) not make, construct, install, erect, build, alter, add to, in on or under the Operating Area any Facility or repair, replace, restore or overhaul any Facility except for the purposes set out in the Annual Operating Plan and
 - (i) to the standards set out in the Park Design Standards and the Park Facility Standards, or
 - (ii) if no standards are set out in the Park Design Standards and the Park Facility Standards, to the standards required by us;

- (j) pay all accounts and expenses as they become due for labour or services performed on, or materials supplied to, the Operating Area except for money that you are required to hold back under the *Builders Lien Act*;
- (k) if any claim of lien over the Operating Area is made under the *Builders Lien Act*, immediately take all steps necessary to have the lien discharged, unless the claim of lien is being contested in good faith by you and you have taken the steps necessary to ensure that the claim of lien will not subject the Operating Area or any interest of yours under this Agreement to sale or forfeiture;
- (l) not permit Operating Area Users to
 - (i) undertake any activity in the Operating Area that is prohibited under the *Park Act* or the Regulations, or
 - (ii) enter on any part of the Operating Area that is, in your reasonable opinion, unsafe due to an existing or potential hazard, including fires and dangerous animals, and you must immediately advise us of all existing or potential hazards;
- (m) take all reasonable precautions to prevent and suppress fires in the Operating Area;
- (n) not misrepresent your rights or obligations under this Agreement to any person;
- (o) supply all labour, vehicles, equipment, tools, materials and supplies that are necessary to fulfil your obligations under this Agreement;
- (p) not interfere with the lawful activities of Operating Area Users except as expressly permitted or required under this Agreement;
- (q) indemnify and save us and our servants, employees and agents harmless against all claims, actions, causes of action, losses, damages, costs and liabilities, including fees of solicitors and other professional advisors, arising out of
 - (i) your breach, violation or nonperformance of a provision of this Agreement, and
 - (ii) any personal injury, bodily injury (including death) or property damage occurring or happening on or off the Operating Area by virtue of your entry upon, use or occupation of the Operating Area,and the amount of all such losses, damages, costs and liabilities will be payable to us immediately upon demand; and
- (r) on the termination of this Agreement,
 - (i) peaceably quit and deliver to us possession of the Operating Area and, subject to paragraphs (ii) and (iii), the Facilities in a safe, clean and sanitary condition,

- (ii) within 30 days, remove from the Operating Area any Facility you want to remove, if the Facility was placed on or made to the Operating Area by you, is in the nature of a tenant's fixture normally removable by tenants and is not part of a building or part of the Operating Area,
- (iii) remove from the Operating Area any Facility that we, in writing, direct or permit you to remove, other than any Facility permitted to be placed on or made to the Operating Area under another Disposition, and
- (iv) restore the surface of the Operating Area as nearly as may reasonably be possible to the same condition as it was on the Commencement Date, to our satisfaction, but if you are not directed or permitted to remove a Facility under paragraph (iii), this paragraph will not apply to that part of the surface of the Operating Area on which that Facility is located,

and all of your right, interest and estate in the Operating Area will be absolutely forfeited to us and to the extent necessary, this covenant will survive the termination of this Agreement.

4.2 You will not permit any person to do anything you are restricted from doing under this Article.

4.3 You acknowledge receipt from us of a copy of the documents referred to in paragraph 4.1(c)(iii).

ARTICLE 5 - ANNUAL OPERATING PLAN, THREE YEAR BUSINESS PLAN AND PREVENTATIVE MAINTENANCE

5.1 You must, at your expense, prepare and deliver to us for our approval not later than November 1, 2003 and each anniversary of that date during the Term,

- (a) a proposed operating plan for the next Operating Year which must
 - (i) describe in detail your plan to implement the provisions of the Three Year Business Plan during that Operating Year,
 - (ii) describe the services you propose to offer to Operating Area Users in addition to the Recreation Services and the fees you propose to collect from Operating Area Users for those services, and
 - (iii) include the information set out in Schedule "E"; and
- (b) the Three Year Business Plan which is updated to include the following information with respect to your proposed operation under this Agreement in the Operating Year which is to start in the year following the last Operating Year addressed in the Three

Year Business Plan:

- (i) a description of and proposed timing for
 - (A) the services you propose to offer to Operating Area Users in addition to the Recreation Services and the fees you propose to collect from Operating Area Users for those services,
 - (B) the repairs, replacements, restorations and overhauls you propose to make to the Facilities,
 - (C) the Facilities you propose to make, construct, install, erect, build, alter or add to, in, on or under the Operating Area,
 - (D) your advertising program, and
 - (E) reports to be completed by you, in accordance with the User Guide, to assess the state of repair of the Facilities,
- (ii) revenue and cash flow projections,
- (iii) your organizational structure and proposed staffing levels,
- (iv) staff hiring, training and dismissal policies, and
- (v) the arrangements you propose to make, if any, with the communities in which the Operating Areas are located (including First Nations) concerning the delivery of Recreation Services.

5.2 Not later than 30 days following the delivery of the proposed operating plan and the updated Three Year Business Plan to us under section 5.1, we will review those plans and, in our sole discretion, either approve or reject those plans and, if we reject one or both of those plans, we will notify you, in writing, of all information that we require from you in order to review and evaluate the rejected plan or plans and all revisions that we require you to make to the rejected plan or plans, including the revisions referred to in section 5.3, and, not later than 30 days following your receipt of that notice, you will deliver to us the requested information and the revised plan or plans and you acknowledge that, among other things, the revisions we ask you to make to the proposed operating plan and the updated Three Year Business Plan will ensure that

- (a) the proposed operating plan complies with the provisions of the Three Year Business Plan for the Operating Year for which the proposed operating plan is submitted; and
- (b) the updated Three Year Business Plan
 - (i) complies with the proposal that led to the grant of this Agreement to you, and

- (ii) provides for the assessment of the condition of each of the Facilities at least once every five years of the Term.

- 5.3 With respect to the Preventative Maintenance described in the proposed operating plan referred to in subsection 5.1(a), you acknowledge that we may, in our sole discretion, approve or reject any item of Preventative Maintenance described in that proposed operating plan and, if we reject an item of Preventative Maintenance and we later complete that Preventative Maintenance, you will immediately upon demand pay to us all of the costs incurred by us to complete that Preventative Maintenance.
- 5.4 You must complete all inspections, diagnostic maintenance and condition assessments of the Facilities in accordance with the schedule set out in the Annual Operating Plan and, with respect to condition assessments of the Facilities, such condition assessments must be completed by a person approved, in writing, by us and to the standards required by the User Guide.
- 5.5 Not later than 30 days following the completion of each item of Preventative Maintenance described in the Annual Operating Plan, you will advise us of all of your costs to complete such Preventative Maintenance and deliver to us a copy of invoices for the services and materials supplied to you to complete that Preventative Maintenance and such invoices must
- (a) identify the services or materials supplied to you to complete the Preventative Maintenance; and
 - (b) be acknowledged, by the supplier of the services or materials, to be paid in full by you.
- 5.6 If you expend
- (a) less than the Preventative Maintenance Amount on Preventative Maintenance in an Operating Year then we may, in our sole discretion, advise you in writing that
 - (i) the Preventative Maintenance Amount for the following Operating Year will be increased by an amount equal to the unexpended amount, or
 - (ii) you must pay to us an amount equal to the unexpended amount not later than 30 days following delivery of that written notice to you; or
 - (b) more than the Preventative Maintenance Amount on Preventative Maintenance in an Operating Year then the Preventative Maintenance Amount for the next Operating Year will be deemed to be reduced by an amount equal to the amount spent by you in the previous Operating Year in excess of the Preventative Maintenance Amount.
- 5.7 You acknowledge that we may, not later than October 1 in any year of the Term and by notice in writing to you, change the Preventative Maintenance Amount for the next Operating Year.

- 5.8 You agree with us that, despite subsection 5.1(b), you must, at your expense,
- (a) prepare and deliver to us not later than November 1, 2005 and November 1, 2008 a proposed new Three Year Business Plan and a proposed Schedule "D" applicable to the following three years of the Term;
 - (b) after making the proposals under subsection (a), attempt, in good faith, to negotiate an agreement with us as to a new Three Year Business Plan and a Schedule "D" applicable to the following three years of the Term; and
 - (c) enter into such amendments to this Agreement as are necessary to reflect any agreement reached under subsection (b).
- 5.9 If an agreement is not reached under subsection 5.8(b) within 60 days after delivery of the proposals contemplated by subsection 5.8(a) or you fail to deliver such proposals within the time required by subsection 5.8(a), either party may terminate this Agreement on 60 days' written notice to the other and neither party will be entitled to compensation from the other if this Agreement is terminated under this section.
- 5.10 Article 10 does not apply to a failure of the parties to reach an agreement under subsection 5.8(b).
- 5.11 Sections 5.1 and 5.2 apply to a Three Year Business Plan to which the parties may agree under subsection 5.8(b).

ARTICLE 6 - LIMITATIONS

- 6.1 You agree with us that
- (a) we are under no obligation to provide access or services to the Operating Area or to maintain or improve existing access roads;
 - (b) we may make other Dispositions of or over the Operating Area;
 - (c) you will make no claim for compensation, in damages or otherwise, in respect of a Disposition made by us under subsection (b), where such Disposition does not materially affect the exercise of your rights under this Agreement;
 - (d) all of your costs and expenses, direct or indirect, that arise out of any lawful interference with your rights under this Agreement as a result of the exercise or operation of the rights reserved to us in subsection (b) will be borne solely by you;
 - (e) you will not remove or permit the removal of any Facility from the Operating Area except as expressly permitted or required under this Agreement;

- (f) any interest you may have in the Facilities ceases to exist and becomes our property upon the termination of this Agreement, except where a Facility may be removed under paragraph 4.1(r)(ii) or (iii) in which case any interest you may have in that Facility ceases to exist and becomes our property if the Facility is not removed from the Operating Area within the time period set out in paragraph 4.1(r)(ii) or the time period provided for in the direction or permission given under paragraph 4.1(r)(iii); and
- (g) if, after the termination of this Agreement, we permit you to remain in possession of the Operating Area and we accept money from you in respect of such possession, a tenancy from year to year will not be created by implication of law and you will be deemed to be a monthly tenant only subject to all of the provisions of this Agreement, except as to duration, in the absence of a written agreement to the contrary.

ARTICLE 7 - FINANCIAL SECURITY AND INSURANCE

- 7.1 On the Commencement Date, you will deliver to us security in the amount of s.17, s.21 which will
- (a) guarantee the performance of your obligations under this Agreement;
 - (b) be in the form required by us; and
 - (c) remain in effect until we certify, in writing, that you have fully performed your obligations under this Agreement.
- 7.2 Despite section 7.1, your obligations under that section are suspended for so long as you maintain in good standing other security acceptable to us to guarantee the performance of your obligations under this Agreement and all other Dispositions held by you.
- 7.3 We may use the Financial Security for the payment of any costs and expenses incurred by us to perform any of your obligations under this Agreement that are not performed by you and, if such event occurs, you will, within 30 days of that event, deliver further Financial Security to us in an amount equal to the amount drawn down by us.
- 7.4 After we certify, in writing, that you have fully performed your obligations under this Agreement, we will return to you the Financial Security maintained under section 7.1, less all amounts drawn down by us under section 7.3.
- 7.5 You acknowledge that we may, from time to time, notify you to
- (a) change the form or amount of the Financial Security; and
 - (b) provide and maintain another form of Financial Security in replacement of or in addition to the Financial Security posted by you under this Agreement;

and you will, within 30 days of receiving such notice, deliver to us written confirmation that the change has been made or the replacement or additional form of Financial Security has been provided by you.

7.6 You must

- (a) without limiting your obligations or liabilities under this Agreement, at your expense, maintain during the Term
 - (i) Comprehensive/Commercial General Liability insurance protecting us as an additional insured in an amount of not less than \$2,000,000.00 inclusive per occurrence insuring against liability for personal injury, bodily injury (including death) or property damage and claims for liability assumed under contract, arising from all accidents or occurrences in or on the Operating Area or the Facilities including the following coverages:
 - (A) products and completed operations liability,
 - (B) owner's and contractor's protective liability,
 - (C) blanket written contractual liability,
 - (D) contingent employer's liability,
 - (E) personal injury liability,
 - (F) non-owned automobile liability,
 - (G) cross liability,
 - (H) employees as additional insureds,
 - (I) broad form property damage, and
 - (J) tenant's legal liability in an amount equal to the replacement value of the Facilities that are buildings, structures and other improvements,
 - (ii) automobile liability insurance for commercial use on all vehicles owned or operated by you (including rented vehicles) in an amount not less than \$2,000,000.00 inclusive per occurrence,
 - (iii) unless such insurance is provided under the insurance referred to in paragraph 7.6(a)(i), watercraft liability insurance for all watercraft owned or operated by you (including rented watercraft) in an amount not less than \$2,000,000.00 inclusive per occurrence, and

- (iv) all risks property insurance covering your furniture, fittings, fixtures, stock-in-trade and merchandise in an amount not less than the replacement value of all of that property;
- (b) on the Commencement Date and immediately upon demand, deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance required to be maintained by you under this Agreement;
- (c) ensure that all insurance required to be maintained by you under this Agreement is
 - (i) placed with insurers licensed in British Columbia,
 - (ii) primary and does not require the sharing of any loss by any insurer that insures us, and
 - (iii) except for the insurance referred to in paragraphs 7.6(a)(ii) and (iv), endorsed to provide us with 30 days' advance written notice of cancellation or material change; and
- (d) deliver to us immediately upon demand, certified copies of all policies of insurance required to be maintained by you under this Agreement.

7.7 You acknowledge that we may, from time to time, notify you to

- (a) change the amount of insurance set out in subsection 7.6(a); and
- (b) provide and maintain another type or types of insurance in replacement of or in addition to the insurance previously required to be maintained by you under this Agreement;

and you will, within 30 days of receiving such notice, cause the amounts and types to be changed and deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance then required to be maintained by you under this Agreement.

ARTICLE 8 - ASSIGNMENT

- 8.1 You must not sublicense, assign, mortgage or transfer this Agreement, or permit any person to use or occupy the Operating Area, other than a Subcontractor, without our prior written consent, which consent we may withhold in our sole discretion.
- 8.2 For the purpose of section 8.1, if you are a corporation, a change in control (as that term is defined in subsection 1(4) of the *Company Act*) will be deemed to be a transfer of this Agreement.
- 8.3 Section 8.2 does not apply to a corporation if the shares of the corporation which carry votes for the election of the directors of the corporation trade on a stock exchange located in Canada.

ARTICLE 9 - CANCELLATION

9.1 You agree with us that

- (a) if you
 - (i) default in the payment of any money payable by you under this Agreement, or
 - (ii) fail to observe, abide by and comply with the provisions of this Agreement (other than the payment of any money payable by you under this Agreement),and your default or failure continues for 30 days after we give written notice of the default or failure to you,
- (b) if, in our opinion, you fail to make diligent use of the Operating Area for the purposes set out in this Agreement and your failure continues for 30 days after we give written notice of the failure to you;
- (c) if you
 - (i) become insolvent or make an assignment for the general benefit of your creditors,
 - (ii) commit an act which entitles a person to take action under the *Bankruptcy and Insolvency Act* (Canada) or a bankruptcy petition is filed or presented against you or you consent to the filing of the petition or a decree is entered by a court of competent jurisdiction adjudging you bankrupt under any law relating to bankruptcy or insolvency, or
 - (iii) voluntarily enter into an arrangement with your creditors;
- (d) if you are a corporation,
 - (i) a receiver or receiver-manager is appointed to administer or carry on your business, or
 - (ii) an order is made, a resolution passed or a petition filed for your liquidation or winding up;
- (e) if you are a society, you convert into a company in accordance with the *Society Act* without our prior written consent;
- (f) if this Agreement is taken in execution or attachment by any person; or

(g) if the Parks are permanently closed to public use by us;

we may, in our sole discretion, pursue any remedy set out in section 9.2.

9.2 If any event set out in section 9.1 occurs, we may

- (a) pursue any remedy available to us at law or equity and you acknowledge that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy available to us to cure the default;
- (b) take any action in our or your name that may reasonably be required to cure the default and you will pay to us, on demand, all of the costs and expenses incurred by us as a result of that action;
- (c) suspend, in whole or in part, your rights under this Agreement; or
- (d) with or without entry, terminate this Agreement.

9.3 If the condition complained of (other than the payment of any money payable by you under this Agreement) reasonably requires more time to cure than 30 days, you will be deemed to have complied with the remedying of it if you commence remedying or curing the condition within 30 days and diligently complete the same.

9.4 Without limiting our rights under this Article, for the purpose of fulfilling our obligations to a First Nation under a treaty or interim measure agreement between us and that First Nation, we may decide, in our sole discretion,

- (a) after the second anniversary of the Commencement Date and before the third anniversary of the Commencement Date; or
- (b) after the fifth anniversary of the Commencement Date and before the sixth anniversary of the Commencement Date;

to amend this Agreement to remove one or more Operating Area from Schedule "A" and, if we decide to do so, we will provide you with written notice of our decision and this Agreement will be deemed to be amended

- (c) in the event notice is provided under subsection (a), on the sixth anniversary of the Commencement Date; or
- (d) in the event notice is provided under subsection (b), on the ninth anniversary of the Commencement Date;

to remove such Operating Area or Operating Areas from Schedule "A" and your obligations under this Agreement will be deemed to be amended with respect to the Operating Area or Operating Areas removed from Schedule "A".

- 9.5 If we give you written notice under section 9.4, we will, in that written notice, offer to you the right to enter into a services agreement with us to provide the First Nation with training in the offering of Park Act Services within the Operating Area or Operating Areas to be removed from Schedule "A" on the terms and conditions described in the written notice.
- 9.6 If, on your receipt of the written notice referred to in section 9.4, you determine, in your sole discretion, that your operations under this Agreement will be materially affected by the removal of the Operating Area or Operating Areas described in that written notice from Schedule "A", you may advise us, in writing, of that fact and, this Agreement will terminate on the date set out in the written notice delivered to you under section 9.4.
- 9.7 You agree with us that
- (a) you will make no claim for compensation, in damages or otherwise, upon
 - (i) the lawful termination of this Agreement under section 9.2 or 9.6, or
 - (ii) the removal of an Operating Area or Operating Areas from Schedule "A" under section 9.4;
 - (b) not later than 30 days prior to the date
 - (i) this Agreement is terminated under section 9.2 or 9.6, or
 - (ii) an Operating Area or Operating Areas is removed from Schedule "A" under section 9.4;

you will advise us, in writing, of all outstanding reservations made for the use of campsites, or other Facilities for which reservations can be made, in the Operating Area and

 - (iii) pay to us all money held by you for such reservations, and
 - (iv) provide to us all other information available to you relating to the delivery of Recreation Services; and
 - (c) our remedies under this Article are in addition to those available to us under the *Park Act*.

ARTICLE 10 - DISPUTE RESOLUTION

- 10.1 If any dispute arises under this Agreement, the parties will attempt to resolve the dispute within 60 days of the dispute arising (or within such other time period agreed to by the parties) and, subject to applicable laws, provide candid and timely disclosure to each other of all relevant

facts, information and documents to facilitate the resolution of the dispute.

- 10.2 Subject to section 10.5, if a dispute under this Agreement cannot be resolved under section 10.1, we or you may refer the dispute to arbitration conducted by a sole arbitrator appointed under the *Commercial Arbitration Act*.
- 10.3 The cost of the arbitration referred to in section 10.2 will be shared equally by the parties and the arbitration will be governed by the laws of the Province of British Columbia.
- 10.4 The arbitration will be conducted at our office at the address set out in Article 11.
- 10.5 A dispute under this Agreement in respect of a matter within our sole discretion cannot, unless we agree, be referred to arbitration as set out in section 10.2.

ARTICLE 11 - NOTICE

- 11.1 Any notice required to be given by either party to the other will be deemed to be given if mailed by prepaid registered mail in Canada or delivered to the address of the other as follows:

to us

Environmental Stewardship Division
Kootenay Region
Ministry of Water, Land and Air Protection
205 Industrial Road G
Cranbrook, British Columbia
V1C 7G5;

to you

West Kootenay Park Management Inc.
1224 Stanley Street
Nelson, British Columbia
V1L 1P8;

or at such other address as a party may, from time to time, direct in writing and any such notice will be deemed to have been received if delivered, on the day of delivery and, if mailed, 7 days after the time of mailing, except in the case of mail interruption in which case actual receipt is required.

- 11.2 In order to expedite the delivery of any notice required to be given by either party to the other, a concurrent facsimile copy of the notice will, where possible, be provided to the other party but nothing in this section and specifically the lack of delivery of a facsimile copy of any notice, will affect the deemed delivery provided for in section 11.1.

- 11.3 The delivery of all money payable to us under this Agreement will be effected by hand, courier or prepaid regular mail to the address specified above, or by any other payment procedure agreed to by the parties, such deliveries to be effective on actual receipt.

ARTICLE 12 - INTERPRETATION

- 12.1 In this Agreement, "person" includes a corporation, firm or association and wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or parties require.
- 12.2 The captions and headings contained in this Agreement are for convenience only and do not define or in any way limit the scope or intent of this Agreement.
- 12.3 This Agreement will be interpreted according to the laws of the Province of British Columbia.
- 12.4 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Agreement, that reference will include a reference to every amendment to it, every regulation made under it and any subsequent enactment of like effect and, unless otherwise indicated, all enactments referred to in this Agreement are enactments of the Province of British Columbia.
- 12.5 If any section of this Agreement, or any part of a section, is found to be illegal or unenforceable, that section or part of a section, as the case may be, will be considered separate and severable and the remainder of this Agreement will not be affected and this Agreement will be enforceable to the fullest extent permitted by law.
- 12.6 Each schedule to this Agreement is an integral part of this Agreement as if set out at length in the body of this Agreement.
- 12.7 This Agreement constitutes the entire agreement between the parties and no understanding or agreement, oral or otherwise, exists between the parties with respect to the subject matter of this Agreement except as expressly set out in this Agreement and this Agreement may not be modified except by subsequent agreement in writing between the parties.
- 12.8 Each party will, upon the request of the other, do or cause to be done all lawful acts necessary for the performance of the provisions of this Agreement.
- 12.9 All provisions of this Agreement in our favour and all of our rights and remedies, either at law or in equity, will survive the termination of this Agreement.
- 12.10 Time is of the essence of this Agreement.

