

THE PROVINCE OF BRITISH COLUMBIA—WATER ACT
CONDITIONAL WATER LICENCE

Arthur M. Danielson of s.22 Clinton, B. C. VOK 1K0

is hereby authorized to divert and store water as follows:

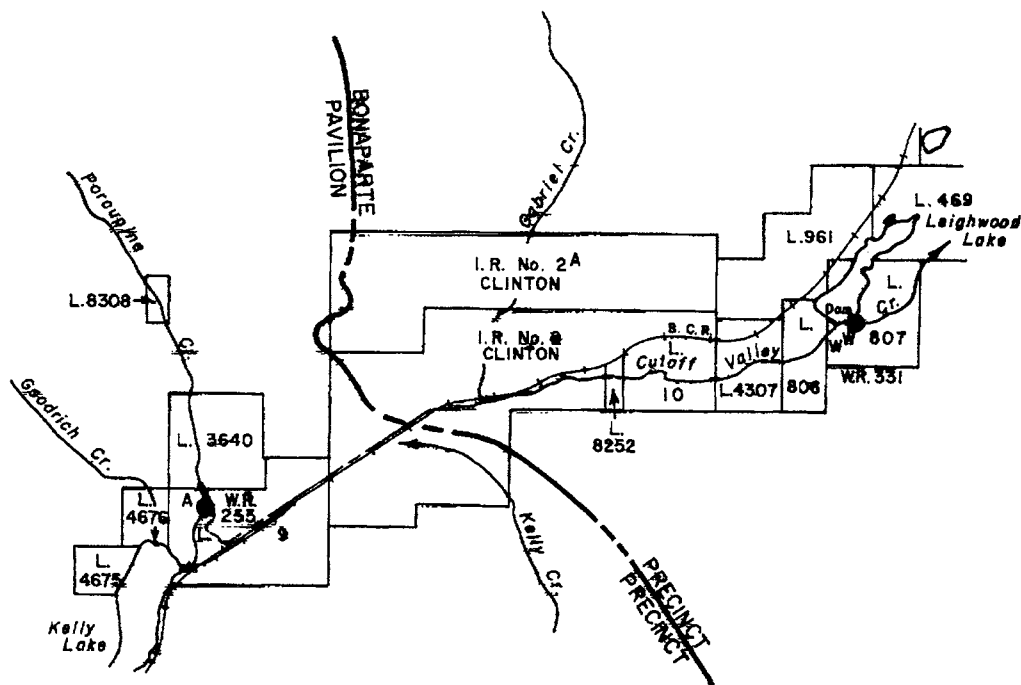
- (a) The source of the water supply is Porcupine Creek and the reservoir is Leighwood Lake.
- (b) The points of diversion and storage are located as shown on the attached plan.
- (c) The date from which this licence shall have precedence is 24th February, 1982.
- (d) The purpose for which the water is to be used is as set out in Final Water Licence 4322.
- (e) The maximum quantity of water which may be stored is 184 acre feet per annum, and such additional quantity as the Engineer may from time to time determine should be allowed for losses.
- (f) The period of the year during which the water may be stored is 1st October to 15th June.
- (g) The land upon which the water is to be used and to which this licence is appurtenant is as set out in Final Water Licence 4322.
- (h) The works authorized to be constructed are diversion structure, ditch and dam, which shall be located approximately as shown on the attached plan.
- (i) The construction of the said works shall be commenced on or before the 31st day of October, 1985, and shall be completed and the water beneficially used on or before the 31st day of December, 1988.
- (j) Construction of the dam authorized under clause (h) hereof shall not be commenced until plans of same have been submitted to and approved by the Regional Water Manager.
- (k) Works shall be installed to meter and record the rate of flow and quantity of water stored under this licence and the instream flow in Cutoff Valley Creek immediately above and below the dam.


W. E. Farrell,

Deputy Comptroller of Water Rights.

File No. 3000247 Date issued: APR 26 1985 Conditional Licence 62144

Province of British Columbia



WATER DISTRICT : ASHCROFT

LAND DISTRICT : LILLOOET

LEGEND

Scale : 1 : 50,000
 Point of Diversion & Dam : ●
 Map Number : WR 255 & WR 331
 Ditch : ————

Signature

Date

[Handwritten Signature]

APR 26 1985

C.L. 62144
 File 3000247

For Diversion see F.L. 4322




THE PROVINCE OF BRITISH COLUMBIA - WATER ACT

CONDITIONAL WATER LICENCE

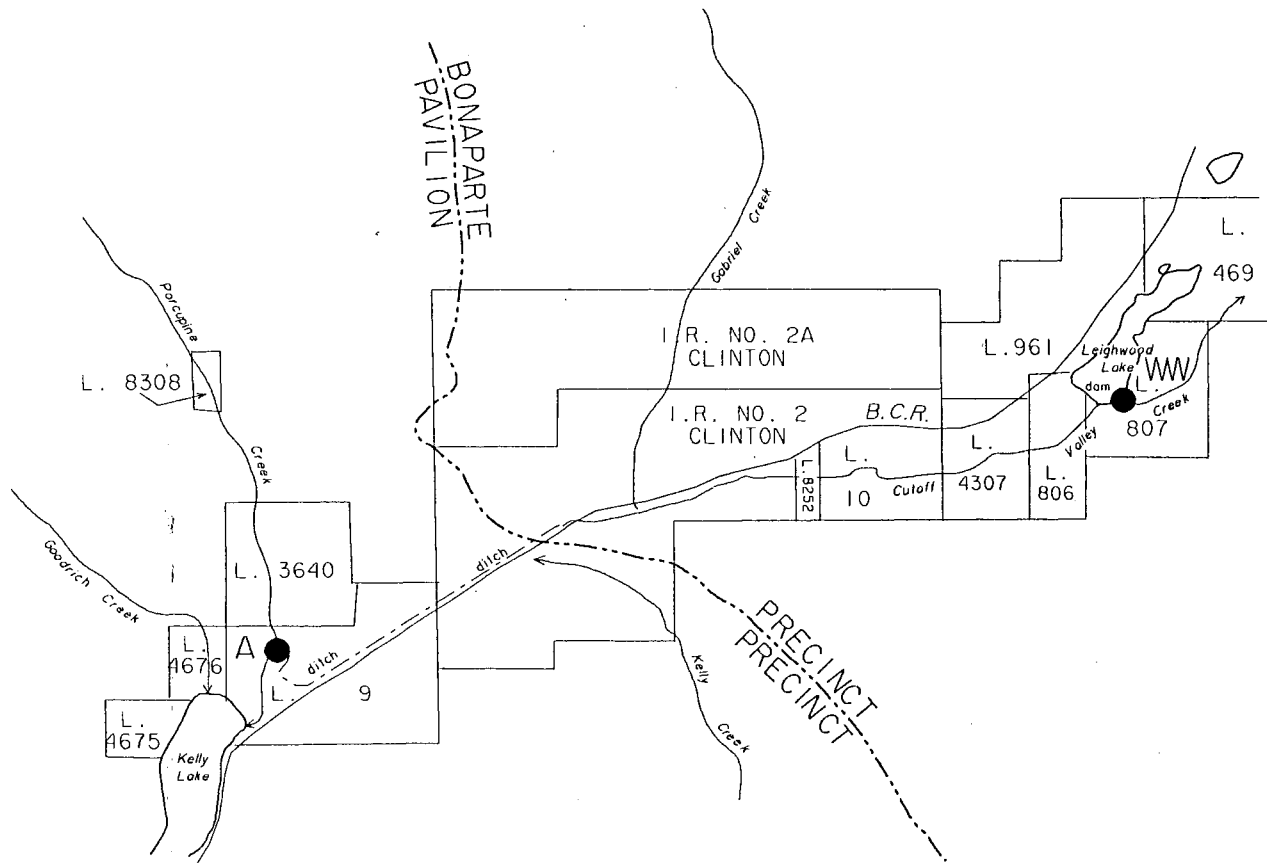
The owners of the land to which this licence is appurtenant are hereby authorized to divert and store water as follows:

- (a) The stream on which the rights are granted is Porcupine Creek with the reservoir being Leighwood Lake.
- (b) The storage site and point of diversion are located as shown on the attached plan.
- (c) The date from which this licence shall have precedence is 24th February, 1982.
- (d) The purpose for which this licence is issued is storage.
- (e) The maximum quantity of water which may be stored is 151.8 acre-feet per annum.
- (f) The period of the year during which the water may stored is 1st October to 15th June.
- (g) The land upon which the water is to be used and to which this licence is appurtenant is set out in Conditional Water Licence 111137.
- (h) The authorized works are diversion structure, ditch and dam, which shall be located approximately as shown on the attached plan.
- (i) The construction of the said works shall be completed and the water beneficially used prior to the 31st of December, 1997. Thereafter, the licensee shall continue to make regular beneficial use of the water in the manner authorized herein.
- (j) Works shall be installed to meter and record the rate of flow and quantity of water stored under this licence and the instream flow in Cutoff Valley Creek immediately above and below the dam.
- (k) This licence is issued in substitution of Conditional Water Licence 62144, in part, under Sections 15 and 17 of the Water Act.


R.B. Smith, P.Eng.
Assistant Regional Water Manager
Southern Interior Region



Province of British Columbia



WATER DISTRICT : ASHCROFT
PRECINCT : BONAPARTE
LAND DISTRICT : LILLOOET

LEGEND

Scale : 1:50,000
Point of Diversion : ●
Map Number : WR 255 & 331
Pipe : -----

Signature: 

Date: July 30, 1996

C.L. 111134 for C.L. 62144 in part
File 3000247

For Diversion See C.L.111137

The boundaries of the land to which this licence
is appurtenant are shown thus: _____




THE PROVINCE OF BRITISH COLUMBIA - WATER ACT

CONDITIONAL WATER LICENCE

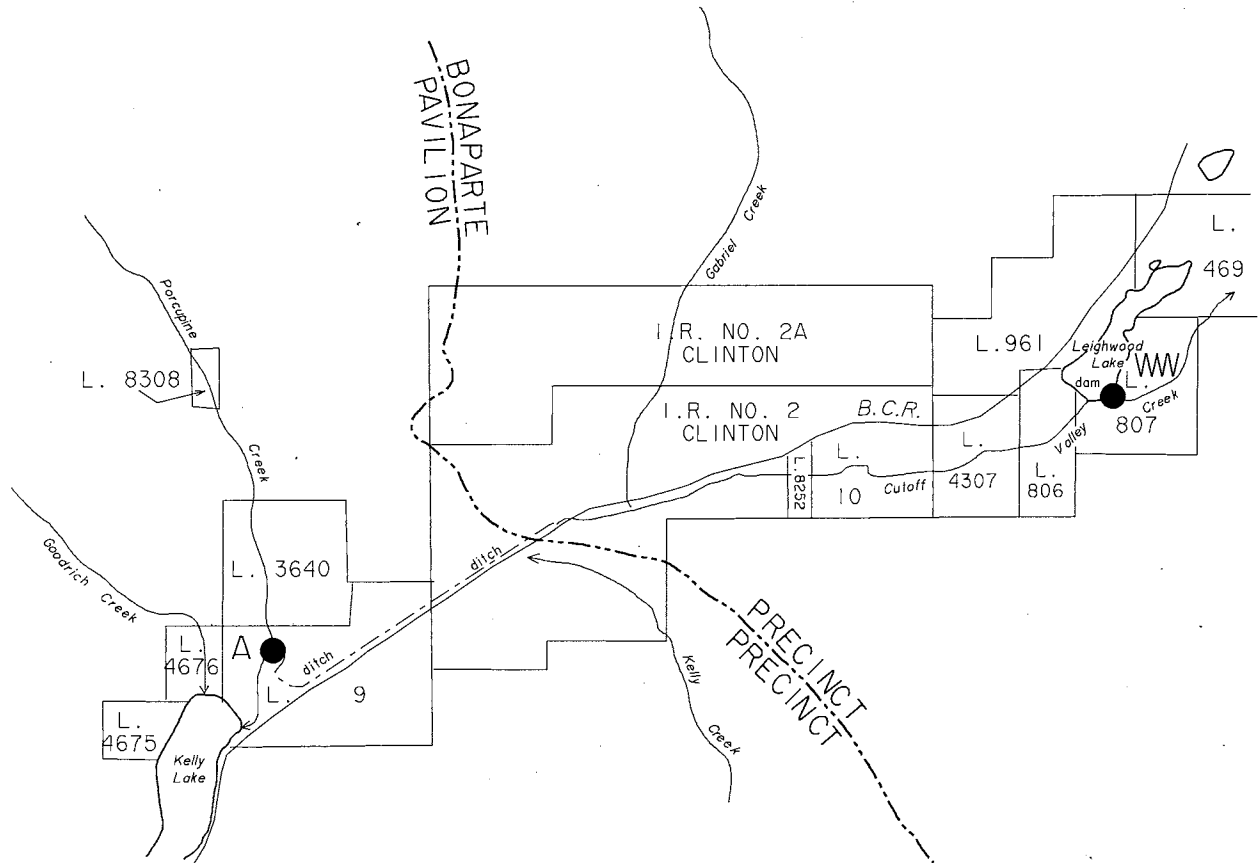
The owners of the land to which this licence is appurtenant are hereby authorized to divert and store water as follows:

- (a) The stream on which the rights are granted is Porcupine Creek with the reservoir being Leighwood Lake.
- (b) The storage site and point of diversion are located as shown on the attached plan.
- (c) The date from which this licence shall have precedence is 24th February, 1982.
- (d) The purpose for which this licence is issued is storage.
- (e) The maximum quantity of water which may be stored is 32.2 acre-feet per annum.
- (f) The period of the year during which the water may stored is 1st October to 15th June.
- (g) The land upon which the water is to be used and to which this licence is appurtenant is set out in Conditional Water Licence 111138.
- (h) The authorized works are diversion structure, ditch and dam, which shall be located approximately as shown on the attached plan.
- (i) The construction of the said works shall be completed and the water beneficially used prior to the 31st of December, 1997. Thereafter, the licensee shall continue to make regular beneficial use of the water in the manner authorized herein.
- (j) Works shall be installed to meter and record the rate of flow and quantity of water stored under this licence and the instream flow in Cutoff Valley Creek immediately above and below the dam.
- (k) This licence is issued in substitution of Conditional Water Licence 62144, in part, under Sections 15 and 17 of the Water Act.


R.B. Smith, P.Eng.
Assistant Regional Water Manager
Southern Interior Region



Province of British Columbia



WATER DISTRICT : ASHCROFT
PRECINCT : BONAPARTE
LAND DISTRICT : LILLOOET

LEGEND

Scale : 1:50,000
Point of Diversion : ●
Map Number : WR 255 & 331
Pipe : ————

Signature: 

Date: July 30, 1996

C.L. 111135 for C.L. 62144 in part
File 3003165

For Diversion See C.L.111138

The boundaries of the land to which this licence
is appurtenant are shown thus: ————



DAM INSPECTION REPORT

Unnamed RESERVOIR DATE May 5, 1981
FWL/CWL Unlicensed FILE NO. _____
LICENCEE S22 _____

WATERSHED AND RESERVOIR CONDITIONS

1. Saturated	_____	6. Outlet Discharge	$\frac{0}{\frac{1}{4}}$ m3/s
2. Wet	<u>✓</u>	7. Spillway Discharge	$\frac{1}{4}$ m3/s
3. Dry	_____	8. Reservoir Debris	<u>H</u> M L
4. Freeboard	<u>0.3</u> meters	9. Reservoir Bank Stability	<u>H</u> M L
5. Water Level	<u>full</u>		

NOTE: Items marked X require attention - See Remarks

EMBANKMENTS

10. Growth	<u>x</u>
11. Upstream Slope	<u>x</u>
12. Crest	<u>x</u>
13. Downstream Slope	<u>x</u>
14. Downstream Toe	<u>x</u>
15. Rip Rap	<u>x</u>
16. Seepage	<u>x</u>
17. Erosion	<u>-</u>
18. Sloughing	<u>-</u>
19. Boils	<u>-</u>

OUTLET WORKS

30. Gate	<u>x</u>
31. Sluice	<u>-</u>
32. Submerged	<u>N/A</u>
33. Walls	<u>-</u>
34. Stilling Basin	<u>-</u>
35. Toe Drain	<u>-</u>
36. Channel	<u>-</u>
37. Weir	<u>none</u>
38. Erosion	<u>-</u>
39. Seepage	<u>-</u>

GATE WORKS

20. Accessibility	<u>x</u>
21. Wheel	<u>x</u>
22. Threads	<u>-</u>
23. Pedestral	<u>-</u>
24. Stem Guides	<u>-</u>
25. Stem	<u>-</u>
26. Gate	<u>-</u>
27. Grill	<u>x</u>
28. Boom	<u>N/A</u>
29. Gauge	<u>x</u>

SPILLWAY

40. Boom	<u>x</u>
41. Entrance	<u>x</u>
42. Walls	<u>x</u>
43. Spill	<u>-</u>
44. Apron	<u>-</u>
45. Channel	<u>?</u>
46. Growth	<u>x</u>
47. Erosion	<u>-</u>
48. Seepage	<u>-</u>
49. Debris	<u>x</u>

REMARKS: (Refer Above)

- 10. Heavy Alder & Evergreen.
- 11. 2:1
- 12. 12' wide
- 13. 1½:1
- 14. Considerable seepage.
- 15. Owner indicated some rock placed on upstream face.
- 16. See sketch.
- 20. Poor (downstream) - access through heavy growth.
- 21. 2 lines with gates 8" and 4" lines.
- 27. Rustes/mossy.
- 29. None.
- 30. See #21.
- 40. No boom.

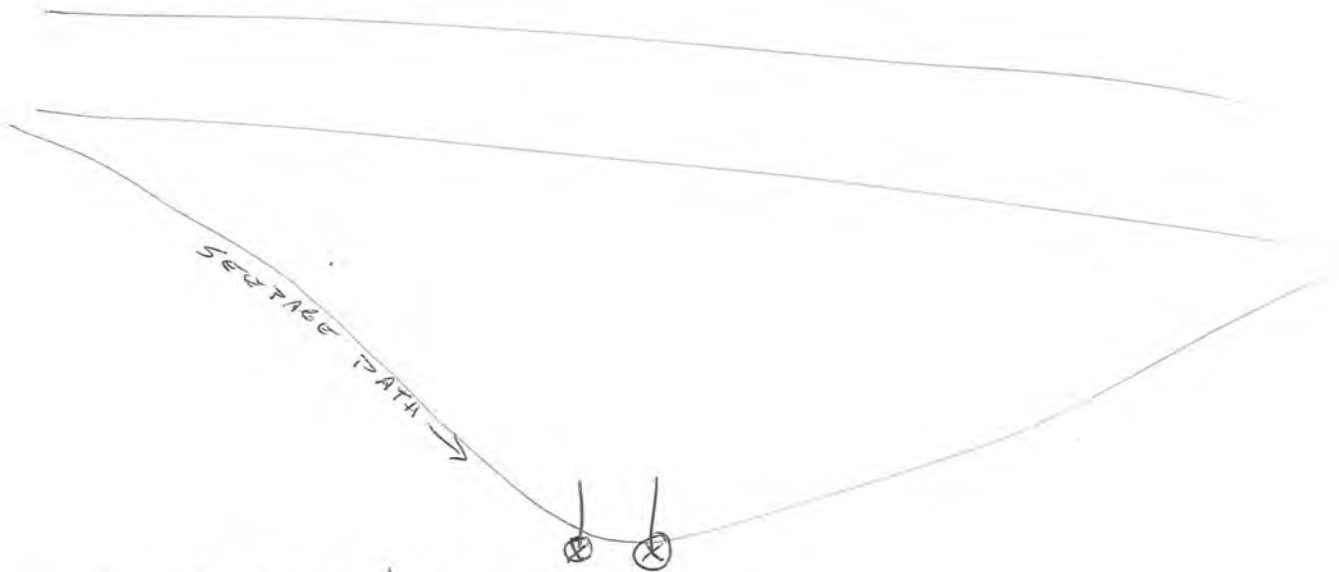
INSPECTED WITH _____ SIGNED _____
Dam Inspector
George D. Smith.

NOTE TO LICENSEE: Section 18(1) of the Water Act states:

"Every licensee and person who has obtained approval under Section 7 shall exercise reasonable care to avoid damaging any land, works, trees, or other property, and shall make full compensation to the owners for any damage or loss resulting from the construction, maintenance, use of operation of the licensee's works."

S22

STORAGE

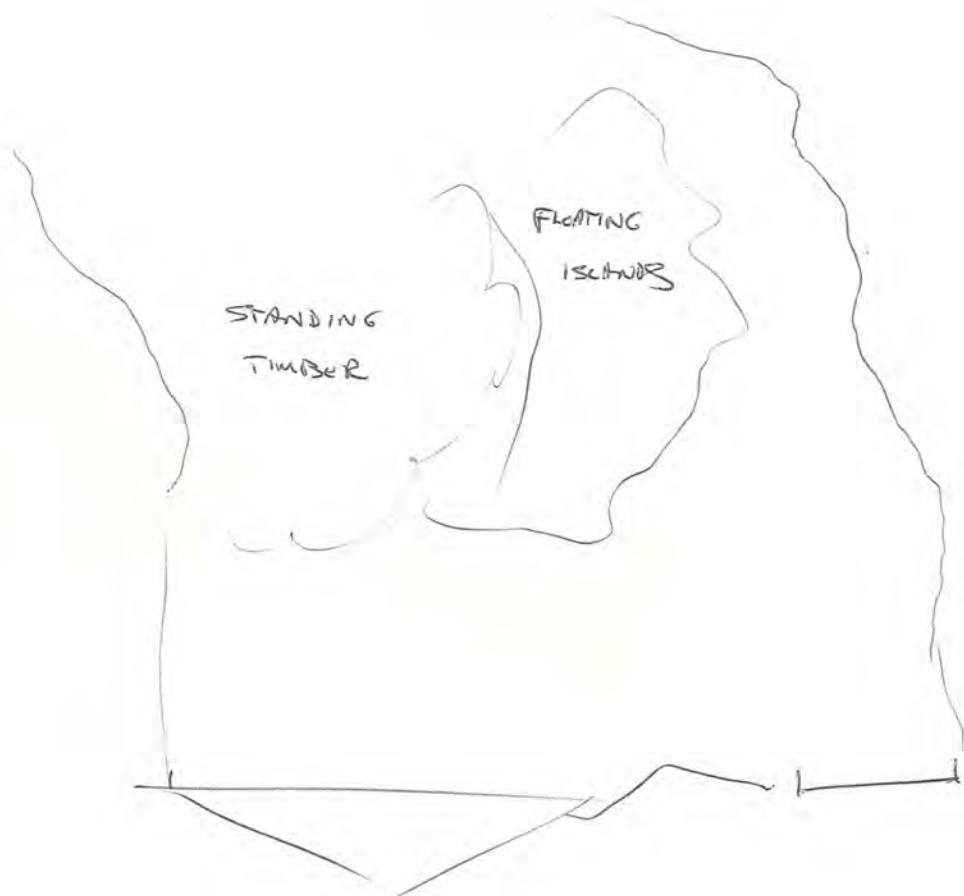


#41. HEAVY DEBRIS & GROWTH

42. POORLY DEFINED CHANNEL - OWNER AGREED TO IMPROVE

46. HEAVY

49. SEE #41



June 3, 1981

DAM INSPECTION REPORT

Leighwood Lake Dam Failure

Inspection Date: May 27, 1981

Inspected By: G.D. Smith & S. Duggan

Leighwood Lake Dam is a small unlicensed earthfill dam located approximately seven miles southwest of the City of Clinton and appears to supply water for grazing cattle.

Mr. Stan Duggan, Regional Dam Inspector for the Kamloops Region, asked if I would join him on an inspection of the recent failure while in the vicinity. The lake surface area was estimated to be about 50 acres and water marks indicated the storage had dropped approximately 4 feet giving a water loss in the area of 200 acre feet.

Plastic and netting that was evident in the upstream area of the washout indicated that attempts to stabilize the structure and retain seepages had been made.

An interesting condition noted was the dam had been constructed over an old beaver dam. As the downstream damage appeared minimal, it suggested the beaver dam had actually withheld a portion of the impoundment after initial failure and not allowed an instantaneous release. The end result was less downstream damage.

The dam had been in poor condition, and appeared to be constructed by end-dumping gravel over the original beaver dam.

Another beaver dam, as shown in the photographs, is still in place blocking flows to the low level outlet gate. This appears to have been in place for some time. The gate works were also buried with sticks, debris and mud.

Standing water still existed below the downstream end of the low level outlet. The area was still quite saturated. The reservoir showed no signs of clearing and was completely choked with small standing dead growth.

A small gravel channel on the left abutment seemed to be the only spillway provision. This had been natural lake and was now reduced to its original capacity.



G. D. Smith,
Dam Inspection Technician.



View of dam failure from downstream showing exposed netting
and plastic.

LEIGHWOOD LAKE DAM

May 27, 1981

May 27, 1981

LEIGHWOOD LAKE DAM



Dam from left abutment across failure at far end.

May 27, 1981

LEIGHWOOD LAKE DAM



Dam crest showing failure from left.



Remains of beaver dam blocking channel
to gate works of low level outlet.



Dam failure viewed from upstream.