- 12.11 Wherever this Agreement provides that an action may be taken, a consent or approval must be obtained or a determination must be made, then you or we, as the case may be, will act reasonably in taking such action, deciding whether to provide such consent or approval or making such determination; but where this Agreement states that you or we have sole discretion to take an action, provide a consent or approval or make a determination, there will be no requirement to show reasonableness or to act reasonably in taking that action, providing that consent or approval or making that determination.
- 12.12 If any part of the Operating Area is in a recreation area established or continued under the *Park Act*, this Agreement is deemed to be a resource use permit (as that term is defined in the *Park Act*) issued over that recreation area.

ARTICLE 13 - MISCELLANEOUS

- 13.1 No provision of this Agreement will be considered to have been waived unless the waiver is in writing and a waiver of a breach of a provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other provision of this Agreement and a consent or approval to any act requiring consent or approval will not waive or render unnecessary the requirement to obtain consent or approval to any subsequent same or similar act.
- 13.2 No remedy conferred upon or reserved to us under this Agreement is exclusive of any other remedy in this Agreement or provided by law, but that remedy will be in addition to all other remedies in this Agreement or then existing at law, in equity or by statute.
- 13.3 The grant of a sublicence, assignment or transfer of this Agreement does not release you from your obligation to observe and perform all the provisions of this Agreement on your part to be observed and performed unless we specifically release you from such obligation in our consent to the sublicence, assignment or transfer of this Agreement.
- 13.4 This Agreement extends to, is binding upon and enures to the benefit of the parties, their heirs, executors, administrators, successors and permitted assigns.
- 13.5 If, due to a strike, lockout, labour dispute, act of God, inability to obtain labour or materials, law, ordinance, rule, regulation or order of a competent governmental authority, enemy or hostile action, civil commotion, fire or other casualty or any condition or cause beyond your reasonable control, other than normal weather conditions, you are delayed in performing any of your obligations under this Agreement, the time for the performance of that obligation will be extended by a period of time equal to the period of time of the delay so long as
- (a) you give notice to us of the delay setting forth the nature of the delay and an estimated time frame for the performance of your obligation; and
 - (b) you diligently attempt to remove the delay if it is within your power to do so.

13.6 You agree with us that

- (a) we are under no obligation, express or implied, to provide financial assistance or to contribute toward the cost of operating, maintaining, repairing, replacing, servicing, creating or developing the Operating Area or the Facilities and you are solely responsible for all costs and expenses associated with your use of the Operating Area and the Facilities for the purposes set out in this Agreement; and
- (b) nothing in this Agreement constitutes you as our agent, joint venturer or partner or gives you any authority or power to bind us in any way.

13.7 This Agreement does not override or affect any powers, privileges or immunities to which you are entitled under any enactment of the Province of British Columbia.

The parties have executed this Agreement as of the date of reference of this Agreement.

SIGNED on behalf of **HER MAJESTY
THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA**
by the minister responsible for the *Park Act*
or the minister's authorized representative

Minister responsible for the *Park Act*
or the minister's authorized representative

SIGNED on behalf of
WEST KOOTENAY PARK MANAGEMENT INC.
by its authorized signatories

Authorized Signatory

Authorized Signatory

SCHEDULE "A"**OPERATING AREA**

The Operating Area is comprised of the following:

1. That part of Arrow Lakes Park – Shelter Bay Site shown hatched on Appendix "1" to this schedule.
2. That part of Blanket Creek Park shown outlined in bold line on Appendix "2" to this schedule.
3. That part of Champion Lakes Park shown in black on Appendix "3" to this schedule including the following trails shown in black on that appendix:
 - (a) First Lake Trail;
 - (b) Second Lake Trail;
 - (c) Third Lake Trail; and
 - (d) Lookout Trail.
4. That part of Grohman Narrows Park shown in black on Appendix "4" to this schedule.
5. That part of Kokanee Creek Park shown hatched on Appendix "5" to this schedule.
6. The following parts of Kootenay Lake Park:
 - (a) the Davis Creek site shown hatched on Appendix "6" to this schedule; and
 - (b) the Lost Ledge site shown in black on Appendix "7" to this schedule;
7. Martha Creek Park.
8. That part of McDonald Creek Park shown hatched on Appendix "8" to this schedule.
9. That part of Nancy Greene Park shown in black on Appendix "9" to this schedule including the trail shown in black on that appendix.
10. That part of Rosebery Park shown hatched on Appendix "10" to this schedule.
11. That part of Syringa Park shown in black on Appendix "11" to this schedule including the trail shown in black on that appendix.

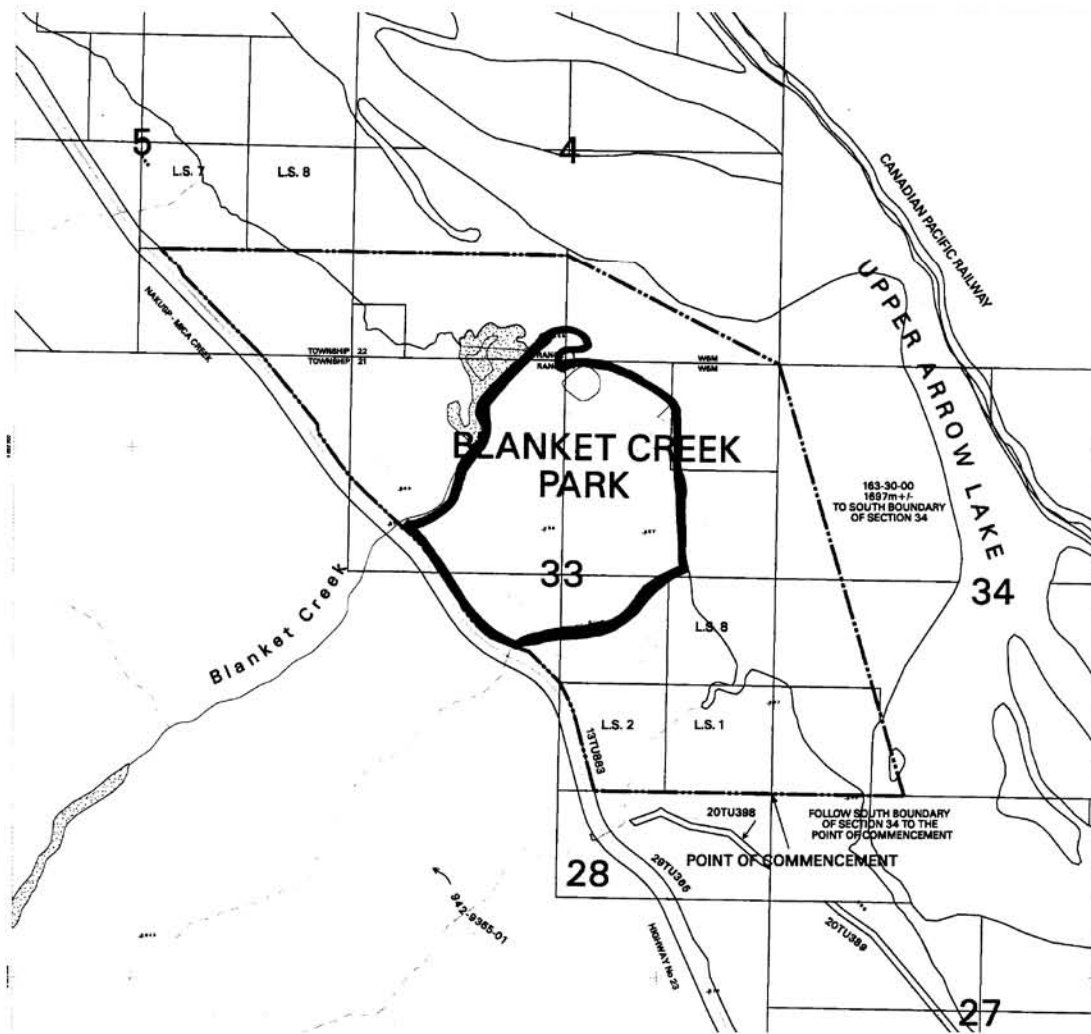
APPENDIX "1" TO SCHEDULE "A"

ARROW LAKES PARK – SHELTER BAY SITE OPERATING AREA

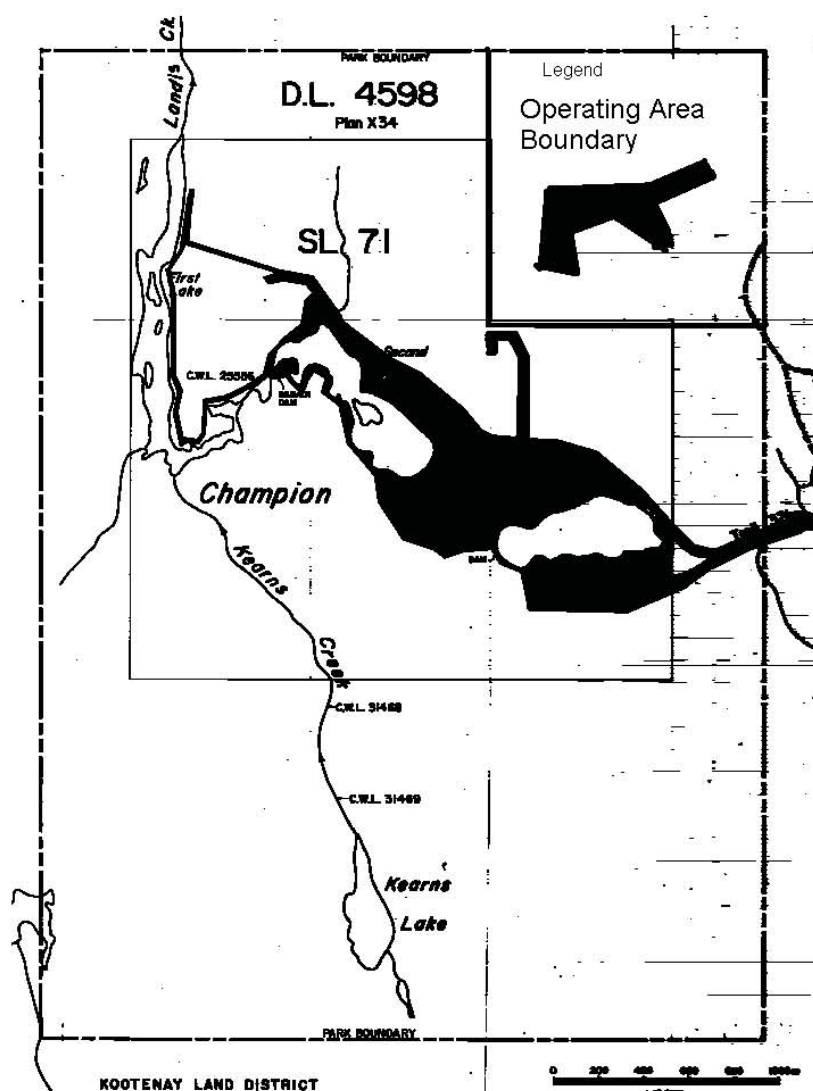


APPENDIX "2" TO SCHEDULE "A"

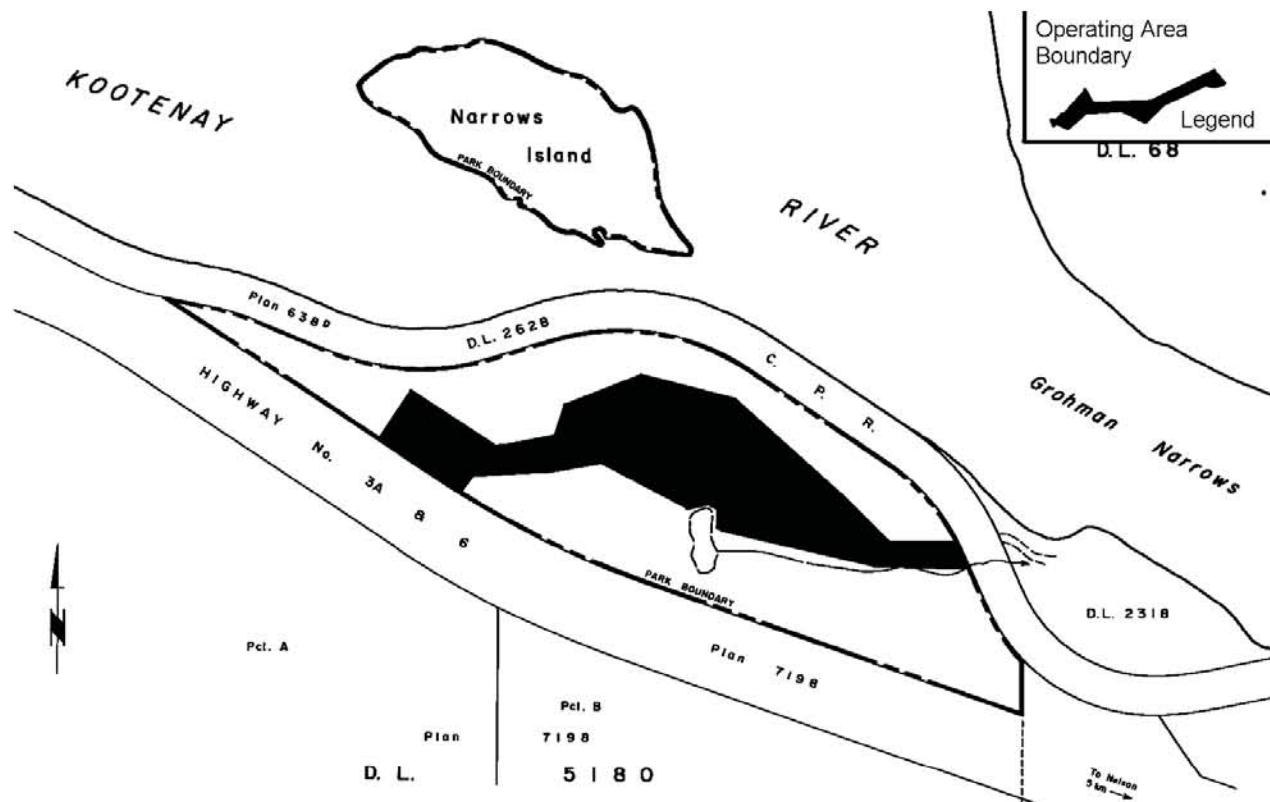
BLANKET CREEK PARK OPERATING AREA



APPENDIX "3" TO SCHEDULE "A"
CHAMPION LAKES PARK OPERATING AREA

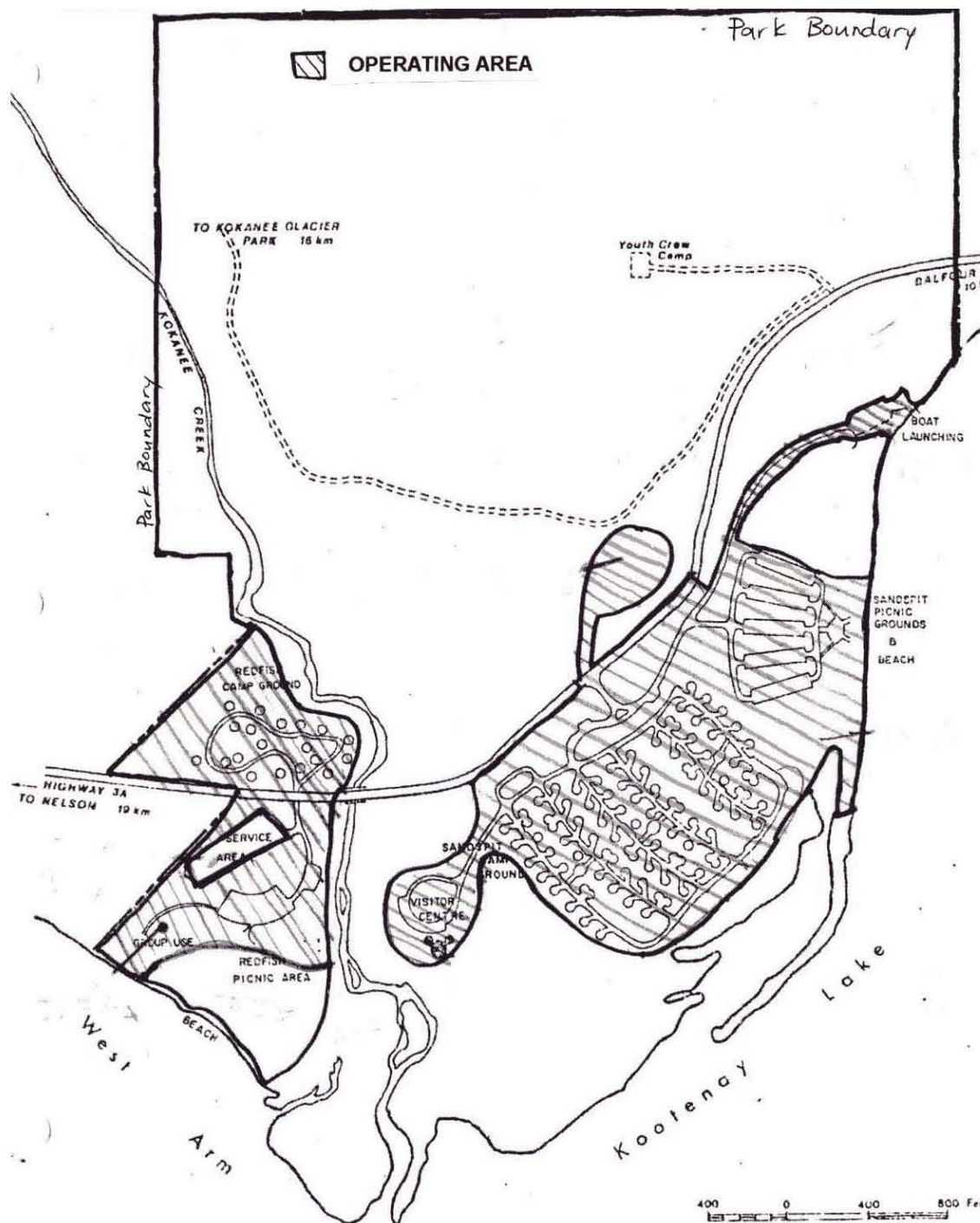


APPENDIX "4 TO SCHEDULE "A"
GROHMAN NARROWS PARK OPERATING AREA

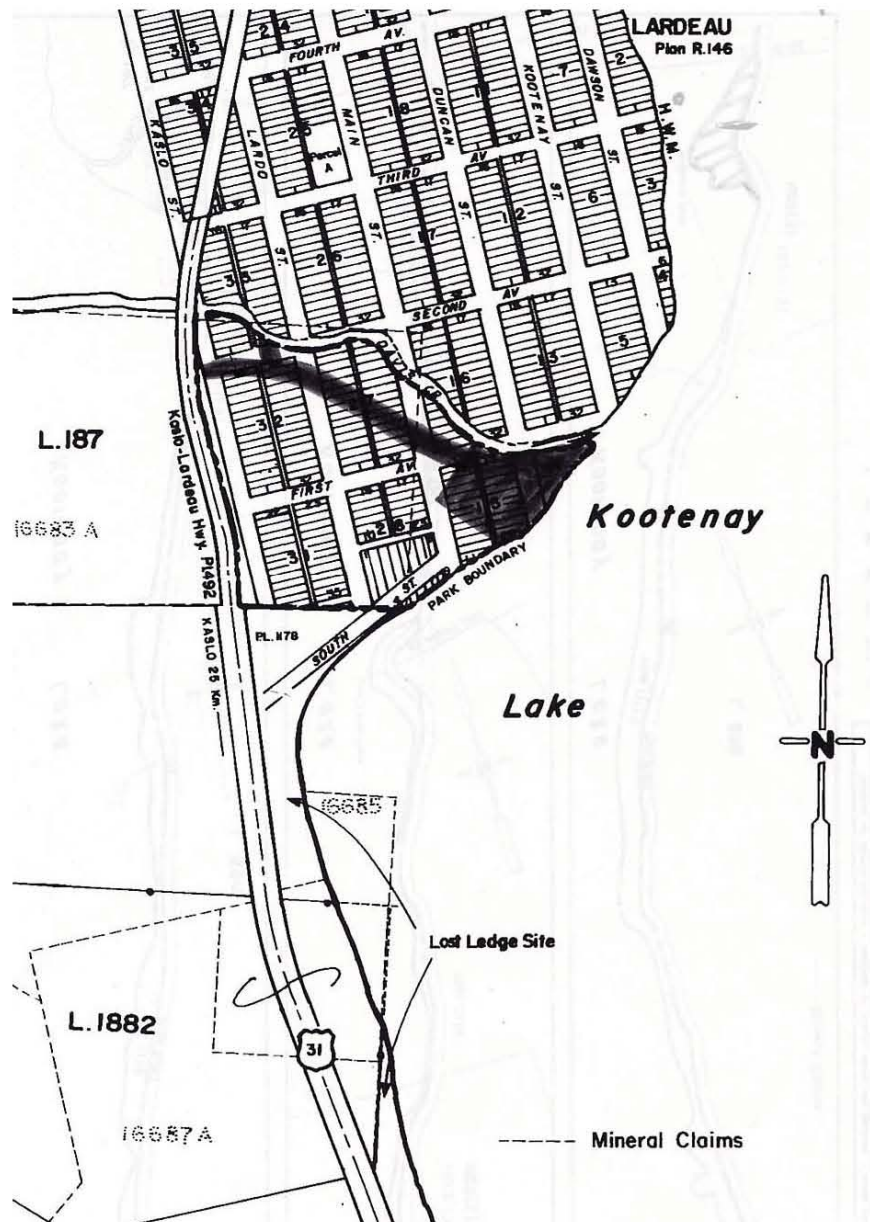


APPENDIX "5" TO SCHEDULE "A"

KOKANEE CREEK PARK OPERATING AREA

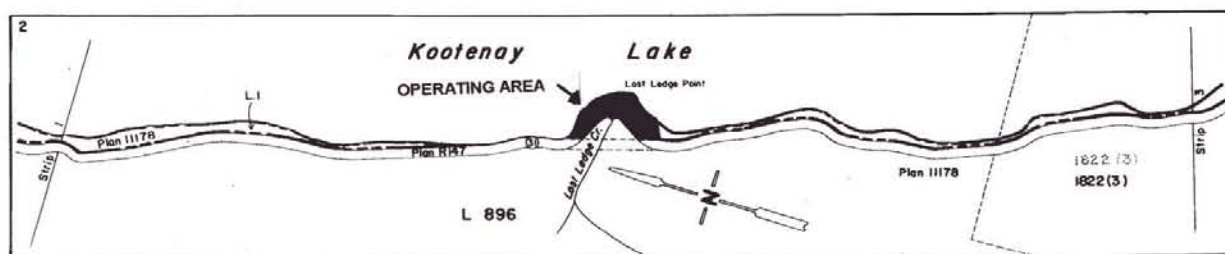


KOOTENAY LAKE PARK (DAVIS CREEK SITE) OPERATING AREA

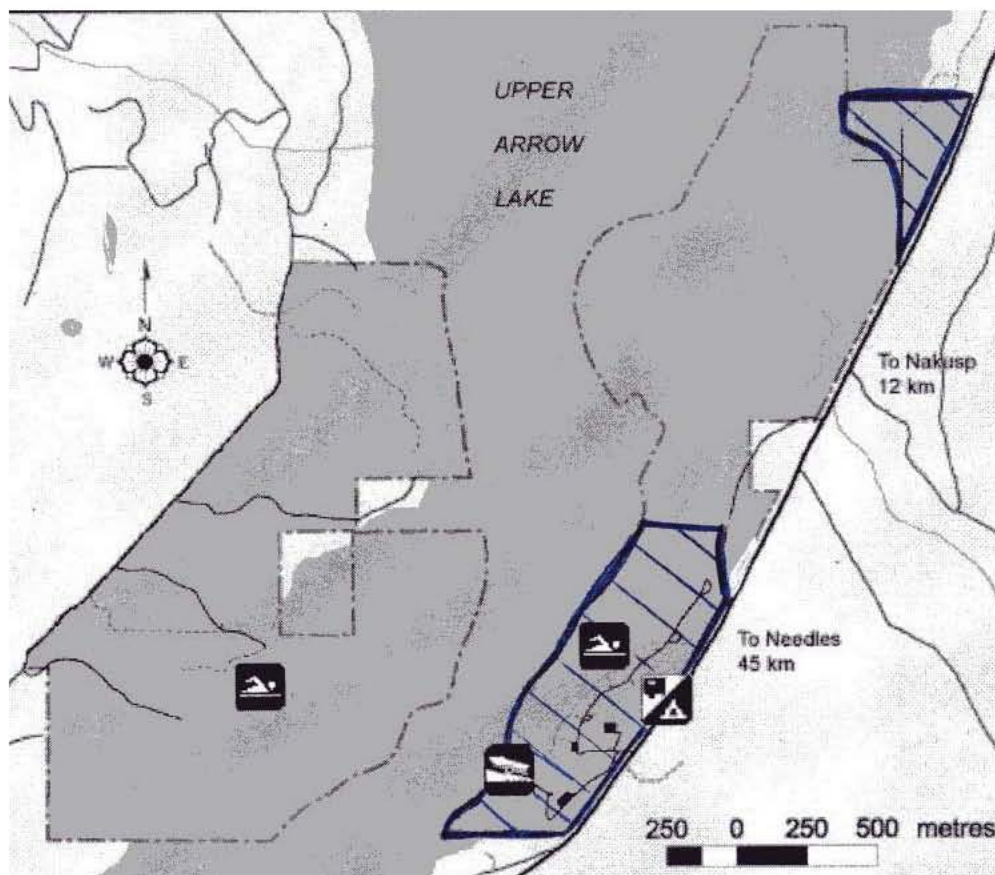


APPENDIX "7" TO SCHEDULE "A"

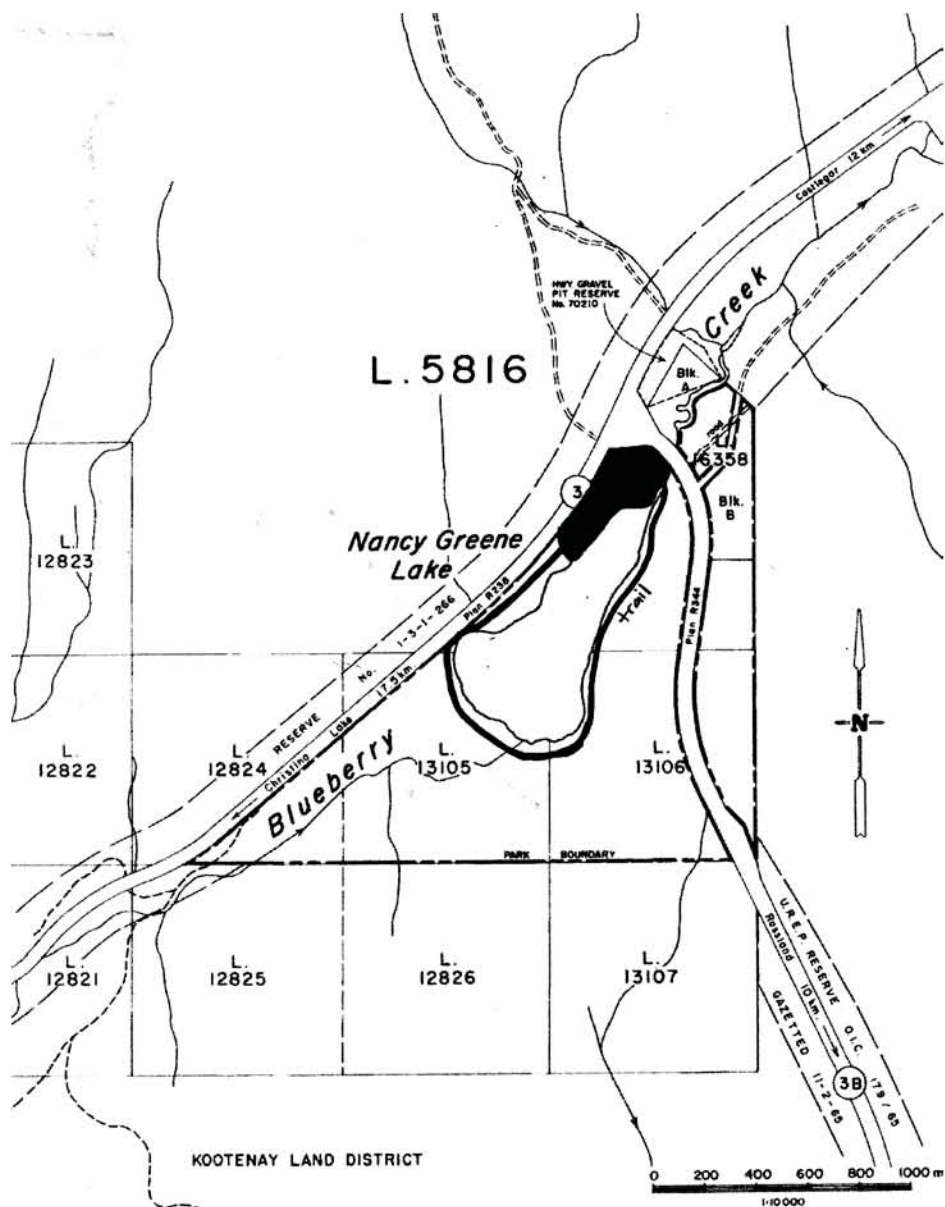
KOOTENAY LAKE PARK (LOST LEDGE SITE) OPERATING AREA



APPENDIX "8" TO SCHEDULE "A"
MCDONALD CREEK PARK OPERATING AREA

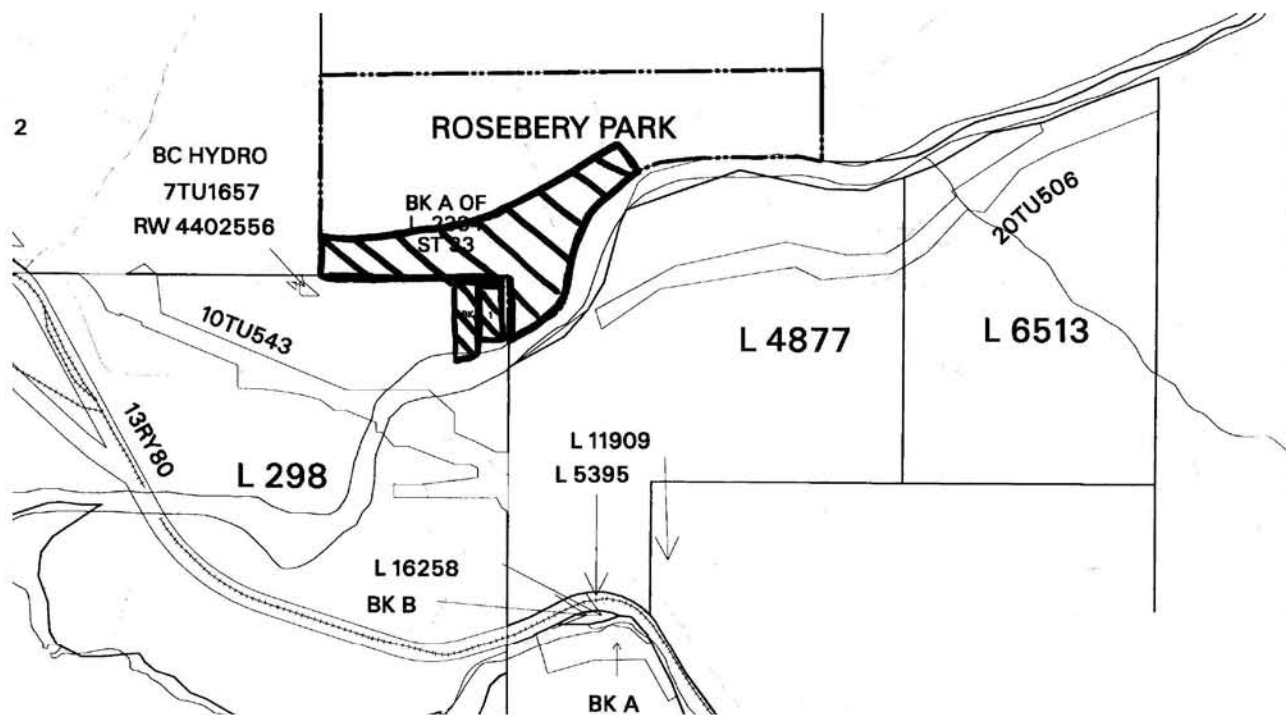


APPENDIX "9" TO SCHEDULE "A"
NANCY GREENE PARK OPERATING AREA



APPENDIX "10" TO SCHEDULE "A"

ROSEBERY PARK OPERATING AREA



SCHEDULE "B"

PARKS

1. Arrow Lakes Park – Shelter Bay Site.
2. Blanket Creek Park.
3. Champion Lakes Park.
4. Grohman Narrows Park.
5. Kokanee Creek Park.
6. Kootenay Lake Park.
7. Martha Creek Park.
8. McDonald Creek Park.
9. Nancy Greene Park.
10. Rosebery Park.
11. Syringa Park.

SCHEDULE "C"

SERVICE STANDARDS

PART A - RECREATION SERVICES AND THE COLLECTION OF PARK ACT FEES AND PASS FEES

1. You must offer the Recreation Services to Operating Area Users as follows:
 - (a) the Additional Services must be offered to Operating Area Users at the times set out in the Annual Operating Plan; and
 - (b) the Park Act Services may be offered to Operating Area Users at any time during the Operating Year, however, all Park Act Services must be offered to Operating Area Users during the following periods of time in each Operating Year:

Park (and Operating Area or part of Operating Area, if applicable)	First Day Services to be Offered in Operating Year	Last Day Services to be Offered in Operating Year
Arrow Lakes – Shelter Bay	May 15	September 15
Blanket Creek	May 15	September 15
Champion Lakes	June 1	Labour Day
Kokanee Creek	May 1	September 30
Kootenay Lake	May 1	September 30
Martha Creek	May 15	September 15
McDonald Creek	May 15	September 15
Nancy Greene	June 1	Labour Day
Rosebery	May 15	September 15
Syringa	May 15	September 15

- (c) despite subsection (b), Operating Area Users must be permitted to camp in designated campgrounds in the Operating Areas listed below during the following periods of time in each Operating Year:
 - (i) in Champion Lakes Park, from May 15 to and including May 31 and from the day after Labour Day to and including September 15, and
 - (ii) in Syringa Park, from May 1 to and including May 14.

2. You must

- (a) collect the Park Act Fees from Operating Area Users except from Operating Area Users who are exempt from the payment of Park Act Fees under the *Park Act* and issue a receipt, in a form acceptable to us, to Operating Area Users on the payment of the Park Act Fees;
- (b) collect the Parking Fees from Operating Area Users except from Operating Area Users who
 - (i) are exempt from the payment of Parking Fees under the *Park Act*, or
 - (ii) display a valid receipt for the payment of Parking Fees,and issue a receipt, in a form acceptable to us, to Operating Area Users on the payment of the Parking Fees;
- (c) collect the Recreation Stewardship Fees from Operating Area Users to whom you sell a Recreation Stewardship Annual Pass;
- (d) except for the Additional Fees, the Park Act Fees and the Pass Fees, not collect fees from Operating Area Users without our prior written consent; and
- (e) during the period of the Operating Year that Recreation Services are offered to Operating Area Users, collect and maintain accurate monthly records of all visits of Operating Area Users and deliver those records to us not later than 5 days following the end of the month for which the records were kept.

PART B - FACILITIES AND OPERATIONAL MAINTENANCE

3. You must ensure that the Operating Area and the Facilities in, on or under it are operational and open to public use during the Operating Year unless otherwise provided in the Annual Operating Plan.

4. You must, at your expense,
- (a) keep and maintain accurate documents and drawings for all Facilities made, constructed, installed, erected, built, altered or added to, in, on or under an Operating Area by you
 - (i) to the standards set out in the Park Design Standards and the Park Facility Standards, or
 - (ii) if no standards are set out in the Park Design Standards and the Park Facility Standards, to the standards required by us;
 - (b) deliver to us one paper print of the documents and drawings referred to in subsection (a) and one digital copy of those documents and drawings (in Microsoft Word 2000 and AutoCad version 14, respectively, or another format acceptable to us) as soon as the document or drawing is completed by you;
 - (c) until you are provided with a data entry portal to access our facility management system, deliver to us, at the times required by us, all information we request from you in order to maintain accurate information in the facility management system with respect to the Facilities;
 - (d) after you are provided with a data entry portal to access our facility management system, enter all information in the facility management system that is necessary to maintain accurate information in the facility management system with respect to the Facilities;
 - (e) keep and maintain accurate records of all
 - (i) playground equipment inspections,
 - (ii) water testing of the water systems, except when the water systems are not operational during the winter,
 - (iii) monthly fire hydrant testing when the water systems are operational,
 - (iv) servicing of dynamic assets (including structural, mechanical and electrical components) and critical components of Facilities including water pumps, generators and machinery, and
 - (v) annual inspections of and documented repairs to marker/mooring buoys, marine pilings, docks and artificial reefs; and

- (f) with respect to information shelters in the Operating Area, you must ensure that
 - (i) all printed material provided to you by us is immediately posted on the information shelters as required by us, all visitor information posted on the information shelters is current and all outdated printed material and visitor information is removed from the information shelters, and
 - (ii) your contact name, current telephone number and email address are posted on the information shelters.

5. You must, at your expense, undertake the following maintenance of the Facilities:

- (a) repair, replace, restore and overhaul all parts of the Facilities that are broken, worn, leaking, rotted, damaged, cracked, spalled, split or vandalized;
- (b) keep all Facilities free of dust, dirt, rot, stains, mould, vegetation, cobwebs, graffiti, garbage, excess water, unpleasant odours, foreign materials and soil and water markings,
- (c) seal all wooden Facilities or wooden parts of the Facilities, except for wharves, docks, boardwalks and bridge decks, with paint or stain,
- (d) adjust all wharves, docks, boardwalks and bridge decks to allow for water level fluctuations and proper alignment,
- (e) keep all marker/mooring buoys, marine pilings, anchor chains, ropes and associated hardware in good repair,
- (f) keep all metal Facilities or metallic parts of the Facilities free of rust and in a state that eliminates galvanic action,
- (g) keep all roofs of the Facilities free of litter and accumulations of leaves, branches, moss and snow,
- (h) keep in good repair in accordance with the Park Facility Standards all directional, Type "A" (as defined in the Park Facility Standards), entrance portal and informational signs and ensure they remain visible to the public, correctly aligned and in an upright position,
- (i) keep all gravel surfaces crowned, smooth, managed for weed and brush control, well drained and free of potholes and ensure the gravel level is maintained,
- (j) keep all paved surfaces smooth, sealed and well drained,

- (k) keep all ditches and culverts free of brush and in a state that allows the free passage of water,
- (l) keep all water systems in a state that provides potable drinking water to Operating Area Users in accordance with applicable drinking water and health standards, except when water systems are not operational during the winter,
- (m) keep all sewage systems in the state required by the manual provided by the manufacturer of the system or, if no manual was provided by the manufacturer, keep the sewage system in a state that does not allow scum or sludge in the septic tank to reach a level where solids enter the tile field,
- (n) keep all trails maintained to the classification and type existing on the Commencement Date,
- (o) keep all grounds, lawns and planters in a healthy state and remove and control all invasive and noxious plants as required by us, and
- (p) keep all concrete block Facilities and concrete Facilities sealed or painted and, if sealed, ensure the sealer is maintained in the manner recommended by the manufacturer and, if painted, ensure the paint is firmly attached to the Facility.

PART C - GENERAL STANDARDS

6. You must

- (a) ensure your employees and Subcontractors are familiar with
 - (i) the *Park Act*, the Regulations and all other laws, bylaws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Parks and the Facilities, or their use and occupation,
 - (ii) the documents referred to in paragraph 4.1(c)(iii), and
 - (iii) the provisions of Part D of this schedule concerning the reporting of accidents and occurrences in the Operating Area;
- (b) not burn garbage or debris in the Parks;
- (c) at your expense,
 - (i) participate in the Discover Camping™ centralized campsite reservation system operated by us or another centralized campsite reservation system as directed by us and, in addition, provide to the public a group day use and group campsite

reservation system,

- (ii) undertake all survey programs we may require in order to determine the satisfaction of Operating Area Users with the Recreation Services and deliver to us all information obtained by you with respect to such survey programs,
 - (iii) attend all meetings requested by us,
 - (iv) ensure your employees and Subcontractors wear a uniform which is approved by us when providing the Recreation Services,
 - (v) all vehicles and vessels used by your employees and Subcontractors display identification insignia which is approved by us when providing Recreation Services,
 - (vi) if any campground gate is locked in a closed position and Operating Area Users are camping in the campground, you must ensure one of your employees or a Subcontractor is located in the Operating Area to open that campground gate in, among other things, emergency situations,
 - (vii) retain a person who holds a valid certificate issued under the "Wildlife/Danger Tree Assessor's Course for Parks and Recreation Sites" to evaluate the Operating Area twice in each Operating Year (once between February 1 and May 30 and in September) and report on any existing or potentially dangerous trees and you will
 - (A) deliver that report to us upon your receipt of it, and
 - (B) at our direction, complete all work that may be necessary to alleviate the danger, and
 - (viii) remove all garbage from the Parks to an approved refuse disposal site;
- (d) advise us, in writing, of
- (i) the name, title, address and telephone number of each member of the management team who is identified in the proposal that led to the grant of this Agreement to you and the name, title, address and telephone number of the person, if any, who replaces a member of your management team, and
 - (ii) the name and telephone number of your representative who may be contacted by us and Operating Area Users at any time during the Term; and

- (e) ensure
 - (i) all highway informational signs are kept up-to-date with respect to the availability of campsites during the periods of time set out in subsection 1(b) of this schedule, and
 - (ii) keep all gates locked in an open or closed position.

7. You must not, without our prior written consent,

- (a) apply herbicides, pesticides, dust abatement products or any other products that are harmful to the environment in the Operating Area;
- (b) change the use of any Facility; or
- (c) cut or remove timber from the Operating Area.

PART D - REPORTS CONCERNING ACCIDENTS AND OCCURRENCES IN THE OPERATING AREA

8. You must deliver to us a completed Complaint/Occurrence Report immediately after the happening of any of the following events:

- (a) personal injury, bodily injury (including death) and property damage (over \$1,000.00) or loss (over \$200.00) suffered by an Operating Area User;
- (b) damage to or theft of a Facility over \$1,000.00;
- (c) a charge laid by the police force having jurisdiction over the Operating Area against an Operating Area User under any federal or provincial enactment; and
- (d) a disturbance caused by an Operating Area User.

9. If necessary, you must also report any event referred to in subsection 8(a) of this schedule to the police force having jurisdiction over the Operating Area and to your insurer.