Note: Remains of old beaver dam.

LEIGHWOOD LAKE DAM

April 27, 1981

LEIGHWOOD LAKE DAM



Standing seepage lying below the low level outlet exit.



Debris blocking upstream entrance of low level outlet
- the valve is still functioning.



View of reservoir from dam crest -

Note heavy growth.

LEIGHWOOD LAKE DAM

May 27, 1981

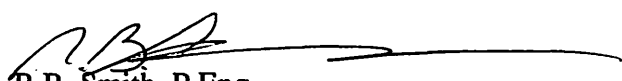


THE PROVINCE OF BRITISH COLUMBIA - WATER ACT

CONDITIONAL WATER LICENCE

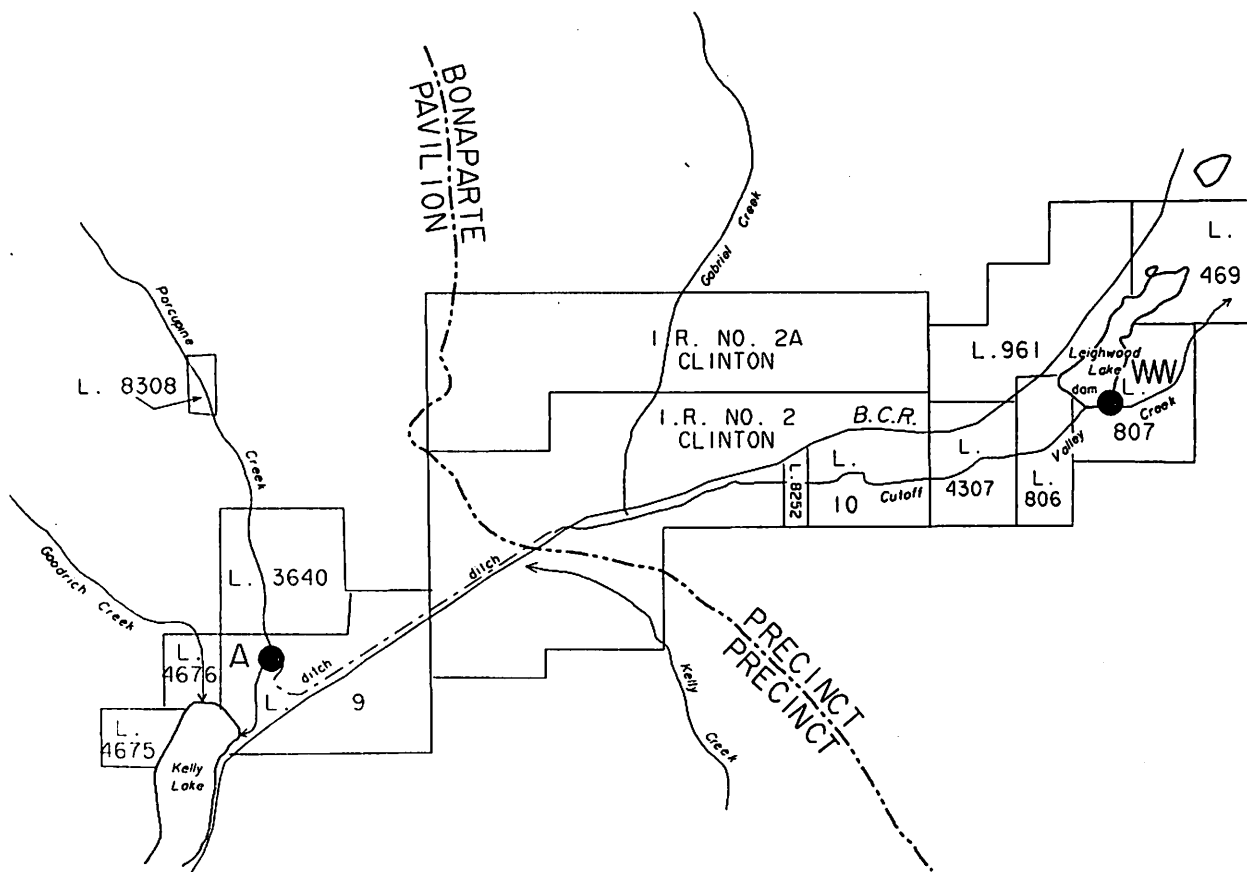
The owners of the land to which this licence is appurtenant are hereby authorized to divert and store water as follows:

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- (b) The storage site and point of diversion are located as shown on the attached plan.
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- (d) The purpose for which this licence is issued is storage.
- (e) The maximum quantity of water which may be stored is 151.8 acre-feet per annum.
- (f) The period of the year during which the water may stored is 1st October to 15th June.
- (g) The land upon which the water is to be used and to which this licence is appurtenant is set out in Conditional Water Licence 111137.
- (h) The authorized works are diversion structure, ditch and dam, which shall be located approximately as shown on the attached plan.
- (i) The construction of the said works shall be completed and the water beneficially used prior to the 31st of December, 1997. Thereafter, the licensee shall continue to make regular beneficial use of the water in the manner authorized herein.
- (j) Works shall be installed to meter and record the rate of flow and quantity of water stored under this licence and the instream flow in Cutoff Valley Creek immediately above and below the dam.
- (k) This licence is issued in substitution of Conditional Water Licence 62144, in part, under Sections 15 and 17 of the Water Act.


R.B. Smith, P.Eng.
Assistant Regional Water Manager
Southern Interior Region



Province of British Columbia



WATER DISTRICT : ASHCROFT
PRECINCT : BONAPARTE
LAND DISTRICT : LILLOOET

LEGEND

Scale : 1:50,000
Point of Diversion : ●
Map Number : WR 255 & 331
Pipe : -----

Signature: 

Date: July 30, 1996

C.L. 111134 for C.L. 62144 in part
File 3000247

For Diversion See C.L.111137

The boundaries of the land to which this licence
is appurtenant are shown thus:

Bennett, Darren J FLNR:EX

From: Cameron, Valerie Z ENV:EX
Sent: Monday, November 8, 2010 5:30 PM
To: 'Connie Gainor'
Cc: McFarlane, Bruce ENV:EX; Bennett, Darren J ENV:EX
Subject: RE: Gainor water licence abandonment

Thanks Connie

From: Connie Gainor s.22
Sent: Monday, November 8, 2010 5:29 PM
To: Cameron, Valerie Z ENV:EX
Subject: Re: Gainor water licence abandonment

s.22

Connie

Connie & Bruce Gainor

s.22

----- Original Message -----

From: Cameron, Valerie Z ENV:EX
To: Bennett, Darren J ENV:EX
Cc: McFarlane, Bruce ENV:EX ; Connie Gainor
Sent: Monday, November 08, 2010 4:03 PM
Subject: Gainor water licence abandonment

Hi Darren,

I just got off the phone with Connie Gainor.

s.22

s.22

Thanks,

Valerie

Notice of Abandonment of a Water Licence (Revised July 2009)

To: Regional Water Manager or Comptroller of Water Rights File: _____
Water Stewardship Division, Ministry of Environment

Re: Conditional/Final Water
Licence:

Source Name: C111134 Storage
Porcupine Creek Reservoir being Leighton Lake.

The above licence is appurtenant (in whole or in part) to L 807 Lillooet Dist.

X

(legal description of land owned or description of undertaking of project)

I hereby notify you of my abandonment of:

All of the above licence ☒

Part of the above licence ☐

of the rights held under the above licence insofar as it pertains to the above mentioned property
and instruct you to alter your records accordingly.

If abandoning **Part** of the above licence rights please indicate which part

My reason for abandonment of these rights is: I am not using it / rights.

PLEASE CHECK AND COMPLETE THE APPROPRIATE STATEMENT
CONCERNING ANY WORKS CONSTRUCTED:

The works:

- ☒ were never constructed as per license C111134
☐ were constructed and have been removed
☐ are constructed and will be removed by _____ (date:m/d/y)
☐ are constructed and remain in place for my use under other licences, or for use of other
licensee
☐ are constructed and I wish to leave _____
(description of remaining works)

NOTE: By abandoning the licence this does **not** released the licensee from liability for
damage resulting from the works or from a defect insufficiency or failure of the works.

RECEIVED

NOV 04 2010

Ministry of Environment
Thompson Region

PLEASE COMPLETE THE PERSONAL INFORMATION:

All registered owner(s) please refer to the **IMPORTANT** note below.

Name:

(owner 1)

Arthur M. Danielson

s.22

Address

s.22

(signature)

(date)

Clinton, B.C.

Phone #

Email:

Name:

(owner 2)

Loretta Danielson (Mar. 2004) *Loretta Danielson*

Address

s.22

(signature)

(date) *Nov. 3, 2010*

Clinton, B.C. V0K1K0

Phone #

s.22

Email:

Name:

(owner 3)

Address

(signature)

(date)

Phone #

Email:

IMPORTANT NOTE: All names, address, phone numbers and signatures must be provided for all parties shown as landowners on the *Certificate of Title* for the land to which the water licence is appurtenant.

PLEASE NOTE: The abandonment application is not effective until this form is completed and returned to your nearest regional [Water Stewardship Division](#) office.

CHANGE OF WATER LICENCE HOLDER PROCESS

Office: Kamloops Penticton

File # 3000247

APPLICATIONS	DATE	INITIAL	COMMENTS
Application Received	Oct 20/10	LB	Lic # <u>C111134</u> Client # <u>26927</u> PCL: <u>0</u> PID: <u>012 066 419</u> <u>012 066 583</u> Stream: <u>Cutoff Valley Creek, Porcupine Creek</u>
BC Online Search	JAN 13 2011	LB	Land Title and then BC Assessment search to confirm current address. Postal Code check if for address change only.
ATS Entry	JAN 18 2011	LB	ATS Project # <u>48073</u>
MOE Website	JAN 18 2011	LB	Print off licence, map and PCL
Adjudication Accepted: Yes No (amendment required)	JAN 13 2011	LB	Is Title legal description exact same as water licence & Water Management description? Yes – proceed and accept No – if simple amendment or apportionment required print all plans and give all to Ernie. Don't go any further and circle No on the left
Search if existing client in Water Management (create new if applicable)	JAN 19 2011	LB	New/Existing Client # <u>115116</u>
Water Management Entry	JAN 19 2011	LB	• Transfer licence • Update address Only Yes Job #: TRF2011 <u>0119-0003</u>
Acknowledgement Letter pc: _____ e-mail date: _____	JAN 19 2011	LB	Create Letter Client: Letter, Copy of licence, Rights and Obligations of Water Licence Holders (cc Lawyer by e-mail if possible) MOE: Route slip, Letter, original request from client, BC Online searches
Scan package & ATS entry	JAN 19 2011	LB	• Scan & upload Letter into authorization • Revenue: E-mail letter only (WORD format ok) to water.revenue@gov.bc.ca • Finalize Tab – enter FCBC complete date (current date) and adjudicated date (date of letter) and CLOSE PROJECT
Additional Notes:			



File: 0265353 & 3000247

January 19, 2011

Loretta Danielson

s.22

Clinton BC V0K 1K0

**Re: Water Licence C111137 on Cutoff Valley Creek
C111134 on Cutoff Valley Creek & Porcupine Creek**

Information has been received by FrontCounter BC, on behalf of the Ministry of Environment Water Stewardship Division, indicating that the above referenced water licence is appurtenant, or belongs, to your property.

Under British Columbia's Water Act, upon the sale or conveyance of land, the rights as well as the obligations of a water licence pass automatically to the new owner. As such, I have updated the Water Stewardship Division's records placing the water licence into your name(s).

Attached is a copy of your water licence and plan for your records. Please note that the name on the licence does not get updated, only the computer records.

Enclosed is a brochure which outlines the rights and obligations associated with a water licence. One of the obligations of a water licence is the payment of annual rentals and fees to the Crown for the authorization to exercise the rights granted under the licence. Statements are issued based on Water Revenue billing cycles. Water Revenue will be contacting you directly with regards to any outstanding water payments.

If you have not owned the property all the years during which the monies owing have accumulated, then recovery of your rental payment is a matter to be resolved between yourself and the former owner.

If you wish to abandon this licence, please contact the undersigned at FrontCounter BC in order to submit a Notice of Abandonment of a Water Licence.

...../2

Please be advised that although the licence is in your name, any subdivision and sale of any part of the appurtenant land may give any new owner the right to part of the licence.

Your water licence will remain in good standing if you:

- a) continue to make beneficial use of the water authorized by the licence.
- b) pay the rentals and any other charges or fees.
- c) comply with the terms of the licence.
- d) comply with the Water Act.

You will protect your interests in the water licence by informing us when:

- you change your mailing address.
- you sell or transfer the property to a new owner.
- you propose to subdivide the land to which the licence is appurtenant.
- you propose to alter the works authorized under the licence.

Licence C111137 is presently under amendment Job # AMD20110119-0003 to reflect the new legal description District Lot 268, Lillooet District, except: (1) those portions coloured red and green on Plan A170 (2) Plan 4899 AND District Lot 267, Lillooet District except: (1) those portions coloured red on Plan A170 (2) Plan 39665.

For more information please contact the Water Stewardship regional office quoting the file number noted above:

Thompson: 1259 Dalhousie Dr, Kamloops BC V2C 5Z5 Tel: (250) 371-6200

If you have any questions regarding this matter please contact me.

Sincerely,



Lana Belcourt
Office Administrator
FrontCounter BC
Email: lane.belcourt@gov.bc.ca

Enclosure

pc: Water Revenue Unit (via e-mail water.revenue@gov.bc.ca)

MEMORANDUM

Date: October 20, 2010

File #:

To: Note to File

From: Ernie Scherly

Re: Water Licences C111134 and C111137

A check of the titles to these two licences determined that the land ownership has changed. Licences need to have name changes done.

Pages 10 through 11 redacted for the following reasons:

s.22

Client

Name: Arthur M Danielson

Client No: 26927

[Individual](#) [Licences](#) [Outstanding Fees](#) [Accounts](#) [Invoices](#) [Payments](#) [Jobs](#) [Power Plants](#) [Water Systems](#) [Statements](#)
[Ad-hoc C](#) [Ad-hoc Statement](#)

These are the Licence(s) for this Client. Click the "Licence Number" link to view the existing Licence(s).

Licence(s) for which this client is the Billing Client.

Licence Number	File Number	Licence Status	Issue Date	Priority Date
C033287	0273613	Superseded	mmm dd, yyyy	Jun 21, 1967
C036069	0242379	Superseded	mmm dd, yyyy	May 22, 1874
C062144	3000247	Superseded	mmm dd, yyyy	Feb 24, 1982
C111134	3000247	Current	Jul 30, 1996	Feb 24, 1982
C111137	0265353	Current	Jul 30, 1996	Sep 1, 1911
F004322	0265353	Superseded	mmm dd, yyyy	Sep 1, 1911
F004512	0241289	Superseded	mmm dd, yyyy	Apr 21, 1874
F008058	0265125	Superseded	mmm dd, yyyy	Mar 12, 1912

Licence(s) for which this client is a Licence Holder.

Licence Number	File Number	Licence Status	Issue Date	Priority Date
C033287	0273613	Superseded	mmm dd, yyyy	Jun 21, 1967
C036069	0242379	Superseded	mmm dd, yyyy	May 22, 1874
C062144	3000247	Superseded	mmm dd, yyyy	Feb 24, 1982
C111134	3000247	Current	Jul 30, 1996	Feb 24, 1982
C111137	0265353	Current	Jul 30, 1996	Sep 1, 1911
F004322	0265353	Superseded	mmm dd, yyyy	Sep 1, 1911
F004512	0241289	Superseded	mmm dd, yyyy	Apr 21, 1874
F008058	0265125	Superseded	mmm dd, yyyy	Mar 12, 1912

[Cancel](#)[Top](#)

Connie Gainor

From: "Connie Gainor"
To: "Connie Gainor" s.22
Sent: November 3, 2010 1:31 PM
To:
Darren Bennet

Please find the following pages faxed to you.

Notice of Abandonment of water licence C111135
From Bruce and Connie Gainor

Notice of Abandonment of water licence C111134
From Loretta Danielson

Notice of exclusion in Diversion of Porcupine Creek.

A hardcopy will be sent to you by mail.

Connie Gainor
Connie & Bruce Gainor

[Signature]

Connie Gainor

From: "Connie Gainor"
To: "Connie Gainor"
Sent: November 3, 2010 1:13 PM
November 3, 2010

Bruce MFarlane, P.Eng
Water Allocation Section Head

Darren Bennet
Water Stewardship Officer

Re: file number 76800 / Porcupine Creek

As of this date we, Bruce and Connie Gainor and Loretta Danielson have filed a notice of Abandonment of Water storage licence C111134 and C111135.

Therefore we will no longer have water licences pertaining to the Diversion of Porcupine Creek.

Please advise all those with water licences connecting them to the diversion of Porcupine Creek.

All further correspondence on this matter are to be managed with confidentiality.

Connie & Bruce Gainor
Loretta Danielson

Connie L. Gainor NOV 3/10
Loretta Danielson Nov. 3, 2010



WATER ACT

Notice of Abandonment of a Water Licence

To: Regional Water Manager or Comptroller of Water Rights File: _____
 Water Stewardship Division, Ministry of Environment

Re: Conditional/Final Water
 Licence:

Source Name: C111134 Storage
Picnic Area Reservoir near Highway 100

The above licence is appurtenant (in whole or in part) to L 807 Lillooet Dist.

(legal description of land owned or description of undertaking of project)

I hereby notify you of my abandonment of:

All of the above licence ☒

Part of the above licence ☐

of the rights held under the above licence insofar as it pertains to the above mentioned property and instruct you to alter your records accordingly.

If abandoning Part of the above licence rights please indicate which part

My reason for abandonment of these rights is: I am not using it/rights

**PLEASE CHECK AND COMPLETE THE APPROPRIATE STATEMENT
 CONCERNING ANY WORKS CONSTRUCTED:**

The works:

- ☒ were never constructed as per Licence C111134
- ☐ were constructed and have been removed
- ☐ are constructed and will be removed by _____ (date:m/d/y)
- ☐ are constructed and remain in place for my use under other licences, or for use of other licensee
- ☐ are constructed and I wish to leave _____
 (description of remaining works)

NOTE: By abandoning the licence this does not released the licensee from liability for damage resulting from the works or from a defect insufficiency or failure of the works.

PLEASE COMPLETE THE PERSONAL INFORMATION:

All registered owner(s) please refer to the **IMPORTANT** note below.

Name:

(owner 1)

William M. Danielson

s.22

Address

Clinton, S.C.

(signature)

(date)

Phone #

Email:

Name:

(owner 2)

Loretta Danielson (Mar. 30-01) Loretta Danielson

Address

Clinton, S.C. 29310

(signature)

(date)

Phone #

Email:

Name:

(owner 3)

Address

(signature)

(date)

Phone #

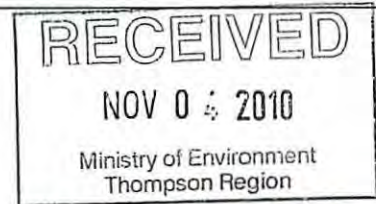
Email:

IMPORTANT NOTE: All names, address, phone numbers and signatures must be provided for all parties shown as landowners on the *Certificate of Title* for the land to which the water licence is appurtenant.

PLEASE NOTE: The abandonment application is not effective until this form is completed and returned to your nearest regional Water Stewardship Division office.

Connie Gainor

From: "Connie Gainor"
 To: "Connie Gainor" s.22
 Sent: November 3, 2010 1:13 PM
 November 3, 2010



Bruce MFarlane, P.Eng
 Water Allocation Section Head

Darren Bennet
 Water Stewardship Officer

COPY

Re: file number 76800 / Porcupine Creek

As of this date we, Bruce and Connie Gainor and Loretta Danielson have filed a notice of Abandonment of Water storage licence C111134 and C111135.

Therefore we will no longer have water licences pertaining to the Diversion of Porcupine Creek.

Please advise all those with water licences connecting them to the diversion of Porcupine Creek.

All further correspondence on this matter are to be managed with confidentiality.

Connie & Bruce Gainor
 Loretta Danielson

Connie L. Gainor NOV 3/10
Loretta Danielson Nov. 3, 2010 NOV. 3/10

RECEIVED

NOV 04 2010

Ministry of Environment
Thompson Region WATER ACT

Notice of Abandonment of a Water Licence (Revised July 2009)

To: Regional Water Manager or Comptroller of Water Rights
Water Stewardship Division, Ministry of Environment

File:

COPY

Re: Conditional/Final Water
Licence:

Source Name: C111134 Storage
Porcupine Creek Reservoir being Leighton Lake.

The above licence is appurtenant (in whole or in part) to L 807 Lillooet Dist.

X

(legal description of land owned or description of undertaking of project)

I hereby notify you of my abandonment of:

All of the above licence ☒

Part of the above licence ☐

of the rights held under the above licence insofar as it pertains to the above mentioned property and instruct you to alter your records accordingly.

If abandoning **Part** of the above licence rights please indicate which part

My reason for abandonment of these rights is: I am not using it / rights.

PLEASE CHECK AND COMPLETE THE APPROPRIATE STATEMENT
CONCERNING ANY WORKS CONSTRUCTED:

The works:

- ☒ were never constructed as per license C111134
☐ were constructed and have been removed
☐ are constructed and will be removed by _____ (date:m/d/y)
☐ are constructed and remain in place for my use under other licences, or for use of other licensee
☐ are constructed and I wish to leave _____
(description of remaining works)

NOTE: By abandoning the licence this does **not** released the licensee from liability for damage resulting from the works or from a defect insufficiency or failure of the works.

RECEIVED

NOV 04 2010

Ministry of Environment
Thompson Region

COPY

PLEASE COMPLETE THE PERSONAL INFORMATION:

All registered owner(s) please refer to the **IMPORTANT** note below.

Name:

(owner 1)

Arthur M. Danielson

s.22

Address

s.22

(signature)

(date)

Clinton, B.C.

Phone #

Email:

Name:

(owner 2)

Loretta Danielson (Mar. 2004) Loretta Danielson

Address

s.22

(signature)

(date) *Nov. 3, 2010*

Clinton, B.C. V0K1K0

Phone #

s.22

Email:

Name:

(owner 3)

Address

(signature)

(date)

Phone #

Email:

IMPORTANT NOTE: All names, address, phone numbers and signatures must be provided for all parties shown as landowners on the *Certificate of Title* for the land to which the water licence is appurtenant.

PLEASE NOTE: The abandonment application is not effective until this form is completed and returned to your nearest regional Water Stewardship Division office.

COPY

s.22



Registered Recommende



DARREN Bennett
1259 DALhousie DR.
Kamloops BC
V2C 5Z5



CANADA POSTES

From anywhere in Canada



28 October 2010

File: 76800-20/Porcupine
76930-40/Porcupine

Michael Grills and
Nancy McMinn
File: 0273094
Thomas M. Pryor
File: 3001788

Robert and Dori Hampton
Files: 3001787, 3001789,
0242380
Loretta Danielson
File: 3000247

Katherine and Bradley
McCullough
File: 0242382
Bruce and Connie Gainor
File: 3003165

Dear Licensees:

Re: Design of Diversion Structure on Porcupine Creek

On 08 October 2010, this office received the finalized design of your diversion structure on Porcupine Creek at point of diversion, PD 48105. This design was submitted by Mr. Jeremy Cooke, P.Eng., AC Eagle Enterprises Ltd., on your behalf according to stipulations of the amended Engineer's Order dated 16 July 2010.

I hereby accept your final design drawings for the Porcupine Creek diversion structure, dated 8 October 2010 and prepared by Jeremy Cooke, P.Eng., as of 26 October 2010. According to the terms of the Engineer's Order, construction of the works may commence on 7 November 2010 and must be completed by 15 August 2011.

s.22 on whose property your point of diversion is located, has advised us that he recently reviewed the final design drawings with the licensees, Dori and Bob Hampton. It is the responsibility of licensees to make agreement with the landowner for access to the point of the diversion. I would recommend that you also obtain a joint works agreement with the other responsible licensees for the construction, operation and maintenance of your works.

If you have any questions or require further clarification, please contact Darren Bennett at 250-371-6317.

Yours truly,

Bruce McFarlane, P. Eng.
Assistant Regional Water Manager
Water Stewardship Division

pc:

s.22
Constable Bob Butcher, Conservation Officer Service, Lillooet
Keith Coxon, Water Bailiff
Mark Phillpotts, Ministry of Environment, Kamloops
AC Eagle Enterprises Ltd.

Bennett, Darren J ENV:EX

From:	McFarlane, Bruce ENV:EX	3273094	3001788
Sent:	Thursday, August 19, 2010 3:51 PM	3001787	3000247
To:	Bennett, Darren J ENV:EX	3001789	3003165
Subject:	FW: Porcupine Creek discussion	0242380	76800-20/PORCUPINE
		0242382	76930-40/PORCUPINE

For the order and stream files.

From: Giles, Tim R FOR:EX
Sent: Thursday, July 8, 2010 3:13 PM
To: McFarlane, Bruce ENV:EX
Subject: RE: Porcupine Creek discussion

Bruce,

- Discussion with Tim Giles, Research Geomorphologist, MFR on June 22, 2010 regarding debris flow/flood and flood potential on Porcupine Creek at Kelly Lake Road. Porcupine Creek has a well vegetated, wide, flat floodplain which extends for approximately 7 km upstream from the Kelly Lake Road. The debris flow/flood potential on Porcupine Creek is derived from the tributary channels which enter the floodplain. Some of these tributary channels do have potential for debris flows/floods but once the debris flow/flood reaches the main stem of Porcupine Creek it will come to a stop relatively quickly on the well, vegetated, low gradient floodplain. One example of this is where the two main arms of Porcupine Creek meet, approximately 7 km up the Jesmond Road from the Kelly Lake Road turnoff. The north-eastern arm is confined as it comes onto the floodplain and forms a small alluvial fan above the road where it becomes less confined, but the debris flow appears to stop on the margins of the floodplain and only streamflow continues on. The fan is relatively low gradient and quite small in size, but does have distinct levees indicative of a historic debris flow event or events. The flood potential on Porcupine Creek has the potential for increased peak flows as a result of the wildfire, but as the majority of the watershed is either unburned or lightly burned the risk of peak flow flooding is considered to be moderate for those structures located close to the creek and with little freeboard above the channel banks.
- Goodrich Creek, which flows directly into Kelly Lake across a wide alluvial fan also has a higher debris flow/flood potential. This watershed was heavily burned and some of the burned areas are steep and connected directly to the mainstem of the creek. The mainstem is confined and has a moderate gradient, and any event entering the channel is likely to move through the channel and onto the alluvial fan below. Once onto the fan there is the potential for channel avulsion which could divert an event toward the house located on the mid-fan. A very large event could also cross the fan and reach the Kelly Lake Road, but this is quite a distance over a moderately low gradient surface and the fan is moderately well treed which will help slow and disperse the flow.

Better? Clearer? I hope so...

Tim

"For what it's worth, the meek shall inherit nothing" Frank Zappa

Tim Giles

Research Geomorphologist

Southern Interior Forest Region

From: McFarlane, Bruce ENV:EX
Sent: Thursday, June 24, 2010 10:45 AM
To: Giles, Tim R FOR:EX
Subject: Porcupine Creek discussion

Hi Tim. I am sending a note to file. Could you please look at the excerpt below and let me know if I got something terribly wrong? Thanks.

- Discussion with Tim Giles, Research Geomorphologist, MFR on June 22, 2010 regarding debris potential in Porcupine Creek at Kelly Lake Road. Mr. Giles was most concerned about Goodrich Creek, but Porcupine Creek does not have the same potential for debris flow. Only the upper watershed area had severely burned. Mr. Giles noted that one debris [flood] had occurred in the upper watershed on a minor tributary, but the runout terminated short of mainstem [east or west fork] of Porcupine Creek. He said he clearly saw levies in the deposition, which indicated a single event.

Bruce

Bennett, Darren J ENV:EX

From: McFarlane, Bruce ENV:EX
Sent: Thursday, August 19, 2010 4:36 PM
To: Bennett, Darren J ENV:EX
Subject: FW: porcupine cr discussion

One last one for file. Thanks.

From: McFarlane, Bruce ENV:EX
Sent: Thursday, June 24, 2010 10:36 AM
To: Chapman, Bill K FOR:EX
Subject: porcupine cr discussion

Hi Bill. I am just sending a note to file regarding our conversation. Could you look at the excerpt below and let me know if I have something terribly wrong? Thanks.

- Discussion with Bill Chapman, PhD, MFR, on June 14, 2010. Dr. Chapman thought that the risk of a large [geomorphic] event was decreasing with each passing month that the watershed stayed intact. He confirmed that the periods immediately following (Fall 2009) and the spring freshet (Spring 2010) had the most potential for triggering an event, but that having been through both these tests, the risks in the watershed were now less. However, Dr. Chapman cautioned that a lot depended on the next few months, and the dryness of soil during a substantial precipitation event.

Bruce



Delivered by Electronic and Registered Mail

16 July 2010

File: 76800-20/Porcupine
76930-40/Porcupine

Michael Grills and
Nancy McMinn

s.22

Clinton BC VOK 1K0
File: 0273094

Robert and Dori Hampton

s.22

Clinton BC
VOK 1K0
Files: 3001787, 3001789,
0242380

Katherine and Bradley
McCullough

s.22

Clinton BC VOK 1K0
File: 0242382

Thomas M. Prvor

s.22

Clinton BC VOK 1K0
File: 3001788

Loretta Danielson

s.22

Clinton BC
VOK 1K0
File: 3000247

Bruce and Connie Gainor

s.22

Clinton BC
VOK 1K0
File: 3003165

Dear Licensees:

Re: Engineer's Order for Diversion Structure on Porcupine Creek

Thank you for your 27 May 2010 letter requesting a second extension to the deadline of the Engineer's Order of 26 August 2009 for completing the diversion structure on Porcupine Creek. I also thank you for both your timely responses to my recent letters requesting clarification of your supporting rationale for that request, and your input regarding additional information and terms of amendment to the Order. I have slightly modified the wording of these terms to improve clarity, but neither the scope nor the intent of them has changed from what I was considering. In addition, I have corrected a reference to PD 48109 in 1.a. of the Order, which should be changed to PD 48105.

I understand that you have obtained permission from the landowner, s.22, on which property your works are located for the diversion, PD 48105. I ask that you provide s.22 with a copy of the structure design when finalized.

The revised instructions in this letter amend the Engineer's Order of 26 August 2009 and must be observed as a regulation under the *Water Act*. Outlined below are the changes to be made to the original order, which I have attached for your convenience.

.../2

Ministry of Environment Water Stewardship Division
Thompson Cariboo Region

Mailing/Location Address:
1259 Dalhousie Drive
Kamloops British
Columbia V2C 5Z5

Telephone: (250) 371-6200
Facsimile: (250) 828-4000
Website:
www.gov.bc.ca/env

Therefore, pursuant to Section 87 of the *Water Act*, I, Bruce McFarlane, an Engineer under the *Water Act*, hereby order you to adhere to all requirements of diversion construction found in the Order dated 26 August 2009 with the revised requirements for completion of this diversion construction as follows:

1. **Submit final design drawings prepared by a qualified professional and acceptable to the Engineer for a diversion structure that:**
 - a. physically restricts the flow entering your ditch at PD 48105 to no more than your licensed quantities of water, and;
 - b. is equipped with a mechanism to shut off diversion, and;
 - c. allows for the passage of fish in Porcupine Creek, and;
 - d. does not restrict the capacity of the culvert under the Pavilion-Clinton Road, and;
 - e. is capable of measuring the diverted flows.

The final design drawings must be submitted to the Engineer under the *Water Act* a minimum of 30 days prior to commencement of construction, and;

2. **Construct the diversion structure, once the final design drawings have been submitted to the Engineer, by the 15th day of August, 2011, and;**
3. **Until construction of the diversion structure is completed, provide for fish passage past your point of diversion in Porcupine Creek for all life stages of fish present in Kelly Lake and Porcupine Creek, and; provide sufficient fisheries flows in Porcupine Creek to allow spawning, incubation of eggs, and rearing of fish in Porcupine Creek, and;**
4. **Submit bi-weekly flow measurements of water discharge in the diversion ditch and for the main stem of Porcupine Creek below PD 48105, in order to demonstrate that sufficient fisheries flows are being maintained within the quantity licensed under your licenses. Records taken bi-weekly, on average, must be submitted to the Engineer for each month that flow is diverted by the 1st day of the following month.**

I advise you that failure to meet the new timelines herein specified and all other requirements as found in the original order may lead to suspension or cancellation of your licenses.

.../3

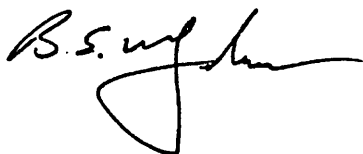
16 July 2010

Section 92 of the *Water Act* gives the recipient of this notice the right to appeal my decision. Information on filing an appeal can be found on the Environmental Appeal Board website: www.eab.gov.bc.ca/. **An appeal does not act as a stay of execution.**

A right of appeal from my decision lies to the Environmental Appeal Board. Notice of any appeal must (1) be in writing; (2) include grounds for the appeal; (3) be directed by registered mail to the Chair, Environmental Appeal Board, PO Box 9425 Stn Prov Govt., Victoria, BC, V8W 9V1 or personally delivered to the office of the board at 4th Floor, 747 Fort Street in Victoria, BC, V8W 3E9; (4) be delivered within 30 days of receiving this letter, and (5) be accompanied by a fee of \$25.00, payable to the Minister of Finance and Corporate Relations.

If you have any questions or require further clarification, please contact Darren Bennett at 250-371-6317.

Yours truly,



Bruce McFarlane, P. Eng.
Assistant Regional Water Manager
Water Stewardship Division

attach. Engineer's Order, 26 August 2009

pc:

s.22

Constable Bob Butcher, Conservation Officer Service, Lillooet
Keith Coxon, Water Bailiff, PO Box 485, Clinton, BC, V0K 1K0
Mark Phillpotts, Ministry of Environment, Kamloops
Comptroller of Water Rights, Ministry of Environment, Victoria

ORDER

WATER ACT

Section 88

In the matter of the regulation of water diversion from Porcupine Creek at the authorized point of diversion PD48105 (designated as "A" on Water Rights Map 255):

- Whereas you Michael Grills and Nancy McMinn; Robert and Dori Hampton; Katherine and Bradley McCullough; Thomas M. Pryor; Loretta Danielson, and; Bruce and Connie Gainor are the holders of water licences on Porcupine Creek with an authorized point of diversion PD48105 and;
- Whereas it has been determined that the authorized diversion structure at PD48105 is in a state of complete disrepair, such that sandbags are being used instead to divert water from Porcupine Creek into Cutoff Valley Creek, and;
- Whereas it has been determined that Porcupine Creek is a reported fisheries stream, and;
- Whereas the placement of sandbags in the stream does not allow for controlled regulation of water diversion at PD48105, and;
- Whereas it has been determined that there has been over-diversion of water related to the use of sandbags at PD48105, and;
- Whereas in a letter dated May 21, 2009, you were requested to submit plans for the reconstruction of the diversion structure at PD48105 and a schedule of when the diversion structure would be constructed by August 3, 2009, and;
- Whereas you have failed to provide the requested information;

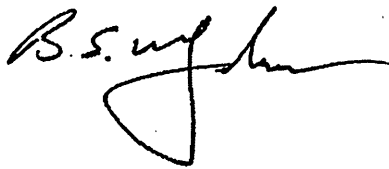
Therefore pursuant to Section 88 of the *Water Act*, I, Bruce McFarlane, an Engineer under the *Water Act*, hereby order you, Michael Grills and Nancy McMinn; Robert and Dori Hampton; Katherine and Bradley McCullough; Thomas M. Pryor; Loretta Danielson, and; Bruce and Connie Gainor as follows:

1. Submit design drawings prepared by a qualified professional for a diversion structure that:
 - a. physically restricts the flow entering your ditch at PD48109 to no more than your licenced quantities of water, and;
 - b. is equipped with a mechanism to shut off diversion, and;
 - c. allows for the passage of fish in Porcupine Creek, and;
 - d. does not restrict the capacity of the culvert under the Pavilion-Clinton Road, and;
 - e. is capable of measuring the diverted flows.

The design drawings must be submitted to the Engineer under the *Water Act* for review no later than September 30, 2009, and;

2. Construct the diversion structure, once the Engineer has accepted the design drawings, by the 15th day of November, 2009.

Dated at Kamloops, British Columbia, this 26th day of August, 2009.



Bruce McFarlane, P. Eng.
Engineer Under the Water Act
Thompson Cariboo Region
Ministry of Environment

Pc: Comptroller of Water Rights, Victoria, British Columbia
Conservation Officer Service, 100 Mile House, British Columbia
Mark Phillpotts, Ministry of Environment, Kamloops
Keith Coxon, Water Bailiff, PO Box 485, Clinton, BC, V0K 1K0



3273094	3001788
3001787	3000247
3001789	3003165
0242380	76800-20/PORCUPINE
0242382	76930-40/PORCUPINE

Delivered by Registered Mail

16 July 2010

File: 76800-20/Porcupine
76930-40/Porcupine

s.22

Dear s.22

Re: Porcupine Creek Diversion, Engineer's Order

Thank you for working with the Porcupine Creek water licensees for the point of diversion, PD 48105, located on your property s.22 I understand that you have made agreement with them for access.

The licensees for this diversion requested a second extension to the deadline of the Engineer's Order dated 26 August 2009, which required the construction of a diversion structure at their point of diversion. I have amended the original Order based on the information before me, and I am providing you a copy (attached) in notice to you of the Order requirements.

Based on your verbal request to me, I asked the licensees in my letter amending the original Order, to provide you a copy of the diversion structure design, once it is finalized.

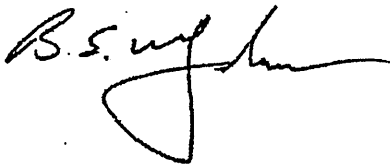
Section 92 of the *Water Act* gives the recipient of this notice the right to appeal my decision. Information on filing an appeal can be found on the Environmental Appeal Board website: www.eab.gov.bc.ca/.

.../2

A right of appeal from my decision lies to the Environmental Appeal Board. Notice of any appeal must (1) be in writing; (2) include grounds for the appeal; (3) be directed by registered mail to the Chair, Environmental Appeal Board, PO Box 9425 Stn Prov Govt., Victoria, BC, V8W 9V1 or personally delivered to the office of the board at 4th Floor, 747 Fort Street in Victoria, BC, V8W 3E9; (4) be delivered within 30 days of receiving this letter, and (5) be accompanied by a fee of \$25.00, payable to the Minister of Finance and Corporate Relations.

If you have any questions or require further clarification, please contact Darren Bennett at 250-371-6317.


Yours truly,

A handwritten signature in black ink, appearing to read 'B. McFarlane', with a stylized flourish at the end.

Bruce McFarlane, P. Eng.
Assistant Regional Water Manager
Water Stewardship Division

Attach. Amending Order, 16 July 2010
 Engineer's Order, 26 August 2009

Stewart, Tracy ENV:EX

From: McFarlane, Bruce ENV:EX
Sent: Wednesday, June 30, 2010 4:32 PM
To: 
Cc: WSD Kamloops ENV:EX; 'Jeremy Cooke'; Cameron, Valerie Z ENV:EX
Subject: RE: Response to your letter of June 25 and phone call to 76800-20/Porcupine

3273094 3001788
3001787 3000247
3001789 3003165
0242380 76800-20/PORCUPINE
0242382 76930-40/PORCUPINE

Thank for your quick response to my request. I appreciate the importance you have placed on meeting my timeline request and your effort in consolidating your comments. I will have time to review this communication in detail next week.

Bruce McFarlane, P.Eng.

Ministry of Environment
Water Stewardship Division
Cariboo-Thompson-Okanagan Region
Ph. (250) 371 - 6314
Fax. (250) 828 - 4000

From: s.22
Sent: Wednesday, June 30, 2010 2:46 PM
To: McFarlane, Bruce ENV:EX; Jeremy Cooke; Cameron, Valerie Z ENV:EX; s.22
Subject: Response to your letter of June 25 and phone call to s.22 June 30

Michael Grills and Nancy McMinn; Robert and Dori Hampton; Katherine and Bradley McCullough; Thomas M. Pryor.

Mr. Bruce McFarlane
Water Stewardship Division Thompson Region
1259 Dalhousie Dr
Kamloops, BC V2C 5Z5

Cc Val Cameron, Jeremy Cooke

We are attempting to give you the response you are looking for. We agree that the reconstruction of the diversion on Porcupine Creek needs to be undertaken. We accept financial responsibility for the cost, engineering, construction and maintenance of this structure. We have an agreement in place between the licensees regarding these aspects of the diversion, and an agreement between the licensees and the land owner at the location of the diversion structure.

These are the reasons why we need you to grant us an extension for the construction of the Porcupine Creek water diversion.

- High water makes the creek unsafe and uncondusive to quality building for construction at this time.
-
- The window of opportunity for instream construction on Porcupine Creek has been stated by your Ministry to fall between July 22 and October 31.
 - The land owner has given permission for the construction to occur s.22
 - Between our engineer and your Ministry, we have not come to finalized construction plans.
 - The MFR and resulting Golder investigations identified some erosion concerns around the areas upstream from the diversion.

The proposed amendments you have listed to the construction order are acceptable to us:

- Amend the deadline in the Engineer's Order for submission of acceptable design drawings for the diversion structure from 30 September 2009 to final design drawings being submitted a minimum of 30 days prior to construction. The final design must be accepted by the Engineer before construction is commenced.
- Amend the deadline in the Engineer's Order to complete construction of the accepted diversion structure from 15 November 2009 to 15 August 2011.
- Amend the requirements in the Engineer's Order to reflect that, until the accepted diversion structure is constructed, the licensees must provide fish passage for all life stages of fish present in Kelly Lake/Porcupine Creek and provide sufficient fisheries flows in Porcupine Creek to allow spawning, incubation of eggs, and rearing of fish in Porcupine Creek.
- Amend the requirements in the Engineer's Order to require the licensees to submit bi-weekly flow measurements of water discharge in the diversion ditch and for the mainstem of Porcupine Creek below the proposed diversion in order to demonstrate that sufficient fisheries flows are being maintained in Porcupine Creek and that diversion of water from Porcupine Creek remains within the quantity licensed under your licenses. Records taken bi-weekly, on average, must be submitted for each month that flow is diverted by the first day of the following month.

Yours sincerely,

Nancy McMinn and Mike Grills

Robert and Dori Hampton

Katherine and Bradley McCullough

Thomas M. Pryor

Stewart, Tracy ENV:EX

From: McFarlane, Bruce ENV:EX
Sent: Wednesday, June 30, 2010 2:12 PM
To: s.22
Cc: s.22
Subject: ENV:EX
RE: July 5 response date: File 76800-20/Porcupine

3273094 3001788
3001787 3000247
3001789 3003165
0242380 76800-20/PORCUPINE
0242380 76800-20/PORCUPINE
WSD Kamloops

Dear s.22

Thank you for your note, below. I spoke with s.22 just before lunch today. I have considered your request to extend the deadline for your response to 15 July, but I would like to keep the deadline of 5 July 2010, as requested in my 25 June 2010 letter. I have not received a similar request to extend the 5 July 2010 deadline from any of the other licensees. Although all six licensees share joint works, they are separate licences. Therefore, it is incumbent on each of the licensees individually to provide their comments by the above date assuming they wish to provide comments. While I am pleased that you appear to have obtained agreement for the funding, building and maintenance of the diversion structure, as well as agreement with s.22 for your access over their land to the point of diversion (PD), this information does not appear to be responsive to my request for comments and submissions by July 5 relating to the licensees' plans for addressing continuing non-compliance with your licences, as well as on the proposal outlined in my June 25, 2010 letter for dealing with that issue.

s.22 indicated in her telephone conversation with me this morning that the response signed by all licensees might be ready by 9 July 2010. If you consider that necessary, I would be prepared to take it into consideration given sufficient rationale. Please let me know before 5 July.

I hope this clarifies my intent regarding the request for comment on the amendments which I have proposed in my 25 June 2010 letter. You may follow up with the signed letter response by all licensees when you are able to accomplish that.

In update, I understand from my conversation with you this afternoon that you are prepared to send me your response, representing yourselves by 5 July.

Bruce McFarlane, P.Eng.

Assistant Regional Water Manager
Water Stewardship Division
Cariboo-Thompson-Okanagan Region
Ph. (250) 371 - 6314
Fax. (250) 828 - 4000

From: s.22
Sent: Wednesday, June 30, 2010 8:33 AM
To: McFarlane, Bruce ENV:EX
Subject: July 5 response date

Further to your conversation with s.22 this morning (June 30, 2010), we are currently unable to get signatures from the full membership of the licensee group as s.22

s.22 July 15, so it will be after that that we will be able to get together to get a document signed for you. We do have verbal agreement between the six licensees regarding funding, building and maintenance of the diversion structure, and we have an agreement with s.22 also (I believe you have a copy of that already?) that the lawyer will have to add his input to and signing from the licensees and s.22

So we will be unable to supply a signed response for you by July 5, 2010.

s.22

s.22

look for signed copy
in ORCS basket

NOTE TO FILE

3273094	3001788
3001787	3000247
3001789	3003165
0242380	76800-20/PORCUPINE
0242382	76930-40/PORCUPINE
File:	76800-20/ Porcupine

Date: June 28, 2010

Subject: Diversion Structure/ My letter to Licensees of June 25, 2010

Client: Michael Grills; Nancy McMinn; Dori Hampton

Phone: s.22 **Fax:** ?

Returned call to s.22 Put on speaker phone when
s.22 arrived and following initial salutations.

They had concerns about flooding at far [west] end of Kelly Lake, where property owner had filled into the lake and now has trailers located on site. I clarified that the floodplain covenants that I identified in my letter to them of June 25, 2010 referred to properties on Porcupine Creek owned by s.22. I told them that we had inspected the channel and felt it was clear and without significant obstruction – they knew the beaver dams present in previous years had been removed by local somebody living locally.

s.22

s.22 advised me they were in receipt of some historical survey predating the 1914 survey, which showed that Porcupine Creek actually flowed in both directions. I said I was open to new information, and she was going to send me an electronic version (cd) of the mapping/information they had found. I asked her to make sure to point out that information that was pertinent, depending on how much information would be forwarded.

This led into another conversation, with their contention that Porcupine Creek naturally divides at their PD and runs into Cutoff Valley Creek, I wanted to know what they really wanted from that, since they are only licensed to take x amount from Porcupine Creek. I advised them that depending on how many questions that information raised, I might need to request from the licensees a study that lays out my options.

Licensees stated they were unaware that they could obtain a variance to the terms and conditions set by the habitat officer (the fisheries timing window). s.22 thought that they had to conduct the work in August 2011. I clarified that this was not the intent, that I had repeatedly heard from them that they wanted to complete the work, and that the extension allowed them to proceed at their discretion, provided the work was completed by the deadline. I noted that I referenced the November 2009 variance provided to Jeremy Cooke, P.Eng. to identify the flexibility that the habitat officer had demonstrated previously in

this issue.

Licensees also wanted a copy of the [June 24, 2010] Technical Memorandum from Golder Associates Ltd. I explained that they should contact Mr. Cooke, to whom I provided a copy for engineering purposes, and that it wasn't my place to distribute that clarification relating to another document that was privileged information between Golder Associates and a property owner ^{s.22}. This rightfully belonged to the Professional Engineer that sealed the clarifying memorandum. However, I did acknowledge that I was in receipt of that original letter report from Golder Associates ^{s.22}

I asked the licensees to comment on the terms of amendment, which I had proposed in my letter. They responded that the terms appeared to be fine. They were unclear what was required in the way of flow measurement. I explained that these requirements were there to protect fisheries values in the mainstem Porcupine Creek and demonstrate regulation of their diversion until the diversion structure was installed. I advised that they speak with Mr. Cooke for advice on how to carry out measurements. I was clear that they needed a technician to set up and/or measure the flows, but it didn't necessarily need to be an engineer.

They were going to meet with Mr. Cooke in the next day or so, and contact Mr. Phillpotts for his input on their plans. They also indicated that I should be receiving drawings from their engineer, Jeremy Cooke, P.Eng., imminently.

Diary Date: June 29, 2010

Signature: _____



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0242382	76930-40/PORCUPINE

-Copy sent by email followed by Canada Post Delivery-

25 June 2010

File: 76800-20/Porcupine Cr.

Michael Grills and
Nancy McMinn

s.22

Clinton BC V0K 1K0
File: 76930-40/Grills and McMinn

Robert and Dori Hampton

s.22

Clinton BC
V0K 1K0
File: 76930-40/Hampton

Katherine and Bradley
McCullough

s.22

Clinton BC V0K 1K0
File: 76930-40/McCullough

Thomas M. Pryor

s.22

Clinton BC V0K 1K0
File: 76930-40/Pryor

Loretta Danielson

s.22

Clinton BC V0K 1K0
File: 76930-40/Danielson

Bruce and Connie Gainor

s.22

Clinton BC V0K 1K0
File: 76930-40/Gainor

Dear Licensees:

I have reviewed your request for extension of the deadline for you to meet the requirements of the Engineer's Order of 26 August 2009. As part of my consideration of this request, I am seeking your comments on, including any additions to, the facts as I understand them to be (as outlined below), as well as your submissions on what I am considering in the way of a possible approach to your request. Please provide your written comments on the facts and submissions on the approach to me at your earliest convenience but no later than 5 July 2010.