10. You must deliver to us not later than

- (a) 30 days following the Commencement Date, an emergency evacuation plan for each Operating Area;
- (b) not later than 5 days following the end of each month during the Term, a completed Park Security/Public Safety Statistic Report;

- (c) 5 days following the submission of such report, a copy of each report of an accident investigation or workplace injury submitted to the Workers' Compensation Board by you or your Subcontractors under the *Workers Compensation Act*; and
 - (d) 5 days after service on you, a copy of each Inspection Report or Order served on you or any of your Subcontractors by the Workers' Compensation Board under the *Workers Compensation Act*.
- 11. You may not retain any person to provide any Recreation Services under this Agreement except for the following:
 - (a) as of the date of reference of this Agreement, no subcontractors are approved by us.
- 12. You must ensure that your Subcontractors deliver to you all
 - (a) reports of an accident investigation or workplace injury submitted by them to the Workers' Compensation Board under the *Workers Compensation Act*; and
 - (b) Inspection Reports or Orders served on them by the Workers' Compensation Board under the *Workers Compensation Act*.

PART E - SPECIAL PROVISOS

- 13. You must, at your expense,
 - (a) ensure the Eurasian water milfoil program is carried out in Champion Lakes Park and regularly clean the screens at the outflow of the lake;
 - (b) before mowing ditches and road edges in Kokanee Creek Park and Syringa Park, meet with us to determine an acceptable method for managing invasive non-native plants and rare and endangered plants in those parks and carry out such mowing in accordance with that method; and
 - (c) mow or trim road edges in Kootenay Lake Park before the seeding of invasive weeds.

SCHEDULE "D"**FINANCIAL MATTERS**

1. Not later than 5 days after the end of each month of the Operating Year, you will deliver to us a financial statement for the preceding month which sets out the Gross Revenue collected by you during that month.
2. After the last day of the time period set out below, you will deliver to us a written statement of account for the amount set out opposite the applicable time period which certifies that you fully performed your obligations under this Agreement during that time period:

TIME PERIOD		AMOUNT
First Day of Time Period	Last Day of Time Period	
June 15, 2003	June 15, 2003	s.21
June 16, 2003	June 30, 2003	
July 1, 2003	July 15, 2003	
July 16, 2003	July 31, 2003	
August 1, 2003	August 15, 2003	
August 16, 2003	August 31, 2003	
September 1, 2003	September 15, 2003	
September 16, 2003	October 15, 2003	
October 16, 2003	November 15, 2003	
November 16, 2003	December 15, 2003	
December 16, 2003	January 15, 2004	
January 16, 2004	February 15, 2004	
February 16, 2004	March 31, 2004	
April 1, 2004	April 30, 2004	
May 1, 2004	May 15, 2004	
May 16, 2004	May 31, 2004	
June 1, 2004	June 15, 2004	
June 16, 2004	June 30, 2004	
July 1, 2004	July 15, 2004	
July 16, 2004	July 31, 2004	
August 1, 2004	August 15, 2004	
August 16, 2004	August 31, 2004	
September 1, 2004	September 15, 2004	
September 16, 2004	October 15, 2004	
October 16, 2004	November 15, 2004	
November 16, 2004	December 15, 2004	
December 16, 2004	January 15, 2005	

TIME PERIOD		AMOUNT
First Day of Time Period	Last Day of Time Period	
January 16, 2005	February 15, 2005	s.21
February 16, 2005	March 31, 2005	
April 1, 2005	April 30, 2005	
May 1, 2005	May 15, 2005	
May 16, 2005	May 31, 2005	
June 1, 2005	June 15, 2005	
June 16, 2005	June 30, 2005	
July 1, 2005	July 15, 2005	
July 16, 2005	July 31, 2005	
August 1, 2005	August 15, 2005	
August 16, 2005	August 31, 2005	
September 1, 2005	September 15, 2005	
September 16, 2005	October 15, 2005	
October 16, 2005	November 15, 2005	
November 16, 2005	December 15, 2005	
December 16, 2005	January 15, 2006	
January 16, 2006	February 15, 2006	
February 16, 2006	March 31, 2006	

and,

- (a) if we are satisfied that you have fully performed your obligations under this Agreement during that time period, we will, not later than 60 days after your written statement of account is delivered to us, pay you the amount set out above for the applicable time period; or
- (b) if we are not satisfied that you have fully performed your obligations under this Agreement during that time period, we may, in our sole discretion, reduce the amount to be paid to you for the applicable time period by an amount determined to be a genuine pre-estimate of liquidated damages.

3. Not later than 5 days following the end of each month of the Operating Year, you will pay to us

- (a) all Park Act Fees (Increase) together with all GST payable on those fees; and
- (b) 85% of the Pass Fees;

collected by you in the preceding month.

4. Not later than 30 days after the end of each Operating Year, you will deliver to us
- (a) an annual balance sheet and income statement for the preceding Operating Year;
 - (b) a statement of changes in your financial position in the preceding Operating Year; and
 - (c) a financial statement for the preceding Operating Year which is reconciled with the monthly statements provided by you to us and sets out the Gross Revenue collected by you during that Operating Year.

SCHEDULE "E"**ANNUAL OPERATING PLAN REQUIREMENTS**

The Annual Operating Plan must include the following information with respect to each Operating Area:

1. ASSESSMENT OF CONDITION OF FACILITIES

The Annual Operating Plan must

- (a) set out a schedule of all inspections, diagnostic maintenance and condition assessments of the Facilities to be completed by you during the Operating Year in accordance with section 5.4; and
- (b) include a report of the results of all inspections, diagnostic maintenance and condition assessments of the Facilities completed by you during the preceding Operating Year.

2. FACILITY MANAGEMENT SYSTEM

After you are provided with a data entry portal to access our facility management system, the Annual Operating Plan must indicate whether you entered in the facility management system all information that is necessary to maintain accurate information in the facility management system with respect to the Facilities during the preceding Operating Year and, if not, the information that remains to be entered in the facility management system.

3. OPERATIONAL MAINTENANCE

The Annual Operating Plan must describe the Operational Maintenance completed by you during the preceding Operating Year.

4. PREVENTATIVE MAINTENANCE

The Annual Operating Plan must include

- (a) in order of priority, a detailed description of, timing for, importance of and, if applicable, preliminary drawings for
 - (i) the repairs, replacements, restorations and overhauls you propose to make to the Facilities, and
 - (ii) the Facilities you propose to make, construct, install, erect, build, alter or add to, in, on or under each Operating Area, and

- (b) an estimate of your costs to complete each item of preventative maintenance referred to in subsection (a)
 - (i) to the standards set out in the Park Design Standards and the Park Facility Standards, or
 - (ii) if no standards are set out in the Park Design Standards and the Park Facility Standards, to the standards required by us.

5. **DOCUMENTS AND DRAWINGS**

The Annual Operating Plan must list all of the documents and drawings delivered to us by you under subsection 4(b) of Schedule "C" and the date on which that document or drawing was delivered to us by you.

6. **ADDITIONAL INFORMATION**

The Annual Operating Plan must list all of your key personnel and include a description of their roles, responsibilities and qualifications. In addition, the Annual Operating Plan must update, as necessary, your advertising program and the emergency evacuation plan delivered to us under subsection 10(a) of Schedule "C".



Ministry of
Environment

PERMIT MODIFICATION AGREEMENT

Permit No.: **KO0310237**

Permittee File No.: **85700 – KO0310237**

Permit Modification Agreement No.: **0004**

THIS AGREEMENT IS DATED FOR REFERENCE December 31, 2008, and is made under the *Park Act*.

BETWEEN:

AND:

HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF BRITISH
COLUMBIA, represented by the Minister
responsible for the *Park Act* (the
"Province") at the following address:

**Ministry of Environment
205 Industrial Road G
Cranbrook BC V1C 7G5**

**WEST KOOTENAY PARK
MANAGEMENT INC.**

(the "Permittee") at the following address

**Box 2569
Revelstoke BC V0E 2S0**

WHEREAS:

- A. The Province issued Park Use Permit No. **KO0310237** to the Permittee dated for reference **June 15, 2003** and the Province and the Permittee (the "Parties") agreed to amend the permit by way of agreements dated for reference **January 17, 2006 (#1)** and **September 3, 2008 (#3)** and letters dated **July 9, 2008** and **August 19, 2008 (#2)** (the "Agreement").
- B. The Parties have agreed to modify the Agreement in the manner as set out below (this "Amendment Agreement").

THIS AGREEMENT WITNESSES THAT the Parties agree as follows:

A. The Agreement is modified by:

1. The following definition is modified in **Subsection 1.1**:

"Preventative Maintenance Amount" means, subject to Article 5, s.17, s.21

2. **Subsection 4.1(j)** is modified as shown by the underlining below:

(j) pay all accounts and expenses as they become due for labour or services performed on, or materials supplied to, the Operating Area except for money that you are required to hold back under the *Builders Lien Act*. For the purposes of this subsection, the date when accounts and expenses become due, is 60 days after the date of any given invoice presented for payment;

3. **Section 4.5** is added as follows:

4.5 If GST is increased during the Term, BC Parks will:

- (a) increase the payments described in Schedule D, Section 2;
- (b) reduce the Preventative Maintenance requirements;
- (c) make a lump sum payment to you; or
- (d) change the Park Act fees

in an amount proven by you to be equivalent to the reduction in Gross Revenue caused by the increase in GST.

4. **Subsection 5.1(a(iii))** is modified as shown by the underlining below:

(iii) include the information set out in Schedule "E", using BC Parks' Annual Operating Plan template as provided to you annually, provided the template is provided no less than 60 days prior to the required reporting deadline; and

5. **Subsection 5.1(b(ii))** is modified as shown by the underlining below:

(ii) revenue and cash flow projections, using BC Parks' Financial Projections template as provided to you annually, provided the template is provided no less than 60 days prior to the required reporting deadline,

6. **Subsection 5.2(ii)** is modified as shown by the underlining below:

- (ii) provides for the assessment of the condition of each of the Facilities at least once every five years of the Term, unless otherwise agreed to by the Parties in writing.

7. **Sections 5.8, 5.9, 5.10 and 5.11 are removed.**

8. **Section 9.3** is modified as shown by the underlining below:

- 9.3 If the condition complained of (other than the payment of any money payable by you under this Agreement including, for greater certainty, money payable by you in accordance with subsection 4.1 (j) above for labour or services) reasonably requires more time to cure than 10 days, you will be deemed to have complied with the remedying of it if you commence remedying or curing the condition within 10 days and diligently and continuously remedy the condition and complete the same.

9. **Schedule C, subsection 6(c(vii))** is modified as shown by the underlining below:

- (vii) retain a person who holds a valid certificate issued under the "Wildlife/Danger Tree Assessor's Course for Parks and Recreation Sites" to evaluate the Operating Area once in each Operating Year.

10. **Part G - Service Reductions** is added to **Schedule C** as follows:

Part G – Service Reductions

Your obligations set in this Schedule C, are amended as follows:

- a) All Park Act Services will be provided at Kootenay Lake (Davis Creek and Lost Ledge) from May 15 to September 15.
- b) All Park Act Services will be provided at Martha Creek from May 7 to September 15.
- c) All Park Act Services will be provided at McDonald Creek from May 7 to September 30.
- d) All Park Act Services will be provided at Rosebery from May 7 to September 15.
- e) All Park Act Services will be provided at Champion Lakes from June 1 to September 7.
- f) All Park Act Services will be provided at Arrow Lake (Blanket Creek and Shelter Bay) from May 7 to September 30.


- g) All Park Act Services will be provided at Syringa from May 7 to September 30.
- h) There will be no winter season at Kokanee Creek.
- i) There will be no trail maintenance at Syringa, Kokanee Creek, or Champion Lakes.

11. Deleting **Schedule "D" – Financial Matters**, and replacing it with the Schedule "D" – Financial Matters attached hereto as Appendix 1. Modifications to this Schedule are shown by underlining.

- B. Except as modified by this Amendment Agreement, the Agreement is ratified and confirmed.
- C. This Amendment Agreement and the Agreement shall be read and construed together.
- D. Time continues to be of the essence of the Agreement and is of the essence of this Amendment Agreement.
- E. This Amendment Agreement and the Agreement enures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.
- F. Time is of the essence of this Amendment Agreement and remains of the essence of the Agreement as amended by this Amendment Agreement.

IN WITNESS WHEREOF the parties have executed this Amendment Agreement

SIGNED and DELIVERED on behalf of the **Province** by a duly authorized representative of the Province.


Duly Authorized Representative

March 13, 2009
Date

SIGNED and DELIVERED on behalf of the **Permittee** (or by an authorized signatory of the permittee if a Corporation).


Signature of Permittee or Authorized Signatory

MARCH 08/09
Date

APPENDIX 1
SCHEDULE "D"
FINANCIAL MATTERS

1. Not later than 15 days after the end of each month of the Operating Year, you will
 - (a) deliver to us a financial statement for the preceding month which sets out the Gross Revenue collected by you during that month; and
 - (b) Not later than 15 days after the end of each month of the Operating Year, you will pay to us the following as collected by you in the preceding month,
 - (i) all Park Act Fees (Increase) together with all GST payable on those fees;
 - (ii) 30% of the Parking Fees and 100% of any increase to the Parking Fees; and,
 - (iii) any amount over \$7.00 for each Recreation Stewardship Annual Pass sold by you.
2. After the last day of the time period set out below, you will deliver to us a written statement of account for the amount set out opposite the applicable time period which certifies that you fully performed your obligations under this Agreement during that time period:

TIME PERIOD (2009)		AMOUNT
First Day of Time Period	Last Day of Time Period	
April 1	April 30	
May 1	May 31	
June 1	June 30	
July 1	July 31	
August 1	August 31	
September 1	September 30	
October 1	October 31	
November 1	November 30	s.21
December 1	December 31	
January 1	January 31	
February 1	February 28	
March 1	March 31	
TOTAL:		

TIME PERIOD (2010)		AMOUNT
First Day of Time Period	Last Day of Time Period	
April 1	April 30	
May 1	May 31	
June 1	June 30	
July 1	July 31	
August 1	August 31	
September 1	September 30	
October 1	October 31	
November 1	November 30	s.21
December 1	December 31	
January 1	January 31	
February 1	February 28	
March 1	March 31	
TOTAL:		

TIME PERIOD (2011, 2012, 2013)*		AMOUNT (not including adjustment described in section 5 below)
First Day of Time Period	Last Day of Time Period	
April 1	April 30	
May 1	May 31	
June 1	June 30	
July 1	July 31	
August 1	August 31	
September 1	September 30	
October 1	October 31	
November 1	November 30	s.21
December 1	December 31	
January 1	January 31	
February 1	February 28	
March 1	March 31	
TOTAL:		

* For the Operating Year 2013, payments will only be made until the Agreement terminates on October 31, 2013.

and,

- (a) if we are satisfied that you have fully performed your obligations under this Agreement during that time period, we will, not later than 60 days after your written statement of account is delivered to us, pay you the amount set out above for the applicable time period; or
 - (b) if we are not satisfied that you have fully performed your obligations under this Agreement during that time period, we may, in our sole discretion, reduce the amount to be paid to you for the applicable time period by an amount determined to be a genuine pre-estimate of liquidated damages.
3. Not later than 30 days after the end of each Operating Year, unless otherwise agreed to by us in writing, you will deliver to us the following financial statements prepared according to Generally Accepted Accounting Principles (GAAP),
- (a) an annual balance sheet and income statement for the preceding Operating Year;
 - (b) a statement of changes in your financial position in the preceding Operating Year; and
 - (c) a financial statement, using BC Parks' Financial Statement template (as provided to you annually) provided the template is provided no less than 60 days prior to the required reporting deadline, for the preceding Operating Year which is reconciled with the monthly statements provided by you to us and sets out the Gross Revenue collected by you during that Operating Year.
4. If a reduction or elimination of the Pass Fees is made by way of cabinet regulation you shall be entitled to compensation from the date that the regulation comes into force until the end of the Term of the last Operating Year in the Business Plan that was agreed to for creating the current Schedule "D" as follows:
- (a) subject to you providing us with your claim for compensation, described in subsection (i) or (ii) below, in writing:
 - (i) for any reduction in Pass Fees, in an amount that when added to the Pass Fees earned will equal your average annual Pass Fees revenue from the date that this Schedule was added to the Agreement until the regulation came into force as reported in your annual financial statement; or,
 - (ii) for any elimination in Pass Fees, in an amount that when added to the Pass Fees earned will equal your projected annual Pass Fees revenue, less the parking machine operating cost amount set out in the Business Plan referred to in this section.

You shall not be entitled to any other compensation as a result of a reduction of the Pass Fees except as set out in this subsection.

5. For the 2012 and 2013 Operating Years, we make payments in addition to the payments to be made to you under section 2 in this Schedule based on a Cost of Living Adjustment (COLA) calculated during the month of November for each year, as follows:

(a) for 2012,

(i)

(ii)

s.21

(iii)

(b) for 2013, the adjustments described in a) above will apply except that:

(i) the total labour cost, fuel costs, and all other costs under (i) to (iii) respectively will be the total amount we paid to you in 2012 for that cost item; and,

(ii)

s.21

Any payments we may make under (a) or (b) above will be made on or before January 31 of the applicable Operating Year.

PERMIT MODIFICATION AGREEMENT

Permit No.: **KO0310237**

Permittee File No.: **85700 – KO0310237**

Permit Modification Agreement No.: **0005**

THIS AMENDMENT AGREEMENT IS DATED FOR REFERENCE April 1, 2010 and is made under the *Park Act*.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF BRITISH
COLUMBIA, represented by the Minister
responsible for the *Park Act* (the
"Province") at the following address:

Ministry of Environment
Kootenay - Boundary
205 Industrial Road G
Cranbrook BC V1C 7G5

AND:

**WEST KOOTENAY PARK
MANAGEMENT INC.**

(the "Permittee") at the following address:

Box 2569
Revelstoke BC V0E 2S0

WHEREAS:

- A. The Province issued Park Use Permit No. **KO0310237** to the Permittee dated for reference **June 15, 2003** and the Province and the Permittee (the "Parties") agreed to amend the permit by way of agreements dated for reference **January 17, 2006 (#1), September 3, 2008 (#3), December 31, 2008 (#4)** and letters dated **July 9, 2008 and August 19, 2008 (#2)** (the "Agreement").
- B. The Parties anticipate that the Harmonization Change in Law (defined below) will come into effect July 1, 2010, and have agreed to amend the Agreement to offset some of the potential added costs to the Permittee that are expected to arise.
- C. The Parties have agreed to modify the Agreement in the manner as set out below (this "Amendment Agreement").

THIS AMENDMENT AGREEMENT WITNESSES THAT the Parties agree as follows:

1) The Agreement is modified by:

a) Adding the following definitions to **section 1.1**:

"Change in Law" means the coming into force, after the date of this Amendment Agreement of any new law in Canada relating to taxes, or amendment to or repeal of any law in Canada relating to taxes (but excluding in each case any lawful requirements of any governmental authority (unless resulting from a Change in Law) and any change in the interpretation of any law other than a judgment of a relevant court which changes binding precedent in British Columbia) which is binding on the Permittee.

"Harmonization Change in Law" means the Change in Law contemplated under the Memorandum of Agreement Concerning a Canada-British Columbia Comprehensive Integrated Tax Co-ordination Agreement signed by the Federal Government on July 22, 2009 and by the Province on July 23, 2009 and the Comprehensive Integrated Tax Coordination Agreement signed by the Federal Government on November 27, 2009 and by the Province on November 30, 2009;

b) Deleting section 2 of Schedule "D" – Financial Matters, and replacing it with the following:

2. After the last day of the time period set out below, you will deliver to us a written statement of account for the amount set out opposite the applicable time period which certifies that you fully performed your obligations under this Agreement during that time period:

Deficiency Payment Table		
TIME PERIOD (2010/11)		AMOUNT
First Day of Time Period	Last Day of Time Period	
April 1	April 30	12'S
May 1	May 31	
June 1	June 30	
July 1	July 31	
August 1	August 31	
September 1	September 30	
October 1	October 31	
November 1	November 30	
December 1	December 31	
January 1	January 31	
February 1	February 28	
March 1	March 31	
TOTAL:		

Deficiency Payment Table		
TIME PERIOD (2011/12)		AMOUNT
First Day of Time Period	Last Day of Time Period	
April 1	April 30	s. 21
May 1	May 31	
June 1	June 30	
July 1	July 31	
August 1	August 31	
September 1	September 30	
October 1	October 31	
November 1	November 30	
December 1	December 31	
January 1	January 31	
February 1	February 28	
March 1	March 31	
TOTAL:		

and,

- (a) if we are satisfied that you have fully performed your obligations under this Agreement during that time period, we will, not later than 60 days after your written statement of account is delivered to us, pay you the amount set out above for the applicable time period; or
- (b) if we are not satisfied that you have fully performed your obligations under this Agreement during that time period, we may, in our sole discretion, reduce the amount to be paid to you for the applicable time period by an amount determined to be a genuine pre-estimate of liquidated damages.

c) Adding the following section 6 to Schedule "D" – Financial Matters:

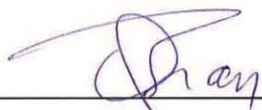
- 6. The Parties agree that the terms and conditions of the Agreement, particularly this schedule, reflect the financial obligations of the parties as if the Harmonization Change in Law were in effect, and once the Harmonization Change in Law is in effect, any reference to GST will refer to all taxes payable by the Permittee under the Harmonization Change in Law.

- 2) Except as modified by this Amendment Agreement, the Agreement is ratified and confirmed.
- 3) This Amendment Agreement and the Agreement shall be read and construed together.
- 4) Time continues to be of the essence of the Agreement and is of the essence of this Amendment Agreement.

- 5) This Amendment Agreement enures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.

IN WITNESS WHEREOF the parties have executed this Agreement

SIGNED and **DELIVERED** on behalf of the **Province** by a duly authorized representative of the Province.