My understanding of the facts is as follows:

- An Engineer's Order was served on you 26 August 2009 for the submission of design drawings prepared by a Professional Engineer and construction of the diversion structure on Porcupine Creek by 15 November 2009 (the "Engineer's Order"). The substance of this decision was not appealed and, as such, is not in contention. However, you requested an extension of the deadline in the Engineer's Order's after the Order was served on you. This first extension request was received by this office on 1 September 2009;

- The Habitat Officer, Mark Phillpotts, R.P. Bio., provided a variance of the in-stream fisheries work window to Jeremy Cooke, P.Eng. on 12 November 2009, stating that had no concerns as the work was in the dry in late fall 2009;
- In response to your first extension request, the deadline in the Engineer's Order was extended to 28 May 2010. Conceptual design drawings were submitted by Mr. Cooke, P.Eng., to this office on behalf of the licensees on 16 April 2010;
- As these design drawings were still conceptual in nature, I provided comments on this initial submission to Mr. Cooke on 22 April 2010 for his consideration in the design, and I understood that he would be resubmitting design drawings based on further discussions with the licensees. I have not received a further submission of design drawings as of the date of this letter;
- I received a second request for extension of the deadline in the Engineer's Order from the licensees on 27 May 2010. By letter dated 31 May 2010, I requested that the licensees provide me with information on the supporting rationale for the request. The licensees' response was received on 4 June 2010;
- In a recent telephone conversation with Mr. Cooke (14 June), he felt that there was little additional information required for him to complete the diversion structure design drawings;
- To date, the deadline for submitting design drawings for the structure that are acceptable to me and for constructing the structure in accordance with approved design drawings, as required under the Engineer's Order, have not been satisfied, and;
- Under the terms of your licenses, measures must be in place to regulate the diversion of water from Porcupine Creek.

In addition, in investigating and following up on a number of key factors, I was able to secure the following information:

- There is an elevated risk of peak flow in Porcupine Creek as a result of the 2009 Kelly Lake fire, and this effect is expected to initially increase and subsequently decrease over time. None of these risks have been quantified;

- A letter from Golder Associates Ltd. to s.22 was provided to me by Mr. Cooke. This letter report highlighted advice provided by Golder Associates Ltd. regarding the proposed diversion structure. On follow-up with the engineer, Matt Thibeault, P.Eng., Golder Associates Ltd., provided clarification in a Technical Memorandum that the hydrology, the impact of the diversion structure on the risk of flooding, and the post-fire conditions needed to be fully considered in the design for the diversion structure; and these influences are more material than the timing of construction. I have provided a copy of the Technical Memorandum received from Golder Associates Ltd. to Mr. Cooke for his follow-up;
- The properties below Kelly Lake Road on which Porcupine Creek and the point of diversion (PD) from Porcupine Creek are located have floodplain covenants in place;
- MOE Fisheries is not concerned with elevated flows in Porcupine Creek but is concerned that favouring flows in the diversion ditch at the expense of Porcupine Creek flows could promote the spread of Eastern Brook Trout – a non-native species – from Leighwood Lake. This would increase competition for habitat used by Rainbow Trout in Porcupine Creek; and,
- Fish values in Porcupine Creek are at risk by dysfunction (disrepair) of the existing diversion structure at the licensees' PD.

I would appreciate any information you may have to add or correction of my understanding of the facts. Notwithstanding those comments and given the state of current information as above, I am considering amending the Engineer's Order dated 26 August 2009 as follows:

- Amend the deadline in the Engineer's Order for submission of acceptable design drawings for the diversion structure from 30 September 2009 to final design drawings must be submitted a minimum of 30 days prior to construction. The final design must be accepted by the Engineer before construction is commenced;
- Amend the deadline in the Engineer's Order to complete construction of the accepted diversion structure from 15 November 2009 to 15 August 2011;
- Amend the requirements in the Engineer's Order to reflect that, until the accepted diversion structure is constructed, the licensees must provide fish passage for all life stages of fish present in Kelly Lake/Porcupine Creek, and provide sufficient fisheries flows in Porcupine Creek to allow spawning, incubation of eggs, and rearing of fish in Porcupine Creek; and,

- Amend the requirements in the Engineer's Order to require the licensees to submit bi-weekly flow measurements of water discharge in the diversion ditch and for the main stem of Porcupine Creek below the PD, in order to demonstrate that sufficient fisheries flows are being maintained in Porcupine Creek and that diversion of water from Porcupine Creek remains within the quantity licensed under your licenses. Records taken biweekly, on average, must be submitted for each month that flow is diverted by the 1st day of the following month.

s.22

Please provide your written comments and submissions to me at your earliest convenience but no later than 5 July 2010. You can e-mail them to me at bruce.mcfarlane@gov.bc.ca or you can send them by Canada Post addressed to this office.

Yours truly,



Bruce McFarlane, P.Eng.
Assistant Regional Water Manager
Water Stewardship Division

CC: Mark Phillipotts, R.P. Bio., Habitat Officer, MOE



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0242382	76930-40/PORCUPINE

June 22, 2010

File: 76800-20/Porcupine Creek

Michael Grills and
Nancy McMinn

s.22
Clinton BC VOK 1K0

Robert & Dori Hampton

s.22
Clinton BC VOK 1K0

Katherine and Bradley
McCullough

s.22
Clinton BC VOK 1K0

Thomas Pryor

s.22
Clinton BC VOK 1K0

Dear Thomas Pryor:

Re: Water Withdrawal from Porcupine Creek

The purpose of this letter is to confirm that you are authorized to divert water from Porcupine Creek in accordance with the terms of your water licence.

Please feel free to contact me if you have any questions or require further information.

Yours truly,

Valerie Z. Cameron, P.Geo.
Regional Manager
Water Stewardship Division
Thompson Cariboo Region

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Bennett, Darren J ENV:EX

From: Bennett, Darren J ENV:EX
Sent: Friday, June 11, 2010 1:10 PM
To: Gainor's; Hampton's; McCullough's; McMinn and Grills; Pryor's
Cc: McFarlane, Bruce ENV:EX; 'Jeremy Cooke'
Subject: Porcupine Creek Diversion correspondence

Dear Licensees.

Please find attached to this email three documents, as follows:

1. Letter from Bruce McFarlane, dated 10 June 2010;
2. Minutes from May 20 meeting between licensees and Water Stewardship Division; and
3. TNRD Press Release rescinding evacuation for Kelly Creek fire.

All documents will follow in hardcopy by way of Canada Post.

If you have difficulties opening these documents, or if you have any questions about the content please send me an email, or call me at 250.371.6317.

Regards,
Darren

Darren J. Bennett
Water Stewardship Officer
Ministry of Environment

PH: 250-371.6317 FAX: 250-828.4000



WSD response to
4 June 2010 ex...



Meeting
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Evacuation_rescin
d order.pdf

MEETING MINUTES



COPY

Date: 20 May 2010

Location: Ministry of Environment Office, Kamloops

Present: Licensees: Michael Grills, Nancy McMinn, Dori and Bob Hampton

Engineer: Jeremy Cooke (WMI Inc.)

Water Stewardship Division: Bruce McFarlane and Darren Bennett

Purpose: To discuss Engineer's Order dated 25 March 2010.

This meeting was called on short notice by the four Porcupine Creek licensees in attendance to discuss the imminent deadline for action under Order issued by the Assistant Regional Water Manager (issue date 25 March 2010). The discussion included:

- General discussion about keeping project on track; Bruce McFarlane (BM) noted that there are still some hurdles to get over on this project but that they are not insurmountable.
- The licensees provided clarity around evacuation period and extent resulting from Kelly Creek Fire.
- Licensees were reminded that the installation of a proper diversion structure was their responsibility as per the terms of their individual licences.
- Licensees stated that they (had been advised to) get ideas from a diversion at 153 Mile House. BM commented that while could be a good start, there is no "one size fits all" design. The structure needs to be designed based on licensing requirements and on stream characteristics.
- Licensees noted that they had developed plan drawings but were then told through Engineer's Order that they needed engineered drawings. Original plan drawings were presented by the licensees, which showed vertically driven I-beams and stop-logs.
- BM and Darren Bennett (DB) noted that they had never seen the images presented.
- Water Stewardship Division (WSD) explained that the proper structure would bring licenses into compliance with the terms contained therein, and would enable proper water regulation, associated sediment deposition and related requirement for maintenance.
- WSD concerns with the first design submitted by J. Cooke (16 April) were discussed, including: the orientation of the diversion structure with respect to the stream flow, and the need to engineer for a minimum of licensee maintenance.
- The licensees were reminded that they shared "joint works" and were advised that they should negotiate a joint works agreement amongst themselves to address such issues as cost distribution, daily maintenance,

structural maintenance, structure adjustment, diversion security/ lockdown. They stated that they had such an agreement in place.

- The licensees noted that they had concerns about illegal diversions in the Cutoff Valley Creek system, especially in context of potential changes to flow volumes in the creek. DB outlined the process of 1) contacting Keith Coxon, local Water Bailiff to action an advisory to the individual with the alleged unauthorized diversion, 2) if the Bailiff was either unsuccessful, or uncomfortable with the situation then the licensee with the complaint was advised to contact the **RAPP line (1.877.952.7277)**. The licensees were advised to provide as much information as possible to allow the Conservation Officer Service to action the complaint.
- The historic (1914) survey plan was provided to licensees, which demonstrated that at that time the diversion was noted on the plan as “turned (artificially)” from the mainstem, which flows to Kelly Lake.
- The project footprint in the context of s.22 property and field must be confirmed. Licensees stated they are authorised to access for installation of the diversion.
- Other design options, such as an off-channel sump similar to s.22 were discussed, and if they were to be considered then an amendment application under Section 18 (1)(d) Change of Works of the Water Act would need to be submitted and approved. Additionally, s.22 would be considered an affected landowner and would be referred the application for s.22 concerns.
- Fisheries concerns were discussed and it was determined that Jeremy Cooke (JC) would have to further clarify these concerns from Ecosystems Section, Ministry of Environment into his design. WSD would refer the design to Ecosystems Section.
- It was emphasized that this process is an effort to bring these licenses into compliance with their obligations under the Water Act.
- The issue of legal liability was indicated by Jeremy, and he noted that the extent of work to address that liability would likely be in the \$25,000 range, as part of his subdivision of engineered drawings. He contended that he would have to engineer for prevention of downstream erosion of spawning beds, avulsion of the channel, and private property damage due to elevated potential for flood events due to the fire-altered landscape upstream. Discussion continued about the stream mainstem being the stream. WSD reinforced that the diversion to Cut Off Valley is just that, a diversion from the stream, Porcupine Creek.
- DB noted that there would be diverted amounts for storage during freshet, which factor should be considered in the hydrology of Porcupine Creek resulting from the diversion of water through the diversion period.
- WSD reinforced that the diversion be installed with built-in adjustability to be used to fine-tune diversion volumes later.
- Licence priority was a topic brought up by licensees as a sidebar discussion. Specifically, this pertained to the priority one purpose has over

another. Priority is established under the Water Act, but a community solution to an irrigation/domestic priority situation is best.

- Discussion revolved around the need for the licensees to take the responsibility to continue moving the project forward.
- WSD clarified that an engineered drawing is one that is “sealed” by the engineer. JC noted that this will require time and costs to ensure due diligence is completed.
- WSD confirmed that the design does not have to be complex, it simply has to do the job. The licensees enquired about the applicability of the original “simple” design. As noted earlier, this was the first that WSD had seen of the design created by Connie Gainor.
- WSD noted time delays during the discussions about diversion install, and this required the use of the engineer’s order to get the work completed.
- The licensees stated that there was a chain of events beyond their control that caused them to not make the deadlines. He also stated that they were continually thinking and talking about the project.
- Options were discussed if JC decides to leave the project and WSD suggested contacting the Association of Professional Engineers and Geoscientists of BC (APEGBC). The licensees confirmed that they had called the APEGBC and had been provided some names all of whom had turned down the project.

ACTION: licensees to submit a letter of request for an extension to the Engineer’s Order, which expired on 21 May 2010. The letter is to outline the justification for extension and a proposed timeline to complete the work. WSD confirmed that referral to fisheries would be done interagency, but that JC was required to incorporate these requirements into design. Possible timeframe brought forward for diversion installation was end of July, to avoid freshet and to fall into the Safe Fisheries Work Window.

All licensees were reminded of the urgency of the situation.

Minutes Assembled By:
Darren J. Bennett
Water Stewardship Officer
Ministry of Environment

COPY



THOMPSON-NICOLA REGIONAL DISTRICT

PRESS RELEASE

ELECTORAL AREA "E" KELLY CREEK WILDFIRE

EVACUATION ORDER RESCIND

The Thompson-Nicola Regional District (TNRD) Emergency Operations Centre has been advised that the imminent risk of danger to life and properties in your area has diminished at this time.

TNRD Chair Peter Milobar rescinded the Evacuation Order issued on August 20, 2009 at 20:20 hours, pursuant to Section 5.4 of TNRD Local Authority Emergency Program Bylaw No. 2017, effective at 12 noon, Friday, September 4, 2009, for the following areas:

- All properties on Jesmond Road and including Kelly Lake and Arden Park North to Big Bar Ferry Road intersection, including all properties on High Bar Road west to Davies Ranch and Porcupine Road.

Residents will be provided with re-entry packages at the road blocks leading to the previously evacuated areas at the Kelly Creek Wildfire.

For more information contact:

Greg Toma, EOC Director
Phone: (250) 377-7188
Liz Cornwell, Information Officer
Phone: (250) 377-7188

FOR IMMEDIATE RELEASE

Evacuation Order Rescind – Kelly Creek Wildfire

Kamloops, BC – September 3, 2009 @ 17:00 hours

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0242382	76930-40/PORCUPINE



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10 June 2010

File: 76800-20/Porcupine Cr.

Michael Grills and
Nancy McMinn

s.22

Clinton BC VOK 1K0
File: 76930-40/Grills and McMinn

Robert and Dori Hampton

s.22

Clinton BC
VOK 1K0
File: 76930-40/Hampton

Katherine and Bradley
McCullough

s.22

Clinton BC VOK 1K0
File: 76930-40/McCullough

Thomas M. Pryor

s.22

Clinton BC VOK 1K0
File: 76930-40/Pryor

Loretta Danielson

s.22

Clinton BC
VOK 1K0
File: 76930-40/Danielson

Bruce and Connie Gainor

s.22

Clinton BC
VOK 1K0
File: 76930-40/Gainor

Dear Licensees:

Thank you for your letter of 4 June 2010, laying out the background and reasons for your recent request for extension. I can only imagine how difficult the events surrounding the Kelly Lake fire were for you. But I understand that you wish to complete work on the Porcupine Creek diversion, and I appreciate your commitment to the work schedule you propose.

I have been considering your explanations concerning the diversion and looking into some new information, which is taking some time. I am hoping to have another letter to you regarding request for extension in near future.

While reading through your extensive documentation of events, I paused at many items in your letter that may be attributed to misinformation. I would like to bring these items to your attention in correction thereof.

- First, I do not agree that all the items in your letter were discussed at the 20 May 2010 meeting. There are several items that you have provided in addition to the discussion, and your documentation is more comprehensive than what was discussed at the meeting. I have attached draft minutes of the meeting for your review.

- Second, I submit that I did not agree to your reasons for requesting extension. I rec that the only consents I made was to your voice recording of me summarizing the meeting based on your intent to disclose my summary directly to the other licensees, as you felt they would not believe you. I asked whether that summary was sufficient and you indicated that you were satisfied. I would appreciate you sending me a copy of the voice recording for our files and to ensure that I am consistent with my further communication to you.

There are other items in your letter that I find misleading and which I feel I require correction and/or clarification as follows:

Using the numbering in your letter,

- 1/2. The 3 August 2009 date was referenced in a letter from Mike Edwards, Water Stewardship Officer, and dated 21 May 2009, requesting submission of both the diversion structure drawings and a schedule for undertaking the work. We have no record of anyone from this office requiring you to hold off on these requirements until Fisheries provided their input. However, I agree that input from Fisheries would be necessary in advance of construction;
3. Mark Phillpotts, MOE biologist that was assigned the Porcupine Creek file, has informed me that he was not contacted by any of the licensees;
4. A press release (attached) for the Kelly Creek Wildfire, rescinded the Evacuation Order and allowed access to Kelly Lake and Jesmond Road with re-entry packages effective 4 September 2009;
5. Porcupine Creek is the only stream at the diversion; the other is a diversion ditch. WSD did not receive submission of drawings or sketches of the diversion structure from the licensees until 16 April 2010;
6. Mr. Edwards met with licensee on site 28 May 2009 to assist them on what might be suitable in the way of a diversion structure, as acknowledged in your item 1. I suggest that this was the first indication from this ministry of requirements for the diversion;

7. s.22 called me on 6 October 2009, telling me that s.22 had stopped down as representative for the Engineer's Order, and s.22 was unaware that she had done so until recently. This was the rationale he provided for the lack of licensee action on the Order. I advised him that I wanted the work to proceed in Fall 2009, but that WSD did not have the resources for design of the structure. I provided s.22 with a phone number for Mr. Phillpotts to obtain fish passage and screening requirements from him for the diversion structure. s.22 said that he would look into obtaining the services of a Professional Engineer;

12. I am not sure to which e-mail correspondence you refer that flowed around 19 February 2010. WSD only recently (June 2010) obtained your e-mail addresses from you;

13. Darren Bennett first met licensees, Nancy McMinn, Michael Grills, Bruce Gainor, and Connie Gainor, when he hand-delivered the amending Order of 25 March 2010;

16. During our meeting with Jeremy Cooke, P. Eng. on 22 April 2010, we identified a number of concerns with the conceptual design provided by Mr. Cooke, including extensive maintenance that might be required by orienting the inlet of the diversion structure directly into the flow of the stream, and; by restricting flow passage on Porcupine Creek at the weir. We identified the difficulty of cleaning the trash rack during high flow, and the safety of the operator undertaking that work. We advised him that a preferred orientation is one perpendicular to the stream flow. He also proposed the option of a sump, similar to that of s.22 asking about locating the diversion upstream of s.22 point of diversion (PD). I informed Mr. Cooke that this option would require a change of works amendment. Mr. Cooke said he wanted to take this information back and discuss with the licensees on the weekend following (24, 25 April 2010) our meeting;

17/18. As we had not heard back from either the licensees or Mr. Cooke, and the deadline for completion of construction was fast approaching, Mr. Bennett contacted Mr. Cooke 11 May 2010 to arrange a meeting at his earliest convenience, our next available meeting time being 12 May 2010. During the telephone conversation between Mr. Bennett and Mr. Cooke, Mr. Cooke raised issues not previously identified as such, and made specific reference to moving the POD above that of s.22. It was at this point that I thought the substance of the discussion for the intended meeting could involve license amendment, and I asked Mr. Bennett to contact you regarding your authorization to have Mr. Cooke act as your agent, again recognizing the short time remaining to ordered completion (28 May 2010);

19. We agreed to meet with licensees, s.22 at their request on 20 May 2010. This request followed notification from Mr. Cooke to WSD the same day, declining to act as agent for the licensees. At this meeting, Mr. Cooke suggested that the cost to the licensees for the diversion structure would run near \$25,000;

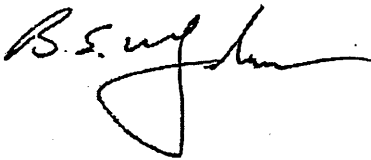
20. I requested that all licensees endorse the request for extension because we were not in receipt of any documentation that authorized the signatories - s.22

s.22 - to legally act on behalf of the other licensees. I was contacted by the above signatories 26 May 2010, whereupon I advised them that I could not tell them what to put into the extension request. However, I did tell them that I did not see any reference to financial hardship, which I thought would have been included in the request based on the costs raised by Mr. Cooke at the 20 May 2010 meeting. I suggested that they may wish to obtain a second opinion both because of Mr. Cooke's busy schedule (your points 11/12) and the significant cost of \$25,000. The licensees asked if I could recommend somebody, which I declined, but told them they could contact the Association of Professional Engineers and Geoscientists of BC (APEGBC). I did not suggest that other engineers would provide a lesser quality of work regarding due diligence nor care for the environment. The licensees asked if I could provide them with the website link to APEGBC, which I sent them by e-mail.

As stated above, I am considering your submission of request for extension, and I am endeavouring to more completely understand new information, including reports on the Kelly Lake Fire.

On a separate issue, I have contacted s.22 as I committed in my last letter to you. I understand that s.22 is seeking a written agreement. I encourage you to enter into negotiations with s.22

Yours truly,



Bruce McFarlane, P. Eng.
Assistant Regional Water Manager
Water Stewardship Division

COPY

attach. Draft meeting minutes, 20 May 2010
Press release, TNRD, Evacuation Order Rescind, 3 September 2009
pc. Keith Coxon, Water Bailiff, PO Box 485, Clinton, BC, V0K 1K0
Mark Phillpotts, Ecosystems, Ministry of Environment
Jeremy Cooke, P.Eng., AC Eagle Enterprises Ltd. 1425 Peason Place, Kamloops, BC, V1S 1K5

Val Cameron.

s.22

Clinton, BC V0K 1K0

June 4/2010

Mr. Bruce McFarlane, P.Eng.
Mr. Darren Bennett
1259 Dalhousie Drive, Kamloops, BC V2C 5Z5
cc Ms. Valerie Cameron

3273094	3001788
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3001789	3003165
0242380	76800-20/PORCUPINE
0242382	76930-40/PORCUPINE

MOE Reference: 76800-20/Porcupine Cr.

Dear Sirs:

**REQUEST FOR EXTENSION: ENGINEER'S ORDER FOR DIVERSION STRUCTURE
ON PORCUPINE CREEK**

We hereby refer to your letter dated May 31, 2010 whereby you request a revised response by June 7, 2010, which is endorsed by all the licensees, that more fully explains the supporting rationale for the requested extension, commits to the submitted schedule, and acknowledges that our licences are subject to suspension and/or cancellation by the Ministry of the Environment if the Order is not obeyed.

As per your original letter of May 21, 2009, it has always been our full intention to build this diversion structure as soon as possible. The following are the background and reasons for requesting the current extension that were discussed and agreed upon between yourselves and the licensee representatives in your offices on May 20, 2010:

1. After the initial letter received at the end of May 2009, a meeting was held at the diversion in June 2009 between the licensees, Mike Edwards, his assistant and a MOE Fisheries representative. The site was inspected and a discussion held regarding the inputs for the new structure. The intent was to make the necessary changes immediately.
2. The licensees were specifically told to hold off on construction until such time as further input was obtained from Fisheries regarding their requirements for the structure. It should be noted that the due date at that stage was August 3, 2009.
3. Given the looming deadline, the licensees took it on themselves to investigate similar diversion structures on other creeks so that they would be ready to submit plans once Fisheries had contacted us with their input. Unfortunately, no reply was received back from the MOE Fisheries representative.
4. The Kelly Creek forest fire started on August 1, 2009. All residents on Kelly Lake Road were placed under evacuation alert in mid-August. Residences on Jesmond Road and near the diversion were evacuated between August 20 and September 2, 2009. Kelly Lake Road was closed to the public just to the west of Clinton. Police blockades were set up from August 20 to September 15, 2009 (Sgt. Terry Jackelin was the team commander for the RCMP). This blockade removed all possible access to the diversion site.
5. At the end of September, 2009, s.22 proceeded to the diversion soon after the area was opened up again. We took photographs and measurements on both creeks below the diversion, as well as Porcupine Creek above the diversion. Detailed sketch drawings were prepared by s.22

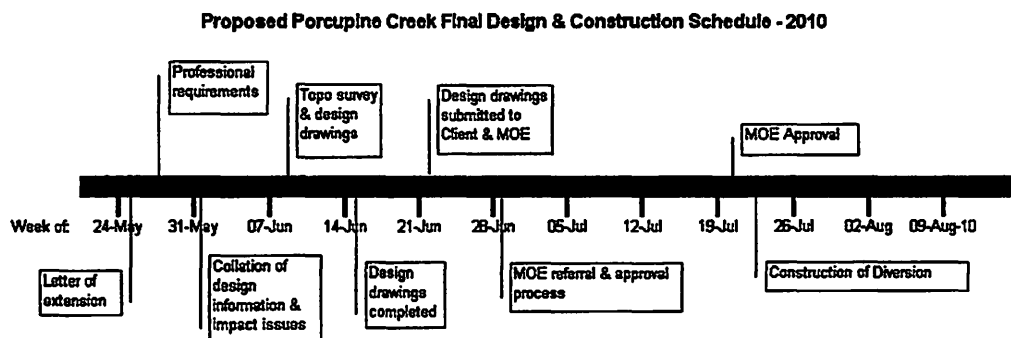
6. Unfortunately, these drawings were not submitted as an Engineer Order dated August 26, 2009 was delivered to the licensees by a MOE conservation officer, ordering that detailed drawings be prepared by a qualified professional engineer, and that they be submitted by September 30, 2009. This was the first indication of what the Ministry required in the way of diversion.
7. As suggested by the conservation officer, a letter requesting an extension of this new deadline was written to your Ministry. No answer to the licensees request was ever received back, and they did not know if the extension had been granted, nor when the new construction deadline was set. No further contact was made by your office on this subject until we learned in your letter dated March 25, 2010 that the new extension date for plans was April 16, 2010. The final construction date was set at May 31, 2010. Spring thaw for this area started in mid April and the Spring freshet by early May.
8. Despite the Kelly Lake fire and s.22 the
s.22 licensees made a determined effort to try and find an engineer to prepare the plans. After searching high and low, and being rejected by all the engineering firms that were contacted, the licensees found Jeremy Cooke, P.Eng. of WMI Water Management International Inc. on October 9, 2010, who was willing to take a look at the project. This showed that the licensees took the order seriously and were committed to constructing the diversion structure, and making every attempt to follow the MOE's instructions.
9. Jeremy visited Mike Edwards at the MOE offices on October 23, 2009 to assess the project with the view of making a decision to take this assignment on or not. He then conducted a site visit with all the licensees on Sunday October 25, 2009.
10. After deciding to help the licensees, Jeremy met with Mike Edwards and Mark Phillpotts (MOE Fisheries) on November 3, 2009 to present Connie Gainor's concept drawings and to discuss the project in more depth. Mark requested some time to confer with Al Caverly regarding the fisheries requirements. Mark provided an email reply on November 12, 2010.
11. Given the fact that the construction work will be carried out by the licensees, it should be noted that Mr. Cooke felt that he could not spend a disproportionate length of time on the project and charge large fees in comparison to what the structure would cost. Although you discounted it as not a valid excuse at our May 20, 2010 meeting, Jeremy was busy with other work during the early part of 2010 and did not have time to start dedicating his efforts to the project until March and April 2010. Since we had no deadlines for plans or construction completion, this was reasonable.
12. Jeremy will also attest to the fact that we contacted him numerous times during early 2010 to find out progress and whether he had heard anything back from the Ministry s.22. This again shows that the licensees were concerned about their water licences and were committed to fulfilling the requirements of the Order. The Water Bailiff Keith Coxon, also had not heard anything by the email correspondence that flowed around February 19, 2010.
13. It was during this time that we got to meet s.22 Darren Bennett.
14. Your March 25, 2010 Engineer's Order was then hand delivered and further discussions held with Darren.
15. Jeremy provided a report and engineering concept drawings by the April 16, 2010 deadline, which he deemed appropriate given the scale of the project and a commensurate effort that would be required given the budget constraints.
16. A meeting was held with Jeremy, yourself and Darren on April 22, 2010 to discuss these design renditions. The message conveyed was that you did not accept these

drawings as is and recommended that more thought be put into the layout. You also did not want to see the diversion placed in the direct line of flow from the Kelly Lake Road culvert.

17. Jeremy was only able to make it to Clinton on May 5, 2010 to hold a meeting with all the licensees to discuss this outcome. Jeremy was then to convey the findings of the meeting back to Darren.
18. A meeting with Darren was scheduled for May 12, 2010. Late in the day before this meeting, your office requested that a letter be obtained from the licensees that Mr. Cooke was authorized to speak on their behalf. Jeremy took offense to this formal MOE request and the letter that was sent back by the licensees, as he had in no way agreed to fulfill this role. He was a technical advisor to the licensees and was wishing to convey technical information back to Darren so that he (Darren) could go and negotiate further with us. Given the back and forth, Jeremy was unable to make the meeting on Wednesday the 12th and you could not reschedule to the Thursday or Friday as both you and Darren were busy with meetings.
19. The next opportunity was found for Thursday May 20, 2010 where s.22 attended the meeting in your offices together with yourselves and Jeremy. We thought the meeting went well and that we had ironed out the need for an extension for the construction deadline beyond May 31, 2010.
20. As requested, we provided a letter of motivation on May 21, 2010 formally requesting an extension of the deadline. On May 26, 2010 you asked that the letter be signed by all the licensees and that Jeremy Cooke should provide an additional letter to the one he provided on May 20, 2010 (i.e. work plan, timelines, etc) stating what he would be billing us to complete the work (provided May 27, 2010). You also provided us with the APEGBC contact details to find other engineers who would be willing to do the work cheaper and not with the environmental and other due diligence that Mr Cooke was proposing.
21. On May 31, 2010 we received your letter stating that our letter of May 21, 2010 and subsequent additions failed to provide adequate motivation regarding the extension of the May 31 deadline to August 2010.

In response to your letter we resubmit the following reasons:

- a) The above-mentioned history clearly indicates our intent to get the work done. We hereby reaffirm our commitment to making sure that the diversion structure is installed according our specified schedule.



- b) High water makes the creek unsafe for construction activities in the latter part of May. The risk of personal injury and worse is a real concern.
- c) Previous contact with the Ministry of the Environment concerning the construction of this diversion on Porcupine Creek expressly directed that "The work window for

instream work on Porcupine Creek is July 22 to October 31". (May 21, 2009 correspondence MOE).

- d) The land owner ^{s.22} at the site of the diversion, ^{s.22} will prefer that we not access the site at this stage ^{s.22} later in the summer they will be willing to allow access.
- e) The Thompson Nicola Regional District has informed local residents that there is a very real threat of the Kelly Creek fire detritus in Porcupine Creek watershed translating into mud and debris flood flows this freshet period. This could have consequences if we build the diversion at this time.
- f) Given your stipulation in the Order (and confirmed at our May 20, 2010 meeting) that signed and sealed engineering design drawings need to be submitted, Mr. Cooke, P.Eng. is bound by his code of ethics to carry out due diligence. This includes flood hydrology and the effect that these raised flows can have on the new diversion pattern in future (e.g. more water down Porcupine Creek that could potentially damage the trout spawning beds that Fisheries is trying to protect; erosion could also cause property damage to ^{s.22} . The reduced water flow could impact on the ecology of the Cutoff Creek and further downstream, which has come used to the flows that have existed for close to a century. These and other potential impacts have to be investigated before a structure can be approved in the proposed position. This process cannot be rushed.
- g) As requested in your May 31, 2010 letter, we hereby understand that we are totally at the Ministry of the Environment's mercy because of the Engineer's Order and acknowledge the serious dilemma we find ourselves in facing suspension and potential loss of our water licences and livelihoods that will ensue.

We, the undersigned licensees that are entitled to divert water from Porcupine Creek hereby re-request an extension to our design and construction process as per our proposed work program and the rationale presented in this letter.

Yours truly

*Original sent to
Darren Bennett & Bruce McEwan*

Michael Grills and
Nancy McMinn

^{s.22}
Clinton BC VOK 1K0
File: 76930-40/Grills and McMinn

Robert and Dori Hampton

^{s.22}
Clinton BC
VOK 1K0
File: 76930-40/Hampton

Katherine and Bradley McCullough

^{s.22}
Clinton BC VOK 1K0
File: 76930-40/McCullough

Thomas M. Pryor

^{s.22}
Clinton BC VOK 1K0
File: 76930-40/Pryor

Loretta Danielson

^{s.22}
Clinton BC
VOK 1K0
File: 76930-40/Danielson

Bruce and Connie Gainor

^{s.22}
Clinton BC
VOK 1K0
File: 76930-40/Gainor

Stewart, Tracy ENV:EX

From: McFarlane, Bruce ENV:EX
Sent: Monday, May 31, 2010 5:29 PM
To: s.22
Cc: Bennett, Darren J ENV:EX; 'Jeremy Cooke'
Subject: Request for extension - Engineer's Order: File 76800-20/Porcupine Creek
Attachments: 2010-05-27 Letter to MOE re Cost Estimates.pdf; Licensee letter31May2010_Final.pdf; AC Eagle Page 2 of 2.jpg; Letter Request.jpg; AC Eagle Page 1 of 2.jpg

Dear Licensees. I have attached my response to your request for extension to the Engineer's Order on Porcupine Creek. Please let Darren Bennett know if you are unable to read any of these attachments, and he can see about making additional arrangements.

Sincerely,

Bruce McFarlane, P.Eng.
Assistant Regional Water Manager
Ministry of Environment

76800-20/Porcupine
76930-40/Porcupine

0273094
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31 May 2010

File: 76800-20/Porcupine Cr.

Michael Grills and
Nancy McMinn

s.22
Clinton BC VOK 1K0
File: 76930-40/Grills and McMinn

Robert and Dori Hampton

s.22
Clinton BC
VOK 1K0
File: 76930-40/Hampton

Katherine and Bradley
McCullough

s.22
Clinton BC VOK 1K0
File: 76930-40/McCullough

Thomas M. Pryor

s.22
Clinton BC VOK 1K0
File: 76930-40/Pryor

Loretta Danielson

s.22
Clinton BC
VOK 1K0
File: 76930-40/Danielson

Bruce and Connie Gainor

s.22
Clinton BC
VOK 1K0
File: 76930-40/Gainor

Dear Licensees:

Re: Request for Extension: Engineer's Order for Diversion Structure on Porcupine Creek

At the request of s.22 I agreed to meet with licensees on 20 May 2010 regarding the Engineer's Order amended 25 May 2010. Jeremy Cooke, P.Eng., AC Eagle Enterprises Ltd., was also in attendance. In summary, these licensees advised that they would engage the other affected licensees not in attendance to develop a letter requesting a second extension of the Engineer's Order.

I received your letter of 21 May 2010 with final additions on 27 May 2010, requesting a further extension of the deadline for completion of the diversion structure on Porcupine Creek, which request also includes attachments for your proposed work schedule and cost estimate for the engineering design (attached). I note the following:

- You previously requested and received an extension to the Engineer's Order of 26 August 2009 to 28 May 2010;
- You have failed to provide the required actions requested by the amended Order by the required dates, and;
- You are currently diverting flow from Porcupine Creek.

.../2

I remind you that the Water Act provides the following direction:

23 (2) The rights of a licensee under a licence are subject to suspension for any time by the comptroller or a regional water manager, and a licence and all rights under it are subject to cancellation in whole, or in part by the comptroller or a regional water manager for (g) the licensee's failure to comply with an order of the comptroller or a regional water manager or an engineer.

A person commits an offence under the *Water Act* when they do the following:

93 (2) (p) fails to do an act or thing required to be done by the person under this Act or under an order of the comptroller, regional water manager, engineer or officer.

The main reason you have provided for requesting a further extension - the subsidence of stream levels to enable construction - does not provide satisfactory rationale for not having completed the required actions specified in the Order by the extended completion date of May 28 2010.

In your letter, you have indicated that you fully intend to build the structure as soon as possible, and I am encouraged by submission of your schedule. However, this in itself does not provide me with assurance that the work will be completed as proposed, considering you have not met the terms of the amended Order.

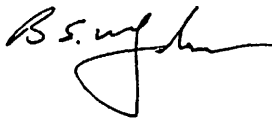
Accordingly, I request that you provide me with the following:

- a response endorsed by all licensees addressed above that more fully explains the supporting rationale for the requested extension, commits to your submitted schedule, and acknowledges that your licenses are subject to suspension and/or cancellation if the Order is not obeyed.

Failure to submit this response to me in writing by 7 June 2010 may lead to further action.

During the meeting of 20 May 2010, I was informed that s.22 who owns the land on which the works are located, expressed concern about potential impacts to s.22 land associated with the diversion structure. I will be contacting s.22 to discuss s.22 concerns.

Yours truly,



Bruce McFarlane, P. Eng.
Assistant Regional Water Manager
Water Stewardship Division

cc: Jeremy Cooke, AC Eagle Enterprises Ltd.
Attach: Letter of Request, 21 May 2010; Addenda - 20 May 2010, 27 May 2010



WMI Water Management International

May 27, 2010

The Regional Director
Ministry of Environment
1259 Dalhousie Drive
Kamloops, BC V2C 5Z5

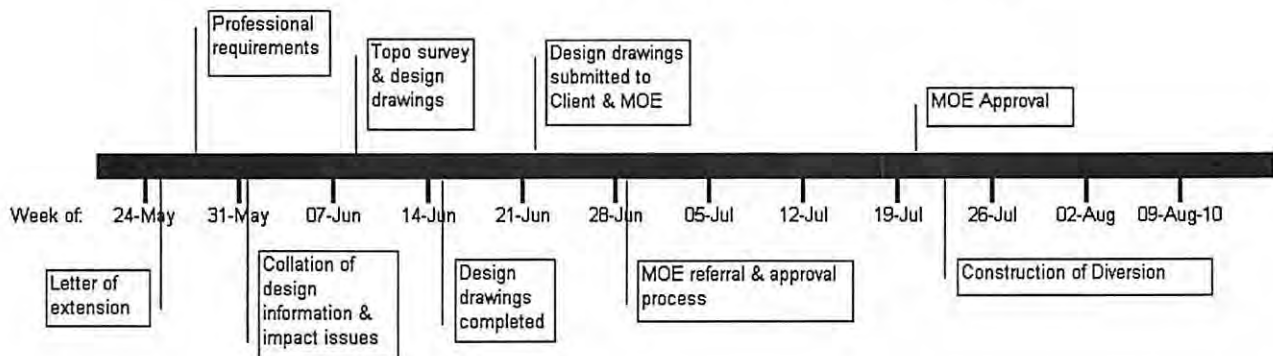
Attention: Darren Bennett

DIVERSION STRUCTURE ON PORCUPINE CREEK: CONSULTING COST ESTIMATE

In order to make his final decision regarding the extension of the Engineer's Order date at Porcupine Creek, Bruce McFarlane, P.Eng., has requested that I provide a cost estimate for the work that I would need to perform for the Ranchers.

The proposed schedule for works that I quoted on is as follows:

Proposed Porcupine Creek Final Design & Construction Schedule - 2010



Taking into account the two site visits to Clinton, various meetings, conceptual design work (which I felt was fitting for this application), I have already spent \$2,000 in travel and fee costs.

As part of this process I will need to: do due diligence on the flood hydrology; hold discussions regarding mitigation on the potential damage to s.22 property and the fish spawning beds en route to Kelly Lake; the instream flow requirements of Cutoff Creek and downstream impacts of reduced flows; the production of a design drawing that I would be willing to sign and seal; construction site visits; and other miscellaneous tasks.

With this in view, I can see an extended budget of another \$8,000 enveloping. This includes travel and other expenses. I will however only charge for actual time and

costs expended as I fully understand the financial constraints of the Ranchers. Also, it is important to weigh the professional expenses versus the actual cost of the diversion weir.

I trust that this information will suffice for Bruce to be able to make his final decision.

Yours sincerely,

for WMI Water Management International Inc.



**JC Cooke, P.Eng.
Managing Director**

ce

s.22

Stewart, Tracy ENV:EX

From: Bennett, Darren J ENV:EX
Sent: Wednesday, May 26, 2010 12:42 PM
To: ^{s.22}
Cc: McFarlane, Bruce ENV:EX
Subject: Engineer's Order - Extension to deadline for completion of work on Porcupine Creek diversion structure (File 76930-40/Porcupine Creek)

0273094	3001788
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3001789	3003165
0242380	76800-20/PORCUPINE
0242382	76930-40/PORCUPINE
0273094	3001788

Dear ^{s.22}

Thank you for your letter requesting extension of time for work required under Engineer's Order dated 25 March 2010.

Further to your conversation this morning with Bruce McFarlane, Assistant Regional Water Manager, the request cannot be accepted in its current form. In order for this request to be considered it must be endorsed by all licensees under the Engineer's Order for the Porcupine Creek (into Cutoff Valley Creek) water diversion.

We look forward to your immediate action in this regard.

Regards,
Darren

Darren J. Bennett
Water Stewardship Officer
Ministry of Environment

PH: 250-371.6317 FAX: 250-828.4000

Clinton BC VOK 1K0

May 21/2010

Mr. Darren J Bennett

Mr. Bruce McFarlane

1259 Dalhousie Dr Kamloops BC V2C 5Z5

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76930-40 / PRYOR

" / GRILLS & McMINN

" / HAMPTON

" / McCULLOUGH

" / DANIELSON

" / GAGNOR

76800-20 / PORCUPINE CR.

As per our meeting yesterday (May 20) at your office, this letter is a request for an extension on the construction deadline for the water diversion on Porcupine Creek ordered by your office, past the previous completion date of May 28 2010. As it was with the first letter on this subject we received one year ago, we fully intend to build this structure as soon as possible. With current high water, construction at this site is not possible at the moment. Our engineer must find time to conduct his studies and produce signed and sealed construction drawings; this engineering process includes conducting due diligence in ensuring that various land, legal and environmental issues are adequately addressed to fulfill your order. When the plans for the structure have been finalized by our engineer and accepted by your office and the creek level is down, construction may start. We postulate that construction may be finished with a week's work, once started, presuming the plans describe a modest structure. Construction may start in late summer or early fall. Response to this extension request from your office is necessary, to ensure that we have knowledge of the completion date you desire. Failure of your office to respond to this letter will result in further miscommunication and misunderstanding between us.

As to your phone call the morning of May 21 from Bruce McFarlane, to Mr. McFarlane requested that we contact him on Tuesday morning May 25, regarding the riparian areas and water quality investigations of Porcupine creek done by the MOE this weekend. Looking forward to our conversation on Tuesday.

Yours,

s.22

WMI Water Management International



May 20, 2010

s.22

Clinton, BC V0K 1K0

DIVERSION STRUCTURE ON PORCUPINE CREEK: PROPOSED WAY FORWARD

As per our discussions with representatives of the Ministry of Environment's (MOE) Water Stewardship Division this morning, I would suggest the following approach.

1. Letter to MOE requesting an extension on the construction deadline

This letter should be submitted to Darren Bennett as soon as possible and should state your commitment to construct the diversion despite the various factors that have delayed progress. You should ask for an extension to the end of August 2010 to complete the works based on the attached work schedule.

It should reference today's meeting and the minutes that Darren will be circulating soon. In essence, the rationale for the extension to the May 28, 2010 deadline is that: high freshet water levels make it difficult to work in the creek and that the July-August period would be better; you have to wait on the professional engineer to find time to conduct his studies and produce signed and sealed construction drawings; this engineering process includes conducting due diligence in ensuring that various land, legal and environmental issues are adequately addressed.

2. Professional Requirements

Based on the MOE Engineer's Order dated March 25, 2010 and previous supporting MOE documentation, it will be necessary for WMI Inc. to qualify the exact deliverables that will be required to satisfy the order. This will require an assessment of the various legislation that resorts under the Water Act. MOE guidelines such as the "Standards and Best Practices for Instream Works" will also be referred to. A discussion with a senior member of the Association of Engineers and GeoScientists of British Columbia will also be held to determine liability issues.

Based on this evaluation I will be able to give you a more accurate cost estimate of the work required. We will however endeavour to keep our time and cost estimate to an absolute minimum.

3. Engineering Construction Drawings

The focus of this design will concentrate on reestablishing a diversion structure that meets the MOE's requirements. Operation of the water system and other water licence issues will be the subject of follow up work in future.

A brief topographical survey will be required to set up engineering drawings and determine other spatial (e.g. horizontal positions and relative elevations) information for design work.

A quick update on the flood hydrology, fish requirements and other issues that will affect the design and construction of the river diversion structure, will be needed. Discussions with the various regulatory agencies will help reach the most appropriate design, which will assist in expediting MOE referral approvals.

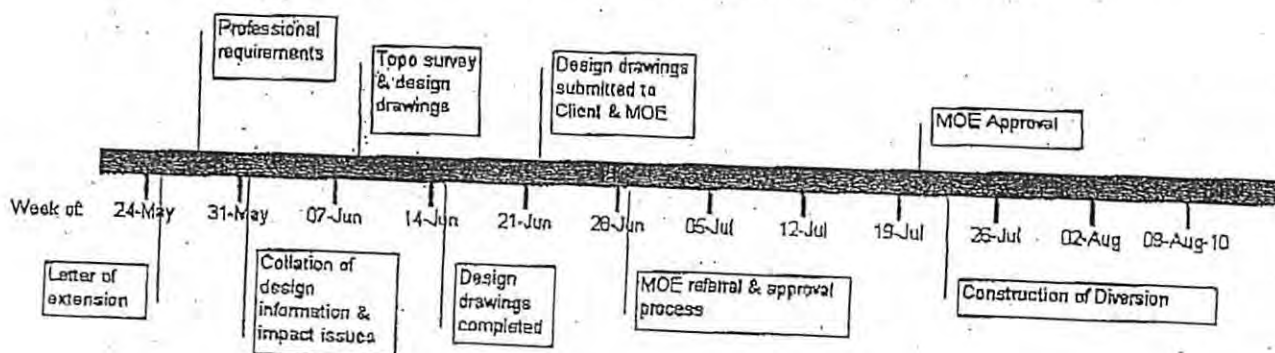
Production of draft engineering drawings that will be run by the licencees and the MOE before these are finalized and signed off.

4. Construction

The complexity and cost of the structure will be optimized in the design stage. Minimum maintenance will be a determining criteria in the final diversion choice and construction thereof.

5. Timelines

Proposed Porcupine Creek Final Design & Construction Schedule - 2010



6. Conclusion

Thank you for the opportunity to assist you in meeting your technical requirements associated with the overall legal requirements stated in the by the March 25, 2010 Engineer's Order.

Yours sincerely,

for WMI Water Management International Inc.

JC Cooke
 JC Cooke, P.Eng.
 Managing Director



76930-40 / PRYOR

" / GRILLS & McMINN

" / HAMPTON

" / McCULLOUGH

" / DANIELSON

" / GAINOR

s.22

May 21/2010

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0242382	76930-40/PORCUPINE

Mr. Darren J Bennett

Mr. Bruce McFarlane

1259 Dalhousie Dr Kamloops BC V2C 5Z5

76800-20 / PORCUPINE CR.

As per our meeting yesterday (May 20) at your office, this letter is a request for an extension on the construction deadline for the water diversion on Porcupine Creek ordered by your office, past the previous completion date of May 28 2010. As it was with the first letter on this subject we received one year ago, we fully intend to build this structure as soon as possible. With current high water, construction at this site is not possible at the moment. Our engineer must find time to conduct his studies and produce signed and sealed construction drawings; this engineering process includes conducting due diligence in ensuring that various land, legal and environmental issues are adequately addressed to fulfill your order. When the plans for the structure have been finalized by our engineer and accepted by your office and the creek level is down, construction may start. We postulate that construction may be finished with a week's work, once started, presuming the plans describe a modest structure. Construction may start in late summer or early fall. Response to this extension request from your office is necessary, to ensure that we have knowledge of the completion date you desire. Failure of your office to respond to this letter will result in further miscommunication and misunderstanding between us.

As per Mr. McFarlane's request, Jeremy Cooke will submit a further addition to his letter of request to extension of construction deadline. As to your phone call the morning of May 21 from Bruce McFarlane, to

s.22

Mr. McFarlane requested that we contact him on Tuesday morning May 25, regarding the riparian areas and water quality investigations of Porcupine creek done by the MOE this weekend. Looking forward to our conversation on Tuesday.

Yours,

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

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[Signature]

14 May 2010

File: 76800-20/Porcupine Cr.

Jeremy Cooke, P.Eng.
WMI Water Management International
PO Box 583, Kamloops, BC V2C 5L7

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Dear Mr. Cooke:

Re: Porcupine Creek diversion.

This letter is a reminder that the deadline for completion of your diversion structure is fast approaching. We met with you on 22 April 2010 to discuss your initial design submission for the structure. We provided feedback on the design at that time. I contacted you on 27 April and you indicated you planned to meet with the licensees on the weekend of 01 May to discuss design options. Our understanding is that this meeting did not take place until 05 May.

We scheduled another meeting with you for 12 May 2010, but this did not occur because of commitments you were unable to reschedule. We can appreciate your busy schedule, but this does not constitute a reason to amend the order. In the best interest of the licensees and their continued use of their water rights, I urge you to expedite resubmission of your design for our review and acceptance. The order clearly instructs the licensees to have installation of the diversion structure complete by 28 May 2010, and we require a reasonable amount of time to review your final design.

If you have any questions or require further clarification, please call me at 250-371-6317.

Yours truly,



Darren J. Bennett
Water Stewardship Officer
Water Stewardship Division

c.c.

Michael Grills and Nancy McMinn

s.22

Clinton BC VOK 1K0

File: 76930-40/Grills and McMinn

Robert and Dori Hampton

s.22

Clinton BC VOK 1K0

File: 76930-40/Hampton

Katherine and Bradley McCullough

s.22

Clinton BC VOK 1K0

File: 76930-40/McCullough

Thomas M. Pryor

s.22

Clinton BC VOK 1K0

File: 76930-40/Pryor

Loretta Danielson

s.22

Clinton BC VOK 1K0

File: 76930-40/Danielson

Bruce and Connie Gainor

s.22

Clinton BC VOK 1K0

File: 76930-40/Gainor

s.22

May 11, 2010

Mr. Bruce McFarlane

Ministry of the Environment

1259 Dalhousie Dr, Kamloops BC V2C 5Z5

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0242380	76800-20/PORCUPINE
0242382	76930-40/PORCUPINE

Please be advised that Mr. Jeremy Cooke acts as the agent for the involved water licensees regarding all aspects of the proposed Porcupine Creek diversion, a diversion proposed by the MOE in 2009.