Duly Authorized Representative

May 5, 2010

Date

SIGNED and **DELIVERED** on behalf of the Permittee (or by an authorized signatory of the Permittee if a Corporation).



Signature of Permittee or Authorized Signatory

April 29 / 2010

Date



THIS AGREEMENT is dated for reference April 24, 2003 and is made under the *Park Act*.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the minister responsible for the *Park Act*

(the "Province")

AND:

KOOTENAY PARK SERVICES LTD., (Inc. No. 0667641)

(the "Permittee")

The parties agree as follows:

ARTICLE 1 - DEFINITIONS

1.1 In this Agreement,

"Agreement" means this park use permit;

"Additional Fees" means the fees to be collected by the Permittee from Operating Area Users for Additional Services;

"Additional Services" means the services, other than Park Act Services, identified in the Annual Operating Plan;

"Annual Operating Plan" means

- (a) in the case of the first year of the Term, the operating plan which was approved by the Province as part of the proposal that led to the grant of this Agreement to the Permittee, and
- (b) for the remainder of the Term, the operating plan approved by the Province under Article 5,

and includes all amendments to and replacements of those plans;

"Commencement Date" means June 15, 2003;

"Disposition" includes a park use permit, resource use permit or other authorization made under the *Park Act*;

"Facilities" includes anything made, constructed, erected, built, altered, repaired or added to, in, on or under the Operating Area and attached to the Operating Area or intended to become a part of the Operating Area;

"Financial Security" means the security referred to in section 7.1 or 7.2, as replaced or supplemented in accordance with section 7.5;

"Gross Revenue" means the Park Act Fees and the Pass Fees collected by the Permittee under this Agreement, excluding GST;

"GST" means the goods and services tax imposed under the *Excise Tax Act* (Canada);

"Operating Area" means that part or those parts of the Parks identified in Schedule "A";

"Operating Area User" means a person in the Operating Area;

"Operating Year" means the period of time commencing on April 1st (except in the case of the first year of the Term when the period of time will commence on the Commencement Date) and terminating on March 31st in the following year;

"Operational Maintenance" means the maintenance of the Facilities that is described in Schedule "C" but does not include Preventative Maintenance;

"Park Act Fees" means the Park Act Fees (Basic) and the Park Act Fees (Increase);

"Park Act Fees (Basic)" means the fees, except for Pass Fees, imposed under the *Park Act* for Park Act Services which are in force on the Commencement Date;

"Park Act Fees (Increase)" means

- (a) any increase in the fees, except for Pass Fees, imposed under the *Park Act* during the Term which exceed the Park Act Fees (Basic);
- (b) the fees, except for Pass Fees, imposed under the *Park Act* during the Term, and
- (c) any increase in the fees referred to in paragraph (b) during the Term;

"Park Act Services" means the activities for which a fee is imposed under the *Park Act* for the use of the Facilities and services in a Park;

"Park Design Standards" means the document entitled "Park Design Guidelines & Data" which is dated 1996 and includes all amendments to and replacements of that document;

"Park Facility Standards" means the document entitled "Park Facility Standards" which is dated August 1991 and includes all amendments to and replacements of that document;

"Park Information Standards" means the document entitled "Standards for Park Information for Park Facility Operators" which is dated December 2002 and includes all amendments to and replacements of that document;

"Parking Fees" means

- (a) the fees imposed under the *Park Act* which are in force on the Commencement Date for vehicle parking where such vehicle does not display a current Recreation Stewardship Annual Pass or a valid receipt for overnight camping in the Park in which the vehicle is parked,
- (b) all fees imposed under the *Park Act* during the Term for vehicle parking where such vehicle does not display a current Recreation Stewardship Annual Pass or a valid receipt for overnight camping in the Park in which the vehicle is parked, and
- (c) any increase in the fees referred to in paragraphs (a) and (b) during the Term;

"Parks" means the parks, recreation areas and protected areas listed in Schedule "B";

"Pass Fees" means the Parking Fees and the Recreation Stewardship Fees collected by the Permittee under this Agreement;

"Policies" means the policies of the Province entitled

- (a) "BC Parks Conservation Program Policies" which is dated September 1997,
- (b) "BC Parks Impact Assessment Process, Part 1, Policy" which is dated April 1999,
- (c) "BC Parks Impact Assessment Process, Part 2, User Guide" which is dated April 1999, and
- (d) "Bear-People Conflict Prevention Plan" which is dated December 2002,

and includes all amendments to and replacements of those policies;

"Preventative Maintenance" means the maintenance of the Facilities described in the Three Year Business Plan but does not include Operational Maintenance;

"Preventative Maintenance Amount" means, subject to Article 5, s.17, s.21

"Recreation Services" means the Additional Services and the Park Act Services;

"Recreation Stewardship Annual Pass" means the annual pass referred to in the Regulations which permits vehicle parking in the Parks;

"Recreation Stewardship Fees" means

- (a) the fees imposed under the *Park Act* for a Recreation Stewardship Annual Pass which are in force on the Commencement Date, and
- (b) any increase in the fees referred to in paragraph (a) during the Term;

"Regulations" means the regulations made under the *Park Act*;

"Subcontractor" means the person or persons listed in section 11 of Schedule "C" and any other person approved, in writing, by the Province;

"Term" means the period of time set out in section 2.3;

"Three Year Business Plan" means

- (a) in the case of the first three years of the Term, the plan which was approved by the Province as part of the proposal that led to the grant of this Agreement to the Permittee, and
- (b) for the remainder of the Term, the plan approved by the Province under Article 5,

and includes all amendments to and replacements of those plans;

"User Guide" means the document entitled "User Guide for Condition Assessments and Instructions for the Use of Forms" which is dated November 20, 2002 and includes all amendments to and replacements of that document;

"we", "us" or "our" refers to the Province alone and never refers to the combination of the Province and the Permittee: that combination is referred to as **"the parties"**; and

"you" or "your" refers to the Permittee.

1.2 The schedules to this Agreement are as follows:

Schedule "A" – Operating Area;
Schedule "B" – Parks;
Schedule "C" – Service Standards;
Schedule "D" – Financial Matters; and
Schedule "E" – Annual Operating Plan Requirements.

ARTICLE 2 - GRANT OF RIGHTS AND TERM

2.1 On the terms and conditions of this Agreement, we grant you a park use permit to occupy the Operating Area only for the purposes of

- (a) offering the Recreation Services to Operating Area Users;
- (b) operating and maintaining the Facilities;
- (c) collecting and retaining the Additional Fees;
- (d) collecting and remitting the Park Act Fees and the Pass Fees to us in accordance with Schedule "D";
- (e) offering Recreation Stewardship Annual Passes for sale to Operating Area Users;
- (f) permitting Operating Area Users who are exempt from the payment of Park Act Fees and Pass Fees under the *Park Act* to use the Operating Area free of charge; and
- (g) controlling the Operating Area to ensure its safe and orderly use by Operating Area Users including the right to
 - (i) regulate and prohibit the entry, movement and activities of Operating Area Users,
 - (ii) evict Operating Area Users, and
 - (iii) make arrangements with the police force having jurisdiction over the Operating Area to regulate public safety and conduct.

2.2 In addition to the rights granted to you under section 2.1, you may advertise the Recreation Services offered by you under this Agreement provided such advertising complies with the Park Information Standards.

2.3 The term of this Agreement commences on the Commencement Date and terminates on October 31, 2013, or such earlier date provided for in this Agreement.

- 2.4 If we decide to permit the offering of services, other than Recreation Services, in the Operating Area we will offer you the first right to offer such services to Operating Area Users as Additional Services and, if you accept our offer, we will approve the offering of those Additional Services in the Annual Operating Plan for the next Operating Year.

ARTICLE 3 - FINANCIAL MATTERS

- 3.1 You will remit the Park Act Fees and the Pass Fees to us in accordance with Schedule "D".
- 3.2 You must keep books and records with respect to your operations under this Agreement and enter in them, among other things, all transactions pertaining to Gross Revenue and we may inspect and take copies of and cause an audit to be taken by an independent auditor of such books and records.
- 3.3 In the event that an audit taken under section 3.2 reveals that the amount paid or credited to us under this Agreement was less than that required under this Agreement you must immediately pay to us the cost of that audit together with the outstanding amount.
- 3.4 You are registered for GST purposes (GST registration number s.17, s.21 and you will, in accordance with the *Excise Tax Act* (Canada), account to the Receiver General (Canada) for the GST collected by you under this Agreement.

ARTICLE 4 - COVENANTS

- 4.1 You must
- (a) pay, when due,
 - (i) all money payable by you to us under this Agreement to us at the address set out in Article 11,
 - (ii) all taxes, rates, levies, duties, charges and assessments levied or charged, at any time, by any competent governmental authority which relate to the Operating Area, the Facilities, or both of them, and your operations under this Agreement and which you are liable to pay, and
 - (iii) all charges for electricity, gas, water, sewer, fuel oil, telephone and other utilities supplied to the Operating Area;
 - (b) deliver to us immediately upon demand, receipts or other evidence of the payment of all money required to be paid by you under this Agreement;

- (c) observe, abide by and comply with
 - (i) all laws, bylaws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Parks and the Facilities, or their use and occupation, and your operations under this Agreement,
 - (ii) the provisions of this Agreement,
 - (iii) the provisions of the Park Design Standards, the Park Facility Standards, the Park Information Standards, the Policies, the User Guide and the documents entitled "Discover Camping™ Reservation Service, Guidelines for Park Facility Operators, 2002" and "Facility Management System User Manual" as they affect the Parks and the Facilities, or their use and occupation, and your operations under this Agreement, and
 - (iv) all of your obligations set out in the schedules to this Agreement;
- (d) at your expense, keep the Operating Area and the Facilities in a safe, clean and sanitary condition and, at our written request, make the Operating Area and the Facilities safe, clean and sanitary;
- (e) not commit any wilful or voluntary waste, spoil or destruction on the Operating Area or do anything on the Operating Area that may be or become a hazard, nuisance or annoyance to an owner or occupier of land in the vicinity of the Operating Area;
- (f) not remove, destroy, damage, disturb or exploit any natural resource (as that term is defined in the *Park Act*) in the Operating Area without our prior written consent and without providing to us the written undertaking referred to in the *Park Act*;
- (g) use and occupy the Operating Area only in accordance with and for the purposes set out in section 2.1;
- (h) permit us, or our authorized representatives, to enter on the Operating Area at any time to inspect the Operating Area and the Facilities;
- (i) not make, construct, install, erect, build, alter, add to, in on or under the Operating Area any Facility or repair, replace, restore or overhaul any Facility except for the purposes set out in the Annual Operating Plan and
 - (i) to the standards set out in the Park Design Standards and the Park Facility Standards, or
 - (ii) if no standards are set out in the Park Design Standards and the Park Facility Standards, to the standards required by us;

- (j) pay all accounts and expenses as they become due for labour or services performed on, or materials supplied to, the Operating Area except for money that you are required to hold back under the *Builders Lien Act*;
- (k) if any claim of lien over the Operating Area is made under the *Builders Lien Act*, immediately take all steps necessary to have the lien discharged, unless the claim of lien is being contested in good faith by you and you have taken the steps necessary to ensure that the claim of lien will not subject the Operating Area or any interest of yours under this Agreement to sale or forfeiture;
- (l) not permit Operating Area Users to
 - (i) undertake any activity in the Operating Area that is prohibited under the *Park Act* or the Regulations, or
 - (ii) enter on any part of the Operating Area that is, in your reasonable opinion, unsafe due to an existing or potential hazard, including fires and dangerous animals, and you must immediately advise us of all existing or potential hazards;
- (m) take all reasonable precautions to prevent and suppress fires in the Operating Area;
- (n) not misrepresent your rights or obligations under this Agreement to any person;
- (o) supply all labour, vehicles, equipment, tools, materials and supplies that are necessary to fulfil your obligations under this Agreement;
- (p) not interfere with the lawful activities of Operating Area Users except as expressly permitted or required under this Agreement;
- (q) indemnify and save us and our servants, employees and agents harmless against all claims, actions, causes of action, losses, damages, costs and liabilities, including fees of solicitors and other professional advisors, arising out of
 - (i) your breach, violation or nonperformance of a provision of this Agreement, and
 - (ii) any personal injury, bodily injury (including death) or property damage occurring or happening on or off the Operating Area by virtue of your entry upon, use or occupation of the Operating Area,and the amount of all such losses, damages, costs and liabilities will be payable to us immediately upon demand; and
- (r) on the termination of this Agreement,
 - (i) peaceably quit and deliver to us possession of the Operating Area and, subject to paragraphs (ii) and (iii), the Facilities in a safe, clean and sanitary condition,

- (ii) within 30 days, remove from the Operating Area any Facility you want to remove, if the Facility was placed on or made to the Operating Area by you, is in the nature of a tenant's fixture normally removable by tenants and is not part of a building or part of the Operating Area,
- (iii) remove from the Operating Area any Facility that we, in writing, direct or permit you to remove, other than any Facility permitted to be placed on or made to the Operating Area under another Disposition, and
- (iv) restore the surface of the Operating Area as nearly as may reasonably be possible to the same condition as it was on the Commencement Date, to our satisfaction, but if you are not directed or permitted to remove a Facility under paragraph (iii), this paragraph will not apply to that part of the surface of the Operating Area on which that Facility is located,

and all of your right, interest and estate in the Operating Area will be absolutely forfeited to us and to the extent necessary, this covenant will survive the termination of this Agreement.

- 4.2 You will not permit any person to do anything you are restricted from doing under this Article.
- 4.3 You acknowledge receipt from us of a copy of the documents referred to in paragraph 4.1(c)(iii).

ARTICLE 5 - ANNUAL OPERATING PLAN, THREE YEAR BUSINESS PLAN AND PREVENTATIVE MAINTENANCE

- 5.1 You must, at your expense, prepare and deliver to us for our approval not later than November 1, 2003 and each anniversary of that date during the Term,
 - (a) a proposed operating plan for the next Operating Year which must
 - (i) describe in detail your plan to implement the provisions of the Three Year Business Plan during that Operating Year,
 - (ii) describe the services you propose to offer to Operating Area Users in addition to the Recreation Services and the fees you propose to collect from Operating Area Users for those services, and
 - (iii) include the information set out in Schedule "E"; and
 - (b) the Three Year Business Plan which is updated to include the following information with respect to your proposed operation under this Agreement in the Operating Year which is to start in the year following the last Operating Year addressed in the Three

Year Business Plan:

- (i) a description of and proposed timing for
 - (A) the services you propose to offer to Operating Area Users in addition to the Recreation Services and the fees you propose to collect from Operating Area Users for those services,
 - (B) the repairs, replacements, restorations and overhauls you propose to make to the Facilities,
 - (C) the Facilities you propose to make, construct, install, erect, build, alter or add to, in, on or under the Operating Area,
 - (D) your advertising program, and
 - (E) reports to be completed by you, in accordance with the User Guide, to assess the state of repair of the Facilities,
- (ii) revenue and cash flow projections,
- (iii) your organizational structure and proposed staffing levels,
- (iv) staff hiring, training and dismissal policies, and
- (v) the arrangements you propose to make, if any, with the communities in which the Operating Areas are located (including First Nations) concerning the delivery of Recreation Services.

5.2 Not later than 30 days following the delivery of the proposed operating plan and the updated Three Year Business Plan to us under section 5.1, we will review those plans and, in our sole discretion, either approve or reject those plans and, if we reject one or both of those plans, we will notify you, in writing, of all information that we require from you in order to review and evaluate the rejected plan or plans and all revisions that we require you to make to the rejected plan or plans, including the revisions referred to in section 5.3, and, not later than 30 days following your receipt of that notice, you will deliver to us the requested information and the revised plan or plans and you acknowledge that, among other things, the revisions we ask you to make to the proposed operating plan and the updated Three Year Business Plan will ensure that

- (a) the proposed operating plan complies with the provisions of the Three Year Business Plan for the Operating Year for which the proposed operating plan is submitted; and
- (b) the updated Three Year Business Plan
 - (i) complies with the proposal that led to the grant of this Agreement to you, and

- (ii) provides for the assessment of the condition of each of the Facilities at least once every five years of the Term.

- 5.3 With respect to the Preventative Maintenance described in the proposed operating plan referred to in subsection 5.1(a), you acknowledge that we may, in our sole discretion, approve or reject any item of Preventative Maintenance described in that proposed operating plan and, if we reject an item of Preventative Maintenance and we later complete that Preventative Maintenance, you will immediately upon demand pay to us all of the costs incurred by us to complete that Preventative Maintenance.
- 5.4 You must complete all inspections, diagnostic maintenance and condition assessments of the Facilities in accordance with the schedule set out in the Annual Operating Plan and, with respect to condition assessments of the Facilities, such condition assessments must be completed by a person approved, in writing, by us and to the standards required by the User Guide.
- 5.5 Not later than 30 days following the completion of each item of Preventative Maintenance described in the Annual Operating Plan, you will advise us of all of your costs to complete such Preventative Maintenance and deliver to us a copy of invoices for the services and materials supplied to you to complete that Preventative Maintenance and such invoices must
- (a) identify the services or materials supplied to you to complete the Preventative Maintenance; and
 - (b) be acknowledged, by the supplier of the services or materials, to be paid in full by you.
- 5.6 If you expend
- (a) less than the Preventative Maintenance Amount on Preventative Maintenance in an Operating Year then we may, in our sole discretion, advise you in writing that
 - (i) the Preventative Maintenance Amount for the following Operating Year will be increased by an amount equal to the unexpended amount, or
 - (ii) you must pay to us an amount equal to the unexpended amount not later than 30 days following delivery of that written notice to you; or
 - (b) more than the Preventative Maintenance Amount on Preventative Maintenance in an Operating Year then the Preventative Maintenance Amount for the next Operating Year will be deemed to be reduced by an amount equal to the amount spent by you in the previous Operating Year in excess of the Preventative Maintenance Amount.
- 5.7 You acknowledge that we may, not later than October 1 in any year of the Term and by notice in writing to you, change the Preventative Maintenance Amount for the next Operating Year.

- 5.8 You agree with us that, despite subsection 5.1(b), you must, at your expense,
- (a) prepare and deliver to us not later than November 1, 2005 and November 1, 2008 a proposed new Three Year Business Plan and a proposed Schedule "D" applicable to the following three years of the Term;
 - (b) after making the proposals under subsection (a), attempt, in good faith, to negotiate an agreement with us as to a new Three Year Business Plan and a Schedule "D" applicable to the following three years of the Term; and
 - (c) enter into such amendments to this Agreement as are necessary to reflect any agreement reached under subsection (b).
- 5.9 If an agreement is not reached under subsection 5.8(b) within 60 days after delivery of the proposals contemplated by subsection 5.8(a) or you fail to deliver such proposals within the time required by subsection 5.8(a), either party may terminate this Agreement on 60 days' written notice to the other and neither party will be entitled to compensation from the other if this Agreement is terminated under this section.
- 5.10 Article 10 does not apply to a failure of the parties to reach an agreement under subsection 5.8(b).
- 5.11 Sections 5.1 and 5.2 apply to a Three Year Business Plan to which the parties may agree under subsection 5.8(b).

ARTICLE 6 - LIMITATIONS

- 6.1 You agree with us that
- (a) we are under no obligation to provide access or services to the Operating Area or to maintain or improve existing access roads;
 - (b) we may make other Dispositions of or over the Operating Area;
 - (c) you will make no claim for compensation, in damages or otherwise, in respect of a Disposition made by us under subsection (b), where such Disposition does not materially affect the exercise of your rights under this Agreement;
 - (d) all of your costs and expenses, direct or indirect, that arise out of any lawful interference with your rights under this Agreement as a result of the exercise or operation of the rights reserved to us in subsection (b) will be borne solely by you;
 - (e) you will not remove or permit the removal of any Facility from the Operating Area except as expressly permitted or required under this Agreement;

- (f) any interest you may have in the Facilities ceases to exist and becomes our property upon the termination of this Agreement, except where a Facility may be removed under paragraph 4.1(r)(ii) or (iii) in which case any interest you may have in that Facility ceases to exist and becomes our property if the Facility is not removed from the Operating Area within the time period set out in paragraph 4.1(r)(ii) or the time period provided for in the direction or permission given under paragraph 4.1(r)(iii); and
- (g) if, after the termination of this Agreement, we permit you to remain in possession of the Operating Area and we accept money from you in respect of such possession, a tenancy from year to year will not be created by implication of law and you will be deemed to be a monthly tenant only subject to all of the provisions of this Agreement, except as to duration, in the absence of a written agreement to the contrary.

ARTICLE 7 - FINANCIAL SECURITY AND INSURANCE

- 7.1 On the Commencement Date, you will deliver to us security in the amount of s.17, s.21 which will
- (a) guarantee the performance of your obligations under this Agreement;
 - (b) be in the form required by us; and
 - (c) remain in effect until we certify, in writing, that you have fully performed your obligations under this Agreement.
- 7.2 Despite section 7.1, your obligations under that section are suspended for so long as you maintain in good standing other security acceptable to us to guarantee the performance of your obligations under this Agreement and all other Dispositions held by you.
- 7.3 We may use the Financial Security for the payment of any costs and expenses incurred by us to perform any of your obligations under this Agreement that are not performed by you and, if such event occurs, you will, within 30 days of that event, deliver further Financial Security to us in an amount equal to the amount drawn down by us.
- 7.4 After we certify, in writing, that you have fully performed your obligations under this Agreement, we will return to you the Financial Security maintained under section 7.1, less all amounts drawn down by us under section 7.3.
- 7.5 You acknowledge that we may, from time to time, notify you to
- (a) change the form or amount of the Financial Security; and
 - (b) provide and maintain another form of Financial Security in replacement of or in addition to the Financial Security posted by you under this Agreement;

and you will, within 30 days of receiving such notice, deliver to us written confirmation that the change has been made or the replacement or additional form of Financial Security has been provided by you.