FILE

- 1) Nancy McMinn and Mike Grills

76930-40/GRILLS & MCMINN

- 2) Robert and Dori Hampton

76930-40/HAMPTON

- 3) Katherine and Bradley McCullough

76930-40/McCULLOUGH

- 4) Thomas M Pryor

76930-40/PRYOR

- 5) Loretta Danielson

76930-40/DANIELSON

- 6) Bruce and Connie Gainor

76930-40/GAINOR

[Handwritten signatures for Nancy McMinn, Mike Grills, Robert Hampton, and Dori Hampton]

[Handwritten signature for Katherine and Bradley McCullough]

[Handwritten signature for Thomas M Pryor]

[Handwritten signature for Loretta Danielson]

[Handwritten signature for Bruce and Connie Gainor]

THE PROVINCE OF BRITISH COLUMBIA—WATER ACT
CONDITIONAL WATER LICENCE

~~Arthur M. Danielson of Box 237, Clinton, B. C. V0K 1K0~~

is hereby authorized to divert and store water as follows:

- (a) The source of the water supply is Porcupine Creek and the reservoir is Leighwood Lake.
- (b) The points of diversion and storage are located as shown on the attached plan.
- (c) The date from which this licence shall have precedence is 24th February, 1982.
- (d) The purpose for which the water is to be used is as set out in Final Water Licence 4322.
- (e) The maximum quantity of water which may be stored is 184 acre feet per annum, and such additional quantity as the Engineer may from time to time determine should be allowed for losses.
- (f) The period of the year during which the water may be stored is 1st October to 15th June.
- (g) The land upon which the water is to be used and to which this licence is appurtenant is as set out in Final Water Licence 4322.
- (h) The works authorized to be constructed are diversion structure, ditch and dam, which shall be located approximately as shown on the attached plan.
- (i) The construction of the said works shall be commenced on or before the 31st day of October, 1985, and shall be completed and the water beneficially used on or before the 31st day of December, 1988.
- (j) Construction of the dam authorized under clause (h) hereof shall not be commenced until plans of same have been submitted to and approved by the Regional Water Manager.
- (k) Works shall be installed to meter and record the rate of flow and quantity of water stored under this licence and the instream flow in Cutoff Valley Creek immediately above and below the dam.

SUPERSEDED

July 30, 1996

J. E. Farrell,
Deputy Comptroller of Water Rights.

File No. 3000247

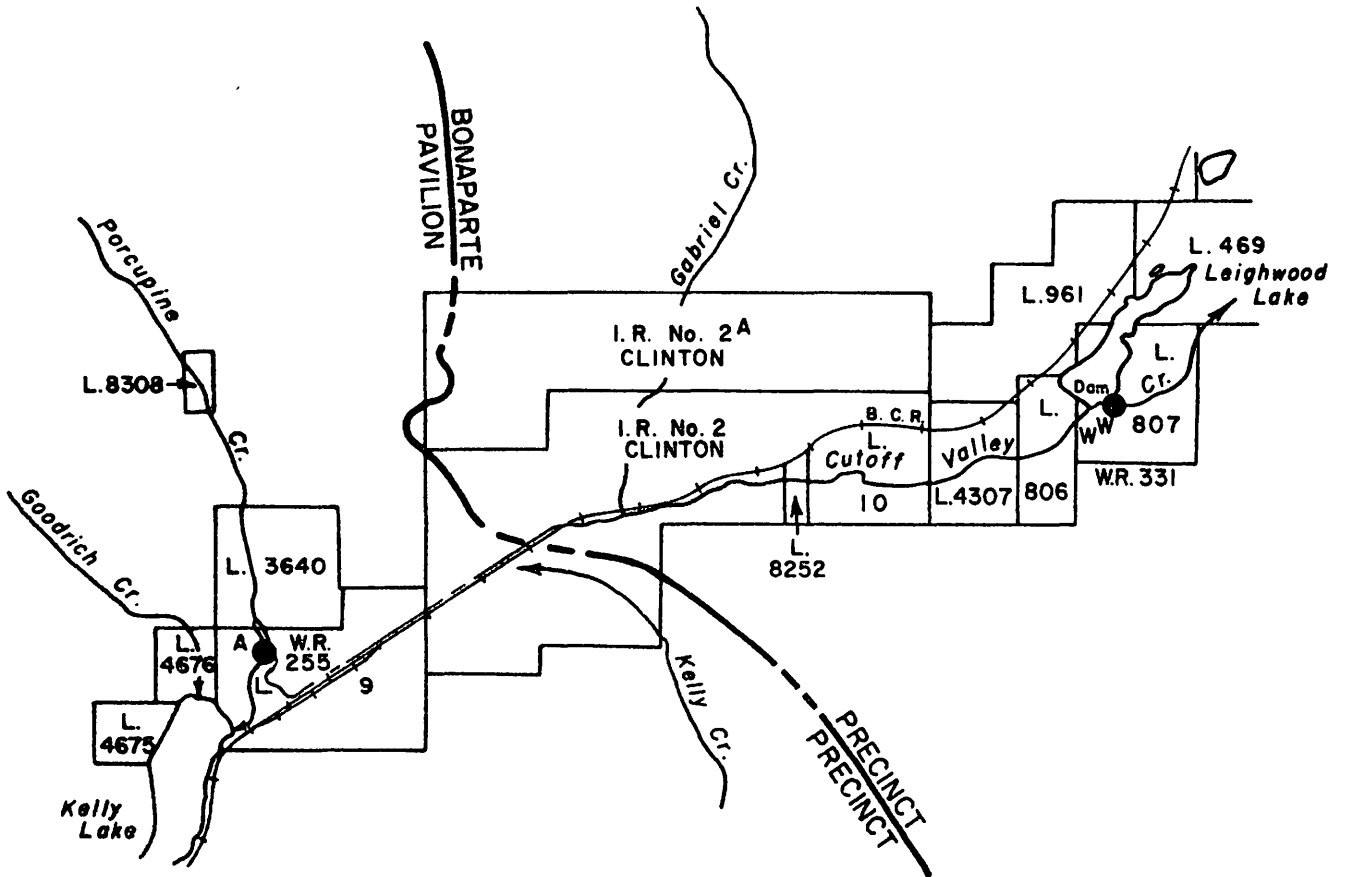
Date issued: **APR 26 1985**

Conditional Licence 62144

Kameoos



Province of British Columbia



WATER DISTRICT : ASHCROFT

LAND DISTRICT : LILLOOET

LEGEND

Scale : 1 : 50,000
Point of Diversion & Dam: ●
Map Number : WR 255 & WR 331
Ditch : — — — — —

Signature

[Handwritten Signature]

Date

APR 26 1985

C.L. 62144

File 3000247

For Diversion see F.L. 4322

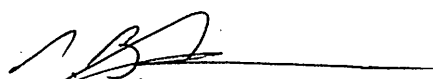


THE PROVINCE OF BRITISH COLUMBIA - WATER ACT

CONDITIONAL WATER LICENCE

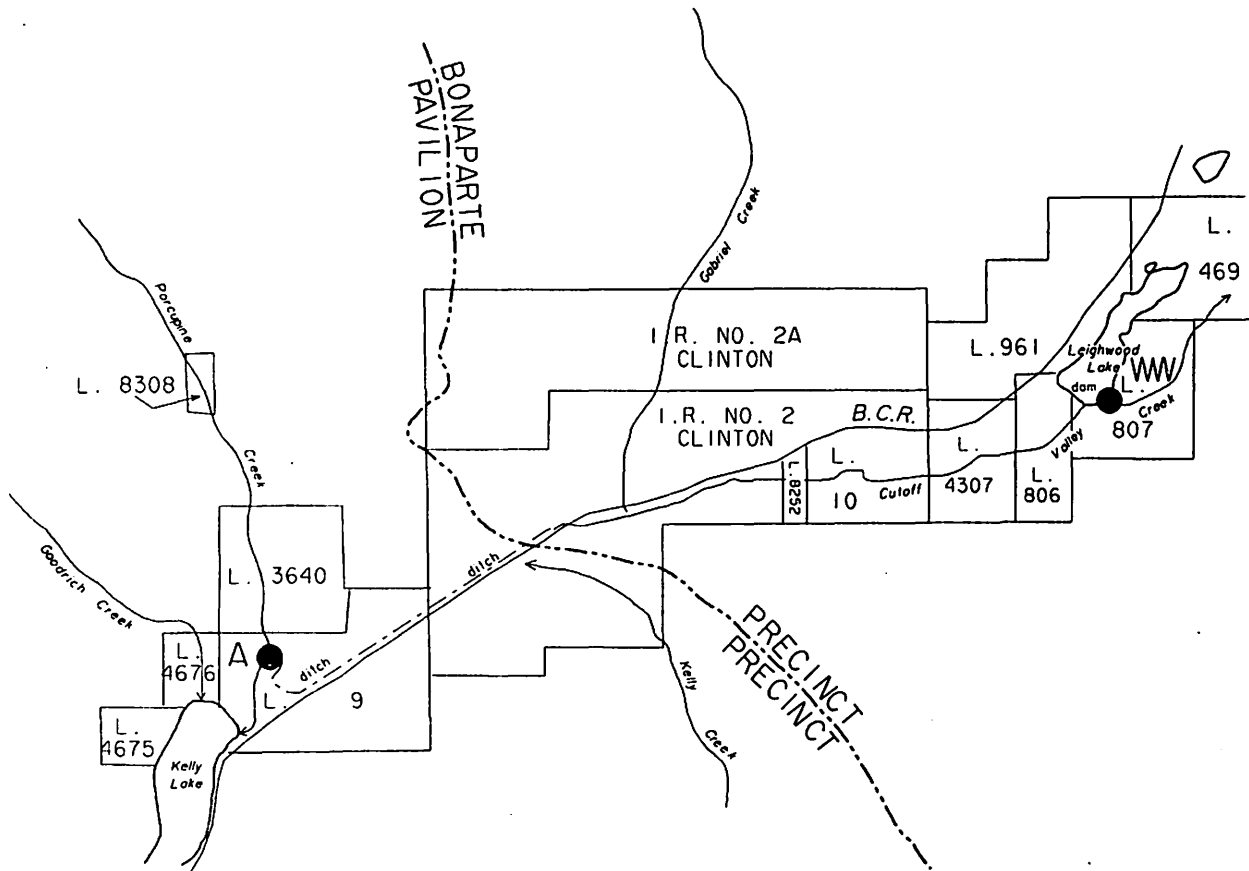
The owners of the land to which this licence is appurtenant are hereby authorized to divert and store water as follows:

- (a) The stream on which the rights are granted is Porcupine Creek with the reservoir being Leighwood Lake.
- (b) The storage site and point of diversion are located as shown on the attached plan,
- (c) The date from which this licence shall have precedence is 24th February, 1982.
- (d) The purpose for which this licence is issued is storage.
- (e) The maximum quantity of water which may be stored is 32.2 acre-feet per annum.
- (f) The period of the year during which the water may stored is 1st October to 15th June.
- (g) The land upon which the water is to be used and to which this licence is appurtenant is set out in Conditional Water Licence 111138.
- (h) The authorized works are diversion structure, ditch and dam, which shall be located approximately as shown on the attached plan.
- (i) The construction of the said works shall be completed and the water beneficially used prior to the 31st of December, 1997. Thereafter, the licensee shall continue to make regular beneficial use of the water in the manner authorized herein.
- (j) Works shall be installed to meter and record the rate of flow and quantity of water stored under this licence and the instream flow in Cutoff Valley Creek immediately above and below the dam.
- (k) This licence is issued in substitution of Conditional Water Licence 62144, in part, under Sections 15 and 17 of the Water Act.


R.B. Smith, P.Eng.
Assistant Regional Water Manager
Southern Interior Region



Province of British Columbia



WATER DISTRICT : ASHCROFT
PRECINCT : BONAPARTE
LAND DISTRICT : LILLOOET

LEGEND

Scale : 1:50,000
Point of Diversion : ●
Map Number : WR 255 & 331
Pipe : -----

Signature: 

Date: July 30, 1996

C.L. 111135 for C.L. 62144 in part
File 3003165

For Diversion See C.L.111138

The boundaries of the land to which this licence
is appurtenant are shown thus: -----

Nuttall, Brian FLNR:EX

From: Nuttall, Brian FLNR:EX
Sent: Friday, May 6, 2011 2:27 PM
To: 'Connie Gainor'
Cc: Beeson, Craig FLNR:EX; Bennett, Darren J FLNR:EX
Subject: New diversion structure on Porcupine Creek

I have reviewed our files

s.22

s.22

Please contact Craig Beeson or me if you have any questions regarding this matter.

Brian Nuttall
Dam Safety Officer
Public Safety and Protection Section
Kamloops
Office (250) 371-6329
Cell s.17

From: Connie Gainor s.22
Sent: Friday, May 6, 2011 12:45 PM
To: Nuttall, Brian FLNR:EX
Subject: Re: picture and diagram of site

not sure my message went through to your cell phone.
I need for you to call me asp.

s.22

Thanks

Connie

Connie & Bruce Gainor

s.22

----- Original Message -----

From: Nuttall, Brian FLNR:EX
To: 'Connie Gainor'
Cc: Beeson, Craig FLNR:EX
Sent: Friday, May 06, 2011 11:04 AM
Subject: RE: picture and diagram of site

We received the letter and photo's

Thank you for sending them.

We'll contact you once we here from the Habitat staff regarding work windows.

Brian Nuttall
Dam Safety Officer
Public Safety and Protection Section
Kamloops
Office (250) 371-6329
Cell s.17

From: Connie Gainor s.22
Sent: Friday, May 6, 2011 10:58 AM
To: Nuttall, Brian FLNR:EX
Subject: picture and diagram of site

I have sent you a email with letter attached as well as these two files.
please let me know if you receive then.

Thank you,

Connie

Connie & Bruce Gainor

s.22

Notice of Abandonment of a Water Licence (Revised July 2009)

To: Regional Water Manager or Comptroller of Water Rights File: 3003165
Water Stewardship Division, Ministry of Environment

Re: Conditional/Final Water
Licence:

Source Name: C111135 STORAGE
PORCUPINE CREEK RESERVOIR being Leighwood Lake

The above licence is appurtenant (in whole or in part) to L807 Lillooet Dist.

(legal description of land owned or description of undertaking of project)

I hereby notify you of my abandonment of:

All of the above licence ☒

Part of the above licence ☐

of the rights held under the above licence insofar as it pertains to the above mentioned property
and instruct you to alter your records accordingly.

If abandoning **Part** of the above licence rights please indicate which part

My reason for abandonment of these rights is: I Am Not using The
Rights

PLEASE CHECK AND COMPLETE THE APPROPRIATE STATEMENT
CONCERNING ANY WORKS CONSTRUCTED:

The works:

- [☒] were never constructed AS PER Licence C111135
[☐] were constructed and have been removed
[☐] are constructed and will be removed by _____ (date:m/d/y)
[☐] are constructed and remain in place for my use under other licences, or for use of other
licensee
[☐] are constructed and I wish to leave _____
(description of remaining works)

NOTE: By abandoning the licence this does **not** released the licensee from liability for
damage resulting from the works or from a defect insufficiency or failure of the works.

RECEIVED

NOV 04 2010

Ministry of Environment
Thompson Region

PLEASE COMPLETE THE PERSONAL INFORMATION:

All registered owner(s) please refer to the **IMPORTANT** note below.

Name:

(owner 1)

Address BRUCE M GAINOR [Signature] Nov 3/10
s.22 (signature) (date)

Phone #

s.22

Email:

Name:

(owner 2)

Address CONNIE L GAINOR [Signature] Nov 3/10
s.22 (signature) (date)

Phone #

s.22

Email:

Name:

(owner 3)

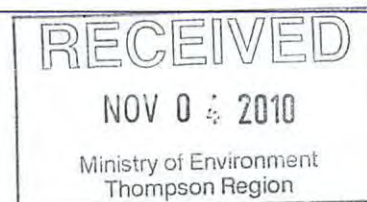
Address _____ (signature) (date)
Phone # _____ Email: _____

IMPORTANT NOTE: All names, address, phone numbers and signatures must be provided for all parties shown as landowners on the *Certificate of Title* for the land to which the water licence is appurtenant.

PLEASE NOTE: The abandonment application is not effective until this form is completed and returned to your nearest regional **Water Stewardship Division** office.

Connie Gainor

From: "Connie Gainor" s.22
To: "Connie Gainor" s.22
Sent: November 3, 2010 1:13 PM
 November 3, 2010



Bruce MFarlane, P.Eng
 Water Allocation Section Head

Darren Bennet
 Water Stewardship Officer

Re: file number 76800 / Porcupine Creek



As of this date we, Bruce and Connie Gainor and Loretta Danielson have filed a notice of Abandonment of Water storage licence C111134 and C111135.

Therefore we will no longer have water licences pertaining to the Diversion of Porcupine Creek.

Please advise all those with water licences connecting them to the diversion of Porcupine Creek.

All further correspondence on this matter are to be managed with confidentiality.

Connie & Bruce Gainor
 Loretta Danielson

 NOV 3/10
 Connie L. Gainor
 NOV. 3/10
 Loretta Danielson Nov. 3, 2010

Connie Gainor

From: "Connie Gainor" s.22
To: "Connie Gainor" s.22
Sent: November 3, 2010 1:31 PM
To:
Darren Bennet



Please find the following pages faxed to you.

Notice of Abandonment of water licence C111135
From Bruce and Connie Gainor

Notice of Abandonment of water licence C111134
From Loretta Danielson

Notice of exclusion in Diversion of Porcupine Creek.

A hardcopy will be sent to you by mail.

Connie Gainor
Connie & Bruce Gainor

A handwritten signature in blue ink, appearing to read "Bruce Gainor".



WATER ACT

Notice of Abandonment of a Water Licence

To: Regional Water Manager or Comptroller of Water Rights
Water Stewardship Division, Ministry of Environment

File: 3003165

Re: Conditional/Final Water
Licence:

Source Name: C111135 Storage
PORCUPINE CREEK RESERVOIR BEING LEIGHWOOD LAKE

The above licence is appurtenant (in whole or in part) to L807 Lillooet Dist.

(legal description of land owned or description of undertaking of project)

I hereby notify you of my abandonment of:

All of the above licence ☒

Part of the above licence ☐

of the rights held under the above licence insofar as it pertains to the above mentioned property and instruct you to alter your records accordingly.

If abandoning **Part** of the above licence rights please indicate which part

My reason for abandonment of these rights is: I AM NOT USING THE
RIGHTS

**PLEASE CHECK AND COMPLETE THE APPROPRIATE STATEMENT
CONCERNING ANY WORKS CONSTRUCTED:**

The works:

- ☒ were never constructed AS PER LICENCE C111135
- ☐ were constructed and have been removed
- ☐ are constructed and will be removed by _____ (date:m/d/y)
- ☐ are constructed and remain in place for my use under other licences, or for use of other licensee
- ☐ are constructed and I wish to leave _____
(description of remaining works)

NOTE: By abandoning the licence this does **not** released the licensee from liability for damage resulting from the works or from a defect insufficiency or failure of the works.

PLEASE COMPLETE THE PERSONAL INFORMATION:

All registered owner(s) please refer to the **IMPORTANT** note below.

Name:

(owner 1)

Address

BRUCE M GAINOR [Signature] Nov 3 / 10
VOKIKO C. Linton BC (signature) (date)

Phone #

s.22

Email:

Name:

(owner 2)

Address

CONNIE L GAINOR [Signature] Nov 3 / 10
VOKIKO C. Linton BC (signature) (date)

Phone #

s.22

Email:

Name:

(owner 3)

Address

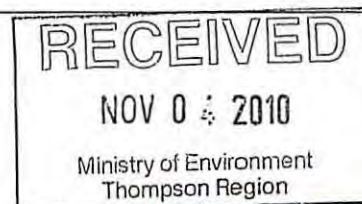
(signature) (date)
Phone # Email:

IMPORTANT NOTE: All names, address, phone numbers and signatures must be provided for all parties shown as landowners on the *Certificate of Title* for the land to which the water licence is appurtenant.

PLEASE NOTE: The abandonment application is not effective until this form is completed and returned to your nearest regional Water Stewardship Division office.

Connie Gainor

From: "Connie Gainor" s.22
To: "Connie Gainor" s.22
Sent: November 3, 2010 1:13 PM
November 3, 2010



Bruce MFarlane, P.Eng
Water Allocation Section Head

Darren Bennet
Water Stewardship Officer

COPY

Re: file number 76800 / Porcupine Creek

As of this date we, Bruce and Connie Gainor and Loretta Danielson have filed a notice of Abandonment of Water storage licence C111134 and C111135.

Therefore we will no longer have water licences pertaining to the Diversion of Porcupine Creek.

Please advise all those with water licences connecting them to the diversion of Porcupine Creek.

All further correspondence on this matter are to be managed with confidentiality.

Connie & Bruce Gainor
Loretta Danielson

Connie L. Gainor NOV 3/10
Loretta Danielson Nov. 3/10
Nov. 3, 2010

COPY

s.22



Registered Recommande



DARREN Bennett
1259 DALhousie DR.
Kamloops BC
V2C 5Z5



CANADA POSTES

From anywhere to anyone

Stewart, Tracy ENV:EX

From: McFarlane, Bruce ENV:EX
Sent: Thursday, November 4, 2010 9:20 AM
To: WSD Kamloops ENV:EX
Subject: FW: Conversation yesterday on Leighwood Lake; File D110216; File 3003165

For files.

From: McFarlane, Bruce ENV:EX
Sent: Thursday, November 4, 2010 9:19 AM
To: s.22
Cc: Bennett, Darren J ENV:EX; Beeson, Craig ENV:EX
Subject: RE: Conversation yesterday on Leighwood Lake; File D110216; File 3003165

As discussed s.22 this morning, I was out to inspect the "dam" site on Cutoff Valley Creek at Leighwood Lake yesterday. The elevated lake level appears to be caused by recent beaver activity, rather than by human intervention. The increased level associated with this recent activity appears to be minimal, although I have no reference point from which to make a quantitative comparison. I will continue to look into this situation and your water license(s) on a priority basis.

Bruce McFarlane, P.Eng.
Allocation Section Head

Ministry of Natural Resource Operations
Water Stewardship
Thompson-Okanagan
Ph. (250) 371 - 6200
Fax. (250) 828 - 4000

From: s.22
Sent: Wednesday, November 3, 2010 3:05 PM
To: McFarlane, Bruce ENV:EX
Subject: re: Conversation yesterday on Leighwood Lake

I am following up on our conversation yesterday regarding the increase height in Leighwood Lake.

Can you please advise me on what actions have taken place.

Thank you,

s.22



Delivered by Electronic and Registered Mail

16 July 2010

File: 76800-20/Porcupine
76930-40/Porcupine

Michael Grills and
Nancy McMinn

s.22
Clinton BC VOK 1K0
File: 0273094

Robert and Dori Hampton

s.22
Clinton BC
VOK 1K0
Files: 3001787, 3001789,
0242380

Katherine and Bradley
McCullough

s.22
Clinton BC VOK 1K0
File: 0242382

Thomas M. Pryor

s.22
Clinton BC VOK 1K0
File: 3001788

Loretta Danielson

s.22
Clinton BC
VOK 1K0
File: 3000247

Bruce and Connie Gainor

s.22
Clinton BC
VOK 1K0
File: 3003165

Dear Licensees:

Re: Engineer's Order for Diversion Structure on Porcupine Creek

Thank you for your 27 May 2010 letter requesting a second extension to the deadline of the Engineer's Order of 26 August 2009 for completing the diversion structure on Porcupine Creek. I also thank you for both your timely responses to my recent letters requesting clarification of your supporting rationale for that request, and your input regarding additional information and terms of amendment to the Order. I have slightly modified the wording of these terms to improve clarity, but neither the scope nor the intent of them has changed from what I was considering. In addition, I have corrected a reference to PD 48109 in 1.a. of the Order, which should be changed to PD 48105.

I understand that you have obtained permission from the landowner, s.22, on which property your works are located for the diversion, PD 48105. I ask that you provide s.22 with a copy of the structure design when finalized.

The revised instructions in this letter amend the Engineer's Order of 26 August 2009 and must be observed as a regulation under the *Water Act*. Outlined below are the changes to be made to the original order, which I have attached for your convenience.

.../2

Ministry of Environment Water Stewardship Division
Thompson Cariboo Region

Mailing/Location Address:
1259 Dalhousie Drive
Kamloops British
Columbia V2C 5Z5

Telephone: (250) 371-6200
Facsimile: (250) 828-4000
Website:
www.gov.bc.ca/env

Therefore, pursuant to Section 87 of the *Water Act*, I, Bruce McFarlane, an Engineer under the *Water Act*, hereby order you to adhere to all requirements of diversion construction found in the Order dated 26 August 2009 with the revised requirements for completion of this diversion construction as follows:

1. **Submit final design drawings prepared by a qualified professional and acceptable to the Engineer for a diversion structure that:**
 - a. physically restricts the flow entering your ditch at PD 48105 to no more than your licensed quantities of water, and;
 - b. is equipped with a mechanism to shut off diversion, and;
 - c. allows for the passage of fish in Porcupine Creek, and;
 - d. does not restrict the capacity of the culvert under the Pavilion-Clinton Road, and;
 - e. is capable of measuring the diverted flows.

The final design drawings must be submitted to the Engineer under the *Water Act* a minimum of 30 days prior to commencement of construction, and;

2. **Construct the diversion structure, once the final design drawings have been submitted to the Engineer, by the 15th day of August, 2011, and;**
3. **Until construction of the diversion structure is completed, provide for fish passage past your point of diversion in Porcupine Creek for all life stages of fish present in Kelly Lake and Porcupine Creek, and; provide sufficient fisheries flows in Porcupine Creek to allow spawning, incubation of eggs, and rearing of fish in Porcupine Creek, and;**
4. **Submit bi-weekly flow measurements of water discharge in the diversion ditch and for the main stem of Porcupine Creek below PD 48105, in order to demonstrate that sufficient fisheries flows are being maintained within the quantity licensed under your licenses. Records taken bi-weekly, on average, must be submitted to the Engineer for each month that flow is diverted by the 1st day of the following month.**

I advise you that failure to meet the new timelines herein specified and all other requirements as found in the original order may lead to suspension or cancellation of your licenses.

.../3

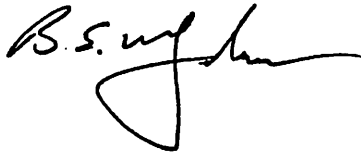
16 July 2010

Section 92 of the *Water Act* gives the recipient of this notice the right to appeal my decision. Information on filing an appeal can be found on the Environmental Appeal Board website: www.eab.gov.bc.ca/. **An appeal does not act as a stay of execution.**

A right of appeal from my decision lies to the Environmental Appeal Board. Notice of any appeal must (1) be in writing; (2) include grounds for the appeal; (3) be directed by registered mail to the Chair, Environmental Appeal Board, PO Box 9425 Stn Prov Govt., Victoria, BC, V8W 9V1 or personally delivered to the office of the board at 4th Floor, 747 Fort Street in Victoria, BC, V8W 3E9; (4) be delivered within 30 days of receiving this letter, and (5) be accompanied by a fee of \$25.00, payable to the Minister of Finance and Corporate Relations.

If you have any questions or require further clarification, please contact Darren Bennett at 250-371-6317.

Yours truly,



Bruce McFarlane, P. Eng.
Assistant Regional Water Manager
Water Stewardship Division

attach. Engineer's Order, 26 August 2009

pc:

s.22

Constable Bob Butcher, Conservation Officer Service, Lillooet
Keith Coxon, Water Bailiff, PO Box 485, Clinton, BC, V0K 1K0
Mark Phillpotts, Ministry of Environment, Kamloops
Comptroller of Water Rights, Ministry of Environment, Victoria

ORDER

WATER ACT

Section 88

In the matter of the regulation of water diversion from Porcupine Creek at the authorized point of diversion PD48105 (designated as "A" on Water Rights Map 255):

- Whereas you Michael Grills and Nancy McMinn; Robert and Dori Hampton; Katherine and Bradley McCullough; Thomas M. Pryor; Loretta Danielson, and; Bruce and Connie Gainor are the holders of water licences on Porcupine Creek with an authorized point of diversion PD48105 and;
- Whereas it has been determined that the authorized diversion structure at PD48105 is in a state of complete disrepair, such that sandbags are being used instead to divert water from Porcupine Creek into Cutoff Valley Creek, and;
- Whereas it has been determined that Porcupine Creek is a reported fisheries stream, and;
- Whereas the placement of sandbags in the stream does not allow for controlled regulation of water diversion at PD48105, and;
- Whereas it has been determined that there has been over-diversion of water related to the use of sandbags at PD48105, and;
- Whereas in a letter dated May 21, 2009, you were requested to submit plans for the reconstruction of the diversion structure at PD48105 and a schedule of when the diversion structure would be constructed by August 3, 2009, and;
- Whereas you have failed to provide the requested information;

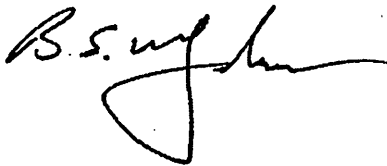
Therefore pursuant to Section 88 of the *Water Act*, I, Bruce McFarlane, an Engineer under the *Water Act*, hereby order you, Michael Grills and Nancy McMinn; Robert and Dori Hampton; Katherine and Bradley McCullough; Thomas M. Pryor; Loretta Danielson, and; Bruce and Connie Gainor as follows:

1. Submit design drawings prepared by a qualified professional for a diversion structure that:
 - a. physically restricts the flow entering your ditch at PD48109 to no more than your licenced quantities of water, and;
 - b. is equipped with a mechanism to shut off diversion, and;
 - c. allows for the passage of fish in Porcupine Creek, and;
 - d. does not restrict the capacity of the culvert under the Pavilion-Clinton Road, and;
 - e. is capable of measuring the diverted flows.

The design drawings must be submitted to the Engineer under the *Water Act* for review no later than September 30, 2009, and;

2. Construct the diversion structure, once the Engineer has accepted the design drawings, by the 15th day of November, 2009.

Dated at Kamloops, British Columbia, this 26th day of August, 2009.



Bruce McFarlane, P. Eng.
Engineer Under the Water Act
Thompson Cariboo Region
Ministry of Environment

Pc: Comptroller of Water Rights, Victoria, British Columbia
Conservation Officer Service, 100 Mile House, British Columbia
Mark Phillpotts, Ministry of Environment, Kamloops
Keith Coxon, Water Bailiff, PO Box 485, Clinton, BC, V0K 1K0



The Best Place on Earth

3273094	3001788
3001787	3000247
3001789	3003165
0242380	76800-20/PORCUPINE
0242382	76930-40/PORCUPINE

-Copy sent by email followed by Canada Post Delivery-

25 June 2010

File: 76800-20/Porcupine Cr.

Michael Grills and
Nancy McMinn

s.22

Clinton BC V0K 1K0
File: 76930-40/Grills and McMinn

Robert and Dori Hampton

s.22

Clinton BC
V0K 1K0
File: 76930-40/Hampton

Katherine and Bradley
McCullough

s.22

Clinton BC V0K 1K0
File: 76930-40/McCullough

Thomas M. Pryor

s.22

Clinton BC V0K 1K0
File: 76930-40/Pryor

Loretta Danielson

s.22

Clinton BC V0K 1K0
File: 76930-40/Danielson

Bruce and Connie Gainor

s.22

Clinton BC V0K 1K0
File: 76930-40/Gainor

Dear Licensees:

I have reviewed your request for extension of the deadline for you to meet the requirements of the Engineer's Order of 26 August 2009. As part of my consideration of this request, I am seeking your comments on, including any additions to, the facts as I understand them to be (as outlined below), as well as your submissions on what I am considering in the way of a possible approach to your request. Please provide your written comments on the facts and submissions on the approach to me at your earliest convenience but no later than 5 July 2010.

My understanding of the facts is as follows:

- An Engineer's Order was served on you 26 August 2009 for the submission of design drawings prepared by a Professional Engineer and construction of the diversion structure on Porcupine Creek by 15 November 2009 (the "Engineer's Order"). The substance of this decision was not appealed and, as such, is not in contention. However, you requested an extension of the deadline in the Engineer's Order's after the Order was served on you. This first extension request was received by this office on 1 September 2009;

- The Habitat Officer, Mark Phillpotts, R.P. Bio., provided a variance of the in-stream fisheries work window to Jeremy Cooke, P.Eng. on 12 November 2009, stating that had no concerns as the work was in the dry in late fall 2009;
- In response to your first extension request, the deadline in the Engineer's Order was extended to 28 May 2010. Conceptual design drawings were submitted by Mr. Cooke, P.Eng., to this office on behalf of the licensees on 16 April 2010;
- As these design drawings were still conceptual in nature, I provided comments on this initial submission to Mr. Cooke on 22 April 2010 for his consideration in the design, and I understood that he would be resubmitting design drawings based on further discussions with the licensees. I have not received a further submission of design drawings as of the date of this letter;
- I received a second request for extension of the deadline in the Engineer's Order from the licensees on 27 May 2010. By letter dated 31 May 2010, I requested that the licensees provide me with information on the supporting rationale for the request. The licensees' response was received on 4 June 2010;
- In a recent telephone conversation with Mr. Cooke (14 June), he felt that there was little additional information required for him to complete the diversion structure design drawings;
- To date, the deadline for submitting design drawings for the structure that are acceptable to me and for constructing the structure in accordance with approved design drawings, as required under the Engineer's Order, have not been satisfied, and;
- Under the terms of your licenses, measures must be in place to regulate the diversion of water from Porcupine Creek.

In addition, in investigating and following up on a number of key factors, I was able to secure the following information:

- There is an elevated risk of peak flow in Porcupine Creek as a result of the 2009 Kelly Lake fire, and this effect is expected to initially increase and subsequently decrease over time. None of these risks have been quantified;

- A letter from Golder Associates Ltd. to s.22 _ was provided to me by Mr. Cooke. This letter report highlighted advice provided by Golder Associates Ltd. regarding the proposed diversion structure. On follow-up with the engineer, Matt Thibeault, P.Eng., Golder Associates Ltd., provided clarification in a Technical Memorandum that the hydrology, the impact of the diversion structure on the risk of flooding, and the post-fire conditions needed to be fully considered in the design for the diversion structure; and these influences are more material than the timing of construction. I have provided a copy of the Technical Memorandum received from Golder Associates Ltd. to Mr. Cooke for his follow-up;
- The properties below Kelly Lake Road on which Porcupine Creek and the point of diversion (PD) from Porcupine Creek are located have floodplain covenants in place;
- MOE Fisheries is not concerned with elevated flows in Porcupine Creek but is concerned that favouring flows in the diversion ditch at the expense of Porcupine Creek flows could promote the spread of Eastern Brook Trout – a non-native species – from Leighwood Lake. This would increase competition for habitat used by Rainbow Trout in Porcupine Creek; and,
- Fish values in Porcupine Creek are at risk by dysfunction (disrepair) of the existing diversion structure at the licensees' PD.

I would appreciate any information you may have to add or correction of my understanding of the facts. Notwithstanding those comments and given the state of current information as above, I am considering amending the Engineer's Order dated 26 August 2009 as follows:

- Amend the deadline in the Engineer's Order for submission of acceptable design drawings for the diversion structure from 30 September 2009 to final design drawings must be submitted a minimum of 30 days prior to construction. The final design must be accepted by the Engineer before construction is commenced;
- Amend the deadline in the Engineer's Order to complete construction of the accepted diversion structure from 15 November 2009 to 15 August 2011;
- Amend the requirements in the Engineer's Order to reflect that, until the accepted diversion structure is constructed, the licensees must provide fish passage for all life stages of fish present in Kelly Lake/Porcupine Creek, and provide sufficient fisheries flows in Porcupine Creek to allow spawning, incubation of eggs, and rearing of fish in Porcupine Creek; and,

- Amend the requirements in the Engineer's Order to require the licensees to submit bi-weekly flow measurements of water discharge in the diversion ditch and for the main stem of Porcupine Creek below the PD, in order to demonstrate that sufficient fisheries flows are being maintained in Porcupine Creek and that diversion of water from Porcupine Creek remains within the quantity licensed under your licenses. Records taken biweekly, on average, must be submitted for each month that flow is diverted by the 1st day of the following month.

s.22

Please provide your written comments and submissions to me at your earliest convenience but no later than 5 July 2010. You can e-mail them to me at bruce.mcfarlane@gov.bc.ca or you can send them by Canada Post addressed to this office.

Yours truly,



Bruce McFarlane, P.Eng.
Assistant Regional Water Manager
Water Stewardship Division

CC: Mark Phillpotts, R.P. Bio., Habitat Officer, MOE



73094	3001788
3001787	3000247
3001789	3003165
0242380	76800-20/PORCUPINE
0242382	76930-40/PORCUPINE

June 22, 2010

File: 76800-20/Porcupine Creek

Michael Grills and
Nancy McMinn

s.22
Clinton BC VOK 1K0

Robert & Dori Hampton

s.22
Clinton BC VOK 1K0

Katherine and Bradley
McCullough

s.22
Clinton BC VOK 1K0

Thomas Pryor

s.22
Clinton BC VOK 1K0

Dear Thomas Pryor:

Re: Water Withdrawal from Porcupine Creek

The purpose of this letter is to confirm that you are authorized to divert water from Porcupine Creek in accordance with the terms of your water licence.

Please feel free to contact me if you have any questions or require further information.

Yours truly,

Valerie Z. Cameron, P.Geo.
Regional Manager
Water Stewardship Division
Thompson Cariboo Region



THOMPSON-NICOLA REGIONAL DISTRICT

PRESS RELEASE

**ELECTORAL AREA "E"
KELLY CREEK WILDFIRE**

EVACUATION ORDER RESCIND

The Thompson-Nicola Regional District (TNRD) Emergency Operations Centre has been advised that the imminent risk of danger to life and properties in your area has diminished at this time.

TNRD Chair Peter Milobar rescinded the Evacuation Order issued on August 20, 2009 at 20:20 hours, pursuant to Section 5.4 of TNRD Local Authority Emergency Program Bylaw No. 2017, effective at 12 noon, Friday, September 4, 2009, for the following areas:

- All properties on Jesmond Road and including Kelly Lake and Arden Park North to Big Bar Ferry Road Intersection, including all properties on High Bar Road west to Davies Ranch and Porcupine Road.

Residents will be provided with re-entry packages at the road blocks leading to the previously evacuated areas at the Kelly Creek Wildfire.

For more information contact:

Greg Toma, EOC Director
Phone: (250) 377-7188
Liz Cornwell, Information Officer
Phone: (250) 377-7188

FOR IMMEDIATE RELEASE

Evacuation Order Rescind – Kelly Creek Wildfire

Kamloops, BC – September 3, 2009 @ 17:00 hours

Val Cameron.

s.22

June 4/2010

Mr. Bruce McFarlane, P.Eng.
Mr. Darren Bennett
1259 Dalhousie Drive, Kamloops, BC V2C 5Z5
cc Ms. Valerie Cameron

3273094	3001788
3001787	3000247
3001789	3003165
0242380	76800-20/PORCUPINE
0242382	76930-40/PORCUPINE

MOE Reference: 76800-20/Porcupine Cr.

Dear Sirs:

**REQUEST FOR EXTENSION: ENGINEER'S ORDER FOR DIVERSION STRUCTURE
ON PORCUPINE CREEK**

We hereby refer to your letter dated May 31, 2010 whereby you request a revised response by June 7, 2010, which is endorsed by all the licensees, that more fully explains the supporting rationale for the requested extension, commits to the submitted schedule, and acknowledges that our licences are subject to suspension and/or cancellation by the Ministry of the Environment if the Order is not obeyed.

As per your original letter of May 21, 2009, it has always been our full intention to build this diversion structure as soon as possible. The following are the background and reasons for requesting the current extension that were discussed and agreed upon between yourselves and the licensee representatives in your offices on May 20, 2010:

1. After the initial letter received at the end of May 2009, a meeting was held at the diversion in June 2009 between the licensees, Mike Edwards, his assistant and a MOE Fisheries representative. The site was inspected and a discussion held regarding the inputs for the new structure. The intent was to make the necessary changes immediately.
2. The licensees were specifically told to hold off on construction until such time as further input was obtained from Fisheries regarding their requirements for the structure. It should be noted that the due date at that stage was August 3, 2009.
3. Given the looming deadline, the licensees took it on themselves to investigate similar diversion structures on other creeks so that they would be ready to submit plans once Fisheries had contacted us with their input. Unfortunately, no reply was received back from the MOE Fisheries representative.
4. The Kelly Creek forest fire started on August 1, 2009. All residents on Kelly Lake Road were placed under evacuation alert in mid-August. Residences on Jesmond Road and near the diversion were evacuated between August 20 and September 2, 2009. Kelly Lake Road was closed to the public just to the west of Clinton. Police blockades were set up from August 20 to September 15, 2009 (Sgt. Terry Jackelin was the team commander for the RCMP). This blockade removed all possible access to the diversion site.
5. At the end of September, 2009, Connie Gainor and Nancy McMinin proceeded to the diversion soon after the area was opened up again. We took photographs and measurements on both creeks below the diversion, as well as Porcupine Creek above the diversion. Detailed sketch drawings were prepared by Connie Gainor.

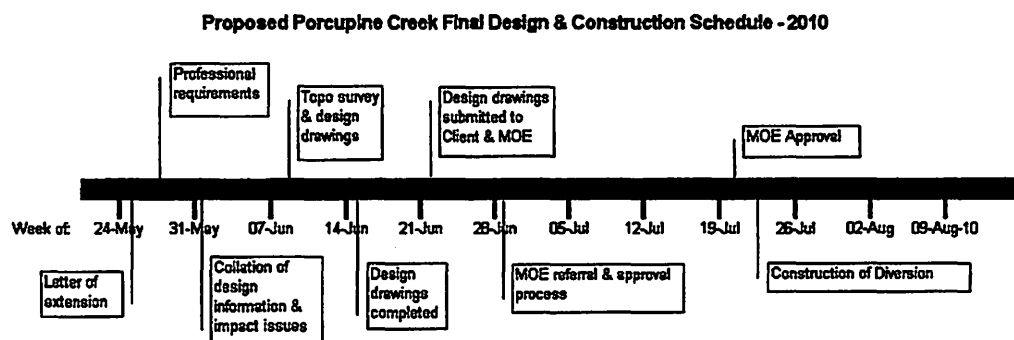
6. Unfortunately, these drawings were not submitted as an Engineer Order dated August 26, 2009 was delivered to the licensees by a MOE conservation officer, ordering that detailed drawings be prepared by a qualified professional engineer, and that they be submitted by September 30, 2009. This was the first indication of what the Ministry required in the way of diversion.
7. As suggested by the conservation officer, a letter requesting an extension of this new deadline was written to your Ministry. No answer to the licensees request was ever received back, and they did not know if the extension had been granted, nor when the new construction deadline was set. No further contact was made by your office on this subject until we learned in your letter dated March 25, 2010 that the new extension date for plans was April 16, 2010. The final construction date was set at May 31, 2010. Spring thaw for this area started in mid April and the Spring freshet by early May.
8. Despite the Kelly Lake fire and the added stress that some licensees underwent in losing cattle to the fire, because they were not allowed to pass the blockade, the licensees made a determined effort to try and find an engineer to prepare the plans. After searching high and low, and being rejected by all the engineering firms that were contacted, the licensees found Jeremy Cooke, P.Eng. of WMI Water Management International Inc. on October 9, 2010, who was willing to take a look at the project. This showed that the licensees took the order seriously and were committed to constructing the diversion structure, and making every attempt to follow the MOE's instructions.
9. Jeremy visited Mike Edwards at the MOE offices on October 23, 2009 to assess the project with the view of making a decision to take this assignment on or not. He then conducted a site visit with all the licensees on Sunday October 25, 2009.
10. After deciding to help the licensees, Jeremy met with Mike Edwards and Mark Phillpotts (MOE Fisheries) on November 3, 2009 to present Connie Gainor's concept drawings and to discuss the project in more depth. Mark requested some time to confer with Al Caverly regarding the fisheries requirements. Mark provided an email reply on November 12, 2010.
11. Given the fact that the construction work will be carried out by the licensees, it should be noted that Mr. Cooke felt that he could not spend a disproportionate length of time on the project and charge large fees in comparison to what the structure would cost. Although you discounted it as not a valid excuse at our May 20, 2010 meeting, Jeremy was busy with other work during the early part of 2010 and did not have time to start dedicating his efforts to the project until March and April 2010. Since we had no deadlines for plans or construction completion, this was reasonable.
12. Jeremy will also attest to the fact that we contacted him numerous times during early 2010 to find out progress and whether he had heard anything back from the Ministry
s.22 This again shows that the licensees were concerned about their water licences and were committed to fulfilling the requirements of the Order. The Water Bailiff Keith Coxon, also had not heard anything by the email correspondence that flowed around February 19, 2010.
13. It was during this time that we got to meet s.22 Darren Bennett.
14. Your March 25, 2010 Engineer's Order was then hand delivered and further discussions held with Darren.
15. Jeremy provided a report and engineering concept drawings by the April 16, 2010 deadline, which he deemed appropriate given the scale of the project and a commensurate effort that would be required given the budget constraints.
16. A meeting was held with Jeremy, yourself and Darren on April 22, 2010 to discuss these design renditions. The message conveyed was that you did not accept these

drawings as is and recommended that more thought be put into the layout. You also did not want to see the diversion placed in the direct line of flow from the Kelly Lake Road culvert.

17. Jeremy was only able to make it to Clinton on May 5, 2010 to hold a meeting with all the licensees to discuss this outcome. Jeremy was then to convey the findings of the meeting back to Darren.
18. A meeting with Darren was scheduled for May 12, 2010. Late in the day before this meeting, your office requested that a letter be obtained from the licensees that Mr. Cooke was authorized to speak on their behalf. Jeremy took offense to this formal MOE request and the letter that was sent back by the licensees, as he had in no way agreed to fulfill this role. He was a technical advisor to the licensees and was wishing to convey technical information back to Darren so that he (Darren) could go and negotiate further with us. Given the back and forth, Jeremy was unable to make the meeting on Wednesday the 12th and you could not reschedule to the Thursday or Friday as both you and Darren were busy with meetings.
19. The next opportunity was found for Thursday May 20, 2010 when Mike Grills, Nancy McMinn, and Robert and Dori Hampton attended the meeting in your offices together with yourselves and Jeremy. We thought the meeting went well and that we had ironed out the need for an extension for the construction deadline beyond May 31, 2010.
20. As requested, we provided a letter of motivation on May 21, 2010 formally requesting an extension of the deadline. On May 26, 2010 you asked that the letter be signed by all the licensees and that Jeremy Cooke should provide an additional letter to the one he provided on May 20, 2010 (i.e. work plan, timelines, etc) stating what he would be billing us to complete the work (provided May 27, 2010). You also provided us with the APEGBC contact details to find other engineers who would be willing to do the work cheaper and not with the environmental and other due diligence that Mr Cooke was proposing.
21. On May 31, 2010 we received your letter stating that our letter of May 21, 2010 and subsequent additions failed to provide adequate motivation regarding the extension of the May 31 deadline to August 2010.

In response to your letter we resubmit the following reasons:

- a) The above-mentioned history clearly indicates our intent to get the work done. We hereby reaffirm our commitment to making sure that the diversion structure is installed according our specified schedule.



- b) High water makes the creek unsafe for construction activities in the latter part of May. The risk of personal injury and worse is a real concern.
- c) Previous contact with the Ministry of the Environment concerning the construction of this diversion on Porcupine Creek expressly directed that "The work window for

instream work on Porcupine Creek is July 22 to October 31". (May 21, 2009 correspondence MOE).

- d) The land owner ^{s.22} will prefer that we not access the site ^{s.22} at the site of the diversion, ^{s.22} later in the summer they will be willing to allow access.
- e) The Thompson Nicola Regional District has informed local residents that there is a very real threat of the Kelly Creek fire detritus in Porcupine Creek watershed translating into mud and debris flood flows this freshet period. This could have consequences if we build the diversion at this time.
- f) Given your stipulation in the Order (and confirmed at our May 20, 2010 meeting) that signed and sealed engineering design drawings need to be submitted, Mr. Cooke, P.Eng. is bound by his code of ethics to carry out due diligence. This includes flood hydrology and the effect that these raised flows can have on the new diversion pattern in future (e.g. more water down Porcupine Creek that could potentially damage the trout spawning beds that Fisheries is trying to protect; erosion could also cause property damage to ^{s.22}). The reduced water flow could impact on the ecology of the Cutoff Creek and further downstream, which has come used to the flows that have existed for close to a century. These and other potential impacts have to be investigated before a structure can be approved in the proposed position. This process cannot be rushed.
- g) As requested in your May 31, 2010 letter, we hereby understand that we are totally at the Ministry of the Environment's mercy because of the Engineer's Order and acknowledge the serious dilemma we find ourselves in facing suspension and potential loss of our water licences and livelihoods that will ensue.

We, the undersigned licensees that are entitled to divert water from Porcupine Creek hereby re-request an extension to our design and construction process as per our proposed work program and the rationale presented in this letter.

Yours truly

*Original sent to
Darren Bennett & Bruce McEwan*

Michael Grills and
Nancy McMinn

^{s.22}

File: 76930-40/Grills and McMinn

Robert and Dori Hampton

^{s.22}

File: 76930-40/Hampton

Katherine and Bradley McCullough

^{s.22}

File: 76930-40/McCullough

Thomas M. Pryor

^{s.22}

File: 76930-40/Pryor

Loretta Danielson

^{s.22}

File: 76930-40/Danielson

Bruce and Connie Gainor

^{s.22}

File: 76930-40/Gainor

Stewart, Tracy ENV:EX

From: McFarlane, Bruce ENV:EX
Sent: Monday, May 31, 2010 5:29 PM
To: s.22
Cc: Bennett, Darren J ENV:EX; 'Jeremy Cooke'
Subject: Request for extension - Engineer's Order: File 76800-20/Porcupine Creek
Attachments: 2010-05-27 Letter to MOE re Cost Estimates.pdf; Licensee letter31May2010_Final.pdf; AC Eagle Page 2 of 2.jpg; Letter Request.jpg; AC Eagle Page 1 of 2.jpg

Dear Licensees. I have attached my response to your request for extension to the Engineer's Order on Porcupine Creek. Please let Darren Bennett know if you are unable to read any of these attachments, and he can see about making additional arrangements.

Sincerely,

Bruce McFarlane, P.Eng.
Assistant Regional Water Manager
Ministry of Environment

76800-20/Porcupine

76930-40/Porcupine

0273094

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31 May 2010

File: 76800-20/Porcupine Cr.