7.6 You must

- (a) without limiting your obligations or liabilities under this Agreement, at your expense, maintain during the Term
 - (i) Comprehensive/Commercial General Liability insurance protecting us as an additional insured in an amount of not less than \$2,000,000.00 inclusive per occurrence insuring against liability for personal injury, bodily injury (including death) or property damage and claims for liability assumed under contract, arising from all accidents or occurrences in or on the Operating Area or the Facilities including the following coverages:
 - (A) products and completed operations liability,
 - (B) owner's and contractor's protective liability,
 - (C) blanket written contractual liability,
 - (D) contingent employer's liability,
 - (E) personal injury liability,
 - (F) non-owned automobile liability,
 - (G) cross liability,
 - (H) employees as additional insureds,
 - (I) broad form property damage, and
 - (J) tenant's legal liability in an amount equal to the replacement value of the Facilities that are buildings, structures and other improvements,
 - (ii) automobile liability insurance for commercial use on all vehicles owned or operated by you (including rented vehicles) in an amount not less than \$2,000,000.00 inclusive per occurrence,
 - (iii) unless such insurance is provided under the insurance referred to in paragraph 7.6(a)(i), watercraft liability insurance for all watercraft owned or operated by you (including rented watercraft) in an amount not less than \$2,000,000.00 inclusive per occurrence, and

- (iv) all risks property insurance covering your furniture, fittings, fixtures, stock-in-trade and merchandise in an amount not less than the replacement value of all of that property;
- (b) on the Commencement Date and immediately upon demand, deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance required to be maintained by you under this Agreement;
- (c) ensure that all insurance required to be maintained by you under this Agreement is
 - (i) placed with insurers licensed in British Columbia,
 - (ii) primary and does not require the sharing of any loss by any insurer that insures us, and
 - (iii) except for the insurance referred to in paragraphs 7.6(a)(ii) and (iv), endorsed to provide us with 30 days' advance written notice of cancellation or material change; and
- (d) deliver to us immediately upon demand, certified copies of all policies of insurance required to be maintained by you under this Agreement.

7.7 You acknowledge that we may, from time to time, notify you to

- (a) change the amount of insurance set out in subsection 7.6(a); and
- (b) provide and maintain another type or types of insurance in replacement of or in addition to the insurance previously required to be maintained by you under this Agreement;

and you will, within 30 days of receiving such notice, cause the amounts and types to be changed and deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance then required to be maintained by you under this Agreement.

ARTICLE 8 - ASSIGNMENT

- 8.1 You must not sublicense, assign, mortgage or transfer this Agreement, or permit any person to use or occupy the Operating Area, other than a Subcontractor, without our prior written consent, which consent we may withhold in our sole discretion.
- 8.2 For the purpose of section 8.1, if you are a corporation, a change in control (as that term is defined in subsection 1(4) of the *Company Act*) will be deemed to be a transfer of this Agreement.
- 8.3 Section 8.2 does not apply to a corporation if the shares of the corporation which carry votes for the election of the directors of the corporation trade on a stock exchange located in Canada.

ARTICLE 9 - CANCELLATION

9.1 You agree with us that

- (a) if you
 - (i) default in the payment of any money payable by you under this Agreement, or
 - (ii) fail to observe, abide by and comply with the provisions of this Agreement (other than the payment of any money payable by you under this Agreement),and your default or failure continues for 30 days after we give written notice of the default or failure to you,
- (b) if, in our opinion, you fail to make diligent use of the Operating Area for the purposes set out in this Agreement and your failure continues for 30 days after we give written notice of the failure to you;
- (c) if you
 - (i) become insolvent or make an assignment for the general benefit of your creditors,
 - (ii) commit an act which entitles a person to take action under the *Bankruptcy and Insolvency Act* (Canada) or a bankruptcy petition is filed or presented against you or you consent to the filing of the petition or a decree is entered by a court of competent jurisdiction adjudging you bankrupt under any law relating to bankruptcy or insolvency, or
 - (iii) voluntarily enter into an arrangement with your creditors;
- (d) if you are a corporation,
 - (i) a receiver or receiver-manager is appointed to administer or carry on your business, or
 - (ii) an order is made, a resolution passed or a petition filed for your liquidation or winding up;
- (e) if you are a society, you convert into a company in accordance with the *Society Act* without our prior written consent;
- (f) if this Agreement is taken in execution or attachment by any person; or

(g) if the Parks are permanently closed to public use by us;

we may, in our sole discretion, pursue any remedy set out in section 9.2.

9.2 If any event set out in section 9.1 occurs, we may

- (a) pursue any remedy available to us at law or equity and you acknowledge that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy available to us to cure the default;
- (b) take any action in our or your name that may reasonably be required to cure the default and you will pay to us, on demand, all of the costs and expenses incurred by us as a result of that action;
- (c) suspend, in whole or in part, your rights under this Agreement; or
- (d) with or without entry, terminate this Agreement.

9.3 If the condition complained of (other than the payment of any money payable by you under this Agreement) reasonably requires more time to cure than 30 days, you will be deemed to have complied with the remedying of it if you commence remedying or curing the condition within 30 days and diligently complete the same.

9.4 Without limiting our rights under this Article, for the purpose of fulfilling our obligations to a First Nation under a treaty or interim measure agreement between us and that First Nation, we may decide, in our sole discretion,

- (a) after the second anniversary of the Commencement Date and before the third anniversary of the Commencement Date; or
- (b) after the fifth anniversary of the Commencement Date and before the sixth anniversary of the Commencement Date;

to amend this Agreement to remove one or more Operating Area from Schedule "A" and, if we decide to do so, we will provide you with written notice of our decision and this Agreement will be deemed to be amended

- (c) in the event notice is provided under subsection (a), on the sixth anniversary of the Commencement Date; or
- (d) in the event notice is provided under subsection (b), on the ninth anniversary of the Commencement Date;

to remove such Operating Area or Operating Areas from Schedule "A" and your obligations under this Agreement will be deemed to be amended with respect to the Operating Area or Operating Areas removed from Schedule "A".

- 9.5 If we give you written notice under section 9.4, we will, in that written notice, offer to you the right to enter into a services agreement with us to provide the First Nation with training in the offering of Park Act Services within the Operating Area or Operating Areas to be removed from Schedule "A" on the terms and conditions described in the written notice.
- 9.6 If, on your receipt of the written notice referred to in section 9.4, you determine, in your sole discretion, that your operations under this Agreement will be materially affected by the removal of the Operating Area or Operating Areas described in that written notice from Schedule "A", you may advise us, in writing, of that fact and, this Agreement will terminate on the date set out in the written notice delivered to you under section 9.4.
- 9.7 You agree with us that
- (a) you will make no claim for compensation, in damages or otherwise, upon
 - (i) the lawful termination of this Agreement under section 9.2 or 9.6, or
 - (ii) the removal of an Operating Area or Operating Areas from Schedule "A" under section 9.4;
 - (b) not later than 30 days prior to the date
 - (i) this Agreement is terminated under section 9.2 or 9.6, or
 - (ii) an Operating Area or Operating Areas is removed from Schedule "A" under section 9.4;

you will advise us, in writing, of all outstanding reservations made for the use of campsites, or other Facilities for which reservations can be made, in the Operating Area and

 - (iii) pay to us all money held by you for such reservations, and
 - (iv) provide to us all other information available to you relating to the delivery of Recreation Services; and
 - (c) our remedies under this Article are in addition to those available to us under the *Park Act*.

ARTICLE 10 - DISPUTE RESOLUTION

- 10.1 If any dispute arises under this Agreement, the parties will attempt to resolve the dispute within 60 days of the dispute arising (or within such other time period agreed to by the parties) and, subject to applicable laws, provide candid and timely disclosure to each other of all relevant

facts, information and documents to facilitate the resolution of the dispute.

- 10.2 Subject to section 10.5, if a dispute under this Agreement cannot be resolved under section 10.1, we or you may refer the dispute to arbitration conducted by a sole arbitrator appointed under the *Commercial Arbitration Act*.
- 10.3 The cost of the arbitration referred to in section 10.2 will be shared equally by the parties and the arbitration will be governed by the laws of the Province of British Columbia.
- 10.4 The arbitration will be conducted at our office at the address set out in Article 11.
- 10.5 A dispute under this Agreement in respect of a matter within our sole discretion cannot, unless we agree, be referred to arbitration as set out in section 10.2.

ARTICLE 11 - NOTICE

- 11.1 Any notice required to be given by either party to the other will be deemed to be given if mailed by prepaid registered mail in Canada or delivered to the address of the other as follows:

to us

Environmental Stewardship Division
Kootenay Region
Ministry of Water, Land and Air Protection
205 Industrial Road G
Cranbrook, British Columbia
V1C 7G5;

to you

Kootenay Park Services Ltd.
8192 Highway 95A
Kimberley, British Columbia
V1A 3L6

or at such other address as a party may, from time to time, direct in writing and any such notice will be deemed to have been received if delivered, on the day of delivery and, if mailed, 7 days after the time of mailing, except in the case of mail interruption in which case actual receipt is required.

- 11.2 In order to expedite the delivery of any notice required to be given by either party to the other, a concurrent facsimile copy of the notice will, where possible, be provided to the other party but nothing in this section and specifically the lack of delivery of a facsimile copy of any notice, will affect the deemed delivery provided for in section 11.1.

- 11.3 The delivery of all money payable to us under this Agreement will be effected by hand, courier or prepaid regular mail to the address specified above, or by any other payment procedure agreed to by the parties, such deliveries to be effective on actual receipt.

ARTICLE 12 - INTERPRETATION

- 12.1 In this Agreement, "person" includes a corporation, firm or association and wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or parties require.
- 12.2 The captions and headings contained in this Agreement are for convenience only and do not define or in any way limit the scope or intent of this Agreement.
- 12.3 This Agreement will be interpreted according to the laws of the Province of British Columbia.
- 12.4 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Agreement, that reference will include a reference to every amendment to it, every regulation made under it and any subsequent enactment of like effect and, unless otherwise indicated, all enactments referred to in this Agreement are enactments of the Province of British Columbia.
- 12.5 If any section of this Agreement, or any part of a section, is found to be illegal or unenforceable, that section or part of a section, as the case may be, will be considered separate and severable and the remainder of this Agreement will not be affected and this Agreement will be enforceable to the fullest extent permitted by law.
- 12.6 Each schedule to this Agreement is an integral part of this Agreement as if set out at length in the body of this Agreement.
- 12.7 This Agreement constitutes the entire agreement between the parties and no understanding or agreement, oral or otherwise, exists between the parties with respect to the subject matter of this Agreement except as expressly set out in this Agreement and this Agreement may not be modified except by subsequent agreement in writing between the parties.
- 12.8 Each party will, upon the request of the other, do or cause to be done all lawful acts necessary for the performance of the provisions of this Agreement.
- 12.9 All provisions of this Agreement in our favour and all of our rights and remedies, either at law or in equity, will survive the termination of this Agreement.
- 12.10 Time is of the essence of this Agreement.

- 12.11 Wherever this Agreement provides that an action may be taken, a consent or approval must be obtained or a determination must be made, then you or we, as the case may be, will act reasonably in taking such action, deciding whether to provide such consent or approval or making such determination; but where this Agreement states that you or we have sole discretion to take an action, provide a consent or approval or make a determination, there will be no requirement to show reasonableness or to act reasonably in taking that action, providing that consent or approval or making that determination.
- 12.12 If any part of the Operating Area is in a recreation area established or continued under the *Park Act*, this Agreement is deemed to be a resource use permit (as that term is defined in the *Park Act*) issued over that recreation area.

ARTICLE 13 - MISCELLANEOUS

- 13.1 No provision of this Agreement will be considered to have been waived unless the waiver is in writing and a waiver of a breach of a provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other provision of this Agreement and a consent or approval to any act requiring consent or approval will not waive or render unnecessary the requirement to obtain consent or approval to any subsequent same or similar act.
- 13.2 No remedy conferred upon or reserved to us under this Agreement is exclusive of any other remedy in this Agreement or provided by law, but that remedy will be in addition to all other remedies in this Agreement or then existing at law, in equity or by statute.
- 13.3 The grant of a sublicence, assignment or transfer of this Agreement does not release you from your obligation to observe and perform all the provisions of this Agreement on your part to be observed and performed unless we specifically release you from such obligation in our consent to the sublicence, assignment or transfer of this Agreement.
- 13.4 This Agreement extends to, is binding upon and enures to the benefit of the parties, their heirs, executors, administrators, successors and permitted assigns.
- 13.5 If, due to a strike, lockout, labour dispute, act of God, inability to obtain labour or materials, law, ordinance, rule, regulation or order of a competent governmental authority, enemy or hostile action, civil commotion, fire or other casualty or any condition or cause beyond your reasonable control, other than normal weather conditions, you are delayed in performing any of your obligations under this Agreement, the time for the performance of that obligation will be extended by a period of time equal to the period of time of the delay so long as
- (a) you give notice to us of the delay setting forth the nature of the delay and an estimated time frame for the performance of your obligation; and
 - (b) you diligently attempt to remove the delay if it is within your power to do so.

13.6 You agree with us that

- (a) we are under no obligation, express or implied, to provide financial assistance or to contribute toward the cost of operating, maintaining, repairing, replacing, servicing, creating or developing the Operating Area or the Facilities and you are solely responsible for all costs and expenses associated with your use of the Operating Area and the Facilities for the purposes set out in this Agreement; and
- (b) nothing in this Agreement constitutes you as our agent, joint venturer or partner or gives you any authority or power to bind us in any way.

13.7 This Agreement does not override or affect any powers, privileges or immunities to which you are entitled under any enactment of the Province of British Columbia.

The parties have executed this Agreement as of the date of reference of this Agreement.

SIGNED on behalf of **HER MAJESTY
THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA**
by the minister responsible for the *Park Act*
or the minister's authorized representative

Minister responsible for the *Park Act*
or the minister's authorized representative

SIGNED on behalf of
KOOTENAY PARK SERVICES LTD.
by its authorized signatories

Authorized Signatory

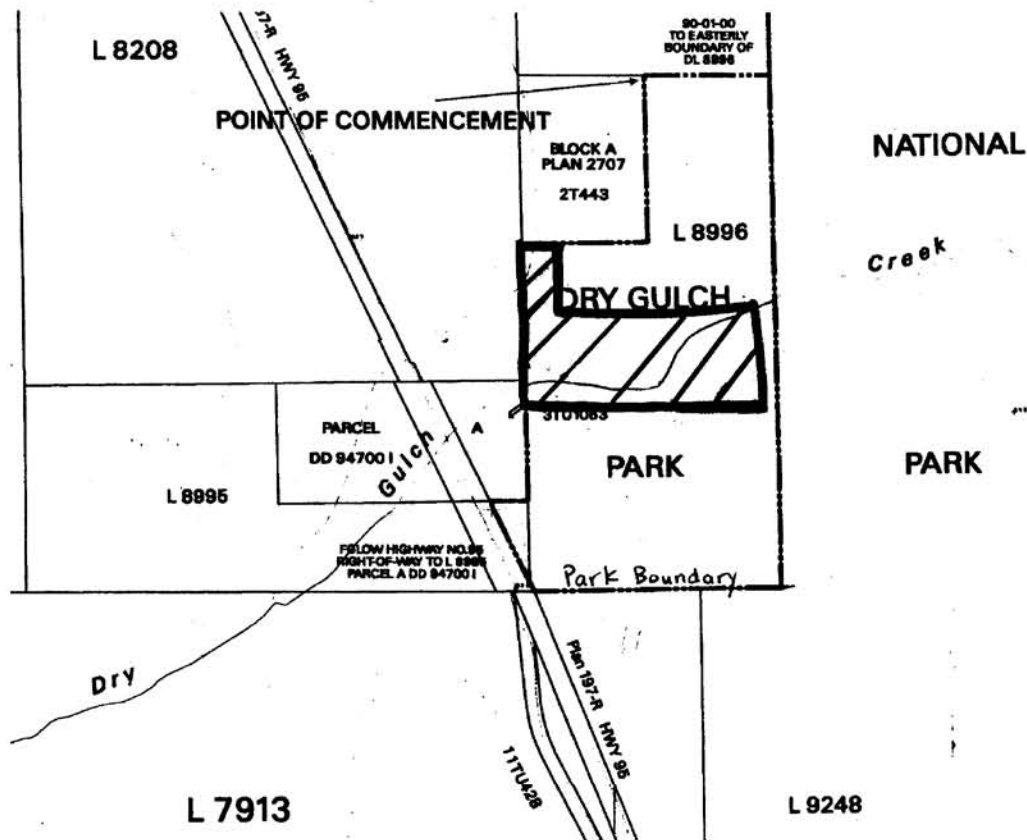
Authorized Signatory

SCHEDULE "A"**OPERATING AREA**

The Operating Area is comprised of the following:

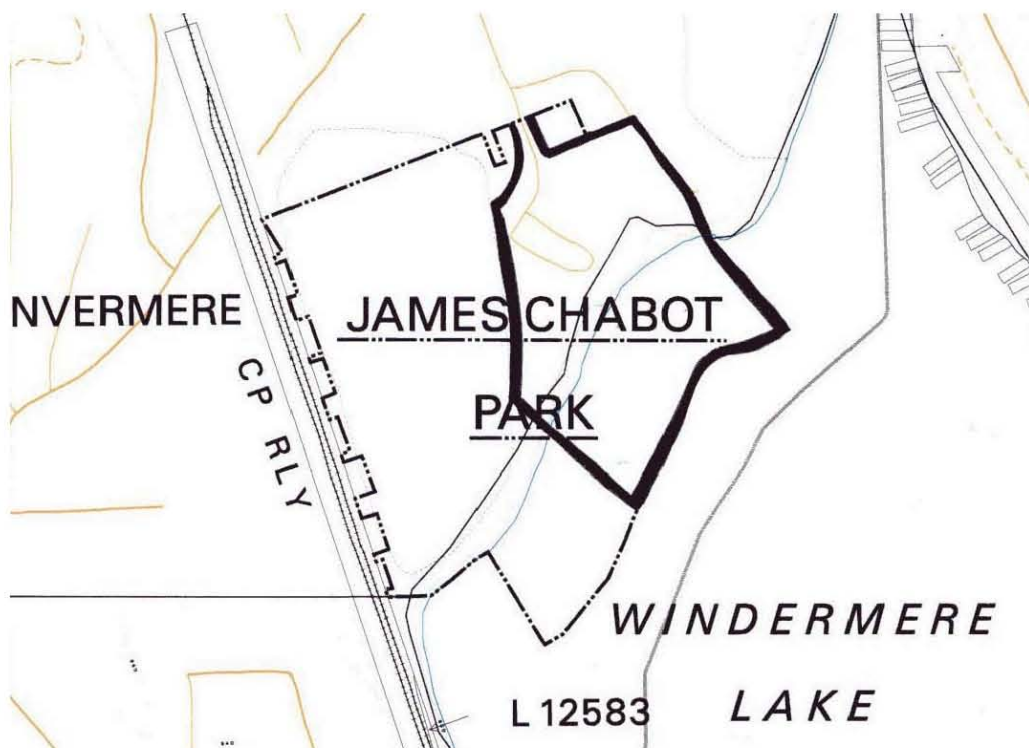
1. That part of Dry Gulch Park shown hatched on Appendix "1" to this schedule.
2. That part of James Chabot Park shown outlined in bold line on Appendix "2" to this schedule.
3. Jimsmith Lake Park.
4. That part of Kikomun Creek Park shown hatched on Appendix "3" to this schedule including the trails shown in black on that appendix.
5. That part of Lockhart Beach Park shown hatched on Appendix "4" to this schedule.
6. That part of Mount Fernie Park shown outlined in bold line on Appendix "5" to this schedule.
7. That part of Moyie Lake Park shown hatched on Appendix "6" to this schedule.
8. That part of Norbury Lake Park shown hatched on Appendix "7" to this schedule including the trails shown in black on that appendix.
9. That part of Premier Lake Park shown hatched on Appendix "8" to this schedule including the following trails shown in black on that appendix:
 - (a) Cats Eye Trail; and
 - (b) The Yankee – Canuck Trail.
10. That part of Wasa Lake Park shown hatched on Appendix "9" to this schedule.
11. That part of Whiteswan Lake Park shown shaded on Appendix "10" to this schedule.
12. That part of Yahk Park shown outlined in bold line on Appendix "11" to this schedule