Michael Grills and
Nancy McMinn

s.22

Clinton BC VOK 1K0
File: 76930-40/Grills and McMinn

Robert and Dori Hampton

s.22

Clinton BC
VOK 1K0
File: 76930-40/Hampton

Katherine and Bradley
McCullough

s.22

Clinton BC VOK 1K0
File: 76930-40/McCullough

Thomas M. Pryor

s.22

Clinton BC VOK 1K0
File: 76930-40/Pryor

Loretta Danielson

s.22

Clinton BC
VOK 1K0
File: 76930-40/Danielson

Bruce and Connie Gainor

s.22

Clinton BC
VOK 1K0
File: 76930-40/Gainor

Dear Licensees:

Re: Request for Extension: Engineer's Order for Diversion Structure on Porcupine Creek

At the request of Robert and Dori Hampton, Michael Grills, and Nancy McMinn, I agreed to meet with licensees on 20 May 2010 regarding the Engineer's Order amended 25 May 2010. Jeremy Cooke, P.Eng., AC Eagle Enterprises Ltd., was also in attendance. In summary, these licensees advised that they would engage the other affected licensees not in attendance to develop a letter requesting a second extension of the Engineer's Order.

I received your letter of 21 May 2010 with final additions on 27 May 2010, requesting a further extension of the deadline for completion of the diversion structure on Porcupine Creek, which request also includes attachments for your proposed work schedule and cost estimate for the engineering design (attached). I note the following:

- You previously requested and received an extension to the Engineer's Order of 26 August 2009 to 28 May 2010;
- You have failed to provide the required actions requested by the amended Order by the required dates, and;
- You are currently diverting flow from Porcupine Creek.

.../2

I remind you that the Water Act provides the following direction:

23 (2) The rights of a licensee under a licence are subject to suspension for any time by the comptroller or a regional water manager, and a licence and all rights under it are subject to cancellation in whole, or in part by the comptroller or a regional water manager for (g) the licensee's failure to comply with an order of the comptroller or a regional water manager or an engineer.

A person commits an offence under the *Water Act* when they do the following:

93 (2) (p) fails to do an act or thing required to be done by the person under this Act or under an order of the comptroller, regional water manager, engineer or officer.

The main reason you have provided for requesting a further extension - the subsidence of stream levels to enable construction - does not provide satisfactory rationale for not having completed the required actions specified in the Order by the extended completion date of May 28 2010.

In your letter, you have indicated that you fully intend to build the structure as soon as possible, and I am encouraged by submission of your schedule. However, this in itself does not provide me with assurance that the work will be completed as proposed, considering you have not met the terms of the amended Order.

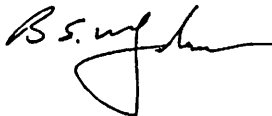
Accordingly, I request that you provide me with the following:

- a response endorsed by all licensees addressed above that more fully explains the supporting rationale for the requested extension, commits to your submitted schedule, and acknowledges that your licenses are subject to suspension and/or cancellation if the Order is not obeyed.

Failure to submit this response to me in writing by 7 June 2010 may lead to further action.

During the meeting of 20 May 2010, I was informed that s.22 who owns the land on which the works are located, expressed concern about potential impacts to his land associated with the diversion structure. I will be contacting s.22 to discuss s.22 concerns.

Yours truly,



Bruce McFarlane, P. Eng.
Assistant Regional Water Manager
Water Stewardship Division

cc: Jeremy Cooke, AC Eagle Enterprises Ltd.
Attach: Letter of Request, 21 May 2010; Addenda - 20 May 2010, 27 May 2010



May 27, 2010

The Regional Director
Ministry of Environment
1259 Dalhousie Drive
Kamloops, BC V2C 5Z5

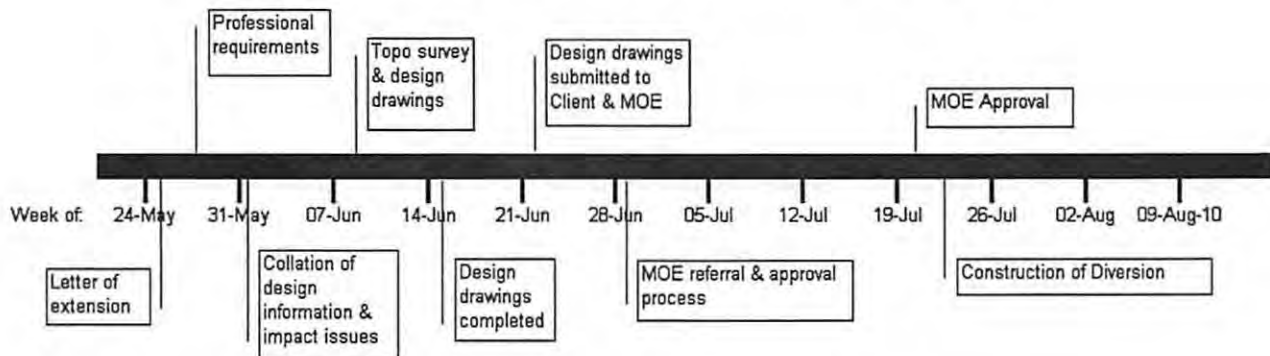
Attention: Darren Bennett

DIVERSION STRUCTURE ON PORCUPINE CREEK: CONSULTING COST ESTIMATE

In order to make his final decision regarding the extension of the Engineer's Order date at Porcupine Creek, Bruce McFarlane, P.Eng., has requested that I provide a cost estimate for the work that I would need to perform for the Ranchers.

The proposed schedule for works that I quoted on is as follows:

Proposed Porcupine Creek Final Design & Construction Schedule - 2010



Taking into account the two site visits to Clinton, various meetings, conceptual design work (which I felt was fitting for this application), I have already spent \$2,000 in travel and fee costs.

As part of this process I will need to: do due diligence on the flood hydrology; hold discussions regarding mitigation on the potential damage to s.22 property and the fish spawning beds en route to Kelly Lake; the instream flow requirements of Cutoff Creek and downstream impacts of reduced flows; the production of a design drawing that I would be willing to sign and seal; construction site visits; and other miscellaneous tasks.

With this in view, I can see an extended budget of another \$8,000 enveloping. This includes travel and other expenses. I will however only charge for actual time and

costs expended as I fully understand the financial constraints of the Ranchers. Also, it is important to weigh the professional expenses versus the actual cost of the diversion weir.

I trust that this information will suffice for Bruce to be able to make his final decision.

Yours sincerely,

for WMI Water Management International Inc.



**JC Cooke, P.Eng.
Managing Director**

cc Nancy McMinin

WMI Water Management International



May 20, 2010

Nancy McMinn

s.22

DIVERSION STRUCTURE ON PORCUPINE CREEK: PROPOSED WAY FORWARD

As per our discussions with representatives of the Ministry of Environment's (MOE) Water Stewardship Division this morning, I would suggest the following approach.

1. Letter to MOE requesting an extension on the construction deadline

This letter should be submitted to Darren Bennett as soon as possible and should state your commitment to construct the diversion despite the various factors that have delayed progress. You should ask for an extension to the end of August 2010 to complete the works based on the attached work schedule.

It should reference today's meeting and the minutes that Darren will be circulating soon. In essence, the rationale for the extension to the May 28, 2010 deadline is that: high freshet water levels make it difficult to work in the creek and that the July-August period would be better; you have to wait on the professional engineer to find time to conduct his studies and produce signed and sealed construction drawings; this engineering process includes conducting due diligence in ensuring that various land, legal and environmental issues are adequately addressed.

2. Professional Requirements

Based on the MOE Engineer's Order dated March 25, 2010 and previous supporting MOE documentation, it will be necessary for WMI Inc. to qualify the exact deliverables that will be required to satisfy the order. This will require an assessment of the various legislation that resorts under the Water Act. MOE guidelines such as the "Standards and Best Practices for Instream Works" will also be referred to. A discussion with a senior member of the Association of Engineers and GeoScientists of British Columbia will also be held to determine liability issues.

Based on this evaluation I will be able to give you a more accurate cost estimate of the work required. We will however endeavour to keep our time and cost estimate to an absolute minimum.

3. Engineering Construction Drawings

The focus of this design will concentrate on reestablishing a diversion structure that meets the MOE's requirements. Operation of the water system and other water licence issues will be the subject of follow up work in future.

A brief topographical survey will be required to set up engineering drawings and determine other spatial (e.g. horizontal positions and relative elevations) information for design work.

A quick update on the flood hydrology, fish requirements and other issues that will affect the design and construction of the river diversion structure, will be needed. Discussions with the various regulatory agencies will help reach the most appropriate design, which will assist in expediting MOE referral approvals.

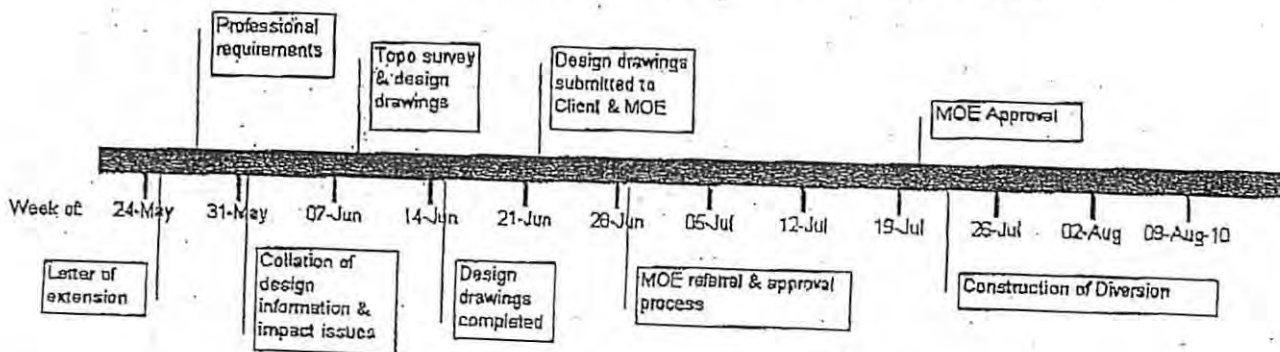
Production of draft engineering drawings that will be run by the licencees and the MOE before these are finalized and signed off.

4. Construction

The complexity and cost of the structure will be optimized in the design stage. Minimum maintenance will be a determining criteria in the final diversion choice and construction thereof.

5. Timelines

Proposed Porcupine Creek Final Design & Construction Schedule - 2010



6. Conclusion

Thank you for the opportunity to assist you in meeting your technical requirements associated with the overall legal requirements stated in the by the March 25, 2010 Engineer's Order.

Yours sincerely,

for WMI Water Management International Inc.

A. Cooke
 J.C. Cooke, P.Eng.
 Managing Director

s.22

14 May 2010

File: 76800-20/Porcupine Cr.

Jeremy Cooke, P.Eng.
WMI Water Management International
PO Box 583, Kamloops, BC V2C 5L7

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0242382
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Dear Mr. Cooke:

Re: Porcupine Creek diversion.

This letter is a reminder that the deadline for completion of your diversion structure is fast approaching. We met with you on 22 April 2010 to discuss your initial design submission for the structure. We provided feedback on the design at that time. I contacted you on 27 April and you indicated you planned to meet with the licensees on the weekend of 01 May to discuss design options. Our understanding is that this meeting did not take place until 05 May.

We scheduled another meeting with you for 12 May 2010, but this did not occur because of commitments you were unable to reschedule. We can appreciate your busy schedule, but this does not constitute a reason to amend the order. In the best interest of the licensees and their continued use of their water rights, I urge you to expedite resubmission of your design for our review and acceptance. The order clearly instructs the licensees to have installation of the diversion structure complete by 28 May 2010, and we require a reasonable amount of time to review your final design.

If you have any questions or require further clarification, please call me at 250-371-6317.

Yours truly,


Darren J. Bennett
Water Stewardship Officer
Water Stewardship Division

C.C.

Michael Grills and Nancy McMinn

s.22

Clinton BC V0K 1K0

File: 76930-40/Grills and McMinn

Robert and Dori Hampton

s.22

Clinton BC V0K 1K0

File: 76930-40/Hampton

Katherine and Bradley McCullough

s.22

Clinton BC V0K 1K0

File: 76930-40/McCullough

Thomas M. Pryor

s.22

Clinton BC V0K 1K0

File: 76930-40/Pryor

Loretta Danielson

s.22

Clinton BC V0K 1K0

File: 76930-40/Danielson

Bruce and Connie Gainor

s.22

Clinton BC V0K 1K0

File: 76930-40/Gainor

Ministry of Environment

Water Stewardship Division
Thompson Cariboo Region

Mailing/Location Address:
1259 Dalhousie Drive
Kamloops British
Columbia V2C 5Z5

Telephone: (250) 371-6200
Facsimile: (250) 828-4000
Website:
www.gov.bc.ca/env

s.22

May 11, 2010

Mr. Bruce McFarlane

Ministry of the Environment

1259 Dalhousie Dr, Kamloops BC V2C 5Z5

0273094	3001788
3001787	3000247
3001789	3003165
0242380	76800-20/PORCUPINE
0242382	76930-40/PORCUPINE

Please be advised that Mr. Jeremy Cooke acts as the agent for the involved water licensees regarding all aspects of the proposed Porcupine Creek diversion, a diversion proposed by the MOE in 2009.

FILE

- 1) Nancy McMinn and Mike Grills

76930-40/GRILLS & MCMINN

- 2) Robert and Dori Hampton

76930-40/HAMPTON

- 3) Katherine and Bradley McCullough

76930-40/McCULLOUGH

- 4) Thomas M Pryor

76930-40/PRYOR

- 5) Loretta Danielson

76930-40/DANIELSON

- 6) Bruce and Connie Gainor

76930-40/GAINOR

[Handwritten signatures for Nancy McMinn, Mike Grills, Robert Hampton, and Dori Hampton]

[Handwritten signatures for Katherine McCullough and Bradley McCullough]

[Handwritten signature for Thomas M Pryor]

[Handwritten signature for Loretta Danielson]

[Handwritten signatures for Bruce Gainor and Connie Gainor]



Delivered by Registered Mail

0272302	76930-40/PORCUPINE
3273094	3001788
3001787	3000247
3001789	3003165
0242380	76800-20/PORCUPINE
0242382	76930-40/PORCUPINE

16 July 2010

File: 76800-20/Porcupine
76930-40/Porcupine

s.22

Dear s.22

Re: Porcupine Creek Diversion, Engineer's Order

Thank you for working with the Porcupine Creek water licensees for the point of diversion, PD 48105, located on your property s.22. I understand that you have made agreement with them for access.

The licensees for this diversion requested a second extension to the deadline of the Engineer's Order dated 26 August 2009, which required the construction of a diversion structure at their point of diversion. I have amended the original Order based on the information before me, and I am providing you a copy (attached) in notice to you of the Order requirements.

Based on your verbal request to me, I asked the licensees in my letter amending the original Order, to provide you a copy of the diversion structure design, once it is finalized.

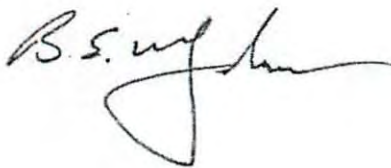
Section 92 of the *Water Act* gives the recipient of this notice the right to appeal my decision. Information on filing an appeal can be found on the Environmental Appeal Board website: www.eab.gov.bc.ca/.

.../2

A right of appeal from my decision lies to the Environmental Appeal Board. Notice of any appeal must (1) be in writing; (2) include grounds for the appeal; (3) be directed by registered mail to the Chair, Environmental Appeal Board, PO Box 9425 Stn Prov Govt., Victoria, BC, V8W 9V1 or personally delivered to the office of the board at 4th Floor, 747 Fort Street in Victoria, BC, V8W 3E9; (4) be delivered within 30 days of receiving this letter, and (5) be accompanied by a fee of \$25.00, payable to the Minister of Finance and Corporate Relations.

If you have any questions or require further clarification, please contact Darren Bennett at 250-371-6317.

Yours truly,

A handwritten signature in black ink, appearing to read 'B. McFarlane', with a stylized flourish at the end.

Bruce McFarlane, P. Eng.
Assistant Regional Water Manager
Water Stewardship Division

Attach. Amending Order, 16 July 2010
Engineer's Order, 26 August 2009

Stewart, Tracy ENV:EX

From: McFarlane, Bruce ENV:EX
Sent: Wednesday, June 30, 2010 4:32 PM
To: s.22
Cc: WSD Kamloops ENV:EX; 'Jeremy Cooke'; Cameron, Valerie Z ENV:EX
Subject: RE: Response to your letter of June 25 and phone call to s.22 June 30: File 76800-20/Porcupine

3273094 3001788
3001787 3000247
3001789 3003165
0242380 76800-20/PORCUPINE
0242382 76930-40/PORCUPINE

Thank for your quick response to my request. I appreciate the importance you have placed on meeting my timeline request and your effort in consolidating your comments. I will have time to review this communication in detail next week.

Bruce McFarlane, P.Eng.

Ministry of Environment
Water Stewardship Division
Cariboo-Thompson-Okanagan Region
Ph. (250) 371 - 6314
Fax. (250) 828 - 4000

From: s.22
Sent: Wednesday, June 30, 2010 2:46 PM
To: McFarlane, Bruce ENV:EX; Jeremy Cooke; Cameron, Valerie Z ENV:EX; s.22
Subject: Response to your letter of June 25 and phone call to s.22 June 30

Michael Grills and Nancy McMin; Robert and Dori Hampton; Katherine and Bradley McCullough; Thomas M. Pryor.

Mr. Bruce McFarlane
Water Stewardship Division Thompson Region
1259 Dalhousie Dr
Kamloops, BC V2C 5Z5

Cc Val Cameron, Jeremy Cooke

We are attempting to give you the response you are looking for. We agree that the reconstruction of the diversion on Porcupine Creek needs to be undertaken. We accept financial responsibility for the cost, engineering, construction and maintenance of this structure. We have an agreement in place between the licensees regarding these aspects of the diversion, and an agreement between the licensees and the land owner at the location of the diversion structure.

These are the reasons why we need you to grant us an extension for the construction of the Porcupine Creek water diversion.

- High water makes the creek unsafe and uncondusive to quality building for construction at this time.
-
- The window of opportunity for instream construction on Porcupine Creek has been stated by your Ministry to fall between July 22 and October 31.
 - The land owner has given permission for the construction to occur after s.22
 - Between our engineer and your Ministry, we have not come to finalized construction plans.
 - The MFR and resulting Golder investigations identified some erosion concerns around the areas upstream from the diversion.

The proposed amendments you have listed to the construction order are acceptable to us:

- Amend the deadline in the Engineer's Order for submission of acceptable design drawings for the diversion structure from 30 September 2009 to final design drawings being submitted a minimum of 30 days prior to construction. The final design must be accepted by the Engineer before construction is commenced.
- Amend the deadline in the Engineer's Order to complete construction of the accepted diversion structure from 15 November 2009 to 15 August 2011.
- Amend the requirements in the Engineer's Order to reflect that, until the accepted diversion structure is constructed, the licensees must provide fish passage for all life stages of fish present in Kelly Lake/Porcupine Creek and provide sufficient fisheries flows in Porcupine Creek to allow spawning, incubation of eggs, and rearing of fish in Porcupine Creek.
- Amend the requirements in the Engineer's Order to require the licensees to submit bi-weekly flow measurements of water discharge in the diversion ditch and for the mainstem of Porcupine Creek below the proposed diversion in order to demonstrate that sufficient fisheries flows are being maintained in Porcupine Creek and that diversion of water from Porcupine Creek remains within the quantity licensed under your licenses. Records taken bi-weekly, on average, must be submitted for each month that flow is diverted by the first day of the following month.

Yours sincerely,

Nancy McMinn and Mike Grills

Robert and Dori Hampton

Katherine and Bradley McCullough

Thomas M. Pryor

Stewart, Tracy ENV:EX

From: McFarlane, Bruce ENV:EX
Sent: Wednesday, June 30, 2010 2:12 PM
To: s.22
Cc: s.22
Subject: ENV:EX
RE: July 5 response date: File 76800-20/Porcupine

3273094 3001788
3001787 3000247
3001789 3003165
0242380 76800-20/PORCUPINE
0242380 76800-20/PORCUPINE
; WSD Kamloops

Dear s.22

Thank you for your note, below. I spoke with s.22 just before lunch today. I have considered your request to extend the deadline for your response to 15 July, but I would like to keep the deadline of 5 July 2010, as requested in my 25 June 2010 letter. I have not received a similar request to extend the 5 July 2010 deadline from any of the other licensees. Although all six licensees share joint works, they are separate licences. Therefore, it is incumbent on each of the licensees individually to provide their comments by the above date assuming they wish to provide comments. While I am pleased that you appear to have obtained agreement for the funding, building and maintenance of the diversion structure, as well as agreement with s.22 for your access over their land to the point of diversion (PD), this information does not appear to be responsive to my request for comments and submissions by July 5 relating to the licensees' plans for addressing continuing non-compliance with your licences, as well as on the proposal outlined in my June 25, 2010 letter for dealing with that issue.

s.22 indicated in her telephone conversation with me this morning that the response signed by all licensees might be ready by 9 July 2010. If you consider that necessary, I would be prepared to take it into consideration given sufficient rationale. Please let me know before 5 July.

I hope this clarifies my intent regarding the request for comment on the amendments which I have proposed in my 25 June 2010 letter. You may follow up with the signed letter response by all licensees when you are able to accomplish that.

In update, I understand from my conversation with you this afternoon that you are prepared to send me your response, representing yourselves by 5 July.

Bruce McFarlane, P.Eng.

Assistant Regional Water Manager
Water Stewardship Division
Cariboo-Thompson-Okanagan Region
Ph. (250) 371 - 6314
Fax. (250) 828 - 4000

From: s.22
Sent: Wednesday, June 30, 2010 8:33 AM
To: McFarlane, Bruce ENV:EX
Subject: July 5 response date

Further to your conversation with S22 this morning (June 30, 2010), we are currently unable to get signatures from the full membership of the licensee group as s.22

s.22 July 15, so it will be after that that we will be able to get together to get a document signed for you. We do have verbal agreement between the six licensees regarding funding, building and maintenance of the diversion structure, and we have an agreement with s.22 also (I believe you have a copy of that already?) that the lawyer will have to add his input to and sign off from the licensees and s.22

So we will be unable to supply a signed response for you by July 5, 2010.

S22

s.22

Bennett, Darren J ENV:EX

From:	McFarlane, Bruce ENV:EX	3273094	3001788
Sent:	Thursday, August 19, 2010 3:51 PM	3001787	3000247
To:	Bennett, Darren J ENV:EX	3001789	3003165
Subject:	FW: Porcupine Creek discussion	0242380	76800-20/PORCUPINE
		0242382	76930-40/PORCUPINE

For the order and stream files.

From: Giles, Tim R FOR:EX
Sent: Thursday, July 8, 2010 3:13 PM
To: McFarlane, Bruce ENV:EX
Subject: RE: Porcupine Creek discussion

Bruce,

- Discussion with Tim Giles, Research Geomorphologist, MFR on June 22, 2010 regarding debris flow/flood and flood potential on Porcupine Creek at Kelly Lake Road. Porcupine Creek has a well vegetated, wide, flat floodplain which extends for approximately 7 km upstream from the Kelly Lake Road. The debris flow/flood potential on Porcupine Creek is derived from the tributary channels which enter the floodplain. Some of these tributary channels do have potential for debris flows/floods but once the debris flow/flood reaches the main stem of Porcupine Creek it will come to a stop relatively quickly on the well, vegetated, low gradient floodplain. One example of this is where the two main arms of Porcupine Creek meet, approximately 7 km up the Jesmond Road from the Kelly Lake Road turnoff. The north-eastern arm is confined as it comes onto the floodplain and forms a small alluvial fan above the road where it becomes less confined, but the debris flow appears to stop on the margins of the floodplain and only streamflow continues on. The fan is relatively low gradient and quite small in size, but does have distinct levees indicative of a historic debris flow event or events. The flood potential on Porcupine Creek has the potential for increased peak flows as a result of the wildfire, but as the majority of the watershed is either unburned or lightly burned the risk of peak flow flooding is considered to be moderate for those structures located close to the creek and with little freeboard above the channel banks.
- Goodrich Creek, which flows directly into Kelly Lake across a wide alluvial fan also has a higher debris flow/flood potential. This watershed was heavily burned and some of the burned areas are steep and connected directly to the mainstem of the creek. The mainstem is confined and has a moderate gradient, and any event entering the channel is likely to move through the channel and onto the alluvial fan below. Once onto the fan there is the potential for channel avulsion which could divert an event toward the house located on the mid-fan. A very large event could also cross the fan and reach the Kelly Lake Road, but this is quite a distance over a moderately low gradient surface and the fan is moderately well treed which will help slow and disperse the flow.

Better? Clearer? I hope so...

Tim

"For what it's worth, the meek shall inherit nothing" Frank Zappa

Tim Giles

Research Geomorphologist

Southern Interior Forest Region

From: McFarlane, Bruce ENV:EX
Sent: Thursday, June 24, 2010 10:45 AM
To: Giles, Tim R FOR:EX
Subject: Porcupine Creek discussion

Hi Tim. I am sending a note to file. Could you please look at the excerpt below and let me know if I got something terribly wrong? Thanks.

- Discussion with Tim Giles, Research Geomorphologist, MFR on June 22, 2010 regarding debris potential in Porcupine Creek at Kelly Lake Road. Mr. Giles was most concerned about Goodrich Creek, but Porcupine Creek does not have the same potential for debris flow. Only the upper watershed area had severely burned. Mr. Giles noted that one debris [flood] had occurred in the upper watershed on a minor tributary, but the runout terminated short of mainstem [east or west fork] of Porcupine Creek. He said he clearly saw levies in the deposition, which indicated a single event.

Bruce