APPENDIX "1" TO SCHEDULE "A"
DRY GULCH PARK OPERATING AREA

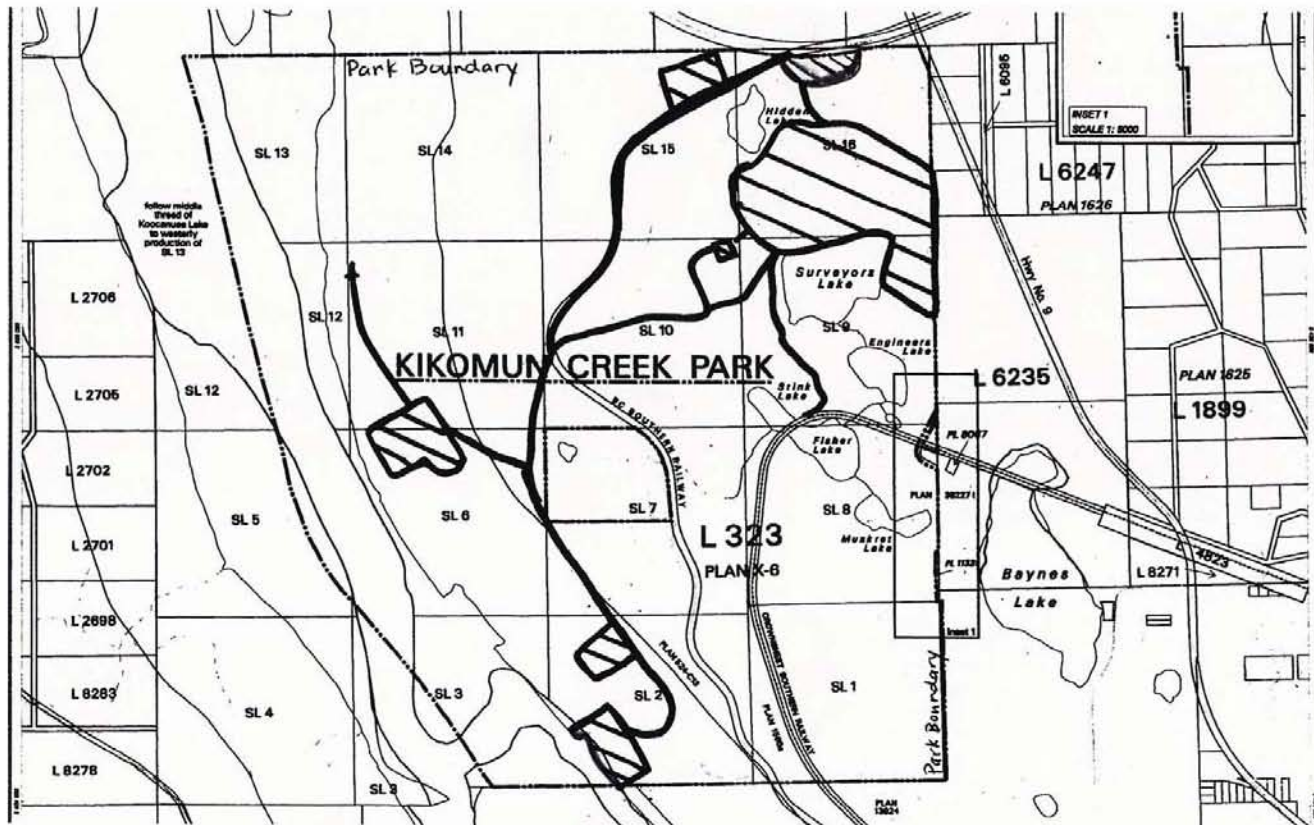


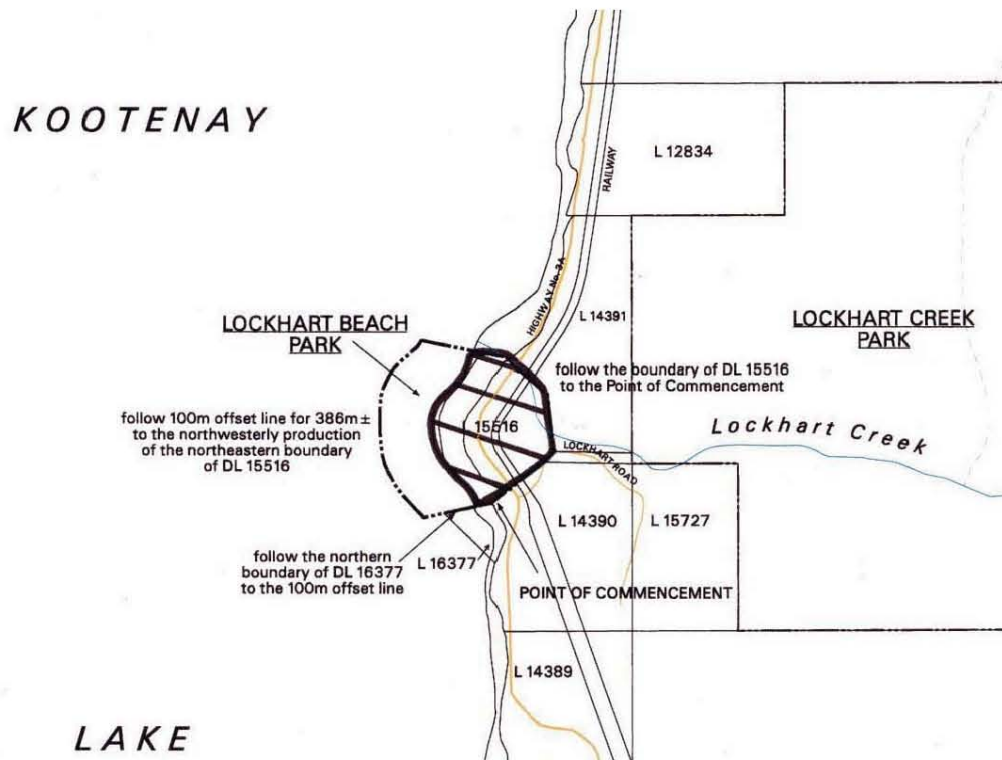
APPENDIX "2" TO SCHEDULE "A"

JAMES CHABOT PARK OPERATING AREA

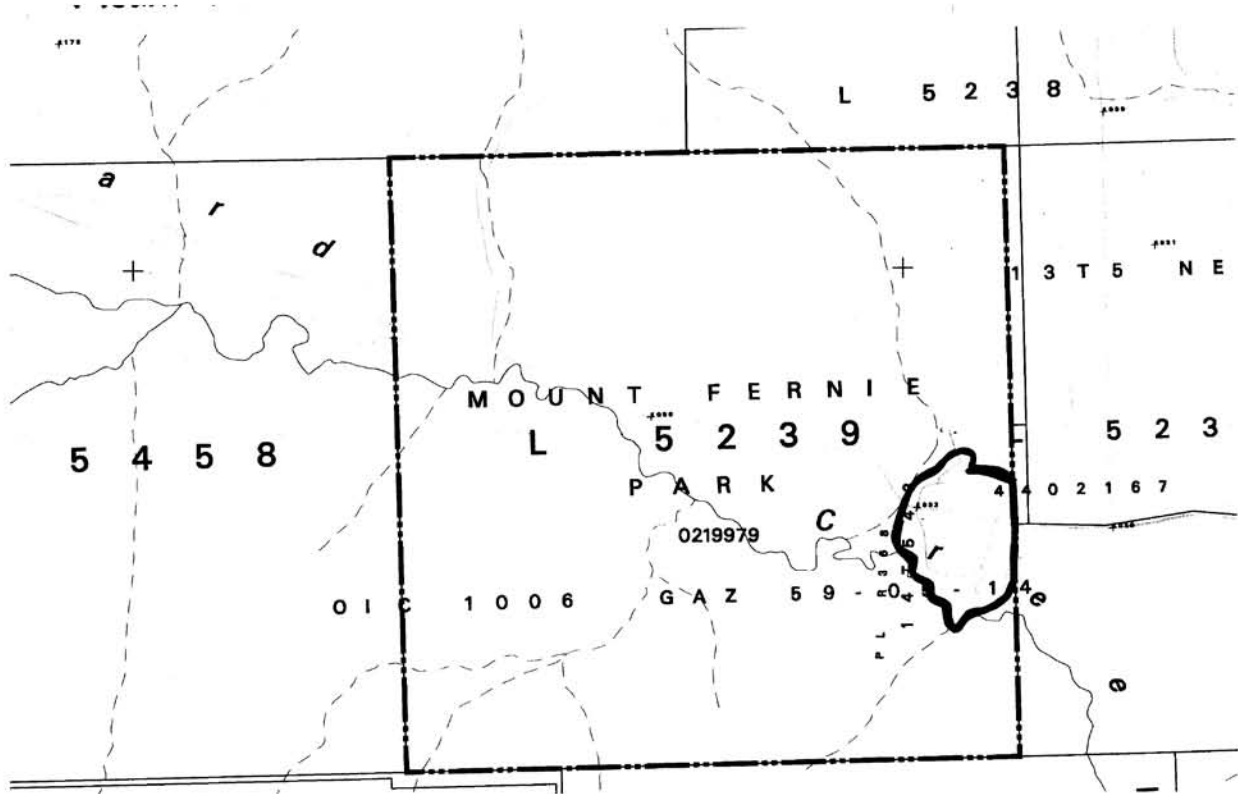


APPENDIX "3" TO SCHEDULE "A"
KIKOMUN PARK OPERATING AREA



APPENDIX "4" TO SCHEDULE "A"**LOCKHART BEACH PARK OPERATING AREA**

APPENDIX "5" TO SCHEDULE "A"
MOUNT FERNIE PARK OPERATING AREA



MOYIE LAKE PARK
Scale 1:5000

The land within the boundary of the park indicated on this official plan does not include any land designated from the park to be outside the Park Act.

Legend:

- Park Boundary
- Operating Area

Data Source:

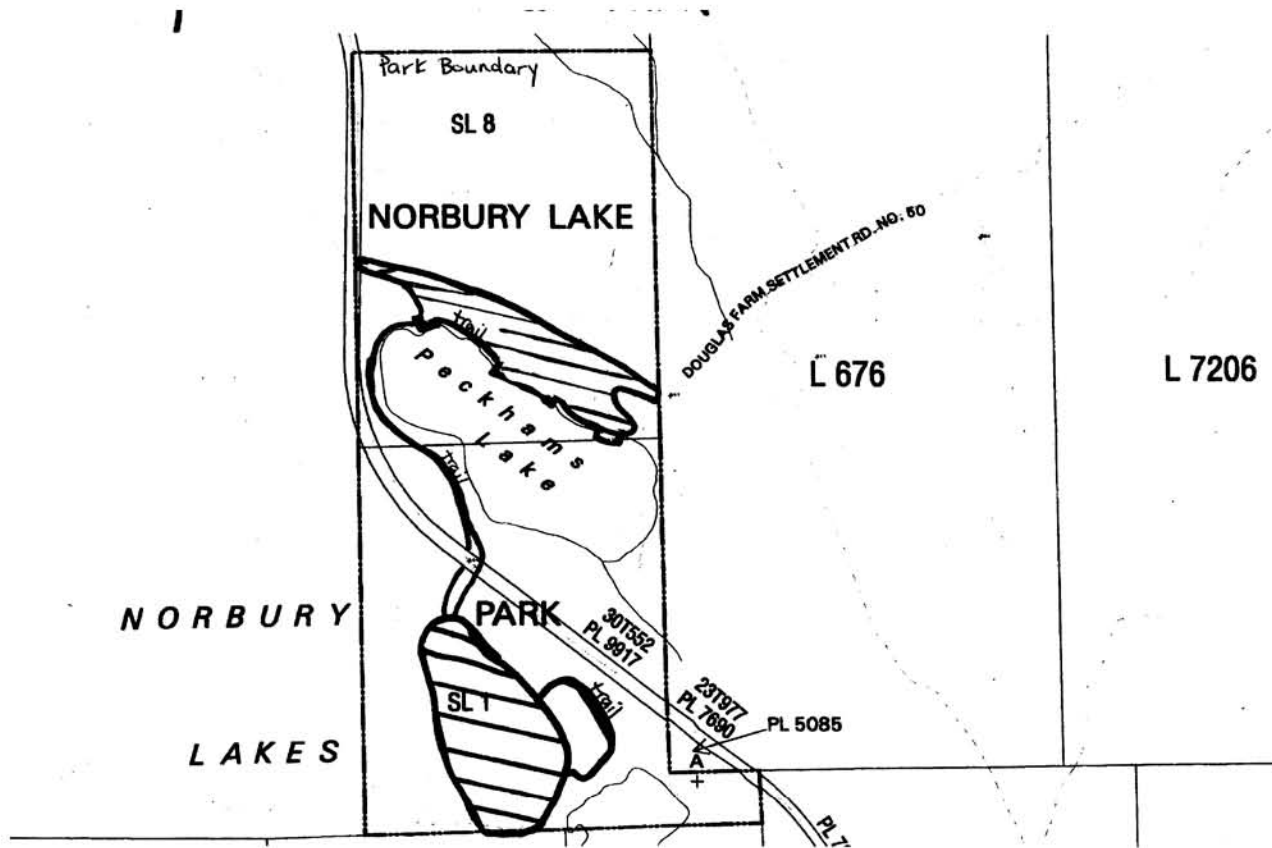
- Cassini Coordinates
- Management System (CMMS)
- Terrain Resource Information Management (TRIM)
- North American Datum (NAD83)
- Universal Transverse Mercator (UTM) Zone 11
- UTM coordinates are approximate and are derived from TRIM data
- Bearings are Grid Bearings based on the Central Meridian of the UTM zone

Produced by: Crown Point Cartography Ltd.
1998

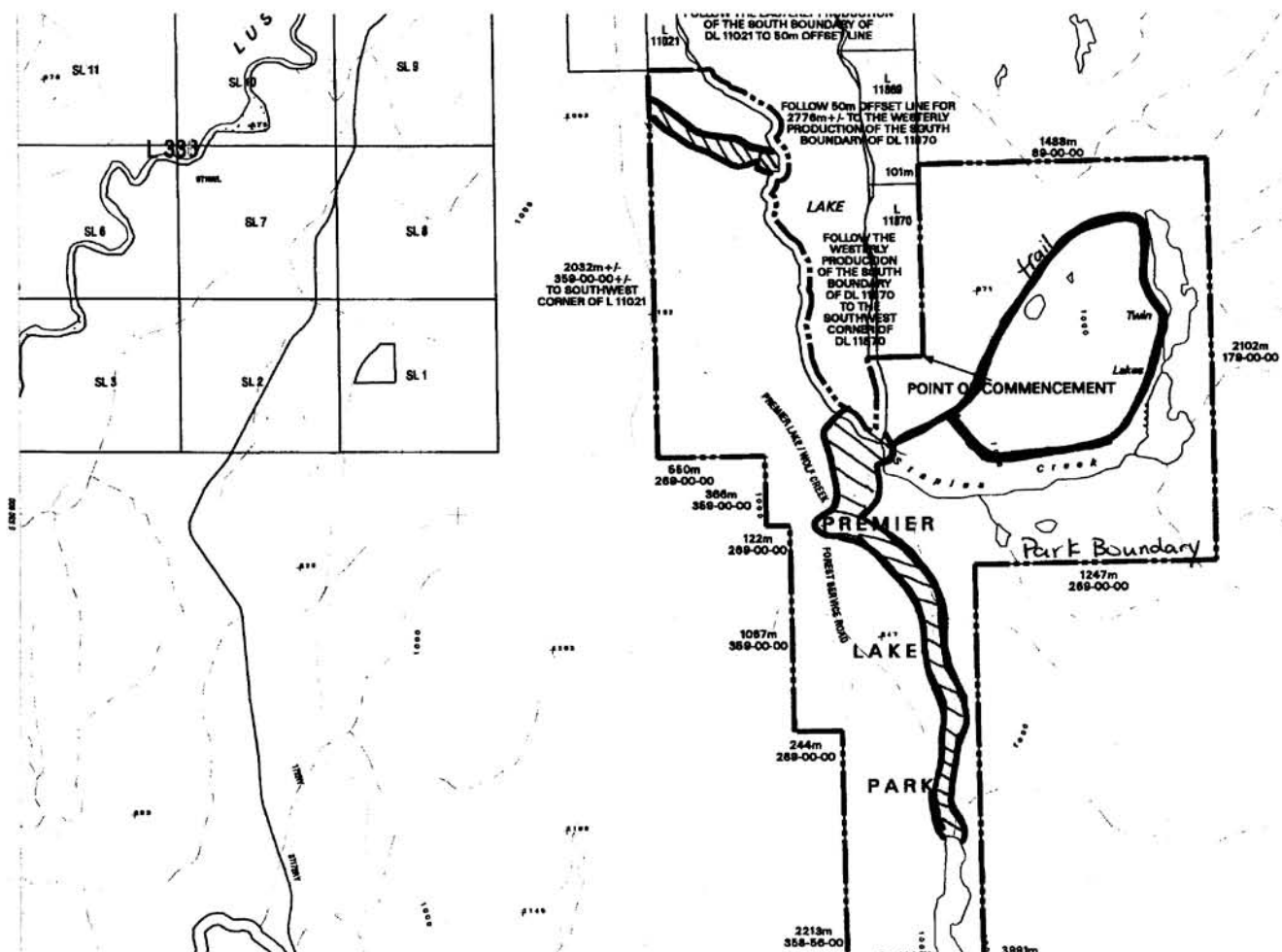
Survey: General Utility, B.C.
1998

BCGIS Map Sheet: B015-001

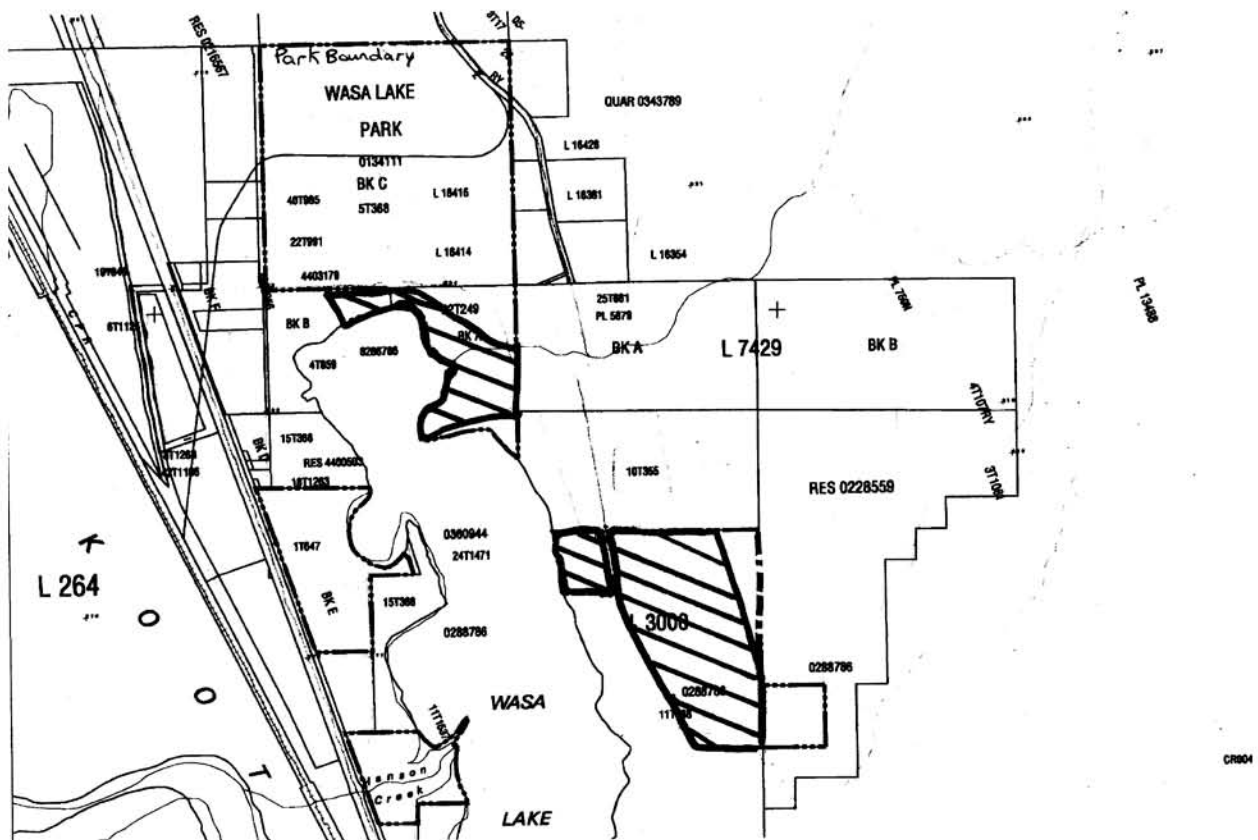
APPENDIX "7" TO SCHEDULE "A"
NORBURY LAKE PARK OPERATING AREA



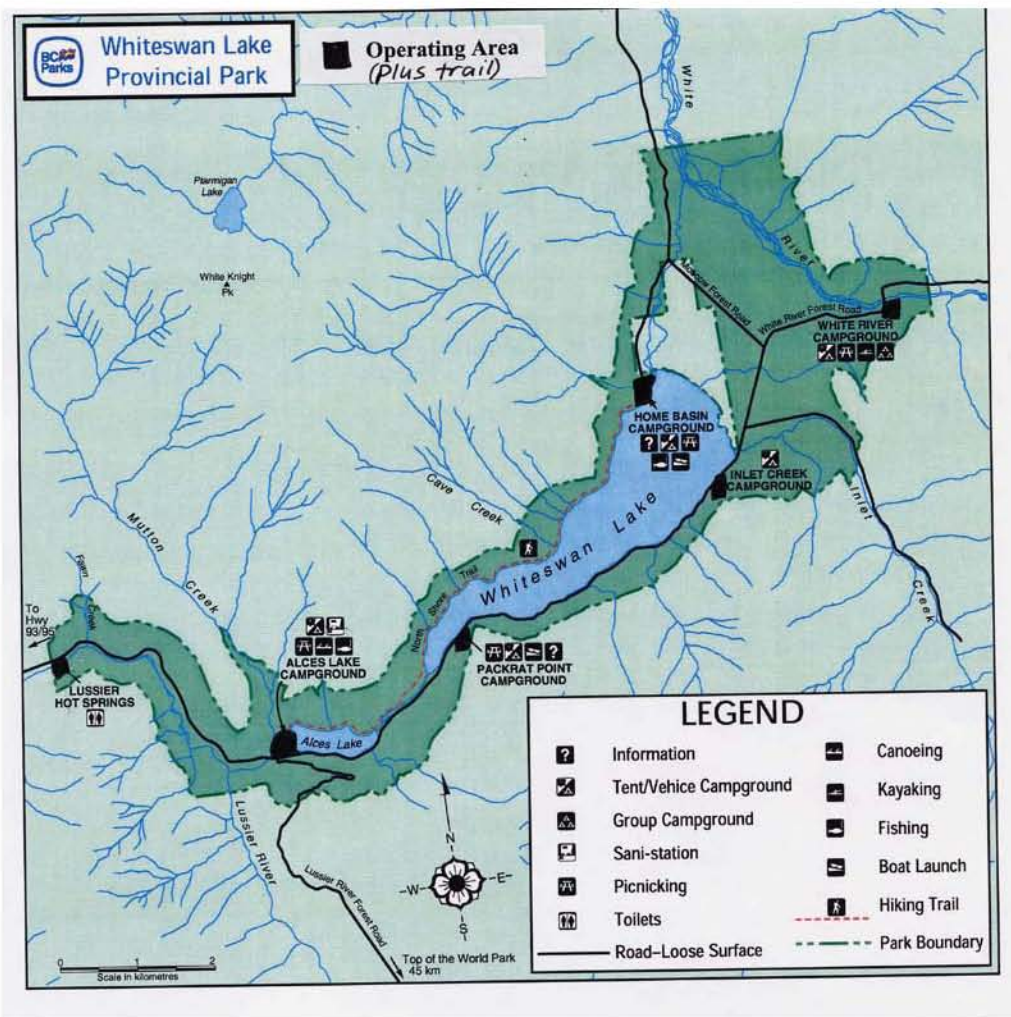
APPENDIX "8" TO SCHEDULE "A"
PREMIER LAKE PARK OPERATING AREA



APPENDIX "9" TO SCHEDULE "A" **WASA LAKE PARK OPERATING AREA**

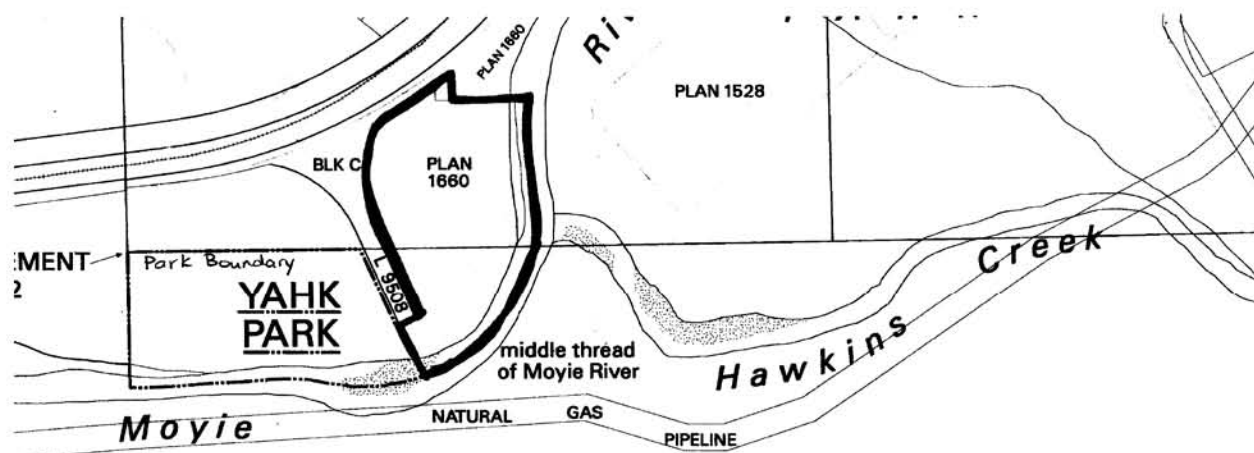


APPENDIX "10" TO SCHEDULE "A"
WHITESWAN LAKE PARK OPERATING AREA



APPENDIX "11" TO SCHEDULE "A"

YAHK PARK OPERATING AREA



SCHEDULE "B"

PARKS

1. Dry Gulch Park.
2. James Chabot Park.
3. Jimsmith Lake Park.
4. Kikomun Creek Park.
5. Lockhart Beach Park.
6. Mount Fernie Park.
7. Moyie Lake Park.
8. Norbury Lake Park.
9. Premier Lake Park.
10. Wasa Lake Park.
11. Whiteswan Lake Park.
12. Yahk Park

SCHEDULE "C"**SERVICE STANDARDS****PART A - RECREATION SERVICES AND THE COLLECTION OF PARK ACT FEES AND PASS FEES**

1. You must offer the Recreation Services to Operating Area Users as follows:
- (a) the Additional Services must be offered to Operating Area Users at the times set out in the Annual Operating Plan; and
 - (b) the Park Act Services may be offered to Operating Area Users at any time during the Operating Year, however, all Park Act Services must be offered to Operating Area Users during the following periods of time in each Operating Year:

Park (and Operating Area or part of Operating Area, if applicable)	First Day Services to be Offered in Operating Year	Last Day Services to be Offered in Operating Year
Dry Gulch	May 1	October 31
Jimsmith Lake	June 15	Labour Day
Kikomun Creek (except South and North Pool group sites)	May 15	October 1
Kikomun Creek (South and North Pool group sites)	Friday of Victoria Day weekend	October 1
Lockhart Beach	May 15	September 30
Mount Fernie	June 1	October 1
Moyie Lake	Friday of Victoria Day weekend	September 15

Park (and Operating Area or part of Operating Area, if applicable)	First Day Services to be Offered in Operating Year	Last Day Services to be Offered in Operating Year
Norbury Lake	June 1	September 15
Premier Lake	May 15	October 1
Wasa Lake	Friday of Victoria Day weekend	September 15
Whiteswan Lake	May 15	October 1
Yahk	Friday of Victoria Day weekend	September 30

- (c) despite subsection (b), Operating Area Users must be permitted to camp in designated campgrounds in the Operating Areas listed below during the following periods of time in each Operating Year:
- (i) in Moyie Lake Park, from September 16 to and including Thanksgiving Day (or until snow depth restricts access), and
 - (ii) in Wasa Lake Park, from May 1 to and including the Thursday before Victoria Day and from September 16 to and including September 30,

and you must, at your expense, ensure that all roads to the campgrounds are open for pedestrian and vehicular access.

2. You must

- (a) collect the Park Act Fees from Operating Area Users except from Operating Area Users who are exempt from the payment of Park Act Fees under the *Park Act* and issue a receipt, in a form acceptable to us, to Operating Area Users on the payment of the Park Act Fees;
- (b) collect the Parking Fees from Operating Area Users except from Operating Area Users who
 - (i) are exempt from the payment of Parking Fees under the *Park Act*, or
 - (ii) display a valid receipt for the payment of Parking Fees,
 and issue a receipt, in a form acceptable to us, to Operating Area Users on the payment

of the Parking Fees;

- (c) collect the Recreation Stewardship Fees from Operating Area Users to whom you sell a Recreation Stewardship Annual Pass;
- (d) except for the Additional Fees, the Park Act Fees and the Pass Fees, not collect fees from Operating Area Users without our prior written consent; and
- (e) during the period of the Operating Year that Recreation Services are offered to Operating Area Users, collect and maintain accurate monthly records of all visits of Operating Area Users and deliver those records to us not later than 5 days following the end of the month for which the records were kept.

PART B - FACILITIES AND OPERATIONAL MAINTENANCE

- 3. You must ensure that the Operating Area and the Facilities in, on or under it are operational and open to public use during the Operating Year unless otherwise provided in the Annual Operating Plan.
- 4. You must, at your expense,
 - (a) keep and maintain accurate documents and drawings for all Facilities made, constructed, installed, erected, built, altered or added to, in, on or under an Operating Area by you
 - (i) to the standards set out in the Park Design Standards and the Park Facility Standards, or
 - (ii) if no standards are set out in the Park Design Standards and the Park Facility Standards, to the standards required by us;
 - (b) deliver to us one paper print of the documents and drawings referred to in subsection (a) and one digital copy of those documents and drawings (in Microsoft Word 2000 and AutoCad version 14, respectively, or another format acceptable to us) as soon as the document or drawing is completed by you;
 - (c) until you are provided with a data entry portal to access our facility management system, deliver to us, at the times required by us, all information we request from you in order to maintain accurate information in the facility management system with respect to the Facilities;
 - (d) after you are provided with a data entry portal to access our facility management system, enter all information in the facility management system that is necessary to maintain accurate information in the facility management system with respect to the

Facilities;

- (e) keep and maintain accurate records of all
 - (i) playground equipment inspections,
 - (ii) water testing of the water systems, except when the water systems are not operational during the winter,
 - (iii) monthly fire hydrant testing when the water systems are operational,
 - (iv) servicing of dynamic assets (including structural, mechanical and electrical components) and critical components of Facilities including water pumps, generators and machinery, and
 - (v) annual inspections of and documented repairs to marker/mooring buoys, marine pilings, docks and artificial reefs; and
- (f) with respect to information shelters in the Operating Area, you must ensure that
 - (i) all printed material provided to you by us is immediately posted on the information shelters as required by us, all visitor information posted on the information shelters is current and all outdated printed material and visitor information is removed from the information shelters, and
 - (ii) your contact name, current telephone number and email address are posted on the information shelters.

5. You must, at your expense, undertake the following maintenance of the Facilities:

- (a) repair, replace, restore and overhaul all parts of the Facilities that are broken, worn, leaking, rotted, damaged, cracked, spalled, split or vandalized;
- (b) keep all Facilities free of dust, dirt, rot, stains, mould, vegetation, cobwebs, graffiti, garbage, excess water, unpleasant odours, foreign materials and soil and water markings,
- (c) seal all wooden Facilities or wooden parts of the Facilities, except for wharves, docks, boardwalks and bridge decks, with paint or stain,
- (d) adjust all wharves, docks, boardwalks and bridge decks to allow for water level fluctuations and proper alignment,
- (e) keep all marker/mooring buoys, marine pilings, anchor chains, ropes and associated hardware in good repair,

- (f) keep all metal Facilities or metallic parts of the Facilities free of rust and in a state that eliminates galvanic action,
- (g) keep all roofs of the Facilities free of litter and accumulations of leaves, branches, moss and snow,
- (h) keep in good repair in accordance with the Park Facility Standards all directional, Type "A" (as defined in the Park Facility Standards), entrance portal and informational signs and ensure they remain visible to the public, correctly aligned and in an upright position,
- (i) keep all gravel surfaces crowned, smooth, managed for weed and brush control, well drained and free of potholes and ensure the gravel level is maintained,
- (j) keep all paved surfaces smooth, sealed and well drained,
- (k) keep all ditches and culverts free of brush and in a state that allows the free passage of water,
- (l) keep all water systems in a state that provides potable drinking water to Operating Area Users in accordance with applicable drinking water and health standards, except when water systems are not operational during the winter,
- (m) keep all sewage systems in the state required by the manual provided by the manufacturer of the system or, if no manual was provided by the manufacturer, keep the sewage system in a state that does not allow scum or sludge in the septic tank to reach a level where solids enter the tile field,
- (n) keep all trails maintained to the classification and type existing on the Commencement Date,
- (o) keep all grounds, lawns and planters in a healthy state and remove and control all invasive and noxious plants as required by us, and
- (p) keep all concrete block Facilities and concrete Facilities sealed or painted and, if sealed, ensure the sealer is maintained in the manner recommended by the manufacturer and, if painted, ensure the paint is firmly attached to the Facility.

PART C - GENERAL STANDARDS

6. You must

- (a) ensure your employees and Subcontractors are familiar with

- (i) the *Park Act*, the Regulations and all other laws, bylaws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Parks and the Facilities, or their use and occupation,
 - (ii) the documents referred to in paragraph 4.1(c)(iii), and
 - (iii) the provisions of Part D of this schedule concerning the reporting of accidents and occurrences in the Operating Area;
- (b) not burn garbage or debris in the Parks;
- (c) at your expense,
 - (i) participate in the Discover Camping™ centralized campsite reservation system operated by us or another centralized campsite reservation system as directed by us and, in addition, provide to the public a group day use and group campsite reservation system,
 - (ii) undertake all survey programs we may require in order to determine the satisfaction of Operating Area Users with the Recreation Services and deliver to us all information obtained by you with respect to such survey programs,
 - (iii) attend all meetings requested by us,
 - (iv) ensure your employees and Subcontractors wear a uniform which is approved by us when providing the Recreation Services,
 - (v) all vehicles and vessels used by your employees and Subcontractors display identification insignia which is approved by us when providing Recreation Services,
 - (vi) if any campground gate is locked in a closed position and Operating Area Users are camping in the campground, you must ensure one of your employees or a Subcontractor is located in the Operating Area to open that campground gate in, among other things, emergency situations,
 - (vii) retain a person who holds a valid certificate issued under the "Wildlife/Danger Tree Assessor's Course for Parks and Recreation Sites" to evaluate the Operating Area twice in each Operating Year (once between February 1 and May 30 and in September) and report on any existing or potentially dangerous trees and you will
 - (A) deliver that report to us upon your receipt of it, and

- (B) at our direction, complete all work that may be necessary to alleviate the danger, and
 - (viii) remove all garbage from the Parks to an approved refuse disposal site;
 - (d) advise us, in writing, of
 - (i) the name, title, address and telephone number of each member of the management team who is identified in the proposal that led to the grant of this Agreement to you and the name, title, address and telephone number of the person, if any, who replaces a member of your management team, and
 - (ii) the name and telephone number of your representative who may be contacted by us and Operating Area Users at any time during the Term; and
 - (e) ensure
 - (i) all highway informational signs are kept up-to-date with respect to the availability of campsites during the periods of time set out in subsection 1(b) of this schedule, and
 - (ii) keep all gates locked in an open or closed position.
7. You must not, without our prior written consent,
- (a) apply herbicides, pesticides, dust abatement products or any other products that are harmful to the environment in the Operating Area;
 - (b) change the use of any Facility; or
 - (c) cut or remove timber from the Operating Area.

PART D - REPORTS CONCERNING ACCIDENTS AND OCCURRENCES IN THE OPERATING AREA

8. You must deliver to us a completed Complaint/Occurrence Report immediately after the happening of any of the following events:
- (a) personal injury, bodily injury (including death) and property damage (over \$1,000.00) or loss (over \$200.00) suffered by an Operating Area User;
 - (b) damage to or theft of a Facility over \$1,000.00;
 - (c) a charge laid by the police force having jurisdiction over the Operating Area against an

Operating Area User under any federal or provincial enactment; and

- (d) a disturbance caused by an Operating Area User.
9. If necessary, you must also report any event referred to in subsection 8(a) of this schedule to the police force having jurisdiction over the Operating Area and to your insurer.
10. You must deliver to us not later than
- (a) 30 days following the Commencement Date, an emergency evacuation plan for each Operating Area;
 - (b) not later than 5 days following the end of each month during the Term, a completed Park Security/Public Safety Statistic Report;
 - (c) 5 days following the submission of such report, a copy of each report of an accident investigation or workplace injury submitted to the Workers' Compensation Board by you or your Subcontractors under the *Workers Compensation Act*; and
 - (d) 5 days after service on you, a copy of each Inspection Report or Order served on you or any of your Subcontractors by the Workers' Compensation Board under the *Workers Compensation Act*.
11. You may not retain any person to provide any Recreation Services under this Agreement except for the following:
- (a) as of the date of reference of this Agreement, no subcontractors are approved by us.
12. You must ensure that your Subcontractors deliver to you all
- (a) reports of an accident investigation or workplace injury submitted by them to the Workers' Compensation Board under the *Workers Compensation Act*; and
 - (b) Inspection Reports or Orders served on them by the Workers' Compensation Board under the *Workers Compensation Act*.

PART E - SPECIAL PROVISOS

13. You must pay the annual fee levied by the Wasa Improvement District for mosquito control.

SCHEDULE "D"

FINANCIAL MATTERS

1. Not later than 5 days after the end of each month of the Operating Year, you will
 - (a) deliver to us a financial statement for the preceding month which sets out the Gross Revenue collected by you during that month; and
 - (b) you will pay to us
 - (i) 85% of the Pass Fees collected by you in the preceding month, and
 - (ii) all of the Park Act Fees (Increase) collected by you in the preceding month, together with GST payable on those fees.
2. Not later than 30 days after the end of each Operating Year, you will deliver to us
 - (a) an annual balance sheet and income statement for the preceding Operating Year;
 - (b) a statement of changes in your financial position in the preceding Operating Year; and
 - (c) a financial statement for the preceding Operating Year which is reconciled with the monthly statements provided by you to us and sets out the Gross Revenue collected by you during that Operating Year.

SCHEDULE "E"**ANNUAL OPERATING PLAN REQUIREMENTS**

The Annual Operating Plan must include the following information with respect to each Operating Area:

1. ASSESSMENT OF CONDITION OF FACILITIES

The Annual Operating Plan must

- (a) set out a schedule of all inspections, diagnostic maintenance and condition assessments of the Facilities to be completed by you during the Operating Year in accordance with section 5.4; and
- (b) include a report of the results of all inspections, diagnostic maintenance and condition assessments of the Facilities completed by you during the preceding Operating Year.

2. FACILITY MANAGEMENT SYSTEM

After you are provided with a data entry portal to access our facility management system, the Annual Operating Plan must indicate whether you entered in the facility management system all information that is necessary to maintain accurate information in the facility management system with respect to the Facilities during the preceding Operating Year and, if not, the information that remains to be entered in the facility management system.

3. OPERATIONAL MAINTENANCE

The Annual Operating Plan must describe the Operational Maintenance completed by you during the preceding Operating Year.

4. PREVENTATIVE MAINTENANCE

The Annual Operating Plan must include

- (a) in order of priority, a detailed description of, timing for, importance of and, if applicable, preliminary drawings for
 - (i) the repairs, replacements, restorations and overhauls you propose to make to the Facilities, and
 - (ii) the Facilities you propose to make, construct, install, erect, build, alter or add to, in, on or under each Operating Area, and

- (b) an estimate of your costs to complete each item of preventative maintenance referred to in subsection (a)
 - (i) to the standards set out in the Park Design Standards and the Park Facility Standards, or
 - (ii) if no standards are set out in the Park Design Standards and the Park Facility Standards, to the standards required by us.

5. **DOCUMENTS AND DRAWINGS**

The Annual Operating Plan must list all of the documents and drawings delivered to us by you under subsection 4(b) of Schedule "C" and the date on which that document or drawing was delivered to us by you.

6. **ADDITIONAL INFORMATION**

The Annual Operating Plan must list all of your key personnel and include a description of their roles, responsibilities and qualifications. In addition, the Annual Operating Plan must update, as necessary, your advertising program and the emergency evacuation plan delivered to us under subsection 10(a) of Schedule "C".



Ministry of
Environment

PERMIT MODIFICATION AGREEMENT

Permit No.: **KO0310238**

Permittee File No.: **85700 – KO0310238**

Permit Modification Agreement No.: **0007**

THIS AMENDMENT AGREEMENT IS DATED FOR REFERENCE April 1, 2012,
and is made under the *Park Act*.

BETWEEN:

AND:

HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF BRITISH
COLUMBIA, represented by the Minister
responsible for the *Park Act* (the
"Province") at the following address:

KOOTENAY PARK SERVICES LTD.

(the "Permittee") at the following address

**6188 Wasa Lake Park Drive
Wasa Lake BC V0B 2K0**

MINISTRY OF ENVIRONMENT

**Kootenay Okanagan Region
205 Industrial Road G
Cranbrook BC V1C 7G5**

WHEREAS:

- A. The Province issued Park Use Permit No. **KO0310238** to the Permittee dated for reference **April 24, 2003** and the Province and the Permittee (the "Parties") agreed to amend the permit by way of agreements dated for reference **October 24, 2003, January 17, 2006 (#1), September 3, 2008, (#3), December 31, 2008 (#4), May 1, 2010 (#5), March 1, 2011 (#6)**, and letters dated **July 5, 2008 (#2) and August 19, 2008 (#2)** (the "**Agreement**").
- B. The Parties have agreed to modify the Agreement in the manner as set out below (this "Amendment Agreement").

THIS AMENDMENT AGREEMENT WITNESSES THAT the Parties agree as follows:

1. The Agreement is modified by:

- (a) Removing the addition of core facilities at Top of the World Park.
- (b) Deleting sections 2 and 6 of **Schedule "D" – Financial Matters**, and replacing them with the following:

2. After the last day of the time periods set out below, you will pay to us the amount set out opposite the applicable time period by way of cheque made out to the Minister of Finance:

Return to Crown Payment Table		
TIME PERIOD (2012/13)		AMOUNT
First Day of Time Period	Last Day of Time Period	
April 1 – 2012	March 31 – 2013	
TOTAL:		s.21

Return to Crown Payment Table		
TIME PERIOD (2013)		AMOUNT
First Day of Time Period	Last Day of Time Period	
April 1 – 2013	October 31 – 2013	2013 payment - COLA
TOTAL:		2013 payment - COLA

Which payments do not include HST payable on Park Act Fees.

6. For the 2012/13 and 2013/14 Operating Years, Cost of Living Adjustments (COLA) will be applied to the payment tables as calculated during the month of November for each operating season, as follows:

a. for 2012/13,

(i)

s.21

(ii)

s.21

(iii)

b. for greater certainty, for 2013/14 the adjustments described in a. above will apply except that:

(i) the total labour cost, fuel costs, and all other costs under (a)(i) to (iii) respectively will be applied to the amount calculated for 2012/13, as adjusted in the immediate proceeding Operating Year payment table in section 2; and,


(ii)

s.21

2. The Parties agree that the effective date of this Amendment Agreement is the date of reference first set out above.
3. Except as modified by this Amendment Agreement, the Agreement is ratified and confirmed.
4. This Amendment Agreement and the Agreement shall be read and construed together.
5. Time continues to be of the essence of the Agreement and is of the essence of this Amendment Agreement.

IN WITNESS WHEREOF the parties have executed this Amendment Agreement

SIGNED and DELIVERED on behalf of the
Province by a duly authorized
representative of the Province.

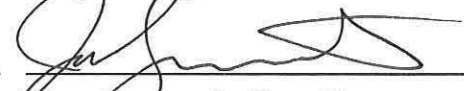


Duly Authorized Representative

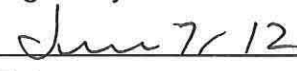


Date

SIGNED and DELIVERED on behalf of
the **Permittee** (or by an authorized
signatory of the Permittee if a
Corporation).



Signature of Permittee or Authorized
Signatory



Date